

**TERMS AND CONDITIONS  
OF USE OF THE LLOYD'S ATTORNEY IN FACT SIGNING PROCESS SYSTEM ("ASPS")**

**BETWEEN:**

- (1) The Society incorporated by Lloyd's Act 1871 by the name of Lloyd's whose principal place of business is One Lime Street, London EC3M 7HA ("Lloyd's"); and
- (2) [*name of firm*]\_\_\_\_\_ whose registered principal office is at  
Address: \_\_\_\_\_ ("Firm").

**WHEREAS:**

- a) Lloyd's has developed the System in order to enable the Firm and its Users to process insurance and reinsurance policies through the Attorney in Fact for Lloyd's Underwriters in Canada.
- b) Firm has requested access to the System in order that the Firm and its Users can use the System for this purpose.

**1 Definitions and interpretation**

1.1 In these Terms the following words and phrases shall have the following meanings:

|                          |  |
|--------------------------|--|
| "Applicable Legislation" | all applicable legislation, laws, regulations, codes of practice with which the Firm or its Users must comply when using the System; |
| "Super User"             | means an individual nominated on behalf of the Firm who will be responsible for the appointment of Users within the Firm;            |
| "Information"            | any data submitted to the System by the Firm or its Users;   |
| "Intellectual Property"  | all rights including but not limited to trade marks, Rights" names, logos, copyright, database rights, patents and know how;         |
| "Password"               | the password provided to each User for the purposes of accessing the System;   |
| "System"                 | the website and webservice whose address is <a href="https://asps.lloyds.com">https://asps.lloyds.com</a> .                          |

|            |  |
|------------|--|
| “Terms”    | these Terms and Conditions of Use;   |
| “User”     | means an individual authorised and registered by the Firm to use the System (including the Firm’s Super User); and |
| “Username” | the username provided to each User for the purposes of accessing the System.                                       |

## **2 Terms and Conditions of use**

- 2.1 The Firm agrees to be bound by these Terms.
- 2.2 The Firm shall ensure that Users are made aware of and comply with these Terms. The Firm shall be responsible for User’s use of the System and any failure of Users to comply with these Terms.

## **3 System Access**

- 3.1 The Firm must register a Super User by submitting the Super User Form to obtain initial access to the System.
- 3.2 The Super User will be responsible for the appointment of Users on behalf of the Firm. Users will have access to the System in accordance with these Terms.
- 3.3 The Firm, Super Users and Users must keep their Usernames and Passwords in the strictest confidence and must not disclose them to anyone else.
- 3.4 The Firm must ensure that persons are appropriate to be added as Users of the System and that the level and nature of the access rights granted are appropriate to the User’s role and normal business activities.
- 3.5 The Firm must notify Lloyd’s immediately if:
  - 3.5.1 a User ceases to be authorised by the Firm to use the System for any reason. Lloyd’s will then terminate User’s access to the System;
  - 3.5.2 the Firm and/or User believe there has been a breach of section 3.3 or that the Username and/or Password have been used improperly. Lloyd’s will then disable the relevant Username and/or Password; or
  - 3.5.3 the Firm and/or User obtain access to an unauthorised section of the System. The Firm and/or User must immediately exit from the unauthorised section of the System.
- 3.6 Any use of the System accessed by User’s Username and Password will be considered to be use by the Firm and the Firm will therefore be responsible for any consequences of such access.
- 3.7 Lloyd’s reserves the right to grant, restrict or revoke access of Users or prospective Users to the System at any time.

3.8 Lloyd's or its agents or suppliers may monitor usage of a User's Username and Password and unusual patterns of use may be investigated.

#### **4 Technical requirements to be met by Firm**

4.1 Lloyd's reserves the right to update the technical characteristics of the System and the Firm agrees that such updates may require changes to its hardware and/or software. Any such changes will be made by the Firm at its own cost. Lloyd's will notify any such changes reasonably in advance on the System and/or by sending a prior notice to the Firm by e-mail or registered letter, return receipt requested.

4.2 It is the responsibility of the Firm to obtain and maintain an internet connection, at its own cost.

4.3 The Firm shall use anti-virus software on its computer(s) which, according to best industry practice at the time is the most suitable to protect against viruses and other technically harmful material and which it shall have updated regularly in accordance with best practice.

#### **5 Use of the System**

5.1 The Firm and Users may access and use the System to prepare and print policy documentation for insurance policies which the Firm is authorised to process. For the avoidance of doubt these Terms and/or access to or use of the System do not provide the Firm with authority to issue insurance policies.

5.2 Lloyd's will check the content and accuracy of policies or other documentation prepared using the System only to the extent necessary for the Attorney in Fact for Lloyd's Underwriters in Canada to verify and confirm, in accordance with the terms of the mandate provided by the relevant Lloyd's managing agent on behalf of Lloyd's underwriters, whether the policies may be bound as "*insure in Canada a risk*" (as provided for by the Insurance Companies Act (Canada)).

5.3 The Firm and Users are entirely responsible for the content and accuracy of:

5.3.1 data and information submitted to and contained on the System; and

5.3.2 the output of the System, including any insurance policies and other documentation prepared using the System.

#### **6 Acceptable Use Policy**

6.1 The Firm and Users must not use the System other than in accordance with section 5.

6.2 The Firm and Users must comply with Applicable Legislation and these Terms when using the System.

6.3 The Firm and Users must not use the System in an improper manner, and, *inter alia*, agree that they will not:

- 6.3.1 attempt to obtain unauthorised access to the System, sections of the System containing details of policies for which it is not authorised, the software or any of Lloyd's networks;
  - 6.3.2 submit, post or transmit any material which violates the Intellectual Property Rights of others or for which the Firm has not obtained all necessary licences and/or approvals;
  - 6.3.3 submit, post or transmit any material which is harmful, obscene, defamatory or otherwise illegal;
  - 6.3.4 use any software and/or other device which may interfere with the operation or functionality of the System or submit, post or transmit any material which is technically harmful; or
  - 6.3.5 use the System in a manner which constitutes or encourages conduct that would be considered a criminal offence, give rise to civil liability, or otherwise be contrary to the law or infringe the rights of Lloyd's or any third party, in Canada, the UK or any other country in the world.
- 6.4 Lloyd's reserves the right to remove, modify or alter any data submitted to the System by a User in breach of section 6.3 but this shall not affect any other remedy which may be available to Lloyd's.
- 6.5 Violation of this section 6 may lead to legal action being taken against the Firm and/or Users by the authorities or an aggrieved third party. Lloyd's will fully co-operate with any regulator, law enforcement authorities or court order requesting or directing Lloyd's to disclose the identity or locate anyone who is in breach of section 6.3.

## **7 Data Protection**

- 7.1 In connection with any personal data, as defined in the Data Protection Act 1998 or any similar privacy legislation as may be included in Applicable Legislation ("the Act"), provided by a Firm or a User to Lloyd's, the Firm confirms that:
- 7.1.1 it has the written consent of the owner of the personal data to provide such data to Lloyd's;
  - 7.1.2 it has the right to provide such personal data through the System to Lloyd's; and
  - 7.1.3 it has complied with its obligations as set out in the Act.

## **8 Free service**

- 8.1 The services offered by the System are free of charge.

## **9 Warranty and Liability**

- 9.1 The System is provided "as is" and Lloyd's gives no warranties in respect thereof. Specifically, but without limitation, Lloyd's does not warrant that:
- 9.1.1 Firms or Users will be able to use the System or that the System will continue to be made available in its current or any other form;

- 9.1.2 the System or any software or material of whatever nature available on or downloaded from it will meet a Firm's or User's data processing requirements, be uninterrupted or free from errors, defects or viruses, or compatible with a Firm's or User's equipment or fit for any purpose; or
- 9.1.3 any content or information published on the System is accurate or complete.
- 9.2 Lloyd's accepts no responsibility for the content or accuracy of policies or other documentation prepared using the System whether in respect of the compliance of such policies or other documentation with tax or regulatory requirements or on any other basis. For the avoidance of doubt Lloyd's will not check any policy or other document as to the correctness or completeness of the terms and conditions of the policy or document.
- 9.3 Lloyd's provides the Firm and Users with the System and its contents on the basis that, to the maximum extent permitted by law, Lloyd's excludes all representations, warranties, conditions and other terms (including without limitation, the conditions implied by law of satisfactory quality, fitness for purpose and the use of reasonable skill and care) which but for these Terms might have effect in relation to the System and its contents.
- 9.4 Save as provided for in section 9.5, Lloyd's excludes all liability and responsibility for any amount or kind of loss or damage (including without limitation, any direct, indirect, punitive or consequential loss or damages, or any loss of income, profits, goodwill, data, contracts, use of money, or loss or damage arising from or connected in any way to business interruption, and whether in tort (including without limitation negligence), contract or otherwise) arising in any way in connection with:
- 9.4.1 the System or its use, or the inability to use it or the results or products of the use of it;
- 9.4.2 any inaccurate or incomplete information contained in the System or in products of the use of it;
- 9.4.3 the Firm or User's failure to comply with Applicable Legislation;
- 9.4.4 total or partial unavailability of the System;
- 9.4.5 interference with the System as a result of access by unauthorised third persons; or
- 9.4.6 viruses that may infect the System, the data held on the System or the Firm's software, data or other property.
- 9.5 Nothing in these Terms shall exclude or limit Lloyd's liability for death or personal injury caused by negligence or fraud or any liability which cannot be excluded or limited under applicable law.

## **10 Indemnity**

- 10.1 The Firm shall indemnify Lloyd's against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of

reputation and all interest, penalties and legal and other reasonable professional costs and expenses) suffered or incurred by Lloyd's arising out of or in connection with:

10.1.1 the Firm's or User's breach of these Terms; and

10.1.2 any claim made against Lloyd's by a third party whether directly or indirectly arising from Firm's and/or User's use of the System or Firm's or User's breach of these Terms.

## **11 Intellectual property rights**

11.1 The Intellectual Property Rights in the System together with the underlying software code are exclusively owned by Lloyd's.

11.2 All Intellectual Property Rights in the Information shall remain in the ownership of the Firm and the Firm grants Lloyd's a perpetual licence to use the Information for the purposes of administering the System and for its lawful business purposes including Lloyd's tax, regulatory and supervisory functions.

## **12 Term and termination**

12.1 Lloyd's shall have the right to terminate immediately at any time these Terms and/or Firm's or Users' access to the System for any reason, including but not limited to the following:

12.1.1 where applicable, the Firm's deregistration as an approved Lloyd's Firm; and

12.1.2 the abuse or misuse of the System by the Firm or Users as determined by Lloyd's in its sole discretion.

12.2 Termination of these Terms will not affect any obligations that accrue before such termination.

## **13 Consequences of the termination of these Terms**

13.1 Upon termination of these Terms, Lloyd's will cancel the Username and Password with immediate effect.

13.2 Irrespective of the provisions of section 13.1, the Firm and/or its User shall not, and the Firm shall ensure that none of its Users, access the System once these Terms have been terminated.

## **14 Notices**

14.1 Any notice relating to these Terms shall be sent by pre paid delivery service providing proof of delivery to the following addresses:

14.1.1 If to Lloyd's:

One Lime Street, London, EC3M 7HA. Notices should be marked for the attention of Council Secretariat and copied to Manager, International Licences.

14.1.2 If to the Firm:

at the address detailed in (2) above.

14.2 A notice shall be deemed to have been given at the time of delivery recorded by the delivery service.

**15 Waiver**

15.1 The waiver by Lloyd's of any breach of any term of these Terms shall not prevent the subsequent enforcement of that term and shall not be deemed a waiver of any subsequent breach.

**16 Amendments**

16.1 No amendment to these Terms will be effective and binding, unless it has been agreed between the parties in writing.

**17 Severability**

17.1 The various provisions and sub-provisions of these Terms are severable and if any provision or sub-provision or identifiable part of them is held to be invalid or unenforceable by any court of competent jurisdiction then such invalidity or unenforceability shall not affect the validity or enforceability of the remaining provisions or sub-provisions or identifiable parts of them.

**18 Entire Agreement**

18.1 These Terms set out the entire understanding of the parties and supersede and replace all prior agreements, written or oral, with respect to their subject matter.

**19 Third Party Rights**

19.1 No person who is not a party to these Terms shall have any rights under the Contracts (Rights of Third Parties) Act 1999.

**20 English Language**

20.1 The Firm has agreed that these Terms as well as any document or instrument relating to it be drawn up in English only. Le « Firm » a convenu que ces « Terms » ainsi que tous autres actes ou documents s'y rattachant soient rédigés en anglais seulement.

**21 Governing law and disputes**

21.1 These Terms shall be governed by and construed in accordance with the laws of Ontario, Canada. Disputes arising in connection with these Terms shall be subject to the exclusive jurisdiction of the Courts of Ontario (as defined in the "Courts of Justice Act") in Ontario, Canada.

**Signed for and on behalf of the Firm:**

.....  
Signed

.....  
Print Name

.....  
Print Position

Date.....