

THIS DOCUMENT IS IMPORTANT AND REQUIRES YOUR IMMEDIATE ATTENTION.

If you are in any doubt as to what action you should take, you should seek legal advice and/or consult your insurance broker or other professional adviser without delay. A copy of this document has been sent to (i) Direct Scheme Creditors and (ii) brokers identified by the Company which may have placed insurance business with the Company, and other third-party agents who have had dealings with the Company, in order that they can notify their clients in relation to the proposed Direct Scheme.

Further copies of this document and other related documentation can be obtained from CX Reinsurance Company Limited using the contact details given on page 3 of this document or from the Scheme website at:

https://www.ey.com/en_uk/administrations/cxreinsurancecompanydirectscheme.

Proposal in relation to

A SCHEME OF ARRANGEMENT

pursuant to Part 26 of the Companies Act 2006

BETWEEN

**CX REINSURANCE COMPANY LIMITED (in
administration)**

and its

DIRECT SCHEME CREDITORS

(as defined in the Scheme)

The Company proposes to enter into a scheme of arrangement pursuant to Part 26 of the Companies Act 2006 with its creditors with claims arising in respect of contracts of direct insurance (collectively the "**Direct Scheme Creditors**"). A contract of direct insurance means, for these purposes, the cover provided by an insurer to a non-insurer policyholder, as opposed to reinsurance cover provided by an insurer to cover insurance risks written by another insurer.

A meeting of the Direct Scheme Creditors to consider and, if thought fit, approve the scheme of arrangement as set out in Section II of this document (the "**Direct Scheme**") will be held at, or as soon as reasonably practicable after, 5.00pm (London time) on 12 December 2024 by video conference (the "**Direct Scheme Meeting**"). A copy of the notice convening the Direct Scheme Meeting is set out on pages 112 – 113 of this document.

The action which Direct Scheme Creditors should take next is set out on page 17 of this document. To ensure their vote is counted at the Direct Scheme Meeting, each Direct Scheme Creditor should complete and return the Voting and Proxy Form at pages 114 – 130 of this document (the "**Voting and Proxy Form**") in accordance with the instructions and notes contained therein as soon as possible and in any event by 5.00 p.m. (London time) on 11 December 2024 (the "**Voting Form Submission Deadline**").

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IMPORTANT NOTICE TO POTENTIAL DIRECT SCHEME CREDITORS

Richard Barker and Simon Edel of Ernst & Young LLP (the "**Administrators**") as administrators of CX Reinsurance Company Limited (in administration) (the "**Company**") have prepared this document in connection with a proposed scheme of arrangement (the "**Direct Scheme**") pursuant to Part 26 of the Companies Act 2006 between the Company and its Direct Scheme Creditors.

The statements, opinions and information contained herein are made, held or given respectively as at the date of this document, unless some other time is specified in relation to them, and the sending of this document shall not give rise to any implication that there has been no change in the facts set forth herein since such date. Nothing contained herein shall constitute any admission of any fact or liability on the part of the Company with respect to any right or asset to which it may be entitled or any claim against it.

The summary of the principal provisions of the Direct Scheme and related matters in Section I of this document (the "**Direct Explanatory Statement**") is qualified in its entirety by reference to the Direct Scheme itself, the full text of which is set out at Section II of this document. Each Direct Scheme Creditor is advised to read and carefully consider the text of the Direct Explanatory Statement, the Appendices thereto and the Scheme itself. Reading individual sections in isolation may be misleading.

No person has been authorised by the Company to make any representations concerning the Direct Scheme which are inconsistent with the statements contained herein and, if made, such representations may not be relied upon as having been so authorised.

No estimate of the amount of any claim against the Company specified in the Voting and Proxy Form, or otherwise provided or used for voting purposes, will be binding upon the Direct Scheme Creditor or the Company. Any such estimate will only be used for voting purposes at the Direct Scheme Meeting, unless a Direct Scheme Creditor elects to use its Voting and Proxy Form as the basis for its Direct Scheme Claim, subject to the Direct Scheme Creditor providing appropriate supporting evidence to the Company.

Direct Scheme Creditors should not construe the contents of this document as legal, tax or financial advice. Direct Scheme Creditors are recommended to consult their own professional advisers as to legal, tax, financial or other matters relevant to the action Direct Scheme Creditors should take in relation to the Direct Scheme, or the implications or consequences of those actions.

KEY DATES AND EXPECTED TIMETABLE

Voting and Proxy Forms Submission Deadline ¹	5.00 p.m (London time) on 11 December 2024
Direct Scheme Meeting ²	5.00 p.m (London time) on 12 December 2024
Court sanction hearing ³	17 January 2025
Effective Date of the Scheme ⁴	20 January 2025

1. This is the deadline for submission of Voting and Proxy Forms in advance of the Direct Scheme Meeting.
2. This is the date and time of the meeting of Direct Scheme Creditors for voting on the Direct Scheme.
3. Provided that the Direct Scheme is approved by the requisite statutory majority of Direct Scheme Creditors at the Direct Scheme Meeting, the Company will apply to the Court for sanction of the proposed Direct Scheme as soon as possible thereafter.
4. In the event that the Court orders the sanction of the Direct Scheme, such Court order will be delivered to the Registrar of Companies shortly thereafter. The Direct Scheme will become effective and binding upon both the Company and the Direct Scheme Creditors when the Court order sanctioning the Direct Scheme is delivered to the Registrar of Companies.

The above dates are based on current expectations and may be subject to change. If any of the expected dates change, the Company will give notice of the change on the Website.

CONTACT DETAILS

Company	Administrators
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SECTION I
EXPLANATORY STATEMENT

(in accordance with Part 26 of the Companies Act 2006)

in relation to a
SCHEME OF ARRANGEMENT
BETWEEN
CX REINSURANCE COMPANY LIMITED (IN ADMINISTRATION)
and its
DIRECT SCHEME CREDITORS
(as defined in the Scheme)

PART 1 – INTRODUCTION TO THE PROPOSED DIRECT SCHEME

1 INTRODUCTION

- 1.1 CX Reinsurance Company Limited (in administration) (the “**Company**”) proposes to enter into a scheme of arrangement pursuant to Part 26 of the Companies Act 2006 (the “**Act**”) as set out in Section II of this document (the “**Direct Scheme**”) with certain of its creditors (the “**Direct Scheme Creditors**”) as more specifically described in paragraph 2.1 below, being in summary creditors of the Company in relation to contracts of direct insurance.
- 1.2 The Administrators (on the Company’s behalf) are proposing the Direct Scheme for the purposes of bringing closure to the run-off of certain of the Company’s business (as described in paragraph 2 below) following the commencement of administration proceedings on 17 August 2020 (the “**Administration**”).
- 1.3 This document (the “**Direct Scheme Document**”), including this explanatory statement provided pursuant to section 897 of the Act (the “**Direct Explanatory Statement**”) sets out the proposed terms of the Direct Scheme.
- 1.4 You have been sent this Direct Scheme Document because the Company believes that you may be a Direct Scheme Creditor (or a broker or other third-party agent for a Direct Scheme Creditor) based on its records and investigations to date. However, receipt of this Direct Scheme Document does not necessarily mean that you are a creditor of the Company or a Direct Scheme Creditor or that you will be affected by the Direct Scheme.
- 1.5 **If you have received this Direct Scheme Document in your capacity as a broker or agent for a Direct Scheme Creditor, please inform your clients of the contents of the Direct Scheme Document without delay, to ensure that all possible Direct Scheme Creditors receive notice of the Direct Scheme and of the actions that they are required to take prior to and subsequent to the Direct Scheme Meeting.**
- 1.6 Copies of this Direct Scheme Document are available to be downloaded from https://www.ey.com/en_uk/administrations/cxreinsurancecompanydirectscheme (the “**Website**”) or, upon request, from the Company by email to CxReClaims@uk.ey.com. Copies of other documents referred to in this Direct Explanatory Statement and listed in Appendix 1, including the Voting and Proxy Form and the Claim Form, are also available to be downloaded from the Website (or, upon request, from the Company).
- 1.7 Please note that the Direct Explanatory Statement is a guide only and should not be relied upon as a substitute for reading the Direct Scheme Document in its entirety. In the event of any inconsistency between the terms of the Direct Explanatory Statement and the provisions of the Direct Scheme, the provisions of the Direct Scheme shall prevail.

Capitalised terms defined in this Direct Explanatory Statement have been defined in summary for ease of reference. Full definitions of capitalised terms are given in the Direct Scheme. A capitalised term used but not defined in this Direct Explanatory Statement shall have the meaning given to it in the Direct Scheme. The Direct Scheme itself is set out in full in Section II of the Direct Scheme Document (pages 46 to 142).

WHAT IS A SCHEME OF ARRANGEMENT?

A scheme of arrangement (scheme) such as that proposed here, is a compromise or arrangement provided for by Part 26 of the Act between a company and its creditors (or any class of them). It becomes legally binding when:

- 1 a majority in number, representing not less than 75% in value of creditors or any class of them, present and voting in person or by proxy, vote in favour of the scheme of arrangement at a specially convened meeting or meetings held at the direction of the court;
- 2 the court subsequently makes an order sanctioning the scheme of arrangement; and
- 3 an office copy of that order is delivered to the Registrar of Companies for registration.

Once a scheme of arrangement under Part 26 of the Act becomes effective, it will bind the creditors party to it, irrespective of whether or not they attended the meeting to vote upon it, voted in favour of it or voted at all.

2 LIABILITIES SUBJECT TO THE DIRECT SCHEME

- 2.1 The Direct Scheme, should it become effective, will bind Direct Scheme Creditors. Direct Scheme Creditors are creditors of the Company in respect of all liabilities of the Company arising under or pursuant to a policy of Direct Insurance:
 - 2.1.1 entered into by the Company or on its behalf; or
 - 2.1.2 in relation to which the Company has assumed liability, as at the Scheme Reference Date, being 31 December 2023.
- 2.2 The Direct Scheme will not apply in respect of any other liability of the Company, including but not limited to Excluded Liabilities and claims arising pursuant to contracts of reinsurance. Excluded Liabilities comprise any liability that is:
 - 2.2.1 an Administration Cost (being, in summary, the remuneration, costs and expenses of the Administrators as well as any other liabilities incurred on behalf of the Company by the Administrators as an administration expense);
 - 2.2.2 a Preferential Claim (being a liability which has preferential status in accordance with section 386 of the Insolvency Act 1986 (“IA86”));

- 2.2.3 a Pre-Scheme Expense (being, in summary, costs incurred in the promotion and preparation of the Direct Scheme) including the costs of holding the meeting to vote in respect of the Direct Scheme, applying to Court for permission to convene the meeting in respect of the Direct Scheme and for the sanction of the Direct Scheme); and/or
- 2.2.4 a Scheme Cost (being, in summary, a cost incurred by the Company in the course of implementing the Direct Scheme)

3 **WHY HAS THE DIRECT SCHEME BEEN PROPOSED?**

- 3.1 The Company is insolvent. An administration order under the IA86 was made in respect of the Company on 17 August 2020. The purpose of the Company's administration is to achieve a better result for the Company's creditors as a whole than would be likely if the Company were wound up (without first being put into administration). The Company (acting by its Administrators) is of the view that the purpose of the administration will best be achieved via the implementation of the Direct Scheme.
- 3.2 The Direct Scheme has been proposed to offer Direct Scheme Creditors the most effective and economical method for having their claims against the Company agreed or otherwise determined in the shortest practicable time, while at the same time maximising the assets of the Company available to make payments to Direct Scheme Creditors. Once a Direct Scheme Claim has been agreed or otherwise determined under the Direct Scheme (including the deduction of any amounts in respect of which the Direct Scheme Creditor is entitled to claim on any Security, the determination of any amounts payable by a Direct Scheme Creditor to the Company and the discount to be applied for the time value of money) such claim will become a Net Ascertained Claim. The Company will, as soon as reasonably practicable, make payments in respect of such Net Ascertained Claim in accordance with the priorities set out by law.
- 3.3 The Company considers that the Direct Scheme provides the most appropriate mechanism to protect the interests of all Direct Scheme Creditors, and offers a better result for all Direct Scheme Creditors than the most likely relevant alternative of a proof and distribution process in a liquidation (see paragraph 5 (*Most Likely Alternative to the Direct Scheme*)). The general advantages and disadvantages of the Direct Scheme are discussed in paragraph 6 (*The Main Advantages and Disadvantages of the Direct Scheme*).

4 **IMPORTANT INFORMATION FOR US-DOMICILED POLICYHOLDERS**

- 4.1 **Direct Scheme Creditors resident or doing business in the United States should read this section and Appendix 2 of this Explanatory Statement in their entirety, as they contain important information regarding their possible trust-based rights in the United States, and the interaction between such rights and this Direct Scheme.**
- 4.2 As a condition of being permitted to write insurance and reinsurance business in the United States the Company was required to establish a trust fund in the United States for the benefit

of each holder of an American Policy resident or doing business in the US and certain Third Party Claimants pursuant to those policies (the “Surplus Lines Trust Fund”). Appendix 2 sets out detailed guidance regarding (i) the Liabilities of the Company to which the Surplus Lines Trust Fund relates, and (ii) which of the Company’s creditors are beneficiaries of Surplus Lines Trust Fund.

4.3 **The Direct Scheme does not compromise the rights of recourse of any Direct Scheme Creditor which is a beneficiary of the Surplus Lines Trust Fund against that Trust Fund. Such rights are governed by the terms of the Surplus Lines Trust Fund. In particular, the values to be attributed to Direct Scheme Creditors’ claims under the Direct Scheme (including pursuant to a determination by the Direct Scheme Adjudicator) will not be binding for the purpose of determining those creditors’ rights of recourse (if any) as beneficiaries of the Surplus Lines Trust Fund.**

4.4 However, under the Direct Scheme, Direct Scheme Creditors’ rights of recourse (if any) as beneficiaries of the Surplus Lines Trust Fund will be treated as ‘Security’ for their Direct Scheme Claims and will therefore be taken into account by the Direct Scheme Administrators when calculating those Direct Scheme Creditors’ Net Ascertained Claims (for the purpose of making payments under the Direct Scheme).

4.5 The Administrators understand from their US legal advisers that beneficiaries of the Surplus Lines Trust Fund will be eligible to claim under the Surplus Lines Trust Fund in respect of Agreed Unpaid Claims and Notified Outstanding Claims but that IBNR Claims will not be eligible for payment pursuant to the Surplus Lines Trust Fund. Furthermore, the Surplus Lines Trust Fund may not have sufficient assets to pay the eligible claims of all beneficiaries in full. Therefore, Direct Scheme Creditors who are beneficiaries of the Surplus Lines Trust Fund should submit a Claim Form in the Direct Scheme, to preserve their entitlement to receive payment in respect of any part of their Direct Scheme Claim for which they do not receive payment pursuant to the Surplus Lines Trust Fund.

4.6 The Administrators will separately contact any creditor of the Company for which they have contact details and which they consider is, or may be, a beneficiary of the Surplus Lines Trust Fund. Such creditors will in due course be provided with details of the process for making a claim on the Surplus Lines Trust Fund with a view to reaching resolution regarding claims against the Surplus Lines Trust Fund.

5 **MOST LIKELY ALTERNATIVE TO THE DIRECT SCHEME**

5.1 The Company’s overall financial position is such that it will not be able to meet all of its obligations in full. If - instead of implementing the Direct Scheme - the Administrators were to attempt to carry out a conventional run-off of the Company’s insurance business, adjusting claims as they arose in the ordinary course, the Administrators calculate that the funds of the Company would be dissipated in their entirety in meeting the Company’s operational

costs and expenses within a period of four to five years, with no funds left for distribution to Direct Scheme Creditors.

- 5.2 In the absence of the Direct Scheme therefore, the Administrators consider that their most likely course of action would be to place the Company into insolvent liquidation (creditors' voluntary liquidation).
- 5.3 The process of proof and distribution in liquidation is subject to the regime applicable under the IA86 and the Insolvency (England and Wales) Rules 2016 (the "**Insolvency Rules**") as modified by the Insurers (Winding Up) Rules 2001 (SI 2001/3635) and the Insurers (Reorganisation and Winding Up) Regulations 2004 (the "**2004 Regulations**"). The Administrators consider that there are a number of disadvantages inherent in this process which would cause potential unfairness as between creditors, as well as potentially reducing the overall assets available for distribution. In summary, these disadvantages are as follows:
- 5.3.1 in a liquidation, no bar date can be imposed for submission of claims, and although late-proving creditors are unable to disturb distributions already made, they can disturb future distributions. As a result, unless a sole distribution can be made, creditors can re-assess their claims and re-prove for higher sums than previously;
- 5.3.2 in a proof process in liquidation, creditors have the right to appeal a decision by an administrator or liquidator, and the potential for court action in relation to any contingent claim where a creditor disagrees with the valuation could result in significant delay to distributions being made (as it would not be possible to make a distribution until all claims were agreed), as well as causing additional expense which would reduce the assets available for distribution to creditors; and
- 5.3.3 in a liquidation, the Insolvency Rules require non-sterling denominated claims to be converted into sterling at the exchange rate applicable at the relevant date, which in this case would be the date of the Administration Order. This would be potentially unfair to the vast majority of the Company's creditors whose claims are denominated in US dollars, due to the volatility in the exchange rate between US dollars and pounds sterling.
- 5.4 Whilst the legislation governing the winding up of companies in the UK requires a liquidator to make a just estimate of a company's unquantified and contingent liabilities as at the date of the liquidation, it is unlikely that a liquidator, mindful of personal liability, would wish to make any distribution until such time as they are satisfied that they could gauge with accuracy the level of ultimate liabilities. The limited funds available in the Company would be exhausted by the costs of a liquidation long before the liquidator was able to make a distribution.
- 5.5 In such circumstances a liquidator would usually seek to propose a scheme of arrangement, in order to enable them to make distributions to creditors at an earlier date than would

otherwise be possible. In this case, if the proposed Direct Scheme is rejected by creditors, a liquidator of the Company would have to consider whether there is any realistic prospect of achieving creditor approval for a scheme of arrangement in liquidation, and balance that against the costs of proposing a scheme.

6 THE MAIN ADVANTAGES AND DISADVANTAGES OF THE DIRECT SCHEME

- 6.1 The Company has discussed the main proposals of the Direct Scheme with the creditors' committee established in the Administration (the "**Administration Creditors' Committee**") and has taken account of the Administration Creditors' Committee's views where possible. The Administration Creditors' Committee has confirmed that it is supportive of the proposed Direct Scheme.
- 6.2 Furthermore, near-final drafts of this Direct Explanatory Statement and the Direct Scheme were provided to the Company's regulators, being the Prudential Regulation Authority ("**PRA**") and the Financial Conduct Authority ("**FCA**") and neither the PRA nor the FCA have objected to the proposals contained in the Direct Scheme.

Main Advantages of the Direct Scheme

- 6.3 The Company considers that the Direct Scheme will be advantageous to its Direct Scheme Creditors for the following main reasons:

6.3.1 Early payment and costs savings

The Direct Scheme should enable Direct Scheme Claims (in the amount agreed or determined as Net Ascertained Claims in accordance with the Direct Scheme) to be paid considerably sooner than if the run-off of the Company were to continue and claims paid in the ordinary course of an administration or liquidation.

As noted in paragraph 5.1 above, the costs involved in maintaining the operations of the Company in an ordinary course run-off would quickly result in the dissipation in the assets of the Company, most likely resulting in the exhaustion of the assets otherwise available to meet Direct Scheme Claims.

6.3.2 Claims agreement process

The Direct Scheme will expedite the claims submission and determination process for Direct Scheme Creditors in the following ways:

(a) Simplified claims agreement process

The Direct Scheme will provide a practical and cost-effective process for agreeing or otherwise determining all present and future Direct Scheme Claims. The Estimation Guidelines describe in detail the approach that the Company and Direct Scheme Creditors will be expected to follow in valuing Direct Scheme Claims and are set out in Schedules 1 and 2 of the Direct Scheme Document. In the event that an agreement cannot be reached between the Company and a Direct Scheme Creditor in relation to a given Direct Scheme Claim then the Direct Scheme provides for the final

determination of that Direct Scheme Claim in accordance with the dispute resolution procedure in an independent and cost-efficient manner. This involves adjudication by an independent adjudicator (the “**Direct Scheme Adjudicator**”) where appropriate. A determination of the Direct Scheme Adjudicator will be binding on both the Company and the Direct Scheme Creditor so far as English law permits. For the avoidance of doubt, a determination of the Direct Scheme Adjudicator will not be binding for the purpose of determining a Direct Scheme Creditor’s rights of recourse (if any) as a beneficiary of the Surplus Lines Trust Fund;

(b) **Proceedings**

The Direct Scheme will enable Direct Scheme Claims to be dealt with quickly without protracted litigation as it prohibits (without the prior written consent of the Company) the commencement or continuation of any proceedings outside the mechanisms of the Direct Scheme, where the purpose of such proceedings is to establish the existence or quantum of a Direct Scheme Claim or to obtain payment of a Scheme Claim.

The main disadvantages of the Direct Scheme

- 6.4 Direct Scheme Creditors should also be aware of the following possible disadvantages in considering the Direct Scheme:

6.4.1 **Estimation**

The claims agreement process has been designed to value each Direct Scheme Claim as accurately and fairly as possible under the applicable law governing the contract between the Company and the Direct Scheme Creditor. The process will result in Notified Outstanding Claims and IBNR Claims being estimated, which creates the risk that Direct Scheme Creditors may receive a different amount (either more or less) in respect of those Direct Scheme Claims than would have been the case had such Direct Scheme Claims been run off in the ordinary course of business. However, given the fact that a run-off in the ordinary course of business is expected to take at least five to ten years, or potentially longer, it will be necessary for some form of early claims agreement process to be implemented. The operational costs and expenses involved in administering the Company’s estate mean that it would simply not be possible for the Administrators, or any subsequently appointed liquidator, to sustain a run-off over such an extended period.

6.4.2 **Failure to submit a Direct Claim Form by the Final Claims Deadline**

The Direct Scheme provides for a deadline by which Direct Scheme Claims must be submitted. Direct Scheme Creditors will be required to notify the Company of their Direct Scheme Claims by the Final Claims Deadline (as defined in paragraph 6.1 below).

Direct Scheme Claims notified after the Final Claims Deadline or not notified at all will be deemed to have been satisfied in full and the Direct Scheme Creditor

concerned will have no further rights against the Company in respect of them. However, the Direct Scheme contains the following provisions aimed at reducing the administrative burden of the Final Claims Deadline for Direct Scheme Creditors in certain circumstances:

- (a) a Direct Scheme Creditor may elect (by ticking a box on the Voting and Proxy Form) to use its Voting and Proxy Form as its Claim Form. In such circumstances a Direct Scheme Creditor will not be required to submit a Claim Form in order to notify a Direct Scheme Claim, although it may choose to complete a new Claim Form; and
- (b) on each Claim Form sent to a Direct Scheme Creditor the Company will set out details of any Agreed Unpaid Claims which the Company has details of on its books. A Direct Scheme Creditor will receive payment in respect of any Agreed Unpaid Claims set out by the Company on its Claim Form, and will not be required to submit a Claim Form in respect of such Agreed Unpaid Claims.

The Final Claims Deadline is necessary to enable the Company to conclude the run-off of the Direct Scheme Claims and determine the amounts that may be paid to the Direct Scheme Creditors.

To ensure as far as possible that Direct Scheme Creditors have the opportunity to complete and lodge claim forms in time, the Final Claims Deadline will be advertised, and notice of it will be posted on the Website and sent to (i) Direct Scheme Creditors for whom contact details are available, (ii) brokers who (or whose predecessors) have been identified as having placed relevant business with the Company, and (iii) agents known to be acting on behalf of Direct Scheme Creditors;

6.4.3 Prohibition on Proceedings

The Direct Scheme prohibits the commencement or continuation of any Proceedings in order to obtain payment or establish the existence or amount of a Direct Scheme Claim against the Company. However, such prohibition does not apply where the Company otherwise consents to lift such restriction or where such restriction is prohibited by law. Additionally, such prohibition does not apply to any Proceedings by a Direct Scheme Creditor in its capacity as a beneficiary of the Surplus Lines Trust Fund, in relation to a claim on the Surplus Lines Trust Fund. As described above, a more streamlined and cost efficient process for determining Direct Scheme Claims has been proposed pursuant to the Direct Scheme; and

6.4.4 No future cover

As a result of the Direct Scheme, the Company's liability to Direct Scheme Creditors in respect of Direct Scheme Claims will cease (as they will have been ascertained using the Estimation Guidelines and discharged in accordance with the Direct Scheme). Accordingly, Direct Scheme Creditors will not be permitted to make ongoing claims against the Company in respect of subsequent losses.

Conclusion

- 6.5 Although the Company considers these to be the main advantages and possible disadvantages of the Direct Scheme for Direct Scheme Creditors, it is not possible to address each Direct Scheme Creditor's individual circumstances. Each Direct Scheme Creditor is therefore advised to make its own assessment of how the Direct Scheme would affect its own interests. The Company considers that the main advantages referred to above outweigh the possible disadvantages.

7 RECOMMENDATION FOR THE DIRECT SCHEME

If the Direct Scheme is not approved and sanctioned, the Administrators will consider what options to take next in respect of the Company. Given that the Company is insolvent, the alternatives to the Direct Scheme are those described in paragraph 5 above. For the reasons given in that paragraph, the Administrators consider that the Direct Scheme is the best option available to, and in the best interests of, the Company and the Direct Scheme Creditors as a whole. In addition, the Administration Creditors' Committee has approved the Direct Scheme.

PART 2 – CONDUCT OF THE DIRECT SCHEME MEETING

1 THE DIRECT SCHEME MEETING

- 1.1 The Court has ordered that the Direct Scheme Meeting will take place commencing at 5.00 p.m. (London time) on 12 December 2024 (or as soon as reasonably practicable thereafter). Notice of the Direct Scheme Meeting has been sent with this document and a copy appears at pages 112 to 113 of this document.
- 1.2 The Direct Scheme Meeting will be hosted by the Joint Administrators through the web-based platform “Lumi Global”, as further described in the Notice of the Direct Scheme Meeting. All Direct Scheme Creditors may attend the Direct Scheme Meeting remotely on any device by logging in through the web browser web.lumiconnect.com, which is accessible on PC, tablet or smartphone from any internet browser, using a unique login credential with which they will be provided (“**Online Participation**”). Each Direct Scheme Creditor to which a copy of the Notice of the Direct Scheme Meeting is sent will be provided with the URL and their unique login credential (“**Access Details**”) to access the Direct Scheme Meeting. Any Direct Scheme Creditor who has not been sent a copy of the Notice of the Direct Scheme Meeting may request Access Details by contacting the Company on the contact details set out on page 3. Direct Scheme Creditors may attend the Direct Scheme Meeting either in person (by a duly authorised representative) or by a proxy appointed by them. Each Direct Scheme Creditor wishing to attend and/or vote at the Direct Scheme Meeting is requested to complete and submit a Voting and Proxy Form, to be received by the Company, by no later than 5.00 pm (London time) on 11 December 2024 (the “**Voting Form Submission Deadline**”).
- 1.3 If a Direct Scheme Creditor intends to attend the Direct Scheme Meeting, it should confirm the names and the contact details of the attendee(s) on the Voting and Proxy Form. An attendee who is not notified to the Company in advance of the Direct Scheme Meeting may not be permitted entry to such meeting. It will be possible to log in to the online platform from 4.45 p.m. (London time) on 12 December 2024. Direct Scheme Creditors will be able to see and hear the Chairman, to ask questions and express opinions, and receive answers through the video conference facility.

2 VALUATION OF VOTES

- 2.1 The value to be attributed to each Direct Scheme Claim (for the purposes of voting at the Direct Scheme Meeting only) will be determined by the chair of the Direct Scheme Meeting (the “**Chairman**”). The Chairman, who will be one of the Administrators, will consider the Voting and Proxy Forms that have been completed and submitted in accordance with the instructions contained therein to determine the value of each Direct Scheme Creditor's vote at the Direct Scheme Meeting. The Chairman's determination will be based on (i) the information provided by the Direct Scheme Creditor; (ii) the information available to the Administrators from the Company's existing records; and (iii) advice provided to the

Administrators by the Direct Scheme Actuary on the application of the principles described in the Estimation Guidelines. Direct Scheme Claims for voting will be calculated net of any known set-off, Security (including, for the avoidance of doubt, any amounts which the relevant Direct Scheme Creditor is likely to recover from the Surplus Lines Trust Fund) or other relevant deductions and will take into account the principles set out in the Estimation Guidelines.

- 2.2 The Chairman has the power to reject a Direct Scheme Claim for voting purposes, in whole or in part, if they consider that it does not represent a reasonable assessment of the value of the claim to which it relates. The decision of the Chairman as to the value to be placed on a Direct Scheme Claim for voting purposes is final and, where the Chairman has reduced or rejected a Direct Scheme Creditor's assessment of the value of its Direct Scheme Claim for voting purposes, they will, if possible, notify the relevant Direct Scheme Creditor of such decision, and the reasons for that decision, before the Direct Scheme Meeting and, in any event, before the Court hearing to sanction the Direct Scheme.
- 2.3 The values attributed to claims admitted for voting purposes will not constitute an admission of the existence or amount of any Direct Scheme Claim and will not bind the Company or the Direct Scheme Creditor, unless a Direct Scheme Creditor elects to use its Voting and Proxy Form as the basis for its Direct Scheme Claim, subject to the Direct Scheme Creditor providing appropriate supporting evidence to the Company.
- 2.4 For the purposes of voting at the Direct Scheme Meeting, Direct Scheme Claims will be converted into US Dollars at the closing mid-market rate of exchange for the relevant currency as quoted by the Financial Times on 29 December 2023, being the Business Day immediately preceding the Scheme Reference Date.

3 APPLICATION FOR SANCTION OF THE DIRECT SCHEME

- 3.1 In the event that the Direct Scheme is approved by the requisite majority of Direct Scheme Creditors in the Direct Scheme Meeting the Company will, as soon as reasonably practicable after the Direct Scheme Meeting, apply to the Court for the sanction of the Direct Scheme.

4 CHAPTER 15 RECOGNITION

- 4.1 In the event that the Direct Scheme is sanctioned by the Court, the Company intends to apply to the United States Court for recognition of the Direct Scheme pursuant to Chapter 15 of the United States Bankruptcy Code. For the avoidance of doubt, the effectiveness of the Direct Scheme is not contingent upon obtaining Chapter 15 recognition.

5 WHAT WILL HAPPEN AFTER THE DIRECT SCHEME BECOMES EFFECTIVE?

- 5.1 The Direct Scheme will become effective if:
- 5.1.1 the necessary Court order sanctioning the Direct Scheme is obtained following the application for sanction referred to in paragraph 3, and
 - 5.1.2 the Direct Scheme is subsequently delivered to the Registrar of Companies for registration. Filing of the relevant documents with the Registrar of Companies will be done as soon as practicable after the Court hearing to sanction the Direct Scheme, and defines the moment when the Direct Scheme becomes effective.
- 5.2 Once the Direct Scheme becomes effective, the Company will, within ten Business Days of the Effective Date, send notice that the Direct Scheme is effective together with a Claim Form by email and post to all those Direct Scheme Creditors for which it has current email address details and/or postal address details, and to Brokers and Agents at their last known email or postal addresses. Notice will also be published on the Website and in the same publications in which the Direct Scheme Meeting was advertised.
- 5.3 Each Direct Scheme Creditor may download a blank copy of the Claim Form, which will be made available on the Website within three Business Days after the Direct Scheme has become effective. The Company will send a physical copy of any of the documents on the Website to any Direct Scheme Creditor upon written request.

6 SUBMISSION OF CLAIM FORMS

- 6.1 **Direct Scheme Creditors should note that the deadline for the Company to receive completed Claim Forms is the Final Claims Deadline, being 11:59 p.m. (London time) on the first Business Day falling 180 days after (and not including) the Effective Date.** Claim Forms must be submitted by email or post in accordance with the instructions on the Claim Form.
- 6.2 **Subject to the exceptions described in paragraph 6.3, if a Direct Scheme Creditor does not submit a Claim Form to the Company containing the details of its Direct Scheme Claim by the Final Claims Deadline, that Direct Scheme Claim shall be deemed to have been satisfied in full and the Direct Scheme Creditor shall have no further rights against the Company in respect of that Direct Scheme Claim.**
- 6.3 In the following limited circumstances, a Direct Scheme Creditor will not be required to submit a Claim Form by the Final Claims Deadline:
- 6.3.1 **Voting and Proxy Form submitted as Claim Form**
A Direct Scheme Creditor may elect on its Voting and Proxy Form for that Voting and Proxy Form to be treated as its Claim Form (in which case it will be deemed to have submitted that Voting and Proxy Form as a Claim Form by the Final Claims Deadline).

6.3.2 **Agreed Unpaid Claims set out by Company on Claim Form**

The Company will set out on each Claim Form sent to a Direct Scheme Creditor details of any Agreed Unpaid Claims of that Direct Scheme Creditor of which the Company has details on its books. A Direct Scheme Creditor will not be required to submit a Claim Form in order to claim in respect of such Agreed Unpaid Claims. However, if it wishes to claim in respect of any other amounts, it must submit a Claim Form by the Final Claims Deadline.

- 6.4 Details of the procedures provided in the Direct Scheme for agreement, adjudication and payment of Direct Scheme Claims are set out in Part 4 (*Description of the terms of the Direct Scheme*).

7 **WHAT SHOULD DIRECT SCHEME CREDITORS DO NOW?**

- 7.1 If you are a Direct Scheme Creditor of the Company, you are entitled to attend and vote at the Direct Scheme Meeting to be convened for the purpose of giving Direct Scheme Creditors the opportunity to consider and, if thought fit, approve the Direct Scheme.
- 7.2 Direct Scheme Creditors may participate in the Direct Scheme Meeting in person via Online Participation (or, if a corporation, by a duly authorised representative), and may elect a proxy to participate on their behalf.
- 7.3 The Voting and Proxy Form to be used for voting at the Direct Scheme Meeting is at Schedule 4 of the Scheme Document (pages 114 to 130). Even if Direct Scheme Creditors intend to participate in the Direct Scheme Meeting in person via Online Participation, they are requested to complete and sign the Voting and Proxy Form and then submit that form to the Company in advance of the Direct Scheme Meeting accordance with the guidance notes accompanying the form.
- 7.4 Submitting a Voting and Proxy Form will not prevent a Direct Scheme Creditor from attending and voting at the Direct Scheme Meeting in person via Online Participation (whereupon any proxy vote contained on a Voting and Proxy Form previously submitted will be superseded), however, it does ensure that a Direct Scheme Creditor's vote will be counted if, due to unforeseen circumstances, it is unable to attend. All Voting and Proxy Forms must be completed in English.

Completed Voting and Proxy Forms and any supporting evidence should be returned to the Company by email to CXReClaims@uk.ey.com as soon possible, and, in any event, so that they are received by 5.00 p.m. (London time) on 11 December 2024, being the Voting Form Submission Deadline.

If you are unclear about or have any questions concerning the action you are required to take please contact the Administrators using the contact details provided on page 3.

PART 3 – BACKGROUND AND BUSINESS OVERVIEW

1 CORPORATE HISTORY

- 1.1 The Company was incorporated in England and Wales (registration number 1086556) on 13 December 1972 under the name Continental Casualty Company Limited and was authorised as an insurance company by the Department of Trade & Industry on 10 November 1976. From 1977 onwards the Company operated principally in the London Market. The Company ceased underwriting new business in August 2001 and went into solvent run-off.
- 1.2 The Company has changed its name on a number of occasions since its incorporation. The names by which the Company has been known are set out in the table below:

Name	Applicable Dates
Continental Casualty Limited	13 December 1972 to 19 October 1976
CNA Reinsurance of London Limited	20 October 1976 to 17 March 1992
CNA International Reinsurance Company Limited	18 March 1992 to 16 March 1997
CNA Reinsurance Company Limited	17 March 1997 to 30 October 2002
CX Reinsurance Company Limited	31 October 2002 onwards

- 1.3 On 31 October 2002, CX Management Company Limited, the parent company of the Scheme Company at that date, was sold by CNA Financial Corporation to Tawa UK Limited. Following a restructuring in March 2004, the Scheme Company's immediate parent company became Tawa UK Limited. The Scheme Company's immediate parent is now Tawa Associates Limited.
- 1.4 The Company is authorised and regulated by the Prudential Regulatory Authority (“**PRA**”) and the Financial Conduct Authority (“**FCA**”).

2 BUSINESS OVERVIEW

- 2.1 The Company is a non-life insurance business. It underwrote an insurance and reinsurance portfolio including both US and international originating property and casualty treaty business and professional liability insurance including medical malpractice risks, errors and omissions risks and directors' and officers' risks.
- 2.2 During the period from August 2001 to 17 August 2020 (the “**Administration Date**”), through proactive claims management and commutations, the Company reduced its liabilities from approximately USD 2.2 billion to approximately USD 38 million as at the Administration Date. The Company's remaining liabilities are split roughly 50:50 between direct insurance business and reinsurance business.

- 2.3 During the active underwriting life of the Company, it wrote direct business within combined general liability, property, commercial umbrella, errors and omissions, environmental, medical malpractice, workers' compensation and other liabilities in the US, UK and international market.

3 **EVENTS LEADING TO THE DECISION TO IMPLEMENT A SCHEME OF ARRANGEMENT**

- 3.1 On 1 January 2016, the EU Directive on the taking-up and pursuit of the business of insurance and reinsurance ("**Solvency II**") came into effect. Although the Company was able to meet its Minimum Capital Requirement ("**MCR**") under Solvency II, at no point following the implementation of Solvency II was it able to comply with its Solvency Capital Requirement ("**SCR**"). Following an independent actuarial review carried out in late 2019, which identified a \$2.1m deficiency in the Company's reserves, the Company forecast that it was likely to breach its MCR in Q3/Q4 2020. In these circumstances, the PRA requested that the Company produce an exit plan to bring closure to the run-off.
- 3.2 Over the course of 2019, the Company explored various possibilities to enable the conclusion of the run-off of its business, including a sale to a third party or a transfer of the entirety of its insurance and reinsurance business to another risk carrier under Part VII of The Financial Services and Markets Act 2000 ("**Part VII Transfer**" and "**FSMA**" respectively). However, neither of these options was found to be feasible, due to various factors including the reduced size of the Company's book of business, the Company being in breach of its SCR, and the uncertainty attributed to a number of litigation cases to which the Company was party in the United States. Such a transaction would only have been achievable if the Company had been in a position to procure the payment of a substantial premium to any third-party purchaser, which it was not.
- 3.3 The directors of the company (the "**Board**") therefore came to the view in October 2019 that a solvent scheme of arrangement pursuant to Part 26 of the Act in relation to the Company's reinsurance business (the "**Solvent Scheme**"), to be followed by a Part VII Transfer of the Company's direct insurance business, would be in the best interests of all stakeholders of the Company. This offered the prospect of addressing the Company's actual and anticipated Solvency II capital requirement breaches and facilitating an early closure of the run-off on a solvent basis. The Company took steps to prepare a Solvent Scheme during late 2019 and early 2020.
- 3.4 A key concern for the Board and the PRA during this period related to the continued payment of reinsurance liabilities in the normal course by the Company. In the light of adverse claims development and material uncertainties relating to the Company's potential liabilities (in particular in relation to certain litigation pending in the US State of Maryland relating to lead paint exposure liabilities), such continued payment would erode the protection offered to the Company's direct insurance creditors by the Regulations.

- 3.5 Ultimately, following discussions with the PRA, the Solvent Scheme was found not to be viable in light of the concerns referred to above in paragraph 3.4. In July 2020 the Board therefore reached the opinion that a solvent exit solution was not possible, and that entry into administration would provide a platform to deliver the best outcome for the Company's creditors as a whole.

Administration

- 3.6 The Company was placed into administration following an application by the Board pursuant to paragraph 12 of Schedule B1 of the IA86. The application was heard on 17 August 2020, whereupon Richard Barker and Simon Edel of Ernst & Young LLP were appointed as administrators of the Company (the "**Administrators**").
- 3.7 In accordance with their obligations under paragraph 49 of Schedule B1 to the IA86, the Administrators formulated their proposals for achieving the purpose of the administration of the Company. The Administrators' proposals, dated 7 October 2020 (the "**Proposals**"), were sent to all of the Company's known creditors at that time.
- 3.8 As outlined in the Proposals, the purpose of the Administration is to achieve a better result for the Company's creditors as a whole than would be likely if the Company were wound up (without first being in administration). The Administrators do not consider that it would be possible to achieve the primary objective of administration – i.e. to rescue the Company as a going concern - due to the nature of the uncertainties in the business and the lack of any feasible options available to the Company in order for it to return to solvency.
- 3.9 Pursuant to the Proposals, it was proposed that the Administrators would seek to establish a low-cost, sustainable run-off, pending the resolution of certain litigation matters (as referred to in paragraph 3.13 below). The Proposals also noted that the Administrators considered that it was probable that a scheme of arrangement pursuant to Part 26 of the Act would be the process ultimately adopted to bring finality to the run-off. On 23 October 2020, the creditors of the Company approved the Administrators' proposals.
- 3.10 The Administration Creditors' Committee was established on 5 November 2020 to consult on the administration strategy and ensure that creditors' views are represented and considered. The first meeting of the Administration Creditors' Committee took place on 18 November 2020, and the Administration Creditors' Committee has continued to meet and give its input to the Administrators at roughly six-month intervals since.

Chapter 15 Recognition

- 3.11 Following their appointment, the Administrators applied to the United States Bankruptcy Court for the Southern District of New York for recognition of their appointment in the United States pursuant to Chapter 15 of the United States Bankruptcy Code. Recognition of the Administration and protection of the Company's assets in the United States were necessary

as a significant part of the Company's business was conducted in the United States, the Company was party to a significant number of active litigation cases in the United States courts.

- 3.12 A Chapter 15 order was entered by the United States Bankruptcy Court on 8 October 2020, granting recognition of the Administration as a "foreign main proceeding" and (among other things) giving full force and effect to the Administration in the United States. The relief granted included a stay of all judicial proceedings in the United States against the Company or any of its assets in the United States. The Administrators were authorised to modify or lift the stay with respect to specific litigation matters, with the agreement of the relevant counterparty to the litigation.

Litigation

- 3.13 At the date of the Administration Order, the Company was party to 38 ongoing court and arbitration cases, all in the United States apart from one matter in the German courts. Of these cases, five key matters related to insurance claims arising from lead paint exposure in the United States. At the time of the Administration Order, material uncertainty existed regarding one of these matters, in which a number of plaintiffs seeking to recover against their landlords brought an action in the US State of Maryland State Court seeking to unwind the previously concluded settlements between the Company and those landlords. A hearing in relation to this matter was held in the Court of Appeals of Maryland in April 2022. The Court provided their opinion on 29 August 2022, finding unanimously in favour of the Company and other insurers.
- 3.14 The conclusion of this litigation removed the significant uncertainty regarding the Company's liability for these claims, which had previously been a major barrier to bringing finality to the run-off of the Company.

US Trust Funds

- 3.15 As described in Part 1 (*Introduction to the Proposed Direct Scheme*), as a condition of being permitted to write insurance business in the United States as an alien insurer, the Company was required to establish a Surplus Lines Trust Fund for the benefit of (in summary) US-based policyholders and Third Party Claimants. Details of the Liabilities of the Company which are secured by the Surplus Lines Trust Fund, and a description of the beneficiaries of the Surplus Lines Trust Fund, are set out in Appendix 2.
- 3.16 The Company was also required to establish a trust fund in the United States for the benefit of US domiciled cedants as a condition of being permitted to write reinsurance business in the United States as an alien reinsurer (the "**Reinsurance Trust Fund**" and, together with the Surplus Lines Trust Fund, the "**Trust Funds**"). As the Reinsurance Trust Fund only relates to liabilities of the Company arising under contracts of reinsurance, the beneficiaries of the Reinsurance Trust Fund cannot be Direct Scheme Creditors.

- 3.17 As at 31 May 2024 (the latest available valuation), the assets held in the Surplus Lines Trust Fund were valued at approximately US\$13.9 million, while the assets in the Reinsurance Trust Fund were valued at approximately US\$2.8 million. As these assets are held on trust for the beneficiaries of the Surplus Lines Trust Fund and the Reinsurance Trust Fund respectively, they do not form a part of the Company's assets currently available for distribution under the Direct Scheme. The rights of Direct Scheme Creditors under the Surplus Lines Trust Fund are not compromised by the Direct Scheme.
- 3.18 Any surplus in the assets remaining in either Trust Fund (after the eligible claims of all beneficiaries of the relevant Trust Fund have been satisfied in full and the Trust Fund has been terminated in accordance with its terms) will be remitted to the Company and will form part of the Company's property available for distribution in accordance with the Direct Scheme.

Financial Projections

- 3.19 The assets of the Company available for distribution in accordance with the Direct Scheme, including cash and projected reinsurance recoveries (but excluding, for the avoidance of doubt the assets held in the Trust Funds), are estimated to total at least US\$2.3 million. The estimated gross, undiscounted direct liabilities based on the Company's most recent actuarial forecast are \$27.5million. The Administrators are currently unable to estimate the future distribution level to Direct Scheme Creditors as it will be impacted by the level of recovery which Direct Scheme Creditors receive as beneficiaries under the Surplus Lines Trust Fund.
- 3.20 As at 31 August 2024, the Company held unencumbered assets of approximately US\$4.5million in total. The Administrators estimate that a run-off of the Company in liquidation would take at least five to ten years, or potentially longer, at an estimated cost of approximately US\$1million per year. The Company's funds would therefore be exhausted in a liquidation in four to five years.

The Direct Scheme proposals

- 3.21 The proposals for the Direct Scheme have been developed by the Administrators, and have been reviewed by the PRA, the FCA and the Creditors' Committee. The Company and the Administrators consider that the Direct Scheme will enable the claims of the Direct Scheme Creditors to be agreed and paid in an orderly manner and in a much shorter timeframe than would otherwise be possible, thereby maximising the potential return to creditors.

4 DIRECTORS' INTERESTS

- 4.1 The directors of the Company as at the date of this Direct Scheme Document are Simon Byrne (appointed 20 April 2016) and David Vaughan (appointed 26 February 2016).

- 4.2 The Company's immediate parent company is Tawa Associates Limited. Messrs Vaughan and Byrne are shareholders of Tawa Associates Limited. In aggregate the directors own less than one per cent of Tawa Associates Limited.
- 4.3 Neither of the directors of the Company is a Direct Scheme Creditor. The Direct Scheme will not affect the directors' interests in the Company as directors of the Company and no additional remuneration will be received by them under the terms of the Direct Scheme. To the best of the Company's knowledge, neither of its directors has any interest, direct or indirect, in the Direct Scheme and the Direct Scheme will have no effect on the interests of its directors.

PART 4 – DESCRIPTION OF THE TERMS OF THE DIRECT SCHEME

1 INTRODUCTION

The proposed Direct Scheme is set out in full in Section II of the Direct Scheme Document at pages 46 to 142. Its key terms are described below. Unless otherwise expressly stated, defined terms are the same as those used in the Direct Scheme. The Direct Explanatory Statement, including this summary, should not be relied upon as a substitute for reading the Direct Scheme itself.

2 PURPOSE OF THE SCHEME

The primary objective of the Direct Scheme is to accelerate the conclusion of the run-off of the direct insurance business of the Company earlier than would be the case if the current run-off were to continue until all Direct Scheme Claims have materialised and been paid in the normal course. The Direct Scheme will establish a process by which the Direct Scheme Creditors' Direct Scheme Claims against the Company can be ascertained and, where applicable, paid either in full or in part.

3 SCHEME APPLICATION AND OPERATION

- 3.1 The Direct Scheme will apply to any claim against the Company which is a Direct Scheme Claim, i.e. a claim arising under or pursuant to a contract of Direct Insurance. Direct Scheme Claims do not include claims in respect of Excluded Liabilities (**Clause 2.1**).

4 STAY OF PROCEEDINGS

- 4.1 Upon the Direct Scheme becoming effective, Direct Scheme Creditors will not be permitted to institute or continue any proceedings against the Company or its property in respect of any Direct Scheme Claim unless otherwise agreed by the Company or as described in paragraph 4.2 below (unless such restriction is prohibited by law) (**Clause 2.3.1**).
- 4.2 Notwithstanding the above prohibition on proceedings, the Direct Scheme does not preclude Direct Scheme Creditors acting in their capacity as American Policyholders (i.e. as beneficiaries under the Surplus Lines Trust Fund, rather than as creditors of the Company) from instituting or continuing proceedings against the Company in accordance with the terms of the Surplus Lines Trust Agreement in order to establish the existence or quantum of a claim on the Surplus Lines Trust (**Clause 2.3.2**).
- 4.3 If a Direct Scheme Creditor breaches the prohibition on proceedings it shall be treated as having received an advance payment from the Direct Scheme equal to the value of the

benefit it derived from those proceedings. If the benefit derived from those proceedings is greater than any payment due under the Direct Scheme the balance will become a debt due for immediate payment by the Direct Scheme Creditor and will carry interest. (**Clause 2.4.2 – 2.4.4**).

- 4.4 The Direct Scheme does not prevent the Company from instituting or continuing any proceedings against a Direct Scheme Creditor. (**Clause 2.3.4**)
- 4.5 For statute of limitation purposes time will cease to run in respect of Direct Scheme Claims from the date upon which the Direct Scheme becomes effective. Time will recommence running for statute of limitation purposes should the Direct Scheme terminate. (**Clause 2.3.6**)

5 **PROPERTY TO BE DISTRIBUTED IN THE SCHEME**

The Property of the Company will be collected in and realised by the Administrators. After Administration Costs, Preferential Claims and Pre-Scheme Expenses have been paid or provided for, the Company (acting by the Direct Scheme Administrators) will hold the Distributable Property on trust for payment of Scheme Costs and Net Ascertained Claims (**Clause 2.2.1 and 2.2.2**).

6 **INTEREST**

The only interest payable in respect of a Direct Scheme Claim will be the interest provided for in the contract giving rise to the Direct Scheme Claim or otherwise arising by law and accruing until the day immediately preceding the Scheme Reference Date (**Clause 2.5**).

7 **CURRENCY OF PAYMENT**

- 7.1 All payments under the Direct Scheme will be made in either euros, GBP or US Dollars (US Dollars, GBP and euros each being a “**Relevant Currency**”) (**Clause 2.6.1**).
- 7.2 Any Direct Scheme Claim which is not in a Relevant Currency will be converted into and paid in the Relevant Currency which accounts for the largest proportion of the relevant Direct Scheme Creditor’s Direct Scheme Claims, or into US Dollars, if it has no Direct Scheme Claims in a Relevant Currency (**Clause 2.6.2**).
- 7.3 If a Direct Scheme Creditor’s Direct Scheme Claims are denominated in more than one Relevant Currency, they will be converted into and paid in the Relevant Currency which accounts for the largest proportion of the Direct Scheme Creditor’s Net Ascertained Claim (**Clause 2.6.3**).

- 7.4 All currency conversions will be carried out at the relevant closing mid-market rate of exchange for the relevant currency as quoted by the Financial Times on 29 December 2023, being the Business Day immediately preceding the Scheme Reference Date (the **“Exchange Rate”**).

8 **EFFECTIVE DATE AND FINAL CLAIMS DEADLINE**

- 8.1 The Direct Scheme will become effective on the date the Court order sanctioning the Direct Scheme is delivered to the Registrar of Companies (the **“Effective Date”**). Once the Direct Scheme becomes effective, the Company will, within ten Business Days of the Effective Date, send notice that the Direct Scheme is effective together with a Claim Form by email or post to all those Direct Scheme Creditors, Brokers and Agents for which it has current email or postal address details at their last known email or postal addresses. Such notice will also confirm the Final Claims Deadline and call for all Direct Scheme Creditors to submit their Scheme Claims by the Final Claims Deadline. **(Clause 3.2.1)**.
- 8.2 The Claim Form sent by the Company to a Direct Scheme Creditor will be completed by the Company with details of any Agreed Unpaid Claims of that Direct Scheme Creditor according to the Company’s records. **(Clause 3.3.1(b))**. If a Direct Scheme Creditor has elected to have its Voting and Proxy Form treated as its Claim Form, the Company will send a copy of its completed Voting and Proxy Form to the Direct Scheme Creditor concerned **(Clause 3.3.1(a))**.
- 8.3 The Final Claims Deadline will be 11.59p.m. in England on the day 180 days after (and not including) the Effective Date. If this is not a Business Day, the Final Claims Deadline will fall on the next Business Day (**“Final Claims Deadline”**).
- 8.4 Direct Scheme Creditors will be able to access the Direct Scheme Document, a blank copy of the Claim Form, and other relevant documents on the Website. The Company will send a hard copy of any of the documents available on the Website to any Direct Scheme Creditor as soon as reasonably practicable on request. **(Clauses 3.2.3, 3.2.4)**.
- 8.5 The Company will also place advertisements, calling for Direct Scheme Creditors to complete and submit Claim Forms by the Final Claims Deadline, in the same publications and newspapers in which the Direct Scheme Meeting was advertised, namely: The London Gazette, Les Echos (France), USA Today; Business Insurance (US) and The Financial Times UK and Worldwide editions. **(Clause 3.2.2)**.
- 8.6 Any changes to the Direct Scheme resulting from the Direct Scheme Meeting and/or from the order of the Court sanctioning the Direct Scheme, as compared with the Direct Scheme proposals as set out at Section II of this document, will be drawn to the attention of Direct Scheme Creditors.

9 COMPLETION OF CLAIM FORMS

- 9.1 Each Direct Scheme Creditor is requested to complete a Claim Form in accordance with the accompanying instructions. Information to be submitted with a Claim Form includes the specific amount claimed in respect of that Direct Scheme Claim; whether such Direct Scheme Claim consists of Agreed Unpaid Claims, and/or Notified Outstanding Claims and/or IBNR Claims, and evidence to support the Direct Scheme Creditor's estimations of the Direct Scheme Claim (in accordance with the instructions in the Estimation Guidelines). Direct Scheme Creditors should ensure that Notified Outstanding Claims and IBNR Claims are separately identified (**Clause 3.3.3**).
- 9.2 Direct Scheme Creditors are also required to provide with their Claim Forms details of any Security which they hold in respect of a Direct Scheme Claim (or any part of a Direct Scheme Claim), including evidence to support their entitlement to such Security (**Clause 3.3.3**). For the avoidance of doubt, the definition of Security in the Direct Scheme includes any deposit or reserve of assets established by the Company to secure the payment of a Direct Scheme Claim, and therefore includes claims by Direct Scheme Creditors against the Surplus Lines Trust Fund.
- 9.3 Claim Forms and supporting information must be submitted via email or post to the Company by no later than the Final Claims Deadline. Revised Claim Forms and supporting information may be submitted at any time before the Final Claims Deadline and the last Claim Form received prior to that date will be the one which is considered for the purposes of agreeing Direct Scheme Claims (**Clauses 3.3.2 and 3.3.4**).
- 9.4 Save as described in paragraphs 9.5, and 9.6, any Direct Scheme Claim not submitted by a Direct Scheme Creditor on a Claim Form in accordance with the terms of the Direct Scheme by the Final Claims Deadline shall be deemed to be fully satisfied and that Direct Scheme Creditor shall have no further rights against the Scheme Company in respect of that Direct Scheme Claim (**Clause 3.4**).
- 9.5 A Direct Scheme Creditor who has elected on its Voting and Proxy Form for that Voting and Proxy Form to be treated as its Claim Form will not be required to submit a Claim Form in respect of any Direct Scheme Claims set out on such Voting and Proxy Form (**clause 3.4.2(a)**).
- 9.6 A Direct Scheme Creditor will be entitled to receive distribution from the Scheme in respect of any Agreed Unpaid Claim included by the Company on the Claim Form sent to that Direct Scheme Creditor, without submitting a Claim Form by the Final Claims Deadline in respect of that Agreed Unpaid Claim (**clause 3.4.2(b)**).

10 DETERMINATION OF DIRECT SCHEME CLAIMS

- 10.1 Within 90 Business Days of the Final Claims Deadline the Company shall notify each Direct Scheme Creditor either:
- 10.1.1 that it agrees with its Direct Scheme Claim, in which case it will issue a Determination Notice (**Clause 4.2**); or
 - 10.1.2 that it disagrees with its Direct Scheme Claim, in which case the Company will provide details as to the matters which are not agreed and may request that the Direct Scheme Creditor provide additional information within 30 Business Days of the request (a “**Dispute Notice**”) (**Clause 4.3.1**).
- 10.2 The Direct Scheme Creditor will have 30 Business Days to respond to a Dispute Notice, following which the Company and Direct Scheme Creditor will have another 30 Business Days to agree the value of the relevant Direct Scheme Claim (**Clauses 4.3.2 and 4.3.3**).
- 10.3 If a Direct Scheme Creditor fails to respond to a Dispute Notice within 30 Business Days then the Company may make a determination of the Direct Scheme Claim as it sees fit on the available information and issue a Determination Notice (**Clause 4.3.4**).
- 10.4 Where a Direct Scheme Creditor's Direct Scheme Claim has not been agreed or determined by the date falling 150 Business Days after the Final Claims Deadline, then unless the parties have agreed an extension, the Company will refer any disputed matter relating to the Direct Scheme Claim to the Direct Scheme Adjudicator as a Dispute (**Clause 4.3.5**). The Company may at any time refer a disputed matter relating to a Direct Scheme Claim to the Direct Scheme Adjudicator as a Dispute if it considers in good faith that it will not be possible to agree the Direct Scheme Claim (**Clause 4.3.6**).

11 SCHEME ADJUDICATION PROCEDURE

- 11.1 The Company shall send a notice of a Dispute to the Direct Scheme Adjudicator, copied to the Direct Scheme Creditor, enclosing a copy of the relevant Claim Form and list of any supporting evidence and any correspondence. The Direct Scheme Adjudicator will have full access to all evidence provided by the Direct Scheme Creditor to support its Direct Scheme Claim and to the Company's records and information (**Clauses 4.4.1 and 4.4.3**).
- 11.2 The Direct Scheme Adjudicator has 21 Business Days to notify the parties to the Dispute if they require further information or evidence or require the Company and/or Direct Scheme Creditor to attend a meeting with them. Such evidence or information must be supplied, or such meeting held, within 21 Business Days of the request, failing which the Direct Scheme Adjudicator can make their determination based on the information available to them (**Clauses 4.4.4 and 4.4.5**).

- 11.3 The parties to a Dispute can themselves request a meeting with the Direct Scheme Adjudicator (**Clause 4.4.6**).
- 11.4 The Direct Scheme Adjudicator has discretion to consult such experts and advisers (including legal advisers) as they consider appropriate (**Clause 4.4.7**).
- 11.5 If the Direct Scheme Adjudicator considers that they have a conflict in relation to a Dispute, an Alternate Scheme Adjudicator can be appointed to deal with that Dispute or the conflict can be waived with the consent of all parties (**Clause 4.5.1**).
- 11.6 If any party to a Dispute considers that the Direct Scheme Adjudicator has a conflict relating to a Dispute, that party has ten Business Days (from referral to the Direct Scheme Adjudicator) to notify the other parties and the Direct Scheme Adjudicator of such conflict. The Direct Scheme Adjudicator will consider whether a conflict exists, having regard (if applicable) to any professional conduct standards. If the Direct Scheme Adjudicator agrees that a conflict exists, an Alternate Scheme Adjudicator can be appointed to deal with that Dispute or the conflict can be waived with the consent of all parties (**Clauses 4.5.4 and 4.5.5**).
- 11.7 In determining a Dispute, the Direct Scheme Adjudicator will apply the Estimation Guidelines (**Clause 4.4.8**).
- 11.8 Written notice of the Direct Scheme Adjudicator's final and binding determination of any Dispute shall be sent to the relevant parties within 30 Business Days after the later of the referral of the Dispute to them, the receipt or failure to receive further information or evidence requested or the attendance or failure to attend any meeting requested. No party shall have any right to appeal such determination except in circumstances of the Direct Scheme Adjudicator's wilful default, wilful breach of duty or trust, fraud or dishonesty (**Clauses 4.4.9 and 4.4.10**). A determination by the Direct Scheme Adjudicator will not be binding for the purpose of determining a Direct Scheme Creditor's rights of recourse (if any) as a beneficiary of the Surplus Lines Trust Fund.
- 11.9 The Direct Scheme Adjudicator's remuneration (calculated on a time cost basis) and other costs incurred by them in the determination of a Dispute will ordinarily be met by the Company, except where the Direct Scheme Adjudicator, in their absolute discretion, determines that the Direct Scheme Creditor has behaved unreasonably in relation to the Dispute and therefore should reimburse some or all of those costs, in which case such amount will be deducted from any amount payable by the Company to the Direct Scheme Creditor, with any outstanding balance being a Liability immediately due and payable by that Direct Scheme Creditor to the Company (**Clauses 4.4.11 and 4.4.12**).

12 DETERMINATION NOTICES AND APPLICATION OF SET-OFF, SECURITY AND DISCOUNTING

- 12.1 Following agreement or determination of a Direct Scheme Creditor's Direct Scheme Claim, the Company will send a Determination Notice to the Direct Scheme Creditor, setting out its Gross Ascertained Claim (prior to adjustments, for instance in relation to set-off or Security) (**Clause 4.6.1(a)**). The amount of a Direct Scheme Creditor's Gross Ascertained Claim as set out in a Determination Notice will be final and binding on the Company and the relevant Direct Scheme Creditor, so far as the law permits (subject to any mathematical or manifest error) (**Clause 4.6.2**).
- 12.2 The Determination Notice will also set out details of adjustments to be applied to the Direct Scheme Creditor's Gross Ascertained Claim, in relation to set-off, Security, currency conversion and the discount to be applied to reflect the time value of money, as described further in paragraphs 12.3 to 12.8 below.
- 12.3 Set-off will be applied in respect of mutual credits, mutual debts or other mutual dealings between the Company and any Direct Scheme Creditor to set off its Direct Scheme Claims against its Liabilities to the Company (**Clause 4.9.1**).
- 12.4 Where a Direct Scheme Creditor is eligible to obtain payment under any Security, including (for the avoidance of doubt) under the Surplus Lines Trust Fund:
- 12.4.1 they are entitled to obtain payment under their Security at any time (in accordance with any contract or other instrument establishing the terms of that Security) (**Clause 4.9.3**);
- 12.4.2 the Direct Scheme Administrators will take into account the Direct Scheme Creditor's right of recourse against that Security when calculating their Net Ascertained Claim (**Clause 4.9.4**).
- 12.5 The value attributed to Security when calculating a Direct Scheme Creditor's Net Ascertained Claim (including where such value has been determined by the Direct Scheme Adjudicator) will not be binding for the purpose of determining those creditors' rights of recourse (if any) as beneficiaries of the Surplus Lines Trust Fund.
- 12.6 Any Direct Scheme Creditor who obtains or receives payment by enforcing any Security in excess of its Direct Scheme Claim will hold such excess on trust for and pay it to the Company (**Clause 4.9.5**). This clause shall not apply in relation to any enforcement or other exercise of rights by a Direct Scheme Creditor in its capacity as a beneficiary of the Surplus Lines Trust Fund (**Clause 4.9.8**).
- 12.7 The Direct Scheme does not affect the rights of the Company against any Direct Scheme Creditor in respect of any wrongful drawdown or enforcement of any Security. The amount of any wrongful drawdown will be held on trust by the relevant Direct Scheme Creditor for

the Company and paid by the Direct Scheme Creditor to the Company (**Clause 4.9.6**). This clause shall not apply in relation to any enforcement or other exercise of rights by a Direct Scheme Creditor in its capacity as a beneficiary of the Surplus Lines Trust Fund (**Clause 4.9.8**).

- 12.8 A discount will be applied for the time value of money in relation to any Notified Outstanding Claim or IBNR Claim, based on the rates set out in the Estimation Guidelines (**Clause 4.6.1(b)(iv)**). All Direct Scheme Claims will be valued as at the Scheme Reference Date (**Clause 3.1**) and Notified Outstanding Claims and IBNR Claims will be discounted to the Scheme Reference Date.
- 12.9 The amount set out in the Determination Notice after the application of the adjustments described above will (if due from the Company to the Direct Scheme Creditor) be that Direct Scheme Creditor's Net Ascertained Claim. If due from the Direct Scheme Creditor to the Company, it will be a Liability payable by that Direct Scheme Creditor to the Company (**Clause 4.6.1(c)**).
- 12.10 The Company may adjust a Direct Scheme Creditor's Net Ascertained Claim at any time after issuing a Determination Notice for the following limited reasons only: (i) if an adjustment is necessary to take into account either the actual amount of any Security in respect of which the Direct Scheme Creditor has received payment, or (ii) if an adjustment is necessary to take into account the Company's revised estimate of the value of any Security to which the Direct Scheme Creditor is entitled (**Clause 4.6.3**).
- 12.11 If a Direct Scheme Creditor's Net Ascertained Claim is adjusted in this manner, a Revised Determination Notice will be sent to the relevant Direct Scheme Creditor (**Clause 4.6.5**). Notwithstanding any adjustment to a Direct Scheme Creditor's Net Ascertained Claim, as described in paragraph 12.10, the Company may not make any adjustment to its Gross Ascertained Claim as set out in a Determination Notice (**Clause 4.6.4**).
- 12.12 If a Direct Scheme Creditor disagrees with a Revised Determination Notice, they must send notice of such disagreement to the Company within 15 Business Days of receipt of the Revised Determination Notice. The Company and Direct Scheme Creditor will attempt to reach agreement regarding any disputed matters within 30 Business Days of date of the Revised Determination Notice (**clause 4.6.6**). If agreement cannot be reached, any disputed matters will be referred to the Direct Scheme Adjudicator as a dispute, and the adjudication procedure and timelines described in paragraph 11 above will apply (**clause 4.6.7**).

13 **FUNDING BY BROKERS**

- 13.1 Brokers who have funded Direct Scheme Claims shall not constitute Direct Scheme Creditors in respect of these unless: (i) they have either an acceptable assignment of the funded Direct Scheme Claim or acceptable written confirmation from the beneficiaries of

the funding of the Broker's entitlement to submit such claim, or (ii) the funding took place pursuant to a contractual obligation of the Broker to the Company or the Company is liable to indemnify or reimburse the Broker.

- 13.2 A Broker must complete and return a Claim Form in respect of a funded Direct Scheme Claim in accordance with the Direct Scheme, with the supporting information to include a copy of the assignment or written confirmation where relevant. Any disagreement as to whether a funded Direct Scheme Claim falls within the Direct Scheme shall be referred to the Direct Scheme Adjudicator as a Dispute, with any amount thereby determined as due being binding on all parties to the extent permitted by law and subject to any mathematical or other manifest error. No party shall have any right to appeal such determination except in circumstances of the Direct Scheme Adjudicator's wilful default, wilful breach of duty or trust, fraud or dishonesty (**Clause 4.11**).

14 **PAYMENT OF CLAIMS**

- 14.1 As soon as reasonably practicable following the Final Claims Deadline, the Company will determine whether in its reasonable opinion all Net Ascertained Claims can be paid in full. In the event that it determines that all Net Ascertained Claims can be paid in full, the Company will make payment in full in respect of such claims as soon as reasonably practicable (**Clauses 5.1.1 and 5.2.1**).
- 14.2 In the event that the Company determines that all Net Ascertained Claims cannot be paid in full by the Company, the Company will as soon as reasonably practicable set a payment percentage (the "**Direct Payment Percentage**") and pay the initial Direct Payment Percentage in respect of Net Ascertained Claims once determined (**Clauses 5.1.2 and 5.2.3**).
- 14.3 A Direct Payment Percentage, once set, may subsequently be revised (**Clause 5.1.3**). In setting or revising a Direct Payment Percentage, the Company will use reasonable endeavours to ensure that all Excluded Liabilities and other liabilities ranking in priority to the Net Ascertained Claims are paid or reserved for in full and that the same Direct Payment Percentage can be paid in respect of all Net Ascertained Claims (**Clause 5.1.4**).

Payment Mechanics

- 14.4 Payments will be made by electronic bank transfer or by cheque. Payments are deemed to be made on the date electronic transfer instructions are given or the cheque is sent (**Clause 5.5**). The final payment to be made under the Direct Scheme to a Direct Scheme Creditor in respect of its Net Ascertained Claim shall be deemed to be in full and final settlement of a Direct Scheme Creditor's Direct Scheme Claims (**Clause 5.3**).
- 14.5 In some cases, the Company may be prevented by law or regulation from making payment to a Direct Scheme Creditor under the Direct Scheme. In such case, the Company will

deal with the monies owing to such Direct Scheme Creditor (referred to in the Scheme as **"Blocked Monies"**) in accordance with such law or regulation, or as instructed by the relevant authority (**Clause 5.6.2**).

14.6 In the absence of any instructions as to how to deal with Blocked Monies, the Company will hold them in an account with a United Kingdom clearing bank until it receives instructions from the relevant authority, or it becomes legal to pay the monies to the relevant Direct Scheme Creditor. It is the relevant Direct Scheme Creditor's responsibility to inform the Company if it becomes legal to pay the monies to them. If this has not occurred by the date on which the Direct Scheme terminates, the relevant Direct Scheme Creditor will have no further claim on the Company in respect of such monies (**Clause 5.6.3**).

14.7 If any amount paid to a Direct Scheme Creditor becomes an **"Unclaimed Balance"**, being:

14.7.1 a cheque issued in settlement of a Net Ascertained Claim which is not presented for payment by its payee;

14.7.2 any electronic transfer payment made in settlement of a Net Ascertained Claim and returned to the Company; or

14.7.3 any electronic transfer payment in settlement of a Net Ascertained Claim which the Direct Scheme Administrators are unable to complete due to incorrect or out of date payment details provided by the relevant Direct Scheme Creditor,

the Company will give notice of such to the relevant Direct Scheme Creditor, requesting that they update or correct the payment details previously supplied in order to enable the payment to be made (**Clause 5.7.1**). The Company will also give 30 Business Days' notice of any proposed termination of the Direct Scheme to all Direct Scheme Creditors with outstanding Unpaid Balances, to give them a further opportunity to supply alternate payment details (**Clause 5.7.2**).

14.8 If, notwithstanding the above, the Company has been unable to make payment of an Unclaimed Balance to the relevant Direct Scheme Creditor by three Business Days prior to the Termination Date, the relevant Direct Scheme Claim shall be deemed to have been paid in full and the Direct Scheme Creditor shall have no further rights in respect of it (**Clause 5.7.2**).

15 **EXCESS DISTRIBUTABLE PROPERTY**

15.1 Any Distributable Property remaining after Scheme Costs and all Net Ascertained Claims of Direct Scheme Creditors have been paid in full (including any Unclaimed Balances which the Direct Scheme Administrators have not been able to pay to the relevant Direct Scheme Creditors by three Business Days prior to the Termination Date) is **"Excess Distributable Property"**.

- 15.2 Any Excess Distributable Property will be held by the Company (acting by the Administrators or, if applicable, any subsequently appointed liquidator) for the purpose of paying Excluded Liabilities (to the extent that they have not already been paid) and other Liabilities of the Company which are not subject to the Direct Scheme. **(Clause 5.4).**

16 **DIRECT SCHEME ADMINISTRATORS**

- 16.1 The Direct Scheme Administrators will be the individuals appointed as Administrators of the Company from time to time. The first Direct Scheme Administrators will be Richard Barker and Simon Edel. If the Administration ends prior to the termination of the Direct Scheme (including in circumstances where the Administration is converted to a liquidation), the Administrators in office at the time will continue as Direct Scheme Administrators, and the Direct Scheme sets out the terms upon which a Direct Scheme Administrator may be appointed, removed or may otherwise resign **(Clause 6.1).**
- 16.2 The Direct Scheme Administrators will supervise and carry out the terms of the Direct Scheme. For these purposes they shall have the power to act in the name and on behalf of the Company and to realise the assets of the Company and apply them for the benefit of the Direct Scheme Creditors. Any function, duty, right or power of the Company or its officers that may be exercised in such a way as to interfere with the performance or exercise by the Direct Scheme Administrators or their powers, rights, duties and functions under the Direct Scheme may not be exercised without their consent **(Clause 6.2).**
- 16.3 The Direct Scheme Creditors are not permitted to challenge the validity of any act done or omitted to be done in good faith and with due care by the Direct Scheme Administrators in accordance with the Direct Scheme, nor any such act done or omitted to be done by any of their delegates or employees. The Direct Scheme Administrators, their delegates and employees are entitled to certain indemnities out of the Company's Property **(Clause 6.3).**

17 **DIRECT SCHEME OFFICE HOLDERS**

- 17.1 The Office Holders in the Direct Scheme are as follows:

Office Holder	First Appointee
Direct Scheme Actuary	Alex Lee of Ernst & Young LLP
Direct Scheme Adjudicator	Andrew Maneval of Chesham Consulting, LLC

- 17.2 More than one Direct Scheme Actuary or Direct Scheme Adjudicator may be appointed at any time **(Clauses 7.1.8 and 7.2.3).**
- 17.3 Any Office Holder may resign at any time giving at least three months' written notice (unless otherwise agreed) to the Company and shall vacate office if they are subject to an

Individual Termination Event or Corporate Termination Event as appropriate (**Clauses 7.1.9, 7.1.10, 7.2.4 and 7.2.5**).

- 17.4 In order to prevent litigation on matters dealt with under the Direct Scheme there are various limitations on actions that Direct Scheme Creditors may bring against Office Holders. Office Holders and their Associated Companies and other relevant persons are entitled to an indemnity from the property of the Company against any expenses and liabilities incurred in performing their services and any liability (including costs) incurred in relation to defending any Proceedings that may be brought against them by anyone other than the Company in relation to their actions under the Direct Scheme save where a court of competent jurisdiction holds that the Office Holders' actions have been in wilful default, in wilful breach of trust or duty, fraudulent or dishonest (**Clause 7.4**).

18 THE DIRECT CREDITORS' COMMITTEE

- 18.1 There shall be a Direct Creditors' Committee established under the Direct Scheme, comprised of at least three but not more than five Direct Committee Members. A majority of Direct Committee Members must be Direct Scheme Creditors, but at least one Direct Committee Member must be a creditor of the Company who is not a Direct Scheme Creditor, representing the interests of such creditors in any Excess Distributable Property (**Clauses 8.1.1 and 8.1.2**).
- 18.2 The first Direct Creditors' Committee will be formed (so far as possible) from the members of the existing Administration Creditors' Committee. Any Direct Scheme Creditor who is a member of the Administration Creditors' Committee at the Effective Date will become a Direct Committee Member, as will at least one other member of the Administration Creditors' Committee as at the Effective Date who is not a Direct Scheme Creditor. If it is not possible to form a quorate Direct Creditors' Committee solely from members of the Administration Creditors' Committee, the Direct Scheme Administrators will nominate other Direct Committee Members following consultation with the Administration Creditors' Committee (**Clause 8.1.3**).
- 18.3 The Direct Scheme sets out the terms upon which Direct Committee Members may be appointed, removed or may otherwise resign (**Clauses 8.1.4 and 8.1.5**).
- 18.4 The Direct Scheme sets out the specific powers and functions of the Direct Creditors' Committee (**Clause 8.3**). For example, the Direct Creditors' Committee has the right to:
- (a) review and be consulted for the purpose of setting and revising a Direct Payment Percentage (**Clause 8.3.1(a)**);
 - (b) appoint a Direct Scheme Administrator where there is no Direct Scheme Administrator (**Clause 8.3.1(b)**);
 - (c) receive notice of the resignation of a Direct Scheme Administrator (**Clause 8.3.1(c)**);
 - (d) call upon a Direct Scheme Administrator to resign (pursuant to a resolution passed by at least two-thirds of the Direct Committee Members) (**Clause 8.3.1(d)**);
 - (e) approve the remuneration of the Direct Scheme Administrators (**Clause 8.3.1(e)**);

- (f) approve the purchase of insurance for the Direct Committee Members against any liability in respect of which the Company would be obliged to indemnify such Direct Committee Member (**Clause 8.3.1(f)**);
- (g) after the end of the Administration, convene a meeting of the Direct Scheme Creditors for the purpose of considering a resolution for the removal of a Direct Scheme Administrator (**Clause 8.3.1(g)**);
- (h) be consulted in respect of an early termination of the Direct Scheme (**Clause 8.3.1(h)**); and
- (i) be consulted on any matter which the Direct Scheme Administrators, acting reasonably, consider appropriate (**Clause 8.3.1(i)**).

19 MEETINGS OF DIRECT SCHEME CREDITORS

- 19.1 Meetings of Direct Scheme Creditors may be convened:
 - 19.1.1 by the Direct Creditors' Committee to consider a resolution for the removal of a Direct Scheme Administrator (after the end of the Administration) (**Clause 9.1.1(a)**); and
 - 19.1.2 by the Direct Scheme Administrators for such purpose as they think fit (**Clause 9.1.1(b)**).

20 TERMINATION OF THE DIRECT SCHEME

- 20.1 The Direct Scheme shall terminate either:
 - 20.1.1 on the date on which the Direct Scheme Administrators determine that all payments due to Direct Scheme Creditors in respect of their Net Ascertained Claims have been paid (and any Excess Distributable Property paid to the Company) (**Clause 10.1.1**); or
 - 20.1.2 in the event that the Direct Scheme Administrators, acting in consultation with the Direct Creditors' Committee, determine that it is in the interest of the Direct Scheme Creditors for the Direct Scheme to terminate (**Clause 10.1.2**).
- 20.2 Within three Business Days of termination the Company shall give notice of the termination of the Direct Scheme on the Website. Certain provisions of the Direct Scheme will survive termination (**Clauses 10.2 and 10.3**).

21 OTHER PROVISIONS

- 21.1 The Direct Scheme will become effective on the date the court order sanctioning the Direct Scheme is delivered to the Registrar of Companies, which date is referred to in the Direct Scheme as the Effective Date (**Clause 11.1**).
- 21.2 At any Court hearing to sanction the Direct Scheme, the Company may consent on behalf of the Direct Scheme Creditors to any modification or addition to the Direct Scheme or

any terms or conditions the Court may impose, which would not materially adversely affect the rights of any Direct Scheme Creditors (**Clause 11.2**).

- 21.3 Notices or written communication under the Direct Scheme will be given in writing and sent by email unless the Company agrees otherwise, or the relevant Direct Scheme Creditor, Broker or Agent has not provided an email address (**Clauses 11.3 and 11.4**)
- 21.4 The Direct Scheme is governed by the laws of England and Wales; the High Court of England and Wales has exclusive jurisdiction in respect of the Direct Scheme and Direct Scheme Creditors irrevocably submit to that jurisdiction (**Clause 11.6**).

APPENDICES TO THE EXPLANATORY STATEMENT

APPENDIX 1:

DOCUMENTS AVAILABLE FOR INSPECTION ON THE WEBSITE

Direct Scheme Documents:

1. Direct Scheme Document including:
 - Direct Explanatory Statement
 - Direct Scheme
 - Notice of Direct Scheme Meeting
 - Voting and Proxy Form
2. Court order convening the Direct Scheme Meeting
3. Claim Form
4. Direct Scheme Practice Statement Letter

US Documents

5. Surplus Lines Trust Agreement (7 August 2003)
6. First Amendment to the Surplus Lines Trust Agreement (31 July 2006)

APPENDIX 2:

SURPLUS LINES TRUST FUND

- 1 As a condition of being permitted to write insurance business in the United States as an alien insurer the Company was required to establish a trust fund in the United States for the benefit of certain beneficiaries as described in paragraph 7 (the “**Surplus Lines Trust Fund**”).
- 2 The trustee appointed in relation to the Surplus Lines Trust Fund is State Street Bank and Trust Company, N.A. (the “**Trustee**”). The relevant regulator in the state in which the Surplus Lines Trust Fund is principally administered is the New York State Department of Financial Services (“**DFS**”).
- 3 Certain Direct Scheme Creditors may also be beneficiaries under the Surplus Lines Trust Fund.
- 4 The Surplus Lines Trust Fund is a multi-beneficiary trust fund established by the Company by way of an agreement dated 7 August 2003 (as amended on 31 July 2006 and as it may be further amended) (the “**Surplus Lines Trust Agreement**”).
- 5 The Surplus Lines Trust Fund constitutes Security in relation to any Liability of the Company arising under an “American Policy”. “**American Policy**” is defined in the Surplus Lines Trust Agreement as:
- “any contract or policy of insurance issued or any agreement to insure made by the Company pursuant to the excess or surplus lines laws of any state, district, territory, commonwealth or possession of the United States in which the Company is not licensed to do an insurance business, provided that such Policies shall not include reinsurance of life insurance.”*
- 6 The Company is not, and has never been licensed to undertake insurance business anywhere in the United States.
- 7 The beneficiaries of the Surplus Lines Trust Fund are:
- (a) each holder of an American Policy resident or doing business in the United States (an “**American Policyholder**”), and any other persons or associations who are assignees, pledgees, or mortgagees named therein; and
 - (b) any person who is not a party to the relevant American Policy but has a claim for a loss under an American Policy excluding punitive or exemplary damages awarded to or against an American Policyholder and also excluding any extracontractual obligation not expressly covered by the American Policy, or a claim for unearned premium arising from an American Policy (“**Third Party Claimant**”).
- 8 American Policyholders and Third Party Claimants are entitled to make a claim on the Surplus Lines Trust Fund in respect of their claims under an American Policy. The rights of American Policyholders and Third Party Claimants under the Surplus Lines Trust Fund are not compromised by the Direct Scheme.
- 9 The Administrators will send information and guidance regarding the process for making claims in relation to the Surplus Lines Trust Fund to all creditors of the Company for which

they have contact details and which they consider are, or may be, American Policyholders or Third Party Claimants.

Entitlement to claim on the Surplus Lines Trust Fund

- 10 For the purposes of determining whether a U.S direct policyholder is an “**American Policyholder**”, as defined in the Surplus Lines Trust Agreement, and therefore entitled to make a claim on the Surplus Lines Trust Fund, it will be necessary to consider whether the relevant policy was issued “*pursuant to the excess or surplus lines laws of any state...*” The precise definition of “excess or surplus lines” insurance varies from state to state.
- 11 The following paragraphs provide general principles which may assist in determining whether a policy was issued on an excess or surplus lines (“**E&S**”) basis. For the avoidance of doubt, the following paragraphs do not constitute legal advice in relation to the circumstances of any Direct Scheme Creditor (and are intended to act as guidance only). Direct Scheme Creditors should take appropriate legal advice where necessary.
- 12 For the purposes of determining whether a policy was issued on an E&S basis, the following factors may be relevant:
 - 12.1.1 The insured was a U.S. resident or doing business in in the U.S.
 - 12.1.2 The insured or its broker or agent was unable to purchase the insurance from an insurer licensed in the state and sought assistance from a licensed E&S producer to obtain the policy from a non-admitted insurer pursuant to the insured’s home state E&S laws.
 - 12.1.3 The policy covers direct property and casualty exposures in the state; it does not cover reinsurance.
 - 12.1.4 The E&S laws of an individual U.S. jurisdiction generally list the specific types of insurance that may be placed in the E&S market and the types of insurance that may not be placed therein. Generally, all types of property & casualty insurance may be written in the E&S market. Life insurance and monoline policies (including financial guaranty, title and mortgage guaranty insurance) generally may not be written on an E&S basis. Depending on the jurisdiction, there may be other types of insurance that may not be placed in the E&S market.
 - 12.1.5 The policy was not procured on an independent procurement basis. This type of transaction is not considered an E&S placement.
 - 12.1.6 The coverage is not considered wet marine insurance. Generally, a licensed broker may place this directly with a non-admitted insurer. An E&S producer’s license is not required.
 - 12.1.7 The policy was placed by an E&S licensee directly with the non-admitted insurer or its authorised representative.
 - 12.1.8 The insured’s policy declaration page (“**Dec Page**”), includes a stamped notice, for example stating: (i) that the unauthorised insurer with which the coverage is being placed is not authorised to do an insurance business in this jurisdiction and is not subject to supervision by this jurisdiction, (ii) that in the event of the insolvency of the unauthorised insurer, losses will not be covered by any the jurisdiction’s guaranty fund

and (iii) that the policy may not be subject to all of the jurisdiction's regulations pertaining to policy forms.

12.1.9 The Dec Page may also have an additional stamp indicating that the policy documents were filed by the E&S producer with a "Stamping Office". However, not all U.S. jurisdictions have Stamping Offices.

APPENDIX 3:

CURRICULUM VITAE OF THE DIRECT SCHEME ADJUDICATOR

ANDREW MANEVAL

President, Chesham Consulting, LLC

EMPLOYMENT HISTORY

- 2009 to Present President, Chesham Consulting, LLC
- 1993 to 2009: The Hartford Financial Services Group, Inc. (HFSG)
- 1997 to 2009: President, Horizon Management Group, LLC
- 1993 to 2009: Director, First State Insurance Company (FSIC)
New England Reinsurance Corporation (Nerco)
New England Insurance Company (NEIC)
- 2006 to 2009: President and Chairman of the Board of Directors
FSIC, Nerco, and NEIC
- 2001 to 2009: Director, Horizon Portfolio Management Limited (UK) and
Downlands Liability Management Limited (UK)
- 2005 to 2009: Manager, Reinsurance Collections and Commutations/HFSG
- 2001 to 2004: Director, The Excess Insurance Company, Ltd. (UK); and
Manager, UK Discontinued Operations
- 1995 to 2005: Manager, Discontinued Operations and Reinsurance Asset
Mgmt Services, (HFSG), Domestic Operations
- 2003 to 2005: Manager, Hart Re Company, LLC
- 1993 to 1997: Exec. VP, ITT New England Management Co., Inc. (HFSG)
- 1980 to 1993: Attorney, Mound, Cotton, Wollan & Greengrass (New York)
1987-93: Partner, Insurance/Reinsurance Dept.

PROFESSIONAL EXPERIENCE

- President, Chief Operating Officer, and Senior VP of insurance and reinsurance companies owned by The Hartford (see above). Responsibilities included senior management roles for ceded reinsurance collections, claims (reinsurance and direct), negotiations, commutations, legal matters including mediations, arbitrations, and litigations, run-off (and ongoing) operations, IT, supervising foreign operations and branch offices, compliance, actuarial, HR, operating plans, Annual Statements, training, and Board of Director functions.

- Managed delivery of in-house and third-party run-off management services to the insurance/reinsurance industry.
- Served as outside attorney to numerous insurance and reinsurance companies, counseling on various legal and regulatory issues, and representing them in many arbitrations, litigations, regulatory proceedings, and mediations.
- Has served as Arbitrator or Umpire in over 170 industry arbitrations and as an expert/expert witness in approximately 18 insurance/reinsurance industry cases.
- Responsible for winding up operations of reinsurance companies that were active in the United States, in five countries in Europe, and in Asia.

PROFESSIONAL LICENSES AND CERTIFICATIONS

- Admitted to the practice of law: New York (1980)
Massachusetts (1995)
Various Federal Courts (1981)
- Certified as an Arbitrator by ARIAS•U.S. (1999); as Umpire (2005); as Arbitrator by the Financial Industry Regulatory Authority (FINRA) (2009); as Mediator in New Hampshire state courts (2009). Serves as AIRROC & AAA/ICDR Arbitrator.

PROFESSIONAL ASSOCIATIONS

- In 2004, co-founded the Association of Insurance and Reinsurance Run-Off Companies (AIRROC); from 2005 until 2008, served as Chairman of its Board of Directors. Helped draft AIRROC's Arbitration Procedures.
- Charter Member, Industry Dispute Resolution Task Force (participated in drafting and updating the "Task Force Arbitration Procedures"); Mass. Bar Association, NH Conflict Resolution Association, and Mass. Reinsurance Bar Association.

EDUCATION

- 1976 Earlham College (A.B., Economics)
- 1980 Fordham Law School (J.D.)
- 1999 AICPCU/Wharton School at the University of Pennsylvania
(Insurance Executive Development Program)

PUBLICATIONS AND SPEAKING/CONSULTING ENGAGEMENTS

Various articles in: Mealey's Litigation Report/Reinsurance, John Liner Review, Fire Litigation Quarterly, AIRROC Matters, Fordham Urban Law Journal; coauthor of Chapter on Financial Guaranty

Insurance in Business Insurance: Law and Practice Guide (Matthew Bender, 1989); contributing author to Successful Exit Strategies for the Insurance Industry (Grant Thornton 2003). Has been a frequent speaker at insurance and reinsurance industry conferences, including Mealey's, Hawksmere, American Conference Institute, EuroLegal, Marcus Evans, AIRROC, ABA, ATLA, Massachusetts Insurance and Reinsurance Bar Association, and ARIAS, and at Executive Enterprise and Andrews Continuing Education Seminars, New York State Bar CLE Presentations, an International Bar Association Conference, DYP/LLP Seminars, and the BLG Event (UK). Has provided training for arbitrators on behalf of ARIAS•US, and for law students in the Willem C. Vis International Arbitration - Fordham Law School Practice Moot. Also, has trained corporate groups in Negotiations. Guest lecturer at University of Connecticut Law School, on Insurance Insolvencies. Acted as Chairman of the Creditors Committee for the GTE Reinsurance Company Commutation Plan under Rhode Island law. Has served on numerous not-for-profit Boards of Trustees, and in many different roles in local government. Formerly served as a member of the New Hampshire State House of Representatives.

APPENDIX 4:

CURRICULUM VITAE OF THE DIRECT SCHEME ACTUARY

ALEX LEE

Partner, Ernst & Young LLP

BACKGROUND

- Over 25 years general insurance experience
- Qualified as a Fellow of the Institute of Actuaries in 1997
- Joined Ernst & Young in 1999 and prior to this worked in the Commercial Insurance department of Eagle Star / Zurich Financial Services

SKILLS

- Experienced in advising clients across the Retail and London and Bermuda markets
- Focused on reserving, capital modelling, pricing, mergers and acquisitions and process review

PROFESSIONAL EXPERIENCE

- Alex has significant reserving experience in the London Market and runs regular reserve reviews for some of the largest managing agencies in the Lloyd's of London market including performing the role of statutory signing actuary. In addition to this Alex has also performed many independent reserve reviews within the London and Bermuda markets.
- He has been extensively involved in the audit of reserves for a wide range of Ernst & Young audit clients in the London market.
- He recently performed a review of a client's Management Liability and International Casualty Watchlist process for considering specific large claims.
- He leads many of the Ernst & Young non-life actuarial projects in relation to IFRS17 in the UK.
- Alex has been involved in many mergers and acquisitions of both ongoing companies and those in run-off working for both buyer and seller. As part of this work Alex has performed reviews of London Market, US and European business with significant experience in both direct and reinsurance business, producing cash flow and business planning models to assess the viability of transactions.
- He has acted over ten times as Independent Expert for Part VII transfers together with managing engagements for numerous other part VII transfers. This has included P&I clubs.
- He been involved in several Solvency II engagements providing advice across the range of capital modelling, reporting and risk management including for one of the largest European groups.

SECTION II

SCHEME OF ARRANGEMENT

(pursuant to Part 26 of the Companies Act 2006)

between

(1) CX REINSURANCE COMPANY LIMITED (IN ADMINISTRATION)

and its

(2) DIRECT SCHEME CREDITORS (AS DEFINED HEREIN)

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1 PART 1 PRELIMINARY

1.1 Definitions

In this Direct Scheme, unless the context otherwise requires or otherwise expressly provides, the following expressions shall bear the following meanings:

Act means the Companies Act 2006;

Adjusted Security Amount has the meaning given to such term in clause 4.6.3;

Administration means the administration commenced in respect of the Company under the IA 1986 on the Administration Date pursuant to the Administration Order;

Administration Costs means the remuneration, expenses, costs and disbursements of the Administrators and any other expenses, costs, charges, debts, liabilities and obligations either incurred on behalf of the Company by the Administrators as administration expenses or determined as administration expenses by the Court, whether arising by agreement, statute or otherwise and whether arising before or after the Effective Date;

Administration Creditors' Committee means the committee appointed to the Company from time to time in respect of the Administration in accordance with the provisions of the Insolvency Legislation;

Administration Date means 17 August 2020;

Administration Order means the order of the Court made on the Administration Date appointing the Administrators to the Company as the same may be amended and/or extended from time to time;

Administration Period means the period beginning on the Administration Date and ending on the expiry of the Administration Order;

Administrators means the persons appointed as administrators from time to time in the Administration;

Admissible Interest means any interest provided for in a contract giving rise to a Direct Scheme Claim, or any relevant statute or any other relevant law or judgment;

Agent means any person other than a broker who is authorised whether actually or ostensibly to act as an agent, attorney or representative for the Company or a Direct Scheme Creditor;

Agreed Unpaid Claim means any Direct Scheme Claim which has been reported by the Direct Scheme Creditor to the Company and agreed by the Company prior to the Scheme Reference Date but has not been paid by the Company or discharged by the operation of set-off or otherwise;

Alternate Scheme Adjudicator means an alternate to the Direct Scheme Adjudicator appointed pursuant to clause 4.5.1 or 4.5.2 in the event that the Direct Scheme Adjudicator has a conflict of interests;

American Policy means any contract or policy of insurance issued or any agreement to insure made by the Company pursuant to the excess or surplus lines laws of any state, district, territory, commonwealth or possession of the United States in which the Company is not

licensed to do business, provided that such policies shall not include reinsurance or life insurance;

American Policyholder means the holder of an American Policy resident or doing business in the United States, and any other persons or associations who are assignees, pledgees or mortgagees named therein;

Associated Company means, in relation to a company, any subsidiary company or any parent company of such company, or any subsidiary of such company's parent company;

Blocked Monies means any money or amount payable to a Direct Scheme Creditor under the Direct Scheme the payment of which is prohibited by an applicable law or regulation referred to in clause 5.6 (*International Sanctions*);

Broker means any broker who placed an Insurance Contract with or on behalf of the Company, or, if applicable, any successor to such a broker;

Business Day means any day other than Saturday, Sunday or any other day on which banks in the City of London are not open for business;

Claim Form means the document entitled Claim Form, in substantially the form set out in Schedule 5, made available to Direct Scheme Creditors on the Website after the Effective Date or sent to Direct Scheme Creditors pursuant to clauses 3.2.1 or a Voting and Proxy Form in which a Direct Scheme Creditor has elected to have such form treated as its Claim Form;

Committee Chair has the meaning given to such term in clause 8.2.1;

Committee Member means a member of the Administration Creditors' Committee or a Direct Committee Member as the context shall admit;

Company means CX Reinsurance Company Limited (in administration), a company incorporated in England and Wales with registered number 01086556 whose registered office is at 1 More London Place, London, SE1 2AF;

Corporate Termination Event in relation to a corporate Office Holder means that Office Holder:

- (a) becomes unable to pay its debts within the meaning of Section 123 of the IA 1986; or
- (b) takes or becomes subject to any steps, actions, legal proceedings or other procedure (other than such steps, actions, legal proceedings or other procedures which are unmeritorious and are dismissed within 28 Business Days of the relevant corporate Office Holder becoming aware of them) in relation to:
 - (i) a moratorium on or suspension of payment of debts, winding up, dissolution, administration or re-organisation;
 - (ii) a composition or arrangement with any creditor;
 - (iii) the appointment of a liquidator, receiver, administrative receiver, administrator or other similar officer in relation to it or its assets;
 - (iv) the enforcement of any security held over any of its assets; or
- (c) takes or becomes subject to any similar or analogous steps or procedures in any jurisdiction;

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

Determination Notice means a notice sent by the Company to a Direct Scheme Creditor pursuant to clause 4.6 (*Determination Notice*) setting out the amount which the Company or the Direct Scheme Adjudicator has determined to be the Direct Scheme Creditor's Gross Ascertained Claim and Net Ascertained Claim;

Direct Creditors' Committee means the committee established in accordance with Part 8 of this Direct Scheme;

Direct Committee Member means a member of the Direct Creditors' Committee, appointed in accordance with Part 8 of this Direct Scheme and whose appointment has not been terminated in accordance with that Part;

Direct Delegate has the meaning given to that term in clause 6.2.2(m);

Direct Employee means a partner in the same firm as the Direct Scheme Administrators, or any individual employed under a contract of services or contract for services by that firm or a company owned by that firm who is employed by one or both Direct Scheme Administrators in connection with their functions and powers under the Direct Scheme;

Direct Explanatory Statement means the explanatory statement required to be provided to Direct Scheme Creditors in connection with the Direct Scheme pursuant to section 897 of the Act;

Direct Insurance means the cover provided by an insurer to a non-insurer policyholder, as opposed to reinsurance cover provided by an insurer to cover insurance risks written by another insurer;

Direct Payment Percentage means the percentage of a Net Ascertained Claim payable by the Company to a Direct Scheme Creditor, as determined in accordance with clause 5.1 and 5.2;

Direct Scheme means this scheme of arrangement in respect of the Company under Part 26 of the Act in the form set out in this document with or subject to any modification, addition or condition approved or imposed by the Court and that is consented to by the Company in accordance with clause 11.2;

Direct Scheme Actuary means any person or entity appointed as actuarial adviser to the Company in relation to the Direct Scheme pursuant to clause 7.2;

Direct Scheme Adjudicator means a person appointed as scheme adjudicator pursuant to clause 7.1 (*Direct Scheme Adjudicator*), and any alternate Direct Scheme Adjudicator appointed pursuant to clause 4.5 (*Direct Scheme Adjudicator: Conflict of Interests*);

Direct Scheme Administrator means a person appointed as scheme administrator in accordance with clause 6.1 (*Qualification, appointment, resignation and removal*);

Direct Scheme Claim means a claim against the Company arising pursuant to a policy of Direct Insurance;

Direct Scheme Creditor means a person in respect of whom the Company owes a Direct Scheme Claim;

Direct Scheme Document means the document to be sent to Direct Scheme Creditors, comprising, among other things, the Direct Explanatory Statement, the Direct Scheme, the Notice of the Direct Scheme Meeting and the Voting and Proxy Form;

Direct Scheme Meeting means the meeting of the Company's creditors convened by the Company with the permission of the Court for the purpose of considering, and if thought fit approving, the Direct Scheme;

Direct Scheme Period means the period commencing on the Effective Date and ending on the Termination Date;

Dispute means a disputed matter in relation to a Direct Scheme Claim which has been referred to a Direct Scheme Adjudicator pursuant to clause 4.3.5, 4.3.6 or 4.6.7;

Dispute Notice has the meaning given to such term in clause 4.3.1;

Distributable Property means the net proceeds of all and any Property of the Company realised after having first paid or provided for the Administration Costs (including by making provision for future unanticipated costs), Preferential Claims and Pre-Scheme Expenses;

Effective Date means the date on which an office copy of the order of the Court sanctioning the Direct Scheme is delivered for registration to the Registrar of Companies;

Estimation Guidelines means the actuarial methodology for use in valuing Direct Scheme Claims set out in Schedule 1 to the Direct Scheme Document, including the supporting evidence guidelines set out in Schedule 2 to the Direct Scheme Document;

Euro or € means the single currency adopted by participating Member States in furtherance of economic and monetary union under Article 109 of the Treaty of the European Union;

Exchange Rate means the closing mid-market rate of exchange applying to a particular currency as quoted by the Financial Times on 29 December 2023, being the Business Day immediately preceding the Scheme Reference Date;

Excess Distributable Property means any Distributable Property remaining after the Scheme Costs and the Net Ascertained Claims of Direct Scheme Creditors have been paid in full in accordance with the terms of the Direct Scheme;

Excluded Liability means any Liability of the Company if and to the extent that it is any one of the following:

- (a) an Administration Cost;
- (b) a Preferential Claim;
- (c) a Pre-Scheme Expense; and/or
- (d) a Scheme Cost;

Final Claims Deadline means 11.59 p.m. in England on the day 180 days after (and not including) the Effective Date, or, if such day is not a Business Day, on the Business Day next following;

Gross Ascertained Claim means the gross value of a Direct Scheme Creditor's Direct Scheme Claim as agreed or determined in accordance with the Direct Scheme pursuant to either clause 4.2 (*Direct Scheme Claim agreed as set out on Claim Form*); clause 4.3 (*Direct*

Scheme Claim not agreed as set out on Claim Form) or clause 4.4 (Scheme Adjudication procedure);

IA 1986 means the Insolvency Act 1986;

IBNR Claim means an incurred but not reported Direct Scheme Claim arising under or in respect of an Insurance Contract for:

- (a) the amount payable by the Company in respect of a loss which has been incurred but has not been reported to or discovered by a Direct Scheme Creditor as at the Scheme Reference Date; plus
- (b) the amount payable in respect of losses which have been notified to the Company as at the Scheme Reference Date which are not yet certain in amount and to the extent that the current notified amount may prove to be inadequate;

IBNR Liability means the Liability of the Company in respect of an IBNR Claim;

Individual Termination Event in relation to an individual Office Holder, means that Office Holder:

- (a) dies;
- (b) becomes bankrupt or subject to an individual voluntary arrangement or takes or becomes subject to any similar or analogous step or procedure in any jurisdiction;
- (c) is admitted to hospital because of mental disorder or is the subject of an order in matters concerning his mental disorder made by a court having jurisdiction in England or elsewhere in such matters;
- (d) is disqualified from acting as a director under the Company Directors Disqualification Act 1986;
- (e) becomes unable to perform their duties by reason of illness or any other reason; or
- (f) is convicted of an indictable offence

Insolvency Legislation means the IA 1986 and the subordinated legislation thereto;

Insurance Contract a contract or a policy of Direct Insurance of any kind whatsoever entered into by or on behalf of the Company or in relation to which the Company has assumed liability (including any contract which amends or commutes the same but in respect of which the Company still has a Liability);

Letter of Credit means any valid letter of credit issued to or for the benefit of a Direct Scheme Creditor in respect of any liability the subject of a Direct Scheme Claim;

Liability means any debt or liability (being a liability to pay money or money's worth) of a person whether it is present or future, certain or contingent, whether its amount is fixed or liquidated or is capable of being ascertained by fixed rules or as a matter of opinion, including any liability under any enactment (in England and Wales or in any other jurisdiction) and any liability in contract, tort or bailment or arising out of an obligation to make restitution or in any other manner whatsoever provided that such expression does not include any debt or liability which is barred by statute under English law or the law of any other jurisdiction which applies to that liability or is otherwise unenforceable. For the avoidance of doubt, where any contract or policy is void or, being voidable, has been duly avoided, no obligation or liability shall arise in respect of such contract or policy;

Lloyd's means the society incorporated by the Lloyd's Act 1871 in the name of Lloyd's and situated at One Lime Street, London EC3M 7HA, United Kingdom;

Lloyd's Syndicate means a group of underwriting members of Lloyd's, to which a number is assigned by the Council of Lloyd's;

Net Ascertained Claim means the net value of a Direct Scheme Creditor's Direct Scheme Claim as set out in a Determination Notice after application of the adjustments to its Gross Ascertained Claim pursuant to clause 4.6.1(b);

Notified Outstanding Claim means a Direct Scheme Claim arising under an Insurance Contract in respect of a loss that has been reported to the relevant Scheme Creditor as at the Scheme Reference Date but excluding any Agreed Unpaid Claim;

Notified Outstanding Liability means the Liability of the Company in relation to a Notified Outstanding Claim;

Office Holder means each of the Direct Scheme Administrators, the Direct Scheme Adjudicator, any Alternate Scheme Adjudicator, and the Direct Scheme Actuary;

Post means delivered by hand (including a generally recognized commercial courier service), pre-paid first or second class post, or airmail;

Pounds Sterling, GBP or £ means pounds sterling, being the lawful currency of the United Kingdom;

Practice Statement Letter means the letter dated 4 September 2024 (a copy of which is also available on the Website) sent by the Company to the Direct Scheme Creditors, brokers and interested parties notifying them that the Direct Scheme is being promoted;

Preferential Claim means a Liability of the Company which constitutes a preferential debt under section 386 of the IA 1986;

Pre-Scheme Expenses means all costs, charges, expenses and disbursements reasonably incurred by the Administrators in connection with the negotiation, promotion, preparation and implementation of the Direct Scheme, including the costs of holding the Direct Scheme Meeting and the costs of obtaining the sanction of the Court to the Direct Scheme;

Proceedings means any form of proceedings in any jurisdiction or forum including, without limitation, any legal proceedings, demand, arbitration, alternative dispute resolution procedure, judicial review, adjudication, mediation, execution, seizure, distraint, forfeiture, re-entry, enforcement of judgment or enforcement of any Security or any step taken for the purpose of creating or enforcing a lien;

Property means all forms of property (including money, goods, things in action, land and every description of property wherever situated) and of obligations and every description of interest, whether present, future, vested or contingent arising out of or incidental to, property and including, for the avoidance of doubt, all contributions to the assets of the Company not falling within the meaning of the Company's property under the IA 1986;

Registrar of Companies means the registrar or other officer performing under the Companies Act 2006 (and any provisions of the Companies Act 1985 which remain in force) the duty of registration of companies in England and Wales;

Relevant Currency means:

- (a) for Liabilities incurred in US Dollars, US Dollars;
- (b) for Liabilities incurred in Pounds Sterling, Pounds Sterling;
- (c) for Liabilities incurred in Euro, Euros; and
- (d) for Liabilities incurred in all other currencies, US Dollars

Revised Determination Notice means a revised Determination Notice sent to a Direct Scheme Creditor pursuant to clause 4.6.5, 4.6.6 or 4.6.7;

Scheme Costs means:

- (e) all costs, charges, expenses, disbursements and other debts incurred by the Company in the course of implementing and carrying out the Direct Scheme and of complying with the provisions of the Act; and
- (f) insofar as they do not fall within (a), all costs, charges, expenses and disbursements incurred by, and the remuneration of, the Direct Scheme Administrators and Office Holders;

Scheme Reference Date means 31 December 2023;

Security means:

- (a) any deposit or reserve of funds or assets established by the Company (including, for the avoidance of doubt, the Surplus Lines Trust Fund); or
- (b) any guarantee provided by a third party; or
- (c) any Letter of Credit; or
- (d) any funds held or otherwise retained by a Direct Scheme Creditor

in each case to secure payment of any Direct Scheme Claim;

Surplus Lines Trust Agreement means the agreement dated 7 August 2003 (as amended on 31 July 2006) between the Company and State Street Bank and Trust Company, N.A. (as Trustee), and as it may be further amended, by which the Company established the Surplus Lines Trust Fund;

Surplus Lines Trust Fund means the multi-beneficiary trust fund established by the Company by the Surplus Lines Trust Agreement for the benefit of (i) American Policyholders, and (ii) Third Party Claimants;

Surviving Provisions means clauses 1.1, 1.2, 4.12, 6.3.2, 6.3.3, 6.3.4, 6.3.5, 6.3.6, 7.4.1, 7.4.2, 7.4.3, 7.4.4, 7.4.5, 8.5.1, 8.5.2, 8.5.3, 10, 11.2, 11.3, 11.4 and 11.6;

Tax means any form of taxation, levy, duty, charge, contribution, withholding, or impost of whatever nature (including any related fine, penalty, surcharge or interest) imposed, collected or assessed by or payable to a Tax Authority;

Tax Authority means any government, state, municipality, or any local, state, federal or other fiscal, revenue, customs or excise authority, body or official anywhere in the world (including in the United Kingdom, without limitation, HM Revenue and Customs);

Termination Date means the day upon which the Direct Scheme terminates in accordance with Part 10 of the Direct Scheme;

Third Party Claimant means any person who is not a party to the relevant American Policy, but has a claim for a loss under an American Policy excluding punitive or exemplary damages awarded to or against an American Policyholder and also excluding any extracontractual obligation not expressly covered by the American Policy, or a claim for unearned premium arising from an American Policy;

Unclaimed Balance means:

- (a) an amount represented by any cheque issued in settlement of a Net Ascertained Claim not presented for payment by its payee;
- (b) any electronic transfer payment made in settlement of a Net Ascertained Claim and returned to the Company; or
- (c) any electronic transfer payment in settlement of a Net Ascertained Claim which the Direct Scheme Administrators are unable to complete due to the payment details provided by the relevant Direct Scheme Creditor being incorrect or out of date;

U.S. Dollars, \$ or USD means United States Dollars, being the lawful currency of the United States of America;

Voting and Proxy Form means a voting and proxy form in the form provided at Schedule 5 of the Direct Scheme Document to be submitted by a Direct Scheme Creditor at the Direct Scheme Meeting; and

Website means the website with the address:

https://www.ey.com/en_uk/administrations/cxreinsurancecompanydirectscheme

1.2 Interpretation

In this Direct Scheme, unless the context otherwise requires or the Direct Scheme expressly provides otherwise:

- 1.2.1 references to parts, clauses, sub-clauses and schedules are references to the parts, clauses, sub-clauses and schedules respectively of the Direct Scheme;
- 1.2.2 references to a "person" include an individual, firm, partnership, limited liability partnership, company, corporation, unincorporated body of persons or any state or state agency;
- 1.2.3 references to a statute or a statutory provision or to a statutory instrument or provision of a statutory instrument include the same as subsequently modified, amended or re-enacted from time to time;
- 1.2.4 the singular includes the plural and vice versa and words importing one gender shall include all genders;
- 1.2.5 headings to parts, clauses, sub-clauses and schedules are for ease of reference only and shall not affect the interpretation of the Direct Scheme; and
- 1.2.6 references to meetings may include a meeting held either in person, by telephone, by video conference, or by other electronic means.

1.3 **Participation in the Direct Scheme**

1.3.1 The Administrators, Direct Scheme Administrators and Direct Scheme Adjudicator have each consented to act in relation to and agreed to be bound by the Direct Scheme from the Effective Date.

2 **PART 2 INTRODUCTORY PROVISIONS**

2.1 **Application of the Direct Scheme**

The Direct Scheme shall apply to all Direct Scheme Claims only. Excluded Liabilities are not subject to the terms of this Direct Scheme.

2.2 **Distributable Property**

2.2.1 Until such time as the Administration Order is discharged, the Administrators may continue to collect in and, to the extent possible, realise the Property of the Company. After the Company (acting by the Administrators) has paid or provided for Administration Costs (including by making provision for future unanticipated costs), Preferential Claims and Pre-Scheme Expenses, the Distributable Property will be held by the Company (acting by the Direct Scheme Administrators) for distribution in accordance with the Direct Scheme.

2.2.2 The Company (acting by the Direct Scheme Administrators) shall hold the Distributable Property on trust for the following purposes:

- (a) to be applied in payment of Scheme Costs;
- (b) after all Scheme Costs have been paid or provided for in full, to be applied in payment of Net Ascertained Claims in accordance with the terms of the Direct Scheme; and
- (c) following payment in full of all Scheme Costs and Net Ascertained Claims, to be applied in accordance with clause 5.4 as Excess Distributable Property.

2.2.3 Any interest, income or capital gains accruing in relation to the Distributable Property shall accrue as Distributable Property. If the Distributable Property is paid into a bank account, the Direct Scheme Administrators shall use reasonable endeavours to ensure that the interest rate of the relevant account is comparable to other such accounts as are available in the market at that time.

2.3 **Proceedings by Direct Scheme Creditors**

2.3.1 Without prejudice to clause 2.3.4 and save with the consent of the Company, or to the extent that such restriction is prohibited by law, or as set out in clause 2.3.2, no Direct Scheme Creditor shall be permitted to institute or continue any Proceedings whatsoever against the Company or its Property in any jurisdiction to establish the existence or quantum of a Direct Scheme Claim.

2.3.2 Nothing in the Direct Scheme shall preclude an American Policyholder or Third Party Claimant from instituting or continuing any Proceedings against the Company for the purpose of establishing the existence and/or quantum of its claim on the Surplus Lines Trust Fund in accordance with the terms of the Surplus Lines Trust Agreement.

2.3.3 Save to the extent that the Company has failed to perform any obligation to make a payment to a Direct Scheme Creditor under the provisions of the Direct Scheme, no Direct Scheme Creditor shall be permitted to institute or continue any

Proceedings whatsoever against the Company or its Property, in any jurisdiction whatsoever to enforce payment in whole or in part of any Direct Scheme Claim.

- 2.3.4 Nothing in the Direct Scheme shall preclude the Company from instituting or continuing any Proceedings against a Direct Scheme Creditor. For the avoidance of doubt, the relevant Direct Scheme Creditor shall be entitled to assert and prosecute a Direct Scheme Claim against the Company by way of counter-claim in such Proceedings (but only to the extent that the court or tribunal in question would – absent this Direct Scheme - have jurisdiction to adjudicate upon such counter-claim in such Proceeding).
- 2.3.5 For the purposes of clause 2.3.4, the Company shall be deemed not to be continuing any Proceedings which commenced before the Effective Date and in which the Company is not actively prosecuting its claims against such Direct Scheme Creditor.
- 2.3.6 For limitation purposes, time shall stand still in respect of Direct Scheme Claims from the Effective Date. Should the Direct Scheme terminate pursuant to clause 10.1.1(b) , the Company shall not be entitled to reject a claim on the basis that any limitation period, whether contractual or statutory, has expired since the Effective Date and time will begin to run again from the date of termination.

2.4 Effect of proceedings by Direct Scheme Creditors

- 2.4.1 If, and to the extent that, a Direct Scheme Creditor obtains an order, judgment, decision or award of a court or tribunal against the Company in relation to a Direct Scheme Claim in contravention of clauses 2.3.1 and/or 2.3.3, such order, judgment, decision or award shall not give rise to a Net Ascertained Claim and shall be disregarded when determining the Liability of the Company in respect of the relevant Direct Scheme Claim or any Liability of the Direct Scheme Creditor to the Company.
- 2.4.2 If any Direct Scheme Creditor takes any action after the Effective Date which is prohibited by clauses 2.3.1 and/or 2.3.3, it shall, without prejudice to any other rights of the Company, be treated as having received an advance distribution on account of its Direct Scheme Claim equal to the amount or gross value of any money, Property, benefit or advantage obtained by it at the expense of the Company as the result of such action, and the extent to which it is entitled to participate in any distribution under the Direct Scheme shall be determined accordingly.
- 2.4.3 For the purpose of clause 2.4.2, the gross value of any money, Property, benefit or advantage obtained by a Direct Scheme Creditor shall be conclusively determined by the Company and, without limitation, may include such amount as the Company may consider to be appropriate by way of interest, costs, charges or expenses incurred by the Company as a consequence of the relevant Direct Scheme Creditor acting in a manner prohibited by clause 2.3 (*Proceedings by Direct Scheme Creditors*).
- 2.4.4 If the amount of an advance distribution which a Direct Scheme Creditor is treated as having received pursuant to clause 2.4.2 exceeds the total amount the relevant Direct Scheme Creditor would otherwise be entitled to receive from the Company pursuant to the Direct Scheme, then without prejudice to any other rights of the Company, the Direct Scheme Creditor shall immediately repay the excess to the

Company, failing which interest shall accrue on such excess for the period from and including the date upon which the Direct Scheme Creditor's Liability to the Company is established under the Direct Scheme to the date of repayment of such excess, at the rate of 3% over the base rate set by the Bank of England from time to time. Interest shall be calculated on the basis of the actual number of days elapsed and on the basis of a 365 day year if the amount concerned is denominated in Pounds Sterling, but otherwise on the basis of a 360 day year and shall be payable immediately. Such excess and any interest thereon shall be held on trust for the Company by the relevant Direct Scheme Creditor until paid.

2.5 Interest

- 2.5.1 For the purpose of paying or providing for distributions under the Direct Scheme, where a Direct Scheme Claim includes an element of Admissible Interest, such Admissible Interest shall be deemed payable for the period from the date provided for in the relevant contract, judgment or statute to the day immediately preceding the Scheme Reference Date.
- 2.5.2 No distribution shall be paid under the Direct Scheme in respect of any part of a Direct Scheme Claim which represents interest which is not Admissible Interest.
- 2.5.3 Any payment made under the Direct Scheme in respect of any part of a Direct Scheme Claim which represents Admissible Interest shall be made net of any deduction or withholding for or on account of Tax which may be required by law.

2.6 Currency of Payment

- 2.6.1 All payments under the Direct Scheme will be made in a Relevant Currency.
- 2.6.2 Where a Direct Scheme Claim is in a currency other than a Relevant Currency, it shall for the purposes of set-off and payment under the Direct Scheme be converted into either:
 - (a) if the relevant Direct Scheme Creditor also has Direct Scheme Claims in a Relevant Currency, into the Relevant Currency which accounts for the largest proportion of its Direct Scheme Claims; or
 - (b) US Dollars.
- 2.6.3 Where a Direct Scheme Creditor has Direct Scheme Claims in more than one Relevant Currency, they shall for the purposes of set-off and payment under the Direct Scheme be converted into the Relevant Currency in which that Direct Scheme Creditor has the largest Direct Scheme Claim.

3 PART 3 CLAIMS SUBMISSION

3.1 Date for valuation of Direct Scheme Claims

All Direct Scheme Claims shall be valued as at the Scheme Reference Date.

3.2 Notice of Effective Date and Distribution of Claim Forms

- 3.2.1 The Company shall, within ten Business Days of the Effective Date, send by email or post to each known Direct Scheme Creditor for which the Company has current

email or postal address details, and each Broker and Agent of a Direct Scheme Creditor for which the Company has current email or postal address details:

- (a) a notice:
 - (i) confirming that the Direct Scheme has become effective;
 - (ii) confirming the Final Claims Deadline; and
 - (iii) calling on all Direct Scheme Creditors to submit a Claim Form by the Final Claims Deadline; and
 - (b) where applicable, the documents specified in clause 3.3.1 below.
- 3.2.2 The Company shall within ten Business Days of the Effective Date or as soon as may be practicable thereafter cause to be published, where reasonably practicable, in the same newspapers and publications in which the Direct Scheme Meeting was advertised, namely: The London Gazette; Les Echos (France); USA Today; Business Insurance (US) and The Financial Times UK and Worldwide editions:
- (a) notice that the Direct Scheme has become effective;
 - (b) confirmation of the Final Claims Deadline; and
 - (c) instructions on how a Direct Scheme Creditor can download a copy of the Claim Form from the Website or request a Claim Form to be sent by Post by the Company.
- 3.2.3 The Company shall, within three Business Days of the Effective Date, make available on the Website:
- (a) a copy of the notice referred to in clause 3.2.1;
 - (b) the full text of the Direct Explanatory Statement;
 - (c) the full text of the Direct Scheme;
 - (d) all other documents referred to in the Direct Explanatory Statement and the Direct Scheme; and
 - (e) a copy of the Claim Form.
- 3.2.4 The Company will send a physical copy of any of the documents available on the Website to any Direct Scheme Creditor upon request.

3.3 Completion of Claim Forms by Direct Scheme Creditors

- 3.3.1 Together with any notice given in accordance with clause 3.2.1, the Company shall send each Direct Scheme Creditor:
- (a) a copy of such Direct Scheme Creditor's completed Voting and Proxy Form in which the Direct Scheme Creditor has elected to have such form treated as its Claim Form in the Direct Scheme; or
 - (b) a Claim Form completed with such details of Agreed Unpaid Claims of that Direct Scheme Creditor as the Company has on its books as at the Scheme Reference Date and instructions on how to complete it.
- 3.3.2 Save as provided in clause 3.4.2, each Direct Scheme Creditor (whether or not it is has received a Claim Form in accordance with clause 3.2.1) must submit a Claim Form in accordance with its accompanying instructions and the provisions of this clause 3.3 and by no later than the Final Claims Deadline in order to be eligible to receive any payment in respect of its Direct Scheme Claim.
- 3.3.3 Direct Scheme Creditors shall provide with their Claim Forms:
- (a) the specific amount the Direct Scheme Creditor seeks to claim in respect of its Direct Scheme Claim;

- (b) whether the Direct Scheme Claim consists of Agreed Unpaid Claims and/or Notified Outstanding Claims and/or IBNR Claims;
 - (c) details of any Security held in respect of all or any part of their Direct Scheme Claim, including evidence to support their entitlement to such Security;
 - (d) whether there is any Admissible Interest payable in respect of the Direct Scheme Claim;
 - (e) such other additional details as may be available to assist the Company in verifying the claim including date of loss, claimant name, excess policy and policy limit;
 - (f) evidence to support the reasonableness of the Direct Scheme Claim in accordance with the instructions contained in the Estimation Guidelines; and
 - (g) an email address at which the Direct Scheme Administrators and Direct Scheme Adjudicator can communicate with the Direct Scheme Creditor in relation to its Direct Scheme Claim.
- 3.3.4 Each Direct Scheme Creditor shall be entitled to complete and submit a new or revised Claim Form in accordance with clause 3.3 and the instructions accompanying the Claim Form and to provide revised or further information in respect of its Direct Scheme Claim, together with any relevant supporting documentation, to the Company so as to reach the Company at any time before the Final Claims Deadline. The last Claim Form received from a Direct Scheme Creditor before the Final Claims Deadline will be the only Claim Form which the Company will consider pursuant to Part 4 (*Determination of Net Ascertained Claims*) in respect of that Direct Scheme Creditor's Direct Scheme Claim.
- 3.3.5 No revisions to the quantum of any Direct Scheme Claim will be accepted from a Direct Scheme Creditor after the Final Claims Deadline and no revised or further information will be accepted after that date unless sent in response to a request by the Company or the Direct Scheme Adjudicator.

3.4 **Failure to Return Claim Form**

- 3.4.1 Subject to clause 3.4.2, no Direct Scheme Creditor shall be entitled to receive any payment from the Company under the Direct Scheme in respect of a Direct Scheme Claim unless that Direct Scheme Claim has been notified to the Company by the Direct Scheme Creditor on a Claim Form in accordance with clause 3.3 (*Completion of Claim Forms by Direct Scheme Creditors*), such Claim Form being received by the Company no later than the Final Claims Deadline.
- 3.4.2 A Direct Scheme Creditor will only be entitled to receive payment in respect of a Direct Scheme Claim without submitting a Claim Form in accordance with clause 3.3.2 in the following circumstances:
- (a) if the Direct Scheme Creditor has elected on its Voting and Proxy Form to have that Voting and Proxy Form treated as its Claim Form, and such Direct Scheme Claim was set out in that Voting and Proxy Form;
 - (b) if the Direct Scheme Creditor only wishes to receive payment in relation to a Direct Scheme Claim consisting of Agreed Unpaid Claims set out by the Company on its Claim Form in accordance with clause 3.3.1(b) (in which case it will only be entitled to receive payment in relation to such Agreed Unpaid

Claims, unless it submits a Claim Form in respect of any other Direct Scheme Claims in accordance with clause 3.3.2).

Direct Scheme Creditors falling into any of sub-paragraphs (a) to (b) above are nevertheless entitled to submit a Claim Form at any time prior to the Final Claims Deadline in accordance with clause 3.3 (*Completion of Claim Forms by Scheme Creditors*).

- 3.4.3 Subject to clause 3.4.2, any Direct Scheme Claim not notified to the Company in accordance with clause 3.3 (*Completion of Claim Forms by Direct Scheme Creditors*) by no later than the Final Claims Deadline shall be deemed to have been satisfied in full and the Direct Scheme Creditor shall have no further rights against the Company in respect of that Direct Scheme Claim.

4 PART 4 DETERMINATION OF NET ASCERTAINED CLAIMS

4.1 Review of Claim Forms

- 4.1.1 The Company will consider the information concerning a Direct Scheme Creditor's Direct Scheme Claim contained in its Claim Form including, but not limited to, consideration of whether any Direct Scheme Claim is adequately supported with relevant documentation, whether any estimates in relation to IBNR Claims are reasonable, having taken account of the principles set out in the Estimation Guidelines, and whether there is any applicable Security or set-off.
- 4.1.2 The Company will not be bound by, or prepared to follow, any settlement made between the Direct Scheme Creditor and another risk carrier if it believes that settlement to be unreasonable.
- 4.1.3 As part of the process of determining a Direct Scheme Creditor's Gross Ascertained Claim, the Company shall apply the principles set out in the Estimation Guidelines.
- 4.1.4 The Company shall be entitled at any time, by written notice to the Direct Scheme Creditor concerned, to request the production of such further information or such documentation or other evidence as it may reasonably require to assist it in agreeing a Direct Scheme Claim.

4.2 Direct Scheme Claim agreed as set out on Claim Form

If the Company agrees with a Direct Scheme Creditor's estimate of the value of its Direct Scheme Claim as set out in its Claim Form it shall, during the period commencing on the day following the Final Claims Deadline and ending 90 days after the Final Claims Deadline, notify the relevant Direct Scheme Creditor of such agreement and send a Determination Notice to that Direct Scheme Creditor as set out in clause 4.6.

4.3 Direct Scheme Claim not agreed as set out on Claim Form

- 4.3.1 If the Company does not agree with a Direct Scheme Creditor's estimate of the value of its Direct Scheme Claim as set out in its Claim Form or any value or information set out by a Direct Scheme Creditor on its Claim Form, it shall, during the period commencing on the day following the Final Claims Deadline and ending 90 days after the Final Claims Deadline, send a notice in writing to the relevant Direct Scheme Creditor (a "**Dispute Notice**") specifying:
- (a) those matters which are not agreed;
 - (b) the reasons for failing to agree such matters; and

- (c) any additional information and/or documentation or other evidence that the Company may require.
- 4.3.2 The relevant Direct Scheme Creditor shall, no later than 30 Business Days after the date of a Dispute Notice, submit its written response to such Dispute Notice, including any additional information and/or documentation or other evidence as requested in the Dispute Notice.
- 4.3.3 The Company and Direct Scheme Creditor will endeavour in good faith to reach agreement as to the disputed matters and the value of the relevant Direct Scheme Claim within 60 Business Days after the date of a Dispute Notice. In the event that the Direct Scheme Claim is so agreed, the Company shall send a Determination Notice to the relevant Direct Scheme Creditor as set out in clause 4.6 (*Determination Notice*).
- 4.3.4 If a Direct Scheme Creditor fails:
 - (a) to provide its written response to a Dispute Notice within 30 Business Days of the date of a Dispute Notice; or
 - (b) to provide any additional information and/or documentation or other evidence requested by the Company in a Dispute Notice within 30 Business Days of the date of a Dispute Notice,
 the Company shall be entitled to make such determination as to the value of the Direct Scheme Creditor's Direct Scheme Claim as it sees fit in accordance with the Estimation Guidelines and on the basis of the information available to it and shall send a Determination Notice to the relevant Direct Scheme Creditor as set out in clause 4.6 (*Determination Notice*).
- 4.3.5 In the event that a Direct Scheme Creditor's Direct Scheme Claim has not been agreed or determined and set out on a Determination Notice pursuant to clause 4.2 (*Direct Scheme Claim agreed as set out on Claim Form*), 4.3.3 or 4.3.4 by the date falling 150 Business Days after the Final Claims Deadline, the Company shall refer any disputed matter relating to that Direct Scheme Creditor's Direct Scheme Claim to the Direct Scheme Adjudicator for determination.
- 4.3.6 At any time after the return of a Claim Form, the Company may refer any disputed matter relating to a Direct Scheme Claim to the Direct Scheme Adjudicator for determination if it considers in good faith that it will not be able to reach agreement with the relevant Direct Scheme Creditor as to the value of that Direct Scheme Claim.

4.4 **Scheme Adjudication Procedure**

- 4.4.1 When referring a Dispute to the Direct Scheme Adjudicator in accordance with clauses 4.3.5 or 4.3.6, the Company shall send written notice of the Dispute to the Direct Scheme Adjudicator by post or email, with a copy to the relevant Direct Scheme Creditor, enclosing:
 - (a) a copy of the relevant Claim Form;
 - (b) any supporting documents, supporting schedules or evidence accompanying such Claim Form; and
 - (c) any notice, statement or correspondence sent or received by the Company in connection with the Dispute in the course of attempting to determine the Direct Scheme Creditor's claim under the Direct Scheme.
- 4.4.2 When referring a Dispute relating to an Adjusted Security Amount to the Direct Scheme Adjudicator in accordance with clause 4.6.7, the Company shall send written notice of

the Dispute to the Direct Scheme Adjudicator by post or email, with a copy to the relevant Direct Scheme Creditor, enclosing:

- (a) a copy of the relevant Revised Determination Statement;
- (b) any supporting documents or evidence relating to the Adjusted Security Amount set out on such Revised Determination Statement; and
- (c) any correspondence sent or received by the Company in connection with the Adjusted Security Amount or the Revised Determination Statement.

4.4.3 In addition to the documents sent to them pursuant to clause 4.4.1 or clause 4.4.2 (as appropriate), the Direct Scheme Adjudicator shall have access to such of the Company's records and information in the possession of or under the control of the Company which the Direct Scheme Adjudicator considers they need to resolve the Dispute.

4.4.4 The Direct Scheme Adjudicator shall within 21 Business Days of the date of the notice referring the Dispute to them, notify the Company and/or the relevant Direct Scheme Creditor if they require:

- (a) any additional documentation and/or information which the relevant person shall provide within 21 Business Days of receipt of such notice along with a copy to any other party to the dispute; and/or
- (b) the Direct Scheme Creditor and/or the Company to attend a meeting with them either in person or by telephone/ video call, on a date to be agreed between the relevant parties within a further 21 Business Days of receipt of such notice, to discuss any matter the Direct Scheme Adjudicator shall determine, and the relevant person(s) (or its or their duly authorised representative) shall attend on such date, and at such place as the Direct Scheme Adjudicator shall prescribe.

4.4.5 If any Direct Scheme Creditor or the Company fails to provide any additional information, documentation and/or other evidence in accordance with clause 4.4.4(a) or fails to attend a meeting with the Direct Scheme Adjudicator in accordance with clause 4.4.4(b) the Direct Scheme Adjudicator shall be entitled to make such determination as they see fit in relation to the disputed matters in relation to the Dispute on the basis of the information available to them.

4.4.6 The Direct Scheme Creditor and the Company shall each be entitled to request a meeting with the Direct Scheme Adjudicator for the purpose of discussing the Dispute and supporting evidence at any time prior to the Direct Scheme Adjudicator's determination of the disputed matters.

4.4.7 The Direct Scheme Adjudicator shall be entitled to consult with such advisers, including legal advisers and experts, as they may deem appropriate in determining any Dispute.

4.4.8 In reaching a determination in relation to any Dispute, the Direct Scheme Adjudicator shall act as an expert and not as an arbitrator and shall apply the Estimation Guidelines.

4.4.9 Subject to clause 4.5 (*Direct Scheme Adjudicator: Conflict of Interests*), the Direct Scheme Adjudicator shall notify the relevant Direct Scheme Creditor and the Company of their determination in respect of the Dispute by notice sent by Post or email within 30 Business Days after the later of:

- (a) the date of the notice referring the Dispute to them; or

- (b) the provision of any additional documentation and/or information to them pursuant to clause 4.4.4(a); or
 - (c) the conclusion of any meeting pursuant to clause 4.4.4(b); or
 - (d) the failure of the relevant party to provide such additional documentation and/or information in accordance with clause 4.4.4(a) or to attend a meeting in accordance with clause 4.4.4(b).
- 4.4.10 The determination of the Direct Scheme Adjudicator in relation to any Dispute shall, to the extent permitted by law and subject to any mathematical or other manifest error, be final and binding on the Company and the relevant Direct Scheme Creditor who shall have no right to appeal therefrom or to make any claim against the Direct Scheme Adjudicator in respect of such determination save in respect of the Direct Scheme Adjudicator's wilful default, wilful breach of duty or trust, fraud or dishonesty.
- 4.4.11 Any remuneration (including the Direct Scheme Adjudicator's own remuneration calculated on a time cost basis), costs, charges and expenses incurred by the Direct Scheme Adjudicator in respect of a Dispute including the fees and expenses of any adviser or expert consulted by the Direct Scheme Adjudicator pursuant to clause 4.4.7, shall be paid by the Company as a Scheme Cost. However, the Direct Scheme Adjudicator may determine in their absolute discretion that the relevant Direct Scheme Creditor should reimburse the Company in respect of some or all of those costs where the Direct Scheme Adjudicator considers that the relevant Direct Scheme Creditor has behaved unreasonably in relation to the Dispute, in which case such costs shall be paid by the Direct Scheme Creditor in accordance with clause 4.4.12.
- 4.4.12 Any costs, charges and expenses incurred by the relevant Direct Scheme Creditor in respect of a Dispute shall be borne by the Direct Scheme Creditor. The amount of the relevant Direct Scheme Creditor's share of any remuneration, costs, charges and expenses as determined by the Direct Scheme Adjudicator pursuant to clause 4.4.11 shall be a Liability immediately due and payable by that Direct Scheme Creditor to the Company and may be deducted from any payment to be made to the Direct Scheme Creditor in accordance with Part 5 (*Payment of Net Ascertained Claims*).

4.5 **Direct Scheme Adjudicator: Conflict of Interests**

- 4.5.1 If a conflict of interests arises in respect of any Dispute such that the Direct Scheme Adjudicator is not able to act in relation to that Dispute, the Direct Scheme Adjudicator will immediately notify the relevant Direct Scheme Creditor and the Company of such conflict. On receipt of such notice, the Company and relevant Direct Scheme Creditor shall attempt in good faith to agree, within ten Business Days of receipt of the notice, either:
 - (a) to appoint an Alternate Scheme Adjudicator; or
 - (b) to waive the conflict and permit the Direct Scheme Adjudicator to act, provided that the Direct Scheme Adjudicator is willing so to act.
- 4.5.2 If no agreement can be reached pursuant to clause 4.5.1 within ten Business Days of receiving notice of the conflict, the Direct Scheme Administrators shall appoint as an Alternate Scheme Adjudicator an individual who (in the reasonable opinion of the Direct Scheme Administrators) possesses the necessary expertise to

adjudicate the relevant Dispute, and who confirms that they do not have a conflict of interests in respect of the relevant Dispute having regard to the professional conduct standards of the relevant professional body.

- 4.5.3 Any waiver of a conflict pursuant to clause 4.5.1 will only be made after the Direct Scheme Adjudicator has provided sufficiently detailed disclosure of the details and nature of the conflict to the relevant Direct Scheme Creditor and the Company to enable each of them to make an informed decision on whether the conflict may be waived without prejudicing any party.
- 4.5.4 If a Direct Scheme Creditor with a Dispute or the Company considers that the Direct Scheme Adjudicator has a conflict of interests in relation to that Dispute, the Direct Scheme Creditor or Company shall notify the other party to the Dispute and the Direct Scheme Adjudicator of such conflict within ten Business Days of the date of the notice of referral of the Direct Scheme Claim to the Direct Scheme Adjudicator.
- 4.5.5 On receipt of a notice pursuant to clause 4.5.4, the Direct Scheme Adjudicator shall consider whether they have a conflict of interests having regard to any applicable professional conduct standards. In the event that the Direct Scheme Adjudicator considers that they do have a conflict of interests, they will give notice to the relevant Direct Scheme Creditor and the Company and the provisions of clauses 4.5.1 and 4.5.2 will apply. In the event that the Direct Scheme Adjudicator considers that they do not have a conflict of interests having regard to the professional conduct standards of the relevant professional body, no Alternate Scheme Adjudicator will be appointed and the Direct Scheme Adjudicator shall adjudicate the Dispute in accordance with the provisions of clause 4.4 (*Scheme Adjudication Procedure*).
- 4.5.6 Where a Dispute is referred to an Alternate Scheme Adjudicator pursuant to clause 4.5.1 or 4.5.2, they shall adjudicate on that Dispute only. The conflicted Direct Scheme Adjudicator's appointment, shall, subject to clause 7.1.10, continue during the appointment of the Alternate Scheme Adjudicator, and the conflicted Direct Scheme Adjudicator shall continue to act in relation to all other Disputes referred to them unless a conflict shall arise in respect of any of those Disputes, in which case clause 4.5.1 or 4.5.2 as applicable shall apply.
- 4.5.7 The provisions of clause 4.4 (*Scheme Adjudication Procedure*) shall apply in full to any adjudication by an Alternate Scheme Adjudicator.

4.6 **Determination Notice**

- 4.6.1 Following the agreement or determination of a Direct Scheme Creditor's Direct Scheme Claim in accordance with clauses 4.1 to 4.4, the Company shall send by Post or e-mail to that Direct Scheme Creditor a Determination Notice setting out, in the amount so agreed or determined:
 - (a) the Direct Scheme Creditor's Gross Ascertained Claim;
 - (b) the adjustments to be applied to the Direct Scheme Creditor's Gross Ascertained Claim pursuant to the Direct Scheme, as follows:
 - (i) the amount of any Security which is to be deducted pursuant to clause 4.9.4;
 - (ii) the amount of any Liability of the Direct Scheme Creditor which is to be applied in set-off pursuant to clauses 4.9.1 to 4.9.2 (and a

- schedule setting out how the amount of any Liability applied in set-off pursuant to clauses 4.9.1 to 4.9.2 was calculated);
- (iii) details of any currency conversions undertaken pursuant to clause 2.6;
 - (iv) the discount to be applied for the time value of money in accordance with the Estimation Guidelines in respect to any Notified Outstanding Claim or IBNR Claim; and
- (c) the resultant amount of the Direct Scheme Creditor's Net Ascertained Claim, or Liability due to the Company from the Direct Scheme Creditor.
- 4.6.2 The amount shown in the Determination Notice as a Direct Scheme Creditor's Gross Ascertained Claim shall, to the extent permitted by law and subject to any mathematical or other manifest error, be fixed as the amount of that Direct Scheme Creditor's Gross Ascertained Claim, and shall be final and binding on the relevant Direct Scheme Creditor and the Company.
- 4.6.3 The Company may, at any time after a Determination Notice has been issued, adjust the amount shown in the Determination Notice as a Direct Scheme Creditor's Net Ascertained Claim to take into account:
- (a) the actual amount of any Security in respect of which a Direct Scheme Creditor has received payment pursuant to clause 4.9.4; or
 - (b) the Company's revised estimate of the amount of any Security in respect of which a Direct Scheme Creditor is entitled to receive payment pursuant to clause 4.9.4,
- such adjustment being the "**Adjusted Security Amount**".
- 4.6.4 For the avoidance of doubt, the Company may not adjust any Gross Ascertained Claim set out on a Determination Notice which has been issued to a Direct Scheme Creditor.
- 4.6.5 In the event that a Direct Scheme Creditor's Net Ascertained Claim is adjusted by the Company pursuant to clause 4.6.3, the Company will send the relevant Direct Scheme Creditor a Revised Determination Notice by Post or e-mail. Any reference in this Direct Scheme to a Direct Scheme Creditor's Net Ascertained Claim is to the Net Ascertained Claim set out on the most recent Determination Notice or Revised Determination Notice sent to such Direct Scheme Creditor.
- 4.6.6 If the relevant Direct Scheme Creditor disagrees with the Adjusted Security Amount and resulting Net Ascertained Claim set out on a Revised Determination Notice it shall, within 15 Business Days of receipt of the Revised Determination Notice, send written notice to the Company setting out the reasons for such disagreement. No later than 30 Business Days after the date of such notice, the Company and Direct Scheme Creditor will endeavour in good faith to reach agreement as to the value of the Adjusted Security Amount and resulting Net Ascertained Claim. If agreement is reached within such 30 Business Day period, the Company will issue a Revised Determination Notice reflecting the agreed Adjusted Security Amount and Net Ascertained Claim.
- 4.6.7 If agreement cannot be reached between the Company and the relevant Direct Scheme Creditor pursuant to clause 4.6.6 within the time period specified in that clause, the Adjusted Security Amount and resulting Net Ascertained Claim will be referred to the Direct Scheme Adjudicator as a Dispute for determination in accordance with clause 4.4 (*Scheme Adjudication Procedure*).

4.7 Extension of Time Limits

- 4.7.1 The Company may, at its absolute discretion, extend any time period referred to in this Part 4 (*Determination of Net Ascertained Claims*) or in Part 5 (*Payment of Net Ascertained Claims*), other than the Final Claims Deadline and the time limits in clause 4.4 (*Scheme Adjudication Procedure*), whether for any one or more or all Direct Scheme Creditors.
- 4.7.2 The Direct Scheme Adjudicator may in their absolute discretion extend any of the time periods referred to in clause 4.4 (*Scheme Adjudication Procedure*) whether for any one or more or all Direct Scheme Creditors.

4.8 Direct Scheme Creditors to Provide Assistance

- 4.8.1 During the Direct Scheme Period, Direct Scheme Creditors shall provide to the Company, Direct Scheme Administrators and Direct Scheme Adjudicator all reasonable assistance required by any of them in connection with the Direct Scheme and shall provide such assistance as any of them may reasonably require in connection with the recovery of any Property, including for the avoidance of doubt any surplus collateral held in respect of any Security or the enforcement of any obligations owed to the Company.
- 4.8.2 The Company shall provide the Direct Scheme Administrators and Direct Scheme Adjudicator with all reasonable assistance required by any of them in connection with the Direct Scheme.

4.9 Set-Off and Security

- 4.9.1 Where there have been mutual credits, mutual debts or other mutual dealings between the Company and any Direct Scheme Creditor (including, but not limited to, Liabilities arising under or in respect of an Insurance Contract or under the Direct Scheme), an account shall be taken of:
- (a) the aggregate Direct Scheme Claim of the Direct Scheme Creditor, as agreed or determined pursuant to the terms of the Direct Scheme, prior to any deductions; and
 - (b) all Liabilities of the Direct Scheme Creditor to the Company (including, but not limited to, Liabilities arising under or in respect of an Insurance Contract or under the Direct Scheme);
- and the sums due from one party shall be set off against the sums due from the other.
- 4.9.2 For the avoidance of doubt, the Company will not exercise any right of set-off under the Direct Scheme where the exercise of that right would conflict with or constitute an extension of any of the Company's rights under a set-off regime established by any applicable statutory provision or rule of law which is binding on the Company and the relevant Direct Scheme Creditor.
- 4.9.3 Nothing in the Direct Scheme will prevent a Direct Scheme Creditor from obtaining payment by means of its Security at any time, provided that this is done strictly in accordance with the terms of the contract pursuant to which such Security was established and the terms (if any) of the Security (including for the avoidance of doubt the Surplus Lines Trust Fund).
- 4.9.4 Any Direct Scheme Creditor who is entitled to, or who does, obtain or receive payment by enforcing, drawing down, withdrawing or calling on any Security (including for the avoidance of doubt the Surplus Lines Trust Fund) shall have

such entitlement or such payment taken into consideration by the Company in determining or adjusting that Direct Scheme Creditor's Net Ascertained Claim.

- 4.9.5 Subject to clause 4.9.8, the proceeds of any enforcement, drawdown or withdrawal under or call on a Security established in respect of an Insurance Contract shall only be applied to a Direct Scheme Claim arising under that Insurance Contract, or to any other Direct Scheme Claim to which the Direct Scheme Creditor is contractually entitled to apply it. Any surplus remaining after discharge of such Direct Scheme Claim shall not be applied in satisfaction or reduction of any other Liability, but shall be held on trust by the Direct Scheme Creditor for the purposes of the Direct Scheme and shall be paid to the Company forthwith without set-off, deduction, retention, abatement or counterclaim.
- 4.9.6 Subject to clause 4.9.8, nothing in the Direct Scheme shall affect the rights of the Company under any applicable law against any Direct Scheme Creditor in respect of any wrongful drawdown or enforcement of any Security. The amount of any payment received by a Direct Scheme Creditor in respect of any such wrongful drawdown ("**Wrongful Drawdown Amount**") shall be:
- (a) held on trust by the relevant Direct Scheme Creditor for the Company to be applied in accordance with the terms of the Direct Scheme;
 - (b) repaid by relevant Direct Scheme Creditor to the Company forthwith without set-off, deduction, retention, abatement or counterclaim.
- 4.9.7 To the extent that the Direct Scheme Creditor fails to repay the Wrongful Drawdown Amount to the Company, the Company shall be entitled to set off the Wrongful Drawdown Amount against any sums due from the Company to the relevant Direct Scheme Creditor.
- 4.9.8 The provisions of clauses 4.9.5, 4.9.6 and 4.9.7 shall not apply in relation to any enforcement or other exercise of rights in relation to the Surplus Lines Trust Fund in accordance with the terms of the Surplus Lines Trust Agreement by a Direct Scheme Creditor which is an American Policyholder or Third Party Claimant.

4.10 **Treatment of Agents, Underwriting Agents, Lloyd's Syndicates and Pools**

- 4.10.1 In any of a Direct Scheme Creditor's dealings with the Company, the Direct Scheme Administrators or the Direct Scheme Adjudicator under the Direct Scheme, the Direct Scheme Creditor may appoint an Agent to act on its behalf. The Company may, in its absolute discretion, require the Agent or the Direct Scheme Creditor to provide evidence of the Agent's authority and its scope, before dealing or continuing to deal with the Agent under the Direct Scheme.
- 4.10.2 The Direct Scheme Creditors authorise the Company at its discretion to treat any underwriting agent (including, but not limited to, a manager of an underwriting pool, a managing general agent or a holder of a line-slip or binding authority) as a single Direct Scheme Creditor of the Company in respect of the Direct Scheme Claim of its principal(s) and as a single debtor of the Company in respect of the Liabilities owed to the Company by its principal(s) and to set off such Direct Scheme Claims and Liabilities against each other or any other applicable Direct Scheme Claims or Liabilities.
- 4.10.3 The Company shall treat the members of a Lloyd's Syndicate which have Direct Scheme Claims against the Company arising out of obligations incurred through that Lloyd's Syndicate as a single Direct Scheme Creditor in respect of those Direct

Scheme Claims. Where the members of that same Lloyd's Syndicate also owe Liabilities to the Company arising out of obligations incurred through that same Lloyd's Syndicate, the Company shall treat those members as a single debtor in respect of those Liabilities and shall set off such Direct Scheme Claims and Liabilities against each other. For these purposes, the effect of closing an underwriting year of account by means of reinsurance to close into a later underwriting year of account shall be deemed to be that the rights and liabilities of the members of the syndicate in such closing year shall instead become the rights and liabilities of the members of the successor syndicate in such later year.

4.11 Funding

4.11.1 Brokers who have funded Direct Scheme Claims shall not constitute Direct Scheme Creditors for the purposes of advancing such Direct Scheme Claims in the Direct Scheme unless:

- (a) they have acquired an assignment of the funded Direct Scheme Claim, or written confirmation from the beneficiaries of such funding that the Broker is entitled to submit a claim in the Direct Scheme in the place of such beneficiaries in respect of the funded Direct Scheme Claim, such assignment or confirmation being in a form acceptable to the Company; or
- (b) such funding took place pursuant to a contractual obligation of the Broker to the Company in circumstances where, as a matter of law, the Company is liable to indemnify or reimburse such Broker.

4.11.2 For the purpose of determining whether funding falls within sub-clause 4.11.1, in the absence of agreement between the Company and the relevant Broker, the matter shall be referred to the Direct Scheme Adjudicator as a Dispute for determination in accordance with clause 4.4 (*Scheme Adjudication Procedure*) (in which case all references in that clause to the Direct Scheme Creditor shall be read as references to the relevant Broker). Any such determination shall, to the extent permitted by law and subject to any mathematical or other manifest error, be final and binding on the Company and the relevant Broker and neither a Broker nor the Company shall have any right to appeal therefrom or to make any claim against the Direct Scheme Adjudicator in respect of such determination save in respect of their wilful default, wilful breach of duty or trust, fraud or dishonesty.

4.11.3 For the avoidance of doubt, any Broker claiming in respect of a funded Direct Scheme Claim shall complete and return a Claim Form in respect of such Direct Scheme Claim in accordance with the provisions of clause 3.3 (*Completion of Claim Forms by Direct Scheme Creditors*). The supporting information to be provided pursuant to clause 3.3.3 shall, unless the Broker is claiming pursuant to clause 4.11.1(b), include a copy of the assignment or written confirmation required pursuant to clause 4.11.1(a).

4.12 Methodology, principles and assumptions limited to Direct Scheme

For the avoidance of doubt, the views of any of the Company or any Office Holder (and/or any of their Associated Companies, directors, employees, members, partners, delegates, alternates, agents or advisers) as to the appropriate methodology, principles or assumptions to be applied in determining the value of any Direct Scheme Claim, whether express or implied and whether contained in the Direct Scheme, the Estimation Guidelines

or any other document or communication, are provided only for the purpose of determining the Direct Scheme Claim owed by the Company to the Direct Scheme Creditor (if any) and may not be relied upon for any other purpose. Further, no such methodology, principle or assumption shall be construed as advice being given by the Company or any Office Holder (and/or any of their Associated Companies, directors, employees, members, partners, delegates, alternates, agents or advisers) to the Direct Scheme Creditor or any other person for any purpose.

5 PART 5 PAYMENT OF NET ASCERTAINED CLAIMS

5.1 Direct Payment Percentage

- 5.1.1 As soon as reasonably practicable following the Final Claims Deadline, the Company shall determine whether, in its reasonable opinion, based on the then currently available information, all Net Ascertained Claims can be paid in full by the Company from Distributable Property.
- 5.1.2 In the event that, following the Final Claims Deadline, the Company determines that, in its reasonable opinion, based on the then currently available information, all Net Ascertained Claims cannot be paid in full by the Company from the Distributable Property, the Company shall, as soon as reasonably practicable, set an initial Direct Payment Percentage.
- 5.1.3 After the initial Direct Payment Percentage has been set in accordance with clause 5.1.2, the Company may review the Direct Payment Percentage, and consider, in the light of clause 5.1.4, whether it should be revised.
- 5.1.4 In setting or revising a Direct Payment Percentage, the Company shall use reasonable endeavours to ensure that sufficient reserves have been created by the Company as it considers to be prudent to enable the Company, or any third party acting on behalf of the Company, to:
 - (a) pay all Excluded Liabilities and all other Liabilities of the Company ranking in priority to the Net Ascertained Claims in full; and
 - (b) pay the same Direct Payment Percentage in respect of all Net Ascertained Claims.
- 5.1.5 In considering whether sufficient reserves have been created in accordance with clause 5.1.4, the Company shall be entitled to take into account:
 - (a) the Company's Distributable Property; and
 - (b) the aggregate amount in respect of which Direct Scheme Creditors are entitled to receive payment by enforcing, drawing down, withdrawing or calling on any Security.
- 5.1.6 For the purpose of setting or revising a Direct Payment Percentage, the Company shall be entitled to obtain and consider such financial and/or actuarial information and advice as the Company shall consider appropriate.
- 5.1.7 If, on considering a Direct Payment Percentage previously set in accordance with clauses 5.1.2 and 5.1.3, the Company considers that, taking into consideration those matters referred to in clause 5.1.4, there is insufficient Distributable Property for the then current Direct Payment Percentage to be maintained at that level, the Company shall reduce the Direct Payment Percentage to such level as it considers appropriate in the light of those provisions. Any such reduction in the Direct Payment Percentage

shall not give rise to any obligation on the part of any Direct Scheme Creditor to repay the difference between the amount which would have been payable in respect of such reduced Direct Payment Percentage and the amount actually paid to such Direct Scheme Creditor in respect of any previous Direct Payment Percentage.

- 5.1.8 The Company shall be entitled to suspend payments to all Direct Scheme Creditors for such period as it considers appropriate if information becomes available to it concerning the financial position of the Company as a result of which it is required to consider whether or not to set a reduced Direct Payment Percentage. As soon as practicable during, and in any event at the end of, such period, the Direct Scheme Administrators shall set a reduced Direct Payment Percentage or resume payments in respect of any previously set Direct Payment Percentage.

5.2 Payment of Net Ascertained Claims

- 5.2.1 In the event that the Company determines that all Net Ascertained Claims can be paid in full, the Company shall, as soon as reasonably practicable thereafter, make payment in full in respect of all Net Ascertained Claims to the relevant Direct Scheme Creditors.
- 5.2.2 Where, following any payment under clause 5.2.1, any Direct Scheme Claim subsequently becomes a Net Ascertained Claim, the Company shall, as soon as reasonably practicable, make payment in respect of such Net Ascertained Claim in full (provided that the Company is satisfied that following such payment there will remain sufficient reserves to pay all remaining Direct Scheme Claims in full once such claims become Net Ascertained Claims).
- 5.2.3 In the event that the Company sets a Direct Payment Percentage, the Company shall, as soon as reasonably practicable thereafter, pay the Direct Payment Percentage in respect of all Net Ascertained Claims to the relevant Direct Scheme Creditors.
- 5.2.4 Where, following any payment under clause 5.2.3, any Direct Scheme Claim subsequently becomes a Net Ascertained Claim, the Company shall, as soon as reasonably practicable thereafter, pay the Direct Payment Percentage in respect of such Net Ascertained Claim (provided that the Company is satisfied following such payment there will remain sufficient reserves to pay all remaining Direct Scheme Claims the same Direct Payment Percentage once such claims become Net Ascertained Claims).
- 5.2.5 In the event that the Company sets an increased Direct Payment Percentage, the Company shall, as soon as reasonably practicable thereafter, pay:
- (a) the increased Direct Payment Percentage in respect of all Direct Scheme Claims which subsequently become Net Ascertained Claims to the relevant Direct Scheme Creditors; and
 - (b) the difference between the most recent previous Direct Payment Percentage and the increased Direct Payment Percentage in respect of all Direct Scheme Creditors who had received the previous Direct Payment Percentage in respect of their Net Ascertained Claims.

5.3 Effect of Payment of Net Ascertained Claims

The amount of a Direct Scheme Creditor's Net Ascertained Claim under the Direct Scheme as determined in accordance with Part 4 (and for the avoidance of doubt, following any adjustment made pursuant to clause 4.6.3) shall constitute the Company's entire liability to the

relevant Direct Scheme Creditor in respect of its Direct Scheme Claim and payment of such Net Ascertained Claim in accordance with the Direct Scheme (whether in full or at the final relevant Payment Percentage set under the Direct Scheme in respect of such Net Ascertained Claim), regardless of whether such sum becomes an Unclaimed Balance pursuant to clause 5.7 (*Unclaimed Balances*), shall be in full and final settlement of all and any Direct Scheme Claims of that Direct Scheme Creditor against the Company.

5.4 Excess Distributable Property

Any Excess Distributable Property will be held by the Company (acting by the Administrators or, if applicable, by any subsequently appointed liquidator of the Company) for the purpose of paying Excluded Liabilities (to the extent that they have not already been paid) and any other Liabilities of the Company which are not subject to the Direct Scheme. For the avoidance of doubt, the Direct Scheme Administrators will have no obligations with respect to the Excess Distributable Property.

5.5 Method of Payment

- 5.5.1 All payments to Direct Scheme Creditors under the Direct Scheme shall be made in accordance with this clause 5.5.
- 5.5.2 Where a Direct Scheme Creditor provides the Company with full details of the bank account into which payment should be made on a Claim Form or otherwise in writing to the Company, payments will be made by electronic transfer. Such payment shall be at the Direct Scheme Creditor's own risk, cost and expense.
- 5.5.3 Where a Direct Scheme Creditor has not provided the Company with bank account details in accordance with clause 5.5.2, all payments to such Direct Scheme Creditor shall be made by way of cheque in favour of the Direct Scheme Creditor concerned or in favour of such other person as the Direct Scheme Creditor may notify the Company in writing. Cheques shall be sent by Post at the risk of the relevant Direct Scheme Creditor to such address as shall be notified on the Direct Scheme Creditor's Claim Form or otherwise as the Direct Scheme Creditor may notify the Company in writing.
- 5.5.4 Payment under the Direct Scheme in respect of a Net Ascertained Claim shall be deemed to have been made on the day that the electronic transfer instructions were given to the relevant bank pursuant to clause 5.5.2 or the relevant cheque is sent by Post pursuant to clause 5.5.3 (as the case may be) and such deemed payment shall be a good discharge and satisfaction of the relevant Net Ascertained Claim.
- 5.5.5 The Company will not be required to make any payments to Direct Scheme Creditors unless and until the Company is satisfied that the making of such payment is not prohibited by an applicable law or regulation referred to in clause 5.6 (*International Sanctions*).

5.6 International Sanctions

- 5.6.1 Where the Company is prevented by any law or regulation imposing international sanctions, restrictions or prohibitions, whether promulgated by the United Kingdom or any other jurisdiction to which the Company is subject or affected in relation to the making of a payment to a Direct Scheme Creditor or otherwise complying with any term of the Direct Scheme, the requirements of such law or regulation shall

take precedence over the terms of the Direct Scheme and compliance with such law or regulation which persists up to and as at the Termination Date shall be necessary and will constitute the proper discharge of the Company's duties in the context of any such Direct Scheme Creditor's Direct Scheme Claim under the Direct Scheme.

- 5.6.2 Any Blocked Monies shall be applied by the Company in accordance with the requirements of such law or regulation or the instructions of the relevant authority. The Company shall be under no obligation to make any application to the relevant authority for a waiver of such law or regulation in any particular case. The Company shall be under no obligation to monitor whether any such sanction, restriction or prohibition has been lifted and it shall be the relevant Direct Scheme Creditor's responsibility to inform the Company if it becomes legal to pay them.
- 5.6.3 In the event that the applicable law or regulation does not contain provisions as to how to deal with Blocked Monies, the Company shall hold such monies in an account with a United Kingdom clearing bank until such time as the Company is instructed by the relevant authority as to how to deal with the Blocked Monies or it becomes legal (and the Direct Scheme Creditor informs the Company that it has become legal) to pay them to the relevant Direct Scheme Creditor. Any interest earned on such account shall be applied at the discretion of the Company. In the event that no such instruction is received by the Termination Date, the Company shall be entitled to such Blocked Monies absolutely and the relevant Direct Scheme Creditor shall cease to have any entitlement to them. The Direct Scheme Claim in respect of which such Blocked Monies would otherwise have been payable shall be deemed to be cancelled and the Direct Scheme Creditor shall have no rights in respect of it.

5.7 Unclaimed Balances

- 5.7.1 The Company shall use its reasonable endeavours to pay any Unclaimed Balances to the Direct Scheme Creditors entitled thereto according to their respective entitlements. Within 15 Business Days of becoming aware that an amount due to a Direct Scheme Creditor has become an Unclaimed Balance, the Company shall give notice to the relevant Direct Scheme Creditor informing them that the Company has been unable to make payment, and requesting that the Direct Scheme Creditor supplies alternative payment details or corrects any error in the details previously supplied. For the purposes of this clause 5.7, if the Direct Scheme Creditor does not respond to any notice given in accordance with clauses 11.3 or 11.4 the Company shall be entitled to use any reasonable means to attempt to contact the relevant Direct Scheme Creditor
- 5.7.2 The Company shall give 30 Business Days' notice of the proposed termination of the Direct Scheme to all Direct Scheme Creditors which have outstanding Unclaimed Balances. To the extent that it has not been possible to make payment to a Direct Scheme Creditor by three Business Days prior to the Termination Date, the Direct Scheme Administrators shall be entitled to treat the aggregate remaining amount of any Unclaimed Balances, as Excess Distributable Property to be applied in accordance with clause 5.4.
- 5.7.3 The Direct Scheme Claims in respect of any Unclaimed Balances referred to in clause 5.7.2 shall be deemed to have been paid in full by the Company to the

relevant Direct Scheme Creditor and the Direct Scheme Creditor shall have no further rights in respect of it.

6 PART 6 DIRECT SCHEME ADMINISTRATORS

6.1 Qualification, appointment, resignation and removal

- 6.1.1 During the Administration Period, the Direct Scheme Administrators shall be the Administrators appointed to the Company from time to time in accordance with the provisions of the IA86. Where an Administrator is appointed to, resigns from, is removed from or vacates such office in accordance with the provisions of the IA86, such Administrator shall be deemed to have also resigned, vacated or been appointed to or removed from office as a Direct Scheme Administrator hereunder. For the avoidance of doubt, during the Administration Period, no person may be appointed, removed nor may resign as a Direct Scheme Administrator if that person is an Administrator who has not been appointed, removed nor resigned in accordance with the Administration and clauses 6.1.3 and 6.1.4 shall not apply.
- 6.1.2 In the event that the Administration ends prior to the Termination Date (including by conversion to liquidation), the Administrators in office immediately prior to the end of the Administration shall continue as the Direct Scheme Administrators hereunder. Thereafter:
- (a) there shall be a minimum of one Direct Scheme Administrator in office at any time;
 - (b) each Direct Scheme Administrator shall be an individual qualified to act as an insolvency practitioner within the meaning of section 390 of the IA86;
 - (c) a Direct Scheme Administrator may appoint an additional person (qualified in accordance with clause 6.1.2(b)) as an additional Direct Scheme Administrator;
 - (d) where there is no Direct Scheme Administrator, the Direct Creditors' Committee may appoint a person (qualified in accordance with clause 6.1.2(b)) as a Direct Scheme Administrator;
 - (e) the office of Direct Scheme Administrator shall be vacated if that person is subject to an Individual Termination Event;
 - (f) a Direct Scheme Administrator may resign in accordance with clause 6.1.3; and
 - (g) a Direct Scheme Administrator may resign if called upon to do so by the Direct Creditors' Committee in accordance with clause 6.1.4 and shall resign if a resolution put to a meeting of Direct Scheme Creditors in accordance with that clause is passed.
- 6.1.3 After the end of the Administration, a Direct Scheme Administrator may resign their appointment at any time by giving no less than three months' notice in writing to any remaining Direct Scheme Administrator and to the Direct Creditors' Committee or such shorter period of notice as any remaining Direct Scheme Administrator may agree in writing.
- 6.1.4 After the end of the Administration, the Direct Creditors' Committee shall be entitled (by a resolution passed by at least two-thirds of all Direct Committee Members for the time being) at any time to call upon a Direct Scheme Administrator to resign, provided

that such Direct Scheme Administrator has been given at least 28 Business Days' notice of:

- (a) the proposed resolution; and
- (b) the reasons why the resolution is to be put to the Direct Creditors' Committee, and is given a reasonable opportunity to make representations at the meeting at which the resolution is proposed. If such Direct Scheme Administrator declines to resign, a resolution requiring their removal shall be put before a meeting of Direct Scheme Creditors.

6.1.5 Where there is more than one Direct Scheme Administrator, the functions, powers and duties of the Direct Scheme Administrators under the Direct Scheme may be performed and exercised jointly or severally and any act required to be done by the Direct Scheme Administrators pursuant to the Direct Scheme may be done by all or any one or more of them.

6.2 **Functions, powers and duties of the Direct Scheme Administrators**

6.2.1 With immediate effect from the Effective Date, the Direct Scheme Administrators shall be empowered to and shall supervise and ensure the carrying out of the Direct Scheme for and on behalf of the Company, and for these purposes only shall:

- (a) have the power to act in the name and on behalf of the Company to, and shall, manage the affairs, business and Property of the Company; and
- (b) realise the assets of the Company and apply them for the benefit of Direct Scheme Creditors in accordance with the terms of the Direct Scheme.

6.2.2 Without prejudice to the generality of clause 6.2.1, in carrying out their functions, powers and duties under the Direct Scheme, the Direct Scheme Administrators, for the purposes of the Direct Scheme only, shall be entitled to:

- (a) exercise all rights, powers and duties of the Company under the Direct Scheme;
- (b) agree claims and process reinsurance recoveries as part of the Company's business;
- (c) take possession of, collect and get in all the Property (of whatever nature) to which the Company is or appears to be entitled and do all such things as may be necessary for the realization of any such Property and the application of the Property of the Company for the benefit of Direct Scheme Creditors and other persons as appropriate;
- (d) invest or apply all or any part of the Property of the Company, and any Property which the Company holds on trust, as if they were absolutely and beneficially entitled to such Property, in any manner, whether or not involving liability or producing income, and whether or not authorised by law as an appropriate investment of trust assets, including (without prejudice to the generality of the foregoing), in the following investments:
 - (i) deposit accounts with a bank, building society, finance company or local authority;
 - (ii) stocks, shares, debentures, bearer securities, commodities or other investments;
 - (iii) units in unit trusts, exempt or mutual funds, other collective investment schemes or partnership shares;

- (iv) foreign currencies at any rate of exchange and for present or forward settlement, or
- (v) futures, traded options, swaps, contracts for differences or other financial instruments;
- (e) have full access at all times to all books, papers and other documents of the Company and shall be entitled to receive all such information as they may require in relation to its affairs;
- (f) do all things which may be necessary or expedient for the protection of the Company's Property or of any Property that appears to belong to the Company;
- (g) bring or defend any action or other legal Proceedings in the name and on behalf of the Company or otherwise;
- (h) do all acts and execute in the name and on behalf of the Company any deed, receipt or other document and to use the Company's seal;
- (i) to the extent that the Court has jurisdiction, be entitled to apply, or to cause the Company to apply, to the Court in relation to any particular matter arising in the course of the Direct Scheme;
- (j) propose, where they consider it to be in the interests of Direct Scheme Creditors as a whole, in relation to one or more classes of Direct Scheme Creditor a further scheme of arrangement under Part 26 of the Act, with a view to either amending the provisions of the Direct Scheme or to implementing a new scheme of arrangement between the Company and the Direct Scheme Creditors concerned;
- (k) be remunerated on a time cost basis for the carrying out of their functions, powers, rights, authorities, discretions and duties and to be reimbursed for all expenses properly incurred by them in connection therewith;
- (l) employ and remunerate accountants, actuaries, lawyers and other professional advisers or agents whether in England and Wales or in other jurisdictions provided such employment is necessary for the purpose of performing their functions and powers under the Direct Scheme;
- (m) delegate to any person (being a partner in the same firm as the Direct Scheme Administrators qualified to act as an insolvency practitioner within the meaning of section 390 of the IA86) (a "**Direct Delegate**"), all or any of the functions, powers, rights, authorities, discretions and duties conferred upon the Direct Scheme Administrators under the Direct Scheme and from time to time to revoke any such delegation, provided that the Direct Scheme Administrators shall be responsible for any act or omission of any such Direct Delegate to the same extent as if they had expressly authorised it; and
- (n) do all other things incidental to the exercise of the functions and powers referred to in this clause 6.2 (*Functions, powers and duties of the Direct Scheme Administrators*).

6.2.3 Nothing in this clause 6.2 (*Functions, powers and duties of the Direct Scheme Administrators*) shall be deemed to in any way modify the rights, powers, duties or obligations of the Administrators whilst acting in their capacity as Administrators of the Company.

- 6.2.4 Any function of or power conferred on the Company or its officers, whether by statute or its memorandum or articles of association, which could be exercised in such a way as to interfere with the exercise by the Direct Scheme Administrators of their functions and powers in relation to the Company, shall not be exercisable except with the consent of the Direct Scheme Administrators, which may be given either generally or in relation to particular cases.
- 6.2.5 The Direct Scheme Administrators shall act as agents of the Company without personal liability in respect of all functions and powers conferred on them under this Direct Scheme, The Direct Scheme Administrators, in their capacity as such, shall not incur any liability to any Direct Scheme Creditor or any person other than pursuant to clause 6.3.2.

6.3 **Responsibility and indemnity**

- 6.3.1 In carrying out their functions and exercising their powers under the Direct Scheme, the Direct Scheme Administrators shall act bona fide and with due care and diligence in the interests of the Direct Scheme Creditors as a whole and shall use their powers under the Direct Scheme for the purpose of ensuring that the Direct Scheme is operated in accordance with its terms.
- 6.3.2 No Direct Scheme Creditor shall be entitled to challenge the validity of any act done or omitted to be done in good faith and with due care by a Direct Scheme Administrator in accordance with, and to implement the provisions of, the Direct Scheme or the exercise by the Direct Administrators in good faith and with due care of any power conferred upon them for the purposes of the Direct Scheme if exercised in accordance with, and to implement the provisions of, the Direct Scheme and the Direct Scheme Administrators shall not be liable for any loss unless such loss is attributable to their own wilful default, breach of duty, breach of trust, fraud or dishonesty (or to that of any Direct Delegate).
- 6.3.3 No Direct Scheme Creditor shall be entitled to challenge the validity of any act done or omitted to be done in good faith and with due care by any Direct Employee in accordance with and to implement the provisions of the Direct Scheme and no Direct Employee shall be liable for any loss unless such loss is attributable to their own wilful default, breach of duty, breach of trust, fraud or dishonesty.
- 6.3.4 No Direct Scheme Creditor shall be entitled to challenge the validity of any act done or omitted to be done in good faith and with due care by any Direct Delegate in accordance with and to implement to provisions of the Direct Scheme or the exercise by such Direct Delegate in good faith and with due care of any power conferred upon the Direct Scheme Administrators for the purposes of the Direct Scheme if exercised in accordance with and to implement the provisions of a Scheme and no Direct Delegate shall be liable for any loss unless such loss is attributable to his own wilful default, breach of duty, breach of trust, fraud or dishonesty.
- 6.3.5 Subject to the Act, each Direct Scheme Administrator (in their capacity as such) and each Direct Employee and Direct Delegate shall be entitled to an indemnity out of the Company's Property against:
 - (a) all actions, claims, proceedings and demands brought or made against such Direct Scheme Administrator (or Direct Employee or Direct Delegate) in respect of any act done or omitted to be done by such Direct Scheme Administrator (or Direct Employee or Direct Delegate) in good faith without

- wilful default, breach of duty, breach of trust, fraud or dishonesty in the course of implementing the Direct Scheme in accordance with its terms; and
- (b) all costs, charges, expenses and liabilities properly incurred by such Direct Scheme Administrator (or Direct Employee or Direct Delegate) in carrying out its functions and powers (or the functions for which such Direct Employee or Direct Delegate is retained) in the course of implementing the Direct Scheme in accordance with its terms.
- 6.3.6 Without prejudice to the generality of clause 6.3.5, each such person as is expressed to be entitled to an indemnity in accordance with that clause (in the capacity in which they are entitled to such an indemnity) shall be entitled to an indemnity out of the Property:
- (a) against any liability incurred by them in defending any Proceedings, whether civil or criminal, in respect of any wilful default, breach of duty, breach of trust, fraud or dishonesty in which judgment is given in their favour or in which they are acquitted; or
 - (b) in connection with any application in any Proceedings in which relief is granted to them by a court from liability for wilful default, breach of duty, breach of trust, fraud or dishonesty in relation to the affairs of the Company.
- 6.3.7 The Company may:
- (a) purchase and maintain for any such person as is referred to in clause 6.3.5 insurance against any liability in respect of which the Company would be obliged to indemnify that person in accordance with clauses 6.3.5 and 6.3.6; and
 - (b) pay costs incurred by any such person as is referred to in clause 6.3.5 in defending Proceedings of the nature described in clause 6.3.6 provided that the Company obtains from such party an obligation to reimburse the Company (with interest) in respect of any such which would not, in the event, have been payable by the Company under clause 6.3.6.
- 6.3.8 Any premium payable in respect of the insurance cover referred to in clause 6.3.7(a) shall be a Scheme Cost.
- 6.3.9 The Direct Scheme Administrators shall be entitled to rely on any communication, instrument, document or information (whether provided in writing or orally) believed by them to be genuine and correct and shall be entitled to rely upon the advice of, or information obtained from, any professional adviser or other person instructed by them and believed by them in good faith to be competent.
- 6.3.10 Neither the Direct Scheme Administrators nor the Administrators shall incur any personal liability whatsoever in connection with the preparation, adoption, implementation or conduct of the Direct Scheme or in connection with any collateral arrangement or any act of a Direct Delegate except in the case of their own wilful default, breach of duty, breach of trust, fraud or dishonesty.

7 PART 7 THE DIRECT SCHEME OFFICE HOLDERS

7.1 Direct Scheme Adjudicator

- 7.1.1 The first Direct Scheme Adjudicator shall be Andrew Maneval of Chesham Consulting, LLC.

- 7.1.2 Only an individual shall be appointed as a Direct Scheme Adjudicator or Alternate Scheme Adjudicator.
- 7.1.3 The Direct Scheme Adjudicator and any Alternate Scheme Adjudicator shall be qualified to act if the Company is of the reasonable opinion that the person to be appointed has the ability to carry out the functions of the Direct Scheme Adjudicator or Alternate Scheme Adjudicator under the Direct Scheme.
- 7.1.4 The Direct Scheme Adjudicator shall be responsible for the determination of Disputes. The Direct Scheme Adjudicator shall determine any Disputes referred to the Direct Scheme Adjudicator pursuant to Part 4 (*Determination of Net Ascertained Claims*) and shall undertake all other duties and functions conferred upon the Direct Scheme Adjudicator by the Direct Scheme. Any Alternate Scheme Adjudicator shall be responsible for the determination of any Dispute referred to them only. The Direct Scheme Adjudicator and any Alternate Scheme Adjudicator shall have the powers and rights conferred upon the Direct Scheme Adjudicator or Alternate Scheme Adjudicator by the Direct Scheme for such purposes.
- 7.1.5 The Direct Scheme Adjudicator or any Alternate Scheme Adjudicator shall be entitled to appoint an actuarial adviser and/or other professional advisers to assist them, provided such appointment is necessary or desirable for the purpose of the Direct Scheme Adjudicator or Alternate Scheme Adjudicator performing their functions and powers under the Direct Scheme.
- 7.1.6 In exercising their powers and rights and in carrying out their duties and functions under the Direct Scheme, the Direct Scheme Adjudicator and any Alternate Scheme Adjudicator shall act in good faith and with due care and diligence and shall exercise their powers and rights under the Direct Scheme to ensure that the Direct Scheme is operated in accordance with its terms.
- 7.1.7 A Direct Scheme Adjudicator and any Alternate Scheme Adjudicator shall be paid on a time cost basis for the exercise and performance of their powers, rights, duties and functions under the Direct Scheme, such remuneration to be paid in accordance with clause 4.4.11 and 4.4.12.
- 7.1.8 The Company may appoint more than one Direct Scheme Adjudicator in which case such Direct Scheme Adjudicators may carry out their duties and functions under the Direct Scheme either jointly or severally.
- 7.1.9 A Direct Scheme Adjudicator or Alternate Scheme Adjudicator may resign their appointment at any time by giving no less than three months' notice in writing to the Company or on such shorter period of notice as the Direct Scheme Adjudicator and the Company may agree in writing.
- 7.1.10 The office of a Direct Scheme Adjudicator or Alternate Scheme Adjudicator shall be vacated if they are subject to an Individual Termination Event.
- 7.1.11 If the office of a Direct Scheme Adjudicator or Alternate Scheme Adjudicator is vacated in accordance with clause 7.1.9 or 7.1.10, or if the Company wishes to appoint more than one Direct Scheme Adjudicator in accordance with clause 7.1.8, the Company shall appoint a person who is suitably qualified in accordance with clause 7.1.3 as replacement or additional Direct Scheme Adjudicator or Alternate Scheme Adjudicator provided that:
- (a) such replacement or addition consents to act and is independent; and
 - (b) all remaining Direct Scheme Adjudicators, if any, consent to such appointment.

7.1.12 There shall be no more than two additional Direct Scheme Adjudicators at any time. Any such additional Direct Scheme Adjudicator shall have all the powers and duties conferred upon the Direct Scheme Adjudicator under the Direct Scheme. The Company shall direct which Direct Scheme Adjudicator shall deal with which Dispute so as to prevent a Direct Scheme Adjudicator dealing with a Dispute where a conflict of interests or other issue exists that might prevent a Direct Scheme Adjudicator from being seen to deal fairly with a Dispute.

7.2 The Direct Scheme Actuary

- 7.2.1 The first Direct Scheme Actuary shall be Alex Lee of Ernst & Young LLP.
- 7.2.2 The Direct Scheme Actuary's function will be to provide actuarial advice to the Company to enable it to assess Direct Scheme Creditors' Direct Scheme Claims in accordance with the Estimation Guidelines. When called upon to do so the Direct Scheme Actuary will also provide information to the Direct Scheme Adjudicator in relation to the advice given to the Company.
- 7.2.3 The Company shall be entitled to appoint more than one Direct Scheme Actuary, in which case such Direct Scheme Actuaries may carry out their duties and functions under the Direct Scheme either jointly or severally.
- 7.2.4 A Direct Scheme Actuary may resign their appointment at any time by giving no less than three months' notice in writing to the Company or on such shorter period of notice as the Direct Scheme Actuary and the Company may agree in writing.
- 7.2.5 The office of a Direct Scheme Actuary shall be vacated if, being an individual, they are subject to an Individual Termination Event or if, being a corporation, it is subject to a Corporate Termination Event.
- 7.2.6 If the office of a Direct Scheme Actuary is vacated, the Company shall be entitled to appoint a replacement Direct Scheme Actuary provided that:
 - (a) such replacement consents to act and is independent; and
 - (b) all remaining Direct Scheme Actuaries, if any, consent to such appointment.
- 7.2.7 The Company acknowledges and agrees that the Direct Scheme Actuary will be entitled to have full access to all such information as may from time to time be required in relation to the operation of the Direct Scheme and to all books, papers, documents and other information contained or represented in any format whatsoever in the possession or under the control of the Company.

7.3 Notification of Change of Office Holder

- 7.3.1 In the event that there is a change of Office Holder or an additional Office Holder is appointed, the Direct Scheme Administrators shall place a notice on the Website giving details of the change or appointment.

7.4 Limit on Actions and Indemnity

- 7.4.1 Neither the Direct Scheme Creditors nor the Company shall be entitled to challenge the validity of any act done or omitted to be done by a Direct Scheme Adjudicator or any Alternate Scheme Adjudicator in good faith and with due care and diligence pursuant to the provisions of the Direct Scheme or in the performance or exercise or non-exercise of any power, right, duty or function conferred upon them under the Direct Scheme and a Direct Scheme Adjudicator and any Alternate Scheme Adjudicator shall not be liable for any loss unless any

such loss is attributable to their wilful default, wilful breach of duty or trust, fraud or dishonesty.

- 7.4.2 No Direct Scheme Creditor shall be entitled to challenge the validity of any act done or omitted to be done by any Office Holder (other than the Direct Scheme Adjudicator or Alternate Scheme Adjudicator) or any of their Associated Companies, directors, partners, members, officers or employees in connection with the Direct Scheme and no Office Holder nor any of their Associated Companies, directors, partners, members, officers or employees shall be liable for any loss suffered by any Direct Scheme Creditor or third party unless such loss is attributable to their negligence, wilful default, wilful breach of duty or trust, fraud or dishonesty. Accordingly, no Direct Scheme Creditor shall bring or institute any proceedings, claims or complaints against any Office Holder or any of their Associated Companies, directors, partners, members, officers or employees.
- 7.4.3 The Office Holders and any of their Associated Companies, directors, partners, members, officers or employees shall, to the extent allowed by law, be entitled to an indemnity out of the Company's property against:
- (a) all expenses and liabilities properly incurred by the Office Holders or any of their Associated Companies, directors, partners, members, officers or employees in performing any services in connection with the Direct Scheme; and
 - (b) any liability (including costs) incurred by the Office Holders or any of their Associated Companies, directors, partners, members, officers or employees in defending any Proceedings, whether civil or criminal, including in respect of any alleged negligence, wilful default, wilful breach of duty or trust, fraud or dishonesty on their part in relation to the Direct Scheme, or in connection with any application in any such Proceedings, save in either case in respect of any Proceedings in which a court of competent jurisdiction holds that the relevant Office Holder has been wilfully in breach of duty or trust, fraudulent or dishonest.
- 7.4.4 The Company will pay the costs incurred by the Office Holders or any of their Associated Companies, directors, partners, members, officers or employees in defending Proceedings of the nature described in clause 7.4.3(b) which relate to the operation of the Direct Scheme provided such Office Holder undertakes to reimburse the Company (with interest) for any amount which would not, in the event, have been payable by the Company under clause 7.4.3(b).
- 7.4.5 The indemnity at clause 7.4.3(b) and 7.4.4 shall not apply to any proceedings brought by the Company against an Office Holder or any of their Associated Companies, directors, partners, members, officers or employees in relation to the performance by that Office Holder or Associated Company, director, partner, member, officer or employee of its duties and functions in connection with the Direct Scheme.

7.5 Insurance

The Company may purchase insurance cover to protect any Office Holder in respect of such Office Holder's potential liabilities arising out of their performance of their functions under the

Direct Scheme. Any premium payable in respect of that insurance cover shall be a Scheme Cost.

8 PART 8 THE DIRECT CREDITORS' COMMITTEE

8.1 Constitution of the Direct Creditors' Committee

8.1.1 There shall be a Direct Creditors' Committee under the Direct Scheme.

8.1.2 The Direct Creditors' Committee shall be comprised of at least three but not more than five Direct Committee Members, of whom:

- (a) a majority must be Direct Scheme Creditors; and
- (b) at least one must be a creditor of the Company who is not a Direct Scheme Creditor.

8.1.3 The first Direct Creditors' Committee shall be comprised of the following (provided in each case that such person agrees to act as a Direct Committee Member):

- (a) any member of the Administration Creditors' Committee as at the Effective Date who is a Direct Scheme Creditor;
- (b) at least one other member of the Administration Creditors' Committee as at the Effective Date who is not a Direct Scheme Creditor, such member to be nominated by the Direct Scheme Administrators following consultation with the Administration Creditors' Committee; and
- (c) to the extent necessary in order to ensure that the constitution of the Direct Creditors' Committee complies with clause 8.1.2, such other Direct Scheme Creditor or other creditor of the Company as shall be nominated by the Direct Scheme Administrators following consultation with the Administration Creditors' Committee.

8.1.4 During the Administration Period:

- (a) where a member of the Administration Creditors' Committee resigns or is removed from or vacates such appointment in accordance with the provisions of the Insolvency Legislation, such Direct Committee Member shall be deemed to have also resigned or removed from or vacated its appointment to the Direct Creditors' Committee hereunder; and
- (b) where a Direct Scheme Creditor is appointed as a member of the Administration Creditors' Committee, such Direct Scheme Creditor shall be deemed to have been appointed to the Direct Scheme Committee.

8.1.5 Subject to clauses 8.1.2, 8.1.3 and 8.1.4, the Direct Creditors' Committee shall be subject to the same rules of constitution and membership (including with regard to appointment, resignation, removal or vacation of appointment) as apply to a creditors' committee established for the purposes of an administration in accordance with the Insolvency Legislation (save that for these purposes, where the Insolvency Legislation refers to the "office-holder", this shall be deemed to be a reference to the Direct Scheme Administrators).

8.2 Proceedings

8.2.1 Save as otherwise specifically provided in the Direct Scheme, the Direct Creditors' Committee may convene, adjourn and otherwise regulate its meetings in such manner as it shall consider appropriate. The chair at any meeting shall be one of the Direct

Scheme Administrators or a person nominated by them so to act (the “**Committee Chair**”) save where the Direct Scheme Administrators and/or their representatives have been requested to absent themselves from the meeting pursuant to clause 8.2.4. The quorum at any meeting of the Direct Creditors’ Committee shall be at least two-thirds of the Direct Committee Members, provided that if a quorum is not present within half an hour from the time appointed for a meeting, or if during a meeting such a quorum ceases to be present, the meeting shall stand adjourned to such time and place as may be determined by the majority of the Direct Committee Members present and the members present at any such adjourned meeting shall constitute a quorum.

- 8.2.2 Each Direct Committee Member shall have one vote and, except as otherwise provided in the Direct Scheme, matters arising at a meeting shall be decided by a majority of votes cast at the meeting. A Direct Committee Member shall not be entitled to vote or to form part of the quorum in relation to any matter in which the Direct Committee Member is in any way, in the opinion of the Direct Scheme Administrators, interested (other than a general interest arising by reason only of the Direct Committee Member’s status as a Direct Scheme Creditor) and, if requested to do so, shall absent themselves from the meeting for so long as such matter is discussed and voted upon and shall not receive any information nor be entitled to inspect any part of the minutes of a meeting of the Direct Creditors’ Committee relating thereto.
- 8.2.3 The Direct Scheme Administrators may summon, and three Direct Committee Members may at any time request the Direct Scheme Administrators to summon, a meeting of the Direct Creditors’ Committee. The Direct Scheme Administrators shall call a meeting of the Direct Creditors’ Committee as soon as practicable after receiving a request to do so under this Clause 8.2.3. When summoning a meeting of the Direct Creditors’ Committee, the Direct Scheme Administrators shall send written notice to each Direct Committee Member of such meeting, setting out the time and place of the meeting and indicating the nature of the business to be transacted at such meeting. Except with the consent of all Direct Committee Members and the Direct Scheme Administrators, no meeting of the Direct Creditors’ Committee may be called upon less than 15 Business Days’ notice and, except with the consent of all Direct Committee Members, no business may be transacted at any such meeting other than that set out in the notice of that meeting.
- 8.2.4 Each Direct Committee Member and the Direct Scheme Administrators (or their representative) shall be entitled to receive notice of all meetings of the Direct Creditors’ Committee. The Direct Scheme Administrators, acting in their capacity as such and, where applicable, in their capacity as the Administrators shall be entitled to attend and speak, but not to vote, at all meetings of the Direct Creditors’ Committee. If so requested by the Direct Creditors’ Committee, a Direct Scheme Administrator (or his representative) shall absent himself from such part of a meeting of the Direct Creditors’ Committee as the Direct Creditors’ Committee may specify.
- 8.2.5 The Committee Chair shall cause proper minutes of all proceedings of the Direct Creditors’ Committee to be taken (save for those parts of a meeting where the Direct Scheme Administrators and/or their representatives absented themselves pursuant to a request made under clause 8.2.4) and such minutes shall at all reasonable times be open to inspection by any Direct Committee Member (except insofar as a Direct Committee Member is interested as contemplated by Clause 8.2.2 in any matter detailed in the minutes) and the Direct Scheme Administrators and, where applicable,

the Administrators. The Direct Committee Members shall approve the minutes of each meeting of the Direct Creditors' Committee. Copies of such minutes shall be sent as soon as practicable after their preparation to the Direct Scheme Administrators.

- 8.2.6 A Direct Committee Member and a Direct Scheme Administrator may participate in a meeting of the Direct Creditors' Committee through the medium of conference telephone or similar form of communication equipment if all persons participating in the meeting are able to hear and speak to each other throughout the meeting. A person participating in this way is deemed to be present in person at the meeting and, in the case of a Direct Committee Member, is counted in a quorum and entitled to vote. All business transacted in this way by the Direct Creditors' Committee is deemed to be validly and effectively transacted at a meeting of the Direct Creditors' Committee although fewer than two-thirds (2/3) of the Direct Committee Members are physically present at the same place.
- 8.2.7 A resolution in writing signed by all Direct Committee Members for the time being (or their alternates) shall be as valid and effective as if passed at a meeting of the Direct Creditors' Committee duly convened and held.

8.3 Functions

8.3.1 The Direct Creditors' Committee shall be entitled to:

- (a) review and be consulted in respect of the financial and/or actuarial information and advice obtained and considered by the Company for the purpose of setting or revising a Direct Payment Percentage;
- (b) appoint a person (qualified in accordance with clause 6.1.2) as a Direct Scheme Administrator where there is no Direct Scheme Administrator and provided such appointment is in accordance with clause 6.1.2(d));
- (c) receive notice of a Direct Scheme Administrator's resignation in accordance with clause 6.1.3;
- (d) call upon a Direct Scheme Administrator to resign by a resolution passed by at least two-thirds of all Direct Committee Members for the time being and provided that such call is otherwise in accordance with clause 6.1.4;
- (e) approve the rates and payment of the remuneration of the Direct Scheme Administrators for the carrying out of their functions, powers, rights, authorities, discretions and duties and their properly incurred expenses in accordance with clause 6.2.2(k) and, save in the circumstances where there is no Direct Creditors' Committee, in which case clause 8.8 will apply, such approval must be obtained by the Direct Scheme Administrators before being compensated;
- (f) approve the purchase and maintenance for any such person as is referred to in clause 8.5.2 of insurance against any liability in respect of which the Company would be obliged to indemnify that person in accordance with clauses 8.5.2 and 8.5.3;
- (g) convene a meeting of the Direct Scheme Creditors to consider a resolution for the removal of a Direct Scheme Administrator in accordance with clause 9.1.1(a) and, in accordance with clause 6.1.2(g), if such resolution passes, the relevant Direct Scheme Administrator shall resign;
- (h) be consulted in respect of a determination by the Direct Scheme Administrators that it is in the interest of the Direct Scheme Creditors for the Direct Scheme to terminate in accordance with clause 10.1.1(b); and

- (i) be consulted on any matter which the Direct Scheme Administrators, acting reasonably, consider appropriate.

8.4 Duties

In carrying out their functions under the Direct Scheme, the Direct Creditors' Committee shall act in the interests of the general body of Direct Scheme Creditors.

8.5 Responsibilities and indemnity

8.5.1 No Direct Scheme Creditor shall be entitled to challenge the validity of any act done or omitted to be done in good faith and with due care by any current or former Direct Committee Member (or alternate) in accordance with and to implement the provisions of the Direct Scheme or the exercise by any such person in good faith and with due care of any power conferred upon it or him for the purposes of the Direct Scheme if exercised in accordance with and to implement the provisions of the Direct Scheme and no such person shall be liable for any loss unless such loss is attributable to its or their own wilful default, fraud, dishonesty or breach of duty or trust.

8.5.2 Subject to the Act, each Direct Committee Member (and each alternate) (in each case in their capacity as such) shall be entitled to an indemnity out of the Company's Property against all actions, claims, proceedings and demands brought or made against it or them in respect of any act done or omitted to be done in relation to the Company in good faith and with due care by such person without negligence, wilful default, breach of duty, breach of trust, fraud or dishonesty in the course of performing it or their duties and functions under the Direct Scheme.

8.5.3 Without prejudice to the generality of Clause 8.5.2, each such person as is expressed to be entitled to an indemnity in accordance with that clause (in the capacity in which they are entitled to such an indemnity) shall be entitled to an indemnity out of the Company's Property:

- (a) against any liability incurred by them in defending any Proceedings, whether civil or criminal, in respect of any negligence, wilful default, breach of duty, breach of trust, fraud or dishonesty in relation to the operation of the Direct Scheme in which judgment is given in their favour or in which they are acquitted; or
- (b) in connection with any application in any such Proceedings in which relief is granted to them by a court from liability for negligence, wilful default, breach of duty, breach of trust, fraud or dishonesty in relation to the operation of the Direct Scheme.

8.5.4 The Company may, with the approval of the Direct Scheme Administrators:

- (a) and with the approval of the Direct Creditors' Committee, purchase and maintain for any such person as is referred to in clause 8.5.2 insurance against any liability in respect of which the Company would be obliged to indemnify that person in accordance with clauses 8.5.2 and 8.5.3; and
- (b) pay costs incurred by any such person as is referred to in clause 8.5.2 in defending Proceedings of the nature described in clause 8.5.3 provided that the Company obtains from such person an obligation to reimburse the Company (with interest) in respect of any sum which would not, in the event, have been payable by the Company under Clause 8.5.3.

8.6 **Validation of acts**

All acts done by the Direct Creditors' Committee or any meeting of the Direct Creditors' Committee or any person acting as a Direct Committee Member or alternate shall, notwithstanding that it is afterwards discovered that there was some defect in the appointment of a Direct Committee Member or person acting as aforesaid, or that any of them were disqualified, be valid as if every such person had been duly appointed and qualified.

8.7 **Expenses**

Each Direct Committee Member and their respective alternates shall be entitled to be reimbursed by the Company for their reasonable expenses of attending meetings of the Direct Creditors' Committee, provided that such meetings are held in London or in such other place as the Direct Scheme Administrators may from time to time agree. Such amounts shall be paid as Scheme Costs.

8.8 **No Creditors' Committee**

If at any time there are fewer than three Direct Committee Members, the Direct Creditors' Committee shall not exercise any functions or have any powers under the Direct Scheme and the following provisions shall apply:

- 8.8.1 the Direct Scheme Administrators shall use all reasonable endeavours to find additional members of the Direct Creditors' Committee to enable it to function;
- 8.8.2 the requirements for obtaining the consent, approval or agreement of and for consulting with or notifying the Direct Creditors' Committee contained in this Direct Scheme shall be modified so that each such requirement is removed; and
- 8.8.3 the remuneration of the Direct Scheme Administrators shall be payable at such rates as the Direct Scheme Administrators consider, in their reasonable opinion, to be appropriate, taking into account the rates charged by Ernst & Young LLP for matters of similar size and complexity.

9 **PART 9: MEETINGS OF DIRECT SCHEME CREDITORS**

9.1 **Convening of meetings**

9.1.1 Meetings of Direct Scheme Creditors may be convened as follows:

- (a) the Direct Creditors' Committee may at any time convene a meeting of the Direct Scheme Creditors to consider a resolution for the removal of a Direct Scheme Administrator pursuant to clause 6.1.4; and
- (b) the Direct Scheme Administrators may at any time convene a meeting of the Direct Scheme Creditors for such purpose as they think fit.

9.1.2 At least 15 Business days' notice shall be given of a meeting of Direct Scheme Creditors. The notice shall be exclusive of the day on which it is served or deemed to be served and of the day for which it is given, and shall specify the place and time of the meeting.

9.1.3 Notice of a meeting of Direct Scheme Creditors shall be in the English language and shall be given:

- (a) to any Direct Scheme Creditor who has applied in writing to the Company to receive notice of such meeting, by sending notice by pre-paid post to such Direct Scheme Creditor at his last known address; and

- (b) to all other Direct Scheme Creditors by placing advertisements containing the requisite information, where reasonably practicable, in those newspapers and publications in which the Direct Scheme Meeting was advertised.
- 9.1.4 Any such notice shall be deemed to have been served on the date on which it is posted or, as the case may be, the latest date on which the advertisement appears.
- 9.1.5 The accidental omission to give notice of a meeting of Direct Scheme Creditors to, or the non-receipt of a notice of such a meeting by, any Direct Scheme Creditor entitled to receive notice shall not invalidate the proceedings at that meeting.

9.2 Resolutions

- 9.2.1 If a meeting of Direct Scheme Creditors is convened for the purpose of putting a resolution to Direct Scheme Creditors for the removal of a Direct Scheme Administrator pursuant to clause 6.1.4 which, if passed, would result in there being no Direct Scheme Administrators in office, such resolution shall also include a resolution that a named person qualified to act under clause 6.1.2(b) and willing to be appointed, be appointed as a Direct Scheme Administrator in their place.
- 9.2.2 No meeting shall be convened unless the notice of the meeting sets out the text of each resolution, or an adequate summary thereof, which is to be proposed at the meeting (or if no resolution is to be proposed at the meeting, the nature of the business to be discussed thereat) and (in the case of a notice which is sent by post) is accompanied by a letter explaining (in relation to each such resolution) why the meeting is being convened.

9.3 Voting

- 9.3.1 A resolution put to a meeting of Direct Scheme Creditors shall be effective only if it is approved by a majority in number and three-quarters in value of the Direct Scheme Creditors present and voting either in person or by proxy at the meeting.
- 9.3.2 Every Direct Scheme Creditor entitled to vote shall have the right to appoint any person as his proxy to attend and vote instead of him. The instrument appointing a proxy may be in any form which the Direct Scheme Administrators may approve and must be lodged at the place specified in the notice of meeting for the lodging of proxies not less than 48 hours before the meeting (or adjourned meeting) at which it is to be used.
- 9.3.3 No business shall be transacted at any meeting of Direct Scheme Creditors unless a quorum is present when the meeting proceeds to business. 20 Direct Scheme Creditors present in person or by proxy and having the right to vote at the meeting shall be a quorum, unless the Direct Scheme Administrators and the Direct Creditors' Committee agree a smaller number. All resolutions put to the vote of any meeting shall be decided on a poll (rather than on a show of hands).
- 9.3.4 A Direct Scheme Administrator shall preside (or shall nominate a representative to preside) at each meeting of the Direct Scheme Creditors (other than at a meeting at which a resolution to remove a Direct Scheme Administrator is proposed, when the Direct Scheme Adjudicator shall preside), but if a Direct Scheme Administrator (or their alternate) or, if relevant, the Direct Scheme Adjudicator is not present within thirty minutes after the time appointed for opening the meeting or is unwilling to preside, the Direct Scheme Creditors present in person or by proxy shall choose a Direct Committee Member, or, if no such member is present or if all such members present decline to preside, one of themselves, to be chairman of the meeting. If no person is

willing to preside as chairman of the meeting, the meeting shall be adjourned for 7 days, and, if no person is willing to preside as chairman of the adjourned meeting, the meeting shall be dissolved.

9.4 Valuation of Direct Scheme Claims for the purposes of meeting

9.4.1 For the purposes of valuing any Direct Scheme Claim for the purposes of clause 9.3.1 the value of the Direct Scheme Claim shall be:

- (a) in the case of a Direct Scheme Claim which has become a Net Ascertained Claim, the amount of the Net Ascertained Claim (less the amount of any payments paid, or treated as having been paid, by the Company under the Direct Scheme in respect hereof); and
- (b) in the case of any other Direct Scheme Claim, such amount as may, for the purposes of such meeting only, be estimated as the value of such Direct Scheme Claim.

9.4.2 In the event that a Direct Scheme Creditor disputes the value which has been put on its Direct Scheme Claim pursuant to clause 9.4.1 or otherwise the amount for which its vote should be counted, the dispute shall be referred to the Direct Scheme Adjudicator who shall be entitled to consult with such relevant experts as they think appropriate and who shall act as an expert not an arbitrator and whose decision (including as to who should bear the costs of such referral) shall be final (but only as regards the convening of the meeting or the vote on that occasion).

9.4.3 For the purposes of ascertaining whether or not the requisite percentage for the convening of any meeting of Direct Scheme Creditors or the requisite majority at any meeting of Direct Scheme Creditors has been obtained, the amount of each Direct Scheme Claim which is denominated in a currency other than US Dollars shall be converted into US Dollars at the Exchange Rate.

10 PART 10 TERMINATION OF THE DIRECT SCHEME

10.1 Termination of the Direct Scheme

10.1.1 The Direct Scheme shall terminate upon:

- (a) the Direct Scheme Administrators determining that all payments due to Direct Scheme Creditors in respect of their Net Ascertained Claims have been paid (or deemed to have been paid) pursuant to Part 5 (*Payment of Net Ascertained Claims*) and any Excess Distributable Property has been retained by the Company in accordance with clause 5.4; or
- (b) in the event that the Direct Scheme Administrators, acting in consultation with the Direct Creditors' Committee, determine that it is in the interest of the Direct Scheme Creditors for the Direct Scheme to terminate.

10.1.2 The Direct Scheme Administrators, acting in consultation with the Direct Creditors' Committee, may determine that it is in the best interests of the Direct Scheme Creditors for the Direct Scheme to remain open (and not to be terminated) for such period as they may consider necessary to enable all Property of the Company to be collected in and realised.

10.2 **Notice of Termination**

Where the Direct Scheme terminates pursuant to clause 10.1 (*Termination of the Direct Scheme*) the Direct Scheme Administrators shall within three Business Days thereof, place a notice of termination on the Website.

10.3 **Provisions Surviving Termination**

Save as otherwise provided by the Direct Scheme Administrators, the Surviving Provisions shall survive termination of this Direct Scheme.

11 **PART 11 GENERAL PROVISIONS**

11.1 **Effective Date**

The Direct Scheme shall become effective on the Effective Date.

11.2 **Modifications of the Direct Scheme**

The Company may at any hearing by the Court to sanction the Direct Scheme consent on behalf of Direct Scheme Creditors to any modification of, or addition to, the Direct Scheme or any terms or conditions which the Court may think fit to approve or impose and which would not directly or indirectly have a materially adverse effect on the rights of any Direct Scheme Creditor under the Direct Scheme (in its capacity as a Direct Scheme Creditor).

11.3 **Notices**

11.3.1 Without prejudice to clause 11.4 (*Electronic Communications*), any notice or other written communication to be given under or in relation to the Direct Scheme shall be sent:

- (a) in the case of the Direct Scheme Administrators, by email to CxReClaims@uk.ey.com or such other email address as the Direct Scheme Administrators may notify to Direct Scheme Creditors for the purpose of this clause 11.3 (*Notices*);
- (b) in the case of a Direct Scheme Creditor, Broker or Agent, by email or Post to its last known email or postal address of which the Direct Scheme Administrators are aware; and
- (c) in the case of the Direct Creditors' Committee, via the Direct Scheme Administrators, marked for the attention of the Direct Creditors' Committee, to CxReClaims@uk.ey.com.

11.3.2 For the purposes of Part 3 (*Claims Submission*) or Part 4 (*Determination of Net Ascertained Claims*), the omission by any of the Company or any Office Holder to send any notice, written communication or other document in accordance with this clause 11.3 (*Notices*) shall not affect the provisions of that Part.

11.4 **Electronic Communications**

11.4.1 Save where the Company agrees otherwise in relation to any particular case, or where a Direct Scheme Creditor, Broker or Agent has not provided a current email address, information concerning Direct Scheme Claims (including Claim Forms and copies of any relevant supporting documentation) and any other communications required to be or capable of being given or sent hereunder must

be given or sent by the Direct Scheme Administrators, Direct Scheme Adjudicator, or the Direct Scheme Creditor concerned in electronic form to the address specified for that purpose by the Direct Scheme Creditor, Direct Scheme Administrators or Direct Scheme Adjudicator (all of whom hereby consent to the use of electronic communications).

11.4.2 Where any communication is sent to the Direct Scheme Administrators in electronic form:

- (a) the complete electronic mail including any attachments must be less than 25 megabytes in size;
- (b) a hard copy of any electronic mail must be sent to the Direct Scheme Administrators if so requested;
- (c) receipt by the Direct Scheme Creditor of an automated acknowledgement shall constitute conclusive proof that the electronic mail was sent in accordance with clause 11.4.1; and
- (d) the electronic mail shall not be deemed to have been received unless it is received in the Direct Scheme Administrators' mail box and the Direct Scheme Administrators are able to open and print it and any attachments, unless a hard copy is received in accordance with clause 11.4.2(b).

11.4.3 Where any communication to the Direct Scheme Administrators, Direct Scheme Adjudicator or Direct Scheme Creditor in electronic form exceeds 25 megabytes in size, the electronic mail should be split into multiple electronic mails each of which must be less than 25 megabytes in size, including any attachments. Alternatively, the communication should be sent to the Direct Scheme Administrators, Direct Scheme Adjudicator or Direct Scheme Creditor by Post.

11.4.4 Subject to clause 11.4.2(b), notice given, or information provided, in electronic form shall be deemed to have been received on the first Business Day following the expiration of 48 hours after the time it was sent by the sender.

11.5 **Calculation of Time Periods**

11.5.1 Time periods laid down by the Direct Scheme which are expressed in days shall be calculated by reference to elapsed days and not Business Days.

11.5.2 For the purposes of clauses 6.1.3, 7.1.9 and 7.2.4, a period of three months shall run from the day of the month on which the period commences to the day in the third month thereafter numerically corresponding to that day, less one day. Where there is no numerically corresponding day in that month the period shall end on the last day of that month.

11.5.3 In the event that a time period expires on a day which is not a Business Day, such period shall be deemed not to expire until 5.30 p.m. (U.K. time) on the Business Day next following.

11.6 **Governing Law and Jurisdiction**

11.6.1 The Direct Scheme shall be governed by, and construed in accordance with, the laws of England and Wales, and the Direct Scheme Creditors hereby agree that the Court shall have exclusive jurisdiction to hear and determine any Proceedings and to settle any dispute which may arise out of the Direct Explanatory Statement or any provision of the Direct Scheme, including this clause 11.6 (*Governing Law and Jurisdiction*), or out of any action taken or omitted to be taken under the Direct

Scheme or in connection with the administration of the Direct Scheme, and for such purposes the Direct Scheme Creditors irrevocably submit to the jurisdiction of the Court provided, however, that nothing in this clause 11.6 shall affect:

- (a) the validity of any other provisions determining governing law as between the Company and any of its Direct Scheme Creditors whether contained in any Insurance Contract or otherwise;
- (b) the application of any choice-of-law rules that would otherwise apply to determine the substantive law governing any Insurance Contract that does not contain a governing law provision; nor
- (c) the governing law applied by a court in any decision applicable to the Company and any Direct Scheme Creditor.

11.6.2 Notwithstanding the provisions of clause 11.6.1, the Company shall retain the right to bring Proceedings in the courts of any other country having jurisdiction under its own laws to hear such Proceedings.

Dated 7 October 2024

SCHEDULE 1

ESTIMATION GUIDELINES

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1 INTRODUCTION

- 1.1 The Estimation Guidelines are intended to make the process that the Company will follow in valuing Liabilities as transparent as possible to Direct Scheme Creditors. The Estimation Guidelines describe the approach that the Company will expect both Direct Scheme Creditors and the Company to follow in valuing Notified Outstanding Liabilities and IBNR Liabilities. Under the terms of the Direct Scheme, the Estimation Guidelines will be applied by the Company in seeking to reach agreement with Direct Scheme Creditors in respect of any Notified Outstanding Liabilities and any IBNR Liabilities. If the Company is unable to reach agreement with a Direct Scheme Creditor as to any of these amounts, they will be referred to the Direct Scheme Adjudicator for determination by him in accordance with the provisions of the Direct Scheme.
- 1.2 **Direct Scheme Creditors are advised to read this Schedule 1 in its entirety. Each section of this Schedule 1 must be read in its entirety. Reading individual parts of sections in isolation could be misleading.**
- 1.3 The Estimation Guidelines are designed to be of assistance to Direct Scheme Creditors in developing their estimates of Notified Outstanding Liabilities and IBNR Liabilities by setting out estimation techniques that are generally accepted within the insurance market. Direct Scheme Creditors are not, however, precluded from using other projection techniques where they consider these techniques to be appropriate, provided that such techniques are well supported and that they use assumptions that can reasonably be justified by the Direct Scheme Creditor. If the Company considers that such techniques are well supported and justified, then these may be adopted in valuing Notified Outstanding Liabilities and IBNR Liabilities of that Direct Scheme Creditor.
- 1.4 It should be noted, in this context, that the Company does not consider the valuation of "All Sums" claims on a "Pure All Sums" basis, which takes no account of contributions or credits from other insurers from within the relevant triggered period, to be either appropriate or robust. An approach of this type would be inconsistent with the manner in which "All Sums" claims are actually settled and the manner in which such claims are valued in standalone commutations outside schemes of arrangement. The Company will only agree to settle such claims (or give weight to "All Sums" claims in a settlement) where such claims are calculated on a basis that is net of contributions to and from other insurers from within the relevant triggered period.

However, notwithstanding anything to the contrary herein, the Company will apply the law that would likely, under traditional choice of law analysis, have been applicable to each Direct Scheme Creditor's claim had it been resolved in the normal course outside the Direct Scheme. This may include allocation rules whereby contribution or credits may or may not be available from other insurers under the applicable law, or are available only in limited manner. The Company also will take into account the terms of any court judgment obtained by a creditor prior to the Scheme Reference Date under policies subscribed by the Company and subject to the judgment.

- 1.5 Also, "All Sums" claims are still subject to other terms, conditions and exclusions of the policies, including anti-stacking provisions in the policies, which may limit the Direct Scheme Creditor's claim. To the extent the Company applies a contribution offset to a given claim, as set forth in the preceding paragraph, the applicability of such anti-stacking provisions would be reduced.
- 1.6 Where appropriate and insofar as is practicable and possible, the basis of settlement shall include an assignment to the Direct Scheme Creditor of any and all rights that the Company may have against other insurers from within the relevant triggered period now and/or in the future.
- 1.7 In all cases Direct Scheme Creditors should value their Notified Outstanding Liabilities and IBNR Liabilities as an estimate that is not biased either upwards or downwards and is intended to represent the mean of the distribution of possible outcomes.
- 1.8 The Company will not, unless legally obliged to do so, be bound by, or obliged to follow, any settlement made between a Direct Scheme Creditor and another insurer or reinsurer (including, without limitation, any co-insurer in relation to a common liability) if it believes that settlement to be unreasonable or inappropriate.
- 1.9 If, at any stage of the process, a Direct Scheme Creditor has any queries relating to the application or potential application of the Estimation Guidelines to its claim, it should contact the Company for further guidance. Direct Scheme Creditors may also wish to consult appropriate professional advisers in determining their claim against the Company.

2 DIRECT INSURANCE OF APH CLAIMS

- 2.1 This section describes the Estimation Guidelines that the Company will expect both Direct Scheme Creditors and the Company to follow where Direct Scheme Creditors have asbestos, pollution or health hazard ("**APH**") claims arising under an Insurance Contract (i.e. a contract of Direct Insurance with the Company).
- 2.2 This section relates to a Direct Scheme Claim arising under contracts of Direct Insurance.
- 2.3 If the Direct Scheme Creditor has agreed a settlement with the Company, or obtained a court decision against the Company, the Direct Scheme Creditor should follow that settlement or decision which may address how claims are to be paid, or which may bar or restrict the ability to make any further claims by the Direct Scheme Creditor against the Company.

Asbestos claims

- 2.4 An "average cost per claim method" should be adopted. This involves building up an estimate of the total number of claims to be received by the Direct Scheme Creditor and applying to that an average claim cost to determine the total inwards liability in respect of that Direct Scheme Creditor. This amount can then be allocated across the appropriate period and applied to the policy profile of the Direct Scheme Creditor to derive the Company's share of that cost.
- 2.5 If this approach is adopted, the following steps should be followed (note that further guidance for some of these points is given later):
- (a) estimate the ultimate number of claims to be filed against the Direct Scheme Creditor;
 - (b) estimate the proportion of the ultimate claims that are likely to be dismissed;
 - (c) select average indemnity and expense costs per claim allowing for future inflation;
 - (d) multiply the number of settled claims (i.e. the ultimate number of claims less those expected to be dismissed) by the selected average indemnity cost per claim to derive an estimate of the total indemnity cost. Multiply the ultimate number of claims by the selected average expense cost per claim to derive an estimate of the total expense cost;
 - (e) identify the period over which these costs are to be allocated by reference to the appropriate trigger; and
 - (f) allocate the indemnity and expense costs across this period and apply the results to the policy profile of the Direct Scheme Creditor to derive the Company's share of those costs.
- 2.6 Within the above approach, separate consideration should be given to the type of claim (i.e. products bodily injury, products property damage, premises, other types of non-products etc.) and the US State or country whose applicable case law governs the Insurance Contracts. For bodily injury claims, separate consideration should be given to the disease type (e.g. mesothelioma, lung cancer, other cancer, asbestosis, other non-malignant etc.).

Claim numbers

- 2.7 The estimates of claim numbers should take account of the historical claims development together with any available independent studies of the incidence of asbestos-related diseases and should reflect the prevailing legal environment in the relevant country and/or jurisdiction.

Expenses

- 2.8 Direct Scheme Creditors should indicate whether expenses are included within the limits or are payable in addition to the limits for each policy, or not covered at all by the policies implicated.

Trigger of coverage

- 2.9 The most common approach adopted by the US courts to determine the period over which the losses should be allocated is the continuous trigger, whereby all policies available over the period from the date of first exposure to asbestos up to the date when the disease became clinically evident are triggered.
- 2.10 The selection of the triggered period should also take the following into consideration:
- (a) the treatment of any periods of self-insurance;
 - (b) the period during which the Direct Scheme Creditor manufactured, installed or distributed asbestos-containing products;
 - (c) exclusion clauses within the Direct Scheme Creditor's policies, where appropriate;
 - (d) settlements and other major agreements between the Direct Scheme Creditor and its insurers;
 - (e) legal judgments in any coverage disputes between the Direct Scheme Creditor and its insurers; and
 - (f) relevant US case law (or case law from other countries if appropriate). Allocation of costs to the triggered period
- 2.11 In most circumstances, the Company will expect the costs to be spread over the entire period covered by the triggered policies with reference to the Direct Scheme Creditor's asbestos exposure over time. The Company will expect the Direct Scheme Creditor to provide exposure information in support of its approach.
- 2.12 The Direct Scheme Creditor is required to share in the allocation of costs by bearing the loss allocated to periods of self-insurance or non-insurance, unless the Direct Scheme Creditor can identify a relevant court decision under applicable law that demonstrates that it is not required to bear these loss allocations.
- 2.13 In circumstances where consideration may be given to settlement on an "All Sums" basis, the Company will assign an appropriate weight (which may be 100%) to an "All Sums" calculation. This weight will be based on past court decisions in respect of the Direct Scheme Creditor and/or on other court decisions that are likely to be directly relevant to the Direct Scheme Creditor. Where non-zero weight is given to an "All Sums" calculation, that calculation should be conducted on a basis that is net of contributions to and from other insurers from within the relevant triggered period.
- 2.14 The Company will consider other methods of allocating costs to the triggered period provided that they are shown to be robust and that they use assumptions that can reasonably be justified by the Direct Scheme Creditor.

Benchmarking Approach

- 2.15 The average cost method described above would be the expected calculation to be performed. If for some reason this approach is not possible in relation to the Direct Scheme Creditor's exposure to asbestos claims then a benchmarking approach can be applied.
- 2.16 In these instances the benchmark applied (e.g. IBNR to outstanding ratio, paid survival ratios etc) will need to be justified and in particular a justification for why the average cost method was not possible to apply.

Environmental pollution claims

- 2.17 In order to determine the inwards liability of a Direct Scheme Creditor in respect of each polluted site, an exposure-based approach should be used. The Direct Scheme Creditor should identify all sites to which it has exposure for which liability potential has already been notified and sites for which it believes that it will be notified of liability potential in the future. The steps below should be used to determine the Direct Scheme Creditor's share of the clean-up costs at each site and then to estimate the extent to which these costs can be recovered under the Direct Scheme Creditor's insurance policies with the Company:
- (a) estimate the cost of cleaning up a polluted site;
 - (b) apportion those clean-up costs between the Direct Scheme Creditor and other potentially responsible parties ("**PRPs**");
 - (c) estimate corresponding expenses;
 - (d) identify the period over which these clean-up costs and expenses are to be allocated with reference to the appropriate trigger;
 - (e) allocate the clean-up costs and expenses over this period and apply the results to the Direct Scheme Creditor's policy profile to derive the Company's share of those costs; and
 - (f) assess any legal coverage issues involved in determining the validity of any claim of the Direct Scheme Creditor against the Company in respect of those sites.

Clean-up costs

- 2.18 The Direct Scheme Creditor should estimate the undiscounted clean-up cost for each site. The Direct Scheme Creditor should provide independent supporting evidence when claiming future clean-up costs. Past costs may be supported by internal evidence held or obtained by the Direct Scheme Creditor.

Expenses

- 2.19 Direct Scheme Creditors should indicate whether expenses are included in the limits or in addition to the limits for each policy, or not covered at all by a policy. Where expenses are included in the clean-up cost amounts, this should be indicated by the Direct Scheme Creditor. Each Direct Scheme Creditor should provide details of how its expenses have been determined, allowing for the number of PRPs involved at the site (if appropriate).

PRP share

- 2.20 The total clean-up costs for each site should be allocated to PRPs using participation percentages or volumetric shares where possible. Where neither of these methods is available, the share of unallocated costs on a site should be estimated with reference to the most appropriate available information.

Governing law

- 2.21 The ultimate loss to the Company for a site will depend, to some extent, on the assumptions adopted by the courts in any litigation in the relevant jurisdiction. These assumptions vary from state to state and from country to country. Settlements of US pollution claims and US court judgments relating to pollution claims typically use the principal place of business of the insured at the relevant time periods of the relevant Insurance Contracts as the key factor in determining the appropriate governing law, although there are some exceptions to this (see below). The governing law in relation to any dispute in respect of a pollution claim arising out of an Insurance Contract will therefore be the law of the state where the insured has its principal place of business at the relevant time periods of the relevant Insurance Contracts and the Company will apply that law by reference to the principles set out below. The exceptions to this are where:
- (a) The Direct Scheme Creditor has agreed a settlement with the London Market and / or a settlement that is governed by a different law; or
 - (b) The Direct Scheme Creditor can identify a relevant court decision that means that the Direct Scheme Creditor's claims will be subject to a different governing law.

Trigger of coverage

- 2.22 The most common approach adopted by the US courts to determine the period over which the losses should be allocated is the continuous trigger, whereby all insurance policies are triggered between the date of first exposure to the risk up to the date of its manifestation. Other triggers (such as exposure or manifestation) may be used if there is strong justification to do so.

Allocation of costs to triggered policies.

- 2.23 The default method of allocation should be the pro rata allocation. Under this allocation basis, the costs are spread evenly over the entire period covered by the triggered policies.
- 2.24 The Direct Scheme Creditor is required to share in the allocation by bearing the loss allocated to periods of self-insurance or non-insurance, unless otherwise provided for by applicable law.
- 2.25 In circumstances where consideration may be given to settlement on an "All Sums" basis, the Company will assign an appropriate weight (which may be 100%) to an "All Sums" calculation. This weight will be based on past court decisions in respect of the Direct Scheme Creditor and/or on other court decisions that are likely to be directly relevant to the Direct Scheme Creditor. Where non-zero weight is given to an "All Sums" calculation, that calculation should be conducted on a basis that is net of contributions to and from other insurers from within the relevant triggered period.

- 2.26 The Company will consider other methods of allocating costs to the triggered period provided that they are shown to be robust and that they use assumptions that can reasonably be justified by the Direct Scheme Creditor.

Coverage issues

- 2.27 Insurers may not in all cases be liable to pay the clean-up costs and expense costs. Each policy covering the Direct Scheme Creditor may have several clauses that insurers and reinsurers may argue preclude liability. The key issues to consider include but are not limited to:
- (a) whether the policy contains any "absolute", "sudden and accidental" and/or "owned property" exclusion clauses;
 - (b) whether clean-up costs are considered as damages; and
 - (c) the "expected or intended" argument.

- 2.28 The effect of any of the above issues on individual sites will be assessed by considering past court decisions under applicable law in order to determine the likelihood of various outcomes by state (or country) and policy year. The owned property sites should be indicated by the Direct Scheme Creditor.

Future sites

- 2.29 If the Direct Scheme Creditor considers that it will potentially be exposed to as yet unidentified sites, then it should consider making an allowance for these sites using an "average cost per claim method". The Direct Scheme Creditor should estimate the number of such sites, with reference to the past emergence of unidentified sites, and apply an average cost per site. This average cost per site will need to have regard to the characteristics that the unidentified sites are likely to exhibit.

Benchmarking Approach

- 2.30 The average cost method described above would be the expected calculation to be performed. If for some reason this approach is not possible in relation to the Direct Scheme Creditor's exposure to environmental pollution claims then a benchmarking approach can be applied.
- 2.31 In these instances the benchmark applied (e.g. IBNR to outstanding ratio, paid survival ratios etc) will need to be justified and in particular a justification for why the average cost method was not possible to apply.

Other health hazards (for example Lead Paint exposures)

- 2.32 For each health hazard (for example Lead Paint exposures), an "average cost per claim method" should be adopted. This involves building up an estimate of the total number of claims to be received by the Direct Scheme Creditor and applying to that an average claim cost to determine the total inwards liability of that Direct Scheme Creditor. This can then be allocated across the appropriate period and applied to the policy profile of the Direct Scheme Creditor to derive the Company's share of that cost.

Claim numbers

- 2.33 The estimates of claim numbers should take account of the historical claims development together with any independent studies of the incidence of the relevant loss type.

Expenses

- 2.34 Direct Scheme Creditors should indicate whether expenses are included within the limits or are payable in addition to the limits for each policy, or not covered at all by the policies implicated.

Trigger of coverage

- 2.35 The most common approach adopted by the US courts to determine the period over which the losses should be allocated is the continuous trigger, whereby all policies available over the period from the date of first exposure up to the date when the disease became clinically evident are triggered. Other triggers (e.g. exposure, manifestation or injury in-fact) have occasionally been selected and applied by the courts and may be used if there is strong justification to do so.

- 2.36 The selection of the triggered period should also take the following into consideration:

- (a) settlements and other major agreements between the Direct Scheme Creditor and its insurers;
- (b) legal judgments in any coverage disputes between the Direct Scheme Creditor and its insurers; and
- (c) relevant US case law (or case law from other countries if appropriate).

Allocation of costs to the triggered period

- 2.37 In most circumstances, the Company will expect the costs to be spread over the entire period covered by the triggered policies with reference to the Direct Scheme Creditor's exposure to the health hazard over time. The Company will expect the Direct Scheme Creditor to provide exposure information in support of its approach.
- 2.38 The Direct Scheme Creditor is required to share in the allocation of costs by bearing the loss allocated to periods of self-insurance or non-insurance, unless the Direct Scheme Creditor can identify a relevant court decision under applicable law that demonstrates that it is not required to bear these loss allocations.
- 2.39 In circumstances where consideration may be given to settlement on an "All Sums" basis, the Company will assign an appropriate weight (which may be 100%) to an "All Sums" calculation. This weight will be based on past court decisions in respect of the Direct Scheme Creditor and/or on other court decisions that are likely to be directly relevant to the Direct Scheme Creditor. Where non-zero weight is given to an "All Sums" calculation, that calculation should be conducted on a basis that is net of contributions to and from other insurers from within the relevant triggered period.
- 2.40 The Company will consider other methods of allocating costs to the triggered period provided that they are shown to be robust and that they use assumptions that can reasonably be justified by the Direct Scheme Creditor.

Benchmarking Approach

- 2.41 The average cost method described above would be the expected calculation to be performed. If for some reason this approach is not possible in relation to the Direct Scheme Creditor's exposure to other health hazard claims then a benchmarking approach can be applied.
- 2.42 In these instances the benchmark applied (e.g. IBNR to outstanding ratio, paid survival ratios etc) will need to be justified and in particular a justification for why the average cost method was not possible to apply.

Alternative approaches where historical information may not be available

- 2.43 If a Direct Scheme Creditor has evidence that it is exposed to an asbestos, pollution or health hazard liability from a source from which it has as yet no claims experience, it may be appropriate for that Direct Scheme Creditor to use information that is not based on past claims experience to support its claim if methods using such information are well supported and include justifiable assumptions. A suitable methodology is likely to involve elements from epidemiological and demographic studies, industry comparisons and trend lines. Other methods, provided that the rationale and basis for the assumptions are clearly explained, might also be suitable.
- 2.44 The approach taken will need to draw from the information available to the Direct Scheme Creditor. The Direct Scheme Creditor should consider what information and supporting evidence it can gather and thus what approach should be developed which maximises its ability to provide backing information and justification for the assumptions used.
- 2.45 Once the ground-up costs against the Direct Scheme Creditor have been established, the liabilities can be applied to the Company's policies in the normal manner. Consideration then needs to be given to the likelihood of the claims actually emerging to the extent indicated by the selected methodology. The final result needs to be adjusted for this probability which should be documented in full.

3 DIRECT NON-APH CLAIMS

- 3.1 This section describes the Estimation Guidelines that the Company will expect Direct Scheme Creditors to follow where those Direct Scheme Creditors have non-APH claims arising under an Insurance Contract with the Company.

Overview

- 3.2 The Estimation Guidelines are designed to be of assistance to Direct Scheme Creditors in developing their estimates of Notified Outstanding Liabilities and IBNR Liabilities by setting out estimation techniques that are generally accepted within the insurance market.
- 3.3 The section below describes one such technique that Direct Scheme Creditors may use to value claims arising from non-APH liabilities. Direct Scheme Creditors are not, however, precluded from using other projection techniques where they consider these techniques to be appropriate, provided that such techniques are well supported and that they use assumptions that can reasonably be justified by the Direct Scheme Creditor. If the Company consider that

such techniques are well supported and justified, then these may be adopted in valuing Notified Outstanding Liabilities and IBNR Liabilities of that Direct Scheme Creditor.

Benchmarking

- 3.4 Benchmarks should be applied to positions as at the Scheme Reference Date in respect of paid, outstanding and incurred recoveries between the Direct Scheme Creditor and the Company. Benchmarks that could be used include ratios of IBNR Liabilities to Notified Outstanding Liabilities or ratios of ultimate claims to paid or incurred claims based on an analysis of the Direct Scheme Creditor's exposures. Allowance should be made for the effect of large single movements, such as large losses or major commutations, and any other features that could distort these benchmark approaches.
- 3.5 Consideration should be given to the subdivisions of the Direct Scheme Creditor's account which are used in the benchmarking process. A balance needs to be struck between subdividing to make the benchmarking process more appropriate to each sub-division of data and not sub-dividing so much that the resulting data being used in the benchmarking process lacks statistical credibility.
- 3.6 The types of sub-division will depend on the data available and may consist of any or all of the following:
- (a) type of loss (e.g. liability or property damage);
 - (b) type of business (e.g. proportional or non-proportional); and
 - (c) class of business.
- 3.7 Where possible, the results from this approach should be supported using development data or ceded paid and incurred claims.

4 DIRECT UNANTICIPATED LATENT CLAIMS

- 4.1 A Direct Scheme Creditor may have reason to believe that it faces exposure to a type of latent claim that has not yet been notified to the world's leading insurance markets which is covered under the policies issued by the Company to that Direct Scheme Creditor. This may be a result of insufficient scientific and/or causal evidence or for other reasons, including the possibility that this claim type is currently completely unknown. Subject to the conditions set out later in this section, a Direct Scheme Creditor may submit a claim for this exposure.
- 4.2 Such exposure is expected to vary according to several factors, including:
- (a) class of business and year of inception and termination;
 - (b) type of policy and other coverage aspects; and
 - (c) nature of the underlying insured's business, including the industry in which it operates and, consequently, the likely nature of any potential claim; and territory including the applicable law.

- 4.3 The Company's exposure to such types of latent claim would be expected to diminish over time until it eventually reduces to an immaterial level.
- 4.4 The Direct Scheme Creditor must supply information to demonstrate that it faces exposure to such types of latent claim. This information will have regard to the above factors and will need to draw on company and/or industry data to show a non-zero likelihood that unanticipated claim types may emerge in the future that will impact the Company's policies with that Direct Scheme Creditor.
- 4.5 The Direct Scheme Creditor must also provide an estimate of the ultimate cost of the exposure together with appropriate supporting evidence. In view of the diverse nature of the underlying claims, the Company will accept any reasonable approach, provided that it is appropriately supported and takes into account the factors listed above.

5 ALLOWANCE FOR TIME VALUE OF MONEY

Discounting

- 5.1 Once the Outstanding Claims and IBNR Claims have been ascertained, they will be discounted to take account of the time value of money.

Items to be discounted

- 5.2 Both Outstanding Claims and IBNR Claims will be discounted to the Scheme Reference Date. The discount factors to be applied depend on rates of interest and claims development (i.e. payment) patterns.

Rates of Interest

- 5.3 The rates of interest will vary by claim type, based on an estimated mean term for that claim type. The rates for each mean term are as at the Scheme Reference Date and are based on the rates for U.S. Treasury securities on the Scheme Reference Date for terms that reflect the range of mean terms of the different claim types (these rates will be based on information published by EIOPA for USD risk free yields for Solvency II).

Claims Development (i.e. payment) Patterns

- 5.4 The Direct Scheme Actuary will use claims development (i.e. payment) patterns for each of the main claim types and the claim amounts will be discounted assuming an average time to settlement of each such claim type. The Direct Scheme Actuary will take into account specific information supplied by the Direct Scheme Creditor and/or Direct Scheme Administrator relating to payment patterns that he considers relevant to their Direct Scheme Claim and which would have a material impact on the discount factors to be used. For example, in some cases it might be appropriate to allow for pre-agreed instalment dates as part of a settlement agreement.

Default Factors to be used

- 5.5 The following table shows the discount factors as at the Scheme Reference Date. These factors will be used unless the Direct Scheme Actuary deems it appropriate to adjust either the interest rates or claims development patterns described in Sections 5.3 and 5.4

respectively. The "Discount Factor" shown in the final column of this table represents the percentage reduction that will be applied to the undiscounted reserve (that is Outstanding Claims and IBNR Claims), except where it is amended in accordance with Section 5.5 (in which case a different factor may be used).

Claim Type	Mean Settlement Term	USD annualised interest rate	Discount Factor
Asbestos	8	3.44%	23.72%
Pollution	7	3.45%	21.13%
Health Hazards	8	3.44%	23.72%
Unanticipated Latent Claims	10	3.45%	28.76%
Direct Non-APH Claims	5	3.50%	15.80%

SCHEDULE 2

SUPPORTING EVIDENCE

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1. INTRODUCTION

- 1.1 This Schedule 2 sets out the level of supporting evidence that should be supplied by a Direct Scheme Creditor in support of the different approaches used for estimating Notified Outstanding Claims and IBNR Claims for different Insurance Contract types and claim loss types as described in the Estimation Guidelines.
- 1.2 Where the Direct Scheme Creditor adopts projection techniques other than those set out in the Estimation Guidelines full supporting evidence should be provided, including full descriptions of the techniques adopted and the assumptions made, including supporting data to justify each of the assumptions made.

2. DIRECT APH CLAIMS

- 2.1 This section describes the supporting evidence that should be submitted by Direct Scheme Creditors with APH claims arising under an Insurance Contract with the Company.

2.3 Asbestos claims

- 2.3.1 Direct Scheme Creditors with asbestos claims following the approach set out in section 2.4 of Schedule 1 should provide supporting evidence with the Claim Form that should include:

Agreements or settlements with any insurer

- 2.3.2 If there is a coverage in place agreement or settlement with any insurer, the Direct Scheme Creditor should:
- (a) provide a copy of the agreement (the Company and its advisers will sign a confidentiality agreement if necessary);
 - (b) indicate the policy years covered by the agreement; and
 - (c) indicate the extent to which the limits provided by the agreement have been paid to date.

Claims estimation data

- 2.3.3 If the asbestos claims arise from products liability coverage then the Direct Scheme Creditor should provide details of the asbestos product(s) involved, the years that the product(s) were manufactured and distributed by the underlying insured, and the source of the asbestos claims (e.g. employees, third parties etc.).
- 2.3.4 A claimant database should also be provided for all asbestos claim types. The database should include the following information for each individual claimant who has filed a claim against the insured:
- (a) claimant name;
 - (b) date when the claim was filed against the insured;
 - (c) type of claim (i.e. products bodily injury, products property damage, premises, other types of non-products etc.);
 - (d) if the claim is a non-products claim, the site and US State (or country) where that site is located from where the claim arose;
 - (e) claim status (i.e. whether the claim is still open, or whether it has been closed);
 - (f) if the claim has been closed, a flag to show whether the claim was settled or dismissed, the date when such settlement or dismissal took place and the total indemnity amount of any settlement;
 - (g) for open claims, the dates and amounts of all indemnity amounts paid;
 - (h) total defence costs paid to date in respect of each claim (both for the closed (settled and dismissed) and open claims);
 - (i) disease type (e.g. mesothelioma, lung cancer, other cancer, asbestosis, other non- malignant etc.);
 - (j) US State or other jurisdiction in which the claim was filed;
 - (k) if the claim record relates to a class action or multi-plaintiff lawsuit, the number of underlying individual claimants (although ideally, the Company would like full data in respect of each individual claimant underlying a particular class action); and
 - (l) date of first and last exposure to asbestos for the claimant.
- 2.3.5 From this database, it should be possible to determine the following summary information for each claim type and disease type:

- (a) number of claims filed, settled and dismissed by year and by state or country (as applicable) for as many years as possible including the number of claims against the underlying insured remaining open as at the Scheme Reference Date; and
- (b) indemnity and expense costs for claims closed by the underlying insured by year, by state and by disease type for as many years as possible.

Policy data

2.3.6 The Direct Scheme Creditor should provide policy data as follows:

- (a) a list of the policies written by the Company where asbestos claims have been allocated including information on policy limits, aggregate limits and excess points;
- (b) evidence of prior settlement where blocks of coverage are excluded from allocation;
- (c) evidence of policies being "costs in addition" or "costs inclusive" where the underlying insured is making such an assertion;
- (d) evidence of entitlement under the policies where the claimant is not the underlying named insured;
- (e) details of any exclusion clauses, where appropriate; and
- (f) a complete coverage chart showing erosion to date, in both an electronic format and as a colour coded chart as appropriate.

Basis of estimation

2.3.7 The Direct Scheme Creditor should indicate the basis of estimation that it has used and should provide:

- (a) a description of the Direct Scheme Creditor's basis of estimation of the ultimate asbestos claims cost, including the techniques used for projecting future numbers of claims filed and for projecting average claims costs and details of any assumptions used;
- (b) evidence of court or other rulings to substantiate the basis of estimation;
- (c) details of the methodology and assumptions used to allocate the ultimate claims cost to the Direct Scheme Creditor's policies with the Company; and
- (d) the value of Notified Outstanding Claims and IBNR Claims being claimed by the Direct Scheme Creditor from the Company.

2.4 Environmental pollution claims

- 2.4.1 Direct Scheme Creditors with pollution claims following the approach set out in section 2.17 of Schedule 1 should provide supporting evidence with the Claim Form that should include:

Agreements or settlements with any insurer

- 2.4.2 Direct Scheme Creditors should provide a copy of, or excerpt from, any settlement agreement with any insurer specifying the date of the settlement, the amount of the settlement, the allocation to policy years, the sites involved and the split of the settlement between indemnity and expense costs. The Company and its advisors will sign a confidentiality agreement if necessary.

Numbers of sites exposed

- 2.4.3 The Direct Scheme Creditor should provide the Environmental Protection Agency (EPA) site ID for each site where the underlying insured is submitting a claim against the Scheme Creditor for liability arising under the Comprehensive Environmental Response, Compensation and Liability Act 1980 (CERCLA). Appropriate identifiers should also be provided for third party, Resource Conservation and Recovery Act 1976 (RCRA), Natural Resource Damage (NRD) or other sites as applicable.

Claims estimation data

- 2.4.4 For each of the sites, the following information will be required:

- (a) site name;
- (b) US state or country (as applicable) in which the site is located;
- (c) estimated undiscounted cost of cleaning up the site including operation and maintenance costs, either:
 - (i) the whole site with volumetric share or participation percentage or estimated share as documented by site engineers; or
 - (ii) the underlying insured's share of the site clean-up costs only;
- (d) evidence as to how the costs have been estimated and by whom will need to be provided;
- (e) start date of involvement at site;
- (f) end date of involvement at site;
- (g) notification date or discovery date for involvement;
- (h) costs spent to date for clean-up or investigation of the site by the underlying insured;

- (i) legal costs spent to date by the underlying insured;
- (j) latest and pertinent previous records of decision; and
- (k) legal assumptions made regarding the trigger and allocation to policies including, if the Direct Scheme Creditor has calculated the settlement on an "All Sums" basis, the "All Sums" year selected.

Policy data

2.4.5 In addition to the policy data outlined in section 2.3.6 of this Schedule 2 (with reference to "asbestos" being replaced with reference to "environmental pollution" as appropriate) the Direct Scheme Creditor should provide evidence of entitlement under the policies where the claimant is not the underlying named insured.

Basis of estimation

2.4.6 The Direct Scheme Creditor should indicate the basis of estimation that it has used and should provide:

- (a) a description of the Direct Scheme Creditor's basis of estimation of the ultimate pollution claims cost;
- (b) evidence of court or other rulings to substantiate the basis of estimation;
- (c) details of the methodology and assumptions used to allocate the ultimate claims cost to the Direct Scheme Creditor's policies with the Company including, if the Direct Scheme Creditor has calculated the settlement on an "All Sums" basis, the "All Sums" year selected and the impact of any adjustment to the allocation to specific policies to allow for the existence of policy exclusions where applicable; and
- (d) the value of Notified Outstanding Claims and IBNR Claims being claimed by the Direct Scheme Creditor from the Company.

2.5 Other health hazards claims

2.5.1 Direct Scheme Creditors with health hazard claims following the approach set out in section 2.32 of Schedule 1 (such as those occurring under US product liability insurances) should provide supporting evidence with the Claim Form that should include:

Agreements or settlements with any insurer

2.5.2 if there is a coverage in place agreement or settlement with any insurer, the Direct Scheme Creditor should:

- (a) provide a copy of the agreement (the Company and its advisers will sign a confidentiality agreement if necessary);
- (b) indicate the policy years covered by the agreement; and
- (c) indicate the extent to which the limits provided by the agreement have been paid to date.

Claims estimation data

2.5.3 The Direct Scheme Creditor should provide details of:

- (a) any products involved, including the years the products were manufactured and distributed by the underlying insured;
- (b) all claims information should be split by type of claim (e.g. products bodily injury, products property damage, types of non-products claims etc.);
- (c) number of claims filed against the underlying insured by year, by state and by disease type (i.e. malignant, non-malignant) for as many years as possible;
- (d) number of claims closed by the underlying insured by year, by state and by disease type for as many years as possible;
- (e) indemnity and expense costs for claims closed by the Direct Scheme Creditor by year, by state and by disease type for as many years as possible;
- (f) analysis of closed claims split into those settled at cost and those settled for zero cost;
- (g) number and amounts of claims against the underlying insured remaining open as at the Scheme Reference Date by year, by state and by disease type; and
- (h) if appropriate, a claimant database to include claim status, claimant name, doctor, screening facility, law firm, filing date, US state or country (as applicable), disease type, date of first exposure and date of last exposure.

Policy data

2.5.4 The Direct Scheme Creditor should provide policy data as outlined in section 2.3.6 (with reference to “asbestos” being replaced with reference to “other health hazards” as appropriate) of this Schedule 2.

Basis of estimation

2.5.5 The Direct Scheme Creditor should indicate the basis of estimation that it has used and should provide:

- (a) the technique and basis used for projecting average claims costs;

- (b) the technique and basis used for projecting future numbers of claims filed;
- (c) evidence of court or other rulings to substantiate the basis of estimation;
- (d) details of the methodology and assumptions used to allocate the ultimate claims cost to the Direct Scheme Creditor's policies with the Company; and
- (e) the value of Notified Outstanding Claims and IBNR Claims being claimed by the Direct Scheme Creditor from the Company.

2.6 Alternative approaches where historical information may not be available

- 2.6.1 Direct Scheme Creditors with APH claims following the approach set out in section 2.43 of Schedule 1 should provide supporting evidence with the Claim Form that should include full details of the approach taken and justification of any assumptions made.

3. DIRECT NON-APH CLAIMS

3.1 Overview

- 3.1.1 This section describes the supporting evidence that should be submitted by Direct Scheme Creditors with Non-APH claims arising under a Direct policy.
- 3.1.2 If the Direct Scheme Creditor adopts projection techniques other than those set out in section 3 of Schedule 1 in order to determine its inwards liabilities, full supporting evidence should be provided, including full descriptions of the techniques adopted and the assumptions made, including supporting data to justify each of the assumptions made.

3.2 Benchmarking

- 3.2.1 Direct Scheme Creditors following the approach set out in section 3.4 of Schedule 1 should provide supporting evidence with the Claim Form that should include:
 - (a) policy details as required by the Claim Form, including details of policies that inure to the benefit of the Company's policies;
 - (b) type of claim;
 - (c) details of the benchmarks and how they have been applied;
 - (d) evidence to justify why the benchmarks used apply to the Direct Scheme Creditor; and
 - (e) the value of Notified Outstanding Claims and IBNR Claims being claimed by the Direct Scheme Creditor from the Company.

4. DIRECT - UNANTICIPATED LATENT CLAIMS

- 4.1 Direct Scheme Creditors submitting a claim in respect of unanticipated latent claims, following the approach set out in section 4 of Schedule 1, should provide supporting evidence with the Claim Form that should include:
 - 4.1.1 policy details as required by the Claim Form, including details of policies that inure to the benefit of the Company's policies;
 - 4.1.2 information to demonstrate a non-zero likelihood that unanticipated claim types may emerge in the future that will impact the Company's policies, drawing on company and industry data;
 - 4.1.3 the value of IBNR Claims being claimed by the Direct Scheme Creditor from the Company; and
 - 4.1.4 the methodology and assumptions used to estimate the total value of IBNR Claims being claimed by the Direct Scheme Creditor from the Company.

SCHEDULE 3

NOTICE OF THE DIRECT SCHEME MEETING

IN THE HIGH COURT OF JUSTICE (IN ENGLAND AND WALES)
CHANCERY DIVISION
COMPANIES COURT

CR-2024-005455

IN THE MATTER OF
CX REINSURANCE COMPANY LIMITED (IN ADMINISTRATION)
AND IN THE MATTER OF THE COMPANIES ACT 2006

**PROPOSED DIRECT SCHEME OF ARRANGEMENT FOR THE DIRECT SCHEME CREDITORS OF
CX REINSURANCE COMPANY LIMITED (IN ADMINISTRATION)**

NOTICE IS HEREBY GIVEN that, by an order dated 4 October 2024 made in the above matter, the High Court of Justice of England and Wales has directed that a meeting be convened of the Direct Scheme Creditors (as defined in the proposed direct scheme of arrangement referred to below) of CX Reinsurance Company Limited (in Administration) (the “**Company**”) for the purpose of considering, and if thought fit, approving (with or without modification) a scheme of arrangement under Part 26 of the Companies Act 2006 proposed to be made between the Company and its Direct Scheme Creditors (the “**Direct Scheme**”).

A copy of the Direct Scheme and a copy of the statement required to be furnished pursuant to section 897 of the Companies Act 2006 (the “**Direct Explanatory Statement**”) are available at: https://www.ey.com/en_uk/administrations/cxreinsurancecompanydirectscheme (the “**Website**”), or on request from the Company on the contact details below.

The Direct Scheme is proposed between the Company and its Direct Scheme Creditors. Direct Scheme Creditors comprise creditors of the Company in respect of Direct Scheme Claims, being claims arising pursuant a contract or policy of direct insurance, entered into by or on behalf of the Company or in relation to which the Company has assumed liability.

The Direct Scheme does not affect creditors in respect of claims under contracts of reinsurance issued by the Company or Excluded Liabilities (as defined in the Direct Scheme).

The Court has ordered that the Company should convene one meeting of all Direct Scheme Creditors to vote on the Direct Scheme (the “**Direct Scheme Meeting**”).

The Direct Scheme Meeting will be held remotely, hosted by the Joint Administrators through the web-based platform web.lumiconnect.com. Direct Scheme Creditors may attend by logging in using the URL and unique login credential (“Access Details”) provided to them with this notice. Direct Scheme Creditors who have not received Access Details should contact the Company using the contact details below to request them in advance of the Direct Scheme Meeting.

The Direct Scheme Meeting will commence at 5.00 p.m. (London time) on 12 December 2024 or as soon as reasonably practicable thereafter.

Direct Scheme Creditors may attend and vote at the Direct Scheme Meeting in person (or, if by corporation, by a duly authorised representative), or may appoint another person as their proxy to attend and vote in their place.

Each Direct Scheme Creditor wishing to attend and/or vote at the Direct Scheme Meeting (whether in person or by proxy) is requested to complete and return a Voting and Proxy Form to be received by the Company by no later than 5.00 p.m. (London time) on 11 December 2024.

The voting and proxy form for use at the Direct Scheme Meeting (the “**Voting and Proxy Form**”) is available on the Website and includes instructions as to how it should be completed and submitted to the Company.

If a Direct Scheme Creditor intends to attend the Direct Scheme Meeting, it should confirm the names and contact details of the attendee(s) on the Voting and Proxy Form. An attendee who is not notified to the Company in advance of the Direct Scheme Meeting may not be permitted entry. The online platform will be open from 4.45 p.m. (London time).

The High Court of Justice has appointed Richard Barker, or failing him, Simon Edel of EY (the joint administrators of the Company) to act as chairman of the Direct Scheme Meeting (the “**Chairman**”) and has directed the Chairman to report the result of such meeting to the Court. The Chairman will address Direct Scheme Creditors generally on the Direct Scheme and on the issues relevant to voting at the commencement of Direct Scheme Meeting.

If approved by the requisite majorities of the Direct Scheme Creditors at the Direct Scheme Meeting, the Direct Scheme will be subject to the subsequent approval of the Court.

If you have any questions regarding the Direct Scheme, please contact:

Email: CxReClaims@uk.ey.com

Phone: +44 20 7951 2000

Dated: 7 October 2024

Stevens & Bolton LLP
Solicitors for the Company

SCHEDULE 4

VOTING AND PROXY FORM

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

CR-2024-005455

IN THE MATTER OF
CX REINSURANCE COMPANY LIMITED (IN ADMINISTRATION)
("CX RE" OR THE "COMPANY")
AND ITS DIRECT SCHEME CREDITORS

AND IN THE MATTER OF THE COMPANIES ACT 2006

VOTING AND PROXY FORM

The capitalised words and expressions contained within this voting and proxy form (the “**Voting and Proxy Form**”) and the instructions shall, unless the context requires otherwise, bear the same meaning given to them in the proposed scheme of arrangement pursuant to Part 26 of the Companies Act 2006 between the Company and its Direct Scheme Creditors as set out in Section II of this document (the “**Direct Scheme**”).

This Voting and Proxy Form is to be used by Direct Scheme Creditors of the Scheme Company at the Direct Scheme Meeting of the Scheme Company to be held virtually by way of webinar at 5.00 p.m. (London time) on 12 December 2024.

All Direct Scheme Creditors who wish to attend and/or vote (whether in person or by proxy) at the Direct Scheme Meeting must complete and return this Voting and Proxy Form by no later than 5.00 p.m. (London time) on 11 December 2024 to:

Contact: Prava Kuhendraruban
Telephone: + 44 20 7951 2000
Email: CxReClaims@uk.ey.com
Address: Ernst & Young LLP, 1 More London Place, London, SE1 2AF

Please read this Voting and Proxy Form including the instructions and guidance notes carefully. Failure to follow the instructions or to return the Voting and Proxy Form on time may result in a Direct Scheme Claim being rejected in whole or in part for voting purposes.

Further blank copies of this Voting and Proxy Form can be obtained by contacting the Administrators on the contact details above or by visiting the Website at : https://www.ey.com/en_uk/administrations/cxreinsurancecompanydirectscheme. If you have any questions regarding the voting procedure, the Direct Scheme Meeting or the Direct Scheme, please contact the Administrators.

Direct Scheme Creditors should not construe any of the contents of this Voting and Proxy Form or any assistance provided by the Company, the Administrators, the proposed Direct Scheme Administrators or any of their respective advisers as legal, tax, financial or other professional advice. Each Direct Scheme Creditor should consult its own professional advisers as to the legal, tax, financial or other matters relevant to the action it should take in connection with this Voting and Proxy Form.

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SECTION A: VOTING AND PROXY REGISTRATION

GUIDANCE NOTES FOR COMPLETION OF THIS SECTION OF THE VOTING AND PROXY FORM ARE ON PAGES 119 – 121

I/We (note 1)

.....
(Enter the name of the Direct Scheme Creditor including all former names)

of (note 1)

.....
(Enter the address of the Direct Scheme Creditor)

Being a Direct Scheme Creditor of CX Reinsurance Company Limited (In Administration) for
US\$.....

(Enter the total net amount of the Direct Scheme Claim for voting purposes only) (note 2)

Hereby notify the Company that I/We (tick one box only):

☐

(a) will attend and vote in person at the Direct Scheme Meeting;

OR

(b) hereby appoint as my/our proxyholder to act for me/us at the Direct Scheme Meeting:

☐

(i) the Chairman of the Direct Scheme Meeting; **OR**

☐

(ii) Name:

Email:

Telephone:

(Enter name, email and telephone number for proxyholder who will be attending and voting at the Direct Scheme Meeting on behalf of the Direct Scheme Creditor (note 3))

to vote in the Direct Scheme Meeting as follows:

FOR the Direct Scheme	AGAINST the Direct Scheme	ABSTENTION	AT DISCRETION (where the proxy is not the Chairman) (note 4)
.....
Signature	Signature	Signature	Signature

DO NOT SIGN THE “AT DISCRETION” BOX IF YOU HAVE APPOINTED THE CHAIRMAN AS YOUR PROXYHOLDER, AS THIS WILL RESULT IN NO VOTE BEING CAST.

The following persons shall be entitled to attend the Direct Scheme Meeting on behalf of me/us as Direct Scheme Creditor:

Name:

Email:

Name:

Email:

Name:

Email:

Enter the names of each person entitled to attend the Direct Scheme Meeting on behalf of the Direct Scheme Creditor. A person not listed above may not be permitted access to the Direct Scheme Meeting (note 5).

If you are the duly authorised representative of the Direct Scheme Creditor or the duly authorised agent and/or attorney of the Direct Scheme Creditor, enter the capacity in which you have signed this Voting and Proxy Form (for example director, partner or agent and/or attorney) below. A signature on this form shall constitute the giving of a warranty that the signatory has been duly authorised by the relevant Direct Scheme Creditor to sign the form on its behalf.

Authorised signatory:

Name:

Position/Capacity:

Telephone Number:

Email:

Person to contact in the event of a query in respect of this Voting and Proxy form (if different):

Name:

Position/Capacity:

Telephone Number:

Email:

For completion by CX Reinsurance Company Limited:

Admitted to vote

Direct Scheme Claim in the sum of:

US\$.....

(For voting purposes only)

TO BE SIGNED AND COMPLETED BY THE DIRECT SCHEME CREDITOR

To the best of my knowledge and belief the information on this Voting and Proxy Form and any supporting information, as amended or otherwise, is correct.	
Signed:	Name:
.....
Position / Capacity:	Date:
.....
For and on behalf of (Direct Scheme Creditor name):	
.....	
Email address:	
.....	
PLEASE TICK THE BOX TO THE RIGHT IF YOU WISH TO REQUEST THAT THE COMPANY ACCEPT THIS VOTING AND PROXY FORM AS YOUR CLAIM FORM IN THE DIRECT SCHEME (note 6):	

GUIDANCE NOTES FOR THE COMPLETION OF SECTION A: VOTING AND PROXY REGISTRATION

- 1 Enter the name and address of the Direct Scheme Creditor in block capitals. The name and address of the Direct Scheme Creditor must be legible. If the person completing this form is the duly authorised agent and/or attorney of a number of Direct Scheme Creditors, it must complete a separate voting registration and proxy in respect of each Direct Scheme Creditor and provide evidence (which must be satisfactory to the Chairman of the Direct Scheme Meeting) of its authority to submit this form and execute the form of proxy on the Direct Scheme Creditor's behalf (for example a deed of assignment or a letter of authority). Failure to provide such evidence of authority may invalidate this Voting and Proxy Form. Please note that where there are a number of companies within a group who are each Direct Scheme Creditors, each company must complete a separate form of proxy, as a group submission is not permissible.
- 2 Enter the estimated amount of the Direct Scheme Creditor's net claim against the Company for voting purposes.
- 3 Tick one box as appropriate:

Tick box (a) if the Direct Scheme Creditor is an individual will be attending, and voting at, the Direct Scheme Meeting in person.

Tick box (b)(i) if the Direct Scheme Creditor will not be attending the Direct Scheme Meeting in person and wishes to appoint the Chairman of the Direct Scheme Meeting to vote as its proxy. Where the Chairman has been appointed as a Direct Scheme Creditor's proxy, the Direct Scheme Creditor may still attend the Direct Scheme Meeting.

Tick box (b)(ii) if the Direct Scheme Creditor will not be attending the Direct Scheme Meeting in person and wishes to appoint a person other than the Chairman to attend the Direct Scheme Meeting and vote as its proxy. Such proxy's name must be inserted in the space provided and they will be the only person permitted to vote at the Direct Scheme Meeting on behalf of the Direct Scheme Creditor. If a person other than the Chairman is appointed as the Direct Scheme Creditor's proxy, that person must attend the Direct Scheme Meeting.

- 4 If the Direct Scheme Creditor appoints the Chairman as its proxy, the Direct Scheme Creditor must indicate how it wishes the Chairman to vote on its behalf by signing either the box marked "FOR THE DIRECT SCHEME" or the box marked "AGAINST THE DIRECT SCHEME" and the Chairman will vote on the Direct Scheme Creditor's behalf accordingly. If the Direct Scheme Creditor appoints the Chairman as its proxy and votes in either the box marked "ABSTENTION" or the box marked "AT DISCRETION", the Chairman will abstain from voting on the Direct Scheme Creditor's behalf.

If the Direct Scheme Creditor appoints a person other than the Chairman as its proxy, the Direct Scheme Creditor must indicate how it wishes such other person to vote on its behalf by signing in the appropriate box (for the avoidance of doubt, where the proxy is a person other than the Chairman, the Direct Scheme Creditor may authorise them to vote "AT DISCRETION". If the Direct Scheme Creditor does not sign in any of the boxes, this Voting & Proxy Form will not operate as a valid appointment of a proxy and consequently no vote will be cast.

If the Direct Scheme Creditor signs the box marked "FOR THE DIRECT SCHEME", its proxy may vote for the Direct Scheme either with or without modification.

- 5 Please provide the names and contact details of those persons who will be authorised to attend the Direct Scheme Meeting on behalf of the Direct Scheme Creditor. A person who is not listed in this section may not be permitted entry into the Direct Scheme Meeting.
- 6 Tick this box if the Direct Scheme Creditor wishes the Company to use the information contained in this Voting and Proxy Form as its Claim Form. If a Direct Scheme Creditor wishes to pursue this option, it should ensure that it has read and complied with the Estimation Guidelines. The Estimation Guidelines describe in detail the approach that the Direct Scheme Creditors and the Company are expected to follow in valuing Direct Scheme Claims and are set out in Schedules 1 and 2 of the Direct Scheme Document.
- 7 If the person signing this Voting and Proxy Form is the duly authorised representative of a Direct Scheme Creditor which is a corporation or a partnership or other unincorporated body or person, that person should enter their name, the capacity in which they have signed the Voting and Proxy Form (for example, director, partner, agent and/or attorney) and their contact details.

Please note that, if the person signing this Voting and Proxy Form is the duly authorised representative of a number of companies, partnerships or other unincorporated bodies or

persons, a separate Voting & Proxy Form should be completed for each such corporation, partnership or other unincorporated body or person.

SECTION B: DIRECT SCHEME CLAIMS VOTING VALUATION (FOR VOTING PURPOSES ONLY)

Description	Value (USD)
Agreed Unpaid Claims	
Undiscounted Notified Outstanding Claims	
Time value of discount (Notified Outstanding Claims)	
Undiscounted IBNR Claims	
Time value of discount (IBNR Claims)	
Gross claim for voting purposes	
Less: set-off amounts	
Less: Security	
Net claim for voting purposes	

If any claims supporting schedules (see SECTION C) have been completed, these should be attached to and included in support of the Voting and Proxy Form. Failure to supply suitable supporting information in the form of completed claim supporting schedules may result in your vote being rejected or receiving a lower value than you assert.

All amounts entered on the Voting and Proxy Form must be stated in US Dollars (USD) as at 29 December 2023, being the Business Day immediately preceding the Scheme Reference Date.

The value to be attributed to each Direct Scheme Creditor's claim for voting purposes will be determined by the Chairman of the Direct Scheme Meeting on the basis of the information provided by the Direct Scheme Creditor on the Voting and Proxy Form and the information available from the Company's existing records. The Chairman shall convert any claim submitted to him in a currency other than US dollars into US dollars, converted at the closing mid-market rate of exchange for the relevant currency as quoted by the Financial Times on 29 December 2023, being the Business Day immediately preceding the Scheme Reference Date (the "Exchange Rate"). The Exchange Rates for the most common currencies in which Direct Scheme Claims are likely to be denominated are in Section D. Account will be taken of any known Security and set-off amounts.

The Chairman may, for voting purposes only, reject a claim in whole or in part, if he considers that it does not constitute a fair and reasonable assessment of the sums owed to the Direct Scheme Creditor by the Company. It is therefore important that Direct Scheme Creditors

complete and return a Voting and Proxy Form and provide supporting information for their valuation of their claim to which the Chairman may refer in assessing its reasonableness.

Where a claim is rejected in whole or in part for voting purposes, the Chairman will advise the Direct Scheme Creditor of his decision, prior to the Direct Scheme Meeting where possible or, in any event, afterwards prior to the Court hearing to sanction the Direct Scheme.

The admission of a claim for voting purposes does not constitute an admission of the existence or amount of any liability of the Company and will not bind the Company or Direct Scheme Creditors. Any such estimate will only be used for voting purposes at the Direct Scheme Meeting, unless a Direct Scheme Creditor elects to use its Voting and Proxy Form as the basis for its Direct Scheme Claim, subject to the Direct Scheme Creditor providing appropriate supporting evidence to the Company.

Particulars as to estimates of the amount of any Notified Outstanding Claims or IBNR Claims provided by a Direct Scheme Creditor may not be protected by privilege under English law (or other relevant laws) and may be discoverable by a third party with a claim against the Direct Scheme Creditor in any action or proceeding to which the Direct Scheme Creditor may be a party. Direct Scheme Creditors should consult their legal advisers as to the consequences for them of providing such particulars in relation to any litigation in which they are or may be involved.

SECTION C: DIRECT SCHEME CLAIMS - SUPPORTING SCHEDULE

(i) CURRENCY						(ii) CONVERSION RATE USED							
(1) Insurance Contract reference number (if any)	(2) Participation %	(3) Inception date	(4) Agreed Unpaid Claims	(5) Undiscounted Notified Outstanding Claims	(6) Time value discount value on Notified Outstanding Claims	(7) Undiscounted IBNR Claims	(8) Time value discount on IBNR Claims	(9) Set- off	(10) Security	(11) Date of loss (Claim)	(12) Claimant	(13) Excess Policy	(14) Policy Limit
(15) Claims (currency) total													
(16) Continuation sheets total (in the same currency)													
(17) Total for this page plus any continuation sheets (in the same currency)													

**DIRECT SCHEME CLAIMS - SUPPORTING SCHEDULE
CONTINUATION SHEET**

(i) CURRENCY						(ii) CONVERSION RATE USED							
(1) Insurance Contract reference number (if any)	(2) Participation %	(3) Inception date	(4) Agreed Unpaid Claims	(5) Undiscounted Notified Outstanding Claims	(6) Time value discount on Notified Outstanding Claims	(7) Undiscounted IBNR Claims	(8) Time value discount on IBNR Claims	(9) Set- off	(10) Security	(11) Date of loss (Claim)	(12) Claimant	(13) Excess Policy	(14) Policy Limit
(15) Claims (currency) total													

SECTION C: DIRECT SCHEME CLAIMS - SUPPORTING SCHEDULE AND CONTINUATION SHEET GUIDANCE NOTES

If you have claims in more than one currency a separate supporting schedule should be used for each currency, specifying in the box provided the relevant currency and the appropriate conversion rate selected from the list included with this supporting schedule. If there are insufficient lines for any one currency, complete the continuation sheet as many times as is necessary.

Additional copies of the supporting schedule and continuation sheets may be obtained from the Website at https://www.ey.com/en_uk/administrations/cxreinsurancecompanydirectscheme or by contacting the Administrators by email or telephone as follows:

Contact: Prava Kuhendraruban
Telephone: +44 20 7951 2000
Email: CxReClaims@uk.ey.com

(i) **Currency**

Please enter the three-letter currency code relevant for the currency of the information being submitted. Use a separate schedule for each different currency. The three letter codes can be found in Section D of the Voting and Proxy Form.

(ii) **Conversion Rate**

Enter the conversion rate relevant for the currency of the information being submitted as 29 December 2023. The conversion rates can be found in Section D of the Voting and Proxy Form.

1 **Insurance Contract reference number**

Specify the Insurance Contract reference number in relation to each of the policies under which you have claims against the Company in the Direct Scheme. Your broker, intermediary or other agent should be able to assist you in confirming or identifying Insurance Contracts and reference numbers. Please use a separate line for each Insurance Contract.

2 **Participation percentage**

The participation percentage for each Insurance Contract represents the percentage line underwritten or assumed by the Company under the Insurance Contract. Insert the relevant percentage line for each Insurance Contract to apportion the value of each of your claims against the Company when completing columns (4) and (6).

3 **Inception date**

Specify the date when each Insurance Contract commenced. In the case of continuous Insurance Contracts or Insurance Contracts of more than 12 months, each annual renewal should be shown as a separate Insurance Contract.

4 Agreed Unpaid Claims

The value of any Agreed Unpaid Claims, being Direct Scheme Claims which according to the Company's records have been agreed as due to the relevant Direct Scheme Creditor as at the Scheme Reference Date, but not paid or discharged by the operation of set-off or otherwise.

This field will be populated by the Company with any Agreed Unpaid Claims which it has on its books. If the value shown does not reflect your records, please enter the value which you assert as due to you in respect of Agreed Unpaid Claims in a new row, and strike out the row completed by the Company.

5 Notified Outstanding Claims (Undiscounted)

Specify the estimated value or (where there is more than one claim) the aggregate estimated value as at the Scheme Reference Date of any Notified Outstanding Claims, being Direct Scheme Claims arising under an Insurance Contract in respect of a loss that has been reported to you as at the Scheme Reference Date but excluding any Agreed Unpaid Claims. The value shown must be before application of a time value discount.

6 Time value discount on Notified Outstanding Claims

Specify the discount amount applied for the time value of money of Notified Outstanding Claims as at the Scheme Reference Date, by applying the relevant interest rate and discount factor for the claim type as set out in the Estimation Guidelines. If you consider that a different discount factor should be used in your case due to circumstances specific to your claim (such as payment patterns which vary materially from the mean settlement term for the relevant claim type specified in the Estimation Guidelines), please provide supporting information to justify the use of a different discount factor.

7 IBNR Claims (Undiscounted)

Specify the estimated value or (where there is more than one claim) the aggregate estimated value as at the Scheme Reference Date of any IBNR Claims, being Direct Scheme Claims arising under or in respect of an Insurance Contract for:

- (a) the amount payable by the Company in respect of a loss which has been incurred but has not been reported to or discovered by you as at the Scheme Reference Date; plus
- (b) the amount payable in respect of losses which have been notified to the Company as at the Scheme Reference Date which are not yet certain in amount and to the extent that the current notified amount may prove to be inadequate.

The value shown must be before application of a time value discount.

8 Time value discount value on IBNR Claims

Specify the discount to reflect the time value of money to be applied to IBNR Claims to discount them to the Scheme Reference Date.

Please refer to section 5 (*Allowance for time value of money*) of the Estimation Guidelines in Schedule 1. Apply the relevant discount factor to each claim type, as set out in the table at section 5.5 (*Default Factors to be used*) of the Estimation Guidelines. Alternatively, if you consider that these discount factors are not appropriate for your claim you may apply your own discount factor, in which case please provide supporting information to justify the use of a different discount factor. If no discount is applied, a discount will be applied by the Company based on the discount factors set out in section 5.5 (*Default Factors to be used*) of the Estimation Guidelines.

9 Set-off amounts total

Enter the amounts to be deducted by way of set-off.

10 Security total

Enter the amount of any Security held in relation to the Insurance Contract. Note that the definition of Security in the Direct Scheme includes the Surplus Lines Trust Fund. For assistance in determining whether you are entitled to claim on the Surplus Lines Trust Fund in relation to an Insurance Contract, please refer to Appendix 2 of the Explanatory Statement.

Any value attributed to Security on this Voting Form or by the Chairman of the Direct Scheme Meeting for voting purposes will not be binding for the purposes of determining your rights of recourse (if any) against the Surplus Lines Trust Fund.

11 Date of loss (Claim)

Enter the recognised date of loss of the claim.

12 Claimant

If applicable, enter the name of the claimant related to the claim.

13 Excess policy

Excess amount as stated within the policy documentation, either on a policy (aggregate) or per claim basis.

14 Policy Limit

Enter the sum insured as stated within the policy documentation, either on a policy (aggregate) or per claim basis

15 Claims (currency) total

Enter the totals, where applicable, under each column (4), (5), (6), (7), (8), (9) and (10) in the original currency.

16 Continuation sheet total (in the same currency)

If any continuation sheets for the same currency have been used, insert here the total claim values in that same currency from all continuation sheets.

17 Total for this page plus any continuation sheets

Aggregate the claims total and the continuation sheet total to arrive at a total value, where applicable, under columns (4), (5), (6), (7), (8), (9) and (10). Transfer these amounts to the corresponding lines on the Voting Form on page 122.

SECTION D: EXCHANGE RATE CONVERSION TO US DOLLARS

Code	Currency	Rate per 1 US Dollar at 29 December 2023
CAD	Canadian Dollars	1.323
EUR	Euro	0.906
GBP	United Kingdom Pounds	0.785

SCHEDULE 5

CLAIM FORM

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

CR-2024-005455

IN THE MATTER OF
CX REINSURANCE COMPANY LIMITED (IN ADMINISTRATION)
("CX RE" OR THE "COMPANY")
AND ITS DIRECT SCHEME CREDITORS
AND IN THE MATTER OF THE COMPANIES ACT 2006

CLAIM FORM

The capitalised words and expressions contained within this claim form (the “**Claim Form**”) and the instructions shall, unless the context requires otherwise, bear the same meaning given to them in the proposed scheme of arrangement pursuant to Part 26 of the Companies Act 2006 between the Company and its Direct Scheme Creditors as set out in Section II of this document (the “**Direct Scheme**”).

All Direct Scheme Creditors who wish to submit a Claim Form must do so by the Final Claims Deadline to:

Contact: Prava Kuhendraruban
Telephone: +44 20 7951 2000
Email: CxReClaims@uk.ey.com
Address: Ernst & Young LLP, 1 More London Place, London, SE1 2AF

Please read this Claim Form including the instructions carefully.

Further blank copies of this Claim Form can be obtained by contacting the Administrators on the contact details above or by visiting the Website at :
https://www.ey.com/en_uk/administrations/cxreinsurancecompanydirectscheme. If you require any assistance, please contact the Administrators.

Direct Scheme Creditors should not construe any of the contents of this Claim Form or any assistance provided by the Company, the Administrators, the proposed Direct Scheme Administrators or any of their respective advisers as legal, tax, financial or other professional advice. Each Direct Scheme Creditor should consult its own professional advisers as to the legal, tax, financial or other matters relevant to the action it should take in connection with this Claim Form.

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Section C	Direct scheme claims – supporting schedule	137
Section D	Exchange rate conversion to US Dollars	142

SECTION A: NEW CLAIM REGISTRATION

GUIDANCE NOTES FOR COMPLETION OF THIS SECTION OF THE CLAIM FORM ARE ON PAGES 134 - 135

I/We (note 1)

.....
(Enter the name of the Direct Scheme Creditor including all former names)

of (note 1)

.....
(Enter the address of the Direct Scheme Creditor)

.....
(Enter the total net amount of the Direct Scheme Claim) (note 2)

PLEASE ACCEPT THIS CLAIM FORM AS MY CLAIM FORM IN THE DIRECT SCHEME (note 3):

If you are the duly authorised representative of the Direct Scheme Creditor or the duly authorised agent and/or attorney of the Direct Scheme Creditor, enter the capacity in which you have signed this Claim Form (for example director, partner or agent and/or attorney) below. A signature on this form shall constitute the giving of a warranty that the signatory has been duly authorised by the relevant Direct Scheme Creditor to sign the form on its behalf.

Authorised signatory:

Name:
Position/Capacity:
Telephone Number:
Email:

Person to contact in the event of a query in respect of this Claim Form (if different):

Name:
Position/Capacity:
Telephone Number:
Email:

TO BE SIGNED AND COMPLETED BY THE DIRECT SCHEME CREDITOR

To the best of my knowledge and belief the information on this Claim Form and any supporting information, as amended or otherwise, is correct.	
Signed:	Name:
.....
Position / Capacity:	Date:
.....
For and on behalf of (Direct Scheme Creditor name):	
.....	
Email address:	
.....	

GUIDANCE NOTES FOR THE COMPLETION OF SECTION A: NEW CLAIM REGISTRATION

- 1 Enter the name and address of the Direct Scheme Creditor in block capitals. The name and address of the Direct Scheme Creditor must be legible. If the person completing this form is the duly authorised agent and/or attorney of a number of Direct Scheme Creditors, it must complete a separate Claim Form in respect of each Direct Scheme Creditor and provide evidence of its authority to submit this form on the Direct Scheme Creditor's behalf (for example a deed of assignment or a letter of authority). Failure to provide such evidence of authority may invalidate this Claim Form. Please note that where there are a number of companies within a group who are each Direct Scheme Creditors, each company must complete a separate form of proxy, as a group submission is not permissible.
- 2 Enter the estimated amount of the Direct Scheme Creditor's net claim against the Company.
- 3 Please ensure that the Direct Scheme Creditor has read and complied with the Estimation Guidelines. The Estimation Guidelines describe in detail the approach that the Direct Scheme Creditors and the Company are expected to follow in valuing Direct Scheme Claims and are set out in Schedules 1 and 2 of the Direct Scheme Document.
- 4 If the person signing this Claim Form is the duly authorised representative of a Direct Scheme Creditor which is a corporation or a partnership or other unincorporated body or person, that person should enter their name, the capacity in which they have signed the Claim Form (for example, director, partner, agent and/or attorney) and their contact details.

Please note that, if the person signing this Claim Form is the duly authorised representative of a number of companies, partnerships or other unincorporated bodies or persons, a separate Claim Form should be completed for each such corporation, partnership or other unincorporated body or person.

SECTION B: DIRECT SCHEME CLAIMS VALUATION

CURRENCY

Please complete a separate form for each currency in which you have claims.

Description	Value
Agreed Unpaid Claims	
Undiscounted Notified Outstanding Claims	
Time value of discount (Notified Outstanding Claims)	
Undiscounted IBNR Claims	
Time value of discount (IBNR Claims)	
Gross claim in the Direct Scheme	
Less: set-off amounts	
Less: Security	
Net claim in the Direct Scheme	

If any claims supporting schedules (see SECTION C) have been completed, these should be attached to and included in support of the Claim Form. Failure to supply suitable supporting information in the form of completed claim supporting schedules may result in your claim being disputed.

Particulars as to estimates of the amount of any Notified Outstanding Claims or IBNR Claims provided by a Direct Scheme Creditor may not be protected by privilege under English law (or other relevant laws) and may be discoverable by a third party with a claim against the Direct Scheme Creditor in any action or proceeding to which the Direct Scheme Creditor may be a party. Direct Scheme Creditors should consult their legal advisers as to the consequences for them of providing such particulars in relation to any litigation in which they are or may be involved.

SECTION C: DIRECT SCHEME CLAIMS - SUPPORTING SCHEDULE

(i) CURRENCY													
(1) Insurance Contract reference number (if any)	(2) Participation %	(3) Inception date	(4) Agreed Unpaid Claims	(5) Undiscounted Notified Outstanding Claims	(6) Time value discount value on Notified Outstanding Claims	(7) Undiscounted IBNR Claims	(8) Time value discount on IBNR Claims	(9) Set- off	(10) Security	(11) Date of loss (Claim)	(12) Claimant	(13) Excess Policy	(14) Policy Limit
(15) Claims (currency) total													
(16) Continuation sheets total (in the same currency)													
(17) Total for this page plus any continuation sheets (in the same currency)													

**DIRECT SCHEME CLAIMS - SUPPORTING SCHEDULE
CONTINUATION SHEET**

(i) CURRENCY													
(1) Insurance Contract reference number (if any)	(2) Participation %	(3) Inception date	(4) Agreed Unpaid Claims	(5) Undiscounted Notified Outstanding Claims	(6) Time value discount on Notified Outstanding Claims	(7) Undiscounted IBNR Claims	(8) Time value discount on IBNR Claims	(9) Set- off	(10) Security	(11) Date of loss (Claim)	(12) Claimant	(13) Excess Policy	(14) Policy Limit
(15) Claims (currency) total													

SECTION C: DIRECT SCHEME CLAIMS - SUPPORTING SCHEDULE AND CONTINUATION SHEET GUIDANCE NOTES

If you have claims in more than one currency a separate supporting schedule should be used for each currency, specifying in the box provided the relevant currency. If there are insufficient lines for any one currency, complete the continuation sheet as many times as is necessary.

Additional copies of the supporting schedule and continuation sheets may be obtained from the Website at : https://www.ey.com/en_uk/administrations/cxreinsurancecompanydirectscheme or by contacting the Company by email or telephone as follows:

Contact: Prava Kuhendraruban
Telephone: +44 20 7951 2000
Email: CxReClaims@uk.ey.com

(i) **Currency**

Please enter the three-letter currency code relevant for the currency of the information being submitted. Use a separate schedule for each different currency. The three letter codes can be found in Section D of the Claim Form.

1 **Insurance Contract reference number**

Specify the Insurance Contract reference number in relation to each of the policies under which you have claims against the Company in the Direct Scheme. Your broker, intermediary or other agent should be able to assist you in confirming or identifying Insurance Contracts and reference numbers. Please use a separate line for each Insurance Contract.

2 **Participation percentage**

The participation percentage for each Insurance Contract represents the percentage line underwritten or assumed by the Company under the Insurance Contract. Insert the relevant percentage line for each Insurance Contract to apportion the value of each of your claims against the Company when completing columns (4) and (6).

3 **Inception date**

Specify the date when each Insurance Contract commenced. In the case of continuous Insurance Contracts or Insurance Contracts of more than 12 months, each annual renewal should be shown as a separate Insurance Contract.

4 **Agreed Unpaid Claims**

The value of any Agreed Unpaid Claims, being Direct Scheme Claims which according to the Company's records have been agreed as due to the relevant Direct Scheme Creditor as at the Scheme Reference Date, but not paid or discharged by the operation of set-off or otherwise.

This field will be populated by the Company with any Agreed Unpaid Claims which it has on its books. If the value shown does not reflect your records, please enter the value which you assert as due to you in respect of Agreed Unpaid Claims in a new row, and strike out the row completed by the Company.

5 Notified Outstanding Claims (Undiscounted)

Specify the estimated value or (where there is more than one claim) the aggregate estimated value as at the Scheme Reference Date of any Notified Outstanding Claims, being Direct Scheme Claims arising under an Insurance Contract in respect of a loss that has been reported to you as at the Scheme Reference Date but excluding any Agreed Unpaid Claims.

6 Time value discount on Notified Outstanding Claims

Specify the discount to reflect the time value of money to be applied to your Notified Outstanding Claims, to discount them to the Scheme Reference Date.

Please refer to section 5 (*Allowance for time value of money*) of the Estimation Guidelines in Schedule 1. Apply the relevant discount factor to each claim type, as set out in the table at section 5.5 (*Default Factors to be used*) of the Estimation Guidelines. Alternatively, if you consider that these discount factors are not appropriate for your claim you may apply your own discount factor, in which case please provide supporting information to justify the use of a different discount factor. If no discount is applied, a discount will be applied by the Company based on the discount factors set out in section 5.5 (*Default Factors to be used*) of the Estimation Guidelines.

7 IBNR Claims (Undiscounted)

Specify the estimated value or (where there is more than one claim) the aggregate estimated value as at the Scheme Reference Date of any IBNR Claims, being Direct Scheme Claims arising under or in respect of an Insurance Contract for:

- (a) the amount payable by the Company in respect of a loss which has been incurred but has not been reported to or discovered by you as at the Scheme Reference Date; plus
- (b) the amount payable in respect of losses which have been notified to the Company as at the Scheme Reference Date which are not yet certain in amount and to the extent that the current notified amount may prove to be inadequate.

The value shown must be before application of a time value discount.

8 Time value discount on IBNR Claims

Specify the discount to reflect the time value of money to be applied to IBNR Claims to discount them to the Scheme Reference Date.

Please refer to section 5 (*Allowance for time value of money*) of the Estimation Guidelines in Schedule 1. Apply the relevant discount factor to each claim type, as set out in the table at section 5.5 (*Default Factors to be used*) of the Estimation Guidelines. Alternatively, if you consider that these discount factors are not appropriate for your claim you may apply your own discount factor, in which case please provide supporting information to justify the use of a different discount factor. If no discount is applied, a discount will be applied by the Company

based on the discount factors set out in section 5.5 (*Default Factors to be used*) of the Estimation Guidelines.

9 Set-off amounts total

Enter the amounts to be deducted by way of set-off.

10 Security total

Enter the amount of any Security held in relation to the Insurance Contract. Note that the definition of Security in the Direct Scheme includes the Surplus Lines Trust Fund. For assistance in determining whether you are entitled to claim on the Surplus Lines Trust Fund in relation to an Insurance Contract, please refer to Appendix 2 of the Explanatory Statement.

Any value attributed to Security on this Claim Form (or, for the avoidance of doubt, following agreement or determination in accordance with the terms of the Direct Scheme) will not be binding for the purposes of determining your rights of recourse (if any) against the Surplus Lines Trust Fund.

11 Date of loss (Claim)

Enter the recognised date of loss of the claim.

12 Claimant

If applicable, enter the name of the claimant related to the claim.

13 Excess policy

Enter the excess amount as stated within the policy documentation, either on a policy (aggregate) or per claim basis.

14 Policy Limit

Enter the sum insured as stated within the policy documentation, either on a policy (aggregate) or per claim basis

15 Claims (currency) total

Enter the totals, where applicable, under each column (4), (5), (6), (7), (8), (9) and (10) in the original currency.

16 Continuation sheet total (in the same currency)

If any continuation sheets for the same currency have been used, insert here the total claim values in that same currency from all continuation sheets.

17 Total for this page plus any continuation sheets

Aggregate the claims total and the continuation sheet total to arrive at a total value, where applicable, under columns (4), (5), (6), (7), (8), (9) and (10). Transfer these amounts to the corresponding lines on the Claim Form on page 136.

SECTION D: EXCHANGE RATE CONVERSION TO US DOLLARS

Code	Currency	Rate per 1 US Dollar at 29 December 2023
CAD	Canadian Dollars	1.323
EUR	Euro	0.906
GBP	United Kingdom Pounds	0.785