

FROM: Head, Market Risk and Reserving Unit EXTN: 5235

DATE: 20 May 2005 REF: Y3565

SUBJECT:

SUBJECT AREA(S): ECONOMIC CAPITAL ASSESSMENT (ECA) PROCESS FOR THE 2006 UNDERWRITING YEAR – ARRANGEMENTS FOR DISTRIBUTION OF ECA RATIOS AND SOFTWARE, FOR COMPLETION OF SOFTWARE LICENSING AGREEMENTS AND ELECTRONIC ICA DATA COLLECTION

ATTACHMENTS: Timetable, nomination form, software licence agreement and software request form

ACTION POINTS: **Managing agents, members' agents, direct corporate members and other members requesting software to sign and return the attached software-liscence agreement and relevant nomination/request form for the receipt of ECA ratios and software**

DEADLINE(S): **Managing Agents: 26 May and Members' agents: 17 July**

Introduction

For the 2006 underwriting year of account Lloyd's is introducing a new capital setting process, which is to be known as Economic Capital Assessment (ECA), which will replace the Risk Based Capital process.

This bulletin describes the ECA process for the 2006 underwriting year, including the distribution of ECA ratios and software, together with arrangements for signing software-liscence agreements and for obtaining the software encryption passwords. The respective responsibilities of various parties are set out and details of key dates provided. A summary timetable is attached at Appendix 1.

As 2006 is a year of transition, the underlying software platform which will be used is unchanged and indicative capital numbers will be consistent with the old market average basis until the August software release, when agreed ICA submissions will be reflected for the first time.

Changes to the capital setting process for the 2006 Year of Account

The ECA modelling software will be distributed to managing and members' agents in accordance with the normal broad timetable, but given this is a transitional year, it is important to recognise the nature of the numbers being generated. This is set out in more detail below, but it should be noted that the software releases in May and July provide only a benchmark based on the previous market average model. This does, however, allow for a degree of planning, due to the application of the 'Corridor' provisions discussed below which restrict possible movement given a fixed business plan. For the August and later releases the syndicate level capital will be adjusted, via a loading or discount, to equal the syndicate

specific ICA requirement, as agreed with Lloyd's, plus an economic capital margin. This will be subject to the 'Corridor' provisions.

Member level capital will continue to be calculated with reference to the member's cross syndicate participations, recognising appropriate credit for diversification. Members will continue to be subject to a minimum requirement of 40% OPL (35% for members whose underwriting portfolios comprise at least 85% UK motor).

It is intended that the review of all ICAs will be completed prior to the software release on 24 August. For those syndicates that Lloyd's have agreed an ICA figure, this will be fully reflected in the modelling software from this date subject to the 'corridor'. If agreement has not been reached for any syndicate by that date, syndicate capital will be temporarily set at the ceiling level of 15% above the capital determined under the old market average basis. Actual ICA numbers for these syndicates will be introduced in subsequent releases when final agreement has been reached. It should be noted that although Lloyd's expects to reach agreement with syndicates, the right is reserved to input an adjusted syndicate ICA into the ECA software if agreement is not achieved.

Transitional Arrangements

For the 2006 year of account exercise only, it has been agreed, following consultation with the market, that movements in syndicate level capital, as ultimately determined using ECA software,¹ should be capped when compared to the old market average based approach. This will be achieved by imposing a 15% 'corridor'. That is to say that when modelling final business plans, any movement in the syndicate capital requirement due to the inclusion of the ICA adjustment and economic capital loading, up or down, will be limited to 15% of capital under the old basis².

Examples:

| | 1 | 2 | 3 |
|--|-----------|-----------------|-----------------|
| Syndicate agreed ICA + economic capital loading | 48% | 50% | 60% |
| Syndicate capital under old market average basis | 60% | 55% | 45% |
| Corridor | 51% - 69% | 46.75% - 63.25% | 38.25% - 51.75% |
| Syndicate capital requirement | 51% | 50% | 51.75% |

As an additional constraint, the syndicate-level capital must be at least as high as the syndicate ICA itself. In the above example 3, assuming the syndicate ICA before economic capital loading was 55%, then 55% would represent the syndicate capital requirement.

The corridor will be assessed relative to the market average syndicate capital corresponding with the latest, or ultimately the approved, business plan of the syndicate. It is stressed that it is a moving comparison and not based on the capital requirement at a fixed point in time.

¹ Including ICA adjustment and economic capital loading

² i.e. indicative syndicate capital ratios as produced by 2006 software before any adjustment to reflect ICAs

Member level capital requirements are determined using syndicate economic capital after applying the corridor, but it should be recognised that member capital can be impacted by other factors (e.g. the capital ratio of a member participating on a single spread syndicate can deviate from the syndicate ratio due to varying its participation share across years of account). It is emphasised that the corridor does not apply directly to the member capital requirement. For aligned single syndicate members there will be a direct mirroring of the syndicate corridor, but for spread members the effect cannot necessarily be predicted exactly.

Managing agents are also being asked, for this year, to provide certain key data fields, contained in their ICA submission, electronically using a simple excel spreadsheet. The data which will be required is the same data set out in the pro-forma summary detailed in section G (page 59) of the 'ICA 2006 Guidance and Instructions'. This data should be consistent with the formal ICA submission and will be used for internal management information purposes. Agents are required to submit the spreadsheet via the market returns website each time that they submit an ICA or revised ICA. The actual spreadsheet will be made available for download from the market returns website by **10 June 2005**, and the completed version should be uploaded to the website on the day that each ICA is submitted to Risk Management³.

Responsibilities

The Market Risk and Reserving Unit ("MRRU") continues to be responsible for the member capital setting process, the development of the 'Member Allocation Tool' and syndicate software. This responsibility extends to setting capital ratios for new syndicates. The Admissions Department of the Risk Management Division will handle the authorisation of new syndicates and should be approached by agents requiring information on the admission process. Underwriting & Business Plan Review Department are responsible for approving syndicate business plans, including mid-year pre-emptions.

The ICA review is a multi-department task, involving each of the aforementioned departments with input from other areas. The results of the review work for each syndicate will be considered by a committee of Heads of Department at Lloyd's and a decision will be made whether to accept the ICA or to request changes. The committee will be chaired by John Parry, Head of Market Reporting.

Lloyd's is responsible for approving the ECA model and any changes made to it, and governance of this is via the Franchise Board.

Distribution of the ECA software and ratios will be carried out by Operations. Agents are advised that the software will require a 32-bit operating system.

Distribution of Software and Ratios

Managing agents will receive **ECA syndicate-modelling software** by **27 May**, enabling benchmark capital requirements to be determined for any assumed business-plan for the

³ Normally, a revised ICA must be submitted to Risk Management Department each time a revised SBF is submitted, subject to materiality provisions

2006 underwriting year based on the old market average approach. This capital will form the basis of the corridor calculation discussed above, varying with business plan changes.

An early indication of the benchmark member capital requirements will be available to members' agents on the market returns website by 13 June. It should be stressed however that these figures will not include 2006 syndicate business forecasts, and are based on the 2005 plan rolled forward.

Managing agents, members' agents/representatives and direct corporate participants will receive the **ECA member-modelling software**, together with **indicative member ECA ratios**, by **18 July**. The software and ratios will exclude ICAs, but be based on the following data inputs:

1. syndicate business forecasts (SBFs) for the 2006 and 2005 underwriting year (as submitted by 23 June 2005);
2. actual 2005-and-prior member participations (at No.1/No.12 Stamp respectively); and,
3. member participations for the 2006 underwriting year assumed to be as for the 2005 underwriting year (except for aligned corporate member changes notified via SBF).

All software and ratios will be distributed electronically by Operations via the market returns website, as in previous years. Agents must:

- sign and return two copies of the software-licence agreement;
- be in possession of software encryption passwords.

Underwriting agents and direct corporate members that do not have access to the market returns website, via the L-net, must complete a nomination form (attached at Appendix 2) to request the receipt of ECA ratios and software on CD-ROM. L-net users need not complete a nomination form. CD-ROMs may be collected from the Risk Management Reception area located on Gallery 5, '86 Building (access via Tower 3) by the nominated person from the date of each software release (see Appendix 1).

Managing agents should collect passwords, which are available from the date of this bulletin, from the Risk Management Reception area prior to **27 May** in order to be in a position to use the syndicate-modelling software upon receipt. Similarly, members' agents and representatives are advised to collect passwords before **18 July** in order to use the ECA member-modelling software without delay.

Agents will also have access via the market returns website to RTF (rich-text format) files that detail the member ECA ratios.

Agents who are experiencing problems with electronic transmission (which will involve some 20Mb of data) should cancel the download and contact the Market Returns Helpdesk (ext. 5021).

The ECA software is distributed free of charge to the representative of every member. In the case of private members this will be their members' agent. Modelling the capital implications of different underwriting scenarios represents one of the services offered by a members' agent to its members. If, however, a member wishes to receive their own version of the

software (and password) they are required to complete the software request form at Appendix 4. An administration charge of £100 (inclusive of VAT) will be levied for the provision of the software throughout the ECA modelling season. Any member requiring the software, will also have to complete and return the software licence agreement (SLA) as detailed below. Members wishing to take advantage of this service should note the limitations which apply this year to pre-August releases of the software for determining capital requirements.

In order for a member to receive their own version of the software, the completed form and SLA must be presented in person (or by an authorised representative from their members' agent) to MRRU by **8th July 2005**, at which point the password and serial number will be issued. A CD-ROM containing the software will then be forwarded by post at the release date, once the members details have been verified, to the address nominated on the software request form.

Software Licences

The potentially price-sensitive nature of ECA capital requirements means that agents and advisers are required to sign a software-liscence agreement. The licence agreement, which is largely unchanged, is attached at Appendix 3. The following points should be noted in respect of these agreements:

- two copies of the licence agreement must be signed by an authorised person (i.e., a director or the compliance officer or individual member) on behalf of each organisation and brought to the Reception area on Gallery 5;
- all software-liscence agreements will be countersigned by an authorised Lloyd's signatory and one copy returned to the agent / representative / member in due course.

Passwords

All entities that sign the software-liscence agreement will be issued with 2 numerical codes.

To start the install process, you will need:

- A Serial Number - supplied by Lloyd's upon receipt of the software-liscence agreement; and,
- A Password - supplied by Lloyd's upon receipt of the software-liscence agreement.

To access the software, you will also need to know:

- Your User Identifier – this is your agent code (for agents) or your membership number (for members only).

Once you have these please follow the on screen instructions through the install process.

More detailed instructions on how to download the modelling software, and about the install process for the 2006 modelling software, will be issued in an e-mail to users accompanying notification of the release of the software. Additionally an in-depth user guide will accompany the software download.

Changes to modelling parameters

Under the transitional arrangements, although the significance of the market average parameters underlying the ECA model is diminished, they continue to be relevant in respect of member calculations and the corridor calculation. Whilst development has been scaled back, the relevant changes for this year are set out below:

Operating Risk

Operating risk factors have not been updated in the underlying software, except for new syndicates in 2005.

Portfolio Diversification Credit (“PDC”)

The cap applying to PDC, which gives members credit for diversifying risk exposure across different Years of Account, has been removed, in accordance with the existing timetable.

Parameters

The ECA model parameters have, as usual, been updated to reflect the latest market data.

Realistic Disaster Scenarios (“RDS”)

RDS data remains unchanged.

Exchange Rates

Following changes to the Syndicate Business Forecast data collection, managing agents will submit Canadian dollar denominated business in Sterling, converted at the prescribed rate for 2006 (see SBF instructions) or average rate for 2005 (in accordance with UK GAAP), combined with all other non-US\$ denominated business.

Whilst the ECA modelling software still allows Canadian dollar denominated business to be input, this functionality should not be used and agents should combine with the Sterling business when inputting premium data. The ECA software will be issued with the Canadian business already combined, although any adverse impact of this change for syndicates has been mitigated by the application of a syndicate specific discount.

The ECA software issued up until the 16 September release will convert US\$ business and 2004 and prior Canadian \$ business at the exchange rate prevailing at 30 April 2005. The software release on 12 October and the Coming into line release on 9 November will use revised exchange rates prevailing at 30 September 2005. Exchange rate movements between April and September will impact on the ‘old basis’ calculation used to work out the capital corridor.

Orphans

The software has been developed in order to cope with the transfer of liabilities under certain orphan purchase transactions. This removes the need to use pseudo syndicate numbers for certain scenarios.

E-mail Help Line

An e-mail helpline will be in operation to deal with queries on the ECA process and software, and with other ECA related questions. Agents with a Market Mail connection should access "Lloyds-RBC-Help"; the full e-mail address is:

<mailto:Lloyds-RBC-Help@lloyds.com>

The helpline will be staffed by the MRRU and will provide assistance with all software installation / distribution and member-specific queries as quickly as possible. Wherever possible, agents are requested to use the e-mail help line to resolve queries in preference to telephoning.

If you require any more information, please contact:

Neil Wells (ext. 6034) neil.wells@lloyds.com or Kevin Barnes (ext. 5683) kevin.barnes@lloyds.com

Any problems relating to accessing the market returns website or with electronic transmission should be addressed to:

The Market Returns Helpdesk (ext. 5021)

Summary of Action Points

- Bring two signed copies of the software-licence agreement to the Reception on Gallery 5 in return for passwords;
- Syndicate-modelling software will be released to managing agents on **27 May**;
- Preliminary indicative member-level ECA figures will be available on **13 June**;
- Present a completed nomination form / software request form, if appropriate by no later than the **8th July 2005** (managing agents wishing to receive 27 May syndicate modelling software on CD ROM must submit nomination form prior to this date), to the Reception on Gallery 5;
- Member-modelling software and indicative ECA ratios will be available to members' agents, managing agents and relevant members on **18 July 2005**.
- Release of member modelling software containing ICA adjustments on **24 August 2005**.

This bulletin is being sent to all underwriting agents and direct corporate members.

Henry Johnson
Head,
Market Risk and Reserving Unit

Appendix 1

ECA Capital Timetable – 2006 Year of Account
(External)

| Date | Event | Comments |
|--|--|--|
| Fri 27 May | <ul style="list-style-type: none"> ▪ ECA Syndicate Modelling Software issued | Business modelling (based on 2005 business plans). New syndicate loadings included |
| Mon 13 June | <ul style="list-style-type: none"> ▪ Indicative ECA ratios to members' agents | No software (based on 2005 business plans and member participations) |
| Thurs 23 June Mon 18 July | <ul style="list-style-type: none"> ▪ Syndicate Business Forecasts to Franchise Performance, via the new Core Market Returns software ▪ ECA Software / Ratios issued –1 | Recognising syndicate business forecasts |
| Thurs 28 July Wed 24 Aug | <ul style="list-style-type: none"> ▪ Revised Syndicate Business Forecasts to Franchise Performance, via the new Core Market Returns software ▪ ECA Software / Ratios issued – 2 | Including agreed syndicate ICA adjustments and economic capital loading or capital ceiling |
| 6/7 Sept 15/16 Sept | <ul style="list-style-type: none"> ▪ First Auction ▪ Second Auction | |
| Fri 16 Sept | <ul style="list-style-type: none"> ▪ ECA Software / Ratios issued – 3 | (to be used if required) |
| Thurs 22 Sept | <ul style="list-style-type: none"> ▪ Annual Franchise Business Plans to FPD | |
| 27/28 Sept Wed 12 October | <ul style="list-style-type: none"> ▪ Third Auction ▪ ECA Software / Ratios issued – 4 | |
| Wed 9 Nov 17/18 Nov Tue 29 Nov | <ul style="list-style-type: none"> ▪ Final ECA Software / Ratios issued – 5 ▪ Fourth Auction ▪ Coming into Line | (All final syndicate ICAs included) |

Appendix 2

Nomination form for Receipt of Risk Based Capital Ratios and Software

I do not have access to the Lloyd's L-Net. I nominate the person named below to collect the software and ratios on behalf of (organisation).

Name: _____ (collector)

Authorised Signatory Details (Director or Compliance Officer):

Name: _____ Signature: _____

Date: _____

Licence No.

SOFTWARE LICENCE AGREEMENT

Parties:

- 1 The Society incorporated by Lloyd's Act 1871 by the name of Lloyd's ("Lloyd's")
whose principal place of business is at One Lime Street, London EC3M 7HA; and

2 (registered number) ("The
Licensee") whose registered office/principal place of business is at:

RECITALS:

- (A) A computer program has been developed to enable users to model capital requirements and to calculate indicative funds at Lloyd's ratios on a risk based capital basis.
 - (B) Lloyd's has agreed to grant the Licensee a non-exclusive licence to use the computer program referred to in Recital A for the purposes of calculating indicative funds at Lloyd's upon the terms and conditions of this Agreement.

NOW IT IS HEREBY AGREED as follows:

1 DEFINITIONS AND INTERPRETATION

- 1.1 In this Agreement unless the context otherwise requires:

“COUNCIL” means the council constituted by section 3 of Lloyd’s Act 1982.

“LICENSED PROGRAMS” means the software programs in object code form and supporting data files.

“LICENSED PROGRAM MATERIALS” means the Licensed Programs and the Program Documentation.

“PASSWORD” means the password to be supplied by Lloyd’s to enable the Licensee to access and use the Licensed Program Materials and where appropriate the Program Documentation.

“PROGRAM DOCUMENTATION” means any instruction manuals, user guides and other information (identified by title and reference number in the Schedule) to be made available by Lloyd's at its discretion in either printed or machine readable form to the Licensee.

“REQUIREMENTS OF THE COUNCIL” has the meaning given in the Definitions Byelaw (No. 3 of 2004).

“SERVICES” means the provision of support services in accordance with clause 4 below.

“SITE” means the address for delivery of the Licensed Program Materials at the licensee’s registered office and or principal place of business unless otherwise specified.

“USE” means the copying or transmission of the Licensed Programs (or where in machine-readable form) the Program Documentation into a computer located at the Site for the processing of the instructions contained in the Licensed Programs (or as the case may be) the Program Documentation.

1.2 In this Agreement unless the context otherwise requires:

- 1.2.1 words denoting any gender include all genders;
- 1.2.2 words denoting the singular include the plural and vice versa;
- 1.2.3 references to persons include individuals, companies, bodies corporate, unincorporated associations and partnerships;
- 1.2.4 references to any statutory provision or byelaw or regulation include references to any amendment or re-enactment for the time being in force;
- 1.2.5 the Schedule forms part of the operative provisions of this Agreement and references to this Agreement shall include references to the Schedule.

2 GRANT OF LICENCE AND PROVISION OF SERVICES

2.1 Lloyd's in consideration of the mutual promises and undertakings in this Agreement hereby:

- 2.1.1 (subject to clause 2.2 below) grants to the Licensee a non-exclusive licence to use the Licensed Programs (and where appropriate the Program Documentation) and to possess and refer to the Program Documentation;
- 2.1.2 undertakes to the Licensee to provide the Services upon the terms and conditions of this Agreement; and

2.2 The Licensee undertakes not to install the Licensed Programs onto any computer system that will enable access to the Licensed Programs by more than one user at a time.

3 TERM AND TERMINATION

- 3.1 The Licensee shall install the Licensed Programs on a computer located at the Site and shall (subject to clauses 3.2, 3.3 and 3.4) be entitled free of charge from the date of this Agreement until 31 December 2006 (or such other date as Lloyd's in its sole discretion may determine) (the "Term") to use the Licensed Programs (in association with the Program Documentation) not for the purpose of its trade or business but solely for the purpose of assessing (together with Lloyd's and other licensees of the Licensed Program Materials) indicative Funds at Lloyd's requirements for the 2006 year of account. For the avoidance of doubt, the Licensed Program Materials are only valid for capital setting for the 2006 year of account.
- 3.2 Members who have a Members' Agents appointed to act for them in respect of their underwriting at Lloyd's who wish to obtain a copy of the Licensed Programs for their own use will be charged a fee of £100 (inclusive of VAT). Payment of the fee shall be made in advance to Lloyd's.
- 3.3 During the Term Lloyd's and the Licensee shall each be entitled by giving 7 days written notice to the other to terminate this Agreement.
- 3.4 Without prejudice to clause 3.3 above this Agreement may be terminated:
 - 3.4.1 forthwith by either party if the other commits any material breach of any term of this Agreement and which (in the case of a breach capable of being remedied) shall not have been remedied within 28 days of a written request to remedy the same;
 - 3.4.2 forthwith by either party if the other shall convene a meeting of its creditors or if a proposal shall be made for a voluntary arrangement within Part I of the Insolvency Act 1986 or a proposal for any other composition scheme or arrangement with (or assignment for the benefit of) its creditors or if the other shall be unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or if a trustee, receiver, administrative receiver, administrator or similar officer is appointed in respect of all or any part of the business or assets of the other or if a petition is presented or a meeting is convened for the purpose of considering a resolution or other steps are taken for the winding up or bankruptcy of the other or for the making of an administration order (otherwise than for the purpose of an amalgamation or reconstruction).
- 3.5 Any termination of this Agreement pursuant to this clause shall be without prejudice to any other rights or remedies a party may be entitled to hereunder or at law and shall not affect any accrued rights or liabilities of either party nor the coming into or continuance in force of any provision hereof which is expressly or by implication intended to come into or continue in force on or after such termination.

4 TECHNICAL SUPPORT

- 4.1 With effect from the date of this Agreement and for the duration of this Agreement Lloyd's shall use all reasonable endeavours to provide in respect of the Licensed Programs such support to enable the Licensee to operate the Licensed Programs and to interpret the Program Documentation as the Licensee may from time to time reasonably require.
- 4.2 Support shall not include the diagnosis and rectification of any fault resulting from:

- 4.2.1 the improper use operation or neglect of the Password the Licensed Program Materials or the computer on which it is installed;
 - 4.2.2 the modification of the Licensed Programs or their merger (in whole or in part) with any other software;
 - 4.2.3 the failure by the Licensee to implement recommendations in respect of or solutions to faults previously advised by Lloyd's;
 - 4.2.4 any repair adjustment alteration or modification of the Licensed Programs by any person other than Lloyd's without Lloyd's prior consent;
 - 4.2.5 any breach by the Licensee of any of its obligations under this Agreement or any maintenance agreement in respect of any computer on which the Licensed Programs are installed; or
 - 4.2.6 the use of the Licensed Programs for a purpose for which they were not designed.
- 4.3 Lloyd's shall not be obliged to provide support in circumstances where any reasonably skilled and competent data processing operator would have judged the Licensee's request to have been unnecessary.

5 PROPERTY AND CONFIDENTIALITY IN THE LICENSED PROGRAM MATERIALS

- 5.1 The Licensed Program Materials contain confidential information and data of Lloyd's and all copyright trade marks and other intellectual property rights in the Licensed Program Materials are the exclusive property of Lloyd's.
- 5.2 The Licensee shall not:
 - 5.2.1 save as provided in clause 2.1.1 above and clause 6 below copy the whole or any part of the Licensed Program Materials;
 - 5.2.2 modify merge or combine the whole or any part of the Licensed Program Materials with any other software or documentation;
 - 5.2.3 assign transfer sell lease rent charge or otherwise deal in or encumber the Licensed Program Materials nor use on behalf of or make available the same to any third party; or
 - 5.2.4 reverse compile the whole or any part of the Licensed Program Materials from object code into source code except in so far as permitted by the Copyright (Computer Programs) Regulations 1992.
 - 5.2.5 attempt to bypass the software security mechanisms employed by the Licensed Program Materials.
 - 5.2.6 use the Password for any improper, immoral, fraudulent or unlawful purposes.
 - 5.2.7 Make the Password available to any third party other than those specified in clause 5.3.1 below.

- 5.3 The Licensee shall:
- 5.3.1 keep confidential the Licensed Program Materials and all data contained therein and limit access to the same to those of its employees who either have a need to know or who are engaged in the Use of the Licensed Programs (including where appropriate the Program Documentation);
 - 5.3.2 reproduce on any copy of the Licensed Program Materials any Lloyd's copyright and trade mark notices;
 - 5.3.3 maintain an up-to-date written record of the number of copies of the Licensed Program Materials and their location (such record to be preserved for 2 years after termination of this Agreement) and upon request forthwith produce such record to Lloyd's; and
 - 5.3.4 without prejudice to the foregoing take all such other steps as shall from time to time be necessary to protect the confidential information and data and intellectual property rights of Lloyd's in the Licensed Program Materials (the provisions of this sub-clause to survive termination of this Agreement).
- 5.4 The Licensee shall inform all relevant employees agents and sub-contractors that the Licensed Program Materials and data contained therein constitute confidential information of Lloyd's and that all intellectual property rights therein are the property of Lloyd's and the Licensee shall take all such steps as shall be necessary to ensure compliance by its employees agents and sub-contractors with the provisions of this clause 5.

6 COPYING OF THE LICENSED PROGRAM MATERIALS

- 6.1 The Licensee shall be entitled to make one back-up copy of the Licensed Programs. Any such copy shall in all respects be subject to the terms and conditions of this Agreement and shall be deemed to form part of the Licensed Programs.
- 6.2 The Licensee shall not be entitled to copy in whole or in part the Program Documentation (save for that part, if any, of the Program Documentation which is in machine readable form in which case the Licensee shall be entitled to make one back-up copy of the relevant part of the Program Documentation).

7 WARRANTY

- 7.1 Subject to the exceptions set out in clause 7.4 below and the limitations upon its liability in clause 8 below Lloyd's warrants that:
 - 7.1.1 its title to and property in the Licensed Program Materials is free and unencumbered and that it has the right power and authority to licence the same upon the terms and conditions of this Agreement;
 - 7.1.2 it will perform the Services with reasonable care and skill.
- 7.2 The Licensee shall give notice to Lloyd's as soon as it is reasonably able upon becoming aware of a breach of warranty referred to in clause 7.1.1.

- 7.3 Lloyd's shall have no liability to remedy a breach of warranty where such breach arises as a result of any of the circumstances described in clause 4.2 above.
- 7.4 Without prejudice to the foregoing Lloyd's does not warrant that the Use of the Licensed Programs will meet the Licensee's data processing requirements or that the Licensed Programs (including where in machine-readable form the Program Documentation) will be uninterrupted or error free. The Licensee shall give notice to Lloyd's as soon as it is reasonable upon becoming aware of any defects or errors in the Licensed Programs.
- 7.5 Subject to the foregoing all conditions warranties terms and undertakings express or implied statutory or otherwise in respect of the Licensed Program Materials and the provision of the Services are hereby excluded. In particular, the Licensee accepts that the Licensed Program Materials were not designed and produced to its individual requirements.

8 LIMITATION OF LIABILITY AND INDEMNITY

- 8.1 The Licensee shall use the Licensed Program Materials at its own risk and in no event shall Lloyd's be liable to the Licensee for any loss or damage of any kind (except personal injury or death resulting from Lloyd's negligence) arising from the Licensee's Use or inability to use the Licensed Program Materials or from faults or defects therein whether caused by negligence or otherwise.
- 8.2 The Licensee shall indemnify and hold harmless Lloyd's against any losses, costs, expenses or damages that may be suffered or incurred by Lloyd's arising from the Use or any other use of the Licensed Program Materials by the Licensee (or its agents, employees or sub-contractors) except where such losses, costs, expenses or damages arise from the negligence or wilful default of Lloyd's.
- 8.3 Lloyd's shall not be liable for:
 - 8.3.1 Any improper, immoral, fraudulent or unlawful use of the Password by the Licensee and/or any third party; or
 - 8.3.2 Any unauthorised access and/or use of the syndicate business forecasts information and/or Licensed Program Materials by the Licensee and/or any third party.

9 RISK IN THE LICENSED PROGRAM MATERIALS

- 9.1 Risk in the Licensed Program Materials will pass to the Licensee upon delivery which shall be deemed to take place when the Licensee obtains possession of the media containing the Licensed Programs and the Program Documentation.

10 CONFIDENTIALITY

- 10.1 Each of the parties hereto undertakes to the other to keep confidential all information (written or oral) concerning the business and affairs of the other that it shall have obtained or received as a result of the discussions leading up to or the entering into

of this Agreement save that which is:

- 10.1.1 already in its possession other than as a result of a breach of this clause;
 - 10.1.2 in the public domain other than as a result of a breach of this clause; or
 - 10.1.3 required to be disclosed by law or by any competent regulatory authority (including, for the avoidance of doubt, the Council or any person or body by whom or by which the Council acts under (in the case of the Council alone) section 6(7) of Lloyd's Act 1982 or under any requirement of the Council.
- 10.2 Each of the parties undertakes to the other to take all such steps as shall from time to time be necessary to ensure compliance with the provisions of clause 10.1 above by its employees agents and sub-contractors.

11 LICENSEE'S REPRESENTATIVES

- 11.1 The Licensee shall communicate to Lloyd's upon the date hereof the identity of the person(s) or the department within its undertaking at the Site who shall act as the sole contact point and channel of communication for the provision by Lloyd's of the Services during the currency of this Agreement (please provide these details as required by completing the final page of this document). The Licensee shall forthwith inform Lloyd's of any change in the identity of any such person(s) or department.

12 WAIVER

- 12.1 The waiver by either party of a breach or default of any of the provisions of this Agreement by the other party shall not be construed as a waiver of any succeeding breach of the same or other provisions nor shall any delay or omission on the part of either party to exercise or avail itself of any right power or privilege that it has or may have hereunder operate as a waiver of any breach or default by the other party.

13 NOTICES

- 13.1 Any notice request instruction or other document to be given hereunder shall be delivered or sent by first class post or facsimile (facsimile notice to be confirmed by letter posted within 12 hours) to the address of the other party set out in this Agreement (or such other address as may have been notified) and any such notice or other document shall be deemed to have been served (if delivered) at the time of delivery, (if sent by post) upon the expiration of 48 hours after posting and (if sent by facsimile) upon the expiration of 12 hours after dispatch.

14 INVALIDITY AND SEVERABILITY

- 14.1 If any provision of this Agreement shall be found by any court or administrative body of competent jurisdiction to be invalid or unenforceable the invalidity or unenforceability of such provision shall not affect the other provisions of this Agreement and all provisions not affected by such invalidity or unenforceability shall

remain in full force and effect. The parties hereby agree to attempt to substitute for any invalid or unenforceable provision a valid or enforceable provision which achieves to the greatest extent possible the economic legal and commercial objectives of the invalid or unenforceable provision.

15 ENTIRE AGREEMENT

- 15.1 This is the entire agreement between the parties relating to the Licensed Program Materials. Lloyd's shall not be liable to the Licensee for loss arising from or in connection with any representations agreements statements or undertakings made prior to the date of execution of this Agreement. Nothing in this clause, shall, however operate to limit or exclude any liability for fraud.

16 SUCCESSORS

- 16.1 This Agreement shall be binding upon and endure for the benefit of the successors in title of the parties hereto.

17 ASSIGNMENT AND SUB-LICENSING

- 17.1 The Licensee shall not be entitled to assign this agreement nor any of its rights or obligations hereunder nor sub-license the Use (in whole or in part) of the Licensed Program Materials without the prior written consent of Lloyd's (such consent not to be unreasonably withheld).

18 RIGHTS OF THIRD PARTY

- 18.1 A person who is not a party to this Agreement has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement but this does not affect any right or remedy of a third party which exists or is available apart from that Act.

19 LAW

- 19.1 This Agreement shall be governed by and construed in accordance with English law and the parties hereto agree to submit to the exclusive jurisdiction of the English courts.

AS WITNESS whereof this Agreement is executed under hand in two originals by the duly authorised representatives of the parties the day and year first written above

LLOYD's SCHEDULE

Agreed For And On Behalf Of
LLOYD'S

SIGNATURE: _____

NAME: _____

TITLE: _____

DATE: _____

Agreed For And On Behalf Of Licensee (Company etc. name)

COMPANY: _____

SIGNATURE: _____

NAME: _____

TITLE: _____

DATE: _____

TELEPHONE: _____

Software Request Form

This form should only be completed by Members that wish to receive a copy of the RBC software in addition to the version sent to their representative / members' agent.

Members requesting their own copy of the software will incur a charge of £100 (inclusive of VAT).

A cheque for £100 made payable to 'Corporation of Lloyd's' must be provided, along with two signed copies of the Software License Agreement (SLA), to MRRU. The invoice relating to this charge will be forwarded to the address below (please complete).

In order to receive your own version of the software, this completed form, together with the SLA and payment must be presented in person (or by an authorised representative from your members' agent) to MRRU **by 8 July 2005**, at which point the password and serial number will be issued. A CD-ROM containing the software will then be forwarded by post at the release date, once your details have been verified.

Member Code: _____

Member Name: _____

Member's Agent: _____

Name of Collector: _____

Address:
(to receive -
software/invoice)

I confirm that I am requesting a copy of the RBC software at each scheduled release date and agree to pay the charge of £100 (inclusive of VAT).

Members Signature:

Signature: _____ Date: _____