

**THIS DOCUMENT IS IMPORTANT AND REQUIRES YOUR IMMEDIATE ATTENTION.** If you are in any doubt as to what action you should take, you should consult your insurance broker or other professional adviser without delay. A copy of this document has been sent to brokers identified by the Company which may have placed 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 Stronghold Insurance Company Limited (In Administration), using the contact details given, or the Website details provided at, page 3 below.

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**Proposal in relation to  
A SCHEME OF ARRANGEMENT  
pursuant to Part 26 of the Companies Act 2006**

BETWEEN

**STRONGHOLD INSURANCE COMPANY LIMITED (IN ADMINISTRATION)**

and its

**DIRECT SCHEME CREDITORS  
(as defined in the Direct Scheme )**

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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, 10.00 a.m. on 2 February 2021 by way of webinar via video conference and telephone (the "**Direct Scheme Meeting**"). A copy of the notice convening the Direct Scheme Meeting is set out at Section III of this document.

All Direct Scheme Creditors may attend the virtual Direct Scheme Meeting and may join 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 virtual Direct Scheme Meeting must complete and return a Voting and Proxy Form at Section IV of this Direct Scheme Document (the "**Voting and Proxy Form**"), so as to be received by the Company, by no later than 5.00 p.m. (London time) on 1 February 2021 (the "**Voting Form Submission Deadline**"). If a Direct Scheme Creditor intends to attend the virtual Direct Scheme Meeting, it should confirm the names and the contact details of the attendees in the Voting and Proxy Form and those persons will be provided with the access details for the virtual Direct Scheme Meeting. An attendee who is not notified to the Company in advance of the virtual Direct Scheme Meeting may not be permitted entry to such meeting. The video conference and telephone line will be open from 9.45 am (London time).

Whether or not a Direct Scheme Creditor intends to attend the virtual Direct Scheme Meeting, it is requested to complete and return the Voting and Proxy Form in accordance with the instructions and notes contained therein as soon as possible and in any event by the Voting Form Submission Deadline.

16 December 2020

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## IMPORTANT NOTICE TO POTENTIAL DIRECT SCHEME CREDITORS

This Direct Scheme Document has been prepared in connection with a proposed scheme of arrangement pursuant to Part 26 of the Companies Act 2006 as set out in Section II of this document (the "**Direct Scheme**") between Stronghold Insurance Company Limited (In Administration) (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 Direct Scheme Document, unless some other time is specified in relation to them, and the sending of this Direct Scheme 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 Direct Scheme 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 Direct Scheme Document. Each Direct Scheme Creditor is advised to read and consider carefully the text of the Direct Explanatory Statement, the Appendices thereto and the Direct 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. A Direct Scheme Creditor may, however, elect to use its Voting and Proxy Form as its Claim Form, 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 <sup>(1)</sup>	5.00 p.m. on 1 February 2021
Direct Scheme Meeting <sup>(2)</sup>	10.00 a.m. on 2 February 2021 or as soon as reasonably practicable thereafter
Court sanction hearing <sup>(3)(6)</sup>	10 February 2021
Effective Date of the Direct Scheme <sup>(4)(6)</sup>	11 February 2021
Last date for the issue of notice confirming Effective Date <sup>(5)(6)</sup>	4 March 2021

- (1) This is the deadline for submitting 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 (and the Direct Scheme is approved by the requisite statutory majority of Direct Scheme Creditors), the Company shall apply to the Court to sanction the Direct Scheme as soon as possible thereafter. The date of the Court sanction hearing may change if the votes cast at the Direct Scheme Meeting are submitted to the Independent Vote Assessor (as defined in the Direct Scheme ) for assessment as described as described at Part 1 (*Introduction and Main Features of the Proposed Direct Scheme*) of the Direct Explanatory Statement. In the event that there is no such submission, the date of the Court sanction hearing will be earlier. Direct Scheme Creditors will be notified of the Court sanction hearing date.
- (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.
- (5) The Company will, within 14 Business Days of the Effective Date, send notice that the Direct Scheme is effective together with, where applicable, an Existing Claim Form by post or email to all those Direct Scheme Creditors for which it has current address details and to Brokers and Agents at their last known addresses.
- (6) 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 adequate notice of the change on the Websites.

## CONTACT DETAILS

<b>Company</b>	<b>Administrators / Direct Scheme Administrators</b>
<p>Stronghold Insurance Company Limited (in Administration)                      c/o PricewaterhouseCoopers LLP                      7 More London Riverside,                      London, SE1 2RT                      England</p> <p>Contact: John Baker                      Mobile: +447483326661                      Email: <a href="mailto:uk_stronghold@pwc.com">uk_stronghold@pwc.com</a></p>	<p>Dan Yoram Schwarzmann and Douglas Nigel Rackham                      c/o PricewaterhouseCoopers LLP                      7 More London Riverside                      London, SE1 2RT                      England</p> <p>Contact: John Baker                      Mobile: +447483326661                      Email: <a href="mailto:uk_stronghold@pwc.com">uk_stronghold@pwc.com</a></p>
<b>Direct Scheme Actuarial Advisers</b>	<b>Direct Scheme Adjudicator</b>
<p>Contact: Nick Watford                      Telephone: +44 (0) 7595 610 487                      Email: <a href="mailto:nick.r.watford@pwc.com">nick.r.watford@pwc.com</a></p>	<p>Barbara Jones                      1251 Avenue of the Americas, 49th Floor                      New York, NY 10020                      United States</p> <p>Phone: +1 212 508 6105                      Email: <a href="mailto:barbara.jones@bracewell.com">barbara.jones@bracewell.com</a></p>
<b>UK Legal Advisers</b>	
<p>Clifford Chance LLP                      10 Upper Bank Street                      London, E14 5JJ                      England</p> <p>Contact: Philip Hertz / Jeanette Best / Michael Panayi                      Telephone: + 44 (0) 207 006 1000                      Email: <a href="mailto:Philip.Hertz@CliffordChance.com">Philip.Hertz@CliffordChance.com</a> /  <a href="mailto:Jeanette.Best@CliffordChance.com">Jeanette.Best@CliffordChance.com</a> /  <a href="mailto:Michael.Panayi@CliffordChance.com">Michael.Panayi@CliffordChance.com</a></p>	
<b>Scheme Websites</b>	
<p><a href="http://www.strongholdinsco.co.uk">www.strongholdinsco.co.uk</a>  <a href="https://www.pwc.co.uk/services/business-restructuring/administrations/stronghold.html">https://www.pwc.co.uk/services/business-restructuring/administrations/stronghold.html</a></p>	

**SECTION I**  
**DIRECT EXPLANATORY STATEMENT**

*(in compliance with Part 26 of the Companies Act 2006)*

in relation to a

**SCHEME OF ARRANGEMENT**

**BETWEEN**

**STRONGHOLD INSURANCE COMPANY LIMITED (IN ADMINISTRATION)**

and its

**DIRECT SCHEME CREDITORS**  
**(as defined in the Direct Scheme)**

## PART 1 – INTRODUCTION AND MAIN FEATURES OF THE PROPOSED DIRECT SCHEME

### 1. INTRODUCTION

1.1 Stronghold Insurance Company Limited (In Administration) (the "**Company**") proposes to enter into a scheme of arrangement pursuant to Part 26 of the Act as set out in Section II of the Direct Scheme Document (the "**Direct Scheme**") with creditors (the "**Direct Scheme Creditors**") with claims arising under contracts of direct insurance (the "**Direct Scheme Claims**"). The Direct Scheme is being proposed for the purposes of bringing closure to the Company's direct insurance business following the commencement of administration proceedings on 27 June 2019 (the "**Administration**").

1.2 The Company is also proposing to enter into a second scheme of arrangement pursuant to Part 26 of the Act with respect to other claims against the Company, including claims arising under contracts of reinsurance and retrocession (the "**General Scheme**"). The terms of the General Scheme are set out in a separate document dated on or around the date of the Direct Scheme Document. The General Scheme is being proposed for the purposes of bringing closure to the Company's other business following the Administration. The effectiveness of the Direct Scheme is not conditional on the General Scheme becoming effective. However, the General Scheme will not become effective if the Direct Scheme does not become effective.

1.3 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 (an "**Insurance Contract**"):

- (a) entered into by the Company or on its behalf; or
- (b) in relation to which the Company has assumed liability,

as at the date that the Direct Scheme becomes effective or to which the Company becomes subject after that date by reason of an obligation incurred before that date.

1.4 The Direct Scheme will not apply to any other liability of the Company, including but not limited to the claims that are the subject of the General Scheme and Excluded Liabilities. Excluded Liabilities comprise any liability that is:

- (a) 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);
- (b) a Preferential Claim (being a liability which has preferential status in accordance with section 386 of the IA);
- (c) a Pre-Scheme Expense (being, in summary, costs incurred in the promotion and preparation of the Direct Scheme and General Scheme (the "**Schemes**"))

including the costs of holding the meetings to vote in respect of the Schemes, applying to Court for permission to convene the meetings in respect of the Schemes and for the sanction of the Schemes); and/or

- (d) a Scheme Cost (being, in summary, costs incurred by the Company in the course of implementing the Direct Scheme).

1.5 The Direct Scheme Document, including this explanatory statement provided pursuant to section 897 of the Act (the "**Direct Explanatory Statement**") (at Section I) has been sent to those parties who the Company believes may be Direct Scheme Creditors. However, receipt of the 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.

1.6 Copies of the Direct Scheme Document are available to be downloaded from:

- (a) [www.strongholdinsco.co.uk](http://www.strongholdinsco.co.uk); and
- (b) [www.pwc.co.uk/services/business-restructuring/administrations/stronghold.html](http://www.pwc.co.uk/services/business-restructuring/administrations/stronghold.html),

(the "**Websites**") or, upon request, from the Company using the contact details set out at page 3 of the Direct Scheme Document.

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.

## 2. **WHAT IS A SCHEME?**

2.1 A scheme of arrangement, 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:

- (a) 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 Direct Scheme at a specially convened meeting held at the direction of the court;
- (b) the court subsequently makes an order sanctioning the Direct Scheme of arrangement; and
- (c) an office copy of that order is delivered to the Registrar of Companies for registration.



- 2.2 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.

### 3. **WHY HAS A SCHEME BEEN PROPOSED?**

- 3.1 The Company is insolvent. An administration order under the IA was made in respect of the Company on 27 June 2019. 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 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 Schemes.
- 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. Once a Direct Scheme Claim has been agreed or otherwise determined under the Direct Scheme (including 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 Direct Ascertained Claim (as defined in paragraph 11.2 below). The Company shall, as soon as reasonably practicable make payments in respect of such Direct 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 in light of the difficulties raised by the alternatives discussed in paragraph 6 (*Alternatives to the Direct Scheme*) and the advantages discussed in paragraph 7 (*The Main Advantages and Disadvantages of the Direct Scheme*). Furthermore, the Company considers that the Direct Scheme is appropriate at this time because it:
- (a) has been in run-off for over 30 years, and therefore has a very mature book;
  - (b) has never written retail insurance business and its remaining policyholders are sophisticated commercial organisations; and
  - (c) does not have any policyholders that would be subject to the protection of the Financial Services Compensation Scheme in the event of the Company's insolvency.

### 4. **WHO WILL BE AFFECTED?**

- 4.1 Direct Scheme Creditors will be affected by the Direct Scheme. Those persons who do and do not constitute Direct Scheme Creditors are described in paragraphs 1.3 and 1.4 above, respectively. You have been sent the 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.

### 5. **BUSINESS TO BE INCLUDED IN THE DIRECT SCHEME**

The Direct Scheme relates to all of the direct insurance business of the Company (as described in paragraph 1.4 above).

## 6. ALTERNATIVES TO THE DIRECT SCHEME

6.1 The Company's overall financial position is such that it will not be able to meet all of its obligations in full. Given the Company's insolvency, the alternative approaches for dealing with Direct Scheme Creditors, other than a scheme of arrangement, broadly comprise:

- (a) the commutation of liabilities on an *ad hoc* basis;
- (b) an informal arrangement with creditors;
- (c) a company voluntary arrangement under Part I of the IA (a "CVA");
- (d) an insolvent liquidation; and
- (e) a distribution in administration.

These alternatives, whilst capable of being utilised to tackle the problems of an insurance company in financial difficulties in appropriate circumstances, have significant disadvantages which render them inappropriate for the Company, as described below.

### **The commutation of liabilities on an ad hoc basis**

6.2 An *ad hoc* commutation of liabilities would require the Company to settle its obligations on the basis of individual negotiations with all creditors (estimated to be at least 159 Direct Scheme Creditors and 92 General Scheme Creditors). Given the priority afforded to liabilities arising under contracts of direct insurance of an insolvent insurance company pursuant to the Insurers (Reorganisation and Winding Up) Regulations 2004, it would be necessary to reach agreement and pay all direct insurance creditors first, before making payments to the General Scheme Creditors.

6.3 The administrative burden and cost of *ad hoc* commutations renders this impracticable. However, even if *ad hoc* commutations with all creditors were possible, each settlement would be on the basis of the best terms which the Company could negotiate with each individual creditor. Therefore there would be no certainty that equality of treatment for all creditors would be possible. Moreover, given the period of the commutation exercise, even with the benefit of Administration protection, the risks of litigation or the attachment of assets by individual creditors would remain and potentially increase the longer the Administration continues (albeit that, in the absent of consent from the Administrators, the rights of parties to commence or continue proceedings can only be exercised with the permission of the UK court). Finally there would always be the possibility that the cost of effecting early individual settlements with all creditors might be so high that insufficient funds would remain available to meet them or the cost of later settlements, either on a similar basis or at all.

### **Informal arrangements with creditors**

6.4 An informal arrangement or compromise, unless agreed to by every creditor, would not bind all creditors to the arrangement, but only those who agreed to be bound by it. With a significant number of creditors worldwide, it is unlikely that the

Company could obtain the agreement of its creditors either within a reasonable time or at all. As noted above, even with the benefit of Administration protection, the risks of litigation or the attachment of assets by individual creditors would remain.

## **CVA**

- 6.5 A CVA could lay before creditors proposals for a compromise with them similar to those contained in the Direct Scheme. However, unlike a scheme of arrangement, where a creditor does not receive notice of the CVA, it may mount proceedings to challenge the CVA within 28 days of becoming aware of it. Given that the Company has a large number of creditors, there is a possibility that some creditors may not receive notice notwithstanding the Company's best efforts to reach them. The supervisors of the CVA would, therefore be uncertain as to the ultimate level of claims which could lead to significant delay in payments to affected creditors.

## **Insolvent Liquidation**

- 6.6 If the Company were to be placed into insolvent liquidation, it would become subject to the regime applicable under the IA 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 2004 Regulations. While this option may be suitable for those companies which wrote short tail business, this procedure is not the optimal method of dealing with insolvent insurance companies which wrote longer tail business where the aim is to ensure the quickest and most efficient return to creditors.
- 6.7 The principal reason for this is that any liquidator of such an insolvent insurance company would be administering an estate where the ultimate level of claims and realisations would be unlikely to be known for some considerable time. 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 he is satisfied that he could gauge with accuracy the level of ultimate liabilities. As a result, unless a liquidator were to use a scheme similar to the present Direct Scheme, there would usually be a material delay between the appointment of the liquidator and the first interim distribution. This would have the effect that creditors would have to wait longer before receiving distributions out of the estate and bear the financing costs of such delay. Given the priority afforded to direct insurance creditors of an insolvent insurance company pursuant to the 2004 Regulations, it would be necessary to pay direct insurance creditors in full first, before making any payments to the General Scheme Creditors.

## **Distribution in Administration**

- 6.8 In the event that the Administrators were to undertake a distribution in the current administration (rather than pursuant to the currently proposed scheme), similar issues as those described above in respect of a distribution in an insolvent liquidation would apply.

## 7. THE MAIN ADVANTAGES AND DISADVANTAGES OF THE DIRECT SCHEME

- 7.1 The Company has discussed the main proposals of the Direct Scheme with the creditors' committee established pursuant to the Company's Administration (the "**Administration Creditors' Committee**") and has taken account of the Administration Creditors' Committee's views along with those of its advisers, where possible. The Administration Creditors' Committee has confirmed that it is supportive of the proposed Direct Scheme.
- 7.2 Furthermore, near-final drafts of this Direct Explanatory Statement, the Direct Scheme, the General Explanatory Statement and the General 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 either Explanatory Statement or Direct Scheme.

### Main Advantages of the Direct Scheme

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

(a) Early payment

The Direct Scheme should enable Scheme Creditors to have their Direct Scheme Claims agreed or determined as Direct Ascertained Claims and 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.

(b) Certainty and costs savings

The Direct Scheme will enable Direct Scheme Creditors to achieve finality over a shorter time frame and accordingly benefit from the reduced costs in administering their Direct Scheme Claims against the Company over a lengthy period. The Company will expedite the claims submission and determination process in the following ways:

(i) 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 appointed in the Direct Scheme (the "**Direct**

**Scheme Adjudicator")** where appropriate. The determination of the Direct Scheme Adjudicator will be binding on both the Company and the Direct Scheme Creditor so far as English law permits;

(ii) 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**

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

(a) Estimation

The simplified claims agreement process has been designed to value each Direct Scheme Claim as accurately and fairly as possible under the applicable law governing the Insurance Contract between the Company and the Direct Scheme Creditor. However, 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 insolvency of the Company (as described in Part 2, paragraph 3.11 below) and the fact that a run-off in the ordinary course of business is expected to take in excess of 25 years, it will be necessary for some form of early claims agreement process to be implemented;

(b) Failure to submit a Direct Claim Form by the Direct Final Claims Time

The Direct Scheme provides a mechanism for cutting off Direct Scheme Claims. For the reasons more specifically described in paragraph 10.2 below, Direct Scheme Creditors will be required to notify the Company of their Direct Scheme Claims by the Direct Final Claims Time (as defined in paragraph 10.4 below). Direct Scheme Claims notified after the Direct Final Claims Time 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, it should be noted that:

- (i) if a Direct Scheme Creditor submits a claim form in respect of the Solvent Scheme (the "**Existing Claim Form**"), and the Company provides a copy of that Existing Claim Form to the Direct Scheme Creditor, or if a Direct Scheme Creditor chooses to use its Voting Form and Proxy Form submitted at the Direct Scheme Meeting (as defined in paragraph 14.1 below) as its claim form, no further claim form is required in order to notify a Direct Scheme Claim, although

a Direct Scheme Creditor may opt to update its Existing Claim Form or complete and submit a new claim form (in the form provided at Section V of the Direct Scheme Document, the "**New Claim Form**"); and

(ii) the Direct Final Claims Time 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 Direct Final Claims Time will be advertised, and notice of it will be posted on the Websites 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;

(c) **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. As described above, a more streamlined and cost efficient process for determining Direct Scheme Claims has been proposed pursuant to the Direct Scheme; and

(d) **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**

7.5 These are the main advantages and possible disadvantages of the Direct Scheme for Direct Scheme Creditors identified by the Company. It is impossible, however, to address each Direct Scheme Creditor's individual circumstances, with the result that it is impossible to regard this list of advantages and disadvantages as exhaustive. 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.

## **8. HOW WILL THE DIRECT SCHEME MEETING AND VOTE BE CONDUCTED?**

8.1 The Direct Scheme Meeting has been ordered by the Court to take place commencing at 10.00 am (London time) on 2 February 2021. The Direct Scheme

Meeting will take place via webinar hosted by Clifford Chance LLP, solicitors for the Administrators ("**Clifford Chance**"), as further described in the Notice of the Direct Scheme Meeting set out in Section III (*Notice of the Direct Scheme Meeting*) of the Direct Scheme Document.

- 8.2 The Direct Scheme Meeting will not be held physically, and it will not be possible to attend the Direct Scheme Meeting in person physically because of the Covid-19 outbreak.
- 8.3 All Direct Scheme Creditors may attend the virtual Direct Scheme Meeting by way of video conference or telephone (the "**Remote Participation Methods**") and may join 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 virtual Direct Scheme Meeting is requested to complete and submit a Voting and Proxy Form, so as to be received by the Company, by no later than 5.00 pm (London time) on 1 February 2021 (the "**Voting Form Submission Deadline**"). If a Direct Scheme Creditor intends to attend the virtual Direct Scheme Meeting, it should confirm the names and the contact details of the attendees in the Voting and Proxy Form and those persons will be provided with the access details for the virtual Direct Scheme Meeting. An attendee who is not notified to the Company in advance of the virtual Direct Scheme Meeting may not be permitted entry to such meeting. The video conference and telephone line will be open from 9.45 am (London time). 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.
- 8.4 The value to be attributed to each Direct Scheme Claim (for the purposes of voting at the Direct Scheme Meeting) will be determined by the chairman of the Direct Scheme Meeting (the "**Chairman**"). The Chairman, who will be Dan Schwarzmann, or failing him, Nigel Rackham, will consider the Voting and Proxy Forms (a form of which is set out at Section IV of the Direct Scheme Document) which have been completed and submitted in accordance with the instructions thereon in order to determine the value of each Direct Scheme Creditor's vote at the Direct Scheme Meeting. The Chairman's determination shall be based on (i) the information provided by the Direct Scheme Creditor; (ii) the information available to the Company from its existing records; (iii) advice provided to the Company by the Direct Scheme Actuarial Adviser on the application of the principles described in the Estimation Guidelines; and (iv) if any, the report of the Independent Vote Assessor (appointed to assess the votes cast at the Direct Scheme Meeting as further described below in paragraph 8.5). Direct Scheme Claims for voting will also be calculated net of any known set-off, Security or other relevant deductions.
- 8.5 The Chairman has the power to reject a Direct Scheme Claim for voting purposes, in whole or in part, only if he considers 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, he will, if possible, notify the relevant Direct Scheme Creditor of such decision, and the reasons therefor, before the Direct Scheme Meeting and, in any event, before the Court hearing to sanction the Direct Scheme. If there is any dispute, the Chairman's

decision will be final and binding, subject to the Direct Scheme Creditor's right to make any objection to the Court at the subsequent Court hearing to consider the sanctioning of the Direct Scheme. The Chairman will include details of any dispute in his report to the Court of the result of the Direct Scheme Meeting and full details will be included in the evidence filed with the Court for the sanction hearing.

8.6 In the event that:

- (a) all votes cast in respect of the Direct Scheme are cast in favour of it; or
- (b) the Direct Scheme is approved by the requisite majority of Scheme Creditors in the Direct Scheme Meeting, where the Chairman attributes:
  - (i) the higher of the Company's or the Direct Scheme Creditor's valuation of a Direct Scheme Claim when valuing the votes cast against the Direct Scheme; and
  - (ii) the lower of the Company's or the Direct Scheme Creditor's valuation of a Direct Scheme Claim when valuing the votes cast in favour of the Direct Scheme,

the Company shall, as soon as reasonably practicable after the Direct Scheme Meeting, apply to the Court for the sanction of the Direct Scheme.

8.7 Where the Direct Scheme is approved by the requisite majority in the Direct Scheme Meeting but the circumstances described in paragraph 8.3 do not apply, the value attributed to the votes cast at the Direct Scheme Meeting shall be subject to an assessment by the Independent Vote Assessor as described in paragraph 8.5.

8.8 The Company has appointed Colin Czapiewski (the "**Independent Vote Assessor**") for the purposes of independently assessing the value of the votes cast at the Direct Scheme Meeting. Details of the Independent Vote Assessor's expertise are set out in his curriculum vitae at Appendix 3 to this Direct Explanatory Statement. The Chairman shall provide the Independent Vote Assessor with a list of, and certain details regarding, all votes submitted at the Direct Scheme Meeting. The direction of the vote cast will not be disclosed to the Independent Vote Assessor. The Chairman will indicate which votes, in his opinion, should be reviewed by the Independent Vote Assessor. This will include:

- (a) all votes against the Direct Scheme;
- (b) sufficient votes in favour of the Direct Scheme to determine whether the requisite majority has been achieved; and
- (c) any additional votes the Chairman shall request.

8.9 The Independent Vote Assessor shall review the Chairman's valuations of the estimated elements of each Direct Scheme Claim, assess the value attributed to each vote indicated to him by the Chairman (and such other votes as he shall reasonably determine) and shall report his findings to the Chairman, who will review the values placed on the votes at the Direct Scheme Meeting. The Independent Vote Assessor's report will be made available to the Court at the sanction hearing. If the



Chairman revises his view of the value of a vote following review by the Independent Vote Assessor, the Direct Scheme Creditor will be notified of the revised determination. If there is any dispute, the Independent Vote Assessor's decision will be final and binding, subject to the Direct Scheme Creditor's right to make any objection to the Court at the subsequent Court hearing to consider the sanctioning of the Direct Scheme. The Chairman will include details of any dispute in his report to the Court of the result of the Direct Scheme Meeting and full details will be included in the evidence filed with the Court for the sanction hearing.

- 8.10 In the event that the Direct Scheme is approved by the requisite majority of Direct Scheme Creditors in the Direct Scheme Meeting the Company shall, as soon as reasonably practicable after the Direct Scheme Meeting, apply to the Court for the sanction of the Direct Scheme.
- 8.11 The values attributed to claims admitted for voting purposes (whether based on a value attributed by the Company, the Direct Scheme Creditor or the Independent Vote Assessor) 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, in which case the Direct Scheme Claim will be determined in accordance with the Direct Scheme).
- 8.12 For the purposes of voting at the Direct Scheme Meeting, Direct Scheme Claims will be converted into US Dollars at the closing rate of exchange for the relevant currency quoted by the Bank of England on the date the Administration proceedings commenced in respect of the Company, namely 27 June 2019.
- 8.13 Notification of the Direct Scheme has also been given to those brokers and agents who have been identified by the Company as having placed Insurance Contracts with the Company or known to be acting on behalf of Direct Scheme Creditors. The Company urges those brokers and agents to inform their clients of the Direct Scheme to ensure that all possible Direct Scheme Creditors receive notice of the Direct Scheme and of the action which they are required to take prior to and subsequent to the Direct Scheme Meeting.

## 9. **WHAT WILL HAPPEN AFTER THE DIRECT SCHEME BECOMES EFFECTIVE?**

- 9.1 The Direct Scheme will become effective only if:
  - (a) the requisite statutory majority of Direct Scheme Creditors vote in favour of it at the Direct Scheme Meeting; and
  - (b) a Court order sanctioning the Direct Scheme is subsequently obtained and delivered to the Registrar of Companies for registration.

The relevant documents will be delivered to the Registrar of Companies as soon as practicable after the Court order sanctioning the Direct Scheme is obtained and defines the moment when the Direct Scheme becomes effective.

- 9.2 Once the Direct Scheme becomes effective, the Company will, within 14 Business Days of the Effective Date, send to each known Scheme Creditor for whom the Company has contact details:
- (a) notice that the Direct Scheme is effective; and
  - (b) in respect of Direct Scheme Creditors, either:
    - (i) a copy of such Direct Scheme Creditor's Existing Claim Form (as defined above in paragraph 7.4(b)(i)) or a copy of such Direct Scheme Creditor's completed Voting and Proxy Form if that Direct Scheme Creditor has elected to have such form treated as its claim form in respect of such Direct Scheme Claim; or
    - (ii) in the event that no such Existing Claim Form or relevant Voting and Proxy Form is available, a blank New Claim Form, and instructions on how to complete it.

## 10. SUBMISSION OF CLAIM FORMS

- 10.1 The 2004 Regulations apply to United Kingdom insurers, including the Company. The 2004 Regulations provide that, amongst other things, direct insurance creditors have priority over other classes of unsecured creditors of a UK insurer, including reinsurance creditors.
- 10.2 Given the priority afforded to direct insurance creditors by virtue of the 2004 Regulations, it is proposed that the submission and assessment of creditor claims against the Company will be more efficient if undertaken as a two-step process. Accordingly, Direct Scheme Creditors will be invited to submit their claim forms in respect of their Direct Scheme Claims under the Direct Scheme first. In the event that it appears that all Direct Scheme Claims (once agreed or otherwise determined) can be paid in full with remaining assets being available to meet the claims of other creditors of the Company (otherwise than on a *de minimis* basis), those other creditors of the Company will then be invited to submit claims against the Company in accordance with the terms of the General Scheme.
- 10.3 Where the Company identifies that a Direct Scheme Creditor submitted an Existing Claim Form or a Voting and Proxy Form which is also to be used as a claim form, the Company shall provide a copy of that Existing Claim Form or Voting and Proxy Form to the Direct Scheme Creditor at such time as it gives notice to the Direct Scheme Creditor of the Direct Final Claims Time. A Direct Scheme Creditor is entitled to:
- (a) use its Existing Claim Form or such Voting and Proxy Form for the purpose of submitting a Direct Scheme Claim in the Direct Scheme, without taking any further action;
  - (b) provide an updated version of such Existing Claim Form or Voting and Proxy Form; or
  - (c) provide a completed New Claim Form by way of replacement of its Existing Claim Form or Voting and Proxy Form. Where a Direct Scheme Creditor

does not receive an Existing Claim Form or Voting and Proxy Form from the Company, it must complete and submit a New Claim Form, and such New Claim Form must be received by the Company by the Direct Final Claims Time.

**10.4 Direct Scheme Creditors should note that the deadline for submitting completed claim forms in respect of Direct Scheme Claims is the Direct Final Claims Time, being 11.59 pm (London time) on the first day falling 180 calendar days after (and not including) the Effective Date (the "Direct Final Claims Time"). No Direct Scheme Creditor shall be entitled to receive any payment from the Company in respect of a Direct Scheme Claim unless that Direct Scheme Claim:**

- (a) is set out in an Existing Claim Form or a Voting and Proxy Form which the Direct Scheme Creditor has elected to use as its claim form and which document has been provided by the Company to the Direct Scheme Creditor; or**
- (b) has been notified to the Company by the Direct Scheme Creditor on a completed New Claim Form which has been received by the Company no later than the Direct Final Claims Time.**

**Any Direct Scheme Claim not so notified to the Company 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.**

10.5 The Company will endeavour to agree all Direct Scheme Claims properly submitted within 90 Business Days of the Direct Final Claims Time. Any Direct Scheme Claims which are not agreed or otherwise determined between the Direct Scheme Creditor and the Company in the manner and within the times prescribed in the Direct Scheme will be referred to an independent adjudicator (the "**Direct Scheme Adjudicator**"). The Administration Creditors' Committee has agreed to the appointment of Barbara Jones as the Direct Scheme Adjudicator. Details of the Direct Scheme Adjudicator's expertise are set out in her curriculum vitae at Appendix 2 to this Direct Explanatory Statement. The Direct Scheme Adjudicator will make a final determination in respect of each disputed Direct Scheme Claim referred to her in accordance with the procedure set out in the Direct Scheme. Insofar as the law allows, the Direct Scheme Adjudicator's decision will be final and binding as against the Company and each Direct Scheme Creditor and there will be no right of appeal from that decision.

## **11. PAYMENT OF DIRECT SCHEME CLAIMS**

11.1 Once the value of a Direct Scheme Creditor's Direct Scheme Claim has been assessed in accordance with the Direct Scheme (whether by way of agreement between the Company and the Direct Scheme Creditor or by determination of the Direct Scheme Adjudicator), the Company will send the Direct Scheme Creditor a notice setting out the amount of its Direct Scheme Claim and taking into account the deductions referenced below:

- (a) the amount (if any) of any liability of the Direct Scheme Creditor that has been deducted by way of set-off;
  - (b) the amount of any security which has been deducted;
  - (c) the details of any currency conversions; and
  - (d) the resultant amount.
- 11.2 The resulting positive value of the claim, if any, will be the amount payable by the Company to the Direct Scheme Creditor in the Direct Scheme (the "**Direct Ascertained Claim**"). A resulting negative balance will be a liability payable by the Direct Scheme Creditor to the Company.
- 11.3 As soon as possible following the Direct Final Claims Time the Company shall determine whether all Direct Ascertained Claims can be paid in full. If the Company determines that such claims can be paid in full, it shall make payment in full in respect of all Direct Ascertained Claims as soon as reasonably practicable. In the event that, following the Direct Final Claims Time, the Company determines that, in its reasonable opinion, based on the then currently available information, all Direct Ascertained Claims cannot be paid in full, it shall determine what percentage of the Direct Ascertained Claims (the "**Direct Payment Percentage**") can be paid taking into account the amounts required to meet all Excluded Liabilities and other liabilities of the Company ranking in priority to the Direct Scheme Creditors and the need to ensure that the same percentage is paid in respect of all Direct Ascertained Claims. Once a Direct Payment Percentage has been set, the Company shall pay the Direct Payment Percentage in respect of each Direct Ascertained Claim as soon as reasonably practicable. A Direct Payment Percentage, once set, may be revised (upwards or downwards) in accordance with the terms of the Direct Scheme.
- 11.4 Payments shall be made by way of telegraphic transfer (where full bank account details have been provided by the Direct Scheme Creditor) or alternatively by cheque.
12. **PERMANENT INJUNCTION ORDER UNDER CHAPTER 15 OF THE UNITED STATES BANKRUPTCY CODE**
- 12.1 In the event that the Direct Scheme is approved by the requisite majority of Direct Scheme Creditors at the Direct Scheme Meeting and sanctioned by the Court, the Company intends to seek an order from the United States Bankruptcy Court pursuant to Chapter 15 of title 11 of the United States Code (the "**Bankruptcy Code**"):
- (a) recognizing and enforcing the Direct Scheme within the territorial jurisdiction of the United States, and
  - (b) granting a permanent injunction providing that all Direct Scheme Creditors, including all Direct Scheme Creditors in the United States, are enjoined from commencing or taking any action in the United States contrary to the

Direct Scheme and are required to rely on the provisions of the Direct Scheme in relation to Direct Scheme Claims and their payment.

12.2 The Company intends to seek such relief in the United States on or shortly after the Effective Date. A summary of the injunctive relief that the Company intends to seek in the proposed order is set out in Schedule 3 of the Direct Scheme Document.

### 13. THE WEBSITES

13.1 The Websites are live, functional and accessible by all Direct Scheme Creditors at:

- (a) [www.strongholdinsco.co.uk](http://www.strongholdinsco.co.uk); and
- (b) [www.pwc.co.uk/services/business-restructuring/administrations/stronghold.html](http://www.pwc.co.uk/services/business-restructuring/administrations/stronghold.html).

This Direct Explanatory Statement, the Direct Scheme, the Notice of the Direct Scheme Meeting, the Voting and Proxy Form, the New Claim Form and any other notices given in the Direct Scheme are available from the Websites.

### 14. WHAT SHOULD SCHEME CREDITORS DO NOW?

14.1 If you are a Direct Scheme Creditor of the Company, you are entitled to attend and vote at the meeting convened at the direction of the Court for the purpose of giving Direct Scheme Creditors the opportunity to consider and, if thought fit, approve the Direct Scheme (the "**Direct Scheme Meeting**").

14.2 Following a hearing before the Business and Property Courts of England and Wales on 16 December 2020, the Court determined that the Direct Scheme Creditors shall vote in one meeting. Notice of the Direct Scheme Meeting has been sent with the Direct Scheme Document and a copy appears at Section III of the Direct Scheme Document. The Direct Scheme Meeting is scheduled to take place virtually on 2 February 2021 commencing at 10.00 am. The meeting in respect of the General Scheme is also anticipated to take place virtually, on the same day, but after the Direct Scheme Meeting.

14.3 Direct Scheme Creditors may participate in the Direct Scheme Meeting in person (or, if a corporation, by a duly authorised representative) or by proxy, via the Remote Participation Methods. Returning the Voting and Proxy Form will not prevent any Direct Scheme Creditor from participating and voting in person at the Direct Scheme Meeting (via poll card to be provided by Clifford Chance) should they wish to do so.

14.4 At Section IV of the Direct Scheme Document is the Voting and Proxy Form to be used for voting at the Direct Scheme Meeting. Even if Direct Scheme Creditors intend to participate at the Direct Scheme Meeting in person via the Remote Participation Methods, they are requested to complete and sign the Voting and Proxy Form in accordance with the guidance notes accompanying the form. Returning a Voting and Proxy Form will not prevent a Direct Scheme Creditor from participating and voting at the Direct Scheme Meeting in person via the Remote Participation Methods (whereupon the Voting and Proxy Form 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 at [uk\\_stronghold@pwc.com](mailto:uk_stronghold@pwc.com) as soon possible, and, in any event, so that they are received by 5.00 pm (London time) on 1 February 2021, 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, in the first instance, the Company using the contact details provided at page 3 of the Direct Scheme Document.**

#### **15. 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, but may determine that it is appropriate to move the Company into a distributing Administration or a distributing insolvent liquidation. Given that the Company is insolvent, the alternatives to the Direct Scheme will be those described in paragraph 6 above. For the reasons given in that paragraph, the Administrators of the Company consider that the Direct Scheme is the best option available to, and in the best interests of, the Company and the Direct Scheme Creditors. In addition, the Administration Creditors' Committee has approved the Direct Scheme. Accordingly, all Scheme Creditors are encouraged to vote in favour of the proposed Scheme.

## **PART 2 – BACKGROUND AND BUSINESS OVERVIEW**

### **1. CORPORATE HISTORY**

- 1.1 The Company was incorporated on 28 September 1962 under the Companies Act 1948 with its registered office located at 143 Fenchurch Street, London. With an authorised and issued capital of £500,000, the principal shareholders were Bland Welch & Company Limited, Orion Insurance Company Limited, Hansa Insurance Group, Swiss National Insurance Company Limited and Bernese General Insurance Company Limited.
- 1.2 In October 1970, Accident & Casualty Insurance Company of Winterthur (42.5%), National Fire Insurance Company of Hartford (a member of the CNA Insurance Group of Chicago, USA) (42.5%) and the Montagu Trust Group (15%) acquired the £825,000 share capital of the Company.
- 1.3 In March 1973, the three joint owners of the Company (Accident & Casualty of Winterthur, National Fire of Hartford (CNA) and the Montagu Trust Group) also purchased The Reinsurance Corporation Limited ("RCL"). While the Company and RCL shared some services, the companies underwrote business separately, each for their own account.
- 1.4 In 1976, the Company was purchased by the newly formed Norwich Winterthur Reinsurance Corporation ("NWRe"), a joint venture between Norwich Union, Winterthur Swiss and Chiyoda Fire and Marine.
- 1.5 From the early 1980s, the Company began to experience an increase in notifications in respect of asbestos-related and environmental pollution claims emanating from the USA arising from policies written in the 1960s, 1970s and 1980s. As a consequence, the Company, for all practical purposes, ceased underwriting at the end of 1984 with only limited business being written in 1985 where there had been a contractual obligation in force to renew.
- 1.6 The Company has been in solvent run-off since 1985. In 1987, an application was made under Section 11 of the Insurance Companies Act 1982 for the withdrawal of the Company's licence to write new business. The licence was withdrawn on 14 August 1987.
- 1.7 The management of the run-off of the Company was handled by NWRe until it also ceased writing new business in 1993. NW Services, subsequently renamed Cavell Management Services Limited, was set up as a service company to handle the run-off of both NWRe and Stronghold.
- 1.8 On 14 April 1997, the Company was sold to Stronghold Holdings Limited, a privately-owned company. The Company took over the handling of the run-off from Cavell Management Services Limited on 1 July 2003.

### **2. BUSINESS OVERVIEW**

- 2.1 The underwriting of the Company was directed by Donald Fox and initially it wrote exclusively non-proportional and reinsurance business. Stronghold wrote its first risk on 31 October 1962.

- 2.2 With effect from 5 July 1965, the Company formed an association with Eagle Star to cede a fixed percentage of its casualty facultative book of business to Eagle Star. This Quota Share Agreement enabled Stronghold to operate as a London Market Company Lead. This arrangement with Eagle Star ceased by 1968.
- 2.3 By 1970, the Company made the decision to extend its activities into certain selected areas of proportional treaty business.
- 2.4 For many years Stronghold had provided fronting facilities to companies who were otherwise unable to write certain classes of business. These included Turegum from 1962 to 1969 inclusive, and the R.W. Gibbon & Son Agency Companies.
- 2.5 During the active underwriting life of the Company, it wrote direct and reinsurance USA Casualty business either by way of Treaty Excess of Loss to the London Market and USA companies, or by way of Surplus Line insurance. As referred to above, asbestos-related, environmental pollution and health hazard claims emanating from the USA resulted in the decision to place the Company into run-off in 1985.

### 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. Whilst the Company was solvent at the time of its introduction with net assets of USD 9.419 million (as per its audited year end 2015 financial statements), it was unable to meet the minimum capital requirements imposed under this legislation and the Company's shareholders were not able to provide additional capital to rectify this deficiency. In these circumstances, the Company's regulators, being the PRA and FCA, asked that the Company produce an exit plan to bring closure to the run-off.
- 3.2 The Company considered it was in the best interests of policyholders at that time to continue the run-off with a plan to bring the business to a close by way of a solvent scheme of arrangement pursuant to Part 26 of the Act within 10 years, or earlier if in the best interests of policyholders.
- 3.3 In the following two years, the Company settled claims more quickly than anticipated, resulting in a substantial reduction in technical reserves and thus investment income. Whilst in run-off, the Company reduced its liabilities through pro-active claims management and commutations from in excess of USD 500 million to approximately USD 40 million. However, it became apparent that, even with cost reductions, expenses would soon begin to exceed investment income. The Company estimated that, in the ordinary course of business (without the intervening insolvency of the Company) it would take approximately 25 years for all outstanding claims to be paid. Accordingly, the Company became increasingly concerned that, without further action, it would continue to be in breach of Solvency II and potentially subject to regulatory enforcement by its regulators.
- 3.4 Therefore, the possibility of implementing a solvent scheme of arrangement earlier than had been initially anticipated was discussed, as it was believed this was the best way to maximize assets available to creditors. The directors of the Company



(the "**Board**") also considered if other, better, alternatives to the proposed solvent scheme of arrangement were available to the Company. The Board came to the view that a sale or transfer of the Company's assets and liabilities under Part VII of the Financial Services and Markets Act 2000 (a "**Part VII Transfer**") was unlikely to be feasible because any acquirer would have to invest a significant sum to make the Company compliant with both its minimum capital requirement and solvent capital requirement under Solvency II thereby making the acquisition prohibitively expensive. Whilst a financial reinsurance could assist in meeting capital requirements in the short term, it would be extremely expensive, resulting in fewer assets being available to policyholders in the longer term. The Board also considered that a solvent scheme of arrangement was a better option than a formal insolvency process, being more efficient and cost effective than either an administration or liquidation.

### **The Solvent Scheme**

3.5 On 28 August 2018, the Company announced its intention to propose a solvent scheme of arrangement pursuant to Part 26 of the Act (the "**Solvent Scheme**"). Per the Company's audited financial statements for the year end 2017, the Company had net assets of USD 10.7 million but this was dependent on the Company's assessment of its liabilities being accurate.

3.6 The primary objectives of the Solvent Scheme were to:

- (a) bring closure to the run-off of the Company's business, in the shortest practicable time, given its inability to meet Solvency II's capital requirements; but
- (b) nevertheless pay Scheme Creditors the full value of their claims under Insurance Contracts, once they had been agreed or otherwise determined.

3.7 By a Court order dated 31 October 2018 the Company was granted permission to convene two meetings of Scheme Creditors to consider and vote on the Solvent Scheme on 20 February 2019 (the "**Solvent Scheme Meetings**"). The creditors in the Solvent Scheme provided voting forms in advance of the Solvent Scheme Meetings which provided details of their assessment of their claims against the Company. It was clear from the Company's review of these forms that the level of claims being asserted against the Company was higher than the Company had expected.

3.8 Furthermore, the Company was notified that certain Solvent Scheme creditors intended to vote against the Solvent Scheme and would consider challenging it at any Court hearing to sanction such Solvent Scheme. Following discussions with certain of those Solvent Scheme creditors, it became clear that the principal objections to the Solvent Scheme were as follows:

- (a) a concern that, instead of having their claims mature and paid in the ordinary course of business, claims would instead have to be agreed with the Company or determined by an independent adjudicator appointed by the Company. As it was not possible for the Company to definitively state that, in the absence of a Solvent Scheme, there would be an insolvency process,

certain Solvent Scheme creditors appeared to prefer for the Company to continue in run-off until that was no longer possible. On the assumption that the Company had sufficient assets to do so, that would mean that claims would be paid as they arose in the ordinary course of business;

- (b) there was a concern that, as the Company was technically solvent, one of the aims of the Solvent Scheme was to return capital to the shareholders, at the expense of forcing creditors to accept an earlier valuation of their claims; and
- (c) certain Scheme Creditors were not content with the Company's choice of independent adjudicator.

3.9 In light of these issues, the Solvent Scheme Meetings were adjourned from 20 February 2019 to a date, time and place to be notified by the Company to the Solvent Scheme creditors in due course, and the Board re-examined the Company's financial position. The claims submitted in advance of the Solvent Scheme Meetings were not formally assessed, but the Company conducted a review into these claims and the extent to which the quantum of them could be substantiated. The Company also had meetings with certain of the Company's major creditors to discuss the claims that such creditors had submitted prior to the Solvent Scheme Meetings.

3.10 During these discussions it became clear that the claims of those creditors could be substantiated at a considerably higher level than the Company had hitherto provisioned for based on its assessment of its liabilities. In addition, in the absence of the Solvent Scheme, a number of adjustments would be required to the Company's accounts at year end 2018 resulting in a further deterioration in the Company's financial position.

3.11 After careful review, the Board concluded that the Company did not have sufficient assets to meet its liabilities and was insolvent on a balance-sheet basis. The Company ceased paying creditors' claims as of 31 May 2019 and, on 27 June 2019 petitioned the Court to place the Company into administration under section 8 and Schedule B1 of the IA (the "**Administration**") by appointing Dan Yoram Schwarzmann and Douglas Nigel Rackham of PwC as joint administrators of the Company (the "**Administrators**").

### **Administration**

3.12 The Administrators were appointed on 27 June 2019. Upon appointment, the Administrators managed the Company until the creditors agreed their proposal for achieving the purpose of the Administration.

3.13 In accordance with their obligations under paragraph 49 of Schedule B1 to the IA, the Administrators formulated their proposals for achieving the purpose of the administration of the Company. The Administrators' proposals, dated 9 August 2019, were sent to all potential Direct Scheme Creditors at that time.

3.14 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 Company cannot be rescued as a going concern as it has been determined that the Company is balance sheet insolvent and the options available to the Company in order for it to return to solvency are not feasible. Pursuant to those proposals, it was proposed that the purposes of the Administration be achieved via the implementation of a Scheme of Arrangement.

- 3.15 On 4 September 2019 the creditors of the Company approved the Administrators' proposals, including the intention to proceed with a scheme of arrangement.
- 3.16 The Administrators' strategy, including the actions taken so far, for maximizing the value of the available assets to creditors and minimizing the costs incurred by the Company has been as follows:
- (a) safeguarding the Company's IT and data systems as well as the Company's assets;
  - (b) reviewing and assessing reinsurance debtors' ledgers and other amounts owing to the Company, including reaching settlement and/or recovery of funds from certain debtors;
  - (c) securing and taking control of cash and investment and determining and executing an appropriate investment strategy;
  - (d) taking steps to reduce the Company's cost base, including a reduction in staff where such staff were determined not to be required for the duration of the Administration;
  - (e) negotiating with key suppliers to ensure that all critical operations can be maintained and the business can continue to operate in run-off;
  - (f) making an application under Chapter 15 of the United States Bankruptcy Code in order to secure the protection of assets in the United States;
  - (g) reviewing contracts and documentation in relation to the US Trust Fund and various letters of credit previously issued by the Company for the benefit of certain creditors; liaising with the custodian and recovering value into the estate;
  - (h) considering the sale of the Company's freehold premises and relocation of remaining staff;
  - (i) commencing initial tax and VAT reviews into the affairs of the Company;
  - (j) liaising with the PRA and FCA on progress and other matters arising; and
  - (k) considering the terms of an appropriate scheme of arrangement for the purpose of bringing the business of the Company to a close and liaising with the Administration Creditors' Committee, PRA and FCA in respect of the same.

Further detail on the progress with the Administration can be found in the Joint Administrators progress reports available on [www.pwc.co.uk/services/business-restructuring/administrations/stronghold.html](http://www.pwc.co.uk/services/business-restructuring/administrations/stronghold.html).

#### **The Practice Statement Letter dated 30 June 2020**

- 3.17 The Administrators initially proposed a scheme of arrangement pursuant to Part 26 of the Act by way of a letter sent to the Company's creditors on or shortly after 30 June 2020. That scheme of arrangement anticipated that both creditors in respect of direct insurance contracts, and other creditors, including reinsurance creditors, would be party to the same scheme of arrangement, notwithstanding that the claims of direct insurance creditors would be assessed and paid first in accordance with the terms of the 2004 Regulations, with the claims of other creditors to be determined thereafter.
- 3.18 After the issue of the relevant practice statement letter, and additional feedback from the Administration Creditors' Committee, the Administrators became aware that it was not clear whether there would be sufficient support for that scheme amongst the Company's reinsurance creditors. Accordingly, rather than proceed with such scheme, the Administrators determined that it was most appropriate to instead propose separate schemes of arrangement for direct insurance creditors and other creditors. The Administrators note that both the Direct Scheme and the General Scheme have the support of the Administration Creditors' Committee.

#### **4. DIRECTORS' INTERESTS**

The directors of the Company are:

<b>Name of director</b>	<b>Date of appointment</b>
Duffy, Ann	14 April 1997
Gregory, Andrew James	11 November 2014
Massey, John Michael	21 May 1997
Sopher, Henry	14 April 1997
Watkins, Kenneth Francis	14 April 1997

The Direct Scheme will have no effect on any interests of the directors in the Company. To the best of the Company's knowledge, none of its directors have any interest, direct or indirect, in the Direct Scheme and the Direct Scheme will have no effect on the interests of those directors.

## **PART 3 – SUMMARY 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. Its key terms are summarised 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 DIRECT 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. 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 that is a Direct Scheme Claim, namely a claim arising under or pursuant to a direct insurance contract. Direct Scheme Claims do not include claims in respect of Excluded Liabilities. (**Clause 2.1**). In the event of an inconsistency between the Direct Scheme and the General Scheme, the Direct Scheme shall prevail.

### **4. RECEIPT OF DISTRIBUTABLE PROPERTY OF THE COMPANY**

- 4.1 The Administrators shall be the persons entitled to collect in and realise the property of the Company until the end of the Administration Order. After the termination of the Administration Order, the scheme administrators appointed in the Direct Scheme shall be the persons entitled to collect in and realise the property of the Company. In the event that the Direct Scheme terminates, but the General Scheme is not terminated, the scheme administrators appointed in the General Scheme shall be the persons entitled to collect in and realise the property of the Company (**Clause 2.3**).

### **5. STAY OF PROCEEDINGS**

- 5.1 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 if such restriction is prohibited by law (**Clause 2.4**). The Direct Scheme does not prevent the Company from instituting or continuing any proceedings against a Direct Scheme Creditor (**Clause 2.4.3**). For limitation purposes, time will stand still in respect of Direct Scheme Claims from the date upon which the Direct Scheme becomes effective (**Clause 2.4.5**).
- 5.2 If a Direct Scheme Creditor breaches the prohibition on proceedings such proceedings shall not give rise to an ascertained claim in the Direct Scheme and the Direct Scheme Creditor 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 to the Direct Scheme Creditor under the Direct Scheme, the balance will become a debt due for immediate payment by the Direct Scheme Creditor and will carry interest (**Clause 2.5**).

## 6. **INTEREST**

The only interest payable in respect of a Direct Scheme Claim will be the interest provided for in the Insurance Contract giving rise to the Direct Scheme Claim or otherwise arising by law and accruing until the date of the commencement of the Administration, namely 27 June 2019 (**Clause 2.6**).

## 7. **CURRENCY OF PAYMENT**

Direct Scheme Creditors will be paid their Direct Ascertained Claim in either Pounds Sterling or US Dollars (each being a "**Relevant Currency**"). If a Direct Scheme Creditor's Direct Ascertained Claim is denominated in Pounds Sterling, it will be paid in Pounds Sterling. If a Direct Scheme Creditor's Direct Ascertained Claim is denominated in US Dollars, it will be paid in US Dollars. If a Direct Scheme Creditor's Direct Ascertained Claim is denominated in any other currency, it will be paid in US Dollars calculated using the closing rate of exchange applying to a particular currency as quoted by the Bank of England on the Administration Date (the "**Exchange Rate**"). If the majority of a Direct Ascertained Claim is payable in US Dollars, the entire Direct Ascertained Claim shall be paid US Dollars, calculated using the Exchange Rate (and if the majority of a Direct Ascertained Claim is payable in Pounds Sterling, the entire Direct Ascertained Claim shall be paid in Pounds Sterling, calculated using the Exchange Rate). (**Clause 2.7**).

## 8. **SUBMISSION AND DETERMINATION OF DIRECT SCHEME CLAIMS**

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 14 Business Days of the Effective Date, send notice confirming that Effective Date to all those Direct Scheme Creditors for which it has current address details and to Brokers and Agents at their last known addresses. Such notice will also confirm the Direct Final Claims Time and call for all Direct Scheme Creditors to submit their Direct Scheme Claims to the Company by the Direct Final Claims Time. The Company shall also publish such information in the same newspapers and publications in which the Direct Scheme Meeting were advertised and on the Websites (**Clauses 3.2.1, 3.2.2 and 3.2.3**).

8.2 Scheme Creditors will be able to access the Direct Scheme, copies of the New Claim Form, and other documents on the Websites within three Business Days of the Effective Date. The Company will send a physical copy of any of the documents available on the Websites to any Scheme Creditor as soon as reasonably practicable following its written request to the Company. New Claim Forms will not be capable of being submitted on the Websites. Completed New Claim Forms will need to be submitted by Post or email as detailed in the Guidance Notes to the New Claim Form (**Clauses 3.2.3 and 3.2.4**).

- 8.3 Claim Forms and supporting information must be returned to the Company on or before the Direct Final Claims Time. Claims forms and supporting information, once filed, may be revised provided that revised claim forms and supporting information must be submitted by the Direct Final Claims Time. The last claim form received prior to the Direct Final Claims Time shall be considered for the purposes of agreeing or otherwise determining Direct Scheme Claims (**Clauses 3.3.4, 3.3.5 and 3.3.6**).
- 8.4 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 Direct Final Claims Time shall be deemed to be fully satisfied and that Direct Scheme Creditor shall have no further rights against the Company in respect of that Direct Scheme Claim (**Clause 3.4**).
- 8.5 Within 90 Business Days of a Direct Final Claims Time, the Company shall notify a Direct Scheme Creditor as to whether it agrees with its Direct Scheme Claim, in which case a Determination Notice shall be issued, or disagrees with its Direct Scheme Claim, in which case the Company will provide reasons for failing to agree the Direct Scheme Claim and may request that the Direct Scheme Creditor provide additional information within 28 Business Days of request. Once comments and any additional information requested have been supplied, the Company will endeavour to agree the Direct Scheme Claim within a further 28 Business Days. If the Direct Scheme Claim is so agreed, the Company shall send the Direct Scheme Creditor a Determination Notice. If the Direct Scheme Claim is not so agreed, the Company shall, within 14 Business Days, refer the Direct Scheme Claim as a Disputed Claim for determination by the Direct Scheme Adjudicator (**Clauses 3.5.5, 3.5.6 and 3.8.8**).
- 8.6 If a Direct Scheme Creditor fails to supply any information requested by the Company within 28 Business Days, the Company shall make a determination of the Direct Scheme Claim as it sees fit on the available information and issue a Determination Notice to the Direct Scheme Creditor (**Clause 3.5.7**).
- 8.7 The amount shown in a Determination Notice as the Direct Scheme Creditor's Direct Ascertained Claim or Liability to the Company shall, to the extent permitted by law and subject to any mathematical or other manifest error, be final and binding on the Direct Scheme Creditor and the Company (**Clause 3.7.2**).

## 9. **SCHEME ADJUDICATION PROCEDURE**

- 9.1 The Direct Scheme Adjudicator shall be Barbara Jones.
- 9.2 The Company shall send a notice of 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 the Company's records and information (**Clause 3.6.2**).
- 9.3 The Direct Scheme Adjudicator has 21 Business Days to notify the parties to the dispute if they require further information or evidence or if they require the

- Company and/or Direct Scheme Creditor to attend a meeting (either in person or via remote means) 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 they have available to them (**Clause 3.6.3 and 3.6.4**).
- 9.4 The parties to a dispute can themselves request a meeting with the Direct Scheme Adjudicator (**Clause 3.6.5**).
- 9.5 The Direct Scheme Adjudicator has discretion to consult such experts and advisers (including legal advisers) as they consider appropriate (**Clause 3.6.6**).
- 9.6 If the Direct Scheme Adjudicator considers that they have a conflict in relation to a Disputed Claim, an alternative Direct Scheme Adjudicator agreed between the Company and the relevant Direct Scheme Creditor can be appointed to deal with that Disputed Claim or the conflict can be waived with the consent of all relevant parties. If such agreement is not reached, the Company shall request that the President (for the time being) of the American Bar Association will appoint an alternate Scheme Adjudicator to deal with that Disputed Claim (**Clause 3.6.7**).
- 9.7 If any party to a dispute considers that the Direct Scheme Adjudicator has a conflict relating to a Disputed Claim, that party has 14 Business Days to notify the other party and the Direct Scheme Adjudicator of such. The Direct Scheme Adjudicator will consider whether a conflict exists having regard to the Professional Conduct Standards of the American Bar Association. If the Direct Scheme Adjudicator considers that such a conflict exists, the Company and relevant Scheme Creditor will attempt to agree the identity of an alternative Direct Scheme Adjudicator. If such agreement is not reached, the Company shall request that the President (for the time being) of the American Bar Association will appoint an alternate Scheme Adjudicator to deal with that Disputed Claim (**Clause 3.6.8**).
- 9.8 In determining a disputed Direct Scheme Claim, the Direct Scheme Adjudicator will apply the Estimation Guidelines (**Clause 3.6.10**).
- 9.9 Written notice of the Direct Scheme Adjudicator's final and binding determination (to the extent permitted by law and subject to any mathematical or other manifest error) of any disputed Direct Scheme Claim shall be sent to the relevant parties within 28 Business Days after the later of the referral of the Disputed Claim 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 negligence, wilful default, wilful breach of duty or trust, fraud or dishonesty (**Clause 3.6.11**).
- 9.10 The Direct Scheme Adjudicator's remuneration (calculated on a time cost basis) and other costs incurred by them in the determination of a disputed Direct Scheme Claim will ordinarily be met by the Company, except where the Direct Scheme Adjudicator, in their absolute discretion, determines that the Direct Scheme Creditor 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 from that Scheme Creditor to the Company (**Clauses 3.6.12 and 3.6.13**).

## 10. SET-OFF AND SECURITY

10.1 Set-off shall be applied in respect of mutual credits, mutual debts or other mutual dealings between the Company and a Direct Scheme Creditor to set-off that Direct Scheme Creditor's Direct Scheme Claims against its Liabilities to the Company (**Clause 3.10.1**).

10.2 The Direct Scheme shall not prevent a Direct Scheme Creditor from obtaining payment under any Security, so long as this is done strictly in accordance with any contract establishing the terms of that Security or the terms of such Security. Any Scheme Creditor who obtains or receives payment by enforcing any Security in excess of its relevant Direct Scheme Claim shall hold such excess on trust for and pay it to the Company (**Clauses 3.10.3 and 3.10.4**).

10.3 The Direct Scheme does not affect the rights of the Company against any person in respect of any wrongful drawdown or enforcement of any Security (**Clause 3.13.5**).

## 11. FUNDING BY BROKERS

11.1 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. 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 disputed Direct Scheme Claim, and any amount thereby determined as due will be binding on all parties to the extent permitted by law and subject to any mathematical or other manifest error. No party shall have right to appeal such determination except in circumstances of the Direct Scheme Adjudicator's negligence, wilful default, wilful breach of duty or trust, fraud or dishonesty (**Clause 3.12**).

## 12. PAYMENT OF DIRECT ASCERTAINED CLAIMS

12.1 As soon as reasonably practicable following the Direct Final Claims Time, the Company shall determine whether in its reasonable opinion all Direct Ascertained Claims can be paid in full. In the event that it determines that all Direct Ascertained Claims can be paid in full, the Company shall make payment in full in respect of such claims as soon as reasonably practicable. In the event that the Company determines that all Direct Ascertained Claims cannot be paid in full by the Company, the Company shall, as soon as reasonably practicable set a payment percentage (the "**Direct Payment Percentage**") and, as soon as reasonably practicable thereafter, pay the initial Direct Payment Percentage in respect of Direct Ascertained Claims once determined. A Direct Payment Percentage, once set, may

be increased or reduced. In setting or revising a Direct Payment Percentage, the Company shall use reasonable endeavours to ensure that all Excluded Liabilities and other liabilities ranking in priority to the Direct Ascertained Claims are paid in full and the same Direct Payment Percentage can be paid to all Direct Ascertained Claims (**Clauses 4.1 and 4.2**).

12.2 All payments shall be made by cheque sent to the last known address of the Direct Scheme Creditor except where full bank details are provided in which case payment shall be made by telegraphic transfer. Payments shall be deemed made on the date telegraphic transfer instructions are given or the cheque is sent. Such deemed payment (whether in full or by way of the payment of the Direct Payment Percentage) shall be good discharge and satisfaction of the Direct Ascertained Claim in respect of which the payment was made (**Clauses 4.3 and 4.4**).

12.3 In some cases, the Company may be prevented by a 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 Direct Scheme as "**Blocked Monies**") in accordance with such law or regulation, or as instructed by the relevant authority. 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 time that the Direct Scheme terminates, the relevant Direct Scheme Creditor will have no further claim on the Company in respect of such monies (**Clause 4.5**).

12.4 The Direct Ascertained Claim in respect of an Unclaimed Balance, an "**Unclaimed Balance**" being:

- (a) amounts represented by any cheque issued in settlement of a Direct Ascertained Claim not presented for payment by its payee; or
- (b) any telegraphic transfer payment made in settlement of a Direct Ascertained Claim and returned to the Company,

to the extent not paid to the Direct Scheme Creditor by the date on which the Direct Scheme Terminates, will be deemed to have been paid and the Direct Scheme Creditor shall have no further rights in respect of it (**Clause 4.6**).

### 13. **THE DIRECT SCHEME ADMINISTRATORS**

13.1 The Direct Scheme Administrators will be those persons appointed as Administrators in the Company's Administration from time to time, in accordance with the IA and related legislation. Accordingly, the first Direct Scheme Administrators shall be Dan Schwarzmann and Nigel Rackham. Where the Administration ends prior to the termination of the Direct Scheme, the Direct Scheme sets out the terms upon which a Direct Scheme Administrator may be appointed, removed or may otherwise resign (**Clause 5.1**).

- 13.2 The Direct Scheme Administrators' function will be to 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 that may be exercised in such a way as to interfere with the performance or exercise by the Direct Scheme Administrators of their powers, rights, duties and functions under the Direct Scheme may not be exercised without their consent (**Clause 5.2**).
- 13.3 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 in respect of 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 5.3**).

#### 14. **THE DIRECT SCHEME OFFICE HOLDERS**

The office holders in the Direct Scheme are the Direct Scheme Actuarial Adviser and the Direct Scheme Adjudicator.

Office Holder	First Appointee	Function
Direct Scheme Actuarial Adviser	Nick Watford, PricewaterhouseCoopers LLP	To provide advice to the Company in respect of the valuation of Direct Scheme Creditors' Direct Scheme Claims.
Direct Scheme Adjudicator	Barbara Jones	To determine the value of disputed Direct Scheme Claims.

- 14.1 There may be more than one of any Office Holder acting either jointly or severally. (**Clauses 6.1.3 and 6.2.6**)
- 14.2 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 certain events referred to in the Direct Scheme as an Individual Termination Event or Corporate Termination Event as appropriate (**Clauses 6.1.4 and 6.2.6**).
- 14.3 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. Also, 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 which 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 negligent, in wilful default, in wilful breach of trust or duty, fraudulent or dishonest (**Clause 6.4**).

## 15. **THE CREDITORS' COMMITTEE**

- 15.1 There shall be a Direct Creditors' Committee established under the Direct Scheme. During the Administration, the Direct Creditors' Committee shall be the committee appointed in respect of the Administration from time to time in accordance with the IA and related legislation (**Clause 7.1**).
- 15.2 Where the Administration ends prior to the termination of the Direct Scheme, the Direct Scheme sets out the terms upon which Direct Committee Members may be appointed, removed or may otherwise resign (**Clause 7.2**).
- 15.3 The Creditors' Committee shall have the powers specifically provided in the Direct Scheme (**Clause 7.5**). For example, the Creditors' Committee has the right to:
- (a) review and be consulted for the purpose of setting and revising a Direct Payment Percentage (**Clause 7.5.1(a)**);
  - (b) appoint a Direct Scheme Administrator where there is no Direct Scheme Administrator (**Clause 7.5.1(b)**);
  - (c) receive notice of the resignation of a Direct Scheme Administrator (**Clause 7.5.1(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 7.5.1(d)**);
  - (e) approve the remuneration of the Direct Scheme Administrators (**Clause 7.5.1(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 7.5.1(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 Scheme Administrator (**Clause 7.5.1(g)**);
  - (h) be consulted in respect of an early termination of the Direct Scheme (**Clause 7.5.1(h)**); and
  - (i) be consulted on any matter which the Direct Scheme Administrators, acting reasonably, consider appropriate (**Clause 7.5.1(i)**).

## 16. **MEETINGS OF DIRECT SCHEME CREDITORS**

- 16.1 Meetings of Direct Scheme Creditors may be convened:

- (a) by the Creditors' Committee to consider a resolution for the removal of a Direct Scheme Administrator (after the end of the Administration); and
- (b) by the Direct Scheme Administrators for such purpose as they think fit.

## 17. TERMINATION OF THE DIRECT SCHEME

17.1 The Direct Scheme shall terminate on the date on which either:

- (a) the last cheque or telegraphic transfer is deemed to have been sent to Direct Scheme Creditors; or
- (b) in the event that the Direct Scheme Administrators, acting in consultation with the Creditors' Committee, determine that it is in the interest of the Direct Scheme Creditors for the Direct Scheme to terminate.

**(Clause 9.1)**

17.2 Within three Business Days of termination the Company shall give notice of the termination of the Direct Scheme on the Websites. It should be noted that certain provisions of the Direct Scheme will survive termination **(Clauses 9.2 and 9.3)**.

## 18. GENERAL SCHEME PROVISIONS

18.1 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 10.1)**.

18.2 Any unpaid costs, charges, expenses and disbursements reasonably incurred by the Company in connection with the negotiation, preparation and implementation of the Direct Scheme and other costs incidental to the Direct Scheme will be paid in full by the Company, to the extent that they have not already been paid in the Company's Administration **(Clause 10.2)**.

18.3 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 10.3)**.

18.4 Notices or written communication under the Direct Scheme will be given in writing and delivered by hand or sent by Post or email and sent in accordance with Clauses 10.4 and 10.5 of the Direct Scheme **(Clauses 10.4 and 10.5)**.

18.5 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. However, this does not affect the validity of any governing law clauses contained in any Insurance Contract or otherwise between the Company and any of its Direct Scheme Creditors, and shall not supersede (i) 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 (ii) 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 provisions; nor (iii) the governing law applied by a court in any decision applicable to the Company and any Scheme Creditor. The Company retains the right to bring proceedings in the courts of any other country which has jurisdiction in respect of such proceedings (**Clause 10.6**).

## **PART 4 – APPENDICES TO THE DIRECT EXPLANATORY STATEMENT**

### **APPENDIX 1: DOCUMENTS AVAILABLE FOR INSPECTION ON THE WEBSITE**

#### **In respect of the General Scheme**

1. General Scheme Document including:
  - the General Explanatory Statement
  - the General Scheme
  - the Notice of the General Scheme Meeting
  - the Voting and Proxy Form
2. Court order convening the General Scheme Meeting
4. New Claims Form
5. General Practice Statement Letter

#### **In respect of the Direct Scheme**

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

**APPENDIX 2:  
CURRICULUM VITAE OF THE DIRECT SCHEME ADJUDICATOR**

**BARBARA S. JONES**

Barbara S. Jones has paved new paths within the legal profession throughout her career, starting as a federal prosecutor and later as a federal judge in the Southern District of New York. She currently is a partner at Bracewell LLP, where she provides advice and leadership on internal investigations, compliance programs, monitorships, arbitrations and mediations.

Jones spent more than 20 years of her career working as a prosecutor. She began as a special attorney in the Honors Program of the U.S. Department of Justice, working in the organized crime unit of the Criminal Division. She later served as an Assistant U.S. Attorney in the Southern District of New York, where she was the first woman ever appointed as chief of a Department of Justice Organized Crime Strike Force. She went on to serve as the Chief Assistant to the late New York County District Attorney Robert M. Morgenthau.

Jones was nominated by President Bill Clinton in 1995 to serve as a district court judge in the U.S. District Court for the Southern District of New York. During her 16 years on the bench, she presided over a range of high-profile cases. Insurance coverage cases over which Jones presided include those addressing asbestos injuries (*Ocean Partners, LLC v. North River Ins. Co.*, 546 F. Supp.2d 101 (S.D.N.Y. 2008)); environmental liabilities (*Ceramicas Industrials, S.A. v. Metropolitan Life Ins. Co.*, 2009 WL 331262 (S.D.N.Y. Feb. 11, 2009)); *Ispat Inland, Inc. v. Kemper Environmental, Ltd.*, 2009 WL 4030858 (S.D.N.Y. Nov. 20, 2009)); lead paint liabilities (*Sphere Drake In. Co. v. Y.L. Realty Co.*, 990 F.Supp. 240 (S.D.N.Y. 1997)); and Legionnaires' disease outbreak (*Pentair Water Treatment (OH) Co. v. Continental Ins. Co.*, 2009 WL 1119409 (S.D.N.Y. April 26, 2009)). Jones also worked on cases of accounting and securities fraud, antitrust, corruption involving city contracts and federal loan programs, labor racketeering and terrorism. From 2010 to 2013, at the appointment of the Chief Justice of the U.S. Supreme Court, Jones served on the Multi-District Litigation Panel, which oversees the most complex cases in the federal court system.

As a member of the American Bar Association's Corporate Monitor Standards Committee, she helped author the ABA-approved standards for monitorships. Following her career on the bench, she has been appointed by the government and federal courts to conduct monitorships and special master assignments in a number of high-profile matters, including a federal monitorship in connection with the merger of three major telecommunications companies; an appointment to serve as the Special Master to conduct the privilege review of documents seized from the President's former lawyer, Michael Cohen; and an appointment as independent compliance auditor for the Archdiocese of New York.

**DISPUTE RESOLUTION EXPERIENCE AND TRAINING**

Jones has spent 50% of her time on ADR matters during the past 4 years, serving as an arbitrator or mediator in nearly 20 cases including the Player's Association appeal over the discipline given by the NFL to Baltimore Ravens running back Ray Rice. Currently serves as Special Master by appointment of the United States District Court for the Southern



District of New York in *U.S. Bank v. UBS Real Estate Securities Inc.*, a matter involving the valuation of security backed mortgages.

## **REPRESENTATIVE EXPERIENCE**

**Charter Communications, Inc.** —appointed Independent Compliance Officer by the Federal Communications Commission to evaluate the adequacy of Charter Communications' compliance with the terms of six conditions imposed on the company in connection with its merger with Time Warner Cable Inc. and Advance/Newhouse Partnership

**Michael Cohen v. United States, 18 MJ 3161 (KMW)** — appointed as a Special Master by the Honorable Kimba Wood of the Southern District of New York to manage the privilege review of documents seized from Donald Trump's lawyer Michael Cohen. Jones led a small team of Bracewell partners that quickly and securely reviewed physical documents inside a Sensitive Compartmented Information Facility (SCIF) to ensure necessary security of information

**U.S. Bank, et. al., v. UBS Real Estate Securities, Inc., 12 Civ. 7322 (PKC) SDNY** — appointed by the Honorable P. Kevin Castel of the Southern District of New York to serve as the Special Master in *U.S. Bank, et. al., v. UBS Real Estate Securities, Inc.*, 12 Civ. 7322 (PKC). Jones was responsible for evaluating thousands of loans bundled and sold as mortgage backed securities to determine whether the representations made in the transactions were accurate. She and her team evaluated each outstanding loan for asserted breaches of contract and rendered decisions on a loan-by-loan basis. She was also instrumental in bringing about a settlement in the case

**U.S. Bankruptcy Court for the Southern District of New York** — appointed as the trustee for a liquidating trust involving Fairfield Greenwich Securities; also appointed as an examiner in the Day Top Village bankruptcy to investigate allegations of improper conduct on the part of the trustee related to fee applications\*

**International Brotherhood of Teamsters Union** — appointed by the Honorable Loretta Preska of the Southern District of New York as the Independent Review Officer for the International Brotherhood of Teamsters Union (IBT). Jones acts as an independent monitor over the IBT, the largest union in the world with 1.5 million members, and exercises disciplinary authority over the IBT relating to internal corruption charges, disciplinary decisions and reviews trusteeships imposed by the IBT over local unions, in addition to other investigative responsibilities

**Archdiocese of New York** — appointed by Cardinal Timothy Dolan as Independent Reviewer and Special Counsel to assess the Archdiocese of New York's compliance with the Charter for the Protection of Children and Young People, which was adopted by the United States Bishops in 2002 in response to the clergy sexual abuse crisis

**New York Police Department** — appointed by New York City Police Commissioner James P. O'Neill to serve on an independent three-member panel that conducted a full-scale review of the New York City Police Department's disciplinary system

**New York City Business Integrity Commission (BIC)** — appointed by the BIC to monitor one of the largest waste hauling firms in New York City for suspected organized crime involvement and to ensure compliance with the Minority and Women-Owned Business Enterprise (MWBE) requirements. The monitorship included an analysis of thousands of documents and emails, numerous interviews of company executives, forensic

accounting reviews of the company's books and records, and field surveillance to ensure the integrity of the contracts

**New York City Department of Investigation (DOI) and the Metropolitan Transportation Authority (MTA)** — Appointment to monitor a mid-sized construction company subject to a Deferred Prosecution Agreement with the New York County District Attorney's Office involving violations of the MWBE laws. Jones reviewed the company's compliance code, conducted compliance training and set up a hotline for internal reporting of corruption. She also reviewed and approved business practices and procedures to ensure the integrity of all contracts, to include review of the books and records to identify any potential payroll fraud and abuses\*

**The Committee on Armed Services for the United States Senate and House of Representatives** — appointed by Congress and selected by the Secretary of Defense to Chair the Response Systems to Adult Sexual Assault Crimes Panel, a review panel created by the Congressional Armed Services Committees for both the House and Senate to review and assess the systems the United States military used to investigate, prosecute and adjudicate sexual assault crimes in the armed forces

**Port Authority of New York & New Jersey** — retained by the Port Authority of New York & New Jersey to review and assess the agency's policies and procedures regarding personnel matters, and to provide compliance advice with respect to those matters

**New York City District Council of Carpenters (Carpenters Union)** — representing the Carpenters Union in connection with their monitorship before Judge Victor Marrero of the Southern District of New York. Jones works on behalf of her client with the court-appointed Monitor and with the assigned Assistant U.S. Attorneys to ensure that the monitorship is carried out effectively

**Fox News Workplace Professionalism and Inclusion Council** — appointed one of four independent experts serving on the Fox News Workplace Professionalism and Inclusion Council, an oversight panel that was created as part of a shareholder settlement agreement in response to harassment and discrimination claims against the network. The panel, which provides written reports to Fox Corporation's (formerly 21st Century Fox) directors, is responsible for overseeing Fox's efforts to examine its workplace culture and effectively respond to workplace issues

**Signet Jewelers Ltd.** — retained by Signet Jewelers, the world's largest retailer of diamond jewelry, to conduct a legal review and assessment of the company's policies and procedures relating to workplace conduct, including the company's policies prohibiting discrimination, harassment and retaliation

\*Work completed prior to joining Bracewell

## **BAR ADMISSIONS**

New York

## **AFFILIATIONS**

American Bar Association, Member of Standards Committee for Corporate Monitorships

American College of Trial Lawyers, Fellow

Association of the Bar of the City of New York, Past Chair of the Criminal Justice Council, Past Member of the Executive and Judiciary Committees

New York County Lawyer's Association American Inn of Court, Past President

**APPENDIX 3:  
CURRICULUM VITAE OF THE INDEPENDENT VOTE ASSESSOR**

**COLIN CZAPIEWSKI**

Email: [colin@czapiewski.co.uk](mailto:colin@czapiewski.co.uk)

Web: [czapiewski.co.uk](http://czapiewski.co.uk)

Skype: CCzapiewski

Date of Birth: 16<sup>th</sup> May 1952

Place of Birth: Ashford, Kent

**Current and recent work includes:**

Self-employed consultant.

Non-Executive Director of Beaufort Underwriting Agency Ltd since Sept 2010, including:

Member of the Board,

Current chairman of both the Risk Committee and the Investment Committee,

Senior Independent Director,

Independent annual reviewer of the validation of the internal model,

Immediate past chairman of Audit Committee.

Non-Executive Director of RiverStone Insurance Limited since April 2016.

Independent Scheme Adjudicator, Independent Vote Assessor or Chairman of Scheme Creditors Meetings for existing and for prospective schemes of arrangement:

Including responsibility for determining the quantum of votes as per the requirements and direction of the Courts (independent vote assessor).

Specialist insurance run off projects, including Part VII transfers.

Expert Witness.

Peer review work for other actuaries for both Lloyd's agencies and insurance companies.

**Past:**

Commenced career at Prudential Assurance Company as actuarial trainee.

1985: appointed Actuary at Terra Nova Insurance Company.

1993: joined Lane Clark & Peacock, consulting actuaries, as Partner and Head of Insurance and Risk Management, and built up the practice from scratch to become a significant player in the market.

Several years on the remuneration committee of the LCP partnership.

2005: retired from LCP to work part time as an independent consultant.

**Professional:**

1984: Qualified as a Fellow of the Institute of Actuaries.

1990: Enrolled as a Member of the American Academy of Actuaries, now retired.

Fellow of the Society of Actuaries in Ireland, now retired.

2009: Elected by its members to the ASTIN Committee, the non life research arm of the International Actuarial Association until 2017.

Past professional involvements include the following:

1995 to 2000: Elected by members of profession to the Council of the Institute of Actuaries.

Member of the actuarial Faculty and Institute Management Committee.  
For many years, vice chairman and Institute representative of the General Insurance Board (which deals with non-life aspects of the UK actuarial profession), and was the member responsible for Lloyd's issues during the eventful inception and initial years of Equitas, and the successful introduction and implementation of Lloyd's actuarial opinions.  
Chairman of Research Committee.  
Vice chairman of the Social Policy Board.  
Member of Wider Fields Board.  
Member of General Insurance Research Organization (GIRO) committee.  
Member of Working Party tasked with restructuring the UK actuarial profession.  
Founder and initial chairman of profession's Resource and Environment Board.

**Presentations and papers written:**

Extensive actuarial experience in the specialised area of General Insurance and Risk Management, in respect of the theory as well as the practical aspects.  
Written and presented a large number of papers around the world on a broad range of insurance-related actuarial topics, including pricing, reserving, actuarial reporting, climate change issues, marine insurance, motor insurance, aviation underwriting, assessment of reinsurance security, expenses, latent claims (asbestos and pollution), capital requirements, risk exposure, public and employers liability, financial condition reporting, reserving for the unknown, run off insurers, emerging liabilities, Solvency II, ORSA, the real Solvency II actuarial function, actuaries as NED's trilogy and many other topics.  
Travelled extensively throughout Europe, the United States, Canada, Australia and South Africa both for discussions with cedants, insurers and reinsurers, and to address seminars and conferences of actuaries and others in the insurance world.

**Other:**

Works closely with other insurance professionals and practitioners including accountants, lawyers, run off managers, barristers, both insurance and reinsurance consultants and other actuaries.  
Peer reviews actuarial work in both UK and overseas jurisdictions.  
Provides litigation support and adjudication, resolution and arbitration for many insurance (and especially reinsurance) disputes in actuarial, underwriting and claims areas, where he is seen as an expert in the market.  
Regularly and actively sought as an experienced expert witness for non-life insurance issues.  
Performs a variety of independent roles in a large number of both solvent and insolvent schemes of arrangement. Such roles not only include areas of actuarial work, but also independent scheme adjudicator, independent expert, independent vote assessor and chairman of scheme creditor meetings.  
Experienced in performing Part VII transfers and commutations.  
Seen as an expert in Solvency II for non-life insurance.  
For several years, a director of a captive insurer in Guernsey until its successful conclusion.  
Formerly, a director of Terra Nova Pension Trustees.  
A Liveryman of the Worshipful Company of Actuaries.  
For over seven years, Treasurer of the Actuaries' Club.

**SECTION II  
THE DIRECT SCHEME OF ARRANGEMENT**

**DIRECT SCHEME OF ARRANGEMENT  
(Pursuant to Part 26 of the Companies Act 2006)**

**between**

**STRONGHOLD INSURANCE COMPANY LIMITED  
(IN ADMINISTRATION)**

**and its**

**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;
"Administration"	means the administration commenced in respect of the Company under the IA 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 any costs, expenses and disbursements incurred by the Administrators in the negotiation, preparation and implementation of the Schemes, the holding of the Scheme Meetings and obtaining the sanction of the Court to the Schemes;
"Administration Creditors' Committee"	means the creditors' committee appointed in the Administration in accordance with the Insolvency Legislation;
"Administration Date"	means 27 June 2019;
"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 Effective Date and ending on the expiry of the Administration Order;
"Administrators"	means the persons appointed as administrators from time to time in respect of the Administration;
"Admissible Interest"	means any interest provided for in a relevant contract giving rise to the 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;



<b>"Associated Company"</b>	means any subsidiary company or any parent company or any subsidiary of the parent company;
<b>"Blocked Monies"</b>	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 4.5;
<b>"Broker"</b>	any broker who placed an Insurance Contract with or on behalf of the Company, or, if applicable, any successor to such a broker;
<b>"Business Day"</b>	means any day other than Saturday, Sunday or any other day on which banks in the City of London are not open for business;
<b>"Claim Form"</b>	means (a) a New Claim Form; and/or (b) an Existing Claim Form or (c) a Voting and Proxy Form in which a Direct Scheme Creditor has elected to have such form treated as its claim form;
<b>"Committee Member"</b>	means a member of the Administration Creditors' Committee, Direct Committee Member and/or General Committee Member (as defined in the General Scheme), as the context shall admit;
<b>"Company"</b>	means Stronghold Insurance Company Limited (In Administration), a company incorporated and registered in England and Wales on 28 September 1962 as a limited liability company with registration number 00736581 and with its registered office at 46 Rose Lane, Norwich, NR1 1PN;
<b>"Corporate Termination Event"</b>	means such person: <ul style="list-style-type: none"> <li>(a) becomes unable to pay its debts within the meaning of Section 123 of the IA; or</li> <li>(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 person becoming aware of them) in relation to: <ul style="list-style-type: none"> <li>(i) a moratorium on or suspension of payment of debts, winding up, dissolution, administration or re-organisation;</li> <li>(ii) a composition or arrangement with any creditor;</li> </ul> </li> </ul>

	(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;
<b>"Court"</b>	means the High Court of Justice of England and Wales;
<b>"Delegate"</b>	means Direct Delegate and a General Delegate (as such term is defined in the General Scheme);
<b>"Determination Notice"</b>	means a notice sent by the Company to a Direct Scheme Creditor pursuant to clause 3.7 setting out the amount the Company determines to be the Direct Scheme Creditor's Direct Ascertained Claim;
<b>"Direct Ascertained Claim"</b>	means the ascertained amount of a Direct Scheme Creditor's Direct Scheme Claim as set out in a Determination Notice;
<b>"Direct Creditors' Committee"</b>	means the committee established in accordance with Part 7 of this Direct Scheme;
<b>"Direct Committee Member"</b>	means a member of the Direct Creditors' Committee, appointed in accordance with Part 7 of this Direct Scheme and whose appointment has not been terminated in accordance with that Part;
<b>"Direct Delegate"</b>	has the meaning give to that term in clause 5.2.2(1);
<b>"Direct Employee"</b>	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 Direct Scheme Administrators in connection with their functions and powers under the Direct Scheme;
<b>"Direct Explanatory Statement"</b>	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;
<b>"Direct Final Claims Time"</b>	means 11.59 pm in England on the day 180 calendar days after (and not including) the Effective Date;
<b>"Direct Insurance"</b>	means the cover provided by an insurer to a non-insurer policyholder, as opposed to any Reinsurance cover

	provided to cover insurance risks written by another insurer;
<b>"Direct Payment Percentage"</b>	means the percentage of a Direct Ascertained Claim payable by the Company to a Direct Scheme Creditor, as determined in accordance with clauses 4.1.2, 4.1.3, 4.1.4, 4.1.7 or 4.1.8;
<b>"Direct Scheme"</b>	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 10.3;
<b>"Direct Scheme Actuarial Adviser"</b>	means the person or entity appointed as the actuarial adviser to the Direct Scheme pursuant to clause 6.1;
<b>"Direct Scheme Adjudicator"</b>	means a person appointed as scheme adjudicator pursuant to clause 6.2;
<b>"Direct Scheme Administrator"</b>	means a person appointed as scheme administrator in accordance with clause 5.1;
<b>"Direct Scheme Claim"</b>	means a claim in respect of Direct Insurance;
<b>"Direct Scheme Creditor"</b>	means a person in respect of whom the Company owes a Direct Scheme Claim;
<b>"Direct Scheme Document"</b>	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;
<b>"Direct Scheme Meeting"</b>	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;
<b>"Direct Scheme Period"</b>	means the period commencing with the Effective Date and ending with the Termination Date;
<b>"Disputed Claim"</b>	means a Direct Scheme Claim referred to a Direct Scheme Adjudicator in accordance with clauses 3.5.8, 3.5.9 or 3.12.1;
<b>"Distributable Property"</b>	means the net proceeds of all and any Property of the Company realised after having first paid or provided for the Excluded Liabilities;

<b>"Employee"</b>	means Direct Employee and/or a General Employee (as such term is defined in the General Scheme);
<b>"Effective Date"</b>	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;
<b>"Estimation Guidelines"</b>	means the actuarial guidelines 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;
<b>"Exchange Rate"</b>	means the closing rate of exchange applying to a particular currency as quoted by the Bank of England on the Administration Date;
<b>"Excluded Liability"</b>	means any Liability of the Company if and to the extent that it is any one of the following: <ul style="list-style-type: none"> <li>(a) an Administration Cost;</li> <li>(b) a Preferential Claim;</li> <li>(c) a Pre-Scheme Expense; and/or</li> <li>(d) a Scheme Cost;</li> </ul>
<b>"Existing Claim Form"</b>	means a claim form received by the Company in respect of the Solvent Scheme provided to the Direct Scheme Creditor by the Company in accordance with clause 3.3.1;
<b>"Facultative Reinsurance"</b>	means a method of reinsurance under which an insurer (ceding insurer) obtains reinsurance for each risk individually where: <ul style="list-style-type: none"> <li>(a) there is no obligation on the ceding insurer to reinsure any particular risk;</li> <li>(b) it is the ceding insurer's choice as to how much it will cede and how much it will retain for itself on each risk; and</li> <li>(c) the prospective reinsurer is under no obligation to write any particular risk i.e. it can decline any risk and fix its share of any risk as agreed with the ceding insurer for that risk;</li> </ul>
<b>"Facultative Retrocession"</b>	means a method of reinsurance under which a reinsurer (the retrocedant) obtains reinsurances (retrocessions) for each risk individually where:

	<ul style="list-style-type: none"> <li>(a) there is no obligation on the retrocedant to retrocede any particular risk;</li> <li>(b) it is the retrocedant's choice as to how much it will retrocede and how much it will retain for itself on each risk; and</li> <li>(c) the prospective reinsurer providing such retrocession (the retrocessionaire) is under no obligation to write any particular risk i.e. it can decline any risk and fix its share of any risk as agreed with the retrocedant for that risk;</li> </ul>
<b>"General Scheme"</b>	means the scheme of arrangement under Part 26 of the Act dated on or about the date hereof, between the Company and creditors in respect of General Scheme Claims;
<b>"General Scheme Administrators"</b>	has the meaning given to that term in the General Scheme;
<b>"General Scheme Claim"</b>	has the meaning given to that term in the General Scheme;
<b>"General Scheme Meeting"</b>	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 General Scheme;
<b>"IA"</b>	means the Insolvency Act 1986;
<b>"IBNR Claim"</b>	means an incurred but not reported claim arising under or in respect of an Insurance Contract for: <ul style="list-style-type: none"> <li>(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; plus</li> <li>(b) the amount payable in respect of a loss which has been notified to the Company but which is not yet certain in amount and to the extent that the current notified amount may prove to be inadequate;</li> </ul>
<b>"Individual Termination Event"</b>	means in relation to an individual Office Holder or Direct Scheme Administrator, means that Office Holder or Direct Scheme Administrator: <ul style="list-style-type: none"> <li>(a) dies;</li> <li>(b) becomes bankrupt or subject to an individual voluntary arrangement or takes or becomes subject</li> </ul>

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 their 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 and the subordinated legislation pursuant thereto;

**"Insurance Contract"** means 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;

**"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;

**"New Claim Form"** means a claim form in the form set out in Section V of the Direct Scheme Document;

**"Notified Outstanding Claims"** means a Direct Scheme Claim arising under an Insurance Contract in respect of a loss that has been reported to the Direct Scheme Creditor but excluding any Agreed Claim;

<b>"Office Holder"</b>	means each of the Direct Scheme Actuarial Adviser and the Direct Scheme Adjudicator;
<b>"Post"</b>	means delivered by hand (including by a generally recognised commercial courier service), pre-paid first or second class post, or airmail;
<b>"Pounds Sterling", "GBP" or "£"</b>	means pounds sterling, being the lawful currency of the United Kingdom;
<b>"Preferential Claims"</b>	means those Liabilities of the Company which are preferential under section 386 of the IA;
<b>"Pre-Scheme Expenses"</b>	means all costs, charges, expenses and disbursements reasonably incurred by the Company in connection with the promotion and preparation of the Schemes, including the costs of holding the Scheme Meetings and the costs of obtaining the sanction of the Court to the Schemes;
<b>"Proceedings"</b>	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;
<b>"Property"</b>	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;
<b>"Registrar of Companies"</b>	means the registrar or other officer performing under the Act (and any provisions of the Companies Act 1985 which remain in force) the duty of registration of companies in England and Wales;
<b>"Reinsurance"</b>	means Facultative Reinsurance, Treaty Reinsurance and Retrocession;
<b>"Relevant Currency"</b>	means: <ul style="list-style-type: none"> <li>(a) for Liabilities incurred in US Dollars, US Dollars;</li> <li>(b) for Liabilities incurred in Pounds Sterling, Pounds Sterling; and</li> </ul>

	(c) for Liabilities incurred in any other currency, US Dollars;
<b>"Retrocession"</b>	means Treaty Retrocession and Facultative Retrocession;
<b>"Scheme Administrators"</b>	means the Direct Scheme Administrators and/or the General Scheme Administrators, as the context shall admit;
<b>"Schemes"</b>	means the Direct Scheme and/or the General Scheme as the context shall admit;
<b>"Scheme Costs"</b>	means: <ul style="list-style-type: none"> <li>(a) all costs, charges, expenses, disbursements and other debts incurred by the Company in the course of implementing and carrying out the Schemes and of complying with the provisions of the Act; and</li> <li>(b) insofar as they do not fall within (a), all costs, charges, expenses and disbursements incurred by, and the remuneration of, the Scheme Administrators and Office Holders;</li> </ul>
<b>"Scheme Meetings"</b>	means the Direct Scheme Meeting and/or the General Scheme Meeting;
<b>"Scheme Period"</b>	means in relation to the Company the period beginning on the Effective Date and ending on the Termination Date;
<b>"Security"</b>	means: <ul style="list-style-type: none"> <li>(a) any deposit or reserve of funds or assets established by the Company; or</li> <li>(b) any guarantee provided by a third party; or</li> <li>(c) any Letter of Credit; or</li> <li>(d) any funds held or otherwise retained by a Direct Scheme Creditor,</li> </ul> <p>in each case to secure payment of any Direct Scheme Claim;</p>
<b>"Solvent Scheme"</b>	means the solvent scheme of arrangement pursuant to part 26 of the Act and proposed in respect of the Company dated 9 November 2018 (which scheme of arrangement was discontinued);



<b>"Surviving Provisions"</b>	means Clauses 1.1, 1.2, 5.3.2, 5.3.3, 5.3.4, 5.3.5, 5.3.6, 6.4.1, 6.4.2, 6.4.3, 6.4.4, 7.5.1, 7.5.2, 7.5.3, 9, 10.3, 10.4, 10.5, and 10.6;
<b>"Tax"</b>	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;
<b>"Tax Authority"</b>	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);
<b>"Termination Date"</b>	means the day upon which the Direct Scheme terminates in accordance with Part 9 of the Direct Scheme;
<b>"Treaty Reinsurance"</b>	means a method of reinsurance which is automatic and is an arrangement between one insurer (the ceding insurer) and one or a number of other insurers (the reinsurers) who agree to accept, automatically, any reinsurances falling within the terms of the treaty, where: <ul style="list-style-type: none"> <li>(a) the treaty sets out the various terms and conditions that are to govern the acceptance of cessions by the reinsurer; and</li> <li>(b) the treaty is legally binding on both parties and both parties undertake obligations to each other that go beyond the mere ceding of individual risks or policies under the treaty;</li> </ul>
<b>"Treaty Retrocession"</b>	means a method of reinsurance which is automatic and is an arrangement between one reinsurer (the retrocedant) and one or a number of other reinsurers (the retrocessionaires) who agree to accept, automatically, any retrocessions (cessions) falling within the terms of the treaty, where: <ul style="list-style-type: none"> <li>(a) the treaty sets out the various terms and conditions that are to govern the acceptance of cessions by the retrocessionaire; and</li> <li>(b) the treaty is legally binding on both parties and both parties undertake obligations to each other that go beyond the mere ceding of individual risks or policies under the treaty;</li> </ul>

<b>"Unclaimed Balance"</b>	means amounts represented by any cheque issued in respect of a Direct Ascertained Claim not presented for payment by its payee or any telegraphic transfer payment made in respect of a Direct Ascertained Claim and returned to the Company;
<b>"US Dollars" or "U.S.\$"</b>	means United States Dollars, being the lawful currency of the United States of America;
<b>"Voting and Proxy Form"</b>	means a voting and proxy form in the form provided at Section IV of the Direct Scheme Document to be submitted by a Direct Scheme Creditor at the Direct Scheme Meeting; and
<b>"Websites"</b>	means:  <a href="http://www.strongholdinsco.co.uk">www.strongholdinsco.co.uk</a> and  <a href="http://www.pwc.co.uk/services/business-restructuring/administrations/stronghold.html">www.pwc.co.uk/services/business-restructuring/administrations/stronghold.html</a> .

## 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; and
- 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.

## 1.3 Participation in the Direct Scheme

- 1.3.1 The Administrators, Direct Scheme Administrators, Direct Scheme Actuarial Adviser 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. Direct Scheme Claims do not include General Claims or Excluded Liabilities and therefore General Scheme Claims and Excluded Liabilities are not subject to the terms of this Direct Scheme.

### **2.2 Inconsistency between the General Scheme and the Direct Scheme**

In the event of an inconsistency between this Direct Scheme and the General Scheme, the terms of this Direct Scheme shall prevail.

### **2.3 Receipt of the Distributable Property of the Company**

2.3.1 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 having first paid or provided for the Excluded Liabilities, the Administrators shall pay the Distributable Property to the Direct Scheme Administrators as soon as reasonably practicable. In the event that the Administration Order is discharged but the Direct Scheme has not been terminated, the Direct Scheme Administrators shall be entitled to collect in and, to the extent possible, realise the Property of the Company and apply such realisations in paying or providing for the Excluded Liabilities.

2.3.2 The Direct Scheme Administrators shall:

- (i) pay any Distributable Property into a trust account, and
- (ii) apply such Distributable Property in accordance with the terms of the Direct Scheme.

2.3.3 Interest paid into a trust account in accordance with clause 2.3.2(i) (if any) shall accrue as Distributable Property. The Direct Scheme Administrators shall use reasonable endeavours to ensure that the interest rate of the relevant account is comparable to other such accounts available in the market at that time.

### **2.4 Proceedings by Direct Scheme Creditors**

2.4.1 Without prejudice to clause 2.4.3 and save:

- (a) with the consent of the Company; or
- (b) to the extent that such restriction is prohibited by law,

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.

- 2.4.2 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.
- 2.4.3 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 in such Proceedings.
- 2.4.4 For the purposes of clause 2.4.3, 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.
- 2.4.5 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 9.1.1(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.

## **2.5 Effect of Acts Prohibited by Clause 2.4**

- 2.5.1 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 2.4.1 and/or 2.4.2, such order, judgment, decision or award shall not give rise to an Direct 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.
- 2.5.2 If any Direct Scheme Creditor takes any action after the Effective Date which is prohibited by clauses 2.4.1 and/or 2.4.2, 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.
- 2.5.3 For the purpose of clause 2.5.2, the gross value of any money, Property, benefit or advantage obtained by a Direct Scheme Creditor shall be conclusively determined by the Company in accordance with this Direct Scheme 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 2.4.

- 2.5.4 If the amount of advance distribution which a Direct Scheme Creditor is treated as having received pursuant to clause 2.5.2 and 2.5.3 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 a 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 Business 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.

## **2.6 Interest**

- 2.6.1 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 payable for the period from the date provided for in the relevant contract, judgment or statute to the day immediately preceding the Administration Date.
- 2.6.2 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.
- 2.6.3 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.

## **2.7 Currency of Payment**

- 2.7.1 Where a Direct Ascertained Claim is in a Relevant Currency, it shall be paid to the relevant Direct Scheme Creditor in such Relevant Currency. Where a Direct Ascertained Claim is in a currency other than a Relevant Currency, it shall be paid to the relevant Direct Scheme Creditor in US Dollars, calculated at the Exchange Rate.
- 2.7.2 Where a Direct Ascertained Claim is in both Relevant Currencies, the entire Direct Ascertained Claim shall be paid in US Dollars if the majority of the Direct Ascertained Claim is payable in US Dollars, and payable in Pounds Sterling if the majority of the Direct Ascertained Claim is payable in Pounds Sterling.

### 3. **PART 3 DETERMINATION OF CLAIMS**

#### 3.1 **Administration Date**

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

#### 3.2 **Notice of the Effective Date and Direct Final Claims Time**

3.2.1 The Company shall, within 14 Business Days of the Effective Date, send by Post or email to each known Direct Scheme Creditor for whom the Company has contact details, and their Brokers and Agents, at their last known addresses:

- (i) a notice:
  - (A) confirming that the Direct Scheme has become effective;
  - (B) confirming the Direct Final Claims Time; and
  - (C) calling on all Direct Scheme Creditors to submit their Direct Scheme Claims to the Company by the Direct Final Claims Time; and

(ii) where applicable, the documents specified in clause 3.3.1 below.

3.2.2 The Company shall, within 14 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:

- (i) notice that the Direct Scheme has become effective;
- (ii) confirmation of the Direct Final Claims Time; and
- (iii) instructions on how a Direct Scheme Creditor can download a copy of the New Claim Form from the Websites or request a New 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 Websites a copy of the notice referenced in clause 3.2.2 and all documents referred to in Appendix 1 of the Explanatory Statement.

3.2.4 The Company will send a physical copy of any of the documents available on the Websites to any Direct Scheme Creditor upon written request.

#### 3.3 **Direct Scheme Creditors - Completing Claim Forms**

3.3.1 Together with any notice given in accordance with clause 3.2.1, the Company send shall each Direct Scheme Creditor:

- (a) a copy of such Direct Scheme Creditor's Existing Claim Form (if any);

- (b) a copy of such Direct Scheme Creditor's completed Voting and Proxy Form in which a Direct Scheme Creditors has elected to have such form treated as its Claim Form in respect of such Direct Scheme Claim; or
  - (c) a New Claim Form and instructions on how to complete it.
- 3.3.2 Each Direct Scheme Creditor wishing to be eligible to receive any payment in respect of its Direct Scheme Claim (if any) must ensure that the Company:
  - (a) has provided it with a copy of an Existing Claim Form in respect of such Direct Scheme Claim in accordance with clause 3.3.1(a);
  - (b) has provided it with a copy of such Direct Scheme Creditor's completed Voting and Proxy Form in which it has elected to have such form treated as its Claim Form in respect of such Direct Scheme Claim in accordance with clause 3.3.1(b); or
  - (c) has received a completed New Claim Form in respect of such Direct Scheme Claim in accordance with clause 3.3.5.
- 3.3.3 Direct Scheme Creditors who have been provided with an Existing Claim Form in accordance with clause 3.3.1 are nevertheless entitled to either update such Existing Claim Form or complete and submit a New Claim Form, in each case prior to the Direct Final Claims Time.
- 3.3.4 Direct Scheme Creditors who, in respect of a particular Direct Scheme Claim, have not been provided with a copy of an Existing Claim Form in accordance with clause 3.3.1 or who have not completed a Voting and Proxy Form in which they have elected to have such form treated as their Claim Form must submit a New Claim Form in respect of that particular Direct Scheme Claim on or prior to the Direct Final Claims Time in order to ensure that they are eligible to receive a payment in respect of such Direct Scheme Claim in the event that such Direct Scheme Claim becomes a Direct Ascertained Claim.
- 3.3.5 New Claim Forms in respect of Direct Scheme Claims and all supporting information must be returned so as to reach the Company at the address specified for that purpose in the instructions accompanying the New Claim Form at any time on or before the Direct Final Claims Time.
- 3.3.6 Each Direct Scheme Creditor shall be entitled to revise a 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 Direct Final Claims Time. The last Claim Form received before the Direct Final Claims Time shall be the Claim Form which the Company will review pursuant to clause 3.5. No revisions to the quantum of any Direct Scheme Claim will be accepted after the Direct Final Claims Time or the date on which the relevant Direct Scheme Creditor's Direct Ascertained Claim is established (whichever is the earlier) and no revised or further information will be

accepted after that date unless sent in response to a request by the Company pursuant to clauses 3.5.4 or 3.5.6 or the Direct Scheme Adjudicator pursuant to clause 3.6.3(a).

#### **3.4 Direct Scheme Creditors - Failure to Return Claim Form**

3.4.1 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:

- (a) is set out in an Existing Claim Form provided to a Direct Scheme Creditor in accordance with clause 3.3.1; or
- (b) is set out in a Voting and Proxy Form in which a Direct Scheme Creditor has elected to have such form treated as its Claim Form in respect of such Direct Scheme Claim; or
- (c) has been notified to the Company by the Direct Scheme Creditor on a New Claim Form in accordance with clause 3.3.4 and submitted with the supporting evidence required by clause 3.3.5, such New Claim Form being received by the Company no later than the Direct Final Claims Time.

3.4.2 Any Direct Scheme Claim not so notified 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.

#### **3.5 Review of Claim Forms and Determination of Direct Ascertained Claims**

3.5.1 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.

3.5.2 The Company will not be bound by, or prepared to follow, any settlement made between the Direct Scheme Creditor and another insurer or reinsurer if it believes that settlement to be unreasonable.

3.5.3 As part of the process of determining a Direct Scheme Creditor's Direct Ascertained Claim, the Company shall apply the principles set out in the Estimation Guidelines.

3.5.4 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 or determining a Direct Scheme Claim. The Direct Scheme Creditor must produce such information within 28 Business Days of receipt of such notice, failing which the provisions of clause 3.5.7 will apply.



- 3.5.5 If the Company agrees with the Direct Scheme Creditor's estimate of the value of its Direct Scheme Claim as set out in the Claim Form, including the amount of any set-off applied pursuant to clauses 3.10.1 to 3.10.2 and the amount of any Security which has been deducted as set out therein, it shall, within 90 Business Days of the Direct Final Claims Time, notify the relevant Direct Scheme Creditor of such agreement by sending a Determination Notice to that Direct Scheme Creditor as set out in clause 3.7.
- 3.5.6 If the Company does not agree with some or all of the information provided on or with a Claim Form in respect of a Direct Scheme Creditor's Direct Scheme Claim, it shall, within 90 Business Days of the Direct Final Claims Time, by notice in writing to the relevant Direct Scheme Creditor, specify those matters which are not agreed, the reasons for failing to agree such matters and any additional information and/or documentation or other evidence that the Company may require. Within 28 Business Days of the date of such notice the Direct Scheme Creditor shall submit written comments on those matters that are not agreed by the Company and the reasons provided by the Company for not agreeing them and/or shall provide any additional information and/or documentation or other evidence as requested. In the event that the Direct Scheme Creditor does not submit its written comments within 28 Business Days, the provisions of clause 3.5.7 will apply. Where the Direct Scheme Creditor does submit its written comments within 28 Business Days, the Company will then endeavour to agree the disputed matters and the relevant Direct Scheme Claim within a further 28 Business Days and in the event that the Direct Scheme Claim is so agreed, the Company shall notify the Direct Scheme Creditor of its agreement by sending a Determination Notice to that Direct Scheme Creditor as set out in clause 3.7.
- 3.5.7 If a Direct Scheme Creditor fails:
- (a) to provide its written comments within the 28 Business Day deadline imposed by clause 3.5.6; or
  - (b) to provide any additional information and/or documentation or other evidence requested by the Company within the 28 Business Day deadline imposed by clause 3.5.4 or 3.5.6,

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 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 3.7.

- 3.5.8 In the event that a Direct Scheme Creditor's Direct Scheme Claim is not agreed within the deadline for agreeing Direct Scheme Claims laid down by clause 3.5.6 the Company shall within a further 14 Business Days from the date on which the deadline for agreement of Direct Scheme Claims expired refer the Direct Scheme Creditor's Direct Scheme Claim to the Direct Scheme Adjudicator as a Disputed Claim.

- 3.5.9 The Company may, in respect of a Direct Scheme Claim set out in a Claim Form, at any time refer such Direct Scheme Claim to the Direct Scheme Adjudicator as a Disputed Claim for determination in accordance with clause 3.6.
- 3.5.10 For the avoidance of doubt, the views of any of the Company, Direct Scheme Administrators, Administrators, Direct Scheme Actuarial Adviser and/or Direct Scheme Adjudicator (and/or any of their 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, Direct Scheme Administrators, Administrators, Direct Scheme Actuarial Adviser, and/or Direct Scheme Adjudicator (nor any of their employees, members, partners, delegates, alternates, agents or advisers) to the Direct Scheme Creditor or any other person for any purpose.

### **3.6 Scheme Adjudication Procedure**

- 3.6.1 Except where the Company and the Direct Scheme Creditor agree otherwise, any dispute or other issue requiring determination relating to a Direct Scheme Claim shall be referred to the Direct Scheme Adjudicator.
- 3.6.2 In referring a Direct Scheme Claim to the Direct Scheme Adjudicator as a Disputed Claim in accordance with clauses 3.5.8, 3.5.9 or 3.12.1, 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 which notice shall enclose a copy of the Claim Form and a list of any supporting schedules or evidence accompanying such Claim Form and of any notice, statement or correspondence sent or received by the Company in connection with the Disputed Claim in the course of attempting to determine the Direct Scheme Creditor's Direct Ascertained Claim under the Direct Scheme. The Direct Scheme Adjudicator shall have access to all of the documents referred to in the notice sent to them pursuant to this clause 3.6.2 and to 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 concerning such Direct Scheme Claim.
- 3.6.3 The Direct Scheme Adjudicator shall within 21 Business Days of the date of the notice referring the Disputed Claim 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, 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.
- 3.6.4 If any Direct Scheme Creditor or the Company fails to provide any additional information, documentation and/or other evidence in accordance with clause 3.6.3(a) or fails to attend a meeting with the Direct Scheme Adjudicator in accordance with clause 3.6.3(b), the Direct Scheme Adjudicator shall be entitled to make such determination as they see fit in relation to the relevant Disputed Claim on the basis of the information available to them.
- 3.6.5 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 Disputed Claim and supporting evidence at any time prior to the Direct Scheme Adjudicator's determination of the Disputed Claim.
- 3.6.6 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 Disputed Claim.
- 3.6.7 If a conflict of interests arises in respect of any Disputed Claim such that the Direct Scheme Adjudicator is not able to act in relation to that Disputed Claim, the Direct Scheme Adjudicator will immediately notify the relevant Direct Scheme Creditor and the Company of such conflict. In such circumstances, unless the relevant Direct Scheme Creditor and the Company agree within 14 Business Days of receiving notice of the conflict to permit the Direct Scheme Adjudicator to act and the Direct Scheme Adjudicator is willing to act notwithstanding such conflict, the Company and the Direct Scheme Creditor shall attempt to agree the identity of an alternate Direct Scheme Adjudicator and if no agreement can be reached, the Company shall request that an alternate Direct Scheme Adjudicator shall be appointed by the President (for the time being) of the American Bar Association. Any waiver of a conflict pursuant to this clause 3.6.7 will only be made after the Direct Scheme Adjudicator has provided sufficiently detailed disclosure of the details and nature of the conflict to the 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. Where a matter is referred to an alternate Direct Scheme Adjudicator they shall adjudicate on that matter only.
- 3.6.8 If a Direct Scheme Creditor with a Disputed Claim or the Company considers that the Direct Scheme Adjudicator has a conflict of interests in relation to that Disputed Claim, the Direct Scheme Creditor or Scheme Company shall within 14 Business Days of the date of the notice of referral of the Direct Scheme Claim to the Direct Scheme Adjudicator notify the other party to the Disputed Claim and the Direct Scheme Adjudicator of

such conflict. The Direct Scheme Adjudicator shall consider whether they have a conflict of interests having regard to the Professional Conduct Standards of the American Bar Association. In the event that the Direct Scheme Adjudicator considers that they do have a conflict of interests the Company and the Direct Scheme Creditor shall attempt to agree the identity of an alternate Direct Scheme Adjudicator and if no agreement can be reached, the Company shall request that that an alternate Direct Scheme Adjudicator be appointed by the President (for the time being) of the American Bar Association. In the event that the Direct Scheme Adjudicator does not consider that they have a conflict of interests having regard to the Professional Conduct Standards of the American Bar Association, the Direct Scheme Adjudicator shall adjudicate the Disputed Claim in accordance with the provisions of this clause 3.6.

- 3.6.9 Where an alternate Direct Scheme Adjudicator is appointed pursuant to clause 3.6.7 or 3.6.8, the conflicted Direct Scheme Adjudicator's appointment, shall, subject to clause 6.2.8, continue during the appointment of an alternate Direct Scheme Adjudicator, and they shall continue to act in relation to all other Disputed Claims referred to them under clauses 3.5.8, 3.5.9 or 3.12.1 unless a conflict shall arise in respect of any of those Disputed Claims, in which case clause 3.6.7 or 3.6.8 as applicable shall apply.
- 3.6.10 In reaching a determination in relation to any Disputed Claim, the Direct Scheme Adjudicator shall act as an expert and not as an arbitrator and shall apply the Estimation Guidelines.
- 3.6.11 The Direct Scheme Adjudicator shall notify the relevant Direct Scheme Creditor and the Company of their determination in respect of the relevant Disputed Claim and of the resulting amount of the Direct Scheme Creditor's Direct Ascertained Claim by notice sent by Post or email within 28 Business Days after the later of the date of the notice referring the Disputed Claim to them in accordance with clause 3.6.1, the provision of any additional documentation and/or information to them pursuant to clause 3.6.3(a), the conclusion of any meeting with them pursuant to clause 3.6.3(b), or the failure of the relevant party to provide such additional documentation and/or information in accordance with clause 3.6.3(a) or to attend a meeting with them in accordance with clause 3.6.3(b). 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 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 their negligence, wilful default, wilful breach of duty or trust, fraud or dishonesty.
- 3.6.12 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 Disputed Claim including the fees and expenses of any adviser or expert consulted by them pursuant to clause 3.6.6, 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 in which case such costs shall be paid by the Direct Scheme Creditor in accordance with clause 3.6.13.

- 3.6.13 Any costs, charges and expenses incurred by the relevant Direct Scheme Creditor 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 3.6.12 shall be a Liability immediately due and payable from 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 clause 4.

### **3.7 Determination Notice**

- 3.7.1 Following the Company's agreement or determination of a Direct Scheme Creditor's Direct Scheme Claim pursuant to clauses 3.5.5, 3.5.6, 3.5.7, 3.5.9 and/or the Direct Scheme Adjudicator's determination of a Direct Scheme Creditor's Direct Scheme Claim in accordance with clause 3.6.11, the Company shall send by Post or email to that Direct Scheme Creditor a Determination Notice setting out the Direct Scheme Creditor's Direct Scheme Claim in the amount so agreed or determined, including;

- (a) the amount of any Liability of the Direct Scheme Creditor which has been applied in set-off pursuant to clauses 3.10.1 to 3.10.2 (and a schedule setting out how the amount of any Liability applied in set-off pursuant to clauses 3.10.1 to 3.10.2 was calculated);
- (b) the amount of any Security which has been deducted;
- (c) details of any currency conversions undertaken pursuant to clause 2.7; and
- (d) the resultant amount that the Company calculates to be the Direct Scheme Creditor's Direct Ascertained Claim, or Liability due to the Company from the Direct Scheme Creditor.

- 3.7.2 The amount shown in the Determination Notice as the Direct Scheme Creditor's Direct Ascertained Claim or Liability to the Company 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 Direct Ascertained Claim or Liability to the Company, as applicable, and shall be final and binding on the relevant Direct Scheme Creditor and the Company.

### **3.8 Extension of Time Limits**

- 3.8.1 Subject to clause 3.8.2, the Company may, at its absolute discretion, extend any time period referred to in this Part 3 or in Part 4, other than the time limits in clause 3.6 and the Direct Final Claims Time, whether for any one or more or all Direct Scheme Creditors.

- 3.8.2 The Direct Scheme Adjudicator may in their absolute discretion extend any of the time periods referred to in clause 3.6 whether for any one or more or all Direct Scheme Creditors.

### **3.9 Direct Scheme Creditors to Provide Assistance**

- 3.9.1 During the Direct Scheme Period, Direct Scheme Creditors shall provide to the Company, Direct Scheme Administrators, Direct Scheme Actuarial Adviser 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.
- 3.9.2 The Company shall provide the Direct Scheme Administrators, Direct Scheme Actuarial Adviser and Direct Scheme Adjudicator with all reasonable assistance required by any of them in connection with the Direct Scheme.

### **3.10 Set-Off and Security**

- 3.10.1 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 (prior to any deductions) which, for the avoidance of doubt, shall include IBNR Claims against the Company under an Insurance Contract, (if applicable); and
  - (b) all Liabilities of the Direct Scheme Creditor to the Company (including, but not limited, Liabilities arising under or in respect of an Insurance Contract (if applicable) or under the Direct Scheme);
- and the sums due from one party shall be set off against the sums due from the other.
- 3.10.2 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.
- 3.10.3 Nothing in the Direct Scheme shall 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.
- 3.10.4 Any Direct Scheme Creditor who shall obtain or receive payment by enforcing, drawing down, withdrawing or calling on any Security shall have

such payment taken into consideration in determining that Direct Scheme Creditor's Direct Ascertained Claim. 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 a Direct Scheme Claim shall not be applied in satisfaction or reduction of any other Liability, but shall be held on trust for the purposes of the Direct Scheme and shall be paid to the Company as aforesaid.

- 3.10.5 Nothing in the Direct Scheme shall affect the rights of the Company under any applicable law against any person in respect of any wrongful drawdown or enforcement of any Security. Any payment received by a Direct Scheme Creditor in respect of any such wrongful drawdown shall be held on trust for the Company to be applied in accordance with the terms of the Direct Scheme and the relevant Direct Scheme Creditor shall forthwith pay the same to the Company without set-off, deduction, retention, abatement or counterclaim.

### **3.11 Treatment of Agents**

In any of a Direct Scheme Creditor's dealings with the Company, the Direct Scheme Administrators, the Direct Scheme Adjudicator or the Direct Scheme Actuarial Adviser under the Direct Scheme, the Direct Scheme Creditor may appoint an Agent to act on its behalf. The Company may, at 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.

### **3.12 Funding**

- 3.12.1 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.

- 3.12.2 For the purpose of determining whether funding falls within this sub-clause 3.12.1, in the absence of agreement between the Company and the relevant Broker, the matter shall be referred to the Direct Scheme Adjudicator as a Disputed Claim for determination in accordance with clause 3.6 (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 negligence, wilful default, wilful breach of duty or trust, fraud or dishonesty.

- 3.12.3 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 clauses 3.3. The supporting information to be provided pursuant to clause 3.3.5 or 3.3.6 shall include a copy of the assignment, written confirmation or contract referred to in clause 3.12.1.



## 4. PART 4 PAYMENT OF DIRECT ASCERTAINED CLAIMS

### 4.1 Payment of Direct Ascertained Claims

- 4.1.1 As soon as reasonably practicable following the Direct Final Claims Time, the Company shall determine whether, in its reasonable opinion, based on the then currently available information, all Direct Ascertained Claims can be paid in full by the Company from Distributable Property.
- 4.1.2 In the event that, following the Direct Final Claims Time, the Company determines that, in its reasonable opinion, based on the then currently available information, all Direct Ascertained Claims cannot be paid in full by the Company, the Company shall, as soon as reasonably practicable set an initial Direct Payment Percentage.
- 4.1.3 After the initial Direct Payment Percentage has been set in accordance with clause 4.1.2, the Company may review the Direct Payment Percentage, and consider, in the light of clause 4.1.4, whether it should be revised.
- 4.1.4 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 Direct Ascertained Claims in full; and
  - (b) pay the same Direct Payment Percentage in respect of all Direct Ascertained Claims.
- 4.1.5 In considering whether sufficient reserves have been created in accordance with clause 4.1.4, the Company shall be entitled to take into account the Company's Distributable Property.
- 4.1.6 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, following consultation with the Direct Creditors' Committee, shall consider appropriate.
- 4.1.7 If on considering a Direct Payment Percentage previously set in accordance with clauses 4.1.2 and 4.1.3, the Company considers that, taking into consideration those matters referred to in clause 4.1.4, 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.

- 4.1.8 The Company shall be entitled to suspend payments to all Direct Scheme Creditors for such period (not exceeding 180 clear calendar days) 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.

## 4.2 Direct Ascertained Claims - Timing of Payment

- 4.2.1 In the event that the Company determines that all Direct Ascertained Claims can be paid in full, the Company shall, as soon as reasonably practicable thereafter, make payment in full in respect of all Direct Ascertained Claims to the relevant Direct Scheme Creditors in accordance with clause 4.4.
- 4.2.2 Where, following any payment under clause 4.2.1, any Direct Scheme Claim subsequently becomes a Direct Ascertained Claim, the Company shall, as soon as reasonably practicable, make payment in respect of such Direct Ascertained Claim in full in accordance with clause 4.4 (provided that the Company is satisfied following such payment there should remain sufficient reserves to pay all remaining Direct Scheme Claims in full once such claims become Direct Ascertained Claims).
- 4.2.3 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 Direct Ascertained Claims to the relevant Direct Scheme Creditors in accordance with clause 4.4.
- 4.2.4 Where, following any payment under clause 4.2.3, any Direct Scheme Claim subsequently becomes a Direct Ascertained Claim, the Company shall, as soon as reasonably practicable thereafter, pay the Direct Payment Percentage in respect of such Direct Ascertained Claim in accordance with clause 4.4 (provided that the Company is satisfied following such payment there should remain sufficient reserves to pay all remaining Direct Scheme Claims the same Direct Payment Percentage once such claims become Direct Ascertained Claims).
- 4.2.5 In the event that the Company sets an increased Direct Payment Percentage, the Company shall, as soon as reasonably practicable thereafter, pay, in accordance with clause 4.4:
- (a) the increased Direct Payment Percentage in respect of all Direct Scheme Claims which subsequently become Direct 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 whom had previously received the

previous Direct Payment Percentage in respect of their Direct Ascertained Claims.

- 4.2.6 In the event that the Company sets a reduced Direct Payment Percentage, the Company shall, as soon as reasonably practicable thereafter, pay, in accordance with clause 4.4 the reduced Direct Payment Percentage in respect of all Direct Scheme Claims which subsequently become Direct Ascertained Claims to the relevant Direct Scheme Creditors.

#### **4.3 Effect of Payment of Direct Ascertained Claims**

The amount of a Direct Scheme Creditor's Direct Ascertained Claim under the Direct Scheme as determined in accordance with Part 3 shall constitute the Company's entire liability to the relevant Direct Scheme Creditor in respect of its Direct Scheme Claim and payment in full in accordance with clause 4.4 of the Direct Payment Percentage set in accordance with clause 4.1 in respect of such Direct Ascertained Claim, regardless of whether such sum becomes an Unclaimed Balance pursuant to clause 4.6, shall be in full and final settlement of all and any Direct Scheme Claim of that Direct Scheme Creditor against the Company.

#### **4.4 Method of Payment**

- 4.4.1 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 in such other manner as the Company shall agree, payments may be made by telegraphic transfer. Such payment shall be at the Direct Scheme Creditor's own risk, cost, and expense.
- 4.4.2 Subject to clause 4.4.1, all payments to Direct Scheme Creditors under the Direct Scheme 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 in such other manner as the Company shall agree.
- 4.4.3 Payment under the Direct Scheme in respect of an Direct Ascertained Claim shall be deemed to have been made on the day that the telegraphic transfer instructions were given to the relevant bank pursuant to clause 4.4.1 or the relevant cheque is sent by Post pursuant to clause 4.4.2 (as the case may be) and such deemed payment shall be a good discharge and satisfaction of the Direct Ascertained Claim.
- 4.4.4 The Company will not be required to make any payments to Direct Scheme Creditors until the Company is satisfied that making of such payment is not prohibited by an applicable law or regulation referred to in clause 4.5.

#### **4.5 International Sanctions**

- 4.5.1 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 in 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.

4.5.2 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.

4.5.3 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 within twelve months or, if earlier, the Termination Date:

- (a) the Company shall be entitled to the Blocked Monies absolutely;
- (b) the relevant Direct Scheme Creditor shall cease to have any entitlement to them;
- (c) the Direct Scheme Administrators shall be entitled to pay such amount to such charity as they may, in their absolute discretion, determine; and
- (d) 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.

#### 4.6 Unclaimed Balances

The Company shall use its reasonable endeavours to pay an Unclaimed Balance to the Direct Scheme Creditor entitled thereto according to its respective entitlements. To the extent not paid to the Direct Scheme Creditor by 3 Business Days before the Termination Date, the Direct Scheme Administrators shall be entitled to pay the remaining amount of any Unclaimed Balance to General Scheme Creditors *pro rata* to their General Scheme Claims once all Direct Scheme Claims have been satisfied

as they shall determine, and the Direct Scheme Claim in respect of such Unclaimed Balance shall be deemed to have been paid in full by the Company to the Direct Scheme Creditor and the Direct Scheme Creditor shall have no further rights in respect of it.

## 5. PART 5: THE DIRECT SCHEME ADMINISTRATORS

### 5.1 Qualification, appointment, resignation and removal

- 5.1.1 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 IA. Where an Administrator is appointed to, resigns from, is removed from or vacates such office in accordance with the provisions of the IA, 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 5.1.3 and 5.1.4 shall not apply.
- 5.1.2 In the event that the Administration ends prior to the Termination Date, 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 1 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 IA;
  - (c) a Direct Scheme Administrator may appoint an additional person (qualified in accordance with clause 5.1.2(b)) as an additional Direct Scheme Administrator; and
  - (d) where there is no Direct Scheme Administrator, the Direct Creditors' Committee may appoint a person (qualified in accordance with clause 5.1.2(b)) as a Direct Scheme Administrator;
  - (e) the office of a Direct Scheme Administrator shall be vacated if that person is subject to an Individual Termination Event;
  - (f) a Direct Scheme Administrator is entitled to resign in accordance with clause 5.1.3; and
  - (g) a Direct Scheme Administrator may resign if called upon to do so by the Direct Creditors' Committee in accordance with clause 5.1.4 and shall resign if a resolution put to a meeting of Direct Scheme Creditors in accordance with that clause is passed.
- 5.1.3 After the end of the Administration, a Direct Scheme Administrator may resign its appointment at any time by giving no less than three months' notice in writing to any remaining Direct Scheme Administrator and the Direct Creditors' Committee or on such shorter period of notice as any remaining Direct Scheme Administrator may agree in writing.

5.1.4 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 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.

5.1.5 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.

## 5.2 **Functions, powers and duties of the Direct Scheme Administrators**

5.2.1 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 Direct Scheme.

5.2.2 Without prejudice to the generality of clause 5.2.1, 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 this 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 and assets (of whatever nature) to which the Company is or appears to be entitled and do all such things as may be necessary for the realisation of any such Property or assets and the application of the Property and assets

of the Company for the benefit of Direct Scheme Creditors and other persons as appropriate;

- (d) 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;
- (e) do all things which may be necessary or expedient for the protection of the Company's assets or of any assets that appear to belong to the Company;
- (f) bring or defend any action or other legal Proceedings in the name and on behalf of the Company or otherwise;
- (g) do all acts and to execute in the name and on behalf of the Company any deed, receipt or other document and to use the Company's seal;
- (h) 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;
- (i) 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;
- (j) 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;
- (k) 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;
- (l) 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 IA) (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 personally responsible for any act or omission of any such Direct Delegate to the same extent as if they had expressly authorised it; and
- (m) do all other things incidental to the exercise of the functions and powers referred to in this clause 5.2.



- 5.2.3 Nothing in this clause 5.2 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.
- 5.2.4 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.
- 5.2.5 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 5.3.2.

### **5.3 Responsibility and indemnity**

- 5.3.1 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.
- 5.3.2 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 Scheme Administrator in accordance with, and to implement the provisions of, a Scheme or the exercise by the Scheme Administrators in good faith and with due care of any power conferred upon them for the purposes of a Scheme if exercised in accordance with, and to implement the provisions of, a Scheme and the Scheme Administrators shall not be liable for any loss unless such loss is attributable to their own negligence, wilful default, breach of duty, breach of trust, fraud or dishonesty (or to that of any Delegate).
- 5.3.3 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 Employee in accordance with and to implement the provisions of a Scheme if exercised in accordance with and to implement the provisions of the Scheme and no Employee shall be liable for any loss unless such loss is attributable to their own negligence, wilful default, breach of duty, breach of trust fraud or dishonesty.
- 5.3.4 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 Delegate in accordance with and to implement the provisions of a Scheme or the exercise by such Delegate in good faith and with due care of any power conferred upon the Scheme Administrators for the purposes of a Scheme if exercised in accordance with and to implement the provisions of a Scheme and no Delegate shall be liable for any loss unless such loss is

attributable to his own negligence, wilful default, breach of duty, breach of trust, fraud or dishonesty.

5.3.5 Subject to the Act, each Scheme Administrator (in their capacity as such) and each Employee and 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 Scheme Administrator (or Employee or Delegate) in respect of any act done or omitted to be done by such Direct Scheme Administrator (or Employee or Delegate) in good faith without negligence, 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 Employee or Delegate) in carrying out its functions and powers (or the functions for which such Employee is employed or any Delegate) in course of implementing the Direct Scheme in accordance with its terms.

5.3.6 Without prejudice to the generally of clause 5.3.5, 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 the 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 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 negligence, wilful default, breach of duty, breach of trust, fraud or dishonesty in relation to the affairs of the Company.

5.3.7 The Company may:

- (a) purchase and maintain for any such person as is referred to in clause 5.3.5 insurance against any liability in respect of which the Company would be obliged to indemnify that person in accordance with clauses 5.3.5 and 5.3.6; and
- (b) pay costs incurred by any such person as is referred to in clause 5.3.5 in defending Proceedings of the nature described in clause 5.3.6 provided that the Company obtains from such party 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 5.3.6.

- 5.3.8 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.
- 5.3.9 Neither the Direct Scheme Administrators nor the Administrators shall incur no personal liability whatsoever in connection with the preparation, adoption, implementation or conduct of the Direct Scheme or in connection with any collateral arrangement except in the case of their own negligence, wilful default, breach of duty, breach of trust, fraud or dishonesty.

## **6. PART 6: THE DIRECT SCHEME OFFICE HOLDERS**

### **6.1 The Direct Scheme Actuarial Adviser**

- 6.1.1 The first Direct Scheme Actuarial Adviser shall be Nick Watford of PricewaterhouseCoopers LLP.
- 6.1.2 The Direct Scheme Actuarial Adviser's function will be to provide advice to the Company to enable it to assess Direct Scheme Creditors' Direct Scheme Claims. When called upon to do so the Direct Scheme Actuarial Adviser will also provide to the Direct Scheme Adjudicator information in relation to advice given to the Company.
- 6.1.3 The Company shall be entitled to appoint more than one Direct Scheme Actuarial Adviser, in which case such Direct Scheme Actuarial Advisers may carry out their duties and functions under the Direct Scheme either jointly or severally.
- 6.1.4 A Direct Scheme Actuarial Adviser may resign his 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 Actuarial Adviser and the Company may agree in writing.
- 6.1.5 The office of a Direct Scheme Actuarial Adviser 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.
- 6.1.6 If the office of a Direct Scheme Actuarial Adviser is vacated in accordance with clause 6.1.4 or 6.1.5, the Company shall be entitled to appoint a replacement Direct Scheme Actuarial Adviser provided that:
  - (a) such replacement consents to act and is independent; and
  - (b) all remaining Direct Scheme Actuarial Advisers, if any, consent to such appointment.
- 6.1.7 The Company acknowledges and agrees that the Direct Scheme Actuarial Adviser 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.

### **6.2 Direct Scheme Adjudicator**

- 6.2.1 The first Direct Scheme Adjudicator shall be Barbara Jones. Only an individual shall be appointed as a Direct Scheme Adjudicator.
- 6.2.2 The Direct Scheme Adjudicator shall be qualified to act as the Direct Scheme Adjudicator 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 under the Direct Scheme.

- 6.2.3 The Direct Scheme Adjudicator shall be responsible for the valuation of Disputed Claims and their subsequent determination as Direct Ascertained Claims. The Direct Scheme Adjudicator shall determine any disputes referred to the Direct Scheme Adjudicator pursuant to clause 3.6 and shall undertake all other duties and functions conferred upon the Direct Scheme Adjudicator by the Direct Scheme. The Company shall be entitled to appoint an actuarial adviser and/or such other professional advisers to assist the Direct Scheme Adjudicator provided such appointment is necessary or desirable for the purpose of the Direct Scheme Adjudicator performing their functions and powers under the Direct Scheme. The Direct Scheme Adjudicator shall have the powers and rights conferred upon the Direct Scheme Adjudicator by the Direct Scheme for such purposes.
- 6.2.4 In exercising their powers and rights and in carrying out their duties and functions under the Direct Scheme, the Direct 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.
- 6.2.5 A Direct 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 clauses 3.6.12 and 3.6.13.
- 6.2.6 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.
- 6.2.7 A Direct 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.
- 6.2.8 The office of a Direct Scheme Adjudicator shall be vacated if they are subject to an Individual Termination Event.
- 6.2.9 If the office of a Direct Scheme Adjudicator is vacated in accordance with clause 6.2.7 or 6.2.8, or if the Company wishes to appoint more than one Direct Scheme Adjudicator in accordance with clause 6.2.3, the Company shall request the President (for the time being) of the American Bar Association to nominate a person who is suitably qualified in accordance with clause 6.2.2 who shall be appointed as replacement or additional Direct 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.

6.2.10 In the absence of any agreement as provided for in clause 3.6.7 or 3.6.8 where necessary, the Company shall request the President (for the time being) of the American Bar Association to nominate any qualified person to act as an additional Direct Scheme Adjudicator provided each such additional Direct Scheme Adjudicator shall have all the powers and duties conferred upon a Direct Scheme Adjudicator under the Direct Scheme. The Company shall direct which Direct Scheme Adjudicator shall deal with which Disputed Claim so as to prevent a Direct Scheme Adjudicator dealing with a Disputed Claim where a conflict of interests or other issue exists that might prevent a Direct Scheme Adjudicator from being seen to deal fairly with a Disputed Claim.

### **6.3 Notification of Change of Office Holder**

In the event that there is a change of Office Holder or an additional Office Holder is appointed, the Company shall place a notice on the Websites giving details of the change or appointment.

### **6.4 Limit on Actions and Indemnity**

6.4.1 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 the Direct 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 the Direct Scheme Adjudicator shall not be liable for any loss unless any such loss is attributable to their negligence, wilful default, wilful breach of duty or trust, fraud or dishonesty.

6.4.2 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 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.

6.4.3 The Office Holders or any of their Associated Companies, directors, partners, members, officers or employees shall, in relation to the Company and to the extent allowed by law, be entitled to an indemnity out of the Property of the Company 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 Office Holders have been negligent, wilfully in breach of duty or trust, fraudulent or dishonest.
- 6.4.4 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 6.4.3(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 6.4.3(b).
- 6.4.5 The indemnity at clause 6.4.3(b) and 6.4.4 shall not apply to any proceedings brought by the Company against the Office Holders 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. PART 7 THE DIRECT CREDITORS' COMMITTEE

### 7.1 Constitution of the Direct Creditors' Committee

- 7.1.1 There shall be a Direct Creditors' Committee under the Direct Scheme.
- 7.1.2 The Direct Creditors' Committee shall be the committee appointed to the Company from time to time in respect of the Administration in accordance with the provisions of the Insolvency Legislation. Where a member of the Administration Creditors' Committee is appointed, 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 been appointed, resigned or removed from or vacated its appointment to the Direct Creditors' Committee hereunder.
- 7.1.3 After the end of the Administration Period, the Administration Creditors' Committee in office immediately prior to the end of the Administration shall continue as the Direct Creditors' Committee, and shall be subject to the same rules of constitution and membership as the Administration Creditors' Committee as if the Administration Order were to continue to be in effect.

### 7.2 Proceedings

- 7.2.1 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 chairman at any meeting shall be one of the Direct Scheme Administrators or a person nominated by them so to act (the "**Committee Chairman**"). The quorum at any meeting of the Direct Creditors' Committee shall be at least two-thirds ( $\frac{2}{3}$ ) 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.
- 7.2.2 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.
- 7.2.3 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 7.2.3. 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 14 clear 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.

- 7.2.4 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 and General Scheme 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.
- 7.2.5 The Committee Chairman shall cause proper minutes of all proceedings of the Direct Creditors' Committee to be taken 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 7.2.2 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.
- 7.2.6 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 ( $\frac{2}{3}$ ) of the Direct Committee Members are physically present at the same place.
- 7.2.7 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.

### 7.3 **Functions**

- 7.3.1 The Direct Creditors' Committee shall be entitled to:

- (a) review and be consulted in respect of the financial and/or actuarial information and advice to be obtained and considered by the Company for the purpose of setting or revising a Direct Payment Percentage in accordance with clauses 4.1.6;
- (b) appoint a person (qualified in accordance with clause 5.1.2(b)) as a Direct Scheme Administrator where there is no Direct Scheme Administrator and provided such appointment is in accordance with clause 5.1.2(d);
- (c) receive notice of a Direct Scheme Administrator's resignation in accordance with clause 5.1.3;
- (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 5.1.4;
- (e) approve 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 5.2.2(j) and 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 7.5.2 insurance against any liability in respect of which the Company would be obliged to indemnify that person in accordance with clauses 7.5.2 and 7.5.3;
- (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 8.1.1(a) and, in accordance with clause 5.1.2(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 9.1.1(b); and
- (i) be consulted on any matter which the Direct Scheme Administrators, acting reasonably, consider appropriate.

7.3.2 An approval to be granted by the Direct Creditors' Committee in this Direct Scheme shall not be unreasonably withheld or delayed and shall be deemed given if approved by a simple majority in number of the Direct Committee Members.

#### **7.4 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.

## 7.5 Responsibilities and indemnity

- 7.5.1 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 Committee Member (or alternate) in accordance with and to implement the provisions of a 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 a Scheme if exercised in accordance with and to implement the provisions of a 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.
- 7.5.2 Subject to the Act, each 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 Schemes.
- 7.5.3 Without prejudice to the generality of Clause 7.5.2, 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 a 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.
- 7.5.4 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 7.5.2 insurance against any liability in respect of which the Company would be obliged to indemnify that person in accordance with clauses 7.5.2 and 7.5.3; and
  - (b) pay costs incurred by any such person as is referred to in Clause 7.5.2 in defending Proceedings of the nature described in Clause 7.5.3 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 7.5.3.

## 7.6 **Validation of acts**

All acts done by a Creditors' Committee or any meeting of a Creditors' Committee or any person acting as a Committee Member or alternate shall, notwithstanding that it is afterwards discovered that there was some defect in the appointment of a 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.

## 7.7 **Expenses**

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

## 7.8 **No Creditors' Committee**

7.8.1 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:

- (a) the Direct Scheme Administrators shall use all reasonable endeavours to find additional members of the Direct Creditors' Committee to enable it to function; and
- (b) 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.

## 8. PART 8: MEETINGS OF DIRECT SCHEME CREDITORS

### 8.1 Convening of meetings

8.1.1 Meetings of Direct Scheme Creditors are to 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 5.1.4; 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.

8.1.2 At least 14 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.

8.1.3 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.

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.

8.1.4 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.

### 8.2 Resolutions

8.2.1 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 5.1.4 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 5.1.2(b) and willing to be appointed, be appointed as a Direct Scheme Administrator in their place.

8.2.2 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.

### **8.3 Voting**

- 8.3.1 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.
- 8.3.2 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.
- 8.3.3 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 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).
- 8.3.4 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.

### **8.4 Valuation of Direct Scheme Claims for the purposes of meeting**

- 8.4.1 For the purposes of valuing any Direct Scheme Claim for the purposes of clause 8.3.1 the value of the Direct Scheme Claim shall be:
  - (a) in the case of a Direct Scheme Claim which has become a Direct Ascertained Claim, the amount of the Direct 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 by the Direct Scheme Administrators.

- 8.4.2 In the event that a Direct Scheme Creditor disputes the value which has been put on its Direct Scheme Claim pursuant to clause 8.4.1 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).
- 8.4.3 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.

## 9. **PART 9 TERMINATION OF THE DIRECT SCHEME**

### 9.1 **Termination of the Direct Scheme**

9.1.1 The Direct Scheme shall terminate upon:

- (a) the Company determining that the last cheque or telegraphic transfer has been deemed to have been despatched to Direct Scheme Creditors in accordance with clause 4.4; 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.

### 9.2 **Notice of Termination**

9.2.1 Where the Direct Scheme terminates pursuant to clause 9.1 the Company shall within three Business Days thereof, place a notice of termination on the Websites.

### 9.3 **Provisions Surviving Termination**

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



## 10. PART 10: GENERAL SCHEME PROVISIONS

### 10.1 Effective Date

10.1.1 The Direct Scheme shall become effective on the Effective Date.

### 10.2 Application of Distributable Property

10.2.1 Distributable Property available for distribution under the Direct Scheme shall be applied by the Direct Scheme Administrators in the following order:

- (a) first, in payment of, or provision for, the Direct Ascertained Claims in accordance with clauses 4.1 and 4.2; and
- (b) thereafter, to the General Scheme Administrators for distribution in accordance with the General Scheme.

### 10.3 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).

### 10.4 Notices

10.4.1 Without prejudice to clause 10.5, any notice or other written communication to be given under or in relation to the Direct Scheme shall be given in writing and shall be given by hand or sent by Post or email to:

- (a) in the case of the Company, Stronghold Insurance Company Limited (In Administration), c/o PricewaterhouseCoopers LLP, 7 More London Riverside, London SE1 2RT United Kingdom, email [uk\\_stronghold@pwc.com](mailto:uk_stronghold@pwc.com) marked for the attention of John Baker or such other address as the Company may notify to Direct Scheme Creditors for the purposes of this clause 10.4;
- (b) in the case of a Direct Scheme Creditor, its last known address or email of which the Company is aware.

10.4.2 Any notice or other written communication to be given under the Direct Scheme shall (except as herein otherwise provided) be deemed to have been received:

- (a) if delivered by hand, on the first Business Day following delivery;
- (b) if sent by Post, on the second Business Day after posting if the recipient is in the country of dispatch and otherwise on the seventh Business Day after posting; and

(c) if sent by email, in accordance with clause 10.5.4.

10.4.3 In proving service, it shall be sufficient proof in the case of a notice sent by Post that the envelope was properly stamped, addressed and placed in the Post.

## 10.5 Electronic Communications

10.5.1 Notwithstanding anything to the contrary in the Direct Scheme, 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 may be given or sent by the Company, the Administrators, the Direct Scheme Administrators, the Direct Scheme Adjudicator, the Direct Scheme Actuarial Adviser or the Direct Scheme Creditor concerned in electronic form to the address specified for that purpose by the Direct Scheme Creditor, Scheme Company, Administrators, Direct Scheme Administrators, Direct Scheme Adjudicator or Scheme Actuarial Adviser (all of whom hereby consent to the use of electronic communications) and references in the Direct Scheme to Post and addresses shall be construed accordingly.

10.5.2 Where any communication is sent to the Company 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 Company 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 10.5.1; and
- (d) the electronic mail shall not be deemed to have been received unless it is received in the Company's mail box and the Company is able to open and print it and any attachments and, if requested, unless a hard copy is received in accordance with sub clause (b).

10.5.3 Where any communication to the Company, Administrators, Direct Scheme Adjudicator, Direct Scheme Administrators 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 Company, Administrators, Direct Scheme Administrators, Direct Scheme Adjudicator or Direct Scheme Creditor by Post.

10.5.4 Subject to clause 10.5.2(d), 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.

## 10.6 **Governing Law and Jurisdiction**

10.6.1 The Direct Scheme shall be governed by, and construed in accordance with, the laws of England, 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 Explanatory Statement or the Direct Scheme, including this clause 10.6, 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 10.6 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 provisions; nor
- (c) the governing law applied by a court in any decision applicable to the Company and any Direct Scheme Creditor.

10.6.2 Notwithstanding the provisions of clause 10.6.1, 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.

## **SCHEDULE 1 ESTIMATION GUIDELINES**

### **INDEX**

1. Introduction
2. Direct Insurance/Facultative Reinsurance of Direct Insurance APH claims
3. Reinsurance APH claims
4. Reinsurance Non-APH claims
5. Unanticipated latent claims

### **1. INTRODUCTION**

- 1.1 The Estimation Guidelines are intended to make the process which the Scheme Company will follow in valuing Liabilities as transparent as possible to Scheme Creditors. The Estimation Guidelines describe the approach that the Scheme Company will expect both Scheme Creditors and the Scheme Company will to follow in valuing Notified Outstanding Liabilities and IBNR Liabilities. Under the terms of the Scheme, the Estimation Guidelines will be applied by the Scheme Company in seeking to reach agreement with Scheme Creditors in respect of any Notified Outstanding Liabilities and any IBNR Liabilities. If the Scheme Company is unable to reach agreement with a Scheme Creditor as to any of these amounts, they will be referred to the Scheme Adjudicator for determination by him in accordance with the provisions of the Scheme.
- 1.2 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 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. 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 Scheme Creditor. If the Scheme 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 Scheme Creditor.
- 1.4 It should be noted, in this context, that the Scheme 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. 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 Scheme 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 Scheme Company will apply the law that would likely, under traditional choice of law analysis, have been applicable to each Scheme Creditor's claim had it been resolved in the normal course outside the 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 Scheme Company also will take into account the terms of any court judgment obtained by a creditor prior to the liquidation filing 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 Scheme Creditor's claim. To the extent the Scheme 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 Scheme Creditor of any and all rights that the Scheme Company may have against other insurers from within the relevant triggered period now and/or in the future.
- 1.7 In all cases 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 Scheme Company will not, unless legally obliged to do so, be bound by, or obliged to follow, any settlement made between a 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 The supporting evidence that Scheme Creditors should provide in support of their estimates of Notified Outstanding Liabilities and IBNR Liabilities is set out in SCHEDULE 2. The Estimation Guidelines differ according to Insurance Contract type and claim loss type:
  - 1.9.1 Scheme Creditors whose Insurance Contract with the Scheme Company is:
    - (a) Direct Insurance; or
    - (b) Facultative Reinsurance of Direct Insurance should refer initially to section 2 of this SCHEDULE 1.
  - 1.9.2 Scheme Creditors whose Insurance Contract with the Scheme Company is:
    - (a) Treaty Reinsurance;
    - (b) Treaty Retrocession; or
    - (c) Facultative Retrocession

should refer initially to sections 3 and 4 of this SCHEDULE 1.

1.9.3 For each loss type the methodology differs according to whether the claim is related to asbestos, environmental pollution and other health hazards (collectively labelled as "APH"), or is not related to asbestos, environmental pollution and other health hazards ("**Non-APH**").

1.10 If, at any stage of the process, a Scheme Creditor has any queries relating to the application or potential application of the Estimation Guidelines to its claim, it should contact the Scheme Company for further guidance. Scheme Creditors may also wish to consult appropriate professional advisers in determining their claim against the Scheme Company.

## **2. DIRECT INSURANCE/FACULTATIVE REINSURANCE OF DIRECT INSURANCE APH CLAIMS**

2.1 This section describes the Estimation Guidelines that the Scheme Company will expect both Scheme Creditors and the Scheme Company to follow where Scheme Creditors have APH claims arising under an Insurance Contract with the Scheme Company that is Direct Insurance or is Facultative Reinsurance of Direct Insurance.

2.2 This section relates to a Scheme Claim arising under a Direct Insurance contract. If a Scheme Creditor has Facultative Reinsurance of any Direct Insurance contract, the points raised in this section will need to be considered in relation to the claim being made by the underlying insured to the Scheme Creditor. Consideration will then need to be given to the resulting claim from the Scheme Creditor against the Scheme Company.

2.3 If the Scheme Creditor has agreed a settlement with the Scheme Company, or obtained a court decision against the Scheme Company, the 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 Scheme Creditor against the Scheme Company.

### **2.4 Asbestos claims**

2.4.1 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 Scheme Creditor and applying to that an average claim cost to determine the total inwards liability in respect of that Scheme Creditor. This amount can then be allocated across the appropriate period and applied to the policy profile of the Scheme Creditor to derive the Scheme Company's share of that cost.

2.4.2 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 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 Scheme Creditor to derive the Scheme Company's share of those costs.

2.4.3 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***

2.4.4 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***

2.4.5 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***

2.4.6 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.

2.4.7 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 Scheme Creditor manufactured, installed or distributed asbestos-containing products;
- (c) exclusion clauses within the Scheme Creditor's policies, where appropriate;
- (d) settlements and other major agreements between the Scheme Creditor and its insurers;
- (e) legal judgments in any coverage disputes between the 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***

- 2.4.8 In most circumstances, the Scheme Company will expect the costs to be spread over the entire period covered by the triggered policies with reference to the Scheme Creditor's asbestos exposure over time. The Scheme Company will expect the Scheme Creditor to provide exposure information in support of its approach.
- 2.4.9 The 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 Scheme Creditor can identify a relevant court decision under applicable law that demonstrates that it is not required to bear these loss allocations.
- 2.4.10 In circumstances where consideration may be given to settlement on an "All Sums" basis, the Scheme 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 Scheme Creditor and/or on other court decisions that are likely to be directly relevant to the 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.
- 2.4.11 The Scheme 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 Scheme Creditor.

**2.5 Environmental pollution claims**

- 2.5.1 In order to determine the inwards liability of a Scheme Creditor in respect of each polluted site, an exposure-based approach should be used. The 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 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 Scheme Creditor's insurance policies with the Scheme Company:

- (a) Estimate the cost of cleaning up a polluted site;
- (b) Apportion those clean-up costs between the 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 Scheme Creditor's policy profile to derive the Scheme Company's share of those costs; and
- (f) Assess any legal coverage issues involved in determining the validity of any claim of the Scheme Creditor against the Scheme Company in respect of those sites.

### ***Clean-up costs***

2.5.2 The Scheme Creditor should estimate the undiscounted clean-up cost for each site. The 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 Scheme Creditor.

### ***Expenses***

2.5.3 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 Scheme Creditor. Each 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***

2.5.4 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***

2.5.5 The ultimate loss to the Scheme 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 Scheme Company will apply that law by reference to the principles set out below. The exceptions to this are where:

- (a) The Scheme Creditor has agreed a settlement with the London Market and / or a settlement that is governed by a different law; or
- (b) The Scheme Creditor can identify a relevant court decision that means that the Scheme Creditor's claims will be subject to a different governing law.

### ***Trigger of coverage***

- 2.5.6 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 (e.g. exposure, manifestation or may be used if there is strong justification to do so.

### ***Allocation of costs to triggered policies***

- 2.5.7 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.
- 2.5.8 The 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.
- 2.5.9 In circumstances where consideration may be given to settlement on an "All Sums" basis, the Scheme 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 Scheme Creditor and/or on other court decisions that are likely to be directly relevant to the 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.
- 2.5.10 The Scheme 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 Scheme Creditor.

### ***Coverage issues***

- 2.5.11 Insurers may not in all cases be liable to pay the clean-up costs and expense costs. Each policy covering the 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.
- 2.5.12 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 Scheme Creditor.

### ***Future sites***

- 2.5.13 If the 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 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.

## **2.6 Other health hazards**

- 2.6.1 For each health hazard, 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 Scheme Creditor and applying to that an average claim cost to determine the total inwards liability of that Scheme Creditor. This can then be allocated across the appropriate period and applied to the policy profile of the Scheme Creditor to derive the Scheme Company's share of that cost.
- 2.6.2 This process involves the same steps as those outlined in section 2.4 of this SCHEDULE 1. Additional guidance on some of those points is given below.

### ***Claim numbers***

- 2.6.3 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*

- 2.6.4 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*

- 2.6.5 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.
- 2.6.6 The selection of the triggered period should also take the following into consideration:
- (a) Settlements and other major agreements between the Scheme Creditor and its insurers;
  - (b) Legal judgments in any coverage disputes between the 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*

- 2.6.7 In most circumstances, the Scheme Company will expect the costs to be spread over the entire period covered by the triggered policies with reference to the Scheme Creditor's exposure to the health hazard over time. The Scheme Company will expect the Scheme Creditor to provide exposure information in support of its approach.
- 2.6.8 The 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 Scheme Creditor can identify a relevant court decision under applicable law that demonstrates that it is not required to bear these loss allocations.
- 2.6.9 In circumstances where consideration may be given to settlement on an "All Sums" basis, the Scheme 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 Scheme Creditor and/or on other court decisions that are likely to be directly relevant to the 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.

2.6.10 The Scheme 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 Scheme Creditor.

## **2.7 Alternative approaches where historical information may not be available**

2.7.1 If a Scheme Creditor has evidence that it is exposed to liability from a source from which it has as yet no claims experience, it may be appropriate for that 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.

2.7.2 The approach taken will need to draw from the information available to the Scheme Creditor. The 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.

2.7.3 Once the ground-up costs against the Scheme Creditor have been established, the liabilities can be applied to the Scheme 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. REINSURANCE APH CLAIMS**

3.1 This section describes the Estimation Guidelines that the Scheme Company will expect Scheme Creditors to follow where those Scheme Creditors have APH claims arising under an Insurance Contract with the Scheme Company that is Reinsurance (but not Facultative Reinsurance of Direct Insurance) or is Retrocession.

3.2 The preferred approach for estimating the ultimate Scheme Claim for such Reinsurance or Retrocession contracts is to project the ultimate claims costs to the Scheme Creditor for the underlying policies and to apply those costs to the Reinsurance contracts. Possible methodologies that the Scheme Creditor may adopt are detailed in section 3.5. If none of the suggested methods can be carried out with the data available, the benchmark approach detailed in section 3.5 should be used and the requested supporting evidence provided.

3.3 This approach requires detailed information regarding the Scheme Creditor's underlying insureds and is likely to be suitable where the Insurance Contract that the Scheme Creditor has with the Scheme Company is a Treaty Reinsurance which protects an underlying direct account.

### 3.4 Estimation of underlying liabilities

3.4.1 The Scheme Creditor must first estimate its inwards liabilities. These may be estimated at an aggregate level or split by claim type using the following methods:

- (a) Underlying insured analysis - An analysis of the emerging claims experience (both numbers and amounts at the level of data available) from each underlying insured, for all cedants of the Scheme Creditor combined; or
- (b) Cedant analysis - An analysis of the emerging claims experience (both numbers and amounts at the level of data available) from each individual cedant of the Scheme Creditor; or
- (c) Categorised cedant analysis – An assignment of the cedants to a number of relevant categories (e.g. London market, US primary reinsurer etc.) and application of selected erosion percentages for each category.

3.4.2 Where appropriate the analyses should be supplemented by a consideration of the likely allowance for future claims to emerge from cedants or underlying insureds from whom the Scheme Creditor has not yet received a claim.

3.4.3 Once the Scheme Creditor has estimated its ultimate inwards liabilities, these claims costs should then be applied to the Scheme Creditor's outwards reinsurance programme to calculate the ultimate recoveries from the Scheme Company. The Scheme Creditor should consider an appropriate aggregation of its inwards liabilities before allocating these claims to its reinsurance programme.

3.4.4 Throughout this analysis, the Scheme Creditor should consider the extent to which its Notified Outstanding Liabilities and IBNR Liabilities may be impacted by limited reinstatement provisions that may be present in both its underlying policies and Reinsurance contracts.

3.4.5 The approach used by the Scheme Creditor to estimate its inwards liabilities need not be limited to the methods described above. Clear details of the methodology and assumptions used should be provided and evidence should, however, be supplied as to why the approach taken is appropriate.

### 3.5 Benchmarking

3.5.1 It may be that it is not possible for the Scheme Creditor to relate its inwards liabilities to the Notified Outstanding Liabilities and the IBNR Liabilities in all cases, because of a lack of data and/or the complexity of the relevant Reinsurance contracts. In such cases, a benchmarking approach is likely to be the most appropriate method of estimating the Notified Outstanding Liabilities and the IBNR Liabilities.

- 3.5.2 Benchmarks should be applied to positions as at the Ascertainment Date in respect of paid, outstanding and incurred recoveries between the Scheme Creditor and the Scheme Company. Benchmarks could be based on an analysis of the Scheme Creditor's exposures and could include:
- (a) Ratios of IBNR Liabilities to Notified Outstanding Liabilities;
  - (b) Ratios of ultimate claims to incurred claims;
  - (c) Ratios of ultimate claims to paid claims; and
  - (d) Paid and incurred survival ratios.
- 3.5.3 In using benchmarks, allowance should be made for the effect of large single claims movements and any other features that could distort these benchmark approaches. Allowance should also be made for the effect of any policy conditions, for example limited reinstatement provisions, which could distort these benchmark approaches.
- 3.5.4 Consideration should be given to the subdivisions of the Scheme Creditor's account which are used in the benchmarking process. Benchmarks should only be applied at a level where it has been possible to establish benchmarks from external data that is credible in size and that is broadly consistent with the subdivision of data used by the Scheme Creditor.
- 3.5.5 The types of subdivision 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);
  - (c) Age of business;
  - (d) Class of business;
  - (e) Underlying insured; and
  - (f) Cedant or type of cedant.
- 3.5.6 Where possible, the results from this approach should be additionally supported using development data for ceded paid and incurred claims.

#### 4. REINSURANCE NON-APH CLAIMS

- 4.1 This section describes the Estimation Guidelines that the Scheme Company will expect Scheme Creditors to follow where those Scheme Creditors have Non-APH claims arising under an Insurance Contract with the Scheme Company that is Treaty Reinsurance or is Treaty Retrocession or is Facultative Retrocession (but not Facultative Reinsurance of Direct Insurance).

## 4.2 Overview

- 4.2.1 As noted in section 1 of this SCHEDULE 1, the Estimation Guidelines are designed to be of assistance to 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.
- 4.2.2 Section 4.3 below describes one such technique that Scheme Creditors may use to value Reinsurance claims arising from non-APH liabilities. 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 Scheme Creditor. If the Scheme 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 Scheme Creditor.

## 4.3 Benchmarking

- 4.3.1 Benchmarks should be applied to positions as at the Ascertainment Date in respect of paid, outstanding and incurred recoveries between the Scheme Creditor and the Scheme 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 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.
- 4.3.2 Consideration should be given to the subdivisions of the Scheme Creditor's account which are used in the benchmarking process. A balance needs to be struck between sub-dividing 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.
- 4.3.3 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.
- 4.3.4 Where possible, the results from this approach should be supported using development data or ceded paid and incurred claims.

## 5. UNANTICIPATED LATENT CLAIMS

- 5.1 A 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 Scheme Company to that 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 Scheme Creditor may submit a claim for this exposure.

- 5.2 Such exposure is expected to vary according to several factors, including:
  - 5.2.1 class of business and year of inception and termination;
  - 5.2.2 type of policy and other coverage aspects;
  - 5.2.3 nature of the underlying insured's business, including the industry in which it operates and, consequently, the likely nature of any potential claim; and
  - 5.2.4 territory including the applicable law.
- 5.3 The Scheme Company's exposure to such types of latent claim would be expected to diminish over time until it eventually reduces to an immaterial level.
- 5.4 The 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 Scheme Company's policies with that Scheme Creditor.
- 5.5 The 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 Scheme Company will accept any reasonable approach, provided that it is appropriately supported and takes into account the factors listed above.

## **SCHEDULE 2 SUPPORTING EVIDENCE**

### **INDEX**

1. Introduction
2. Direct Insurance/Facultative Reinsurance of Direct Insurance APH claims
3. Reinsurance APH claims
4. Reinsurance Non-APH claims
5. Unanticipated latent claims

### **1. INTRODUCTION**

- 1.1 This SCHEDULE 2 sets out the level of supporting evidence that should be supplied by a Scheme Creditor in support of the different approaches used for estimating Notified Outstanding Liabilities and IBNR Liabilities for different Insurance Contract types and claim loss types as described in SCHEDULE 1.
- 1.2 Where the Scheme Creditor adopts projection techniques other than those set out in SCHEDULE 1 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 INSURANCE/FACULTATIVE REINSURANCE OF DIRECT INSURANCE APH CLAIMS**

- 2.1 This section describes the supporting evidence that should be submitted by Scheme Creditors with APH claims arising under an Insurance Contract with the Scheme Company that is Direct Insurance or Facultative Reinsurance of Direct Insurance.
- 2.2 This section relates to a Scheme Claim arising under a Direct Insurance contract. If a Scheme Creditor has Facultative Reinsurance of any Direct Insurance contract, it will need to supply information with respect to the underlying contracts and insureds that constitute the underlying claim source. This information will be in addition to the policy data described below. This additional information is needed in order to understand exactly how the underlying claim has resulted in a claim against the Scheme Company.

### **2.3 Asbestos claims**

- 2.3.1 Scheme Creditors with Direct Insurance/Facultative Reinsurance of Direct Insurance 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 Scheme Creditor should:
- (a) Provide a copy of the agreement (the Scheme Company and their 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 a products liability then the Scheme Creditor should provide details of the asbestos product(s) involved, the years that the product(s) were manufactured and distributed by the Scheme Creditor, 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 Scheme Creditor:
- (a) Claimant name;
  - (b) Date when the claim was filed against the Scheme Creditor;
  - (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 Scheme 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 Scheme Creditor remaining open as at the Ascertainment Date; and
  - (b) Indemnity and expense costs for claims closed by the Scheme Creditor by year, by state and by disease type for as many years as possible.

***Policy data***

- 2.3.6 The Scheme Creditor should provide policy data as follows:
- (a) A list of the policies written by the Scheme 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 Scheme Creditor is making such an assertion;
  - (d) Evidence of entitlement under the policies where the Scheme Creditor is not the 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 Scheme Creditor should indicate the basis of estimation that it has used and should provide:
- (a) A description of the 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 relevant court or other rulings under applicable law to substantiate the basis of estimation;
- (c) Details of the methodology and assumptions used to allocate the ultimate claims cost to the Scheme Creditor's policies with the Scheme Company; and
- (d) The value of Notified Outstanding Liabilities and IBNR Liabilities being claimed by the Scheme Creditor from the Scheme Company.

## 2.4 Environmental pollution claims

2.4.1 Scheme Creditors with Direct Insurance/Facultative Reinsurance of Direct Insurance pollution claims following the approach set out in section 2.5 of SCHEDULE 1 should provide supporting evidence with the Claim Form that should include:

### *Agreements or settlements with any insurer*

2.4.2 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 Scheme Company will sign a confidentiality agreement if necessary.

### *Numbers of sites exposed*

2.4.3 The Scheme Creditor should provide the Environmental Protection Agency (EPA) site ID for each site where the Scheme Creditor is submitting a claim against the Scheme Company 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 Scheme Creditor'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 Scheme Creditor;
- (i) legal costs spent to date by the Scheme Creditor;
- (j) latest and pertinent previous records of decision; and
- (k) legal assumptions made regarding the trigger and allocation to policies including, if the 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 of this SCHEDULE 2 the Scheme Creditor should provide evidence of entitlement under the policies where the Scheme Creditor is not the named insured.

***Basis of estimation***

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

- (a) a description of the Scheme Creditor's basis of estimation of the ultimate pollution claims cost;
- (b) evidence of relevant court or other rulings under applicable law to substantiate the basis of estimation;
- (c) details of the methodology and assumptions used to allocate the ultimate claims cost to the Scheme Creditor's policies with the Scheme Company including, if the 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 Liabilities and IBNR Liabilities being claimed by the Scheme Creditor from the Scheme Company.

**2.5 Other health hazards claims**

2.5.1 Scheme Creditors with Direct Insurance/Facultative Reinsurance of Direct Insurance health hazard claims following the approach set out in section 2.6 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 Scheme Creditor should:

- (a) provide a copy of the agreement (the Scheme 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 Scheme Creditor should provide details of:

- (a) any products involved, including the years the products were manufactured and distributed by the Scheme Creditor;
- (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 Scheme Creditor 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 Scheme Creditor by year, by state and by disease type for as many years as possible;
- (e) indemnity and expense costs for claims closed by the 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 Scheme Creditor remaining open as at the Ascertainment 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 Scheme Creditor should provide policy data as outlined in section 2.3 of this SCHEDULE 2.

### ***Basis of estimation***

2.5.5 The 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 relevant court or other rulings under applicable law to substantiate the basis of estimation;
- (d) details of the methodology and assumptions used to allocate the ultimate claims cost to the Scheme Creditor's policies with the Scheme Company; and
- (e) the value of Notified Outstanding Liabilities and IBNR Liabilities being claimed by the Scheme Creditor from the Scheme Company.

## **2.6 Alternative approaches where historical information may not be available**

2.6.1 Scheme Creditors with Direct Insurance/Facultative Reinsurance of Direct Insurance APH claims following the approach set out in section 2.7 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. REINSURANCE APH CLAIMS**

3.1 This section describes the supporting evidence that should be submitted by Scheme Creditors with APH claims arising under an Insurance Contract with the Scheme Company that is Reinsurance (but not Facultative Reinsurance of Direct Insurance) or is Retrocession.

### **3.2 Estimation of underlying liabilities**

3.2.1 Scheme Creditors with Reinsurance claims that have followed the underlying insured approach set out in section 3.4 of SCHEDULE 1 should provide supporting evidence with the Claim Form that should include the following, split by claim type in respect of the claims by underlying insureds against the Scheme Creditor:

- (a) a list of underlying insureds (and cedants in the case of retrocession) in respect of which the Scheme Creditor has received claims;



- (b) details of the emerging claims experience, both numbers and amounts, appropriate to the analysis performed;
- (c) the estimated ultimate inwards claims cost to the Scheme Creditor in respect of each underlying insured. If possible, this information should be provided split by underwriting year and, where appropriate, by environmental site;
- (d) full descriptions of the techniques adopted and the assumptions made, including supporting data to justify each assumption made, in determining these estimated ultimate claims costs; and
- (e) details of any other components of the inwards liabilities to the Scheme Creditor (e.g. estimated claims from new underlying insureds) that will ultimately form part of the Notified Outstanding Liabilities and IBNR Liabilities. Each such component should be supported by a full description of the techniques adopted and the assumptions made, including supporting data where possible to justify each assumption made.

3.2.2 Scheme Creditors that have followed the individual cedant analysis approach described in section 3.4 of SCHEDULE 1 should also provide the details set out above in respect of all cedants that have submitted claims against the Scheme Creditor, also split by claim type.

3.2.3 If the Scheme Creditor adopts projection techniques other than those set out in section 3.4 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.

3.2.4 The supporting evidence to be provided with the Claim Form should also include (in respect of the claims by the Scheme Creditor against the Scheme Company):

- (a) listing of the relevant Reinsurance contracts of the Scheme Creditor, including start and end dates of cover, shares, limits and deductibles;
- (b) details of how the estimates of the ultimate claims costs for the underlying insureds are converted into claims on the Reinsurance contracts;
- (c) details of any relevant court or other rulings under applicable law being relied on;
- (d) the value of Notified Outstanding Liabilities and IBNR Liabilities being claimed by the Scheme Creditor from the Scheme Company; and
- (e) where claims have been aggregated for the purposes of making reinsurance recoveries, the basis of, and justification for, the method

of aggregation should be explained. (Please note that the Scheme Company does not expect environmental pollution claims from individual sites to be aggregated for the purpose of making reinsurance recoveries.)

### **3.3 Benchmarking**

3.3.1 Scheme Creditors with Reinsurance APH claims following the approach set out in section 3.5 of SCHEDULE 1 should provide supporting evidence with the Claim Form that should include:

- (a) type of claim;
- (b) names and geographical locations of underlying insureds and/or cedants;
- (c) details of the benchmarks and how they have been applied;
- (d) evidence to justify why the benchmarks used apply to the Scheme Creditor;
- (e) listing of the relevant Reinsurance contracts of the Scheme Creditor, including start and end dates of cover, shares, limits and deductibles;
- (f) the value of Notified Outstanding Liabilities and IBNR Liabilities being claimed by the Scheme Creditor from the Scheme Company; and
- (g) where claims have been aggregated for the purposes of making reinsurance recoveries, the basis of and justification for the method of aggregation should be explained.

## **4. REINSURANCE NON-APH CLAIMS**

### **4.1 Overview**

4.1.1 This section describes the supporting evidence that should be submitted by Scheme Creditors with Non-APH claims arising under an Insurance Contract with the Scheme Company that is Treaty Reinsurance, Treaty Retrocession or Facultative Retrocession (but not Facultative Reinsurance of Direct Insurance).

4.1.2 If the Scheme Creditor adopts projection techniques other than those set out in section 3.4 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.

## 4.2 **Benchmarking**

4.2.1 Scheme Creditors following the approach set out in section 4.3 of SCHEDULE 1 should provide supporting evidence with the Claim Form that should include:

- (a) outwards policy details as required by the Claim Form, including details of policies that inure to the benefit of the Scheme 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 Scheme Creditor; and
- (e) the value of Notified Outstanding Liabilities and IBNR Liabilities being claimed by the Scheme Creditor from the Scheme Company.

## 5. **UNANTICIPATED LATENT CLAIMS**

5.1 Scheme Creditors submitting a claim in respect of unanticipated latent claims, following the approach set out in section 5 of SCHEDULE 1, should provide supporting evidence with the Claim Form that should include:

- 5.1.1 policy details as required by the Claim Form, including details of policies that inure to the benefit of the Scheme Company's policies;
- 5.1.2 information to demonstrate a non-zero likelihood that unanticipated claim types may emerge in the future that will impact the Scheme Company's policies, drawing on company and industry data;
- 5.1.3 the value of IBNR Liabilities being claimed by the Scheme Creditor from the Scheme Company; and
- 5.1.4 the methodology and assumptions used to estimate the total value of IBNR Liabilities being claimed by the Scheme Creditor from the Scheme Company.

**SCHEDULE 3**  
**SUMMARY OF UNITED STATES PERMANENT INJUNCTION ORDER**

The Company intends to seek permanent injunctive relief from the United States Bankruptcy Court pursuant to chapter 15 of the United States Bankruptcy Code through entry of an order that provides, upon the order of the High Court of Justice of England and Wales (the "**High Court**") sanctioning the Direct Scheme becoming effective through delivery for registration to the Registrar of Companies in England and Wales (the "**Effective Date**"):

- 1) the Direct Scheme be given full force and effect and be binding on and enforceable against all Direct Scheme Creditors in the United States;
- 2) all claims of Direct Scheme Creditors shall be administered and adjudicated exclusively pursuant to the terms of the Direct Scheme;
- 3) except as otherwise provided in the Direct Scheme, all Direct Scheme Creditors be permanently enjoined and restrained from taking any actions in contravention of, or that are inconsistent with, the terms of the Direct Scheme or its administration, implementation or enforcement, including:
  - a) transferring, relinquishing or disposing of any property of the Company located within the territorial jurisdiction of the United States or the proceeds of such property (the "**US Property**");
  - b) taking or continuing any act to obtain possession of, or exercise control over, the Company or any of its US Property;
  - c) commencing or continuing any action or proceeding (including, without limitation, arbitration, mediation or any judicial, quasi-judicial, administrative or regulatory action, proceedings or process whatsoever), including by way of counterclaim (each individually, an "Action"), against the Company or any of its US Property and seeking discovery of any nature against the Company;
  - d) enforcing any judicial, quasi-judicial, administrative or regulatory judgment, assessment or order or arbitration award against the Company or any of its US Property obtained in connection with any Scheme Claim;
  - e) commencing or continuing any act or proceeding to create, perfect or enforce any lien, attachment, set-off, or other claim against the Company or any of its US Property, including, without limitation, rights under reinsurance or retrocession contracts;
  - f) except as prohibited by section 1501(d) of the Bankruptcy Code, invoking, enforcing or relying on the benefits of any statute, rule or requirement of federal, state, or local law or regulation requiring the Company to establish or post security in the form of a bond, letter of credit or otherwise as a condition of prosecuting or defending any Action arising in connection with a Scheme Claim (including, without limitation, arbitration, mediation or any judicial, quasi-judicial, administrative or regulatory action, proceedings or process whatsoever) and such statute, rule or requirement shall not apply to the Company as party to

any Action; provided, however, that nothing in the order shall in any respect affect any Security in existence at the Effective Date or the replacements for such Security;

- g) except as prohibited by section 1501(d) of the Bankruptcy Code, drawing down any letter of credit established by, on behalf of or at the request of the Company unless expressly authorized by the terms of any contract or agreement pursuant to which the letter of credit has been established; and
  - h) except as prohibited by section 1501(d) of the Bankruptcy Code, withdrawing from, setting off against, or otherwise applying US Property that is the subject of any trust or escrow agreement or similar arrangement in which the Company has an interest in excess of amounts expressly authorized by the terms of the contract and any related trust, or other agreement pursuant to which such trust, escrow or similar arrangement has been established.
- 4) except as otherwise provided in the Direct Scheme, all Direct Scheme Creditors that are parties to any trust, escrow agreement or similar document in which the Company has an interest, are required to:
- a) provide notice to the Company of any withdrawal from, set-off against, or other application of property that is the subject of any such trust or escrow agreement or similar arrangement in which the Company has an interest, together with information sufficient to permit the Company to assess the propriety of such withdrawal, set-off or other application and a copy of any contract, related trust or other agreement pursuant to which any such withdrawal, set-off or other application was made, and provide such notice and other information contemporaneously therewith; and
  - b) turn over and account to the Company for all funds resulting from such withdrawal, set-off or other application in excess of amounts expressly authorized by the terms of the contract, any related trust or other agreement pursuant to which such trust, escrow or similar arrangement has been established;
- 5) except as otherwise provided in the Direct Scheme, all Direct Scheme Creditors are required to:
- a) turn over and account to the Company for any US Property of the Company that relates to a Scheme Claim located within the territorial jurisdiction of the United States, or proceeds thereof, of which they have possession, custody or control; and
  - b) to the extent they have a claim of any nature or source against the Company or any US Property or are a party to any proceeding in which the Company is or was named as a party, or as a result of which a liability of the Company may be established, notify the Company, in accordance with the terms of the Direct Scheme, and put the Company on the master service list of any such proceeding and to take such other steps as may be necessary to ensure that they receive (i) copies of any and all documents sent by the parties in connection with such proceeding or issued by the court, administrator, arbitrator, regulator or similar official having jurisdiction over such proceeding, and (ii) any and all

correspondence or other documents circulated to parties named in the master service list;

- 6) nothing herein shall prevent the continuance or commencement of proceedings against any insurer other than the Company, provided however, that if any third party shall reach a settlement with, or obtain a judgment against, any person or entity other than the Company, such settlement or judgment shall not be binding on or enforceable against the Company; and
- 7) no action taken by the Company, its successors, agents or representatives, or any of them, or its counsel, in preparing, disseminating, applying for, implementing or otherwise acting in furtherance of the Direct Scheme, the chapter 15 case, any order for relief in the chapter 15 case, or any adversary proceedings in connection therewith, will be deemed to constitute a waiver of the immunity afforded to the Company, the Direct Scheme Actuarial Adviser, the Independent Vote Assessor and the Direct Scheme Adjudicator or their successors, agents, attorneys or representatives pursuant to 11 U.S.C. §§ 306 and 1510.

**SECTION III**  
**- NOTICE OF THE DIRECT SCHEME MEETING**

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

**CR-2020-004278**

**STRONGHOLD INSURANCE COMPANY LIMITED (IN ADMINISTRATION)**  
**AND**  
**IN THE MATTER OF THE COMPANIES ACT 2006**

NOTICE IS HEREBY GIVEN that, by an order dated 16 December 2020 made in the High Court of Justice, Business and Property Courts of England and Wales in the matter of Stronghold Insurance Company Limited (In Administration) (the "**Company**") and the Companies Act 2006, a meeting of the Direct Scheme Creditors (as defined in the Direct Scheme hereinafter mentioned) was ordered to be summoned for the purpose of considering and, if thought fit, approving a scheme of arrangement proposed to be made between the Company and its Direct Scheme Creditors pursuant to Part 26 of the Companies Act 2006 (the "**Direct Scheme**").

The Direct Scheme is proposed between the Company and its Direct Scheme Creditors. Direct Scheme Creditors comprise creditors of the Company in respect of a Direct Scheme Claim, excluding an Excluded Liability. For these purposes, a Direct Scheme Claim is a claim in respect of a contract or a policy of direct insurance, entered into by or on behalf of the Company or in relation to which the Company has assumed liability. Excluded Liabilities are, in summary, Administration Costs, Preferential Claims, Pre-Scheme Costs and Scheme Costs, as each such term is defined in 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 incorporated in the Direct Scheme Document (of which this notice forms a part). Voting and Proxy Forms for use at the Direct Scheme meeting are also enclosed in the Direct Scheme Document. The Direct Scheme Document, including the Direct, Scheme, Direct Explanatory Statement and Voting and Proxy Form are available at:

[www.strongholdinsco.co.uk](http://www.strongholdinsco.co.uk) and  
[www.pwc.co.uk/services/business-restructuring/administrations/stronghold.html](http://www.pwc.co.uk/services/business-restructuring/administrations/stronghold.html)

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 virtually by video conference and telephone at 10.00 a.m. on 2 February 2021 or as soon as reasonably practicable thereafter.**

**All Direct Scheme Creditors may attend the virtual Direct Scheme Meeting and may join 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 virtual Direct Scheme Meeting must complete and return a Voting and Proxy Form at Section IV of the Direct Scheme Document (the "Voting and Proxy Form"), so as to be received by the Company, by no later than 5.00 p.m. (London time) on 1 February 2021 (the "Voting Form Submission Deadline"). If a Direct Scheme Creditor intends to attend the virtual Direct Scheme Meeting, it should confirm the names and the contact details of the attendees in the Voting and Proxy Form and those persons will be provided with the access details for the virtual Direct Scheme Meeting. An attendee who is not notified to the Company in advance**

**of the virtual Direct Scheme Meeting may not be permitted entry to such meeting. The video conference and telephone line will be open from 9.45 am (London time).**

By the order, the High Court of Justice has appointed Dan Schwarzmann or failing him, Nigel Rackham, to act as chairman of the Direct Scheme Meeting and has directed the chairman to report the result of the Direct Scheme Meeting to the Court. The chairman of the Direct Scheme Meeting will address Direct Scheme Creditors generally on the Direct Scheme and on the issues relevant to voting at the commencement of the Direct Scheme Meeting.

The Direct Scheme will then be subject to the subsequent sanction of the Court.

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

Contact: John Baker

Mobile: +447483326661

Email: uk\_stronghold@pwc.com

Dated 16 December 2020

Clifford Chance LLP  
10 Upper Bank Street  
London E14 5JJ

Solicitors to the Company



**SECTION IV  
- VOTING AND PROXY FORM**

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

**IN THE MATTER OF**

**STRONGHOLD INSURANCE COMPANY LIMITED (IN ADMINISTRATION)  
("STRONGHOLD" AND 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**").

You should read this Voting and Proxy Form including the instructions carefully. Failure to follow the instructions may result in a Direct Scheme Claim being rejected in whole or in part for voting purposes.

**All Direct Scheme Creditors who wish to attend and/or vote (whether in person or by proxy) at the Direct Scheme Meeting to be held virtually at 10.00 a.m. (London time) on 2 February 2021 must complete and return this Voting and Proxy Form by no later than 5.00 p.m. (London time) on 1 February 2021 to:**

**Contact: John Baker**  
**Mobile: +447483326661**  
**Email: [uk\\_stronghold@pwc.com](mailto:uk_stronghold@pwc.com)**

Further blank copies of this Voting and Proxy Form can be obtained from the Company at the address above or by visiting the Website at [www.strongholdinsco.co.uk](http://www.strongholdinsco.co.uk) and <https://www.pwc.co.uk/services/business-restructuring/administrations/stronghold.html>. If you require any further assistance on voting, then please contact the Company on +447483326661, email [uk\\_stronghold@pwc.com](mailto:uk_stronghold@pwc.com).

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 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.

## Contents

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**SECTION A: DIRECT SCHEME MEETING  
VOTING AND PROXY REGISTRATION**

GUIDANCE NOTES FOR COMPLETION OF THIS SECTION OF THE VOTING AND PROXY FORM ARE ON  
PAGE 132

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 Stronghold Insurance 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 (other than the Chairman) who will be attending and voting at the virtual 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	ABSTAIN	AT DISCRETION (where the proxy is not the chairman) (note 4)
..... Signature	..... Signature	..... Signature	..... Signature

(note 4)

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

Name: .....

Email: .....

Name: .....

Email: .....

Name: .....

Email: .....

Enter the names of each persons entitled to attend the virtual 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).

PLEASE ACCEPT THIS VOTING AND PROXY FORM AS MY CLAIM FORM IN THE DIRECT SCHEME

(note 6):

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 form of proxy:**

Name: (note 7) .....

Position/Capacity: .....

Telephone Number: .....

Email: .....

For completion by Stronghold Insurance Company Limited (In Administration):

Admitted to vote

Direct Scheme Claim in the sum of:

US\$.....

(For voting purposes only)

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

**Note 1.** Please 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 Voting and Proxy 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 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.

**Note 2.** Enter the estimated amount of the Direct Scheme Creditor's net claim against the Company for voting purposes.

**Note 3.** Tick one box as appropriate. Tick box (a) if the Direct Scheme Creditor is an individual and will be attending, and voting at, the virtual Direct Scheme Meeting in person. Tick box (b)(i) if the Direct Scheme Creditor wishes to appoint the chairman of the Direct Scheme Meeting to vote as its proxy at the Direct Scheme Meeting. Where the chairman has been appointed as a Direct Scheme Creditor's proxy, the Direct Scheme Creditor may still attend the virtual Direct Scheme Meeting. Tick box (b)(ii) if the Direct Scheme Creditor wishes to appoint a person other than the chairman to attend the Direct Scheme Meeting and vote as its proxy at the Direct Scheme Meeting. Such alternative proxy's name must be inserted in the space provided and 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 virtual Direct Scheme Meeting.

**Note 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 "ABSTAIN" 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. If the Direct Scheme Creditor does not sign in any of the boxes, this voting and proxy form will not operate as a valid appointment of a proxy and consequently no vote will be cast.

**Note 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.

**Note 6.** If the Direct Scheme Creditor wishes the Company to use the information contained in this Voting and Proxy Form as its Claim Form, please tick this box. If a Direct Scheme Creditor wishes to pursue this option, it should ensure that it has read and complied with Estimation Guidelines. The Estimation Guidelines describe in detail the approach that 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.

**Note 7.** If the person signing this Voting and Proxy Form is the duly authorised representative of 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 this Voting and Proxy Form (for example, director, partner, agent and/or attorney) and their contact details. Please note that, if the person signing this form is a duly authorised representative of a number of companies, partnerships or other unincorporated bodies or persons, a separate Voting and 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)**

<b>Description</b>	<b>Agreed Claims (USD)</b>	<b>Notified Outstanding Claims (USD)</b>	<b>IBNR Claims (USD)</b>	<b>Other Claims (USD)</b>
Agreed Claims		N/A	N/A	N/A
Undiscounted Notified Outstanding Claims	N/A		N/A	N/A
Time value of discount (Notified Outstanding Claims)	N/A		N/A	N/A
Undiscounted IBNR Claims	N/A	N/A		N/A
Time value of discount (IBNR Claims)	N/A	N/A		N/A
Claims arising other than under an Insurance Contract(Specify): ..... ..... ..... .....	N/A	N/A	N/A	
<b>Gross claim for voting purposes</b>				
Less: set-off amounts				
Less: Security				
<b>Claim for voting purposes</b>				

**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 the "Administration Date" (being 27 June 2019).**

**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 rate of exchange for that particular currency at the Bank of England Spot Rate on the Administration Date of 27 June 2019. Account will be taken of any known Security and set-off amounts.**

**The chairman of the Direct Scheme Meeting may refer certain votes an Independent Vote Assessor as described in the Direct Explanatory Statement. The Independent Vote Assessor will prepare a report for submission to the Court on the reasonableness of the voting values used.**

**The chairman of the Direct Scheme Meeting 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 of the Direct Scheme Meeting 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 sanction hearing is anticipated to take place on 10 February 2021, but any change in such date shall be notified on the Website.**

**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. You should consult your legal adviser as to the consequences for you of providing such particulars in relation to any litigation in which you are or may be involved.**



**SECTION C**

**DIRECT SCHEME CLAIMS - SUPPORTING SCHEDULE**

**(i) CURRENCY** \_\_\_\_\_

**(ii) CONVERSION RATE USED** \_\_\_\_\_

(1) Insurance Contract reference number (where applicable)	(2) Partici- pation %	(3) Inception date	(4) Broker	(5) Broker reference	(6) Agreed Claims	(7) Undiscounted Notified Outstanding Claims	(8) Time value discount value on Notified Outstanding Claims	(9) Undiscounted IBNR Claims	(10) Time value discount on IBNR Claims	(11) Security	(12) Set-off
<b>(13) Claims (currency) total</b>											
<b>(14) Claims total (in USD)</b>											
<b>(15) Continuation sheets total (USD)</b>											
<b>(16) Total for this page plus any continuation sheets (USD)</b>											

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

**(i) CURRENCY** \_\_\_\_\_

**(ii) CONVERSION RATE USED** \_\_\_\_\_

(1) Insurance Contract reference number (where applicable)	(2) Partici- pation %	(3) Inception date	(4) Broker	(5) Broker reference	(6) Agreed Claims	(7) Undiscounted Notified Outstanding Claims	(8) Time value discount value on Notified Outstanding Claims	(9) Undiscounted IBNR Claims	(10) Time value discount on IBNR Claims	(11) Security	(12) Set-off
<b>(13) Claims (currency) total</b>											
<b>(14) Claims total (in USD)</b>											

## SECTION C

### DIRECT SCHEME CLAIMS - SUPPORTING SCHEDULE AND CONTINUATION SHEET GUIDANCE NOTES

**If you have claims in more than one currency a separate inwards claims 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 inwards claims 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 inwards claims supporting schedule and continuation sheets may be obtained from the Website at [www.strongholdinsco.co.uk](http://www.strongholdinsco.co.uk) and <https://www.pwc.co.uk/services/business-restructuring/administrations/stronghold.html> or by contacting the Company by email or telephone as follows:**

**Contact: John Baker**  
**Mobile: +447483326661**  
**Email: [uk\\_stronghold@pwc.com](mailto:uk_stronghold@pwc.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 Appendix 1 to 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 reinsurance broker, intermediary or other agent should be able to assist you in confirming or identifying Insurance Contracts and reference numbers. Please then insert the Insurance Contract reference numbers onto the inwards claims supporting schedule using 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 (6) and (8).
- (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) **Broker**  
Specify the name of the broker who placed the Insurance Contractor, if the placing broker is not known, any other broker, agent or intermediary (if known) who acted on your behalf in relation to the Insurance Contract.

- (5) **Broker reference**  
Specify the broker's (or agent's or intermediary's) contract reference for each Insurance Contract.
- (6) **Agreed Claims**  
Specify the amount of any claim (or where there is more than one claim the aggregate amount of any claims) which are Agreed Claims arising under each Insurance Contract
- (7) **Notified Outstanding Claims (Undiscounted)**  
Specify the estimated amount of any claim or (where there is more than one claim) the aggregate estimated amount of any claims which are Notified Outstanding Claims arising under each Insurance Contract.
- (8) **Time value discount on Notified Outstanding Claims**  
Specify the discount amount applied for the time value of money of Notified Outstanding Claims using the "**Risk Free Rate**" (being the yield, as at the Administration Date, on US Treasury bonds (or in the case where the underlying Direct Scheme Claim owed to a Direct Scheme Creditor is predominantly payable in a currency other than US Dollars, equivalent government securities of the country in whose currency the Direct Scheme Claims are payable) of a term that is appropriate taking account of the nature of the Direct Scheme Claims), as at the Administration Date of 27 June 2019.
- (9) **IBNR Claims (Undiscounted)**  
Specify the estimated amount of any claim or (where there is more than one claim) the aggregate estimated amount of any claims which you have classed as IBNR Liabilities arising under each Insurance Contract. An "**IBNR Claim**" is, for voting purposes, an incurred but not reported claim arising under or in respect of an Insurance Contract for 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 plus the amount payable in respect of losses which have been notified to the Company which are not yet certain in amount and to the extent that the current notified amount may prove to be inadequate.
- (10) **Time value discount value on IBNR Claims**  
Specify the discount amount applied for the time value of money of IBNR Claims using the Risk Free Rate as at the Administration Date of 27 June 2019.
- (11) **Security total**  
Enter the amount of any Security held in relation to the Insurance Contract.
- (12) **Set-off amounts total**  
Enter the amounts to be deducted by way of set-off.
- (13) **Claims (currency) total**  
Enter the totals, where applicable, under each column (6), (7), (8), (9), (10), (11) and (12), in the original currency.
- (14) **Claims total (USD)**  
Apply the Exchange Rate from box (ii) above to the totals in box (13), to convert the claims total into a USD total.
- (15) **Continuation sheet total (USD)**  
If any continuation sheets have been used, insert here the total claim values in USD from all continuation sheets.

(16) **Total for this page plus any continuation sheets (USD)**

Aggregate the claims total (USD) and the continuation sheet total (USD) to arrive at a total value, where applicable, under columns (6), (7), (8) and (9). Transfer these amounts to the corresponding lines on the Voting and Proxy Form on pages 129 and 133.

**SECTION D**  
**EXCHANGE RATE CONVERSION TO US DOLLARS**

Code	Currency	Rate per 1 US Dollar at 27 June 2019
AUD	Australia Dollars	1.4280
BRL	Brazil Reais	3.8650
CAD	Canada Dollars	1.3117
CNY	China Yuan Renminbi	6.8763
DKK	Denmark Kroner	6.5650
EUR	Euro	0.8796
GBP	United Kingdom Pounds	0.7889
HKD	Hong Kong Dollars	7.8132
JPY	Japan Yen	107.7700
KRW	South Korea Won	1156.2000
NOK	Norway Kroner	8.5113
NZD	New Zealand Dollars	1.4925
PLN	Poland Zloty	3.7401
RUB	Russia Rubles	63.0913
SAR	Saudi Arabia Riyals	3.7504
SEK	Sweden Kronor	9.2686
SGD	Singapore Dollars	1.3527
TRY	Turkey Lira	5.7696
ZAR	South Africa Rand	14.1438

**SECTION V  
NEW CLAIM FORM**

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

**IN THE MATTER OF**

**STRONGHOLD INSURANCE COMPANY LIMITED (IN ADMINISTRATION)  
("STRONGHOLD" AND THE "COMPANY")**

**AND ITS DIRECT SCHEME CREDITORS**

**AND IN THE MATTER OF THE COMPANIES ACT 2006**

**NEW CLAIM FORM**

The capitalised words and expressions contained within this new claim form (the "**New Claim Form**") and the instructions shall, unless the context requires otherwise, bear the same meaning given to them in the 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** ").

You should read this New Claim Form including the instructions carefully.

**All Direct Scheme Creditors who wish to submit a New Claim Form must do so by the Direct Final Claims Time to**

**Contact: John Baker**

**Mobile: +447483326661**

**Email: [uk\\_stronghold@pwc.com](mailto:uk_stronghold@pwc.com)**

Further blank copies of this New Claim Form can be obtained from the Company at the address above or by visiting the Website at [www.strongholdinsco.co.uk](http://www.strongholdinsco.co.uk) and <https://www.pwc.co.uk/services/business-restructuring/administrations/stronghold.html>. If you require any further assistance, then please contact the Company on +447483326661, email [uk\\_stronghold@pwc.com](mailto:uk_stronghold@pwc.com).

Direct Scheme Creditors should not construe any of the contents of this New Claim Form or any assistance provided by the Company, the Administrators, the 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 New Claim Form.

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**SECTION A: NEW CLAIM REGISTRATION**

GUIDANCE NOTES FOR COMPLETION OF THIS SECTION OF THE NEW CLAIM FORM ARE ON PAGE 144

.....

(Enter the name of the Direct Scheme Creditor including all former names) (note 1)

.....

(Enter the address of the Direct Scheme Creditor) (note 1)

.....

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

I REQUEST THAT YOU ACCEPT THIS NEW 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 New 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: .....

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

**Note 1.** Please 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 New Claim Form is the duly authorised agent and/or attorney of a number of Direct Scheme Creditors, it must complete a separate New 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 New 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.

**Note 2.** Enter the estimated amount of the Direct Scheme Creditor's net claim against the Company.

**Note 3.** Please ensure that the Direct Scheme Creditor has read and complied with Estimation Guidelines. The Estimation Guidelines describe in detail the approach that 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.

**Note 4.** If the person signing this New Claim Form is the duly authorised representative of 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 this New Claim Form (for example, director, partner, agent and/or attorney) and their contact details. Please note that, if the person signing this form is a duly authorised representative of a number of companies, partnerships or other unincorporated bodies or persons, a separate New Claim Form should be completed for each such corporation, partnership or other unincorporated body or person.

**SECTION B:  
DIRECT SCHEME CLAIMS VALUATION**

CURRENCY \_\_\_\_\_

<b>Description</b>	<b>Agreed Claims</b>	<b>Notified Outstanding Claims</b>	<b>IBNR Claims</b>	<b>Other Claims</b>
Agreed Claims		N/A	N/A	N/A
Undiscounted Notified Outstanding Claims	N/A		N/A	N/A
Time value of discount (Notified Outstanding Claims)	N/A		N/A	N/A
Undiscounted IBNR Claims	N/A	N/A		N/A
Time value of discount (IBNR Claims)	N/A	N/A		N/A
<b>Gross claim</b>				
Less: set-off amounts				
Less: Security				
<b>Claim</b>				

If any claims supporting schedules (see SECTION C) have been completed, these should be attached to and included in support of the New 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. You should consult your legal adviser as to the consequences for you of providing such particulars in relation to any litigation in which you are or may be involved.

**SECTION C  
DIRECT SCHEME CLAIMS - SUPPORTING SCHEDULE**

**CURRENCY \_\_\_\_\_**

(1) Insurance Contract reference number (where applicable)	(2) Partici- pation %	(3) Inception date	(4) Broker	(5) Broker reference	(6) Agreed Claims	(7) Undiscounted Notified Outstanding Claims	(8) Time value discount value on Notified Outstanding Claims	(9) Undiscounted IBNR Claims	(10) Time value discount on IBNR Claims	(11) Security	(12) Set-off
<b>(13) Claims (currency) total</b>											
<b>(14) Continuation sheets total (in the same currency)</b>											
<b>(15) Total for this page plus any continuation sheets (in the same currency)</b>											

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

**CURRENCY** \_\_\_\_\_

(1) Insurance Contract reference number (where applicable)	(2) Partici- pation %	(3) Inception date	(4) Broker	(5) Broker reference	(6) Agreed Claims	(7) Undiscounted Notified Outstanding Claims	(8) Time value discount value on Notified Outstanding Claims	(9) Undiscounted IBNR Claims	(10) Time value discount on IBNR Claims	(11) Security	(12) Set-off
<b>(13) Claims (currency) total</b>											

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

If you have claims in more than one currency a separate inwards claims supporting schedule should be used for each currency, specifying in the space 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 inwards claims supporting schedule and continuation sheets may be obtained from the Website at [www.strongholdinsco.co.uk](http://www.strongholdinsco.co.uk) and <https://www.pwc.co.uk/services/business-restructuring/administrations/stronghold.html> or by contacting the Company by email or telephone as follows:

**Contact: John Baker**  
**Mobile: +447483326661**  
**Email: [uk\\_stronghold@pwc.com](mailto:uk_stronghold@pwc.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 to the New 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 insurance broker, intermediary or other agent should be able to assist you in confirming or identifying Insurance Contract s and reference numbers. Please then insert the Insurance Contract reference numbers onto the inwards claims supporting schedule using 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 (6) and (8).
- (3) **Inception date**  
Specify the date when each Insurance Contract commenced. In the case of continuous Insurance Contract s or Insurance Contract s of more than 12 months, each annual renewal should be shown as a separate Insurance Contract.
- (4) **Broker**  
Specify the name of the broker who placed the Insurance Contract or, if the placing broker is not known, any other broker, agent or intermediary (if known) who acted on your behalf in relation to the Insurance Contract.
- (5) **Broker reference**  
Specify the broker's (or agent's or intermediary's) contract reference for each Insurance Contract.
- (6) **Agreed Claims**  
Specify the amount of any claim (or where there is more than one claim the aggregate amount of any claims) which are Agreed Claims arising under each Insurance Contract.
- (7) **Notified Outstanding Claims (Undiscounted)**  
Specify the estimated amount of any claim or (where there is more than one claim) the aggregate estimated amount of any claims which are Notified Outstanding Claims arising under each Insurance Contract.

- (8) **Time value discount on Notified Outstanding Claims**  
Specify the discount amount applied for the time value of money of Notified Outstanding Claims using the "**Risk Free Rate**" (being the yield, as at the Administration Date, on US Treasury bonds (or in the case where the underlying Direct Scheme Claim owed to a Direct Scheme Creditor is predominantly payable in a currency other than US Dollars, equivalent government securities of the country in whose currency the Direct Scheme Claims are payable) of a term that is appropriate taking account of the nature of the Direct Scheme Claims), as at the Administration Date of 27 June 2019.
- (9) **IBNR Claims (Undiscounted)**  
Specify the estimated amount of any claim or (where there is more than one claim) the aggregate estimated amount of any claims which you have classed as IBNR Liabilities arising under each Insurance Contract . An "**IBNR Claim**" is an incurred but not reported claim arising under or in respect of an Insurance Contract for 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 plus the amount payable in respect of losses which have been notified to the Company which are not yet certain in amount and to the extent that the current notified amount may prove to be inadequate.
- (10) **Time value discount value on IBNR Claims**  
Specify the discount amount applied for the time value of money of IBNR Claims using the Risk Free Rate as at the Administration Date of 27 June 2019.
- (11) **Security total**  
Enter the amount of any Security held in relation to the Insurance Contract.
- (12) **Set-off amounts total**  
Enter the amounts to be deducted by way of set-off.
- (13) **Claims (currency) total**  
Enter the totals, where applicable, under each column (6), (7), (8), (9), (10), (11) and (12), in the original currency.
- (14) **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.
- (15) **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 (6), (7), (8), (9), (10), (11) and (12). Transfer these amounts to the corresponding lines on the New Claim Form on pages 143 and 145.

**SECTION D  
EXCHANGE RATES**

Code	Currency	Rate per 1 US Dollar at 27 June 2019
AUD	Australia Dollars	1.4280
BRL	Brazil Reais	3.8650
CAD	Canada Dollars	1.3117
CNY	China Yuan Renminbi	6.8763
DKK	Denmark Kroner	6.5650
EUR	Euro	0.8796
GBP	United Kingdom Pounds	0.7889
HKD	Hong Kong Dollars	7.8132
JPY	Japan Yen	107.7700
KRW	South Korea Won	1156.2000
NOK	Norway Kroner	8.5113
NZD	New Zealand Dollars	1.4925
PLN	Poland Zloty	3.7401
RUB	Russia Rubles	63.0913
SAR	Saudi Arabia Riyals	3.7504
SEK	Sweden Kronor	9.2686
SGD	Singapore Dollars	1.3527
TRY	Turkey Lira	5.7696
ZAR	South Africa Rand	14.1438