



HERBERT
SMITH
FREEHILLS

MEMBERSHIP AGREEMENT

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THIS MEMBERSHIP AGREEMENT is made on

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BETWEEN:

- (1) **THE PERSONS** whose names and addresses are set out in Schedule 1 ("**Effective Date Members**"); and
- (2) **POOL REINSURANCE COMPANY LIMITED** a company incorporated in England and Wales (registered number 2798901) and whose registered office is at 7 Savoy Court, London, United Kingdom, WC2R 0EX ("**Pool Re**").

WHEREAS:

- (A) Pool Re has been established as a mutual reinsurance company in order to ensure that industry and commerce continue to be able to purchase insurance cover against the risk of loss as a result of attacks by terrorists;
- (B) HM Treasury has agreed to act as reinsurer of last resort for damage resulting from terrorist attacks and, has, for that purpose, entered into the Retrocession Agreements with Pool Re;
- (C) This Agreement is intended to regulate rights and liabilities of Members between themselves and vis-a-vis Pool Re in their capacity as members;
- (D) The Effective Date Members have each executed a TAA agreeing to continue membership of Pool Re upon the terms of this Agreement, and each of them has authorised Pool Re under the terms of the applicable TAA to execute this Agreement on its behalf.

IT IS AGREED as follows:

1. **INTERPRETATION**

1.1 In this Agreement and in the Schedules the following definitions are used:

"**Accession Agreement**" means an agreement in the form set out in Schedule 4 or in such other form as Pool Re may specify.

"**Additional Member**" means a person (not being an Effective Date Member) who has executed an Accession Agreement and has complied in all other respects with clause 3.1.

"**Amendment Effective Date**" means such date on which Pool Re notifies its members that a TAA has been executed by each member of Pool Re, or such later date as selected by Pool Re and specified in the notice.

"**ARIAS (UK)**" means the Insurance and Reinsurance Arbitration Society, the "not-for-profit" society formed in 1991 established under the aegis of AIDA (Association Internationale de Droit des Assurances) and is one of the two UK-based Chapters of AIDA (the other being the British Insurance Law Association).

"**Business Day**" means a day (not being a Saturday) on which banks are open for general banking business in the City of London.

"**Change of Control**" means, in respect of a Member, the acquisition by an entity of more than 50% of the voting capital of that Member or any Controller of that Member or the attainment by an entity of the legal power to direct or cause the direction of the general management and policies of that Member or any Controller of that Member, whether through the ownership of voting capital, by contract or otherwise, other than in either case where, prior to the acquisition or attainment, there is a Controller of that entity which is also a Controller of that Member.

"**Competition Authority**" means any national, supra-national or regional, state, municipal, government or governmental, quasi-governmental, statutory, regulatory or investigative body, administrative agency, court or tribunal, in any jurisdiction, responsible for the investigation, prosecution or determination of any matters relating to antitrust, competition, mergers, unfair competition, consumer protection, anti-competitive agreements, practices

or behaviour or any similar matter. [I realise this and the next definition are in a different font. I will get that fixed]

"Competition Rules" means any applicable legislation, law, regulation or administrative provision in any jurisdiction relating to antitrust, competition, mergers, unfair competition, consumer protection, anti-competitive agreements or practices or behaviour or any similar matter or for any other reason.

"Connected Person" means, in respect of a Member, any person controlled by or under common control with that Member ("**control**" for this purpose meaning the ability by a person, whether by the holding of shares, or by agreement, or by any other means, to ensure that another person's affairs are carried out in accordance with the wishes of the first-mentioned person), provided that the following shall not be regarded as Connected Persons in respect of a Member who is a Lloyd's Managing Agent:

- (a) any member of Lloyd's, other than a member which participates solely on Lloyd's syndicates in respect of which the Lloyd's Managing Agent and all of the members for the then current underwriting year of account are under common control (as defined above) with that Member; or
- (b) any Lloyd's Managing Agent, other than a Lloyd's Managing Agent that manages a Lloyd's syndicate on which all of the members for the then current underwriting year of account are under common control (as defined above) with that Member.

"Controller" means, in respect of one entity, a second entity having more than 50% of the voting capital of the first entity or any parent undertaking (as defined in the Companies Act 2006) of the first entity, or having the legal power to direct or cause the direction of the general management and policies of the first entity, whether through the ownership of voting capital, by contract or otherwise.

"Data Protection Legislation" means all applicable law relating to the processing or protection of personal data in connection with this Reinsurance Agreement, including (where applicable):

- (a) the General Data Protection Regulation (EU) 2016/679 of the European Parliament ("**GDPR**");
- (b) the GDPR as it forms part of the laws of the United Kingdom by virtue of section 3 of the European Union Withdrawal Act 2018 (and as amended by the Data Protection, Privacy and Electronic Communications (Amendments etc.) (EU Exit) Regulations 2019) ("**UK GDPR**");
- (c) the UK Data Protection Act 2018; and
- (d) the Privacy and Electronic Communications (EC Directive) Regulations 2003,
- (e) and in each case, any legislation and/or regulation implementing or made pursuant to each of them, or which amends, replaces, re-enacts or consolidates any of them.

"Director" means, in relation to any person, any member of its board of directors, board of management or supervisory body.

"Effective Date Member" means a person who was a member immediately prior to the Amendment Effective Date.

"FCA" means the Financial Conduct Authority of the United Kingdom or its successors from time to time.

"Financial Crime" includes but is not limited to money laundering, insider dealing, market abuse, corruption, terrorist financing and bribery.

"Form of Application" means a form of application to become a member of Pool Re, in the form set out in Schedule 3 or in such other form as Pool Re may specify.

"General Insurance Business" means any insurance business which is from time to time specified in Part 1 of Schedule 1 to the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001.

"HM Treasury" means The Lords Commissioners of His Majesty's Treasury.

"Lloyd's" means Lloyd's, being the Society incorporated by Lloyd's Act 1871 by the name of Lloyd's.

"Managing Agent" means any entity registered with Lloyd's and the PRA as a managing agent of one or more Lloyd's syndicates.

"Members" and **"Member"** means the Effective Date Members and any Additional Members from time to time, or any of them, as the context may require, in each case from the time such person becomes a Member until the time that person ceases to be a Member pursuant to the terms of this Agreement.

"MGA" means a managing general agent which has been appointed by a consortium of Members as agent in respect of their business.

"Pool Re Privacy Notice" means Pool Re's privacy notice available on its website at <https://www.poolre.co.uk/privacy-policy/>

"PRA" means the Prudential Regulation Authority of the United Kingdom or its successors or any other body with responsibility for the prudential supervision of insurers and Lloyd's Managing Agents from time to time.

"Regulatory Authority" means any public authority or government agency including the PRA and the FCA.

"Reinsurance Agreement" means a reinsurance agreement in a form prescribed by Pool Re at the time it was entered into.

"Reinsured" means a person who has entered into a Reinsurance Agreement as a reinsured.

"Retrocession Agreements" means each of the agreements so entitled dated 30th July 1993, 25th March 2015 and 5th May 2022 between Pool Re and HM Treasury (in the case of the agreement dated 30th July 1993, as successor to the Secretary of State for Trade and Industry).

"Scheme Documents" means this Agreement, each TAA, the Accession Agreements (if any), the Reinsurance Agreements, and the Retrocession Agreements and the documents entered into pursuant thereto, or scheduled or annexed thereto, or referred to therein as being in agreed terms.

"Supplemental Deed" means a deed by that name entered into by Pool Re and a Member.

"TAA" means, in respect of each Effective Date Member, the transition authorisation agreement entered into between Pool Re and that Effective Date Member.

1.2 In this Agreement, words and expressions defined in the Companies Acts shall bear the same meaning as in those Acts.

1.3 In this Agreement, save where the context otherwise requires:

1.3.1 a reference to a statute or statutory provision shall include a reference:

- (A) to that statute or provision as from time to time consolidated, modified, re-enacted or replaced by any statute or statutory provision;
- (B) to any repealed statute or statutory provision which it re-enacts (with or without modification); and
- (C) any subordinate legislation made under the relevant statute;

1.3.2 words in the singular shall include the plural, and vice versa and references to any gender shall include references to other genders;

- 1.3.3 a reference to a person shall include a reference to a firm, a body corporate, an unincorporated association or to a person's executors or administrators;
 - 1.3.4 a reference to a clause, sub-clause or Schedule (other than to a schedule to a statutory provision) shall be a reference to a clause, sub-clause or Schedule (as the case may be) of or to this Agreement;
 - 1.3.5 a reference to an agreement or other document shall be to that agreement or document as the same has been, or may be, amended, replaced or supplemented from time to time;
 - 1.3.6 if a period of time is specified and dates from a given day or the day of an act or event, it shall be calculated exclusive of that day and both time and date shall be determined by reference to that prevailing in Great Britain at the relevant time;
 - 1.3.7 references to any English legal term for any action, remedy, method or judicial proceedings, legal document, legal status, court, official or any legal concept or thing shall in respect of any jurisdiction other than England be deemed to include what most nearly approximates in that jurisdiction to the English legal term;
 - 1.3.8 references to writing shall include any modes of reproducing words in a legible and non-transitory form;
 - 1.3.9 the headings in this Agreement are for convenience only and shall not affect the interpretation of any provision of this Agreement.
- 1.4 The designations adopted in the recitals and introductory statements preceding this clause apply throughout this Agreement and the Schedules.

2. **MEMBERSHIP OF POOL RE**

- 2.1 Each Effective Date Member warrants to Pool Re that:
- 2.1.1 being a corporation, other than a Lloyd's Managing Agent, it is authorised by the state in which it is resident (or primarily resident in the case of a corporation resident in more than one state) to carry on General Insurance Business and insures risks situated in Great Britain; or
 - 2.1.2 being a Lloyd's Managing Agent, it is duly authorised and appointed to act as the Managing Agent of a Lloyd's syndicate in respect of which continued membership is sought pursuant hereto which writes General Insurance Business in Great Britain as part of its business; and
 - 2.1.3 there has been no dishonest, fraudulent or criminal act, omission or involvement in any Financial Crime on its part; and
 - 2.1.4 the systems, controls and procedures that it has in place to identify potential Financial Crime before it occurs are compliant with all applicable legal and regulatory requirements and guidance, and it has not received notice from any Regulatory Authority indicating that such systems, controls and procedures are not so compliant.
- 2.2 At the request of Pool Re from time to time, an Effective Date Member shall deliver afresh to Pool Re:
- 2.2.1 all such information and documents with respect to such Effective Date Member, its Connected Persons, its Directors, and their respective businesses (including without limitation the information specified by Pool Re as necessary to enable Pool Re to determine appropriate premium and retention arrangements under the Reinsurance Agreement for that Effective Date Member) as Pool Re may require;
 - 2.2.2 a Reinsurance Agreement (having an effective date of such date as the Effective Date Member and Pool Re shall have agreed), duly executed by such Effective Date Member; if the Effective Date Member is a Lloyd's Managing Agent, the execution by the Managing Agent shall be on behalf of the members of its relevant managed Lloyd's syndicate;

- 2.2.3 in the case of an Effective Date Member which has appointed an MGA, the appointment by that Effective Date Member of the MGA as its representative for purposes of its membership of Pool Re combined with its authority that Pool Re may deal and communicate with that duly appointed MGA for all purposes in connection with that Effective Date Member's membership of Pool Re. Pool Re shall not be concerned as to how the MGA accounts to that Effective Date Member in respect of the rights and obligations of membership;
- 2.2.4 (if required by Pool Re) the delivery to Pool Re of a legal opinion with respect to the obligations, and powers and duties of the Effective Date Member in such form, in such terms and from such legal counsel as Pool Re may approve; and
- 2.2.5 a Form of Application to become a member of Pool Re in a form acceptable to the Board of Directors of Pool Re (or any person duly authorised by them for the purpose).

3. **ADMISSION OF ADDITIONAL MEMBERS**

- 3.1 Any person wishing to become a member of Pool Re after the Amendment Effective Date (not being an Effective Date Member unless it has previously ceased to be a Member) shall be required to:
 - 3.1.1 complete, execute and send to Pool Re a Form of Application; in the case of an applicant which has appointed (or is in the process of appointing) an MGA, the Form of Application shall contain the appointment by the applicant of that MGA as its representative for purposes of its membership of Pool Re combined with authority that Pool Re may deal and communicate with that duly appointed MGA for all purposes in connection with that applicant's membership of Pool Re. Pool Re shall not be concerned as to how the MGA accounts to that applicant once an Additional Member in respect of the rights and obligations of membership;
 - 3.1.2 provide to Pool Re all such information and documents with respect to itself, its Connected Persons, its Directors and their respective businesses (including without limitation the information specified by Pool Re as necessary to enable Pool Re to determine appropriate premium and retention arrangements under the Reinsurance Agreement for that Additional Member) as Pool Re may require;
 - 3.1.3 execute an Accession Agreement pursuant to which such person shall become an Additional Member;
 - 3.1.4 execute on its own behalf (or if such person is a Lloyd's Managing Agent, execute on behalf of the relevant Lloyd's syndicate) a Reinsurance Agreement (having an Effective Date of such date as such person and Pool Re shall have agreed); if the applicant is a Lloyd's Managing Agent, the execution by the Managing Agent shall be on behalf of its relevant managed Lloyd's syndicate;
 - 3.1.5 (if required by Pool Re) deliver to Pool Re a legal opinion with respect to the obligations of the person concerned in such form, in such terms and from such legal counsel as Pool Re may approve;
 - 3.1.6 warrant that there has been no dishonest, fraudulent or criminal act or omission or involvement in any Financial Crime on its part; and
 - 3.1.7 warrant that the systems, controls and procedures that it has in place to identify potential Financial Crime before it occurs are compliant with all applicable legal and regulatory requirements and guidance, and that it has not received notice from any Regulatory Authority indicating that such systems, controls and procedures are not so compliant.
- 3.2 The execution by an Additional Member of an Accession Agreement shall constitute a warranty and undertaking by such Additional Member that:
 - 3.2.1 such person, being a corporation other than a Lloyd's Managing Agent, is authorised by the state in which it is resident (or primarily resident in the case of a

- corporation resident in more than one state) to carry on General Insurance Business and that it insures risks situated in Great Britain; and
- 3.2.2 such person, being a Lloyd's Managing Agent, is duly authorised and appointed as Managing Agent of the Lloyd's syndicate in respect of which membership is sought, and that that Lloyd's syndicate writes General Insurance Business in Great Britain as part of its business.
- 3.3 If the Board of Directors of Pool Re (or a person duly authorised by them for the purpose) approves an application to become a member of Pool Re, Pool Re shall:
- 3.3.1 itself execute the Reinsurance Agreement executed by such applicant (or counterparts thereof); and
- 3.3.2 on its own behalf, and on behalf of each of the other persons who are then Members, execute an Accession Agreement with the proposed Additional Member.
- 3.4 An Additional Member shall become a Member for the purposes of this Agreement and a member of Pool Re on the date on which Pool Re shall have executed a Reinsurance Agreement and an Accession Agreement with such Additional Member, and shall remain a Member (for the purposes aforesaid) and a member of Pool Re until such membership is terminated pursuant to clause 6 of this Agreement.
4. **LLOYD'S**
- 4.1 Persons admitted as Members who are Lloyd's Managing Agents may be admitted "in respect of" one or more Lloyd's syndicates. A Lloyd's Managing Agent shall be the Member in its own right, but shall account to each such Lloyd's syndicate for any monetary amount it receives or is required to pay in relation to such managed syndicate's underwriting by reason of its membership of Pool Re. Pool Re:
- 4.1.1 shall have no obligation to any person on whose behalf such Member acts as agent, or responsibility for ensuring that such Member accounts to any such person in relation to any right or benefit it receives or amount it is liable to pay in its capacity as Member; and
- 4.1.2 shall be under no duty to enquire as to the due authority and appointment of a registered Lloyd's Managing Agent.
- 4.2 The several groups of underwriting members of Lloyd's to which in successive years a particular syndicate number is assigned by or under the authority of the Council of Lloyd's shall be treated for the purposes of this Agreement as the same syndicate notwithstanding that they may not comprise the same underwriting members with the same individual participations and so that clause 6 shall not apply upon the termination of a Reinsurance Agreement with a syndicate with a particular syndicate number if a further Reinsurance Agreement with the same syndicate number is in force or is entered into with effect immediately after expiry of the previous Reinsurance Agreement.
- 4.3 Without prejudice to clause 6, in the event that Pool Re shall receive notice of the replacement of the Managing Agent of a Lloyd's syndicate which benefits from reinsurance under a Reinsurance Agreement, that person shall thereupon cease to be a Member for the purposes of this Agreement in respect of that Lloyd's syndicate and the directors may admit to membership the successor Managing Agent of that syndicate, and that successor Managing Agent shall thereupon be entitled to apply to become a member of Pool Re and a Member for the purposes of this Agreement in respect of that Lloyd's syndicate by completion of a Form of Application and execution of an Accession Agreement which Agreement Pool Re may execute on its own behalf and on behalf of each of the other persons who are then Members.
- 4.4 A Lloyd's Managing Agent may become a Member in respect of more than one Lloyd's syndicate by complying, in relation to each syndicate, with the provisions of clause 2 or 3, as the case may be (with such adaptations as Pool Re may specify) and its membership of

Pool Re shall terminate when all Reinsurance Agreements by virtue of which he is entitled to membership shall have terminated.

- 4.5 In the event that a Lloyd's Managing Agent that is a Member in respect of one or more Lloyd's syndicates becomes the Managing Agent of an additional Lloyd's syndicate, whether by reason of a syndicate merger or otherwise, then:
- 4.5.1 if that additional Lloyd's syndicate is already a party to a Reinsurance Agreement with Pool Re, that Lloyd's Managing Agent shall become a Member in respect of that additional Lloyd's syndicate; and
- 4.5.2 if that additional Lloyd's syndicate is not already a party to a Reinsurance Agreement with Pool Re and all of the members of that Lloyd's syndicate are Connected Persons of that Lloyd's Managing Agent, that Lloyd's Managing Agent shall, unless otherwise agreed by the directors of Pool Re:
- (A) become a Member in respect of that additional Lloyd's syndicate by complying, in relation to that additional Lloyd's syndicate, with the provisions of clause 2 or 3, as the case may be (with such adaptations a Pool Re may specify); and
- (B) promptly enter into a Reinsurance Agreement with Pool Re on behalf of that additional Lloyd's syndicate.
- 4.6 In the event that a Lloyd's syndicate (the "**reinsuring syndicate**") provides reinsurance to another Lloyd's syndicate (the "**reinsured syndicate**") under a reinsurance to close contract that covers business in respect of which premium has been placed with Pool Re then:
- 4.6.1 there shall be no requirement for the Lloyd's Managing Agent of the reinsuring syndicate to become a Member in respect of the reinsuring syndicate (if it is not already a Member in respect of the reinsuring syndicate);
- 4.6.2 for the avoidance of doubt, the Lloyd's Managing Agent of the reinsuring syndicate shall not become a Member in respect of the reinsured syndicate; and
- 4.6.3 the provisions of Article 33 of the Memorandum and Articles of Association of Pool Re shall apply with respect to voting rights.
- 4.7 Where a Lloyd's Managing Agent is admitted as a Member in respect of two or more Lloyd's syndicates, it shall sign a separate Reinsurance Agreement on behalf of each syndicate. Such a Member shall be regarded as a separate Member in respect of each such Lloyd's syndicate. The premium placed with Pool Re by such Member on behalf of each such Lloyd's syndicate shall be measured separately in determining the number of votes which that Member may cast, and those votes shall be regarded as cast separately by that Member for each Lloyd's syndicate in respect of which it is admitted as a Member.
- 4.8 Where a Member has appointed a MGA in respect of its business, Pool Re shall be entitled to deal and communicate with that duly appointed MGA for all purposes in connection with the Member's membership of Pool Re.
- 4.9 Pool Re:
- 4.9.1 shall not be concerned as to how the MGA accounts to that Member in respect of the rights and obligations of membership; and
- 4.9.2 shall be under no duty to enquire as to the due authority and appointment of the MGA which is asserted both by the Member and the MGA.

5. **PROVISION OF INFORMATION**

- 5.1 Each Member undertakes to produce to Pool Re from time to time upon demand such evidence of, or information and documents relating to, its authorisation, legal form and status, business, ownership and jurisdiction of incorporation or residence as Pool Re may require.

5.2 Each Member shall promptly notify Pool Re of any material change, or (to the extent consistent with law or regulation) of any proposed material change that it has decided to make, in any information previously provided to Pool Re in relation to its authorisation, legal form and status, business, ownership and jurisdiction of incorporation or residence.

5.3 Where a Member:

5.3.1 ceases to be incorporated, resident or authorised in the jurisdiction in which it was incorporated, resident or authorised on the date on which it became a Member; or

5.3.2 adopts a legal form or status that is different from the legal form or status that it had on the date on which it became a Member; or

5.3.3 ceases to have authorisation under Part 4A of the Financial Services and Markets Act 2000 to effect or carry out contracts of insurance,

it shall, within 30 days of a request from Pool Re, deliver to Pool Re a legal opinion from such legal counsel as Pool Re may approve, acting reasonably, confirming that the obligations of the Member under this Agreement and under the Reinsurance Agreement remain legal, valid, binding and enforceable in all relevant jurisdictions.

5.4 Each Member shall promptly notify Pool Re if at any time it determines that, or receives notice from any Regulatory Authority indicating that, the systems, controls or procedures that it has in place to identify Financial Crime before it occurs are not compliant with all applicable legal and regulatory requirements and guidance.

5.5 Each Member shall promptly notify Pool Re if there is a finding, warning or penalty imposed by either a Regulatory Authority or a court that the Member is, or may be, culpable of any involvement in Financial Crime.

6. TERMINATION

6.1 Subject to clause 4, a Member shall cease to be a Member for the purposes of this Agreement (other than in respect of any antecedent breach hereof) and a member of Pool Re:

6.1.1 in the case of a Member who is not a Lloyd's Managing Agent, on the date of termination (for whatever reason) of the Reinsurance Agreement between it and Pool Re (and, for the avoidance of doubt, the termination of in force Reinsurance Agreements with effect from 31 March 2025 shall not terminate the membership of a Member which enters into a replacement Reinsurance Agreement with effect from 1 April 2025, and that renewal of a Reinsurance Agreement in the manner envisaged in Article 3.3 thereof shall not amount to termination for this purpose); or

6.1.2 in the case of a Member who is a Lloyd's Managing Agent, on the first date on which:

(A) all Reinsurance Agreements entered into by it on behalf of Lloyd's syndicates have been terminated (for whatever reason) (and, for the avoidance of doubt, the termination of in force Reinsurance Agreements with effect from 31 March 2025 shall not terminate the membership of a Member which enters into a replacement Reinsurance Agreement on behalf of Lloyd's syndicates with effect from 1 April 2025, and that renewal of a Reinsurance Agreement in the manner envisaged in Article 3.3 thereof shall not amount to termination for this purpose); or

(B) it is no longer the Managing Agent of any Lloyd's syndicate which is a party to a Reinsurance Agreement.

6.2 Pool Re shall have the right to terminate the membership of a Member, and such Member shall cease to be a Member for the purposes of this Agreement (other than in respect of any antecedent breach hereof) and a member of Pool Re on the date of such termination, if:

- 6.2.1 that Member fails to comply with a warning or penalty imposed by either a Regulatory Authority or a court, due to the Member being culpable of any involvement in Financial Crime, within the time limit imposed by the Regulatory Authority or the court;
- 6.2.2 Pool Re gives ninety days' notice to that Member that its membership under this Agreement will be terminated having been informed that that Member has been involved in Financial Crime;
- 6.2.3 a Regulatory Authority has imposed a restriction or penalty on that Member or taken any action which materially affects the ability of that Member to provide insurance under its own insurance agreements or carry on General Insurance Business, and such restriction or other action is continuing, or such penalty has not been revoked, at the date of notice of termination given by Pool Re;
- 6.2.4 that Member fails to notify Pool Re within thirty days of a Change of Control of that Member of the fact that there has been a Change of Control, and that failure is continuing at the date of notice of termination given by Pool Re; or
- 6.2.5 subject to clause **Error! Reference source not found.**, that Member is in material breach of its obligations under this Agreement or:
- (A) in the case of a Member who is not a Lloyd's Managing Agent, that Member is in material breach of its obligations under the Reinsurance Agreement between it and Pool Re; or
 - (B) in the case of a Member who is a Lloyd's Managing Agent, all Lloyd's syndicates of which that Member is the Lloyd's Managing Agent are in material breach of their obligations under Reinsurance Agreements between them and Pool Re;
- where in any such case the material breach is continuing at the date of notice of termination given by Pool Re; or
- 6.2.6 if Pool Re requests a legal opinion from that Member under Clause 5.3, and:
- (A) that Member fails to deliver the legal opinion within thirty days of such request, and such failure is continuing at the date of notice of termination given by Pool Re; or
 - (B) the legal opinion that is delivered by the Member does not confirm that the obligations of the Member under this Agreement and under any Reinsurance Agreement entered into by the Member remain legal, valid, binding and enforceable, or gives such confirmation subject to a qualification that is not acceptable to Pool Re, acting reasonably (and, for the avoidance of doubt, a qualification by reference to insolvency laws shall be regarded as acceptable in the absence of evidence that the Member is or may be insolvent); or
- 6.2.7 a Regulatory Authority makes a determination that there has been misconduct on the part of that Member or a failure of that Member to maintain systems and controls in accordance with all applicable legal and regulatory requirements and guidance, and such misconduct or failure has had a material adverse effect on the accuracy of the records of its insurance business or has a material adverse financial effect on Pool Re and, in either case, that effect is continuing at the date of notice of termination given by Pool Re.
- 6.3 The termination of the membership of a Member shall (save to the extent that Pool Re and the Member have specifically agreed otherwise) result in termination of all reinsurance cover provided by Pool Re to that Member (or if such Member is a Lloyd's Managing Agent, provided to the Member on behalf of the relevant Lloyd's syndicate) save that it shall not affect the liability of Pool Re under any run-off cover purchased by the Member pursuant to Article 17.6 of the Reinsurance Agreement.

6.4 Failure by the Member or any Lloyd's syndicate to pay an amount owing to Pool Re which is less than £50 shall not give rise to a right for Pool Re to terminate the membership of a Member under clause 6.2.5.

7. **TERMINATION OF SUPPLEMENTAL DEEDS**

Each Supplemental Deed to which Pool Re is party with any Member is hereby terminated in its entirety with effect from the date hereof on the basis no party to any such Supplemental Deed shall have any ongoing liability thereunder.

8. **EXPIRY**

This Agreement shall continue in force unless and until the Retrocession Agreements and all Reinsurance Agreements shall have ceased to be in force for any purpose.

9. **ASSIGNMENTS**

This agreement is personal to the parties hereto and none of them shall be entitled to assign this Agreement or any of its rights and obligations hereunder without the prior written consent of Pool Re.

10. **WAIVER OF RIGHTS**

Any rights or remedies conferred hereunder upon any Member or Pool Re shall be in addition to and without prejudice to all other rights, powers and remedies available to that Member and Pool Re and no exercise or failure to exercise or delay in exercising any such right, power or remedy shall constitute a waiver by that Member or Pool Re of any such other right, power or remedy.

11. **NO PARTNERSHIP OR AGENCY**

Nothing in this Agreement shall be deemed to constitute a partnership between the parties hereto or (save as expressly provided in sub-clauses 3.3 and 4.3) to constitute any party the agent of any other party for any purpose.

12. **THIRD PARTY RIGHTS**

No term of this Agreement is enforceable under the Contracts (Rights of Third Parties) Act 1999 by a person who is not a party.

13. **ENTIRE AGREEMENT**

In relation to its subject matter the Scheme Documents represent the entire understanding and constitutes the whole agreement, and supersedes any previous agreement, between the parties and, save as provided in this Agreement, no party has relied on any representation made by any other party who is not a party to this Agreement.

14. **COSTS**

Each party shall bear its own costs incurred in connection with the negotiation, preparation and execution of this Agreement and the Scheme Documents.

15. **NOTICES**

15.1 A notice, approval, consent or other communication in connection with this Agreement:

15.1.1 must be in writing;

15.1.2 in the case of Pool Re, must be marked for the attention of the General Counsel and Company Secretary; and

15.1.3 must be left at the address of the addressee, or sent by prepaid ordinary post (airmail if posted to or from a place outside the United Kingdom) to the address of the addressee or sent by email to (i) in the case of a notice to Pool Re, generalcounsel@poolre.co.uk, or (ii) in the case of a notice to a Member, the address of the addressee which is specified in Schedule 1 hereto, or in an

Accession Agreement or if the addressee notifies another email address then to that address.

- 15.2 A notice, approval, consent or other communication shall take effect from the time it is received (or, if earlier, the time it is deemed to be received in accordance with sub-clause 15.3) unless a later time is specified in it.
- 15.3 A letter or email is deemed to be received:
- 15.3.1 in the case of a posted letter, unless actually received earlier, on the third (seventh, if posted to or from a place outside the United Kingdom) day after posting;
- 15.3.2 in the case of email, at the time and date that the email was sent, provided that the sender does not within one hour receive a delivery failure or delay notification in respect of the email address.

16. SEVERABILITY

- 16.1 If any provision of this Agreement (or part of any provision) is found by any court or other authority of competent jurisdiction to be invalid, unenforceable or illegal, the other provisions shall remain in force.
- 16.2 If any invalid, unenforceable or illegal provision would be valid, enforceable and legal if some part of it were deleted, the provisions shall apply with whatever modification is necessary to give effect to the commercial intention of the Parties and the Parties shall use reasonable endeavours to modify those provisions accordingly.
- 16.3 The Parties agree to attempt to substitute for any invalid or unenforceable provision a valid and enforceable provision which achieves, to the greatest extent possible, the same effect as would have been achieved by the invalid or unenforceable provision.

17. COMPETITION LAW

- 17.1 If the relevant UK authority or the Competition and Markets Authority notifies the parties (or any of them) in writing that, in its view (whether preliminary or final):
- 17.1.1 the Pool Agreements or any provision of any of them infringes the Chapter 1 prohibition of the Competition Act 1998 (or, where relevant, any other applicable Competition Rules); or
- 17.1.2 the conclusion or performance or enforcement of the Pool Agreements or any provisions of any of them infringes the Chapter II prohibition of the Competition Act 1998 (or, where relevant, any other Competition Rules);

then the parties shall use all reasonable endeavours to amend the Pool Agreements (or shall execute new agreements) so as to ensure that the objectives of the Pool Agreements are achieved and that the Pool Agreements as so amended (or any such new agreements) will not infringe the Chapter 1 prohibition of the Competition Act 1998 (or, where relevant, any other applicable Competition Rules) and that the conclusion, performance and enforcement of the Pool Agreements (or those new agreements) by any party thereto will not infringe the Chapter II prohibition of the Competition Act 1998 (or, where relevant, any other applicable Competition Rules), and, save to the extent that it is reasonable to do so and/or it is no longer possible to achieve the objectives of the Pool Agreements or to amend the Pool Agreements or enter into new agreements which do not give rise to an infringement of the Chapter I or Chapter II prohibitions of the Competition Act 1998 (or, where relevant, any other applicable Competition Rules), no Party shall withhold its consent (to the extent to which it is required) to the making of any such amendment or the execution of any such new agreement.

- 17.2 In this clause 17 "**Pool Agreements**" means:
- 17.2.1 the Memorandum and Articles of Association of Pool Re;
- 17.2.2 this Agreement (and each Accession Agreement executed pursuant hereto)

- 17.2.3 each Reinsurance Agreement to which Pool Re is or becomes party; and
- 17.2.4 the Retrocession Agreements (including the Reinsurance Underwriting Manual referred to therein) each as from time to time amended or supplemented.

18. LANGUAGE

Each document, notice or other communication given, delivered or made by one party to another or to any other person under or in connection with this Agreement shall be in English or, if not in English, be accompanied by a formal English translation (and the party or other person 'which receives such a translation shall be entitled to assume its accuracy and to rely upon it).

19. MEDIATION

If a dispute of any kind whatsoever arises between any parties under or in respect of this Agreement, then any party to the dispute shall notify the other in writing of the nature of the dispute and, following the date of such written notice, there shall be a period of forty (40) days during which the parties to the dispute shall use all reasonable endeavours to settle the dispute prior to the expiry of which neither party shall be entitled to request arbitration pursuant to clause 20.

20. ARBITRATION AND TRIBUNAL

- 20.1 All matters of dispute or difference between any parties arising under, out of or in connection with this Agreement, including formation and validity, and whether arising during or after the period of this Agreement, shall be referred to an arbitration tribunal in accordance with this clause.
- 20.2 Unless the parties appoint a sole arbitrator within 14 days of one receiving a written request from the other for arbitration, the claimant (the party requesting arbitration) shall appoint its arbitrator and give written notice thereof to the respondent. Within 30 days of receiving such notice, the respondent shall appoint its arbitrator and give written notice thereof to the claimant, failing which the claimant may apply to the appointor hereafter named to nominate an arbitrator on behalf of the respondent.
- 20.3 Before they enter upon a reference the two arbitrators shall appoint a third arbitrator. Should they fail to appoint such a third arbitrator within 30 days of the appointment of the respondent's arbitrator then either the arbitrators or either of the parties to the dispute or difference may apply to the appointor for the appointment of the third arbitrator. The three arbitrators shall decide by majority. If no majority can be reached the verdict of the third arbitrator shall prevail. He shall also act as chairman of the tribunal.
- 20.4 Unless the parties otherwise agree, the arbitration tribunal shall consist of persons (including those who have retired) with not less than ten years' experience at senior management level in the insurance industry itself or as lawyers or other professional advisers with relevant experience.
- 20.5 The arbitration tribunal shall, so far as is permissible under the law and practice of the place of arbitration, have power to fix all procedural rules for the holding of the arbitration including discretionary power to make orders as to any matters which it may consider proper in the circumstances of the case with regard to pleadings, discovery, inspection of the documents, examination of witnesses and any other matter whatsoever relating to the conduct of the arbitration and may receive and act upon such evidence whether oral or written strictly admissible or not as it shall in its discretion think fit.
- 20.6 The appointor shall be the Chairman for the time being of ARIAS (UK) or, if he is unavailable or it is inappropriate for him to act for any reason, such person as may be nominated by the Committee or governing body of ARIAS (UK). If for any reason such persons decline or are unable to act, then the appointor shall be a Judge of the appropriate Courts having jurisdiction at the place of arbitration.

- 20.7 All costs of the arbitration shall be determined by the arbitration tribunal who may, taking into account the law and practice of the place of arbitration, direct to and by whom and in what manner they shall be paid.
- 20.8 The place of arbitration may be chosen by the parties, but in default of such choice, the place of arbitration shall be London, England.
- 20.9 The award of the arbitration tribunal shall be in writing and binding upon the parties who consent to carry out the same.

21. DATA PROTECTION

- 21.1 In this clause 21, the terms "controller", "data subject", "personal data" and "processing" shall have the same meanings given to them in Data Protection Legislation and the terms "process" and "processed" shall be interpreted accordingly.
- 21.2 Pool Re may need to collect and process personal data in connection with this Agreement or any Reinsurance Agreement. The Pool Re Privacy Notice provides further information about how Pool Re processes personal data.
- 21.3 Each party agrees that, for the purposes of compliance with Data Protection Legislation, each party is an independent controller and, independently of and not jointly with the other parties, determines the purposes for and the manner in which personal data is, or is to be, processed under this Agreement and each Reinsurance Agreement.
- 21.4 The parties shall comply with Data Protection Legislation when processing personal data under or in connection with this Agreement and each Reinsurance Agreement and (i) each Member shall provide reasonable cooperation and assistance to Pool Re, and (ii) Pool Re shall provide reasonable cooperation and assistance to each Member, to assist that other party to comply with its obligations under Data Protection Legislation.
- 21.5 Each Member shall bring the Pool Re Privacy Notice to the attention of data subjects whose personal data may be processed by Pool Re in connection with this Agreement and each Reinsurance Agreement.

22. GOVERNING LAW AND JURISDICTION

- 22.1 This Agreement shall be governed by, and construed in accordance with, English law.
- 22.2 In the event that clause 22 becomes or is found to be null, void or otherwise unenforceable for any reason, each party irrevocably and unconditionally submits to the exclusive jurisdiction of the English Courts and each party waives any right that it may have to object to an action being brought in those Courts, to claim that the action has been brought in an inconvenient forum, or to claim that those Courts do not have jurisdiction.
- 22.3 Without preventing any other mode of service, any document in an action (including but not limited to any writ of summons or other originating process or any third or other party notice) may be served on either party by being delivered to or left for that party at its address for service of notices under clause 15.

AS WITNESS of which the parties have executed this Agreement on the date first mentioned above.

SCHEDULE 1

EFFECTIVE DATE MEMBERS

NAME:	ADDRESS:	SYNDICATE: (in case of a managing agent)

SCHEDULE 2
REINSURANCE AGREEMENT

SCHEDULE 3

APPLICATION FOR MEMBERSHIP

To: General Counsel and the Company Secretary
Pool Reinsurance Company Limited
7 Savoy Court, London, United Kingdom,
WC2R 0EX

(Insert full name of corporate or individual applicant, as appropriate)

1. We hereby apply to become a Member of Pool Reinsurance Company Limited ("**Pool Re**") and agree to be bound by the Memorandum and Articles of Association of Pool Re.
2. We hereby irrevocably appoint Pool Re as our attorney to enter into in our name and on our behalf the agreement between us, Pool Re and others (substantially in the form sent to us by Pool Re) pursuant to which we shall (subject as provided therein) be entitled to become a Member (the "**Membership Agreement**") and acknowledge that the Membership Agreement shall govern our entitlement to membership of Pool Re (including the circumstances in which membership shall cease).
3. We hereby irrevocably appoint Pool Re as our attorney for such time as we are a Member from time to time to enter into on our behalf such Accession Agreements between us and other Members, Pool Re and any proposed Additional Members pursuant to which each such proposed Additional Member shall become a Member.
4. We hereby irrevocably authorise Pool Re to incorporate the pages of the Reinsurance Agreement enclosed with this Form of Application into the appropriate document (substantially in the form sent to us by Pool Re) and to date such document on our behalf.
5. We confirm that we are:
 - 5.1.1 * a corporation authorised by being the state in which we are resident/primarily resident* to carry on General Insurance Business and that we insure risks situated in Great Britain; or
 - 5.1.2 * the Lloyd's Managing Agent for the time being of Syndicate ** which writes General Insurance Business in Great Britain as part of its business.
6. We confirm that our address for the purposes of the Membership Agreement is
7. *We confirm that this application for membership is made by us as managing agent of the following Lloyd's syndicate, of which we are the duly authorised and registered Managing Agent: Syndicate No. []**¹
8. We confirm that we have appointed [...[name of MGA].....] (the "**MGA**") as our managing general agent for purposes of our insurance business eligible for reinsurance by Pool Re.

Accordingly, we hereby:

- (a) appoint the MGA as our representative for all purposes of our membership of Pool Re;
- (b) authorise Pool Re to deal and communicate with the MGA for all purposes in connection with our membership of Pool Re;
- (c) acknowledge that Pool Re shall not be concerned as to how the MGA accounts to us in respect of the rights and obligations of membership;

¹ Complete details of Lloyd's Syndicate as appropriate

Words and expressions used in this Form of Application shall, unless the context otherwise requires, bear the same meanings as in the Membership Agreement.

This Form of Application shall be governed by, and construed in accordance with, English law.

IN WITNESS WHEREOF we have executed and delivered this Deed this day of _____ 20[].

EXECUTED and delivered as a **DEED** by)
the said **[NAME OF COMPANY]**)
)
) Director
acting by [Name of a director])
in the presence of:)

Signature of witness
.....

Name of witness
(in BLOCK CAPITALS)

.....
Address of witness
.....
.....
.....
.....

SCHEDULE 4

ACCESSION AGREEMENT

THIS ACCESSION AGREEMENT is made on

20

BETWEEN:

- (1) **POOL REINSURANCE COMPANY LIMITED**, a company incorporated in England and Wales (registered number 2798901 and whose registered office is at 7 Savoy Court, London, United Kingdom, WC2R 0EX ("**Pool Re**");
- (2) **THE PERSONS** whose names and addresses are set out in the Schedule to this Agreement (being the "**Current Members of Pool Re**"); and
- (3) [] of [] (the "**Additional Member**").

WHEREAS

- (A) This Agreement is supplemental to an agreement dated [] between Pool Re and others (the "**Membership Agreement**") which regulates the rights and liabilities of Members as between themselves and vis a vis Pool Re.
- (B) This Agreement sets out the terms upon which the Additional Member will become a Member and a member of Pool Re.

IT IS AGREED as follows:

1. **INTERPRETATION**

Words and expressions used in this Agreement shall, except where the context otherwise requires, bear the same meanings as in the Membership Agreement.

2. **MEMBERSHIP**

- 2.1 In consideration of the Additional Member's execution of the Application Form and of entering into a Reinsurance Agreement, the Additional Member shall become a member of Pool Re and a Member for the purposes of the Membership Agreement on the date of this Agreement or, if this Agreement is executed pursuant to sub-clause 3.3 of the Membership Agreement, on the date of execution by Pool Re of a Reinsurance Agreement with such Additional Member, if later, and shall remain a Member until such membership is terminated pursuant to the Membership Agreement.
- 2.2 The Additional Member hereby covenants with Pool Re and all other Members that it is hereby, and will continue, to be bound by the provisions of the Membership Agreement, as amended from time to time, to the same extent as the other Members as if the Additional Member had been an original party to the Membership Agreement.

IN WITNESS of which the parties have executed this Agreement on the date first mentioned above.

[Insert signature pages for Pool Re, Current Members of Pool Re and Additional Member]

**SCHEDULE
(TO ACCESSION AGREEMENT)
CURRENT MEMBERS**

SIGNED by)
[NAME OF PERSON AUTHORISED TO)
SIGN])
for and on behalf of)
POOL REINSURANCE COMPANY)
LIMITED)

SIGNED by)
[NAME OF PERSON AUTHORISED TO)
SIGN])
as authorised signatory of)
POOL REINSURANCE COMPANY)
LIMITED)
Executing by power of attorney given to)
that company under the terms of the TAA)
by **The Effective Date Members**)