

**IN THE HIGH COURT OF JUSTICE
BUSINESS AND PROPERTY COURTS OF
ENGLAND AND WALES
COMPANIES COURT (ChD)**

CR-2018-009677



CR-2018-009677

Mr Justice Snowden

25 November 2020

IN THE MATTER OF

**CERTAIN OF THE MEMBERS AT LLOYD'S FOR ANY AND ALL OF THE
1993 TO 2020 (INCLUSIVE) YEARS OF ACCOUNT, REPRESENTED BY
THE SOCIETY OF LLOYD'S**

AND

IN THE MATTER OF LLOYD'S INSURANCE COMPANY S.A.

AND

IN THE MATTER OF

THE FINANCIAL SERVICES AND MARKETS ACT 2000

ORDER

UPON THE APPLICATION by amended Part 8 claim form dated 26 May 2020 (the *Claim Form*) of (i) the above-named Society of Lloyd's, incorporated by Lloyd's Act 1871 by the name of Lloyd's, with its head office at One Lime Street, London EC3M 7HA, United Kingdom (*Lloyd's* or the *Transferor*), authorised to act as the transferor on behalf of certain members, former members and estates of former members of Lloyd's who have underwritten liabilities under non-life insurance policies originally allocated to any or all of the 1993 to 2020 (inclusive) years of account; and (ii) Lloyd's Insurance Company S.A., a company incorporated in Belgium, whose registered office is at Place du Champ de Mars 5, 14th floor, 1050 Brussels, Belgium (the *Transferee*)

(together, the *Claimants*), which Claim Form seeks the sanction of an insurance business transfer scheme (the *Scheme*) pursuant to Part VII of the Financial Services and Markets Act 2000 (the *FSMA*) and other ancillary orders;

AND UPON READING the Claim Form and the supporting evidence;

AND UPON HEARING Martin Moore QC and Mary Stokes, Counsel for the Claimants;

AND UPON HEARING Charlotte Eborall, Counsel for the Financial Conduct Authority (the *FCA*);

AND UPON HEARING Tom Weitzman QC, Counsel for the Prudential Regulation Authority (the *PRA*);

AND UPON the Court being satisfied that the appropriate certificates have been obtained as referred to in section 111 of the FSMA;

AND UPON the Court approving the attachment of the summary of the Scheme as annexed at Schedule 1 to this Order, such summary providing a synopsis of the main features of the Scheme, which is not to be relied upon in place of the Scheme itself;

AND UPON IT APPEARING that a copy of the application, the report and the statement referred to in regulation 3(4) of the Financial Services and Markets Act 2000 (Control of Business Transfers) (Requirements on Applicants) Regulations 2001 (SI 2001/3625) as amended (the *Regulations*) has been given free of charge to the PRA and the FCA in accordance with regulation 3(5) of the Regulations and that a period of more than 21 days has elapsed since the PRA and the FCA were given those documents;

AND UPON the Court considering that, in all the circumstances, it is appropriate to sanction the Scheme;

AND UPON THE CLAIMANTS UNDERTAKING by Counsel for the Claimants that they will not challenge the enforceability of this Order in any jurisdiction;

THIS COURT HEREBY sanctions the Scheme in the form annexed at Schedule 2 hereto pursuant to section 111(1) of the FSMA;

AND IT IS ORDERED THAT all the terms of the Scheme shall as and from the dates and times therein provided take effect under section 112 of the FSMA (using the definitions set out in the Scheme) without further act or instrument as if each were separately set out in this Order. Without prejudice to the generality of the foregoing:

- (1) the transfer of the Transferring Business provided for by paragraph 3 of the Scheme and the transfer of property and liabilities (as defined by sections 112(12) and (13) of the FSMA respectively) provided for thereby shall

take effect pursuant to section 112(1)(a) of the FSMA and vest or transfer as provided for by section 112(3) of the FSMA as a result of this Order;

- (2) the provisions in paragraph 4 of the Scheme relating to the continuity of proceedings shall take effect pursuant to section 112(1)(c) of the FSMA;
- (3) the provisions in paragraph 11 of the Scheme relating to the amendment of Existing Outwards Reinsurance Agreements and any connected letters of credit, collateral or security arrangements in the circumstances there set out; and the transfer of the benefit of Existing Outwards Reinsurance Agreements in the circumstances and the manner there set out shall take effect pursuant to section 112(1)(d) of the FSMA; and
- (4) the provisions of all other paragraphs of the Scheme not referred to in (1) and (2) above shall take effect pursuant to section 112(1)(d) of the FSMA;

AND IT IS FURTHER ORDERED THAT:

- (1) in accordance with section 114(2) of the FSMA, notice of the making of this Order giving effect to the transfer shall be published in each of the EEA States listed in Schedule 3 to this Order;
- (2) each notice to be published in accordance with paragraph (1) shall specify the period (if any) during which the holder of any Transferring Policy which evidences a contract of direct insurance as regards which the relevant EEA State is the State in which the risk is situated may exercise the right (if any) under the law of the relevant EEA State to cancel the policy being within a period of 21 days starting from the date of such publication or such other period (if any) as the law of the relevant EEA State provides; and
- (3) in order to effect the publication of the notices referred to in paragraph (1), a notice of the making of this Order giving effect to the transfer shall be published in the International Edition of The Financial Times;
- (4) in accordance with section 112(10) of the FSMA, the Transferee shall within 10 days from the date of this Order or such longer period as the PRA shall allow, deposit two office copies of this Order with the PRA; and
- (5) the Claimants may apply to the Court for such order(s) or directions as may be expedient or necessary for the purposes set out in section 112 of the FSMA or pursuant to paragraph 13 of the Scheme and generally.

SERVICE OF THIS ORDER

The Court has provided a sealed copy of this order to the serving party:

Freshfields Bruckhaus Deringer LLP

65 Fleet Street

London

EC4Y 1HS

Ref: 053895.0542 (GHFS)

Solicitors for the Claimants

SCHEDULE 1

SCHEME SUMMARY

INTRODUCTION

This summary outlines the key elements of the transfer of certain insurance business and related assets and liabilities from the Members (represented by the Society of Lloyd's for the purpose of the Scheme), to the Transferee.

The Members are underwriting members, former underwriting members or estates of former underwriting members at Lloyd's who carried on non-life business at Lloyd's originally allocated to a Relevant Year of Account (1993 to 2020 (inclusive)). The Members are represented for the purposes of the Scheme by the Society of Lloyd's.

The Transferee, Lloyd's Insurance Company S.A., is a Belgian incorporated company, which is a wholly owned subsidiary of Lloyd's, authorised as an insurance company by the National Bank of Belgium. The Transferee is authorised under Belgian law to effect and carry on insurance business in all EEA States of the same classes as the insurance business to be transferred to it pursuant to the Scheme.

Unless otherwise defined, defined terms used in this summary shall have the meanings given in the Scheme document (the *Scheme Document*). For ease of reference, a glossary of some of the key defined terms used in this summary is also provided at the end of this summary.

This summary should not be regarded as comprehensive and should not be treated as a substitute for reading the Scheme Document (the terms of which shall prevail over this summary).

KEY TERMS OF THE SCHEME DOCUMENT

1. Transfer of the Transferring Business

- 1.1 The effect of the Court's order pursuant to Part VII of the Financial Services and Markets Act 2000 giving effect to the Scheme Document (the *Sanction Order*) is to transfer the Transferring Business from the Members to the Transferee with effect from 00.01am on 30 December 2020 (the *Effective Date*).
- 1.2 This means that, with effect from the Effective Date, each Transferring Policy and Transferring Asset and, in each case, all the interest and title of the Members in them shall be transferred to and vest in the Transferee.
- 1.3 At each Subsequent Transfer Date, each Residual Asset or Residual Liability (to the extent there are any) to which such Subsequent Transfer Date applies and all the associated interest or liability of the Members shall be transferred to the Transferee.

2. Effect of the Scheme

- 2.1 On and with effect from the Effective Date:

- (a) Lloyd's and the Transferee have agreed that, subject to Court approval, the Transferring Policies, Transferring Assets and Transferring Liabilities will transfer from Members to the Transferee. The Transferee will become the insurer of the Transferring Policies and data controller of the Transferring Business, otherwise, the terms and conditions of Transferring Policies will not change.

2.2 The Transferring Policies are all those Policies (or parts thereof):

- (a) identified (either individually or by way of reference to the relevant Binding Authority Agreement) under the column headed "Category 1" of a defined list (referred to as the "Policy File" in the Scheme) to be provided by Lloyd's to the Transferee prior to the Effective Date, unless it is subsequently determined that any such Policy (or part thereof) has been included in Category 1 of the Policy File in error because it neither: (i) relates to a risk situated in the EEA; nor (ii) was issued to or is held by a policyholder resident in the EEA;
- (b) identified (either individually or by way of reference to the relevant Binding Authority Agreement) under the columns headed "Category 2" and "Category 3" of the Policy File provided such Policy (or part thereof): (i) relates to a risk situated in the EEA; or (ii) was issued to or is held by a policyholder resident in the EEA; and
- (c) which are not identified on the Policy File but such policy (or part thereof) has been effected or carried out by or on behalf of the Members in a Relevant Year of Account and will immediately after the expiry of the transitional period agreed between the UK and the EU (currently scheduled to be 31 December 2020) require an EEA authorised insurer to carry out or service such Policy (or relevant part of such Policy),

in each case, other than the Excluded Policies (see section 3 below).

2.3 Generally, this means that policies written in respect of policyholders based in the EEA and/or risks located in the EEA will be transferred from the Members to the Transferee.

3. Excluded Policies

3.1 As set out in the Scheme Document, the following policies are Excluded Policies which have been excluded from the Scheme: Long-Term Insurance Contracts (life insurance policies), Non-EEA Policies, Policies that are subject to the requirements of local regulatory requirements in an Excluded Jurisdiction, Inwards Reinsurance Policies (excluding German Inwards Reinsurance Policies), a Sanctions Policy (being a policy which is subject to sanctions laws and therefore cannot be transferred to the Transferee) and certain other policies which are not capable of being transferred, which the Court determines not to transfer or which Lloyd's and the Transferee agree in writing prior to the Effective Date shall not transfer.

4. Continuity of Proceedings

- 4.1 Any Proceedings issued, served or commenced or continued before the Effective Date by or against the Members in respect of the Transferring Business will be continued by or against the Transferee in place of the Members in respect of the Transferring Business. The Transferee will be entitled to any and all defences, claims, counterclaims and rights of set-off that the Members would have had in respect of the Transferring Business.
- 4.2 Any judgment, order or award which is not fully satisfied before the Effective Date will become enforceable by or against the Transferee in the place of the Members, in respect of the Transferring Business.

5. Rights and Obligations under Transferring Policies

- 5.1 On the Effective Date, the Transferee shall become entitled to all the subsisting rights, benefits and powers of the Members related to the Transferring Policies and shall be subject to all the subsisting obligations and liabilities of the Members in relation to the respective Transferring Policies.
- 5.2 A Transferring Policyholder shall, on and with effect from the Effective Date, be entitled to the same rights which they may have had available to them against the Members under such Transferring Policy against the Transferee.
- 5.3 A Transferring Policyholder shall, on and with effect from the Effective Date, be under the same liability to the Transferee as any liability or obligation previously owed by them to the Members.

6. Agent obligations

- 6.1 Each agent acting on behalf of a Member will grant the Transferee a non-exclusive, royalty-free, irrevocable and sublicensable licence to use:

- (a) Business Records in that agent's possession or control; and/or
- (b) Intellectual Property Rights in which it owns the rights and interests, and to which it has title, in each of the Transferring Policies and related Business Records,

to allow the Transferee to exercise all rights, benefits and powers and undertaking all obligations and liabilities subsisting at the Effective Date of the Members in relation to the respective Transferring Policies (the *Licence*).

- 6.2 The Licence will be granted for

- (a) each Transferring Policy, from the Effective Date until 25 years after the Limitation Date of that Transferring Policy; and
- (b) each Business Record, from the Effective Date until 25 years after the Limitation Date of the Transferring Policy to which that Business Record relates.

6.3 Agents acting on behalf of a Member will provide the Transferee with reasonable access to any of the Transferring Policies or Business Records and the Transferee may make and retain copies of these.

6.4 Agents acting on behalf of a Member must, if they decide for any reason that they no longer wish to retain copies of any of the Business Records under the Licence, notify the Transferee in writing and provide the Transferee with 90 days in which to make any copies it requires.

7. Declaration of Trust

7.1 If any property of the Members intended to transfer under this Scheme is not, or is not capable of being, transferred to and vested in the Transferee by the Order for any reason, the Members shall hold any property together with any proceeds as trustee for the Transferee absolutely for so long as is legally permissible.

8. Allocation of Policies, Assets and Liabilities

8.1 Where:

(a) a Policy included under Category 2 or 3 of the Policy File has a non-EEA policyholder and covers both EEA and non-EEA risks, the part of the policy relating to EEA risks will transfer to the Transferee and the part of the policy relating to non-EEA risks will not transfer and will continue to be a policy of the Member; and

(b) a Policy not included on the Policy File has an EEA or non-EEA policyholder and covers both EEA and non-EEA risks, the EEA part of the policy will transfer to the Transferee and the non-EEA part of the policy will not transfer and will continue to be a policy of the Member.

8.2 The Scheme ensures that the terms and conditions of a Policy split as described above (including the deductibles, limits and other applicable policy limitations) will continue to apply in aggregate across the split Policy so that the contractual counterparties are no better or worse off in respect of the Policy as a result of this Scheme.

8.3 Where applicable, the method of allocating premiums, losses and related expenses in respect of a split Policy (in accordance with its terms), asset or liability shall be determined by agreement between the Members and the Transferee.

9. Amended Reinsurance Structure

9.1 All the liabilities imposed on the Transferee by or under the Order in respect of the Transferring Policies shall be reinsured by the relevant Members pursuant to the Lloyd's Brussels Reinsurance Contracts (which will be entered into by the relevant parties prior to the Effective Date, subject to but separate from the operation of the Scheme).

9.2 Existing Outwards Reinsurance Agreements (including any associated collateral, letter of credit or security arrangements) shall, pursuant to the Order, be treated as retrocession contracts in respect of the relevant proportion of each

reinsurance policy entered into by or on behalf of the relevant Members of the relevant Syndicate (as reinsurer) in respect of the Transferring Policies pursuant to a Lloyd's Brussels Reinsurance Contract. Any letters of credit, collateral or security arrangement in or in relation to an Existing Outwards Reinsurance Agreement shall include amendments to reflect the fact that those arrangements will, immediately after each Lloyd's Brussels Reinsurance Contract has come into effect in accordance with its terms on the Effective Date, support a retrocession rather than a reinsurance.

- 9.3 The benefit of each Existing Outwards Reinsurance Agreement shall transfer from the original Member to the new Member who shall be entitled in their own name to collect all amounts recoverable. The provisions of any Existing Outwards Reinsurance Agreement including, where the context requires, liabilities incurred by the Transferee as if it were the original Member shall, subject to the amendment above, continue in full force and effect (including in respect of the rights of the reinsurer under the Existing Outwards Reinsurance Agreement as against the new Member and the terms on which the retrocession is provided).
- 9.4 Neither the Scheme nor anything done (or omitted to be done) in connection with it will entitle any person to:
- (a) invalidate, discharge or terminate any Existing Outwards Reinsurance Agreement or Retrocession Agreement;
 - (b) allege that such act or omission constitutes a breach or default, termination event, or allow any person to terminate or claim that any temporal condition or restriction has not been satisfied or to invoke an exclusion (including in respect of the coverage of retrocessional risks) or reclassify the nature or original date of attachment of any existing business insured under any Existing Reinsurance Agreement or Retrocession Agreement;
 - (c) require any registration, re-registration or filing of any amendment to any existing registration or filing in respect of any Existing Outwards Reinsurance Agreement or require any person to perform any new or additional obligation or take any new or additional step or action (including any re-filing, registration or re-registration) in respect of any Existing Outwards Reinsurance Agreement; or
 - (d) otherwise take any action to vary, amend, disclaim, repudiate or terminate all or any part of any Existing Outwards Reinsurance Agreement including, in each case, where the context requires, on the basis that a loss or liability has been assumed by the Transferee and reinsured by the new Member under a Lloyd's Brussels Reinsurance Contract.
- 9.5 Any letters of credit, collateral or security arrangements comprised in or connected to an Existing Outwards Reinsurance Agreement shall, by the Order, include such consequential amendments as are necessary to implement and reflect the fact that those arrangements will, immediately after each Lloyd's

Brussels Reinsurance Contract has come into effect in accordance with its terms on the Effective Date, support a retrocession rather than a reinsurance.

10. Glossary of defined terms

10.1 The following terms have the meanings set out below (please refer to the Scheme Document for a full glossary of terms used in this summary and the Scheme):

Closed Year Syndicate means any syndicate constituted for a Relevant Year of Account which has been reinsured to close either directly or indirectly into a Syndicate;

Designated Person means any of the following:

- (a) A person or entity that is included on any of the following lists of persons and entities subject to financial sanctions or any other equivalent list maintained by any of the United Kingdom, the European Union and/or Belgium:
 - (i) The consolidated list of financial sanctions targets in the UK;
 - (ii) The consolidated list of persons, groups and entities subject to EU financial sanctions; and/or
 - (iii) The Belgian “Liste Nationale Consolidee des Personnes et Entites dont les Avoirs ou les Ressources Economiques sont Gelees dans le cadre de la lute contre le Financement du Terrorisme”;
- (b) A person or entity that is designated on any asset freeze lists maintained by the United Nations Security Council;
- (c) A person or entity that is designated on any of the following lists maintained by the U.S. Treasury Department’s Office of Foreign Assets Control (“OFAC”): Specially Designated National and Blocked Person (SDN) or Foreign Sanctions Evader (FSE) lists;
- (d) A person or entity that is owned or controlled by (including without limitation by virtue of such person being a director or owning voting shares or interests), or acting for or on behalf of, any person or entity identified in any of paragraphs (a) to (c) above;

Excluded Policy means:

- (a) a Policy that is a Long-Term Insurance Contract;
- (b) a Non-EEA Policy;
- (c) a Policy or part thereof which would otherwise fall within the definition of “EEA Policy” but the Policy or part thereof is subject to the requirements of a local regulatory licence or other insurance approval granted to Lloyd’s in an Excluded Jurisdiction;
- (d) an Inwards Reinsurance Policy;

- (e) a Sanctions Policy; and/or
- (f) any other Policy or part thereof, including any class of Policy, under which any liability remains unsatisfied or outstanding at the Effective Date:
 - (i) which is not capable of being transferred pursuant to section 111 of FSMA;
 - (ii) which the Court for any reason determines not to transfer by virtue of the Order; or
 - (iii) which Lloyd's and the Transferee agree in writing prior to the Effective Date shall not be transferred on the Effective Date provided the PRA and the FCA have given their prior consent to such policy or part thereof, including any class of Policy, being an Excluded Policy;

Existing Outwards Reinsurance Agreements means, in respect of any Syndicate or Closed Year Syndicate, any contract of reinsurance to which the Members comprising the Syndicate or Closed Year Syndicate are parties as the reinsured, together with any collateral, letter of credit facilities or other security arrangements which have been arranged by the relevant reinsurer for the benefit of the Syndicate, which attaches to all or any part of any of the Transferring Policies and under which any obligations remain to be performed in whole or in part at the Effective Date;

German Inwards Reinsurance Policy means a Policy or part thereof effected or carried out by or on behalf of any of the Members as reinsurer or retrocessionaire and originally allocated to a Relevant Year of Account where the cedant is domiciled or resident in Germany;

Lloyd's means the Society of Lloyd's incorporated by Lloyd's Act 1871 by the name of Lloyd's, with its head office at One Lime Street, London EC3M 7HA;

Lloyd's Brussels Reinsurance Contract means each of the 100 per cent. quota share reinsurance agreements which will be severally entered into by the Transferee (as cedant) and the Members of the relevant open years of the relevant Syndicate (as reinsurer) prior to the Effective Date in connection with the Transferring Policies;

Members means the underwriting members, former underwriting members and estates of former underwriting members of Lloyd's comprising the Syndicates and Closed Year Syndicates, in their capacity as members of such syndicates;

Policy File means the file having the name "The Part VII Master List", as provided by Lloyd's to the Transferee prior to the Effective Date through a secure file transfer portal and identified by Lloyd's and the Transferee in writing (including by email) as being in final form for the purpose of this definition;

Residual Asset means:

- (a) any asset to be transferred to the Transferee pursuant to this Scheme and any agreement relating to any such asset (including any right, benefit or

power under any Transferring Policy) the transfer of which to the Transferee as at the Effective Date:

- (i) requires the consent of any person (other than the Transferee or the Court); or
- (ii) requires the waiver by any person of any right to acquire, to offer or be offered the right to acquire or to procure the acquisition by some other person of all or any part of such assets, in each case being a right which directly or indirectly arises or is exercisable as a consequence of such transfer being proposed or taking effect; or
- (iii) would result in a third party having a right to terminate an agreement with a Member or to claim compensation in damages or otherwise,

and in each case which the Court either (i) does not have jurisdiction to transfer pursuant to section 112 of FSMA; or (ii) (despite having such jurisdiction) determines, notwithstanding section 112 and 112A of FSMA, not to so transfer but in any case only to the extent of that part of the interest in such Policy in respect of which the transfer requires such consent and/or waiver or would result in such a right;

- (b) any other interest in any asset or agreement relating thereto, the transfer of which Lloyd's and the Transferee agree prior to the Effective Date is to be delayed;
- (c) any interest in any other assets which Lloyd's and the Transferee agree prior to the Effective Date is more conveniently to be transferred pursuant to the Scheme in conjunction with such asset referred to in paragraph (a) or (b) of this definition; and
- (d) any proceeds of sale or income or other accrual or return, earned on or received from time to time after the Effective Date in respect of any assets referred to in paragraphs (a), (b) or (c) of this definition;

Residual Liability means any liability under or in connection with the Transferring Policies and in connection with the Transferring Assets:

- (a) the transfer of which liability to the Transferee pursuant to this Scheme requires, as at the Effective Date, the consent or waiver of any person (other than the Transferee, Lloyd's or the Court) and which the Court either does not have jurisdiction to transfer to the Transferee pursuant to section 112(1)(a) of FSMA or which (despite having such jurisdiction) the Court determines, notwithstanding section 112(2A) of FSMA, not to so transfer; or
- (b) which is attributable to or connected with a Residual Asset and arises at any time before the Subsequent Transfer Date applicable to that Residual Asset; or

- (c) which Lloyd's and the Transferee agree in writing prior to the Effective Date shall not be transferred on the Effective Date; or
- (d) which cannot be transferred to or vested to the Transferee pursuant to the Scheme for any other reason;

Retrocession Agreement has the meaning given in paragraph 11.1(a) of the Scheme;

Sanctions Laws means the economic, financial and trade embargoes and sanctions laws, regulations, rules and/or restrictive measures administered, enacted or enforced by the Office of Foreign Assets Control of the U.S. Department of the Treasury, the United States Department of State, any other U.S. government entity, the United Nations Security Council, any United Nations Security Council Sanctions Committee, the European Union, any Member State of the European Union, the United Kingdom and/or any other government, public or regulatory authority or body (including HM Treasury);

Sanctions Policy means a Policy or part thereof effected or carried out by or on behalf of any of the Members as insurer, co-insurer, reinsurer or retrocessionaire and originally allocated to a Relevant Year of Account:

- (a) under or in connection with which any amount has arisen which is or was directly or indirectly payable by, to, through or for the benefit of a Designated Person or in which a Designated Person has a direct or indirect interest of any nature;
- (b) which is, or where any amount has arisen under or in connection with such Policy is, required to be blocked (or treated as blocked) pursuant to US Sanctions; or
- (c) under which the provision of (re)insurance, the payment of any claim or the provision of any benefit would expose the Transferee or any service provider to, or bank of, the Transferee, to any sanction, prohibition or restriction or the risk thereof under Sanctions Laws;

Subsequent Transfer Date means, in relation to any Residual Asset or Residual Liability, the date after the Effective Date on which such Residual Asset or Residual Liability is to be transferred to the Transferee, namely:

- (a) in respect of any Residual Asset falling within paragraph (a) of the definition thereof, and of any Residual Liability falling within paragraph (a) of the definition thereof, the date on which the requisite consent, waiver or order to enable the same to be transferred to the Transferee upon the terms of this Scheme is:
 - (i) obtained;
 - (ii) no longer required; or
 - (iii) dispensed with by Order of the Court;
- (b) in respect of any Residual Asset falling within paragraphs (b) or (c) or of the definition thereof and of any Residual Liability which falls within

paragraph (b) or (c) of the definition thereof, the date on which Lloyd's and the Transferee agree that the transfer of the relevant Residual Asset or Residual Liability shall take effect; and

- (c) in the case of any Residual Asset falling within paragraph (d) of the definition thereof, the date on which such Residual Asset is received or earned by the relevant Member;

Syndicate means each of the syndicates of members listed in Schedule 1 of the Scheme;

Transferor means Lloyd's;

Transferee means Lloyd's Insurance Company S.A.;

Transferring Assets means all of the following whatsoever and wheresoever situated as at the Effective Date:

- (a) the rights, benefits and powers of the Members under or by virtue of the Transferring Policies (including, for the avoidance of doubt, the right to receive premiums);
- (b) the rights, benefits and powers (whether actual or contingent) of the Members whatsoever under or by virtue of the Transferring Contracts;
- (c) the Transferring Business Reserve Amount; and
- (d) all rights and claims of the Member against any third party in relation to the Transferring Business or arising as a result of the Members having carried on the Transferring Business;

but excluding the Excluded Assets and, until the relevant Subsequent Transfer Date, if any, the Residual Assets;

Transferring Business means the Transferring Policies, Transferring Assets, and Transferring Liabilities; and

US Sanctions means the economic, financial and trade embargoes and sanctions law, regulations, rules and/or restrictive measures administered, enacted or enforced by the Office of Foreign Assets Control of the U.S. Department of the Treasury, the United States Department of State and any other U.S. government entity.

SCHEDULE 2
THE SCHEME

**IN THE HIGH COURT OF JUSTICE
BUSINESS AND PROPERTY COURTS OF ENGLAND AND WALES
COMPANIES COURT (ChD)**

**IN THE MATTER OF
CERTAIN OF THE MEMBERS AT LLOYD'S FOR ANY AND ALL OF THE 1993
TO 2020 (INCLUSIVE) YEARS OF ACCOUNT, REPRESENTED BY THE SOCIETY
OF LLOYD'S
AND
IN THE MATTER OF
LLOYD'S INSURANCE COMPANY S.A.
IN THE MATTER OF
THE FINANCIAL SERVICES AND MARKETS ACT 2000**

SCHEME

**for the transfer of insurance business and related assets and liabilities from certain of
the Members of Lloyd's for any or all of the 1993 to 2020 (inclusive) years of account
represented by the Society of Lloyd's**

to

Lloyd's Insurance Company S.A.

in accordance with Part VII of the Financial Services and Markets Act 2000

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SECTION 1 – DEFINITIONS AND INTERPRETATION

1. Interpretation

1.1 Definitions

In this Scheme the following expressions bear the meanings respectively set opposite them:

Applicable Privacy Laws means all applicable data protection laws, rules and regulations, including Regulation (EU) 2016/679 of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, as amended or replaced from time to time, and any applicable national laws, rules and regulations implementing the foregoing;

Binding Authority Agreement means an agreement between a Coverholder and a managing agent or service company (in both cases, on behalf of a Member) pursuant to which the managing agent or service company delegates authority to enter into Policies to the Coverholder;

Business Records means that part of any documents, files and other records, whether in physical or electronic form, relating to the Transferring Business which are in the possession of, or under the control of, the Members or their third party service providers or any agent acting on behalf of a Member;

Closed Year Syndicate means any syndicate constituted for a Relevant Year of Account which has been reinsured to close either directly or indirectly into a Syndicate;

Conduct Liabilities means any liability, loss, cost and/or obligation (including contingent or prospective) whatsoever and wheresoever arising which results from or arises in connection with the sale, management or conduct of the Transferring Policies prior to the Effective Date by or on behalf of the Member or any agent of the Member, including, without limitation, mis-selling liabilities and other liabilities, losses, costs and/or obligations arising from:

- (a) any complaint, claim, legal action or proceedings brought against the Member by or on behalf of any person or group of persons whether as a result of any agreed settlement or compromise (including, without limitation, an ex gratia payment) or otherwise, including without limitation, the costs and expenses incurred in investigating and defending against any such complaint, claim, legal action or proceeding;
- (b) the Member complying with (or failing to comply with) applicable law, or with rules, regulations, directions, guidance or industry practice (whether formal or informal) set by or given by any Regulatory Authority, including, without limitation, the costs and expenses in connection with any such compliance, non-compliance or review so required; or

- (c) any action taken (including any investigation, decision, penalty charged, fine levied or as a result of any judgement or any arbitration) by any Regulatory Authority, including, without limitation, the costs and expenses incurred in investigating, challenging and defending against any such decision, penalty, charge or fine;

Costs means costs, losses, liabilities, damages, fees, penalties, fines, compensation, charges, Tax and expenses (including those suffered or reasonably and properly incurred in investigating, establishing, settling, disputing, enforcing or seeking advice in relation to a right to be indemnified under this Scheme);

Council means the Council of Lloyd's, the governing body of Lloyd's, pursuant to Lloyd's Act 1982;

Court means the High Court of Justice in England and Wales;

Coverholder means a company or partnership authorised by a managing agent to enter into a contract or contracts of (re)insurance underwritten by the Members of a Syndicate managed by the managing agent and, for the avoidance of doubt, shall include a service company coverholder;

Cut-Off Date means:

- (a) 31 December 2018, in respect of a Policy effected as insurer or co-insurer, where limb (b) of this definition does not apply; or
- (b) 12 April 2019, in respect of a Policy effected as insurer or co-insurer as a result of an extension granted by Lloyd's to a managing agent between 1 January 2019 and 12 April 2019; or
- (c) 29 October 2020 (in respect of German Inwards Reinsurance Policies);

Designated Person means any of the following:

- (a) a person or entity that is included on any of the following lists of persons and entities subject to financial sanctions or any other equivalent list maintained by any of the United Kingdom, the European Union and/or Belgium:
 - (i) the consolidated list of financial sanctions targets in the UK;
 - (ii) the consolidated list of persons, groups and entities subject to EU financial sanctions; and/or
 - (iii) the Belgian "Liste Nationale Consolidee des Personnes et Entites dont les Avoirs sur les Ressources Economiques sont Gelees dans le cadre de la lute contre le Financement du Terrorisme";
- (b) a person or entity that is designated on any asset freeze lists maintained by the United Nations Security Council;
- (c) a person or entity that is designated on any of the following lists maintained by the U.S. Treasury Department's Office of Foreign Assets

Control ("OFAC"): Specially Designated National and Blocked Person (SDN) or Foreign Sanctions Evader (FSE) lists;

- (d) a person or entity that is owned or controlled by (including without limitation by virtue of such person being a director or owning voting shares or interests), or acting for or on behalf of, any person or entity identified in any of paragraphs (a) to (c) above;

EEA means the European Economic Area as constituted by the Agreement on the European Economic Area (94/1/ECSC, EC), as amended from time to time, excluding the United Kingdom;

EEA Policy means a Policy or part thereof, effected or carried out by or on behalf of any of the Members as insurer, co-insurer, reinsurer or retrocessionaire on or prior to the applicable Cut-Off Date and originally allocated to a Relevant Year of Account, which will immediately after the Transition End Date require an insurer authorised by an EEA regulator (including, for these purposes, with respect to Monaco) to carry out or service that Policy (or the relevant part thereof, in each case whether by reason of its terms or the subject matter of the policy or by reason of the identity or location, domicile or residency of the Policyholder, insured or claimant or for any reason whatsoever), in order to ensure no legal or regulatory insurance authorisation requirements in the EEA are breached. For the purposes of determining whether a Policy (or part thereof) is an EEA Policy for the purposes of this Scheme, the application of, or any permission granted by, any Temporary Run-off Regime shall be ignored in respect of that Policy;

EEA Policyholder means a policyholder resident in an EEA State;

EEA Risk means any risk in respect of which an EEA State is the state in which the risk is situated;

EEA State has the meaning given to it in Schedule 1 to the Interpretation Act 1978;

Encumbrance means any mortgage, charge, pledge, security, lien, option, restriction, right of first refusal, right of pre-emption, third party right or interest, any other encumbrance or security interest of any kind and any other type of preferential arrangement (including title, transfer and retention arrangements) having a similar effect;

Effective Date means the time and date on which this Scheme shall become effective in accordance with paragraph 12.2;

EU means the European Union;

Excluded Assets means any asset or property of the Members which is not expressly provided for in this Scheme as a Transferring Asset, including:

- (a) the Existing Outwards Reinsurance Agreements,
- (b) the Tax Recoveries;
- (c) the Sundry Assets; and

- (d) any other asset or property which Lloyd's and the Transferee agree in writing prior to the Effective Date shall be classified as an Excluded Asset on the Effective Date provided the PRA and the FCA have given their prior consent to such asset or property being an Excluded Asset;

Excluded Jurisdiction means Australia, Canada, Hong Kong, Singapore, South Africa and/or Switzerland;

Excluded Liabilities means:

- (a) any liability to a person who is not or was not:
 - (i) a Policyholder under the terms of the Transferring Policies; or
 - (ii) an assignee or a pledgee entitled to claims resulting from the Transferring Policies,and any Costs in relation to the same;
- (b) any liabilities of the Members not attributable to, or arising from or in connection with, the Transferring Assets or the Transferring Liabilities and any Costs in relation to the same;
- (c) any liabilities of the Members under or relating to the Excluded Policies and any Costs in relation to the same;
- (d) any Non-Insurance Liabilities of the Members arising in connection with the Transferring Assets including, for the avoidance of doubt, any Conduct Liabilities;
- (e) any Tax liabilities arising, or relating to the period, prior to the Effective Date in connection with the Transferring Business; or
- (f) any other liability which Lloyd's and the Transferee agree in writing prior to the Effective Date shall be classified as an Excluded Liability on the Effective Date provided the PRA and the FCA have given their prior consent to such liability being an Excluded Liability;

Excluded Policy means:

- (a) a Policy that is a Long-Term Insurance Contract;
- (b) a Non-EEA Policy;
- (c) a Policy or part thereof which would otherwise fall within the definition of "EEA Policy" but the Policy or part thereof is subject to the requirements of a local regulatory licence or other insurance approval granted to Lloyd's in an Excluded Jurisdiction;
- (d) an Inwards Reinsurance Policy;
- (e) a Sanctions Policy; and/or

- (f) any other Policy or part thereof, including any class of Policy, under which any liability remains unsatisfied or outstanding at the Effective Date:
- (i) which is not capable of being transferred pursuant to section 111 of FSMA;
 - (ii) which the Court for any reason determines not to transfer by virtue of the Order; or
 - (iii) which Lloyd's and the Transferee agree in writing prior to the Effective Date shall not be transferred on the Effective Date provided the PRA and the FCA have given their prior consent to such policy or part thereof, including any class of Policy, being an Excluded Policy;

Existing Outwards Reinsurance Agreements means, in respect of any Syndicate or Closed Year Syndicate, any contract of reinsurance to which the Members comprising the Syndicate or Closed Year Syndicate are parties as the reinsured, together with any collateral, letter of credit facilities or other security arrangements which have been arranged by the relevant reinsurer for the benefit of the Syndicate, which attaches to all or any part of any of the Transferring Policies and under which any obligations remain to be performed in whole or in part at the Effective Date;

FCA means the United Kingdom's Financial Conduct Authority and its successors from time to time;

FCA Handbook means the handbook of rules and guidance issued by the FCA from time to time pursuant to FSMA;

FSMA means the Financial Services and Markets Act 2000;

German Inwards Reinsurance Policy means a Policy or part thereof effected or carried out by or on behalf of any of the Members as reinsurer or retrocessionaire and originally allocated to a Relevant Year of Account where the cedant is domiciled or resident in Germany;

Intellectual Property Rights means:

- (a) patents, utility models and rights in inventions;
- (b) rights in each of know-how, confidential information and trade secrets;
- (c) trade-marks, service marks, rights in logos, trade names, rights in each of get-up and trade dress, rights to sue for passing off (including trade mark-related goodwill), rights to sue for unfair competition and domain names;
- (d) copyright, moral rights, database rights, rights in designs and semiconductor topography rights;
- (e) any other intellectual property rights; and

- (f) all rights or forms of protection, subsisting now or in the future, having equivalent or similar effect to the rights referred to in paragraphs (a) to (d) of this definition,

in each case: (i) anywhere in the world; (ii) whether unregistered or registered (including all applications, rights to apply and rights to claim priority); and (iii) including all divisionals, continuations, continuations-in-part, reissues, extensions, re-examinations and renewals, and references in this Scheme to **registered** Intellectual Property Rights include Intellectual Property Rights for which an application for registration has been made;

Inwards Reinsurance Policy means a Policy or part thereof effected or carried out by or on behalf of any of the Members as reinsurer or retrocessionaire and originally allocated to a Relevant Year of Account where the cedant is domiciled or resident in an EEA State (except for any German Inwards Reinsurance Policy);

Limitation Date means, for each Transferring Policy, the date falling one day after the final date on which any servicing obligations under that Transferring Policy may arise;

Long-Term Insurance Contract has the meaning given in article 3(1) of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001;

Lloyd's means the Society of Lloyd's incorporated by Lloyd's Act 1871 by the name of Lloyd's, with its head office at One Lime Street, London EC3M 7HA;

Lloyd's Brussels Reinsurance Contract means each of the 100 per cent. quota share reinsurance agreements which will be severally entered into by the Transferee (as cedant) and the Members of the relevant open years of the relevant Syndicate (as reinsurer) prior to the Effective Date in connection with the Transferring Policies;

Lloyd's Order means the Financial Services and Markets Act 2000 (Control of Transfers of Business Done at Lloyd's) Order 2001;

Long Stop Date means 29 January 2021;

Members means the underwriting members, former underwriting members and estates of former underwriting members of Lloyd's comprising the Syndicates and Closed Year Syndicates, in their capacity as members of such syndicates;

Non-EEA Policy means a Policy or part thereof, effected or carried out by or on behalf of any of the Members as insurer, co-insurer, reinsurer or retrocessionaire and originally allocated to a Relevant Year of Account, which immediately after the Transition End Date does not require an insurer with authorisation from an EEA regulator to carry out or service that Policy (or part thereof). For the purposes of determining whether a Policy (or part thereof) is a Non-EEA Policy for the purposes of this Scheme: (a) the application of, or any permission granted by, any Temporary Run-off Regime shall be ignored in respect of that Policy; and (b) no Policy (or relevant part thereof) which is identified on the Policy File shall be treated as a Non-EEA Policy;

Non-Insurance Liabilities means any and all liabilities other than liabilities arising directly under the terms of a Policy or in connection with the performance of a Policy after the Effective Date. For the avoidance of doubt, any liability to pay profit commissions to a Coverholder under the whole or that part of a Binding Authority Agreement pursuant to which Transferring Policies have been entered into shall not be a Non-Insurance Liability but shall be a Transferring Liability under this Scheme;

Order means an order made by the Court pursuant to section 111 of FSMA sanctioning this Scheme and any order (including, without limitation, any subsequent order) in relation to this Scheme made by the Court pursuant to section 112 of FSMA;

Periodical Payment Order means any periodical payment orders to which a Member is a party and any other order of the court pursuant to section 2 of the Damages Act 1996 to which a Member is a party, or any other equivalent order issued by the court of any jurisdiction;

Policy and ***Policyholder*** have the meaning ascribed to “policy” and “policyholder” by the Financial Services and Markets Act 2000 (Meaning of Policy and Policyholder) Order 2001, and any reference to a Policy shall include any expired, surrendered, lapsed, matured or reinstated policies and all treaties, slips and other contracts of insurance, reinsurance and retrocession, binding quotations, supplements, endorsements, notices, assignments, novations and riders thereto and all ancillary agreements in connection therewith;

Policy File means the file having the name “The Part VII Master List”, as provided by Lloyd’s to the Transferee prior to the Effective Date through a secure file transfer portal and identified by Lloyd’s and the Transferee in writing (including by email) as being in final form for the purpose of this definition;

PRA means the United Kingdom’s Prudential Regulation Authority and its successors from time to time;

Proceedings includes any action or other legal or administrative proceedings or step (whether direct or indirect, by way of a claim, demand, legal proceedings, execution of judgment, arbitration, complaint or otherwise howsoever) including arbitration, mediation, adjudication, any other dispute resolution procedure (whether or not it involves submission to any court), any judicial, quasi-judicial, administrative or regulatory review or process or any complaint or claim to any ombudsman, including the UK Financial Ombudsman Service, or other proceedings for the resolution of a dispute or claim, in each case whether current, future, pending, threatened or otherwise or any other claims or complaints which may be brought in the future including those not yet in contemplation but, for the avoidance of doubt, excluding any action or other legal or administrative proceedings, step, claim or complaint in respect of Conduct Liabilities or any other Non-Insurance Liabilities;

Regulatory Authority means, as the context requires, the FCA, the PRA and such other legal, governmental or regulatory body which has responsibility for regulating businesses such as that relating to the Transferring Policies from time to time;

Regulatory Requirement means all applicable laws, statutes, regulations, rules, orders, directives, requirements, guidance, standards, guidelines, supervisory statements and industry codes of practice in each case having legal effect stipulated by any legal, governmental or regulatory body with powers of direction over the relevant entity, including the rules of any stock exchange or listing authority, in each case existing and in force from time to time, where relevant in the context;

Relevant Year of Account means any or all of the 1993 to 2020 (inclusive) years of account;

Residual Asset means:

- (a) any asset to be transferred to the Transferee pursuant to this Scheme and any agreement relating to any such asset (including any right, benefit or power under any Transferring Policy) the transfer of which to the Transferee as at the Effective Date:
 - (i) requires the consent of any person (other than the Transferee or the Court); or
 - (ii) requires the waiver by any person of any right to acquire, to offer or be offered the right to acquire or to procure the acquisition by some other person of all or any part of such assets, in each case being a right which directly or indirectly arises or is exercisable as a consequence of such transfer being proposed or taking effect; or
 - (iii) would result in a third party having a right to terminate an agreement with a Member or to claim compensation in damages or otherwise,

and in each case which the Court either (i) does not have jurisdiction to transfer pursuant to section 112 of FSMA; or (ii) (despite having such jurisdiction) determines, notwithstanding section 112 and 112A of FSMA, not to so transfer but in any case only to the extent of that part of the interest in such Policy in respect of which the transfer requires such consent and/or waiver or would result in such a right;

- (b) any other interest in any asset or agreement relating thereto, the transfer of which Lloyd's and the Transferee agree prior to the Effective Date is to be delayed;
- (c) any interest in any other assets which Lloyd's and the Transferee agree prior to the Effective Date is more conveniently to be transferred pursuant to the Scheme in conjunction with such asset referred to in paragraph (a) or (b) of this definition; and
- (d) any proceeds of sale or income or other accrual or return, earned on or received from time to time after the Effective Date in respect of any assets referred to in paragraphs (a), (b) or (c) of this definition;

Residual Liability means any liability under or in connection with the Transferring Policies and in connection with the Transferring Assets:

- (a) the transfer of which liability to the Transferee pursuant to this Scheme requires, as at the Effective Date, the consent or waiver of any person (other than the Transferee, Lloyd's or the Court) and which the Court either does not have jurisdiction to transfer to the Transferee pursuant to section 112(1)(a) of FSMA or which (despite having such jurisdiction) the Court determines, notwithstanding section 112(2A) of FSMA, not to so transfer; or
- (b) which is attributable to or connected with a Residual Asset and arises at any time before the Subsequent Transfer Date applicable to that Residual Asset; or
- (c) which Lloyd's and the Transferee agree in writing prior to the Effective Date shall not be transferred on the Effective Date; or
- (d) which cannot be transferred to or vested to the Transferee pursuant to the Scheme for any other reason;

Retrocession Agreement has the meaning given to that term in paragraph 11.1(a);

Sanctions Laws means the economic, financial and trade embargoes and sanctions laws, regulations, rules and/or restrictive measures administered, enacted or enforced by the Office of Foreign Assets Control of the U.S. Department of the Treasury, the United States Department of State, any other U.S. government entity, the United Nations Security Council, any United Nations Security Council Sanctions Committee, the European Union, any Member State of the European Union, the United Kingdom and/or any other government, public or regulatory authority or body (including HM Treasury);

Sanctions Policy means a Policy or part thereof effected or carried out by or on behalf of any of the Members as insurer, co-insurer, reinsurer or retrocessionaire and originally allocated to a Relevant Year of Account:

- (a) under or in connection with which any amount has arisen which is or was directly or indirectly payable by, to, through or for the benefit of a Designated Person or in which a Designated Person has a direct or indirect interest of any nature;
- (b) which is, or where any amount has arisen under or in connection with such Policy is, required to be blocked (or treated as blocked) pursuant to US Sanctions; or
- (c) under which the provision of (re)insurance, the payment of any claim or the provision of any benefit would expose the Transferee or any service provider to, or bank of, the Transferee, to any sanction, prohibition or restriction or the risk thereof under Sanctions Laws;

Scheme means this Scheme in its original form or with or subject to any modification, addition or condition which may be approved or imposed in accordance with Part VII of, and Schedule 12 to, FSMA;

Solvency II Directive means the Solvency II Directive (EU Directive 2009/138/EC) and any regulation, directive, enactment, statutory provision or other applicable law implementing that directive;

Subsequent Transfer Date means, in relation to any Residual Asset or Residual Liability, the date after the Effective Date on which such Residual Asset or Residual Liability is to be transferred to the Transferee, namely:

- (a) in respect of any Residual Asset falling within paragraph (a) of the definition thereof, and of any Residual Liability falling within paragraph (a) of the definition thereof, the date on which the requisite consent, waiver or order to enable the same to be transferred to the Transferee upon the terms of this Scheme is:
 - (i) obtained;
 - (ii) no longer required; or
 - (iii) dispensed with by Order of the Court;
- (b) in respect of any Residual Asset falling within paragraphs (b) or (c) or of the definition thereof and of any Residual Liability which falls within paragraph (b) or (c) of the definition thereof, the date on which Lloyd's and the Transferee agree that the transfer of the relevant Residual Asset or Residual Liability shall take effect; and
- (c) in the case of any Residual Asset falling within paragraph (d) of the definition thereof, the date on which such Residual Asset is received or earned by the relevant Member;

Sundry Assets means the rights, benefits and powers arising in connection with the following assets of the Members which relate to the Transferring Business:

- (a) loss funds relating, or set up pursuant, to the Transferring Contracts;
- (b) any cash or collateral or other valuable assets, in each case lodged or deposited by a Member in whatever form, with:
 - (i) a Policyholder under a German Inwards Reinsurance Policy; or
 - (ii) a bank or other financial institution which in turn has issued a letter of credit to a Policyholder under a German Inwards Reinsurance Policy; or
- (c) any asset of a similar nature which Lloyd's and the Transferee agree in writing prior to the Effective Date shall be classified as a Sundry Asset on the Effective Date provided the PRA and the FCA have given their prior consent to such asset or property being a Sundry Asset;

syndicate means a group of underwriting members of Lloyd's, to which a particular number is assigned by or under the authority of the Council, for whose account an active underwriter accepted or accepts insurance business at Lloyd's;

Syndicate means each of the syndicates of members listed in Schedule 1;

Tax or *Taxation* includes, without limitation (a) taxes on gross or net income, profits and gains, and (b) all other taxes, levies, duties, imposts, charges and withholdings of any nature, including any excise, property, value added, sales, use, occupation, transfer, franchise and payroll taxes and any national insurance or social security contributions, and any payment whatsoever which the relevant person may be or become bound to make to any person as a result of the discharge by that person of any tax which the relevant person has failed to discharge, together with all penalties, charges and interest relating to any of the foregoing or to any late or incorrect return in respect of any of them, and regardless of whether such taxes, levies, duties, imposts, charges, withholdings, penalties and interest are chargeable directly or primarily against or attributable directly or primarily to the relevant person or any other person and of whether any amount in respect of them is recoverable from any other person;

Tax Recoveries means the rights of the Members to a refund or recovery of Taxation or any other Tax asset relating to the Transferring Business where such refund, recovery or asset arises, or relates to the period, prior to the Effective Date;

Temporary Run-off Regime means, in an EEA State, a temporary national run-off regime for insurance contracts which would permit a Member to carry out a Policy in that EEA State after the UK has ceased to be a member of the EU without breaching applicable legal or regulatory insurance authorisation requirements;

TPA Agreement means an agreement between a managing agent (on behalf of a Member) and a third party administrator in relation to the management of Policy claims;

Transferee means Lloyd's Insurance Company SA, with its registered office at Place du Champ de Mars 5, 14th floor, 1050 Brussels, Belgium;

Transferring Assets means all of the following whatsoever and wheresoever situated as at the Effective Date:

- (a) the rights, benefits and powers of the Members under or by virtue of the Transferring Policies (including, for the avoidance of doubt, the right to receive premiums);
- (b) the rights, benefits and powers (whether actual or contingent) of the Members whatsoever under or by virtue of the Transferring Contracts;
- (c) the Transferring Business Reserve Amount; and
- (d) all rights and claims of the Member against any third party in relation to the Transferring Business or arising as a result of the Members having carried on the Transferring Business;

but excluding the Excluded Assets and, until the relevant Subsequent Transfer Date, if any, the Residual Assets;

Transferring Business means the Transferring Policies, Transferring Assets, and Transferring Liabilities;

Transferring Business Reserve Amount means the Lloyd's best estimate of gross reserves in respect of the Transferring Business on a non-discounted basis as at the Valuation Date, in an amount agreed between Lloyd's and Transferee prior to the Effective Date;

Transferring Contract means the whole, or that part, of:

- (a) a Binding Authority Agreement pursuant to which Transferring Policies have been entered into; or
- (b) a TPA Agreement pursuant to which Transferring Policies are administered,

in each case, provided that the relevant Coverholder or third party administrator (as applicable) is authorised to carry out or service such agreement immediately after the Transition End Date;

Transferring Liabilities means all liabilities and commitments of any kind and description of the Members to the extent attributable to, arising from or in connection with the Transferring Policies or Transferring Assets, irrespective of whether the liabilities and commitments arise prior to or following the Effective Date, excluding the Excluded Liabilities and, until the relevant Subsequent Transfer Date, if any, the Residual Liabilities;

Transferring Policies means each of the following:

- (a) the Policies or parts thereof identified (either individually or by way of reference to the relevant Binding Authority Agreement) in the Policy File under the column headed "Category 1" as at the Effective Date unless it is subsequently determined by Lloyd's and the Transferee that any such Policy or part thereof has been included in Category 1 of the Policy File in error because it neither: (i) relates to an EEA Risk; nor (ii) was issued to or is held by an EEA Policyholder;
- (b) the Policies or parts thereof identified (either individually or by way of reference to the relevant Binding Authority Agreement) in the Policy File under the columns headed "Category 2" and "Category 3" as at the Effective Date provided such Policy (or part thereof) (i) relates to EEA Risk; or (ii) has been issued to or is held by an EEA Policyholder; and
- (c) the EEA Policies, together or individually as the context may indicate,

in each case, excluding any Excluded Policy;

Transferring Policyholder means a Policyholder in relation to a Transferring Policy;

Transition End Date has the meaning given to that term in paragraph 2.4;

UK or United Kingdom means the United Kingdom of Great Britain and Northern Ireland;

US Sanctions means the economic, financial and trade embargoes and sanctions laws, regulations, rules and/or restrictive measures administered, enacted or enforced by the Office of Foreign Assets Control of the U.S. Department of the Treasury, the United States Department of State and any other U.S. government entity;

Valuation Date means the date of the assessment of the final reserve valuation of the Transferring Business, as determined by Lloyd's, being a date not later than the Effective Date;

VAT means value added tax and any similar sales or turnover tax; and

VAT Directive means Directive 2006/112/EC of 28 November 2006 on the common system of value added tax.

1.2 In this Scheme:

- (a) **assets** includes property, rights and powers of any description;
- (b) **liabilities** means all liabilities, duties and obligations of every description, whether deriving from contract, common law, statute or otherwise, whether present or future, actual or contingent, ascertained or unascertained or disputed and whether owed or incurred severally or jointly or as principal or surety and **liability** means any one of them;
- (c) **property** includes property, assets, rights (including contingent rights as to the repayment of Tax), benefits and powers of every description (whether present or future, actual or contingent) and, for the avoidance of doubt, includes investment management agreements, distribution agreements, service agreements and external and internal reinsurance agreements (where relevant) and includes property held on trust and any interest whatsoever in any of the foregoing;
- (d) **transfer** includes (as the context may require) **assign, assignment or assignment, dispose or disposal or convey or conveyance**;
- (e) any reference to the singular shall (where appropriate) include a reference to the plural and vice versa and any reference to the masculine shall include a reference to the feminine and neuter and vice versa (unless the context otherwise requires);
- (f) any reference to an enactment, a statutory provision or any subordinate legislation shall be deemed to include a reference to that enactment, statutory provision or subordinate legislation as amended, replaced or re-enacted from time to time and to any instrument or order made from time to time under such enactment, statutory provision or subordinate legislation;
- (g) any reference to any rules or regulations issued by the FCA or PRA shall be deemed to include a reference to such rules or regulations as amended or replaced from time to time;

- (h) references to *holding company* and *subsidiary* shall have the same meanings as in the Companies Act 2006;
- (i) any references to paragraphs, Sections or Parts are to paragraphs, Sections or Parts of this Scheme (unless the context otherwise requires);
- (j) headings are inserted for convenience only and shall not affect the construction of this Scheme;
- (k) any reference to a person shall include a reference to any individual, company, firm, partnership, joint venture, association, organisation, trust or agency, whether or not having a separate legal personality;
- (l) if a period of time is specified from a given day or date or from the day or date of an actual event, it shall be calculated exclusive of that day or date;
- (m) any reference to writing shall include any modes of reproducing words in a legible and non-transitory form;
- (n) the expression “variation” or “varied” shall include any variation, supplement, deletion, replacement or termination, however effected;
- (o) any reference to “including” shall mean “including without limitation”; and
- (p) references to *agreement* or *contract* shall include any agreement or contract entered into as a deed.

SECTION 2 – INTRODUCTION

2. Introduction

Parties involved in the Scheme

- 2.1 The Members are underwriting members, former underwriting members or estates of former underwriting members at Lloyd’s who carried on non-life business at Lloyd’s originally allocated to a Relevant Year of Account. The Members are referred to as “the association of underwriters known as Lloyd’s” for the purposes of the EU Directive 2009/138/EC (the *Solvency II Directive*). The Solvency II Directive provides that “the association of underwriters known as Lloyd’s” is an authorised EU insurer. This means that a single authorisation covers all Lloyd’s members.
- 2.2 The Members are represented for the purposes of this Scheme by Lloyd’s. Pursuant to the Lloyd’s Order, on 17 September 2019 and 8 September 2020 the Council certified that Lloyd’s has authority to act as transferor on behalf of the Members for the purposes of this Scheme.
- 2.3 The Transferee is a Belgian incorporated company which is a wholly owned subsidiary of Lloyd’s, authorised as an insurance company by the National Bank of Belgium. The Transferee is authorised under Belgian law to effect and carry on insurance business in all EEA States of the same classes as the insurance business to be transferred to it pursuant to the Scheme.

Background

- 2.4 On 23 June 2016, a majority of the people who voted in the referendum, voted for the UK to leave the EU. The exit process was then triggered by the invoking of Article 50 of the Lisbon Treaty on 29 March 2017 as a result of which the UK was scheduled to leave the EU on 29 March 2019. However, as a result of an agreement between the UK and the EU member states extending the Article 50 period the UK left the EU on 31 January 2020. The UK and the EU leaders endorsed an Agreement on the Withdrawal of the United Kingdom and Northern Ireland from the EU on 17 October 2019 and that agreement was ratified and entered into force on 31 January 2020. It includes a transitional period during which there will be legal and regulatory continuity between the UK and the EU on the basis of the existing rules from the date the UK leaves the EU until the expiry of such period (the *Transition End Date*). It is currently anticipated that the transition period will expire on 31 December 2020.
- 2.5 Subject to transitional measures being agreed by the UK and the EU, it is currently anticipated that insurers incorporated in the UK and the “association of underwriters known as Lloyd’s” will lose their current passporting rights under EU law on the Transition End Date unless an agreement on the future relationship between the UK and the EU preserves such rights. As a result members (acting through their syndicates and represented by their managing agents) would not be able to carry out the Transferring Policies (as defined above but which, for illustrative purposes, will broadly consist of policies (or parts thereof) which: (i) relate to EEA situs risk; or (ii) have been issued to policyholders resident in the EEA, in each case on or prior to the applicable Cut-Off Date through the existing structure at Lloyd’s.
- 2.6 Lloyd’s has therefore decided to restructure the way that Transferring Policies are carried out in order to ensure that such policies can be serviced in a manner which does not breach legal or regulatory insurance authorisation requirements in the EEA after the Transition End Date (ignoring, for the purpose of this Scheme, any Temporary Run-off Regime), so as to protect the interests of Policyholders and Members.

Scheme

- 2.7 In order to transfer the insurance liabilities of Members arising under their Transferring Policies, Lloyd’s and the Transferee have agreed to transfer the Transferring Business to the Transferee.
- 2.8 The Transferring Business will transfer to the Transferee in accordance with this Scheme and by virtue of the Order.
- 2.9 It is proposed that:
- (a) as regards the Members’ assets and liabilities related to the Transferring Business, all of the Transferring Policies, Transferring Assets, Transferring Liabilities, Residual Assets and Residual Liabilities shall, in accordance with the terms of Section 3 of this Scheme, be transferred to the Transferee and that the Order be made accordingly for the sanction of this Scheme under section 111(1) of FSMA; and
 - (b) by the Order referred to in paragraph 2.9(a) provision be made for, among other matters, the transfers of the Transferring Policies, Transferring Assets, Transferring Liabilities, Residual Assets and Residual Liabilities from the

Members to the Transferee under section 112(1) of FSMA. However, the Excluded Policies, Excluded Assets and Excluded Liabilities will not transfer to the Transferee under this Scheme but instead will remain with the Members.

- 2.10 In order to ensure that following the transfer the Transferring Policyholders benefit from a similar level of protection in respect of the Existing Outwards Reinsurance Agreements as are currently available, Lloyd's and the Transferee have agreed to effect certain amendments, as set out in paragraph 11, to the existing outwards reinsurance structure, including any related collateral or security arrangements, pursuant to this Scheme and the Order.

SECTION 3 – TRANSFER

3. Transfer of the Transferring Business

- 3.1 At the Effective Date, each:

- (a) Transferring Policy; and
- (b) Transferring Asset,

and all the interest and title of the Members in them shall, by the Order and without any further act or instrument, be transferred to and vested in full in the Transferee, in accordance with this Scheme.

- 3.2 At the Effective Date, each Transferring Liability shall be transferred to and become a liability of the Transferee and shall cease to be a liability of the Members, in accordance with the terms of the Order.
- 3.3 At each Subsequent Transfer Date, each Residual Asset to which such Subsequent Transfer Date applies and all the interest of the Members in it shall be transferred to and be vested in the Transferee, in accordance with the terms of the Order.
- 3.4 At each Subsequent Transfer Date, each Residual Liability to which such Subsequent Transfer Date applies shall be transferred to and become a liability of the Transferee and shall cease to be a liability of the Members, in accordance with the terms of the Order.
- 3.5 On and with effect from the Effective Date or Subsequent Transfer Date, as the case may be, and without prejudice to any other provision of this Scheme, all references to a Syndicate, Closed Year Syndicate or Member or in any contract between a Member and any other party, or in any other document or instrument, to the extent evidencing interest or title in or the benefit or burden of the Transferring Policies, the Transferring Assets, Residual Assets, the Transferring Liabilities and the Residual Liabilities shall, in so far as they are transferred to the Transferee, be read and construed as if the same were references to the Transferee so that such contract, document or instrument (or part of such contract, document or instrument) shall operate as if such references had always been to the Transferee rather than the Syndicate, Closed Year Syndicate or Member. In particular, but without limitation, all rights and/or duties exercisable or expressed to be exercisable or responsibilities to be performed by the Members or agents of the Members in relation to any of the Transferring Policies, the Transferring Assets, the Residual Assets, the Transferring Liabilities or the Residual Liabilities shall, with effect on and from the Effective Date or Subsequent Transfer Date, as the case may be, be

exercisable or required to be performed by the Transferee or, where appropriate, agents of the Transferee. For the avoidance of doubt, from the Effective Date or the Subsequent Transfer Date, the Transferee may appoint an agent of a Member to perform any rights and/or duties that would otherwise be exercisable or required to be performed by the Transferee or, where appropriate, agents of the Transferee.

3.6 Neither the transfer of the Transferring Policies nor this Scheme nor anything done or omitted to be done in connection with the transfer of the Transferring Policies or this Scheme shall, in relation to the Transferring Policies or any Transferring Assets, Residual Assets, Transferring Liabilities, Residual Liabilities or any other asset, property, liability or business of the Transferee, whether before or after the Effective Date:

- (a) invalidate, discharge or result in the termination of any Transferring Policy, agreement, instrument, trust deed, indenture, Encumbrance, right, interest, benefit, power, obligation or title;
- (b) constitute a breach of or default, event of default, potential event of default, breach of warranty or representation, termination event, mandatory prepayment event, enforcement event, perfection event or other similar event or condition (however described) under, or allow any person to terminate, any Transferring Policy, agreement, instrument, trust deed, indenture, Encumbrance, right, interest, benefit, power, obligation or title;
- (c) require any registration, re-registration or filing of any amendment to any existing registration or filing in respect of any Transferring Policy, agreement, instrument, trust deed, indenture, Encumbrance, right, interest, benefit, power, obligation or title;
- (d) require any person to perform any new or additional obligation or take any new or additional step or action, including the giving of any notice, the obtaining of any consent, approval or determination, the accession to any agreement, the payment of any fee, cost, expense, interest or other amount, the granting of any new or additional Encumbrance or the transfer of any asset or property;
- (e) entitle or require any person to exercise any right or remedy, to reduce, suspend, delay, alter or discharge its rights or obligations, to accelerate, terminate, suspend, delay, alter or discharge the performance of any rights or obligations or otherwise to vary, amend, disclaim, repudiate or terminate any Transferring Policy, agreement, instrument, trust deed, indenture or Encumbrance; or
- (f) affect the enforceability, priority or ranking of any Encumbrance.

3.7 Unless and to the extent otherwise provided in the Order, the transfer of the Transferring Business made pursuant to this paragraph 3 shall take effect and shall be valid and binding on all parties having any interest in the same notwithstanding any restriction on transferring, assigning or otherwise dealing with the same and such transfer shall be deemed to take effect on the basis that it does not contravene any such restriction and does not give rise to any right to terminate, modify, acquire or claim an interest or right, or to treat an interest or right as terminated or modified. Any entitlement which, but for section 112A of FSMA, would or might arise to terminate,

modify, acquire or claim an interest or right or to treat an interest or right as terminated or modified as a result of anything done pursuant to the Scheme shall not be enforceable.

- 3.8 Lloyd's has directed the Members to, and the Transferee shall, as and when necessary or appropriate, execute and deliver all documents and perform all such other acts as may be reasonably required to effect or perfect the transfer to, and vesting in, the Transferee of any Transferring Policy, Transferring Asset, Residual Asset, Transferring Liability or Residual Liability in accordance with the terms of this Scheme including, for the avoidance of doubt, obtaining any required consent or waiver.
- 3.9 Without limitation to paragraph 5, any existing indemnity, power of attorney, authority, declaration or consent given to or by the Members relating to any part of the Transferring Business (including the Transferring Policies), excluding any Existing Outwards Reinsurance Agreements, shall have effect from the Effective Date as if given to, or as the case may be, by, the Transferee.
- 3.10 On and with effect from the Effective Date, the Transferee shall:
- (a) succeed to all rights, liabilities and obligations of the Syndicate, Closed Year Syndicate, Member or agent of a Member in respect of any personal data which relates to the Transferring Business and which is subject to Applicable Privacy Laws;
 - (b) become the data controller of any personal data which relates to the Transferring Business which is subject to Applicable Privacy Laws in place of the Syndicate, Closed Year Syndicate, Member or agent of a Member and shall be deemed to have been the controller of all such data at all material times when personal data was processed;
 - (c) in respect of any personal data which relates to the Transferring Business be under the same duty by virtue of any law as the Syndicate, Closed Year Syndicate, Member or agent of a Member were under to respect the confidentiality and privacy of any person in relation to that personal data and shall be bound by any specific notice or consent given, or request made by, the data subject which was binding on the Syndicate, Closed Year Syndicate, Member or agent of a Member and which required the Syndicate, Closed Year Syndicate, Member or agent of a Member not to use the personal data for marketing purposes; and
 - (d) in any consent given by a data subject in respect of such data as is mentioned in this paragraph 3.10, any reference to the Syndicate, Closed Year Syndicate, Member or agent of a Member shall be deemed to include a reference to the Transferee, as applicable.
- 3.11 For the avoidance of doubt, no Excluded Asset, Excluded Policy or Excluded Liability shall transfer to or vest in the Transferee under or by virtue of the terms of this Scheme.

4. Continuity of Proceedings

- 4.1 On and with effect from the Effective Date or the Subsequent Transfer Date, as the case may be:

- (a) any Proceedings (or relevant part thereof) issued, served, commenced or continued by or against the Members, in connection with the Transferring Business, shall be continued by or against the Transferee and the Transferee shall be entitled to all claims, counterclaims, defences and rights of set-off that were or would have been available to the Members in relation to those Proceedings (or relevant part thereof). The Members shall not have any liability under those Proceedings (or relevant part thereof) and, for the avoidance of doubt, the Transferee, in its absolute discretion, may determine after the Effective Date to discontinue any such Proceedings (or relevant part thereof) brought by the Members;
- (b) any judgment, settlement, order or award (or relevant part thereof), obtained by or against the Members in respect of the Transferring Business and which is not fully satisfied before the Effective Date, shall, on that date and to the extent to which it was enforceable by or against the Members immediately prior to such date, become enforceable by or against the Transferee (to the exclusion of the Members);
- (c) without any restriction whatsoever, any Proceedings (or relevant part thereof) for the resolution of a dispute or a claim concerning the Transferring Business, shall be commenced against the Transferee. Any such Proceedings (or relevant part thereof) commenced in error against the Members after the Effective Date shall be deemed to have been commenced and shall be continued against the Transferee without the need for further order, whether for substitution of parties or otherwise. In any event, the Transferee shall be entitled to all defences, claims, counterclaims and rights of set-off that would have been available to the Members in relation to such Proceedings (or relevant part thereof); and
- (d) all references to a Member in any Periodical Payment Order relating to a Transferring Policy shall be read and construed as if referring to the Transferee so that such references shall take effect as if the Transferee were the original party to such Periodical Payment Order (or relevant part thereof) in place of the Member and any liability of the Member in respect of such Periodical Payment Order (or relevant part thereof) relating to a Transferring Policy shall be the liability of the Transferee.

5. Contribution Rights

- 5.1 On the Effective Date, the Transferee shall become entitled to all the rights, benefits and powers of the Members to claim contribution from any other person, including any insurer and reinsurer or retrocessionaire (other than under the Existing Outwards Reinsurance Agreements) subsisting on the Effective Date which arises as a result of or in connection with the Transferring Policies (whether under the terms of the Transferring Policies themselves or pursuant to the Compensation Act 2006 or any other applicable law or principle of law, including pursuant to any doctrine of subrogation) and be subject to all the obligations and liabilities of the Members to make any such similar contribution towards the liability of any other person subsisting on the Effective Date. For the avoidance of doubt, nothing in this paragraph 5 restricts or otherwise affects the discretion or any decision of the Council of Lloyd's to apply monies out of the central fund of Lloyd's in accordance with its relevant byelaws.

6. Rights and Obligations under Transferring Policies

- 6.1 On the Effective Date, the Transferee shall become entitled to all the rights, benefits and powers of the Members whatsoever subsisting as of the Effective Date under or by virtue of the Transferring Policies and be subject to all the obligations and liabilities of the Members whatsoever subsisting on the Effective Date under or by virtue of the respective Transferring Policies.
- 6.2 A Transferring Policyholder shall, on and with effect from the Effective Date, become entitled, in succession to, and to the exclusion of, any rights (including any rights in Proceedings) which he may have had against the Members under such Transferring Policy, to the same rights (including any rights in Proceedings) against the Transferee as were available to him against the Members under such Transferring Policy and (as regards a Transferring Policy under which premiums or other sums attributable or referable thereto continue to be payable by him) shall on and with effect from the Effective Date account to the Transferee for any further or additional premiums or other sums attributable or referable thereto, if any, as and when the same become due and payable.
- 6.3 If any person entitled to do so with respect to a Transferring Policy exercises any right or option granted under the terms of that Transferring Policy and either:
- (a) the right or option provides for a new, additional or replacement policy to be issued or amendments to be made to an existing Transferring Policy; or
 - (b) it is appropriate in the opinion of the Transferee to comply with that right or option to issue a new, additional or replacement policy or, as the case may be, amend an existing Transferring Policy,

such person shall be entitled to require that the obligation thereby arising shall be satisfied by the issue or amendment (as the case may be) by the Transferee of a policy which complies with the terms of such right or option.

- 6.4 Every Transferring Policyholder shall, on and with effect from the Effective Date or the Subsequent Transfer Date, as the case may be, in substitution for any liability or obligation owed by him thereunder to the Members, be under the same liability to the Transferee.

7. Agent obligations

- 7.1 Each agent acting on behalf of a Member hereby grants to the Transferee a non-exclusive, royalty free, irrevocable and sublicensable (in accordance with paragraph 7.2) licence to use any:
- (a) Business Records in the possession or control of that agent; and/or
 - (b) Intellectual Property Rights, in which it owns the rights and interests, and to which it has title, in each of the Transferring Policies and related Business Records,
- for:
- (c) each Transferring Policy, from the Effective Date until 25 years after the Limitation Date of that Transferring Policy;

- (d) each Business Record, from the Effective Date until 25 years after the Limitation Date of the Transferring Policy to which that Business Record relates; and
- (e) the purpose of the Transferee exercising all rights, benefits and powers, and undertaking all obligations and liabilities, of the Members whatsoever subsisting as of the Effective Date under or by virtue of the respective Transferring Policies (the *Purpose*),

(the *Licence*).

7.2 The Transferee may sublicense the Licence, in whole or in part, to Coverholders and other third parties to the extent necessary for the Purpose.

7.3 On request from the Transferee, each agent acting on behalf of a Member shall provide the Transferee with reasonable access within normal business hours to any of the Transferring Policies or Business Records. The Transferee shall have the right, at its own cost, to make and retain copies of these documents.

7.4 If an agent acting on behalf of a Member considers that, for whatever reason, it no longer wishes to retain copies of any of the Business Records for which it has provided a licence under paragraph 7.1, it shall:

- (a) notify the Transferee in writing that it intends to destroy its existing copies; and
- (b) provide the Transferee with 90 days in which to make any copies that it requires of those Business Records.

8. Indemnities

8.1 From the Effective Date until the relevant Subsequent Transfer Date, the Transferee shall discharge on the Members' behalf or, failing that, shall indemnify the Members against each Residual Liability, provided always that the Transferee shall indemnify the Members in respect of any losses incurred by the Members in connection therewith.

8.2 In respect of each Residual Liability, to the extent that the Transferee has discharged such liability on any Member's behalf in accordance with paragraph 8.1 and the Member recovers under a policy of indemnity insurance or recovers pursuant to a claim or right of recovery against a third party, a sum which compensates the Member (in whole or part), the Member shall (i) promptly notify the Transferee of the fact and (ii) pay to the Transferee, as soon as reasonably practicable after receipt, an amount equal to the amount recovered from the third party, providing always that the Transferee shall indemnify the Member in respect of any reasonable costs, claims, charges and other liabilities incurred by the Member in recovering the same. The Member shall use reasonable endeavours to recover any such sum.

8.3 Where any Member is entitled to receive an amount pursuant to paragraph 8.1, the Member shall be entitled to receive such amount as, after payment of any liability to Tax in respect of the amount receivable and/or any deduction or withholding required to be made from any payment under paragraph 8.1, will result in the receipt of an amount equal to the liability indemnified against.

9. Declaration of Trust

9.1 If:

- (a) any property of the Members intended to transfer under this Scheme is not, or is not capable of being, transferred to and vested in the Transferee by the Order on the Effective Date by reason of such property being a Residual Asset or for any other reason; or
- (b) any Residual Asset is not, or is not capable of being, transferred to and vested in the Transferee by the Order on the Subsequent Transfer Date applicable thereto,

then the Members shall, on and from the Effective Date (but save to the extent that giving effect to such a trust would require a consent or waiver which has not been obtained) hold any property referred to in paragraphs 9.1(a) to 9.1(b) together with any proceeds of sale or income or other right accrued or return arising in respect thereof (including, without limitation, any payment, property or right within paragraph 9.3 below), as trustee for the Transferee absolutely for so long as is legally permissible.

9.2 The Members shall be subject to exclusive lawful directions from the Transferee in respect of any property referred to in paragraphs 9.1(a) to 9.1(b) on and from the Effective Date until the relevant property is transferred to or otherwise vested in the Transferee or is disposed of (whereupon the Members shall account to the Transferee for the proceeds of the sale thereof), and the Transferee shall have authority to act as the attorney of the Members in respect of such property for all such purposes.

9.3 In the event of any payment being made to, property being received by, or right being conferred upon the Members on or after the Effective Date in respect of any Transferring Asset or any Residual Asset, the Members shall, as soon as is reasonably practicable after its receipt, pay over the full amount of such payment or (to the extent to which it is able to do so) transfer such property or right to, or in accordance with the directions of, the Transferee and the Transferee shall indemnify the Members on demand against any costs incurred by it to complete any such payment or transfer.

10. Allocation of Policies, Assets and Liabilities

10.1 From the Effective Date, where the effect of this Scheme is that a Policy, asset (including any Transferring Contract) or liability, is split between Members and the Transferee, the parties agree that:

- (a) the interest, title, rights and obligations of the Members in or under any part of a Transferring Policy, Transferring Asset or Transferring Liability shall vest in the Transferee;
- (b) the interest, title, rights and obligations of the Members in or under any part of a Policy, asset or liability that is not a Transferring Policy, Transferring Asset or Transferring Liability shall continue to vest in the relevant Members;
- (c) the terms and conditions of a split Policy, asset (including any Transferring Contract) or liability (including, where applicable, the deductibles, limits and any other applicable policy limitations) shall apply in aggregate across the relevant Members and the Transferee so the contractual counterparty has a

contract with each of the Member and the Transferee but is no better or worse off in respect of such contractual terms and conditions as a result of this Scheme and, so far as possible, the Members and the Transferee are jointly able to enjoy the benefit of such Policy and asset; and

- (d) each of the Transferee and the Members shall owe separate and individual (but not, for the avoidance of doubt, joint) obligations and duties under, and be liable for performance of, only the respective contract to which it is a party as a consequence of this Scheme, in accordance with its terms; and
- (e) where applicable, the method of allocating premiums, losses and related expenses in respect of a split Policy (in accordance with its terms and conditions), asset or liability shall be determined by agreement between the Members and the Transferee.

11. Amended Reinsurance Structure

11.1 On and with effect from the Effective Date, all the liabilities imposed on the Transferee by or under the Order in respect of the Transferring Policies, including the Transferring Liabilities, shall be reinsured by the relevant Members pursuant to the Lloyd's Brussels Reinsurance Contracts, and each Existing Outwards Reinsurance Agreement (in whole or part) shall be amended and take effect as follows:

- (a) the Existing Outwards Reinsurance Agreement shall be treated as a contract of retrocession in respect of the relevant proportion of each reinsurance policy entered into by, or on behalf of, the relevant Members of the relevant Syndicate (as reinsurer) in respect of the Transferring Policies pursuant to the Lloyd's Brussels Reinsurance Contracts (each Existing Outwards Reinsurance Agreement being, with effect from the Effective Date, a ***Retrocession Agreement***) and any letters of credit, collateral or security arrangements comprised in or connected to an Existing Outwards Reinsurance Agreement shall include such consequential amendments as are necessary to reflect the fact that those arrangements will, from the Effective Date, support a retrocession rather than a reinsurance;
- (b) the benefit of each Existing Outwards Reinsurance Agreement shall transfer from the original Member in whose name the policy was issued (as reinsured) to the new Member who has reinsured the original Member's policy under a Lloyd's Brussels Reinsurance Contract, with the effect that (among other matters) the new Member shall be entitled in their own name to collect all amounts recoverable by the original Member under the Existing Outwards Reinsurance Agreement including, where the context requires, liabilities incurred by the Transferee as if it were the original Member; and
- (c) the provisions of any Existing Outwards Reinsurance Agreement shall, save as amended in paragraph 11.1(a) above, continue in full force and effect (including in respect of the rights of the reinsurer under the Existing Outwards Reinsurance Agreement as against the new Member and the terms on which the retrocession is provided).

11.2 Neither the Scheme nor anything done or omitted to be done in connection with the Scheme shall entitle any person to:

- (a) invalidate, discharge or terminate any Existing Outwards Reinsurance Agreement or, following the Effective Date, Retrocession Agreement (or any retrocession relating to any such Existing Outwards Reinsurance Agreement or Retrocession Agreement);
- (b) allege that such act or omission as a result of the Scheme constitutes a breach or default, event of default, potential event of default, breach of warranty or representation, termination event, mandatory prepayment event, enforcement event, perfection event or other similar event or condition (however described), or allow any person to terminate, or entitle any person to claim that any temporal condition or restriction has not been satisfied, or to invoke an exclusion (including in respect of the coverage of retrocessional risks) or reclassify the nature or original date of attachment of any existing business insured, under any Existing Outwards Reinsurance Agreement or, following the Effective Date, Retrocession Agreement (or any retrocession relating to any such Existing Outwards Reinsurance Agreement or Retrocession Agreement);
- (c) require any registration, re-registration or filing of any amendment to any existing registration or filing in respect of any Existing Outwards Reinsurance Agreement or, following the Effective Date, Retrocession Agreement (or any retrocession relating to any such Existing Outwards Reinsurance Agreement or, following the Effective Date, Retrocession Agreement);
- (d) require any person to perform any new or additional obligation or take any new or additional step or action, including the giving of any notice, the obtaining of any consent, approval or determination, the accession to any agreement, the payment of any fee, cost, expense, interest or other amount, the granting of any new or additional Encumbrance or the transfer of any asset or property in respect of any Existing Outwards Reinsurance Agreement or, following the Effective Date, Retrocession Agreement (or any retrocession relating to any such Existing Outwards Reinsurance Agreement or Retrocession Agreement); nor
- (e) (i) exercise any right or remedy, to reduce, suspend, delay, alter, exclude or discharge its liabilities, rights or obligations; (ii) to accelerate, terminate, suspend, delay, alter or discharge the performance of any liabilities, rights or obligations; or (iii) otherwise take any action to vary, amend, disclaim, repudiate, exclude or terminate, in each case, to any extent under or in relation to all or any part of any Existing Outwards Reinsurance Agreement or, following the Effective Date, all or any part of any Retrocession Agreement (or any retrocession relating to the such Existing Outwards Reinsurance Agreement or Retrocession Agreement) including, in each case, where the context requires, on the basis that a loss or liability has been assumed by the Transferee as a result of the Scheme and reinsured by the new Member under a Lloyd's Brussels Reinsurance Contract.

SECTION 4 – MISCELLANEOUS PROVISIONS

12. The Effective Date

12.1 This Scheme shall not become effective at the Effective Date unless the Court has made an Order under section 111 of FSMA sanctioning this Scheme on or before the Effective Date.

12.2 Subject to paragraph 12.1 and 13.2, this Scheme shall become effective:

- (a) in relation to all provisions of this Scheme other than paragraph 11, at 00:01am GMT on 30 December 2020; and
- (b) in relation to paragraph 11 of this Scheme, immediately after each relevant Lloyd's Brussels Reinsurance Contract has come into effect in accordance with its terms,

(in each case, as applicable, the *Effective Date*), or such other time and date on or before the Long Stop Date as Lloyd's (acting by its Council) and the Transferee (acting by its board of directors), may agree in writing (being a time and date falling after the making of the Order sanctioning this Scheme).

13. Amendments or Additions to this Scheme

13.1 Lloyd's and the Transferee may, at any time before the Order is made, agree on behalf of themselves, the Members (in the case of Lloyd's) and all other persons concerned to any amendment of or addition to this Scheme or to any further condition or provision affecting this Scheme that the Court may approve or impose, including, in particular, amendments arising from any transitional or grandfathering arrangements implemented between the EU and the UK which may impact the Scheme, provided that where such amendment results in material change to the Scheme, such amendment is:

- (a) accompanied by a certificate from an independent expert, approved for the purpose by the PRA, having consulted with the FCA, to the effect that in the independent expert's opinion (having considered the proposed amendments), the proposed amendments to the Scheme will not have a material adverse effect on the policyholders of the Members; and
- (b) notified to the PRA and FCA in advance and as soon as reasonably practicable, who shall each have the right to request further information and comment on the proposed amendments to the Scheme.

13.2 If the Scheme has not become effective on or before the Long Stop Date, the provisions of this Scheme shall lapse.

13.3 Any amendment to this Scheme after the Effective Date must:

- (a) be approved by the Court, unless exempted by paragraph 13.4;
- (b) be notified in advance, and not less than six weeks prior to any proposed Court hearing, to the PRA and FCA, who shall each have the right to attend and be heard at any hearing of the Court (if applicable) at which such application is considered; and

- (c) be accompanied by a certificate from an independent expert, approved for the purpose by the PRA, having consulted with the FCA, to the effect that in the independent expert's opinion (having considered all possible impacts of the proposed amendments on policyholders), the proposed amendments to the Scheme will not have a material adverse effect on the policyholders of the Transferee.

13.4 Any amendment to this Scheme in accordance with paragraph 13.3 will not require Court approval where:

- (a) such amendment is:
 - (i) considered by Lloyd's or the Transferee to be minor and/or technical;
 - (ii) to correct manifest errors;
 - (iii) required to reflect any change in any applicable law, Regulatory Requirement or in the interpretation or application of any Regulatory Requirement which has or will have any implications for the Members or the Transferee;
 - (iv) necessary to reflect any changes in the actuarial practices relating to, or techniques for the management of, the Transferring Policies, where such changes are generally accepted within the market; or
 - (v) required to protect the rights and reasonable expectations of the Transferring Policyholders; and
- (b) the relevant department of each of the PRA and the FCA has been notified of such amendment and either: (i) the PRA and the FCA have respectively indicated that they do not object thereto; or (ii) in respect of the PRA and the FCA, a period of 28 days has passed commencing on the date of the acknowledgement of receipt of the relevant notification by both regulators without either regulator indicating any objections thereto.

14. Costs and Expenses

Save as otherwise provided in this Scheme or Ordered by the Court, all costs and expenses, including fees and disbursements of legal and financial advisers and accountants, incurred in connection with this Scheme and the transactions contemplated by this Scheme shall be paid by the party incurring such costs and expenses.

15. Successor and Assigns

This Scheme will bind and enure to the benefit of the successors and assigns of the Members, Lloyd's and the Transferee.

16. Third Parties

Third parties may not enforce any term of this Scheme pursuant to the Contracts (Rights of Third Parties) Act 1999.

17. Evidence of Transfer

The production of a copy of the Order with any modifications, amendments and/or additions made under paragraph 13 shall for all purposes be evidence of the transfer to and vesting in the Transferee of the relevant part of the Transferring Business, the Transferring Assets, the Transferring Liabilities and the Transferring Policies.

18. Governing Law

This Scheme is governed by, and shall be construed in accordance with, English law.

19. Tax

Lloyd's, the Members and the Transferee intend that the transfer of the Transferring Business under this Scheme shall not involve any consideration between the parties and that the transfer shall therefore not constitute a supply for VAT purposes pursuant to article 2 of the VAT Directive.

Dated 25 November 2020

SCHEDULE 1 – SYNDICATES

List of non-life active syndicates/ACSNs and ceased syndicates with years of account remaining open	
As at 7 October 2020	
Syndicate Number	Managing Agent Name
Active (74 syndicates / 9 ACSNs)	
33	Hiscox Syndicates Limited
218	Equity Syndicate Management Limited
318	Cincinnati Global Underwriting Agency Limited
382	Hardy (Underwriting Agencies) Limited
386	QBE Underwriting Limited
435	Faraday Underwriting Limited
457	Munich Re Syndicate Limited
510	Tokio Marine Kiln Limited
557	Tokio Marine Kiln Limited
566 (ACSN)	QBE Underwriting Limited
609	Atrium Underwriters Limited
623	Beazley Furlonge Limited
626 (ACSN)	Hiscox Syndicates Limited
727	S.A. Meacock & Company Limited
780	RiverStone Managing Agency Ltd
1036 (ACSN)	QBE Underwriting Limited
1084	Chaucer Syndicates Limited
1110	Capita Managing Agency Limited
1176	Chaucer Syndicates Limited
1183	Talbot Underwriting Ltd
1200	Argo Managing Agency Limited
1218	Newline Underwriting Management Limited

1221	Navigators Underwriting Agency Limited
1225	AEGIS Managing Agency Limited
1274	Antares Managing Agency Limited
1301	StarStone Underwriting Limited
1414	Ascot Underwriting Limited
1458	RenaissanceRe Syndicate Management Limited
1492	Capita Managing Agency Ltd
1686	AXIS Managing Agency Limited
1729	Asta Managing Agency Limited
1856	Arch Managing Agency Limited
1861	Canopus Managing Agents Limited
1880	Tokio Marine Kiln Limited
1884	Premia Managing Agency Limited
1886 (ACSN)	QBE Underwriting Limited
1897	Asta Managing Agency Limited
1910	Argo Managing Agency Limited
1919	Starr Managing Agents Limited
1945	Sirius International Managing Agency Limited
1947	Hamilton Managing Agency Limited
1955	Arch Managing Agency Limited
1967	W R Berkley Syndicate Management Limited
1969	Apollo Syndicate Management Ltd
1975	Coverys Managing Agency Limited
1980	Asta Managing Agency Limited
1991	Coverys Managing Agency Limited
2001	MS Amlin Underwriting Limited
2003	Catlin Underwriting Agencies Limited

2007	AXIS Managing Agency Limited
2008	StarStone Underwriting Limited
2010	Lancashire Syndicates Limited
2012	Arch Managing Agency Limited
2014	Hamilton Managing Agency Limited
2015	The Channel Managing Agency Limited
2084 (Takaful CSN)	Chaucer Syndicates Limited
2088	Chaucer Syndicates Limited
2121	Argenta Syndicate Management Limited
2122 (ACSN)	Argenta Syndicate Management Limited
2232	Allied World Managing Agency Limited
2468	Neon Underwriting Limited
2488	Chubb Underwriting Agencies Limited
2525	Asta Managing Agency Limited
2609 (Takaful CSN)	Atrium Underwriters Limited
2623	Beazley Furlonge Limited
2689	Asta Managing Agency Limited
2786	Asta Managing Agency Limited
2791	Managing Agency Partners Limited
2987	Brit Syndicates Limited
2988	Brit Syndicates Limited
2999	QBE Underwriting Limited
3000	Markel Syndicate Management Limited
3010	Lancashire Syndicates Limited
3268	Asta Managing Agency Limited
3330	Coverys Managing Agency Limited
3334	Hamilton Managing Agency Limited

3500	RiverStone Managing Agency Ltd
3623	Beazley Furlonge Limited
3624	Hiscox Syndicates Limited
3902	Ark Syndicate Management Limited
4000	Hamilton Managing Agency Limited
4020	Ark Syndicate Management Limited
4141	HCC Underwriting Agency Limited
4242	Asta Managing Agency Limited
4444	Canopus Managing Agents Limited
4472	Liberty Syndicate Management Limited
4473 (ACSN)	Liberty Syndicate Management Limited
4711	Aspen Managing Agency Limited
5000	Travelers Syndicate Management Limited
5151	Endurance at Lloyd's Limited
5555 (ACSN)	QBE Underwriting Limited
5678	Vibe Syndicate Management Limited
5886	Asta Managing Agency Limited

SCHEDULE 3

LIST OF EEA STATES

Notices in respect of the making of the Order to conform to any requirements notified to the Transferee by an EEA State regulator. In any event the Transferee shall publish a notice of the making of the Order in the International Edition of the Financial Times which circulates or is made available in all of the EEA States listed below.

Austria	Italy
Belgium	Latvia
Bulgaria	Liechtenstein
Croatia	Lithuania
Cyprus	Luxembourg
Czech Republic	Malta
Denmark	Netherlands
Estonia	Norway
Finland	Poland
France	Portugal
Germany	Romania
Gibraltar	Slovakia
Greece	Slovenia
Hungary	Spain
Iceland	Sweden
Ireland	