

**LLOYD'S ILLINOIS LICENSED AND 1104  
MULTIPLE TRUST DEED**

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This DEED OF TRUST, dated \_\_\_\_\_, DECLARED by each of the grantors of the Trusts created hereunder, each of whom is a member of one or more syndicates at Lloyd's for one or more years of account (each being a "Present Underwriter") as identified in the attached Schedule A and as such has executed this Deed as of the date hereof, or who is a member of a syndicate at Lloyd's from time to time for any subsequent year of account who has subsequently acceded to this Deed (each such member being together with the Present Underwriters an "Underwriter"), MADE AMONG, (i) Lloyd's, having its principal office at One Lime Street, London, England, (ii) each of the Underwriters, each of One Lime Street, London, England, (iii) the managing agent of each syndicate at Lloyd's identified in Schedule A or of any syndicate at Lloyd's which subsequently accedes to this Deed (the "Managing Agents"), (iv) Mellon Trust Company of Illinois, a trust company organized and existing under the laws of the State of Illinois (the "Trustee"), and (v) the Illinois Attorney In Fact for Certain Underwriters at Lloyd's, London (the "Attorney In Fact").

**WITNESSETH**

**WHEREAS:**

This Deed determines the manner in which Underwriters maintain on a several basis in Illinois assets in compliance with Article V of the Illinois Insurance Code ("Article V") in respect of Illinois Policies (as defined herein) issued by Underwriters since 1 January 1993;

With effect from 1 January 2000 all Underwriters who or which are members of a syndicate writing licensed business in Illinois will be licensed to transact the business of insurance in the State of Illinois pursuant to Article V;

Each Underwriter licensed to transact the business of insurance in the State of Illinois pursuant to Article V (a "Licensed Grantor") is obligated severally and not jointly pursuant to the terms of Illinois Policies issued by such Underwriter;

Article V requires each Licensed Grantor to maintain on a several basis in Illinois assets exceeding the several outstanding claims and other liabilities and unearned premiums arising under Illinois Policies issued by such Licensed Grantor;

The Attorney In Fact is the statutory representative of the Licensed Grantors in accordance with the requirements of Article V;

During the period 1 January 1993 to 31 December 1999 only certain Underwriters were licensed to transact the business of insurance in the State of Illinois pursuant to Article V and such Licensed Grantors entered into a Reinsurance Agreement (as defined herein) with certain other Underwriters (the "Reinsuring Grantors") whereby such Reinsuring Grantors severally

reinsured the excess per Illinois risk over 10% of the statutory trust fund deposit maintained by such Licensed Grantors in Illinois;

Pursuant to Section 4 of the Addendum to the Reinsurance Agreement, each Reinsuring Grantor is, in respect of Illinois Policies issued during the Interim Period (as defined herein), obligated to deposit assets in trust meeting the requirements of Illinois Insurance Department Regulation 1104 (“Regulation 1104”) in an amount equal to and as collateral for Obligations (as defined herein) to Licensed Grantors which the Reinsuring Grantors have reinsured pursuant to the Reinsurance Agreement;

Each Licensed Grantor desires to establish a several trust fund in order to satisfy the requirements of Article V and each Reinsuring Grantor desires to establish a several trust fund in order to satisfy the requirements of Regulation 1104; and

The Trustee is willing to act as trustee of such trust funds.

**NOW THEREFORE**, each Licensed Grantor and each Reinsuring Grantor, hereby creates a separate trust fund on the following terms and conditions.

## **SECTION 1: DEFINITIONS**

           The following terms used herein shall, unless the context otherwise requires, have the following meanings:

1.1 “Attorney In Fact” shall include any successor or successors to the Attorney In Fact at the date of this Deed appointed by or on behalf of the Underwriters and Lloyd’s.

1.2 “Beneficiary” shall mean the Licensed Grantors for whose sole benefit each of the Reinsuring Grantors has established a several trust in accordance with the requirements of Regulation 1104.

1.3 “Claim” shall mean (i) a claim against an Underwriter by a Policyholder for a loss under an Illinois Policy, or (ii) a claim against an Underwriter by a Policyholder for the return of unearned premium under an Illinois Policy.

1.4 “Council” shall mean the Council of Lloyd’s or the Committee of Lloyd’s or the Chairman or Deputy Chairman of Lloyd’s as the case may be or (except only for the purposes of Section 9.5 herein) such other person or persons as are for the time being authorized by the Council of Lloyd’s to exercise any power or discretion which is hereby vested in the Council.

1.5 “Illinois Liabilities” shall mean

- (i)            in respect of a Licensed Grantor, the aggregate liabilities (including any amount representing policyholders’ surplus) of such Licensed Grantor under Illinois Policies as defined in Section 1.6(i) and the amount in

respect of which such Licensed Grantor is liable under Illinois Policies as defined in Section 1.6(ii) , and

- (ii) in respect of a Reinsuring Grantor, the aggregate liabilities of such Reinsuring Grantor in respect of the reinsurance pursuant to the Reinsurance Agreement of liabilities arising under Illinois Policies as defined in Section 1.6(i) and the amount in respect of which such Reinsuring Grantor is liable under Illinois Policies as defined in Section 1.6(ii).

1.6 “Illinois Policy” shall mean

- (i) a policy, certificate or other document of insurance covering Illinois risks incepting on or after January 1, 1993 issued through and countersigned by the Attorney In Fact; or
- (ii) any policy, certificate or other document of insurance covering Illinois risks incepting on or after January 1, 1993 issued through and countersigned by the Attorney In Fact in respect of which the Underwriter is liable as a member of a syndicate at Lloyd’s to members of the same syndicate or any other syndicate for an earlier year of account pursuant to any contract of Reinsurance to Close.

1.7 “Interim Period” shall mean the period from 1 August 1995 to 31 December 1999.

1.8 ~~“Lloyd’s”~~ shall mean the Society incorporated by Lloyd’s Act 1871 by the name of Lloyd’s.

1.9 “Lloyd’s Premiums Trust Deed” shall mean the Lloyd’s Premiums Trust Deed approved by Her Majesty’s Treasury or the Financial Services Authority pursuant to the ~~Insurance Companies Act (U.K.) 1982, or any~~ subsequent law, executed by the Underwriter in respect of insurance business at Lloyd’s other than long term business.

1.10 “Managing Agent” shall mean the managing agent at Lloyd’s appointed by or on behalf of the Underwriter to act, and who is acting, as an agent of the Underwriter for the purpose of conducting the underwriting business of the Underwriter as a member of a syndicate at Lloyd’s, including any successors of the underwriting agent so acting and so appointed and any substitute agent appointed by the Council; and shall, where the context so admits, include a reference to any Representative of the Managing Agent, as defined herein.

1.11 “Obligations” shall, in respect of liabilities of Licensed Grantors from time to time reinsured by Reinsuring Grantors pursuant to the Reinsurance Agreement, mean:

- (a) Reinsured losses and allocated loss adjustment expenses paid by the Licensed Grantors, but not recovered from the Reinsuring Grantors;

- (b) Reserves for reinsured losses reported and outstanding;
- (c) Reserves for reinsured losses incurred but not reported; and
- (d) Reserves for allocated reinsured loss adjustment expenses and unearned premiums.

1.12 “Overseas Fund” shall mean the Lloyd’s Premiums Trust Fund or any trust fund set up with respect to the Underwriter which is constituted or regulated by a Special Trust Direction under the Lloyd’s Premiums Trust Deed.

1.13 “Policyholder” shall mean a holder of an Illinois Policy.

1.14 “~~Representative of the Managing Agent~~” or “~~Representatives~~” shall mean one or more persons (without limitation as to number) designated by the Managing Agent by one or more instruments in writing filed with the Trustee as the ~~Managing Agent’s~~ Representative or Representatives with power, to the extent set forth in the relevant designation, to act in like manner and with the same effect as the Managing Agent itself might act hereunder. The designation of any person as the Managing Agent’s Representative shall remain effective for the period provided in the relevant designation or until its revocation by the Managing Agent by an instrument in writing filed with the Trustee.

1.15 “Reinsurance Agreement” shall mean the Agreement of Reinsurance between Licensed Grantors and Reinsuring Grantors entered into on February 10, 1938 and renewed annually thereafter, ~~as amended and~~ supplemented from time to time.

1.16 “Reinsurance to Close” shall mean an agreement under which underwriting members (“the reinsured members”) who are members of a syndicate at Lloyd’s for a year of account (“the closed year”) agree with underwriting members who comprise that or another syndicate at Lloyd’s for a later year of account (“the reinsuring members”) that the reinsuring members will indemnify the reinsured members against all known and unknown liabilities of the reinsured members arising out of insurance business underwritten through that syndicate at Lloyd’s and allocated to the closed year.

1.17 “Requirements and Directions of the Council” shall mean any requirements or directions of the Council (whether comprised in any bylaw, regulation, direction or any other written instrument) ~~issued by the Council to the Managing Agent~~ or other person concerned.

1.18 “Securities” shall mean any combination of (a) cash (United States legal tender); (b) certificates of deposit (issued by a United States bank which shall be payable in United States legal tender); or ~~(c) any other investments of the types permitted by Article V, Article VIII or any other applicable provision of the Illinois Insurance Code or regulations made thereunder.~~

1.19 “Trust Fund” or “Trust” in relation to a particular Underwriter shall mean the property held under the provisions of this Deed allocable to the particular trust created by the Underwriter.

1.20 "Trust Fund Amount" in respect of an Underwriter shall mean such amount as is required from time to time to be maintained in Illinois for the purpose of funding the Illinois Liabilities (including any amount representing policyholders' surplus) of such Underwriter pursuant to the Illinois Insurance Code and applicable Illinois insurance rules and regulations provided that, if any Illinois Liabilities of such Underwriter have been reinsured pursuant to a contract of Reinsurance to Close with the Underwriter and/or one or more other Underwriters as members of the same or another syndicate at Lloyd's for a later year of account, the Trust Fund Amount in respect of such Illinois Liabilities of such Underwriter shall be zero.

1.21 "Underwriter" shall mean a Present Underwriter or any other member of a syndicate at Lloyd's (whether an individual, a body corporate or other legal entity) who or which has acceded to this Deed and is a grantor of a Trust created hereunder.

## **SECTION 2: CREATION OF TRUST**

~~2.1 Trust Declaration. Pursuant to the terms of this Deed, each Licensed Grantor and each Reinsuring Grantor hereby respectively creates a separate Trust. The Trust established by each Licensed Grantor is for the sole and exclusive benefit of such Licensed Grantor. The trust established by each Reinsuring Grantor is for the sole benefit of the Beneficiary of such Trust.~~

2.2 Transfer to Trust. The Securities transferred to the Trustee by each Licensed Grantor shall be held severally by the Trustee in such Licensed Grantor's Trust Fund upon the trusts established under this Deed and the Securities transferred to the Trustee by each Reinsuring Grantor shall be held severally by the Trustee in such Reinsuring Grantor's Trust Fund upon the trusts established under this Deed.

2.3 Duration of Trust. Unless terminated earlier pursuant to Section 8.1 herein, each Trust Fund shall terminate twenty (20) years after the date of the death of the Underwriter who established such Trust Fund, if the Underwriter is a natural person, or if the Underwriter is a body corporate or other legal entity on 31 December 2071. Upon termination of any Trust Fund, the provisions of Section 8.2 herein shall apply.

## **SECTION 3: UNDERWRITERS' TRANSFERS TO AND FROM THE TRUST FUNDS**

~~3.1 Initial Funding of Trusts. Within 30 days of the execution of this Deed, each Licensed Grantor and each Reinsuring Grantor shall or shall procure the transfer to the Trustee of Securities with a value no less than their respective Trust Fund Amounts as at December 31, 2000. Lloyd's shall provide the Trustee with specific information to enable the Trustee to determine the respective percentage interests of each Licensed Grantor and each Reinsuring Grantor in such funds.~~

3.2 Amounts to be held in Trust. The Trust Fund Amount to be held in the Trust established by each Licensed Grantor and by each Reinsuring Grantor shall be determined from

time to time by the Attorney In Fact. For administrative convenience the determination of Trust Fund Amounts from time to time may be made on a syndicate and year of account basis provided that Lloyd's shall, upon written request, provide to the Trustee in relation to any adjustment of the funds held in trust under this Deed (including any withdrawal from Trust Funds in accordance with Section 5) specific information to enable the Trustee to determine the respective percentage interests of each Licensed Grantor and each Reinsuring Grantor in such funds as adjusted.

### 3.3 Quarterly Adjustment of Trust Fund Amount.

~~(a) Within twenty-one (21) days after the end of each calendar quarter and thirty-five (35) days after each year end, the Attorney In Fact shall advise each Managing Agent in writing of the Trust Fund Amount required to be held in (1) the Trust established by each Licensed Grantor, and (2) the Trust established by each Reinsuring Grantor in respect of each syndicate managed by such Managing Agent.~~

(b) If the value of the Securities then held in the Trust Fund for any such Underwriter is less than the required Trust Fund Amount for such Underwriter set forth in the Attorney In Fact's most recent written notice, such Underwriter shall deposit with the Trustee within forty-five (45) days after such quarter end, or sixty (60) days after such year, such additional Securities as may be necessary to increase the value of the Trust Fund for such Underwriter to an amount at least equal to the Trust Fund Amount required under the Attorney In Fact's most recent written notice.

(c) If the value of the Securities then held in the Trust Fund for any Underwriter is greater than the required Trust Fund Amount for such Underwriter set forth in the Attorney In Fact's most recent written notice, the relevant Managing Agent may instruct the Trustee to transfer Securities from such Underwriter's Trust Fund having a value equal to such surplus to an Overseas Fund so as to reduce the value of the Trust Fund for such Underwriter to an amount not less than the Trust Fund Amount required under the Attorney In Fact's most recent written notice. The Trustee shall be protected in effecting such transfer upon receipt of and in accordance with the written instructions of such Managing Agent without inquiry as to the Trust Fund Amount.

3.4. Contributions to the Trust Fund. The Trustee may receive further contributions to the Trust Funds from time to time which shall be subject to the terms and conditions of this Deed. ~~The relevant Managing Agent shall advise the Trustee at the time any further contribution is made of its amount and the Trust Fund or Trust Funds to which it is made.~~

## SECTION 4: SECURITIES

~~4.1 Securities. All Securities held or deposited in a Trust Fund shall comply in all respects (i) with the investment rules and limitations prescribed by Article VIII of the Illinois Insurance Code, and (ii) any requirements and directions of the Council, provided further that such Securities must not be issued by an institution that is the parent, subsidiary or affiliate of~~

any Underwriter. The Trustee shall have no duty to monitor the Securities for compliance with these requirements.

4.2 Value of Securities. The value of Securities in a Trust Fund shall be determined by the Trustee. For regulatory reporting purposes, all such valuations shall be calculated in accordance with the Illinois Insurance Code, and rules and regulations made thereunder.

4.3 Realization of Securities.

(a) The payment of withdrawals under Section 5.2 and the transfer of surpluses under Section 3.3 shall, subject to any direction to the contrary by Lloyd's, be made from the following sources and in the following order:

- (i) from any cash or cash deposits held by the Trustee;
- (ii) from the proceeds of the sale or other realization by the Trustee of any marketable securities or investments held by the Trustee as directed by Lloyd's; and
- (iii) from the proceeds of the sale or other realization of any other assets held by the Trustee.

(b) Any assets to be sold or realized in order to effect the payment of a withdrawal or the transfer of a surplus may be sold or realized at the prevailing market price and the Trustee shall not be liable for any loss in the sale or realization of the assets.

## **SECTION 5: USE OF TRUST FUNDS**

5.1 Attorney In Fact's Authority. Without prejudice to Section 3.3 above, the Attorney In Fact shall have the right, upon receipt of written instructions from the relevant Managing Agent in the form attached hereto as Schedule B (which instructions shall be copied by the relevant Managing Agent to the Trustee and to Lloyd's), at any time and from time to time to instruct the Trustee in writing to make withdrawals from the relevant Trust Funds for the purposes set out in Sections 5.2(a) and 5.2(b). The Trustee shall confirm that the instructions received from the Attorney In Fact accord with the copy instructions received by the Trustee from the relevant Managing Agent and shall, subject to such confirmation, make withdrawals from the relevant Trust Funds in accordance with the instructions in writing of the Attorney In Fact. No other statement or document need be presented to the Trustee by the Attorney In Fact in order to instruct the Trustee to make a withdrawal from any Trust Fund.

5.2 Use of Trust Funds. Amounts withdrawn from a Trust Fund shall be applied as follows:

- (a) with respect to a Trust established by a Licensed Grantor such withdrawals shall be made to pay Claims arising under Illinois Policies issued by such Licensed

Grantor or for which such Licensed Grantor is liable under any contract of Reinsurance to Close, and

- (b) with respect to a Trust established by a Reinsuring Grantor such withdrawals shall be made only and without diminution because of the insolvency of the Reinsuring Grantor for whom such Trust was established (i) to pay or reimburse one or more Licensed Grantors for the amounts for which the Reinsuring Grantor is liable under the Reinsurance Agreement in respect of any losses and allocated loss adjustment expenses paid by such Licensed Grantor, but not recovered from such Reinsuring Grantor, or (ii) in respect of unearned premiums due to such Licensed Grantors but not otherwise paid by such Reinsuring Grantor.

5.3 Limitation on Withdrawals. Withdrawals on behalf of each Underwriter shall be limited to the amount of Securities available from time to time in the Trust Fund established for such Underwriter. Assets deposited by one Underwriter shall not be used to discharge the liabilities or Obligations of any other Underwriter except as provided in Section 5.2 and by the terms and conditions of the Reinsurance Agreement.

## **SECTION 6: MANAGEMENT OF TRUST FUND**

6.1 Investments. Lloyd's, acting on behalf of Underwriters, shall be responsible for the investment of the Trust Funds. Subject to any requirements and directions of the Council, all investments of a Trust Fund shall be of a kind permitted under the investment rules and limitations prescribed by Article VIII of the Illinois Insurance Code. Except to the extent that a Trust Fund comprises one or more letters of credit, the Trustee shall settle purchase and sale transactions as directed by or on behalf of Lloyd's in writing. Lloyd's may appoint an investment manager which may direct how the Trust Funds (or any part thereof) are to be invested. Unless and until otherwise directed by or on behalf of Lloyd's in writing, the Trustee shall not be required to take any action in relation to investments and property held in a Trust Fund other than to collect the interest and dividends or other sums payable thereon. The Trustee shall be under no duty to give any investment advice to any person in connection with a Trust Fund but shall, provided the Trustee itself shall have received actual notice thereof, notify Lloyd's as to any rights to conversion, subscriptions, voting or other rights pertaining to any investments held in a Trust Fund. Lloyd's shall have the full, unqualified right to vote and execute consents and to exercise any and all proprietary rights, not inconsistent with this Deed, with respect to any of the property forming a part of a Trust Fund. The Trustee shall have no obligation to monitor investments to see that they are permissible under Article V, Article VIII or any other applicable provision of the Illinois Insurance Code or regulations made thereunder.

6.2 Subject to any contrary direction from Lloyd's in writing, all income from Securities held in a Trust Fund and any capital gains recognized from the sale of Securities in a Trust Fund shall be reinvested.



6.3 Trustee to Certify Trust Assets.

- (a) ~~\_\_\_\_\_~~ The Trustee shall provide Lloyd's and the Attorney In Fact with:
- (i) a statement as at the end of each calendar quarter of the aggregate assets of all Trust Funds held under this Deed;
  - (ii) a statement as at the end of each calendar quarter of the current market value of the aggregate assets of all Trust Funds held under this Deed;
  - (iii) a statement as at the end of each calendar quarter of the value of the aggregate assets of all Trust Funds held under this Deed to enable the preparation of regulatory reports;
  - (iv) a statement, as at the close of business of the day prior to any adjustment to the Trust Funds, of the current market value of the aggregate assets of all Trust Funds held under this Deed;
  - (v) notification, as provided in Section 7.16, confirming the receipt and market value (and, where different, the value to enable the preparation of regulatory reports) of any transfer for the credit of one or more Trust Funds forthwith upon such receipt; and
  - (vi) such other information as may be agreed upon between Lloyd's and the Trustee.

Each such statement shall (with the exception of the statement to be provided forthwith under Section 6.3(v) above) be provided by the Trustee within fourteen (14) days of its reference date. Valuations shall be effected net of any charges, liens or encumbrances.

(b) In addition, the Trustee shall provide Lloyd's and the Attorney In Fact with statements, certified or otherwise, in respect of the aggregate assets of all Trust Funds held under this Deed and/or their value, as at a given date net of any charges, liens or encumbrances, whenever so requested by Lloyd's, whether to enable the preparation of regulatory reports or otherwise.

(c) Whenever the Trustee in the performance of its duties hereunder shall be required to value the assets of the Trust Funds, it may employ an agent for such valuation and the Underwriters shall pay or reimburse the Trustee (pro rata to the value of their respective Trust Funds) for any costs or expenses of valuations performed either by the Trustee or such agent. In the absence of the filing in writing with the Trustee by Lloyd's of any exceptions to any such statement within sixty (60) days, approval of such statement shall be deemed to have been given.

6.4 Trustees Fees and Expenses. The fees of the Trustee for administering the Trust Funds in accordance with this Deed shall be agreed upon from time to time between Lloyd's and

the Trustee. All fees and expenses charged by the Trustee for its services under the terms of this Deed shall be paid by Lloyd's on behalf of Underwriters no less than once per quarter. A Trust Fund's corpus shall not be used to pay the fees or expenses of the Trustee.

6.5 Limitations on Policyholder's Source of Recovery. No Policyholder or third party claimant under an Illinois Policy shall have any right of any nature or description hereunder to enforce a claim ~~against the Trustee, to require an accounting from~~ the Trustee of the assets of any Trust Fund or otherwise to bring an action against the Trustee in respect of any assets of the Trustee.

## **SECTION 7: THE TRUSTEE**

~~7.1~~ ~~Trustee's Qualifications.~~ The Trustee or successor trustee shall always be a Qualified United States Financial Institution as defined in Section 173.1(3)(B) of the Illinois Insurance Code, ~~which has been granted authority to operate with trust powers and which shall maintain the accounts for the Trust Funds principally from its office in the State of Illinois. All Securities shall be held in an account or accounts maintained by the Trustee at the Trustee's offices in Chicago, Illinois.~~

7.2 Trustee's Duties and Responsibilities. The Trustee's duties and responsibilities shall be determined solely by the express provisions of this Deed and no other duties or responsibilities shall be implied. ~~The Trustee shall be liable for the safekeeping and administration of the Trust Funds in accordance with these provisions. In performing its duties under this Deed, the Trustee shall exercise the same care and diligence that it would devote to its own property in like circumstances. The Trustee shall not be responsible or liable for any losses or damages suffered by Lloyd's and/or the Underwriters (or any of them) arising as a result of the insolvency of any subcustodian (other than a subcustodian which is a subsidiary of, or is in the same corporate group as the Trustee), except to the extent the Trustee was negligent in its selection or continued retention of such subcustodian. The Trustee shall not be liable for any act or omission of any registrar, transfer agent, clearing broker, counterparty broker or similar person over which the Trustee has no discretion in the selection or use.~~

7.3 Trustee May Rely on Certain Writings. The Trustee shall be entitled to rely upon any writing believed by it in good faith to be genuine and to have been signed (whether facsimile or otherwise) or coded or purported to be signed or coded and transmitted, sent or delivered by the relevant parties thereto.

7.4 What Constitutes Conclusive Proof for Trustee. If the Trustee deems it necessary or desirable that a matter be proven prior to taking or omitting any action hereunder, such matter, unless other evidence in respect thereof be herein specifically prescribed, may be deemed to be conclusively proven by a statement purported to be executed by or on behalf of Lloyd's, the Managing Agent, any Representative of the Agent or by the Attorney In Fact, as appropriate.

7.5 What Constitutes Proper Execution for Trustee. Any writing to be furnished by Lloyd's, the Managing Agent, any Representative of the Agent or by the Attorney In Fact shall

be sufficiently executed if signed in such party's name by such person or persons as may be designated in writing to the Trustee. The Trustee may rely on any writing of any such designated person.

7.6 Trustee's Reliance on Opinions of its Counsel. The Trustee may consult with counsel selected by it, shall be reimbursed for, and may rely on said counsel's opinion as complete authority in respect of any action taken or omitted by the Trustee in good faith in accordance with said opinion and the Trustee shall be deemed to have exercised reasonable due care in reliance thereon.

7.7 Maintenance and Inspection of Trustee's Records. The Trustee shall keep complete records of the administration of the Trusts which any persons duly authorized by Lloyd's may examine during normal business hours upon five (5) days' written notice to the Trustee, provided, however, that the Trustee shall have no obligation to maintain, and shall have no liability for omitting to maintain, records of any payments, withdrawals, receipts, pledges or other transactions involving the Trusts, except to the extent Lloyd's shall furnish the Trustee with data in respect thereof, in such form and detail as is sufficient to permit the Trustee to maintain such records.

7.8 Trustee's Resignation or Removal: Appointment of Successor. The Trustee may at any time resign from and terminate its appointment hereunder by delivery of a written notice of resignation to Lloyd's and the Attorney In Fact effective not less than sixty (60) days after receipt by Lloyd's of the notice, unless Lloyd's shall accept shorter notice as adequate. The Trustee may at any time be removed by the Council by delivery to the Trustee of a written notice of removal effective not less than sixty (60) days after receipt by the Trustee of the notice, unless the Trustee shall accept shorter notice as adequate. No such resignation or removal shall be effective until a successor trustee (the "Successor Trustee") has been duly appointed and approved by Lloyd's and all Securities in the Trust Funds have been duly transferred by the Trustee to the Successor Trustee, along with a closing statement showing all transactions relating to the Trust Funds since the date of the Trustee's last quarterly statement.

7.9 Trustee's Liability. The Trustee shall be liable for its own negligence, willful misconduct or lack of good faith in performing its obligations under this Deed. In the absence of such liability, the Trustee shall be indemnified by the Underwriters (pro rata to the value of their respective Trust Funds from time to time) for actions taken and not taken by the Trustee in performing its obligations hereunder, and for any legal expenses or other costs which the Trustee may reasonably incur with respect to such acts or failures to act or the defense thereof. The Trustee shall be strictly liable for the actions and omissions of any nominee and any custodian appointed by the Trustee and for the actions and omissions of any sub-custodian appointed by any such custodian, provided always that the Trustee shall have no liability for losses resulting from the deposit or maintenance of securities or other property (in accordance with market practice, custom or regulation) with any recognised clearing facility, book-entry system, centralised custodial depository or similar organisation. The Trustee shall give notice of any claim for indemnity to Lloyd's and the Attorney in Fact which shall be deemed notice to the Underwriters. Lloyd's shall be responsible for allocating the pro rata share obligation to each Underwriter. In the event of any dispute, the Underwriters agree that the Trustee may file suit by

serving the Attorney in Fact.

7.10 Electronic Access. The Trustee shall be protected in relying upon the instructions given by electronic access which the Trustee believes to be genuine and which purport to be given by the relevant party thereto provided that such instructions by electronic access meet the relevant security requirements (and passwords) required (i) by the Trustee, and (ii) by Lloyd's for the use of the electronic access terminal device.

7.11 Nominee Holdings. The Trustee may hold any investments or other Securities hereunder in the name of a nominee. The term "hold" shall include the Trustee's authority to deposit any part of or all of the aforesaid property which consists of securities in registered or unregistered form at a Federal Reserve Bank under federal book entry procedure, a depository trust company or other centralized securities depository system recognized by the Illinois Director of Insurance, whether now or hereafter organized (one or all herein called "CSDS"). All securities in registered form are to be registered in the name of a nominee of the Trustee or of any custodian appointed by the Trustee or of CSDS.

7.12 Assets of the Trust. The Trustee shall be under no duty or obligation to require that an Underwriter make any transfer or payment of additional Securities to a Trust Fund and it shall be conclusively presumed that any and all such transfers or payments to the Trustee have been properly made. All assets held by a nominee of the Trustee shall be deemed held solely by the Trustee.

7.13 Trustee's Liability for Securities Lending Transactions. In connection with any securities lending transaction, the Trustee shall be fully protected in acting upon the directions of Lloyd's and shall not be bound to inquire as to the necessity, expediency, or propriety of any such transaction, or the terms on which any such transaction is made or any security therefor is granted. The Trustee shall not have any obligation or liability in its individual capacity in respect of any such transaction entered into on behalf of the Trust Funds (or any of them), but only in its capacity as Trustee and satisfaction of any such obligation or liability shall be limited to the assets of such Trust Funds, and the Trustee shall have no obligation to enter into any such transaction, whether or not so directed by Lloyd's, except pursuant to instruments and agreements that expressly reflect such limitation.

7.14 Commingling Allowed. The Trust Fund of each Underwriter may, unless the Council shall otherwise direct, be commingled with the Trust Fund or Trust Funds of one or more other Underwriters.

7.15 Trustee Advances. The Trustee may (in its individual capacity or through any subsidiary or affiliate of the Trustee) advance cash or securities to all or any Trust Funds to effect or expedite the purchase or sale of securities for such Trust Funds, and the property so purchased or the proceeds from the sale shall be security for repayment of the cash or securities advanced in connection with the purchase or sale of such property. The Trustee (in its individual capacity or through any subsidiary or affiliate of the Trustee) shall have a security interest in such property or proceeds until the Trustee (in its individual capacity or through any subsidiary or affiliate of the Trustee) has been reimbursed from such Trust Funds for its advances in respect

of such property. If the Trustee (in its individual capacity or through any subsidiary or affiliate of the Trustee) does not receive reimbursement from such Trust Funds for its advances in respect of such property, the Trustee (in its individual capacity or through any subsidiary or affiliate of the Trustee) shall be entitled to dispose of such property and to retain the proceeds of such disposition, or to retain such proceeds, in each case for its own account up to the amount necessary to obtain reimbursement. To the extent the Trustee advances funds to the Trust Funds for disbursements or to effect the settlement of purchase transactions, the Trustee shall be entitled to collect from the Trust Funds either (i) with respect to US domestic assets, an amount equal to what would have been earned on the sums advanced (an amount approximating the “federal funds” interest rate), or (ii) with respect to non-domestic assets, the rate applicable to the appropriate foreign market.

7.16 Notifications. The Trustee shall provide Lloyd’s and the Attorney In Fact with the Trustee’s on-line reporting service to permit the monitoring of deposits to and withdrawals from the Trust Funds. The Trustee shall also provide Lloyd’s and the Attorney in Fact with monthly transaction statements for the Trust Funds.

7.17 Force Majeure. Without prejudice to Section 7.9, no party to this Agreement shall be responsible or liable for its failure to perform under this Agreement or for any losses to the Trust Funds resulting from any event beyond the reasonable control of such party, its agents or appointed custodians, including but not limited to nationalization, strikes, expropriation, devaluation, seizure or similar action by any governmental authority, de facto or de jure; or enactment, promulgation, imposition or enforcement by any such governmental authority of currency restrictions, exchange controls, levies or other charges affecting the assets held in the Trust Funds; or the breakdown, failure or malfunction of any utilities or telecommunications systems; or any order or regulation of any banking or securities industry including changes in market rules affecting the execution or settlement of transactions; or acts of war, terrorism, insurrection or revolution; or acts of God. This section shall survive the termination of this Agreement.

#### 7.18 Contractual Income and Settlement

(a) Contractual Income. In accordance with the Trustee’s standard operating procedure, the Trustee shall credit the Trust Funds with income and maturity proceeds on securities on contractual payment date net of any taxes or upon actual receipt. To the extent the Trustee credits income on contractual payment date, the Trustee may reverse such accounting entries to the contractual payment date if the Trustee reasonably believes that such amount will not be received.

(b) Contractual Settlement. In accordance with the Trustee’s standard operating procedure, the Trustee will attend to the settlement of securities transactions on the basis of either contractual settlement date accounting or actual settlement date accounting. To the extent the Trustee settles certain securities transactions on the basis of contractual settlement date accounting, the Trustee may reverse to the contractual settlement date any entry relating to such contractual settlement if the Trustee reasonably believes that such amount will not be received.

(c) **Market Practice Settlements.** Settlements of transactions may be effected in trading and processing practices customary in the jurisdiction or market where the transaction occurs. Lloyd's and the Underwriters acknowledge that this may, in certain circumstances, require the delivery of cash or securities (or other property) without the concurrent receipt of securities (or other property) or cash. In such circumstances, the Trustee shall have no responsibility for non-receipt of payment (or late payment) or non-delivery of securities or other property (or late delivery) by the counterparty.

7.19 **Pursuit of Legal Remedies.** The Trustee will on behalf of Lloyd's and /or Underwriters pursue all appropriate legal remedies after consulting with Lloyd's against any counterparty to recover cash or securities or any sums due or compensation in lieu thereof. Before commencing legal remedies, Lloyd's and/or Underwriters shall make available to the Trustee such security in respect of the costs and expenses of pursuing such remedies as the Trustee may reasonably require.

## **SECTION 8: TERMINATION**

~~8.1~~ **Notice of Termination.** This Deed and the Trust Funds established under this Deed and existing at such time shall terminate in accordance with the written direction of Lloyd's, acting by the Council, to ~~the~~ Trustee.

8.2 **Delivery of Securities.** Upon termination of a Trust Fund, all Securities and income then remaining in such Trust Fund shall be delivered by the Trustee to or to the order of Lloyd's.

## **SECTION 9: CONSTRUCTION AND EFFECT**

~~9.1~~ **Governing Law.** This Deed and all proceedings pursuant hereto shall be governed by the laws of the State of Illinois, without regard to conflicts of laws principles.

9.2 **Benefit of Deed.** This Deed shall be binding upon and shall inure to the benefit of the parties hereto, their successors and assigns.

9.3 **Counterparts.** This Deed may be executed in any number of counterparts or by attached documents, all of which shall constitute one and the same original.

9.4 **No Partnership.** Nothing in this Deed shall constitute a partnership between any Underwriter and a Managing Agent or between any Underwriter and any of the other Underwriters, the underwriting business of each Underwriter being carried on for his or its sole and separate account.

9.5 Amendment of this Trust Deed.

(a) Subject to Illinois statutes and Insurance Department regulations and the prior approval of the Financial Services Authority, Lloyd's, acting by the Council, shall have power in its discretion to amend this Deed; provided that no amendment increasing the duties of the Trustee or reducing the rights and protections of the Trustee shall be binding upon the Trustee without the Trustee's written consent. All amendments to this Deed shall be in writing and signed on behalf of the Council.

(b) Lloyd's shall advise the Trustee of any such amendment and the date on which it became or is to become effective.

9.6 Partial Invalidity Does Not Invalidate Entire Deed of Trust. If any provision of this Deed is held invalid or unenforceable, the remainder of this Deed shall be construed and enforced as if such provision had not been included herein.

9.7 Interpretation. The use herein of one gender shall be deemed to include another, as the context may require.

9.8 Headings and References. The headings herein are for reference only and not for defining any provisions hereof. Reference to this Deed shall include its amendments, if any. All articles, paragraphs and subparagraphs as well as their subdivisions and abbreviations cited herein refer to this Deed and its amendments, if any.

9.9 Accession. Each Underwriter other than the Present Underwriters shall establish a Trust hereunder by executing a deed of accession binding such Underwriter to the terms hereof. Each Managing Agent of a syndicate at Lloyd's the members of which intend to issue Illinois Policies shall accede to this Deed of Trust by executing a Deed of Accession binding such Managing Agent to the terms hereof.

## **SECTION 10: ADDRESSES FOR NOTICES**

All notices, letters, or other communications between any one party to this Deed of Trust and any other should be addressed as follows:

- |  |   |
|--|---|
| (a) Grantors:                                | To the Attorney In Fact   |
| (b) <u>Attorney In Fact:</u><br><u>_____</u> | John C. Gurley<br>Lord, Bissell & Brook<br>115 S. LaSalle Street<br>Suite 3600<br>Chicago, Illinois 60603 |

- (c) Trustee: \_\_\_\_\_ Mellon Trust Company of Illinois  
55 West Monroe Street, Suite 2600  
Chicago  
Illinois 60603  
Att: Insurance Custody Manager
- (d) Managing Agent: \_\_\_\_\_ To the relevant Managing Agent  
One Lime Street  
London EC3M 7HA
- (e) Lloyd's: \_\_\_\_\_ Director  
Worldwide Markets  
Lloyd's  
One Lime Street  
London EC3M 7HA

## **SECTION 11: AUTHORIZATIONS**

\_\_\_\_\_ Upon the execution of this Deed, the Attorney In Fact, each Managing Agent and Lloyd's shall provide the Trustee with a list, certified by their respective representatives, of the names and signatures of those persons authorized to furnish the Trustee with the directions and approvals contemplated hereunder on behalf of those parties. Until notified in writing in the same manner of any additions to or deletions from such list, the Trustee may continue to rely upon the same for purposes of this Deed.

The parties hereby each represent and warrant to the others that it has full authority to enter into this Deed upon the terms and conditions hereof and that the individual executing this Deed on its behalf has the requisite authority to bind the party to this Deed.



Schedule A

List of Syndicates at Lloyd's by open year of account

Syndicate	Year of Account	Managing Agent
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Schedule B

Form of instruction from the Managing Agent pursuant to Section 5

From: [The Managing Agent – on its letterhead]

To: Illinois Attorney in Fact  
For Certain Underwriters at Lloyd's, London (the Attorney in Fact)  
[Address]

cc: Mellon Trust Company of Illinois (the Trustee)  
[Address]

cc: Director, Worldwide Markets, Lloyd's (Lloyd's)  
[Address]

Date:

Dear Sir

Lloyd's Illinois Licensed and 1104 Multiple Trust Deed (the MTD)

You are hereby instructed, in accordance with Section 5.1 of the MTD, to instruct the Trustee to make the withdrawal detailed below from the Trust Funds of the Underwriters of Syndicate No.[ ], for whom we act as Managing Agent.

We confirm that:

- (i) each such Underwriter has sufficient assets deposited in his/her/its Trust Fund to meet in full the relevant amount to be withdrawn under this instruction; and
- (ii) the amounts withdrawn from such Trust Funds are to be applied in accordance with Section 5.2 of the MTD.

The withdrawal to be made is in the sum of US\$[ ]. This sum should be [transferred by the Trustee / paid by check made payable to ( )] to [provide details of recipient of transfer / check].

Terms used in this instruction shall, unless the context otherwise requires, have the same meaning as in the MTD.

Yours faithfully

Name: .....

Title: .....

For and on behalf of [the Managing Agent]

Mellon Trust Company of Illinois (Trustee)

Executed at \_\_\_\_\_

[seal]

By: \_\_\_\_\_

\_\_\_\_\_  
[Name]

\_\_\_\_\_  
[Title]

Attest: \_\_\_\_\_

\_\_\_\_\_  
[Name]

\_\_\_\_\_  
[Title]

John C. Gurley, not individually  
but only in his capacity as  
Illinois Attorney In Fact for  
Certain Underwriters at Lloyd's, London

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

\_\_\_\_\_  
John C. Gurley  
Attorney In Fact

THE COMMON SEAL )  
of **LLOYD'S** was affixed )  
to this Deed in the )  
presence of: )

[seal]

Authorised signatory: \_\_\_\_\_

[If the Managing Agent is a company and the common seal is to be affixed]

THE COMMON SEAL of \_\_\_\_\_ ) [seal]

in its capacity as managing agent for and on behalf of the **LICENSED GRANTORS** on each open year of account of each syndicate for which it acts as managing agent, was hereunto affixed in the presence of:

\_\_\_\_\_ Director

Name \_\_\_\_\_

\_\_\_\_\_ Director/Secretary

Name \_\_\_\_\_

[If the Managing Agent is a company and the common seal is to be affixed]

THE COMMON SEAL of \_\_\_\_\_ ) [seal]

in its capacity as managing agent for and on behalf of the **REINSURING GRANTORS** on each open year of account of each syndicate for which it acts as managing agent, was hereunto affixed in the presence of:

\_\_\_\_\_ Director

Name \_\_\_\_\_

\_\_\_\_\_ Director/Secretary

Name \_\_\_\_\_

[If the Managing Agent is a company and the common seal is to be affixed]

THE COMMON SEAL of \_\_\_\_\_ ) [seal]

was hereunto affixed in the presence of:

\_\_\_\_\_ Director

Name \_\_\_\_\_

\_\_\_\_\_ Director/Secretary

Name \_\_\_\_\_



[If the Managing Agent is a company and the deed is to be executed by its officers]

SIGNED AND DELIVERED AS A DEED )  
for and on behalf of )

[No seal required]

in its capacity as managing agent for and on behalf of the **LICENSED GRANTORS** on each open year of account of each syndicate for which it acts as managing agent, by:

\_\_\_\_\_ Director

Name \_\_\_\_\_

\_\_\_\_\_ Director/Secretary

Name \_\_\_\_\_

[If the Managing Agent is a company and the deed is to be executed by its officers]

SIGNED AND DELIVERED AS A DEED )  
for and on behalf of )

[No seal required]

in its capacity as managing agent for and on behalf of the **REINSURING GRANTORS** on each open year of account of each syndicate for which it acts as managing agent, by:

\_\_\_\_\_ Director

Name \_\_\_\_\_

\_\_\_\_\_ Director/Secretary

Name \_\_\_\_\_

[If the Managing Agent is a company and the deed is to be executed by its officers]

SIGNED AND DELIVERED AS A DEED )  
for and on behalf of

[No seal required]

by:

\_\_\_\_\_ Director

Name \_\_\_\_\_

\_\_\_\_\_ Director/Secretary

Name \_\_\_\_\_