LLOYD'S

CM210B (06/18)

DECLARATION AND UNDERTAKING

Between:

1. ("the Third Party"); and

2. The Society incorporated by Lloyd's Act 1871 by the name of Lloyd's ("Lloyd's")

The Third Party makes the following declaration and undertaking in favour of Lloyd's:

1 Declaration

The Third Party hereby declares that they have been advised on, and understand, in relation to any member on whose behalf they provide or procure FAL, that:

(a) The assets comprising a member's FAL can be drawn on by Lloyd's at its sole discretion to meet underwriting liabilities of any year of account of the member, including years of account prior, or subsequent, to the year(s) of account for which they are provided;

(b) The value of certain types of assets comprising the FAL may fluctuate and that a fall in their value may affect the amount of underwriting a member is permitted to carry on;

(c) There can be no guarantee that a member's FAL will be drawn proportionately, and the Third Party may have proportionately more or less of the FAL they provide or procure on behalf of a member applied in satisfaction of that member's Lloyd's obligations;

(d) If the FAL provided by a member or by another third party on its behalf is reduced for any reason, the Third Party's FAL may bear a disproportionate share of any loss or cash call;

(e) Any capital appreciation on the value of FAL may also be applied in satisfaction of a member's Lloyd's obligations, and as a result the Third Party may have proportionately more of its FAL applied in satisfaction of such obligations (if such FAL is of a type which is capable of appreciating in value);

(f) Where a member's FAL is provided by several third parties, and that member is subject to a voluntary or compulsory drawdown, Lloyd's may draw down on the FAL of any one or more of these parties and has no obligation to apportion the draw down between the third parties;

(g) A member's capital requirement is reassessed annually based on syndicate business plans. The amount of capital required to maintain the same level of underwriting capacity may therefore change year on year;

(h) FAL assets in currencies other than Sterling may be revalued to reflect changes in exchange rates and therefore additional assets may be required to be held in FAL in order to maintain the amount of capacity underwritten by a member;

(i) In the event of a syndicate year of account on which a member participates not being Reinsured to Close after the usual 36 months, an amount of FAL will need to be retained by or on behalf of that member until the syndicate year has been Reinsured to Close;

(j) Lloyd's explicit approval is required in order to submit assets into Lloyd's to be held as FAL;

(k) Further information for customer due diligence purposes may be required, and must be provided, in order to satisfy Lloyd's requirements under the Money Laundering Regulations 2017;

(l) FAL provided by the Third Party in the form of cash and/or securities will be held under a Third Party Deposit Trust Deed, therefore the 'gifting' of FAL to the member (or another third party) will not be permitted;

(m) The original CM210 must be submitted to Lloyd's, as approval will not be granted without the original.

2 Duty of disclosure

2.1 The Third Party warrants and undertakes to Lloyd's that:

(a) having made all reasonable enquiries, the information supplied to Lloyd's in this form and any supporting declaration is, to the best of their knowledge and belief, accurate in all material respects and does not omit any information relating to themselves which might reasonably be considered relevant to the Member's application for registration/continued registration as a Lloyd's member or to the Third Party's application to provide FAL on behalf of the Member;

(b) they will notify Lloyd's in writing of any material change in the information forming part of or referred to in this declaration which occurs (where applicable):

(i) during the period in which the Member's application for registration is being considered; and/or

(ii) during the period in which the Member is registered as a Lloyd's member and the Third Party provides or procures, or is notifying Lloyd's of their intention to provide or procure, FAL on behalf of the Member; and/or

(iii) during the period in which the Third Party provides or procures, or is notifying Lloyd's of its intention to provide or procure, FAL on behalf of any other member;

(c) they will notify Lloyd's in writing of any potential dispute arising out of this or any similar arrangement.

3 Independence of Operation

3.1 In relation to the Member and any other member on whose behalf the Third Party subsequently provides or procures FAL, the Third Party acknowledges that the Board is exclusively responsible for the conduct of the Business, and (except in the case where the Third Party is a director and/or shareholder of the member or (in the case where the member is a LLP) a member of the member) warrants and undertakes to Lloyd's that they shall not seek to control or influence the composition of the Board or the decisions of the Board in respect of the conduct of the Business.

3.2 Except in the case where the Third Party is a director and/or shareholder of the member or (in the case where the member is a LLP) a member of the member, the Third Party warrants and undertakes to Lloyd's that they shall not interfere with the conduct of the Business and in particular, that they shall not give, or purport to give, instructions or directions to a member, or any of the directors or employees of a member, in respect of the Business, and that all transactions between a member and the Third Party are entered into on an arm's length basis.

4 Provision of Information

4.1 The Third Party undertakes to Lloyd's that prior to providing or procuring FAL on behalf of a member and while they continue to do so, they will provide Lloyd's with such information, explanations, documents and other materials relating to them or to that member, which is, or which would reasonably be expected to be, in the possession or control of or known to the Third Party, as Lloyd's considers may be relevant and may request from time to time for the purpose of determining whether:

(a) that member is a fit and proper person to be a member of Lloyd's; or

(b) the Third Party is a fit and proper person to provide or procure FAL on behalf of a member.

4.2 The Third Party undertakes to Lloyd's that prior to providing or procuring any additional or replacement FAL on behalf of the Member at any time following the submission to Lloyd's of this Declaration and Undertaking, they will notify Lloyd's if there have been any changes to the information set out herein and will also provide any additional information or documentation required by Lloyd's which is not otherwise contained in or with the Declaration and Undertaking as originally submitted.

4.3 No information obtained pursuant to paragraphs 4.1 and 4.2 above shall be disclosed by Lloyd's otherwise than in accordance with paragraph 9 of the Miscellaneous Provisions Byelaw (No. 4 of 2006) as amended, replaced or revoked from time to time.

4.4 The Third Party undertakes to inform Lloyd's at the earliest reasonable opportunity if they intend to cease to provide or procure FAL on behalf of a member or if there are any other material changes.

5 Continuing obligations

5.1 The Third Party acknowledges that the provisions of this Declaration and Undertaking apply throughout the time that the Third Party provides or procures FAL on behalf of a member at Lloyd's, whether the Member or any other member, and further acknowledges their obligations under paragraphs 2.1(b), 4.1 and 4.2 in relation to any such subsequent provision or procurement of FAL by the Third Party.

6 Definitions

6.1 In this Declaration and Undertaking the following words and expressions shall have the following meanings:

(a) ***"Board"*** means the board of directors (or its equivalent) for the time being of a member;

(b) ***"Business"*** means the underwriting business carried on by a member from time to time;

(c) ***"Controller"*** has the same meaning as in the Definitions Byelaw, and ***"Control"*** and ***"Controlled"*** shall be construed accordingly;

(d) ***"Council"*** means the Council of Lloyd's constituted by section 3 of the Lloyd's Act 1982;

(e) ***"FAL"*** has the meaning given to "Funds at Lloyd's" in paragraph 16 of the Membership Byelaw;

(f) ***"LLP"*** *means a limited liability partnership;*

(g) ***"Membership Byelaw"*** means the Membership Byelaw (No. 5 of 2005) as amended, replaced or revoked from time to time.

7 Governing Law and Jurisdiction

7.1 This Declaration and Undertaking shall be governed by and construed in accordance with English law and the Third Party agrees to submit to the exclusive jurisdiction of the English courts as regards any claim or matter arising under this Declaration and Undertaking.

In witness whereof the parties have executed this Declaration and Undertaking as a deed on the date set out below

SIGNED as a **DEED** by

……..…….….. ……..……..

(Name of Third Party) *(Signature of Third Party)*

In the presence of: ……..…

(Signature of Witness)

Name of Witness *(Please print)* ……

Address of Witness: ……

……..……..

……..……..

Occupation of Witness: ……..……..

EXECUTED and **DELIVERED** as a **DEED**
under the common seal of **LLOYD'S** as
hereunto affixed in the presence of:

Authorised Signatory: Date: …….…….