

Market Bulletin

Ref: Y5444

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| Title | Limited Tenancy Capacity – Advance Consent |
| Purpose | To grant advance consent to certain variations to the Managing Agents Agreement (and related changes to other Standard Agency Agreements) where the parties have agreed to the member's participation on a syndicate on a Limited Tenancy Capacity basis. |
| Type | Event |
| From | Claire Schrader General Counsel |
| Date | 20 September 2024 |
| Deadline | Immediate |
| Related links | https://www.lloyds.com/conducting-business/requirements-and-standards https://www.lloyds.com/conducting-business/member-services/standard-agency-agreements/ |

This Market Bulletin provides for advance consent by Lloyd's to a number of commonly requested variations to the standard Managing Agents Agreements. The advance consent is being given pursuant to paragraph 33 of the Underwriting Byelaw.

By giving this advance consent, it should make it quicker and more efficient for managing agents when bringing new members onto a syndicate on a Limited Tenancy Capacity basis.

Background

Members appointing a managing agent to underwrite on their behalf on one or more syndicates are required to enter into a Managing Agents Agreement with the managing agent, the form of which is prescribed in the Agency Agreements Byelaw. Two versions of the Managing Agents Agreement have been prescribed (both versions are available on Lloyd's website):

- the Managing Agents Agreement (General), for members that have appointed a members' agent; and
- the Managing Agents Agreement (Corporate Member), for those members that have been given a dispensation to participate on syndicates without appointing a members' agent.

The Agency Agreements Byelaw also prescribes the form of the standard Members' Agents Agreement and Agents Agreement (the latter is entered into between managing agents and members' agents).

Having a standard form Managing Agents Agreement means the market has a single, robust standard wording that can be quickly executed without requiring extensive negotiation of the terms. A single standard wording also ensures parity between the different members on a syndicate and between the members on different syndicates.

The standardised form of the Managing Agents Agreements is prescribed by paragraph 5 of the Agency Agreements Byelaws, which states that, except in limited circumstances (primarily with regard to the managing agent's remuneration) the standard Managing Agents Agreement cannot be amended without Lloyd's written consent. This is the case even where both parties agree to the change. Paragraph 5 is mirrored in the Managing Agents Agreement itself at Clause 14.1 of the Managing Agents Agreement (General) and Clause 15.1 of the Managing Agents Agreement (Corporate Member).

- Variations to Managing Agents Agreement

In general, Lloyd's approach is not to agree amendments to the Standard Agency Agreements so as to maintain the benefits of market efficiency, fairness and flexibility that is provided for by having standard agreements. We recognise, however, that there are circumstances where both members and managing agents will want some freedom to negotiate the basis on which a member will participate on a syndicate. We have therefore been willing to consider variations to the standard Managing Agents Agreement on a case by case basis following a written application to us.

Over the past several years, the number of applications to vary the Managing Agents Agreements has grown. In many cases those applications relate to limiting the length of time a member has a right to participate on a syndicate (commonly referred to as 'Limited Tenancy Capacity') and ancillary matters. The form of the variations used when implementing these more common changes has also become standardised over time.

Given the number of largely similar variations requested and the standardization of wordings adopted, we think that provided certain requirements are met, there is little benefit to our having to review and agree each such variation and there is scope to pre-agree such variations.

- Advance Consent

Following discussion with the market and subject to the limitations and restrictions set out below, we are therefore giving advance consent to a number of commonly requested variations. We believe this will simplify the process of onboarding new syndicate members on a limited tenancy basis.

In giving this advance consent, we are not prescribing the wording that should be used, although examples of commonly used wordings are included in the appendices, which managing agents and members may wish to adopt. The reason for not mandating the wording to be used is that, while many variations that we see are materially identical, we recognise that different circumstances apply in each case which may require adjustments to the drafting. Fixing the wording that must be used would limit the value of the advance consent as any deviation from the prescribed wording would require prior agreement.

We are therefore instead prescribing the types of changes that are being agreed to here. It is important that any changes made must be within the scope of the advance consent and do not stray into adding additional changes. Making amendments to the Managing Agents Agreement that go beyond the advance consent given in this Market Bulletin, without prior agreement from Lloyd's, may constitute a breach of the Agency Agreements Byelaw. Because of the complexity that can arise from making variations to the Managing Agents Agreement, we expect managing agents to be able to demonstrate that they have obtained appropriate legal advice to ensure compliance.

We will keep under review the adoption of the advance consent and may make further changes if required to address any issues we see arising.

In giving this advance consent and in providing suggested clauses that can be used, Lloyd's is not providing advice or making representations as to the legal effectiveness of the terms or as to whether they achieve the commercial intent of the parties. It is important that the parties satisfy themselves on these points and, where appropriate, seek legal advice. If different variations are required that go beyond the scope of this advance consent, the parties must apply to Lloyd's for agreement. It is important that the parties ensure any variations are implemented in a legally robust way.

Finally, any parties intending to make use of this advance consent to vary the terms of a Managing Agents Agreement are reminded that, where the member participates or may in the future participate on more than one syndicate managed by the managing agent, then the variations need to be clear as to which syndicate they apply and the parties should be careful to ensure the amendments do not amend the terms on which the member participates on other syndicates, which will also be governed by the same Managing Agents Agreement.

Advance Consent for variations to Managing Agents Agreement

Accordingly, for the purposes of paragraph 5 of the Agency Agreements Byelaws (and subject to compliance with any conditions or limitation specified) advance consent is given by Lloyd's to the following amendments being made to the standard Managing Agents Agreement.

1. Amendments to limit the period of the appointment of the managing agent in respect of a syndicate (Limited Tenancy)

Amendments under this heading can limit the period that a member is entitled to remain on one or more syndicates managed by a managing agent to a fixed, specified period, such as one year. It can also be for a 'rolling' period whereby the member has a right to remain on the syndicate until the managing agent gives notice to terminate its appointment. The period may also be fixed, with the option to extend at the election of the managing agent. In

all cases of limited tenancy, the appointment of the managing agent must expire at the end of the relevant year of account and not mid-year.

Limited Tenancy Capacity cannot be traded in the capacity auctions. Accordingly, in all cases where a member is given limited tenancy on a syndicate, the managing agent's agreement must also be amended to disapply clause 11A (Assignment of Name's right of future participation) in relation to the syndicate(s) in question.

Example wording that would be acceptable for the purposes of implementing any Limited Tenancy rights in accordance with this advance consent is set out in Appendix 1. This includes consequential amendments that can be made to the Members Agents Agreement and Agents Agreement, and which fall within the scope of this advance consent.

2. Amendments to set out agreed terms regarding any related party transactions

Where managing agents are appointed on a 'turnkey' basis, we recognise that the managing agent may additionally provide services to the members of other syndicates or to other third parties, which ostensibly raise issues of conflict of interest. It is important that any such conflict of interest is disclosed and, where appropriate, agreement should be reached as to how that conflict of interest can be managed. As part of that, we recognise that amendments to the provisions in the Managing Agents Agreement may be required to document the basis on which the parties have agreed to proceed.

At Appendix 2 we have set out a wording that can be adopted for use in this situation, which we believe will be suitable in most cases. While not prescribing the wording to be used no variation should be made which has a wider scope or effect than the version at Appendix 2 without Lloyd's agreement.

3. Amendment required where members of a syndicate participate on different terms

Where a syndicate has Limited Tenancy Capacity participating, it is recognised that it will often be the case that different members may be participating on the syndicate on different commercial terms.

At Appendix 3 we have set out a wording that can be adopted for use in this situation. As in the case of Related Party Transactions, we are not prescribing the wording to be used. Nevertheless, no variation should be made which has a wider scope or effect than the version at Appendix 3 without Lloyd's agreement.

4. Amendments to Schedule 1 relating to the managing agent's remuneration

It is recognised that where capacity is allocated on a Limited Tenancy basis, the bespoke nature of the arrangement means that the parties will commonly wish to agree terms relating to the remuneration of the managing agent that are different to those set out in Schedule 1 of the Managing Agents Agreement.

The terms of any annual fee or profit commission arrangements are a matter of commercial negotiation between the parties and we have not provided suggested model wording.

Limitation and Conditions

The agreement to the advance consent by Lloyd's is subject to the following limitations and conditions:

1. The variations to which advance consent is given may only be adopted where both parties agree to the amendments. Under no circumstances may managing agents impose any of the variations on existing members of a syndicate. Generally, adopting variations to a Managing Agents Agreement will only be possible when syndicates are first established (although note that in such a case this advance consent does not apply, see 4 below), when members are given the opportunity to join an existing syndicate (other than by acquiring capacity in the capacity auctions, through a family or intra-group transfer, or similar arrangement) or when a member's existing limited tenancy rights on a syndicate expire and new terms are agreed.
2. Any variations adopted must apply to the whole of a member's capacity on a syndicate from time to time and not to part only of their capacity.
3. This advance consent does not apply in respect of variations where the syndicate capacity will not be on a Limited Tenancy basis and the capacity is intended to be tradable in the Lloyd's capacity auctions (Modified Freehold Capacity). All Modified Freehold Capacity variations must be agreed by Lloyd's on an application by the parties.
4. This advance consent does not apply to syndicates that are being newly established and for such new syndicates all variations to the Managing Agents Agreement will require prior agreement by Lloyd's as part of the Making it Happen process. In considering any proposed variations, we will have regard to the terms of this advance consent.

Other terms included in Deeds of Variation to Managing Agents Agreements

Advanced consent is being given by Lloyds to the variations set out above (subject to the limitations and conditions in the previous section). All other amendments to the Managing Agents Agreement require an application to Lloyd's to request consent.

It is nevertheless recognised that the deed of variation which the parties enter into, to make the variations to the Managing Agents Agreement, will often include additional terms agreed between the parties relating to how they will exercise their rights under the Managing Agents Agreement. Provided that these additional terms do not amount to a variation of the Managing Agents Agreement and they do not interfere with either party's compliance with Lloyd's byelaws and other requirements, there is no objection to these terms being included.

By way of example, while it is not possible for members to contract to disapply the Syndicate Pre-emption Bylaw (by amending the Managing Agents Agreement or otherwise), it may be agreed between the parties that the member will not exercise its right to take up pre-emption capacity it is offered but will let the capacity drop back to the managing agent. (Note that there is no equivalent option where a managing agent reduces syndicate capacity, and along with the other members on the syndicate a limited tenancy member's syndicate premium limit will be subject to pro-rata reduction in accordance with the Syndicate Pre-emption Bylaw.)

Other examples of additional terms that can be included in the Deed of Variation are terms dealing with the appointment of auditor and investment managers in respect of a syndicate.

Notification of amendments to Lloyd's

All amendments to Managing Agents Agreements adopted which rely on this advance consent must be notified to Lloyd's by the managing agent in respect of each member. Notification must be within 14 days of the variations being executed by the parties and must be submitted using the Lloyd's prepared template. A copy of the template to use and details of where to send the notification will be available shortly on Lloyds.com in the Advance Consent section.

So that we can ensure that there is compliance with the requirements set out in this market bulletin, each year we may request one or more managing agents to provide copies for review of any deeds of variation entered into with members for their syndicates.

Further Information

For further information, contact Kevin Lazarus, Lloyd's Legal (tel: 020 7327 6737; email: kevin.lazarus@lloyds.com).

Appendix 1 – Limited Tenancy Variations

Part A – Managing Agents' Agreement (General)

Amendments to Managing Agents Agreement

1. The Agency Agreement shall be amended in accordance with clause 15.1 of the Agency Agreement (but only to the extent specifically stated and in relation to the clauses specifically set out herein) with effect from the date of this Deed as follows:

- (a) by the deletion of Recital (A) to the Agency Agreement and the substitution therefor of the following new Recital:

The Name wishes to appoint the Agent to act as its managing agent in respect of the underwriting business carried on by it as a member, with Limited Tenancy Capacity, of the Syndicate on the [Insert year(s) of account] [and subsequent underwriting years of account].

- (b) by the insertion in clause 1.1 of the Agency Agreement of the following new definitions:

Deed of Variation means the deed of variation to this Agreement made between the Agent, the Member's Agent and the Name on or around the date of this Agreement

Limited Tenancy Arrangements means [the right to participate on the Syndicate on the [Insert year(s) of account] and subsequent underwriting years of account until termination of the Agent's appointment in accordance with the terms of this Agreement] **OR** [the right to participate on the Syndicate on the [Insert year(s) of account] underwriting year(s) of account only]

Limited Tenancy Capacity means [the participation of the Name on the Syndicate on the [Insert year(s) of account] and subsequent underwriting years of account pursuant to the Limited Tenancy Arrangements] **OR** [the participation of the Name on the Syndicate on the [Insert year(s) of account] underwriting year(s) of account only pursuant to the Limited Tenancy Arrangements]

Syndicate means the syndicate designated within the number [Insert number], as constituted for each underwriting year of account

syndicate includes, where the context allows, a syndicate which has been designated as a syndicate in a box by the Council

and any references to the Standard Agents' Agreement, the Standard Managing Agent's Agreement (General) and the Standard Members' Agent's Agreement shall be deemed to be references to such Agreements as amended by the Deed of Variation.

- (c) by the addition of a new clause 11.6A after clause 11.6 of the Agency Agreement as follows:

11.6A The Agent may at any time on or prior to [Insert date] of any calendar year give notice to the Name to terminate the Agent's appointment. If such

notice is given, the appointment of the Agent under this Agreement in relation to the Limited Tenancy Arrangements shall terminate, subject to clause 11.8, on 31 December of that calendar year. The right of termination pursuant to this clause 11.6A is in addition to any other rights to terminate this Agreement pursuant to clause 11 and otherwise without prejudice to clause 11.

OR

In respect of the Limited Tenancy Capacity only, the appointment of the Agent under this Agreement shall, terminate, subject to clause 11.8, on 31 December [Insert year]. The termination provision in this clause 11.6A is in addition to any other rights to terminate this Agreement pursuant to clause 11 and otherwise without prejudice to clause 11.

(d) by the addition of a new clause 11.12 after clause 11.11 of the Agency Agreement as follows:

11.12 The Name irrevocably agrees with and acknowledges to the Agent that its rights to participate on the Syndicate are strictly limited to the Limited Tenancy Arrangements and accordingly:

(a) if the Name seeks to argue or maintain that the provisions of the Limited Tenancy Arrangements are ineffective, then the Agent may forthwith give notice in writing to the Name to terminate its appointment under this Agreement, such notice expiring at the end of the year in which such notice is given;

(b) if the Name reduces its member's syndicate premium limit to zero in respect of any underwriting year of account of the Syndicate, it shall have no right to participate on any subsequent underwriting years of account of the Syndicate; and

(e) by the addition of a new clause 11A.8 after clause 11A.7 of the Agency Agreement as follows:

11A.8 The provisions of this clause 11A shall not apply and accordingly the Name shall not be entitled to make a nomination in respect of the Name's Prospective Participation at any time whensoever.

2. The amendments to the Agency Agreement set out in clause 1 shall only operate in respect of any Year of Account in which the Name is an underwriting member of the Syndicate and shall not apply (for the avoidance of doubt) to the Name's participation on any other syndicate managed by the Agent.
3. Subject to the amendments set out in this Deed, the terms of the Agency Agreement shall have full force and effect.

Consequential Amendments to the Members' Agent's Agreement and the Agent's Agreement

1. The Members' Agent's Agreement shall be amended in accordance with clause 14.1 of the Members' Agent's Agreement with effect from the date of this Deed as follows:
 - (a) by the deletion of the definition of "Standard Agents' Agreement" and the substitution therefor of the following definition:

Standard Agents' Agreement means the form of agreement between a members' agent and a managing agent prescribed by the Agency Agreements Byelaw (No. 8 of 1988) and set out in Schedule 2 thereto, subject to any variations made pursuant to clause 8.1 of such Agreement.
 - (b) by the deletion of the definition of "Standard Managing Agent's Agreement (General)" and the substitution therefore of the following definition:

Standard Managing Agent's Agreement (General) means the form of agreement between an underwriting member of Lloyd's and a managing agent prescribed by the Agency Agreements Byelaw (No. 8 of 1988) and set out in Schedule 3 thereto, subject to any variations made pursuant to clause 15.1 of such Agreement.
2. The Agents' Agreement shall be amended in accordance with clause 8.1 of the Agents' Agreement with effect from the date of this Deed as follows:
 - (a) by the deletion of the definition of "Standard Managing Agent's Agreement (General)" and the substitution therefore of the following definition:

Standard Managing Agent's Agreement (General) means the form of agreement between an underwriting member of Lloyd's and a managing agent prescribed by the Agency Agreements Byelaw (No. 8 of 1988) and set out in Schedule 3 thereto, subject to any variations made pursuant to clause 15.1 of such Agreement.
 - (b) by the deletion of the definition of "Standard Members' Agent's Agreement" and the substitution therefor of the following definition:

Standard Members' Agent's Agreement means the form of agreement between an underwriting member of Lloyd's and a members' agent prescribed by the Agency Agreements Byelaw (No. 8 of 1988) subject to any variations made pursuant to clause 14.1 of such Agreement.
3. Subject to the amendments set out in this Deed, the terms of the Members' Agent's Agreement and the Agents' Agreement shall have full force and effect.

Part B – Managing Agent’s Agreement (Corporate)

Amendments to Agency Agreement

1. The Agency Agreement shall be amended in accordance with clause 15.1 of the Agency Agreement (but only to the extent specifically stated and in relation to the clauses specifically set out herein) with effect from the date of this Deed as follows:

- (a) by the deletion of the Recital to the Agency Agreement and the substitution thereof of the following new Recital:

The Corporate Member wishes to appoint the Agent to act as its managing agent in respect of the underwriting business carried on by it as a member, with Limited Tenancy Capacity, of the Syndicate on the [Insert year(s) of account] [and subsequent underwriting years of account].

- (b) by the insertion in clause 1.1 of the Agency Agreement of the following new definitions:

Limited Tenancy Arrangements means [the right to participate on the Syndicate on the [Insert year(s) of account] and subsequent underwriting years of account until termination of the Agent’s appointment in accordance with the terms of this Agreement] **OR** [the right to participate on the Syndicate on the [Insert year(s) of account] underwriting year(s) of account only]

Limited Tenancy Capacity means [the participation of the Corporate Member on the Syndicate on the [Insert year(s) of account] and subsequent underwriting years of account pursuant to the Limited Tenancy Arrangements] **OR** [the participation of the Corporate Member on the Syndicate on the [Insert year(s) of account] underwriting year(s) of account only pursuant to the Limited Tenancy Arrangements]

Syndicate means the syndicate designated within the number [Insert number], as constituted for each underwriting year of account

syndicate includes, where the context allows, a syndicate which has been designated as a syndicate in a box by the Council.

- (c) by the addition of a new clause 11.6A after clause 11.6 of the Agency Agreement as follows:

11.6A The Agent may at any time on or prior to [Insert date] of any calendar year give notice to the Corporate Member to terminate the Agent’s appointment. If such notice is given, the appointment of the Agent under this Agreement in relation to the Limited Tenancy Arrangements shall terminate, subject to clause 11.8, on 31 December of that calendar year. The right of termination pursuant to this clause 11.6A is in addition to any other rights to terminate this Agreement pursuant to clause 11 and otherwise without prejudice to clause 11.

OR

In respect of the Limited Tenancy Capacity only, the appointment of the Agent under this Agreement shall, terminate, subject to clause 11.8, on

31 December [Insert year]. The termination provision in this clause 11.6A is in addition to any other rights to terminate this Agreement pursuant to clause 11 and otherwise without prejudice to clause 11.

(d) by the addition of a new clause 11.11 after clause 11.10 of the Agency Agreement as follows:

11.11 The Corporate Member irrevocably agrees with and acknowledges to the Agent that its rights to participate on the Syndicate are strictly limited to the Limited Tenancy Arrangements and accordingly:

(a) if the Corporate Member seeks to argue or maintain that the provisions of the Limited Tenancy Arrangements are ineffective, then the Agent may forthwith give notice in writing to the Corporate Member to terminate its appointment under this Agreement, such notice expiring at the end of the year in which such notice is given;

(b) if the Corporate Member reduces its member's syndicate premium limit to zero in respect of any underwriting year of account of the Syndicate, it shall have no right to participate on any subsequent underwriting years of account of the Syndicate; and

(e) by the addition of a new clause 11A.7 after clause 11A.6 of the Agency Agreement as follows:

11A.8 The provisions of this clause 11A shall not apply and accordingly the Corporate Member shall not be entitled to make a nomination in respect of the Corporate Member's Prospective Participation at any time whensoever.

2. The amendments to the Agency Agreement set out in clause 1 shall only operate in respect of any Year of Account in which the Corporate Member is an underwriting member of the Syndicate and shall not apply (for the avoidance of doubt) to the Corporate Member's participation on any other syndicate managed by the Agent.
3. Subject to the amendments set out in this Deed, the terms of the Agency Agreement shall have full force and effect.

Appendix 2 – Related Party Transactions

Part A – Managing Agents' Agreement (General)

Circumstances Bulletin means the Regulatory Bulletin 090/99 issued by Lloyd's on 18 November 1999 and the attached Guidance Note titled "Circumstances specified by the Council under paragraph 3(4) of the Agency Agreements Byelaw (No. 8 of 1988) as amended and supplemented by the Market Bulletin Y3439 dated 1 December 2004

Disclosures means the matters set out in [Schedule 1] to the Deed of Variation

holding company has the meaning given to it by section 1159 of the Companies Act 2006

Related Person has the meaning given to that expression in the Circumstances Bulletin and includes (without limitation) any subsidiary of the Agent, holding company of the Agent and/or any subsidiary of any holding company of the Agent and any other person who controls, or who is controlled by a person who controls, the Agent

Syndicate means the syndicate designated within the number [Insert number], as constituted for each underwriting year of account

subsidiary has the meaning given to it by section 1159 of the Companies Act 2006

New Clause(s)

4.3A In relation to the Name's participation on the Syndicate, no transaction, arrangement, relationship, act or event (whether or not directly involving the Agent) which would or might otherwise be regarded as constituting or giving rise to a contravention of any obligation of the Agent under paragraph (b) or (d) of clause 4.2 or under any corresponding obligation or duty implied by law in relation to conflicts of duty or interest, or as requiring the Agent to account to the Name for any gain or profit such as is referred to in paragraph (c) of that clause, shall be regarded as constituting such a contravention or as giving rise to any such obligation to account if the transaction, arrangement, relationship, act or event arises or occurs:

- A. in circumstances specified by the Council under paragraph 3(4) of the Agency Agreements Byelaw (No. 8 of 1988) and in compliance with any applicable conditions and requirements prescribed by the Council under that paragraph; or
- B. in relation to the acquisition, development or acceptance of underwriting business, where not inconsistent with the Disclosures, (including in respect thereof, without limitation: (i) the acquisition, development or acceptance of underwriting business from a source of such business which is also a source of business for the Syndicate; and (ii) in relation to classes of business underwritten by the Syndicate) by a Related Person of the Agent or by the underwriting member(s) of another syndicate managed by the Agent (including, without limitation, if one or more of such underwriting members is or are Related Persons of the Agent), in each case for the benefit of persons other than the underwriting members of the Syndicate, provided that such acquisition, development or acceptance of underwriting business does not transfer or re-direct the renewal or extension of insurance or

reinsurance contracts previously accepted by the underwriting members of the Syndicate to the underwriting members of another syndicate managed by the Agent or to any Related Person of the Agent.

Part B – Managing Agent’s Agreement (Corporate)

Additional Definition(s)

Circumstances Bulletin means the Regulatory Bulletin 090/99 issued by Lloyd's on 18 November 1999 and the attached Guidance Note titled "Circumstances specified by the Council under paragraph 3(4) of the Agency Agreements Byelaw (No. 8 of 1988) as amended and supplemented by the Market Bulletin Y3439 dated 1 December 2004

Deed of Variation means the deed of variation to this Agreement made between the Agent and the Corporate Member on or around the date of this Agreement

Disclosures means the matters set out in [Schedule 1] to the Deed of Variation

holding company has the meaning given to it by section 1159 of the Companies Act 2006

Related Person has the meaning given to that expression in the Circumstances Bulletin and includes (without limitation) any subsidiary of the Agent, holding company of the Agent and/or any subsidiary of any holding company of the Agent and any other person who controls, or who is controlled by a person who controls, the Agent

subsidiary has the meaning given to it by section 1159 of the Companies Act 2006

New Clause(s)

4.3A In relation to the Corporate Member's participation on the Syndicate, no transaction, arrangement, relationship, act or event (whether or not directly involving the Agent) which would or might otherwise be regarded as constituting or giving rise to a contravention of any obligation of the Agent under paragraph (b) or (d) of clause 4.2 or under any corresponding obligation or duty implied by law in relation to conflicts of duty or interest, or as requiring the Agent to account to the Corporate Member for any gain or profit such as is referred to in paragraph (c) of that clause, shall be regarded as constituting such a contravention or as giving rise to any such obligation to account if the transaction, arrangement, relationship, act or event arises or occurs:

- A. in circumstances specified by the Council under paragraph 3(4) of the Agency Agreements Byelaw (No. 8 of 1988) and in compliance with any applicable conditions and requirements prescribed by the Council under that paragraph; or
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- B. in relation to the acquisition, development or acceptance of underwriting business, [where not inconsistent with the Disclosures], (including in respect thereof, without limitation: (i) the acquisition, development or acceptance of underwriting business from a source of such business which is also a source of business for the Syndicate; and (ii) in relation to classes of business underwritten by the Syndicate) by a Related Person of the Agent or by the underwriting member(s) of another syndicate managed by the Agent (including, without limitation, if one or more of such underwriting members is or are Related Persons of the Agent), in each case

for the benefit of persons other than the underwriting members of the Syndicate, provided that such acquisition, development or acceptance of underwriting business does not transfer or re-direct the renewal or extension of insurance or reinsurance contracts previously accepted by the underwriting members of the Syndicate to the underwriting members of another syndicate managed by the Agent or to any Related Person of the Agent.

Appendix 3 – Terms with other Members

Part A – Managing Agents' Agreement (General)

Additional Definition(s)

Limited Tenancy Member means a member of the Syndicate who has, in the agreement between such member and the Agent, agreed that the appointment of the Agent shall terminate or be terminable after a specified period or in circumstances that would, in the absence of such agreement, require the approval of the Council

New Clause(s)

13.7 The Agent and the Name acknowledge and agree that the commercial terms agreed from time to time between the Agent and other underwriting member(s) of the Syndicate including any Limited Tenancy Members (other than the Name) may be different and more advantageous to such other underwriting member(s) than those terms set out in this Agreement in respect of the Name. The Name agrees that the fact that such other underwriting member(s) of the Syndicate, including other Limited Tenancy Members, have agreed, or may agree, different commercial terms with the Agent shall not constitute or give rise to any contravention of any obligation of the Agent under paragraphs (b) or (d) of clause 4.2 of this Agreement or under any corresponding obligation or duty implied by law in relation to conflicts of duty or interest, or as requiring the Agent to account to the Name for any gain or profit such as is referred to in paragraph (c) of that clause.

Part B – Managing Agent's Agreement (Corporate)

Additional Definition(s)

Limited Tenancy Member means a member of the Syndicate who has, in the agreement between such member and the Agent, agreed that the appointment of the Agent shall terminate or be terminable after a specified period or in circumstances that would, in the absence of such agreement, require the approval of the Council

New Clause(s)

13.7 The Agent and the Corporate Member acknowledge and agree that the commercial terms agreed from time to time between the Agent and other underwriting member(s) of the Syndicate including any Limited Tenancy Members (other than the Corporate Member) may be different and more advantageous to such other underwriting member(s) than those terms set out in this Agreement in respect of the Corporate Member. The Corporate Member agrees that the fact that such other underwriting member(s) of the Syndicate, including other Limited Tenancy Members, have agreed, or may agree, different commercial terms with the Agent shall not constitute or give rise to any contravention of any obligation of the Agent under paragraphs (b) or (d) of clause 4.2 of this Agreement or under any corresponding obligation or duty implied by law in relation to conflicts of duty or interest, or as requiring the Agent to account to

the Corporate Member for any gain or profit such as is referred to in paragraph (c) of that clause.