

# MARKET BULLETIN

<b>From</b>	Head, Market Risk and Reserving Unit (5235 )
<b>Date</b>	19 May 2006
<b>Reference</b>	Y3818
<b>Subject</b>	<b>Economic Capital Assessment (ECA) Process for 2007 Underwriting year</b>
<b>Subject areas</b>	ECONOMIC CAPITAL ASSESSMENT (ECA) PROCESS FOR THE 2007 UNDERWRITING YEAR – ARRANGEMENTS FOR DISTRIBUTION OF FAL RATIOS AND SOFTWARE, FOR COMPLETION OF SOFTWARE LICENSING AGREEMENTS AND ELECTRONIC ICA DATA COLLECTION
<b>Attachments</b>	Timetable, nomination form, software licence agreement and software request form
<b>Action points</b>	<b>Managing agents, members' agents, direct corporate members and other members requesting software to sign and return the attached software-licence agreement and relevant nomination/request form for the receipt of ECA ratios and software</b>
<b>Deadlines</b>	<b>Managing Agents: 26 May and Members' agents: 18 July</b>

## Key points to note

- 2007 year of account member capital requirements will be based on 2007 syndicate ICAs
- ECA software will be distributed containing latest available ICA adjustment to give ECA
- Adjustment can be revised to '1' in order to model pure RBC market average benchmark
- Corridor around pure RBC market average benchmark for 2007 is 20%
- Economic capital uplift averaging 35% across market will be applied to ICAs
- Member capital allocation will be determined using ECA software for 2007

## Introduction

This bulletin describes the Economic Capital Assessment (ECA) process for the 2007 underwriting year, including the distribution of ECA ratios and software, together with arrangements for signing software-licence 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.

The underlying software platform remains unchanged. Indicative capital numbers issued in May to managing agents and June to members' agents assume that syndicate business plans for 2007 are identical to 2006 and that the relationship between the underlying market average RBC and the syndicate ICA is constant (i.e. moves proportionately). This approach implicitly means that a flat 35% economic capital uplift of ICAs is included in the ECA requirements. The impact of a variable uplift methodology, being developed, will be reflected from the August software release. Adjustments have been made to recognise the impact of a wider corridor for 2007 (details below) by recalculating the 2006 RBC adjustment, assuming the wider corridor had applied. Managing agents will be able to model the impact of changing syndicate business plans and see the impact on the underlying market average RBC and hence the corridor against which their ICA will be measured.

## Changes to the capital setting process for the 2007 Year of Account

The ECA modelling software will be distributed to managing and members' agents in accordance with the normal broad timetable. 2007 ICA submissions will not be reflected until the August software release, when the preliminary ICA requirement will be incorporated. It should be noted that this will not be an agreed ICA number, as discussions will still be in progress at this time. If anything has arisen in discussions which the agent believes will lead to an adjusted ICA number, it can, depending on timing, either be addressed by a resubmission of ICA pro-forma prior to August release or can be dealt with by managing agent as an auction disclosure.

The full ICA submission received in September will be included in the October ECA software release. The continuous review nature of this year's exercise means that there should be no surprises in the full submission, which should enable a rapid sign-off of ICAs by the ICA Steering Group. Obviously, late occurring insured events could lead to the need for some syndicates to re-submit ICAs after the September deadline to reflect the impact of such events on their ICA. Action and timetable will depend on the timing of any such event and the constitution of the syndicate's stamp. If required, instructions and revised timetable will be communicated at that time.

Where for any reason, Steering Group are unable to agree any ICA with a syndicate's managing agent, the market average RBC may be used in ECA software releases until agreement can be reached.

All 2006 run-off ICAs agreed and uplifted for economic capital will be included in the member capital requirements issued in June. This is the first time that they have been included.

As last year, the market average syndicate RBC amount will be adjusted to equal the agreed ICA requirement after uplift for economic capital. This adjustment is fixed based on the previous year relationship between uplifted ICA and RBC until the August software release. The ECA software will continue to be used for 2007 to allocate capital to members, recognising appropriate credit for diversification across syndicates.

Members will continue to be subject to a minimum capital requirement of 40% of their overall premium limit. The dispensation for members writing predominantly (85%) UK motor business has been extended to all EU motor business and the minimum may be waived, although we would not expect any member's capital requirement to fall below 25% of their premium limit (this provision replaces the previous reduced minimum of 35%).

**Corridor**

For the 2007 year of account exercise, it has been agreed, following consultation with the market, that the syndicate level ECA<sup>1</sup> should continue to be moderated by reference to the previous market average based approach, but that a wider corridor of 20% should be used. Lloyd's will continue to consult on the future use of RBC or another benchmark as a corridor around the ICA.

Examples:

	<b>1</b>	<b>2</b>	<b>3</b>
Syndicate agreed ICA + economic capital loading	46%	50%	60%
Syndicate capital under old market average basis	60%	55%	45%
Corridor	48% - 72%	44% - 66%	36% - 54%
Syndicate ECA	48%	50%	54%

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.

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

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<sup>1</sup> Including ICA adjustment and economic capital loading

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. In some cases, however, the corridor may produce anomalies at a member level which may be addressed individually.

#### Economic Capital Uplift

The economic capital uplift for 2007 will vary between syndicates depending on their tail risk beyond the 99.5<sup>th</sup> percentile. Syndicates will be requested to provide certain data feeds to assist in this process. It is expected that the uplift will average out at 35% across the market with a range between 30% and 40%. Further details will be set out separately.

Requirements for managing agents to submit ICAs and pro-forma information were set out in Market Bulletin Y3770 dated 17 March 2006 and reiterated in Market Bulletin Y3817 dated 18 May 2006.

#### 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 is chaired by John Parry, Head of Market Reporting.

Lloyd's is responsible for approving the ECA model and the calculation of the economic capital uplift and any changes made to them, 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 **26 May**, enabling benchmark capital requirements to be determined for any assumed business-plan for the 2007 underwriting year, based on the previous market average approach. The software will default to show 2006 loading, but this can be set to 1 in order to access the pure RBC

requirement. This capital will form the basis of the corridor calculation discussed above, varying with business plan changes.

An early indication of the 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 2007 syndicate business forecasts or ICAs, and are based on the 2006 plan rolled forward and assuming a fixed relationship between RBC and ICA.

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 2007 and 2006 underwriting year (as submitted by **22 June 2006**);
2. actual 2006-and-prior member participations (at No.1 Stamp);
3. member participations for the 2007 underwriting year assumed to be as for the 2006 underwriting year (except for aligned corporate member changes notified via SBF); and
4. Adjustment based on 2006 relationship between uplifted ICA and RBC

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 **26 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 **7<sup>th</sup> July 2006**, 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-licence 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-licence 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-licence 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-licence agreement; and,
- A Password - supplied by Lloyd's upon receipt of the software-licence 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 2007 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

Whilst 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. Development has been scaled back, but some changes have been made to remove some of the smoothing elements of the calculation and the relevant changes for this year are set out below:

### *Operating Risk*

The operating risk adjustments have been removed from the model.

### *Parameters*

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

### *ULRs*

In setting net ultimate loss ratios for the proposed and current years of account there has been no adjustment this year to achieve an average net ULR across the market of 100%, as has been the case in previous years.

### *Scaling*

The ECA software will no longer scale premiums to capacity in the proposed year of account. This is consistent with ICA rules and reflects increased controls over premium writing.

### *Realistic Disaster Scenarios ("RDS")*

Truncated RDS summary data submitted in March will be included in the May software release and the final 2006 RDS data, due in June, will be included in the July software release

### *Exchange Rates*

Managing agents are reminded that 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 market modeller will be amended so that the premium entered for the proposed year of account will be converted at the PIM exchange rate (fixed for all ECA releases). For all other years of account (current year and prior), premium will be converted at the most recent FAL valuation date. In practice, there will be two exchange rate points within the Market Modeller, which would be:

- 1 For software releases May to August: use April PIM exchange rate for all YOAs.
- 2 For October and CIL release: use 30 Sept FAL valuation date exchange rate for current and prior years and PIM exchange rate for proposed year.

#### Syndicate Specific Discounts

All syndicate specific discounts agreed in previous years with syndicates have been removed from the ECA software.

#### *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:**

**Kevin Barnes (ext. 5683) [kevin.barnes@lloyds.com](mailto:kevin.barnes@lloyds.com) or Neil Wells (ext. 6034) [neil.wells@lloyds.com](mailto:neil.wells@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 **26 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 **7<sup>th</sup> July 2006** (managing agents wishing to receive 26 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 2006**.
- Release of member modelling software containing ICA adjustments on **24 August 2006**.

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

Henry Johnson  
Head,  
Market Risk and Reserving Unit

**ECA Capital Timetable – 2007 Year of Account**  
(External)

<i>Date</i>	<i>Event</i>	<i>Comments</i>
<b>Fri 26 May</b>	▪ <b>ECA Syndicate Modelling Software issued</b>	<b>Business modelling (based on 2006 business plans). New syndicate loadings included</b>
Tues 13 June	▪ Indicative ECA ratios to members' agents	No software (based on 2006 business plans and member participations)
Thurs 22 June	<ul style="list-style-type: none"> <li>▪ Syndicate Business Forecasts to Franchise Performance, via Core Market Returns software</li> <li>▪ Provisional 2007 ICA submission via Core Market Returns software</li> </ul>	
<b>Tues 18 July</b>	▪ <b>ECA Software / Ratios issued – 1</b>	<b>Recognising syndicate business forecasts</b>
Thurs 27 July	▪ Revised Syndicate Business Forecasts to Franchise Performance, via the new Core Market Returns software	
<b>Thurs 24 Aug</b>	▪ <b>ECA Software / Ratios issued – 2</b>	Including agreed syndicate ICA adjustments and economic capital loading or capital ceiling
5/6 Sept	▪ First Auction	
14/15 Sept	▪ Second Auction	
Thurs 21 Sept	<ul style="list-style-type: none"> <li>▪ Annual Franchise Business Plans to FPD</li> <li>▪ Full 2007 ICA submission via Core Market Returns software</li> </ul>	
26/27 Sept	▪ Third Auction	
<b>Thurs 26 October</b>	▪ <b>ECA Software / Ratios issued – 3</b>	
<b>Thurs 9 Nov</b>	▪ <b>Final ECA Software / Ratios issued – 4</b>	<b>(All final syndicate ICAs included)</b>
16/17 Nov	▪ Fourth Auction	
<b>Wed 29 Nov</b>	▪ <b>Coming into Line</b>	

**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: \_\_\_\_\_



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

“SITE” means the address for delivery of the Licensed Program Materials specified by the Licensee as set out in the Schedule attached (please provide these details by completing the Schedule attached).

“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; and

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; and

2.1.2 undertakes to the Licensee to provide the Services upon the terms and conditions of this Agreement.

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 2007 (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 2007 year of account. For the avoidance of doubt, the Licensed Program Materials are only valid for capital setting for the 2007 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;
  - 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; or

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; and

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 or fraud) 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 requirements 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 Schedule attached). 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, at the time of delivery if delivered, upon the expiration of 48 hours after posting if sent by post and if sent by facsimile upon the expiration of 12 hours after dispatch by facsimile.

#### **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

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: \_\_\_\_\_

SCHEDULE

Licensee:

Name .....

Address for Delivery of the Licensed Program Materials / invoice:

Address .....  
.....  
.....  
.....  
.....  
.....  
.....  
.....

Contact details in relation to the provision of the services (see clause 11.1):

Name .....

Address  
(if different to above)  
.....  
.....  
.....  
.....  
.....  
.....  
.....

Tel No .....

Fax No .....

**Software Request Form**

**This form should only be completed by Members that wish to receive a copy of the ECA 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 7 July 2006**, 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: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

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

**Member's Signature:**

Signature: \_\_\_\_\_ Date: \_\_\_\_\_