

COMBINED DATA PROTECTION AND FINANCIAL CRIME ENDORSEMENT
(For attachment to LMA9008A)

By this endorsement the Third Party Administrator Agreement is amended as follows -

1. By replacing existing paragraphs 1.3 to 1.4 with the following new paragraphs 1.3 to 1.17:

- "1.3 Without prejudice to the generality of paragraph 1.2 above, each Party shall comply with, and co-operate in respect of the observance of, any applicable financial crime and international economic, financial or trade sanctions laws and regulations which bind the relevant customer, the TPA, the relevant London broker or Underwriters.
- 1.4 For the avoidance of doubt, the TPA shall not pay any claim or provide any benefit to the extent that the payment of such claim or provision of such benefit would expose the TPA or Underwriters to any sanction, prohibition or restriction under any applicable international economic, financial or trade sanctions laws or regulations.
- 1.5 The TPA shall not accept, offer or facilitate payment, consideration or other benefit which constitutes an illegal or corrupt practice contrary to any applicable anti-bribery law.
- 1.6 The TPA shall not undertake any activity which facilitates the evasion of taxes anywhere in the world or which would constitute a criminal act in the jurisdiction in which it is located or doing business, or which would expose the Underwriters to any criminal sanction.
- 1.7 The TPA shall maintain on an ongoing basis appropriate systems, procedures and controls designed to prevent any breach of paragraphs 1.2 to 1.6 above.
- 1.8 Without limiting the TPA's other obligations under this Agreement, the TPA shall be responsible for the payment of any fees and for any penalties or monetary or non-monetary assessments that may result from TPA's violation of any regulatory or legal requirement, to the extent the imposition of such fees or penalties does not arise solely and/out of the actions of Underwriters.
- 1.9 The TPA acknowledges the right of Underwriters to withdraw or vary the TPA's authority in respect of any particular claim and in such circumstance the Underwriters shall be entitled to take any decision or take any action with regard to the claim that Underwriters consider appropriate.
- 1.10 Unless otherwise expressly stated in [●] of the Declarations, the TPA and the Underwriters acknowledge and agree that where the TPA or an Underwriter processes personal data under or in connection with this Agreement it alone determines the purposes and means of processing as a controller;
- 1.11 In respect of the personal data the TPA or an Underwriter processes under or in connection with this Agreement, it:
 - a. shall comply at all times with its obligations under the data protection law;

- b. shall notify the other parties without undue delay after, and in any event within 24 hours of, becoming aware of a personal data breach; and
 - c. shall assist and co-operate fully with the other parties to enable each of them to comply with its obligations under the data protection law, including but not limited to in respect of keeping personal data secure, dealing with personal data breaches, complying with the rights of data subjects and carrying out data protection impact assessments;
- 1.12 In respect of the personal data the TPA processes under or in connection with this Agreement, the TPA shall only process such personal data for the purposes of claims management services to the extent allowed in this Agreement;
- 1.13 The TPA and the Underwriters shall work together to ensure that each of them is able to process the personal data it processes under or in connection with this Agreement for the purposes contemplated by this Agreement lawfully, fairly and in a transparent manner and in compliance with the data protection law. This shall include but not be limited to entering into such other written agreements as may be required from time to time to enable the TPA and/or the Underwriters to comply with the data protection law;
- 1.14 The activities of the TPA under or in connection with this Agreement in respect of which the TPA processes personal data as a processor on behalf of the Underwriters, together with the data protection particulars for such processing, are stated in [●] of the Declarations. In addition to paragraphs 1.11, 1.12 and 1.13, where, under or in connection with this Agreement, the TPA processes personal data as a processor on behalf of the Underwriters, the TPA shall:
 - a. subject to paragraph 1.14(e), only carry out such processing on the Underwriters' instructions from time to time. The TPA shall immediately inform the Underwriters if, in its opinion, an instruction infringes the data protection law;
 - b. where it is required by applicable law to carry out processing otherwise than in accordance with paragraph 1.14 (a), inform the Underwriters of the legal requirement before carrying out such processing (unless prohibited from doing so by applicable law);
 - c. not disclose the personal data to any person except as required or permitted by this Agreement or with the Underwriters' prior written consent;
 - d. without prejudice to paragraph 6.2, ensure that all persons authorised to process the personal data are under an appropriate contractual or other legal obligation to keep the personal data confidential;
 - e. taking account of the nature of the processing, implement appropriate technical and organisational measures (a) in a manner that ensures the processing meets the requirements of the data protection law and the protection of the rights of data subjects, (b) to keep the personal data secure and to protect against the risk of personal data breaches and (c) to assist the Underwriters to comply with their obligations under the data protection law to respond to requests for exercising the rights of data subjects;

- f. not process the personal data, or disclose the personal data to any party who carries on business, outside of the European Economic Area except with the Underwriters' prior written consent and, where such consent is given, the TPA shall take such actions and enter into such agreements as the Underwriters may require to ensure that such processing or disclosure complies with the data protection law;
- g. not enter into an arrangement with any sub-contractor to process the personal data directly or indirectly on behalf of the Underwriters without the prior written consent of the Underwriters and, where such consent is given, the TPA shall enter into a written agreement with the sub-contractor that includes, as a minimum, provisions in favour of the Underwriters which are equivalent to those in this paragraph 1.14. The TPA shall remain fully liable to the Underwriters for any sub-contractors' processing of personal data; and
- h. at the Underwriters' option, delete or return to the Underwriters all the personal data on termination of this Agreement and delete any existing copies of the personal data except to the extent that the TPA is required to retain such personal data by applicable law;

1.15 The TPA shall make available to the Underwriters all information necessary to demonstrate its compliance with its obligations under these paragraphs 1.10 to 1.17 and the Underwriters reserve the right to audit the TPA's compliance with its obligations under these paragraphs 1.10 to 1.17;

1.16 The TPA's obligations under these paragraphs 1.10 to 1.17 continue throughout this Agreement and for a period of seven (7) years thereafter or such other period as the Underwriters may require or as may be required pursuant to any applicable law or regulation;

1.17 For the purposes of these paragraphs 1.10 to 1.17 and the Declarations:

“controller” means the person which, alone or jointly with others, determines the purposes and means of the processing of personal data;

“data protection law” means all applicable statutes and regulations in any jurisdiction pertaining to the processing of personal data, including but not limited to the privacy and security of personal data;

“data protection particulars” means, in relation to any processing of personal data by the TPA under or in connection with this Agreement as a processor on behalf of the Underwriters: (a) the subject matter and duration of the processing; (b) the nature and purpose of the processing; (c) the type of personal data being processed; and (d) the categories of data subjects;

“data subject” means the identified or identifiable natural living person to whom the personal data relates;

“personal data” means any information relating to the data subject;

“personal data breach” means a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, personal data transmitted, stored or otherwise processed; and

“processor” means the person which processes personal data on behalf of the data controller.”

2. By replacing existing paragraph 2.2 as follows:

“Subject to paragraph 1.14(h), the TPA shall maintain Records containing all information required under all applicable laws and regulations for the time periods required by such laws and regulations. In addition, the TPA shall not destroy or otherwise dispose of any Records without Underwriters’ prior written consent.”

LMA5320
2 March 2018