

For discussion purposes only

SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release is made this day of 2016.

BETWEEN

- (1) *[Insert Creditor legal name and address]* (the "**Creditor**");
- (2) OIC Run-Off Limited (formerly known as The Orion Insurance Company Plc), a company incorporated in England and Wales with registered number 256100 and whose registered office is at 10-18 Union Street, London SE1 1SZ ("**OIC**"); and
- (3) The London and Overseas Insurance Company Limited (formerly known as The London and Overseas Insurance Company Plc), a company incorporated in England and Wales with registered number 38706 and whose registered office is at 10-18 Union Street, London SE1 1SZ ("**L&O**"),

(OIC and L&O are together referred to as the "**Companies**" and are both acting by their joint scheme administrators in respect of the Scheme (as defined below), Dan Yoram Schwarzmann and Paul Anthony Brereton Evans, each of PricewaterhouseCoopers LLP (the "**Joint Scheme Administrators**"),

(each of (1) to (3) above referred to individually as a "**Party**" and together as the "**Parties**").

WHEREAS, the Companies are subject to the provisions of a scheme of arrangement pursuant to Part 26 of the Companies Act 2006 between the Companies and their respective Scheme Creditors dated 8 October 2014 and which became effective on 14 January 2016 (the "**Amending Scheme**");

WHEREAS, the Amending Scheme has the effect of converting the scheme of arrangement dated 20 November 1996 to which the Companies were already subject (the "**Original Scheme**") from a reserving scheme of arrangement into a cut-off scheme of arrangement;

WHEREAS, the Original Scheme as amended by the Amending Scheme is referred to as the "**Scheme**";

WHEREAS, the Creditor asserts that it has, and may have, claims against the Companies arising out of certain insurance policies (other than Qualifying ILU Policies) entered into by either or both of the Companies;

WHEREAS, pursuant to paragraph 9 of the Amending Scheme, the Parties now agree to a full and final settlement of the value in the Scheme of the Creditor's Notified Outstanding Liabilities and IBNR Liabilities under those insurance policies entered into by either or both of the Companies with that Creditor (other than Qualifying ILU Policies) and excluding any Pre-1969 L&O Claims of the Creditor (the "**Claims**") on and subject to the terms and conditions set out below;

WHEREAS, the agreed value of the Claims set out in this Agreement does not include the value of: (i) any Qualifying Liabilities of the Companies to the Creditor; and (ii) any Pre-1969 L&O Claims of the Creditor, which, if applicable, may be subject to the terms of separate agreements between the Companies and the Creditor; and

WHEREAS, with effect from 1 December 2001, the Financial Services Compensation Scheme ("**FSCS**") became responsible for administering the Policyholders Protection Scheme established by the Policyholders Protection Act 1975 ("**PPA**"), and prior to payment of its Claims by the Companies, the Creditor is required to confirm that it is not entitled to protection under the PPA and to waive any rights that the Creditor may have against the Policyholders' Protection Board ("**PPB**"), the FSCS's predecessor, in respect of the Claims.

AGREEMENT

In consideration of the foregoing and the covenants contained in this Agreement, the Companies and the Creditor agree as follows:

- (1) Subject to clauses 13 to 15 below, on the execution by the Parties of this Agreement:
 - a. the Companies shall admit the Claims in the Scheme as a Net Liability with a value of US\$XXX (XXX United States dollars and XX cents) (the "**Creditor's Net Liability**"). The amount of the Creditor's Net Liability is comprised of two component parts, as set out in Appendix 1;
 - b. the US\$XXX amount of the Creditor's Net Liability (referred to in paragraph 1(a) above) shall be legally binding between the Creditor and the Companies and the Creditor agrees that it shall not, in any circumstances, bring any further claims or submit a Claim Form against either or both of the Companies in respect of such Liability or Claims or the subject matter or subject matters which gave rise to such Liability or Claims;
 - c. the Companies will, within 90 days of the date of this Agreement, pay to the Creditor an amount equal to the then current Payment Percentage in relation to the Creditor's Net Liability, and will then pay any further amounts to the Creditor in respect of the Creditor's Net Liability (for example, as a result of any subsequent increase in the Payment Percentage) from time to time in the manner and form prescribed in the Scheme; and
 - d. the Companies shall pay the amounts referred to in paragraph 1(c) above by telegraphic transfer to an account specified by the Creditor (details of which will be provided in advance by the Creditor to the Companies).
- (2) The amount of the Creditor's Net Liability set out in clause 1(a) and the releases given by the Creditor in clause 1(b) are in respect of any and all claims that the Creditor has or may have against the Companies in respect of the Claims and their respective subject matters. Nothing in clause 1 shall prejudice, affect or restrict the Creditor's rights in respect of: (i) any other claims that the Creditor has or may have against the Companies under any Qualifying ILU Policies; or (ii) any Pre-1969 L&O Claims of the Creditor.
- (3) The Parties agree that the Companies shall not be required to complete, or provide to the Creditor, a Net Statement in respect of the Creditor's Net Liability pursuant to paragraph 20.1 of the Amending Scheme.
- (4) This Agreement and the terms and conditions set out in it only apply and relate to the Creditor's Net Liability incurred by the Companies and not in respect of the participation of any other insurance company or underwriting syndicate.
- (5) The Parties agree that the terms and conditions of this Agreement shall be confidential and shall not be disclosed by either Party without the prior written consent of the other Parties, except:
 - a. to the Joint Scheme Administrators, reinsurers and Creditors' Committee of the Companies;
 - b. to the employees, agents, consultants, actuaries, brokers, legal advisors and other professional advisors of the Parties;
 - c. to the financial auditors of the Parties and the relevant regulatory authorities (including the FSCS) to the extent that the Parties are obligated to do so;
 - d. when otherwise required by law;

- e. by authority of an administrative tribunal or arbitration panel; or
 - f. to NNOFIC and the ILU, where the Companies also owe Qualifying ILU Liabilities to that Creditor.
- (6) This Agreement shall be governed by and construed in accordance with English law.
- (7) The Parties agree that the High Court of Justice of England and Wales shall have exclusive jurisdiction to settle any disputes arising in relation to this Agreement.
- (8) The Creditor agrees that no action taken by the Joint Scheme Administrators or their partners, employees, agents, professional advisers or representatives in connection or furtherance of this Agreement shall be construed as a waiver of the immunity afforded under 11 USC s 306 and the Creditor agrees that it will not assert that it has waived any such immunity in connection or furtherance of this Agreement.
- (9) The Creditor confirms that it is not a Protected Policyholder for the purposes of the Scheme nor is it eligible for protection under the PPA. The Creditor expressly waives any and all rights or benefits it may have against the FSCS (or PPB) under the PPA or otherwise in relation to the Creditor's Net Liability and agrees to the discharge of such liability and any claim it may have against the FSCS (or PPB) under the Scheme, the PPA or otherwise in respect of the Creditor's Net Liability.
- (10) The Parties agree that neither the Joint Scheme Administrators, nor any agent, adviser, representative, affiliate, employee, director, officer, partner, member, beneficiary, investor, servant, shareholder, trustee, attorney, or other person acting on behalf of, or otherwise related to or affiliated with the Joint Scheme Administrators or the Companies, nor any of their respective successors, shall have any personal liability directly or indirectly, under or in connection with: (a) this Agreement; (b) any agreement made or entered into under or pursuant to the provisions of this Agreement; or (c) any amendment or amendments to any of the foregoing made at any time or times, heretofore or hereafter. Each Party, on behalf of itself and its successors and assigns, hereby waives any right to bring any claims related to this Agreement against individual persons. This clause shall survive termination of this Agreement.
- (11) Unless otherwise defined in this Agreement, any capitalised terms used in this Agreement have the same meaning as given to them in the Amending Scheme.
- (12) This Agreement is subject always to the terms of the Scheme.
- (13) In discharging their respective obligations under this Agreement, each Party agrees to comply with all financial sanctions regulations and laws applicable in the relevant jurisdiction(s) in which it operates and with which it is required to comply ("**Applicable Financial Sanctions**"). If the Creditor (or any of its beneficial owners) is determined by the Companies (acting in their sole discretion) to be subject to Applicable Financial Sanctions, the Companies shall give notice to the Creditor that the Companies' payment obligations under this Agreement cannot be discharged. The non-discharge of the Companies' payment obligations under clause 1 of this Agreement due to Applicable Financial Sanctions shall have no effect on the validity and effectiveness of the remainder of this Agreement.
- (14) In the event that the Companies then receive notice from the Creditor that the Creditor (or any of its beneficial owners as applicable) cease to be subject to the Applicable Financial Sanctions and the Companies agree with the Creditor's assessment that the Creditor (or any of its beneficial owners as applicable) is no longer subject to the Applicable Financial Sanctions, the Companies will, subject to any overriding requirements of the Applicable Financial Sanctions, seek to make payment under clause 1 of this Agreement within a further 90 days of receipt of the aforementioned notice. The Companies shall have no obligation under this Agreement to determine, or provide notice, if the Creditor (or any of its beneficial owners) cease to be subject to the Applicable Financial Sanctions.

(15) In the event that the Scheme is expected to terminate before the Companies have discharged their payment obligations to the Creditor under this Agreement by reason of Applicable Financial Sanctions, the Companies shall give notice to the Creditor, specifying the new custodian or other permissible disposition, of the funds held by the Companies in respect of the Creditor's Net Liability pursuant to the Applicable Financial Sanctions.

(16) The rights of the Creditor under this Agreement may not be assigned to any third party, nor will any notice of assignment of such rights under the Scheme take effect, without the prior written consent of the Companies.

(17) This Agreement may be executed in counterparts, all of which together shall be deemed to constitute one and the same Agreement.

IN WITNESS WHEREOF the Parties have executed this Agreement at the above date and the undersigned represent that they are authorised to execute and deliver this Agreement on behalf of the Companies and the Creditor.

.....
For and on behalf of the Creditor

.....
For and on behalf of OIC Run-Off Limited
D Y Schwarzmenn
Joint Scheme Administrator (acting without personal liability)

.....
For and on behalf of The London and Overseas Insurance Company Limited
D Y Schwarzmenn
Joint Scheme Administrator (acting without personal liability)

Appendix 1:

| <i>In relation to policies written by predecessors of</i> | <i>Value \$</i> |
|--|------------------------|
| <i>OIC Run-Off Limited policy</i> | <i>XXX</i> |
| <i>The London & Overseas Insurance Company</i> | <i>XXX</i> |
| <i>Limited policies, post 1969</i> | |

Draft