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**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549**

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**FORM 10-Q**

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(Mark One)

- QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For the quarterly period ended September 30, 2017

or

- TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For the transition period from \_\_\_\_\_ to \_\_\_\_\_

Commission File Number 1-13754

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**THE HANOVER INSURANCE GROUP, INC.**

(Exact name of registrant as specified in its charter)

**Delaware**  
(State or other jurisdiction of  
incorporation or organization)

**04-3263626**  
(I.R.S. Employer  
Identification No.)

**440 Lincoln Street, Worcester, Massachusetts 01653**  
(Address of principal executive offices) (Zip Code)

**(508) 855-1000**  
(Registrant's telephone number, including area code)

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes  No

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes  No

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, a smaller reporting company, or an emerging growth company. See the definitions of "large accelerated filer," "accelerated filer," "smaller reporting company," and "emerging growth company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer	<input checked="" type="checkbox"/>	Accelerated filer	<input type="checkbox"/>
Non-accelerated filer	<input type="checkbox"/> (Do not check if a smaller reporting company)	Smaller reporting company	<input type="checkbox"/>
		Emerging growth company	<input type="checkbox"/>

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act.

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). Yes  No

The number of shares outstanding of the registrant's common stock was 42,474,995 as of October 31, 2017.

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**PART I - FINANCIAL INFORMATION**  
**ITEM 1 - FINANCIAL STATEMENTS**

**THE HANOVER INSURANCE GROUP, INC. AND SUBSIDIARIES**  
**CONSOLIDATED STATEMENTS OF INCOME (UNAUDITED)**

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2017	2016	2017	2016
<i>(In millions, except per share data)</i>				
<b>Revenues</b>				
Premiums	\$ 1,226.9	\$ 1,160.9	\$ 3,589.4	\$ 3,457.7
Net investment income	76.6	67.8	220.0	205.2
Net realized investment gains (losses):				
Net realized gains from sales and other	14.7	4.3	25.7	31.0
Net other-than-temporary impairment losses on investments recognized in earnings	(1.3)	(0.1)	(4.5)	(26.0)
Total net realized investment gains	13.4	4.2	21.2	5.0
Fees and other income	8.3	8.3	21.6	22.9
Total revenues	1,325.2	1,241.2	3,852.2	3,690.8
<b>Losses and expenses</b>				
Losses and loss adjustment expenses	878.0	692.0	2,369.5	2,121.3
Amortization of deferred acquisition costs	275.1	257.9	806.1	771.4
Interest expense	12.1	12.5	36.3	42.8
Net loss from repayment of debt	—	—	—	86.1
Other operating expenses	151.1	154.7	461.4	444.1
Total losses and expenses	1,316.3	1,117.1	3,673.3	3,465.7
Income before income taxes	8.9	124.1	178.9	225.1
Income tax expense (benefit):				
Current	7.3	8.0	46.1	47.9
Deferred	(10.7)	27.8	(3.1)	8.9
Total income tax (benefit) expense	(3.4)	35.8	43.0	56.8
Income from continuing operations	12.3	88.3	135.9	168.3
Net (loss) gain from discontinued operations (net of tax benefit (expense) of \$0.8 for the three and nine months ended September 30, 2017 and \$(0.1) and \$2.1 for the three and nine months ended September 30, 2016, respectively)	(1.2)	0.1	(1.2)	0.3
Net income	\$ 11.1	\$ 88.4	\$ 134.7	\$ 168.6
<b>Earnings per common share:</b>				
<b>Basic:</b>				
Income from continuing operations	\$ 0.29	\$ 2.07	\$ 3.20	\$ 3.93
Net gain from discontinued operations	(0.03)	—	(0.03)	0.01
Net income per share	\$ 0.26	\$ 2.07	\$ 3.17	\$ 3.94
Weighted average shares outstanding	42.4	42.7	42.5	42.8
<b>Diluted:</b>				
Income from continuing operations	\$ 0.28	\$ 2.06	\$ 3.17	\$ 3.89
Net gain from discontinued operations	(0.02)	-	(0.03)	—
Net income per share	\$ 0.26	\$ 2.06	\$ 3.14	\$ 3.89
Weighted average shares outstanding	42.9	43.0	42.9	43.3

The accompanying notes are an integral part of these interim consolidated financial statements.

**THE HANOVER INSURANCE GROUP, INC. AND SUBSIDIARIES**  
**CONSOLIDATED STATEMENTS OF COMPREHENSIVE INCOME (UNAUDITED)**

<i>(In millions)</i>	Three Months Ended September 30,		Nine Months Ended September 30,	
	2017	2016	2017	2016
Net income	\$ 11.1	\$ 88.4	\$ 134.7	\$ 168.6
Other comprehensive income (loss), net of tax:				
Available-for-sale securities:				
Net appreciation (depreciation) during the period	1.7	(3.6)	40.0	164.2
Change in other-than-temporary impairment losses recognized in other comprehensive income	2.0	1.6	2.5	7.3
Total available-for-sale securities	3.7	(2.0)	42.5	171.5
Pension and postretirement benefits:				
Amortization recognized as net periodic benefit and postretirement cost	2.3	1.5	7.0	4.8
Cumulative foreign currency translation adjustment:				
Amount recognized as cumulative foreign currency translation during the period	1.1	(1.9)	1.7	(3.2)
Total other comprehensive income (loss), net of tax	7.1	(2.4)	51.2	173.1
Comprehensive income	\$ 18.2	\$ 86.0	\$ 185.9	\$ 341.7

The accompanying notes are an integral part of these interim consolidated financial statements.

**THE HANOVER INSURANCE GROUP, INC. AND SUBSIDIARIES**  
**CONSOLIDATED BALANCE SHEETS (UNAUDITED)**

<i>(In millions, except share data)</i>	September 30, 2017	December 31, 2016
<b>Assets</b>		
Investments:		
Fixed maturities, at fair value (amortized cost of \$7,752.4 and \$7,235.1)	\$ 7,890.5	\$ 7,331.3
Equity securities, at fair value (cost of \$443.1 and \$498.4)	566.5	584.4
Other investments	616.6	533.8
Total investments	9,073.6	8,449.5
Cash and cash equivalents	227.2	282.6
Accrued investment income	64.4	61.7
Premiums and accounts receivable, net	1,656.8	1,438.1
Reinsurance recoverable on paid and unpaid losses and unearned premiums	2,979.7	2,611.8
Deferred acquisition costs	562.5	517.5
Deferred income taxes	76.3	115.1
Goodwill	185.3	184.8
Other assets	486.0	479.8
Assets of discontinued operations	77.5	79.5
Total assets	<u>\$ 15,389.3</u>	<u>\$ 14,220.4</u>
<b>Liabilities</b>		
Loss and loss adjustment expense reserves	\$ 7,635.4	\$ 6,949.4
Unearned premiums	2,862.9	2,561.0
Expenses and taxes payable	676.0	728.0
Reinsurance premiums payable	366.9	251.9
Debt	786.8	786.4
Liabilities of discontinued operations	89.3	86.2
Total liabilities	12,417.3	11,362.9
Commitments and contingencies		
<b>Shareholders' Equity</b>		
Preferred stock, par value \$0.01 per share; 20.0 million shares authorized; none issued	—	—
Common stock, par value \$0.01 per share; 300.0 million shares authorized; 60.5 million shares issued	0.6	0.6
Additional paid-in capital	1,856.4	1,846.7
Accumulated other comprehensive income	114.0	62.8
Retained earnings	1,946.5	1,875.6
Treasury stock at cost (18.1 million shares)	(945.5)	(928.2)
Total shareholders' equity	2,972.0	2,857.5
Total liabilities and shareholders' equity	<u>\$ 15,389.3</u>	<u>\$ 14,220.4</u>

The accompanying notes are an integral part of these interim consolidated financial statements.

**THE HANOVER INSURANCE GROUP, INC. AND SUBSIDIARIES**  
**CONSOLIDATED STATEMENTS OF SHAREHOLDERS' EQUITY (UNAUDITED)**

<i>(In millions)</i>	Nine Months Ended September 30,	
	2017	2016
<b>Preferred Stock</b>		
Balance at beginning and end of period	\$ —	\$ —
<b>Common Stock</b>		
Balance at beginning and end of period	0.6	0.6
<b>Additional Paid-in Capital</b>		
Balance at beginning of period	1,846.7	1,833.5
Employee and director stock-based awards and other	9.7	5.4
Balance at end of period	1,856.4	1,838.9
<b>Accumulated Other Comprehensive Income (Loss), net of tax</b>		
<b>Net Unrealized Appreciation on Investments:</b>		
Balance at beginning of period	186.0	149.9
Net appreciation on available-for-sale securities	42.5	171.5
Balance at end of period	228.5	321.4
<b>Defined Benefit Pension and Postretirement Plans:</b>		
Balance at beginning of period	(102.5)	(78.6)
Net amount recognized as net periodic benefit cost	7.0	4.8
Balance at end of period	(95.5)	(73.8)
<b>Cumulative Foreign Currency Translation Adjustment:</b>		
Balance at beginning of period	(20.7)	(17.4)
Amount recognized as cumulative foreign currency translation during the period	1.7	(3.2)
Balance at end of period	(19.0)	(20.6)
Total accumulated other comprehensive income	114.0	227.0
<b>Retained Earnings</b>		
Balance at beginning of period	1,875.6	1,803.5
Net income	134.7	168.6
Dividends to shareholders	(63.8)	(59.2)
Stock-based compensation	—	(2.5)
Balance at end of period	1,946.5	1,910.4
<b>Treasury Stock</b>		
Balance at beginning of period	(928.2)	(847.1)
Shares purchased at cost	(37.2)	(105.2)
Net shares reissued at cost under employee stock-based compensation plans	19.9	21.1
Balance at end of period	(945.5)	(931.2)
Total shareholders' equity	\$ 2,972.0	\$ 3,045.7

The accompanying notes are an integral part of these interim consolidated financial statements.

**THE HANOVER INSURANCE GROUP, INC. AND SUBSIDIARIES**  
**CONSOLIDATED STATEMENTS OF CASH FLOWS (UNAUDITED)**

<i>(In millions)</i>	Nine Months Ended September 30,	
	2017	2016
<b>Cash Flows From Operating Activities</b>		
Net income	\$ 134.7	\$ 168.6
Adjustments to reconcile net income to net cash provided by operating activities:		
Net realized investment gains	(21.2)	(5.1)
Net amortization and depreciation	23.0	24.6
Stock-based compensation expense	11.5	8.5
Amortization of defined benefit plan costs	10.5	7.5
Gain on disposal of U.K. motor business	—	(1.3)
Net loss from repayment of debt	—	86.1
Deferred income tax expense	(3.1)	10.1
Change in deferred acquisition costs	(45.0)	(27.8)
Change in premiums receivable, net of reinsurance premiums payable	(96.5)	(84.7)
Change in loss, loss adjustment expense and unearned premium reserves	917.5	512.5
Change in reinsurance recoverable	(337.4)	(102.9)
Change in expenses and taxes payable	(53.9)	(29.3)
Other, net	(7.9)	(6.8)
Net cash provided by operating activities	532.2	560.0
<b>Cash Flows From Investing Activities</b>		
Proceeds from disposals and maturities of fixed maturities	819.7	1,190.3
Proceeds from disposals of equity securities and other investments	138.2	226.1
Purchase of fixed maturities	(1,296.9)	(1,443.1)
Purchase of equity securities and other investments	(139.8)	(292.2)
Capital expenditures	(10.7)	(12.2)
Other investing activities	(9.7)	12.1
Net cash used in investing activities	(499.2)	(319.0)
<b>Cash Flows From Financing Activities</b>		
Proceeds from exercise of employee stock options	19.2	14.8
Proceeds from debt borrowings, net	—	370.5
Change in cash collateral related to securities lending program	(7.3)	(9.6)
Dividends paid to shareholders	(63.8)	(59.2)
Repayment of debt	—	(461.3)
Repurchases of common stock	(37.2)	(105.2)
Other financing activities	(3.0)	(11.7)
Net cash used in financing activities	(92.1)	(261.7)
Effect of exchange rate changes on cash	3.7	(2.2)
Net change in cash and cash equivalents	(55.4)	(22.9)
Cash and cash equivalents, beginning of period	282.6	338.8
Cash and cash equivalents, end of period	\$ 227.2	\$ 315.9

The accompanying notes are an integral part of these interim consolidated financial statements.

## THE HANOVER INSURANCE GROUP, INC. AND SUBSIDIARIES

### NOTES TO INTERIM CONSOLIDATED FINANCIAL STATEMENTS (UNAUDITED)

#### 1. Basis of Presentation and Principles of Consolidation

The accompanying unaudited consolidated financial statements of The Hanover Insurance Group, Inc. and subsidiaries (“THG” or the “Company”) have been prepared in accordance with generally accepted accounting principles in the United States of America (“U.S. GAAP”) for interim financial information and with the requirements of Form 10-Q. Certain financial information that is provided in annual financial statements, but is not required in interim reports, has been omitted.

The interim consolidated financial statements of THG include the accounts of The Hanover Insurance Company (“Hanover Insurance”) and Citizens Insurance Company of America, THG’s principal U.S.-domiciled property and casualty companies; Chaucer Holdings Limited (“Chaucer”), a specialist insurance underwriting group which operates through the Society and Corporation of Lloyd’s (“Lloyd’s”) and certain other insurance and non-insurance subsidiaries. These legal entities conduct their operations through several business segments discussed in Note 8 – “Segment Information”. Additionally, the interim consolidated financial statements include the Company’s discontinued operations, consisting primarily of the Company’s former life insurance businesses and its accident and health business. All intercompany accounts and transactions have been eliminated.

The preparation of financial statements in conformity with U.S. GAAP requires the Company to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amount of revenues and expenses during the reporting period. Actual results could differ from those estimates.

In the opinion of the Company’s management, the accompanying interim consolidated financial statements reflect all adjustments, consisting of normal recurring items, necessary for a fair presentation of the financial position and results of operations. The results of operations for the three and nine months ended September 30, 2017 are not necessarily indicative of the results to be expected for the full year. These financial statements should be read in conjunction with the Company’s 2016 Annual Report on Form 10-K filed with the Securities and Exchange Commission (“SEC”) on February 22, 2017.

#### 2. New Accounting Pronouncements

##### *Recently Implemented Standards*

In March 2016, the Financial Accounting Standards Board (“FASB”) issued Accounting Standards Codification (“ASC”) Update No. 2016-09, (Topic 718) *Compensation – Stock Compensation: Improvements to Employee Share-Based Payment Accounting* (“ASC Update No. 2016-09”). This ASC update requires all excess tax benefits and tax deficiencies to be recognized as income tax expense or benefit in the income statement, and be treated as discrete items in the reporting period in which they occur. Additionally, excess tax benefits will be classified with other income tax cash flows as an operating activity and cash paid by an employer when directly withholding shares for tax withholding purposes will be classified as a financing activity. Awards that are used to settle employee tax liabilities will be allowed to qualify for equity classification for withholdings up to the maximum statutory tax rates in applicable jurisdictions. Regarding forfeitures, a company can make an entity-wide accounting policy election to either continue estimating the number of awards that are expected to vest or account for forfeitures when they occur. The updated guidance was effective for interim and annual periods beginning after December 15, 2016. The Company implemented this guidance effective January 1, 2017 and will retain its current forfeiture policy of accruing the compensation cost based on the number of awards that are expected to vest. Prior period cash flow statements have been retrospectively adjusted to present excess tax benefits and cash paid by an employer when withholding shares for tax withholding purposes in accordance with the updated guidance. The adoption of this guidance did not result in any cumulative effect adjustments. The effect this guidance will have on the Company’s results of operations in future periods is dependent on the future tax benefits or deficiencies that are recognized related to stock-based compensations awards, and could be material in any one quarterly or annual period.

##### *Recently Issued Standards*

In March 2017, the FASB issued ASC Update No. 2017-08, (Subtopic 310-20) *Receivables – Nonrefundable Fees and Other Costs: Premium Amortization on Purchased Callable Debt Securities*. This guidance shortens the amortization period of premiums on certain purchased callable debt securities to the earliest call date. The updated guidance is effective for annual and interim periods beginning after December 15, 2018, and should be applied on a modified retrospective basis through a cumulative-effect adjustment directly to retained earnings as of the beginning of the period of adoption. Early adoption is permitted, including adoption in an interim period. The Company does not expect the adoption of ASC Update No. 2017-08 to have a material impact on its financial position or results of operations.

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In March 2017, the FASB issued ASC Update No. 2017-07, (Topic 715) *Compensation – Retirement Benefits: Improving the Presentation of Net Periodic Pension Cost and Net Periodic Postretirement Benefit Cost*. This guidance requires that an employer report in its income statement the service cost component of both net periodic pension and net periodic postretirement benefit cost in the same line item or items as other compensation costs arising from services rendered by pertinent employees during the period, and present in the income statement separately from the other components of benefit cost, if appropriate under the company's current presentation of its income statement. Additionally, the guidance allows only the service cost component to be eligible for capitalization when applicable. The updated guidance is effective for annual and interim periods beginning after December 15, 2017, and should be applied retrospectively for the presentation of the service cost component and other components of net periodic pension cost and net periodic postretirement benefit cost in the income statement, and prospectively for the capitalization of the service cost component of net periodic cost in assets. Early adoption is permitted as of the beginning of an annual period for which financial statements have not been issued. The Company had an insignificant amount of service cost expense for both its pension and postretirement benefit plans in 2016. The Company is not expecting to have any service cost remaining related to its pension and postretirement plans upon this guidance becoming effective, therefore the adoption of ASC Update No. 2017-07 will not have a material impact on its financial position or results of operations.

In January 2017, the FASB issued ASC Update No. 2017-04, (Topic 350) *Intangibles – Goodwill and Other: Simplifying the Test for Goodwill Impairment*. This guidance eliminates step 2 from the goodwill impairment test. Instead, an entity should perform its goodwill impairment test by comparing the fair value of the reporting unit with its carrying amount, including any applicable income tax effects, and recognize an impairment for the amount by which the carrying amount exceeds the reporting unit's fair value. However, the loss recognized should not exceed the total amount of goodwill allocated to that reporting unit. The updated guidance is effective for annual or interim goodwill impairment tests performed in fiscal years beginning after December 15, 2019. Early adoption is permitted for interim or annual goodwill impairment tests performed on testing dates after January 1, 2017. The Company does not expect the adoption of ASC Update No. 2017-04 to have a material impact on its financial position or results of operations.

In January 2017, the FASB issued ASC Update No. 2017-01, (Topic 805) *Business Combinations – Clarifying the Definition of a Business*. The amendments in this update provide a more robust framework to use in determining when a set of assets and activities constitute a business. This guidance narrows the definition of a business by providing specific requirements that contribute to the creation of outputs that must be present to be considered a business. The guidance further clarifies the appropriate accounting when substantially all of the fair value of the gross assets acquired (or disposed of) is concentrated in a single identifiable asset or a group of similar identifiable assets is that of an acquisition (disposition) of assets, not a business. This framework will reduce the number of transactions that an entity must further evaluate to determine whether transactions are business combinations or asset acquisitions. The updated guidance is effective for interim and annual periods beginning after December 15, 2017, and should be applied on a prospective basis. Early adoption is permitted only for transactions that have not been reported in financial statements that have been issued. The Company does not expect the adoption of ASC Update No. 2017-01 to have a material impact on its financial position or results of operations.

In November 2016, the FASB issued ASC Update No. 2016-18 (Topic 230) *Statement of Cash Flows – Restricted Cash (a consensus of the FASB Emerging Issues Task Force)*. The amendments in this update require that restricted cash and restricted cash equivalents be included with cash and cash equivalents when reconciling the beginning-of-period and end-of-period total amounts shown on the statement of cash flows. Current GAAP does not include specific guidance on the cash flow classification and presentation of changes in restricted cash. The updated guidance is effective for interim and annual periods beginning after December 15, 2017 and is required to be applied using a retrospective transition method to each period presented. Early adoption is permitted, including adoption in an interim period. However, any adjustments should be reflected as of the beginning of the fiscal year that includes that interim period. Implementing this guidance is not expected to have a significant impact on the Company's statement of cash flows, as restricted cash, if any, is currently included in total cash and cash equivalents.

In October 2016, the FASB issued ASC Update No. 2016-16, (Topic 740) *Income Taxes – Intra-Entity Transfers of Assets Other Than Inventory*. Under current GAAP, the tax effects of intra-entity transfers of assets (intercompany sales) are deferred until the assets are sold to an outside party or otherwise recovered through use. This ASC update eliminates this deferral of taxes for assets other than inventory and requires the recognition of taxes when the transfer occurs. The updated guidance is effective for interim and annual periods beginning after December 15, 2017, and should be applied on a modified retrospective basis through a cumulative-effect adjustment to retained earnings. Early adoption is permitted, but this election must be made in the first interim period of the adoption year. The adoption of ASC Update No. 2016-16 is not expected to have any net impact on the Company's financial position or results of operations.

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In August 2016, the FASB issued ASC Update No. 2016-15, (Topic 230) *Classification of Certain Cash Receipts and Cash Payments*. This ASC update provides specific guidance on the presentation of certain cash flow items where there is currently diversity in practice, including, but not limited to, debt prepayment or debt extinguishment costs, contingent consideration payments made after a business combination, proceeds from the settlement of insurance claims, and distributions received from equity method investees. The updated guidance is effective for interim and annual periods beginning after December 15, 2017, and should be applied retrospectively unless impracticable. Early adoption is permitted. The adoption of ASC Update No. 2016-15 is not expected to have a significant impact on the Company's statement of cash flows.

In June 2016, the FASB issued ASC Update No. 2016-13, (Topic 326) *Financial Instruments – Credit Losses: Measurement of Credit Losses on Financial Instruments*. This ASC update introduces new guidance for the accounting for credit losses on financial instruments within its scope. A new model, referred to as the current expected credit losses model, requires an entity to determine credit-related impairment losses for financial instruments held at amortized cost and to estimate these expected credit losses over the life of an exposure (or pool of exposures). The estimate of expected credit losses should consider both historical and current information, reasonable and supportable forecasts, as well as estimates of prepayments. The estimated credit losses and subsequent adjustment to such loss estimates, will be recorded through an allowance account which is deducted from the amortized cost of the financial instrument, with the offset recorded in current earnings. ASC No. 2016-13 also modifies the impairment model for available-for-sale debt securities. The new model will require an estimate of expected credit losses only when the fair value is below the amortized cost of the asset, thus the length of time the fair value of an available-for-sale debt security has been below the amortized cost will no longer affect the determination of whether a credit loss exists. In addition, credit losses on available-for-sale debt securities will be limited to the difference between the security's amortized cost basis and its fair value. The updated guidance is effective for interim and annual periods beginning after December 15, 2019. Early adoption is permitted for periods beginning after December 15, 2018. The Company is evaluating the impact of the adoption of ASC Update No. 2016-13 on its financial position and results of operations.

In February 2016, the FASB issued ASC Update No. 2016-02, (Topic 842) *Leases*. This ASC update requires a lessee to recognize a right-of-use asset, which represents the lessee's right to use a specified asset for the lease term, and a corresponding lease liability, which represents a lessee's obligation to make lease payments arising from a lease, measured on a discounted basis, for all leases that extend beyond 12 months. For finance or capital leases, interest on the lease liability will be recognized separately from amortization of the right-of-use asset in the statements of income and comprehensive income. In addition, the repayment of the principal portion of the lease liability will be classified as a financing activity while the interest component will be included in the operating section of the statement of cash flows. For operating leases, the asset and liability will be amortized as a single lease cost, such that the cost of the lease is allocated over the lease term, on a generally straight-line basis, with all cash flows included within operating activities in the statement of cash flows. The updated guidance is effective for interim and annual periods beginning after December 15, 2018 and is required to be implemented by applying a modified retrospective transition approach. The Company is continuing to evaluate the impact of the adoption of ASC Update No. 2016-02 on its results of operations. It is expected that assets and liabilities will increase based on the present value of remaining lease payments for leases in place at the adoption date; however, the impact is not expected to be significant to the Company's financial position.

In January 2016, the FASB issued ASC Update No. 2016-01, (Subtopic 825-10) *Financial Instruments – Overall: Recognition and Measurement of Financial Assets and Financial Liabilities*. This ASC update requires unconsolidated equity investments to be measured at fair value with changes in the fair value recognized in net income, except for those accounted for under the equity method. This update eliminates the cost method for equity investments without readily determinable fair values and replaces with other methods, including the use of Net Asset Value ("NAV"). Additionally, when a public entity is required to measure fair value for disclosure purposes and holds financial instruments measured at amortized cost, the updated guidance requires these instruments to be measured using exit price. It also requires financial assets and financial liabilities to be presented separately in the notes to the financial statements, grouped by measurement category and form of financial asset. The updated guidance is effective for annual periods beginning after December 15, 2017. The Company will adopt the guidance effective January 1, 2018 through a cumulative effect adjustment to retained earnings. The adoption is not expected to have a material impact on the Company's financial position. The impact to the Company is expected to be increased volatility in net income beginning in 2018; the magnitude of such volatility will depend on the composition of the Company's investment portfolio in the future and changes in the fair value of the Company's investments.

In May 2014, the FASB issued ASC Update No. 2014-09, (Topic 606) *Revenue from Contracts with Customers*. This ASC was issued to clarify the principles for recognizing revenue. Insurance contracts and financial instrument transactions are not within the scope of this updated guidance, and; therefore, only an insignificant amount of the Company's revenue is subject to this updated guidance. In August 2015, the FASB issued ASC Update No. 2015-14, (Topic 606) *Revenue from Contracts with Customers*, which deferred the effective date of ASC Update No. 2014-09 by one year. Accordingly, the updated guidance is effective for periods beginning after December 15, 2017 and is not expected to have a material effect on the Company's financial position or results of operations.

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**3. Income Taxes**

Income tax expense for the nine months ended September 30, 2017 and 2016 has been computed using estimated annual effective tax rates. These rates are revised, if necessary, at the end of each successive interim period to reflect current estimates of the annual effective tax rates.

For the nine months ended September 30, 2017, the tax provision was comprised of a \$59.5 million U.S. federal income tax expense and a \$16.5 million foreign income tax benefit. For the nine months ended September 30, 2016, the tax provision was comprised of a \$28.9 million U.S. federal income tax expense and a \$27.9 million foreign income tax expense.

Most of the Company's non-U.S. income is subject to U.S. federal income tax, although a portion of its non-U.S. income is not subject to U.S. federal income tax until repatriated. Foreign taxes on this non-U.S. income are accrued at the local foreign tax rate, as opposed to the higher U.S. statutory rate, since these earnings currently are expected to be indefinitely reinvested overseas. This assumption could change as a result of a sale of the subsidiaries, the receipt of dividends from the subsidiaries, a change in management's intentions, or as a result of various other events. The Company has not made a provision for U.S. taxes on \$10.4 million and \$18.7 million of non-U.S. income for the nine months ended September 30, 2017 and 2016, respectively. However, in the future, if such earnings were distributed to the Company, taxes of \$51.0 million would be payable on the accumulated undistributed earnings and would be reflected in the tax provision for the year in which these earnings are no longer intended to be indefinitely reinvested overseas, assuming all foreign tax credits are realized.

The Company or its subsidiaries files income tax returns in the U.S. federal jurisdiction and various state jurisdictions, as well as foreign jurisdictions. The Company and its subsidiaries are subject to U.S. federal and state income tax examinations by tax authorities for years after 2013 and foreign examinations for years after 2012.

**4. Investments**

**A. Fixed maturities and equity securities**

The amortized cost and fair value of available-for-sale fixed maturities and the cost and fair value of equity securities were as follows:

<i>(in millions)</i>	September 30, 2017				
	Amortized Cost or Cost	Gross Unrealized Gains	Gross Unrealized Losses	Fair Value	OTTI Unrealized Losses
Fixed maturities:					
U.S. Treasury and government agencies	\$ 434.3	\$ 4.1	\$ 4.3	\$ 434.1	\$ —
Foreign government	241.7	4.5	1.2	245.0	—
Municipal	1,061.1	36.9	4.8	1,093.2	—
Corporate	4,330.2	125.5	29.2	4,426.5	12.4
Residential mortgage-backed	1,032.8	9.7	9.4	1,033.1	—
Commercial mortgage-backed	592.0	8.8	2.6	598.2	—
Asset-backed	60.3	0.2	0.1	60.4	—
Total fixed maturities	<u>\$ 7,752.4</u>	<u>\$ 189.7</u>	<u>\$ 51.6</u>	<u>\$ 7,890.5</u>	<u>\$ 12.4</u>
Equity securities	<u>\$ 443.1</u>	<u>\$ 123.7</u>	<u>\$ 0.3</u>	<u>\$ 566.5</u>	<u>\$ —</u>

<i>(in millions)</i>	December 31, 2016				
	Amortized Cost or Cost	Gross Unrealized Gains	Gross Unrealized Losses	Fair Value	OTTI Unrealized Losses
Fixed maturities:					
U.S. Treasury and government agencies	\$ 342.5	\$ 3.7	\$ 5.1	\$ 341.1	—
Foreign government	235.8	5.4	0.5	240.7	—
Municipal	1,065.8	38.8	9.2	1,095.4	—
Corporate	3,989.8	113.0	49.0	4,053.8	15.8
Residential mortgage-backed	978.2	9.6	13.6	974.2	0.4
Commercial mortgage-backed	550.6	7.8	4.1	554.3	—
Asset-backed	72.4	0.2	0.8	71.8	—
Total fixed maturities	<u>\$ 7,235.1</u>	<u>\$ 178.5</u>	<u>\$ 82.3</u>	<u>\$ 7,331.3</u>	<u>16.2</u>
Equity securities	<u>\$ 498.4</u>	<u>\$ 86.7</u>	<u>\$ 0.7</u>	<u>\$ 584.4</u>	<u>—</u>

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Other-than-temporary impairments (“OTTI”) unrealized losses in the tables above represent OTTI recognized in accumulated other comprehensive income (“AOCI”). This amount excludes net unrealized gains on impaired securities relating to changes in the value of such securities subsequent to the impairment measurement date of \$18.2 million and \$21.4 million as of September 30, 2017 and December 31, 2016, respectively.

In accordance with Lloyd’s operating guidelines, the Company deposits funds at Lloyd’s to support underwriting operations. These funds are available only to fund claim obligations. These assets consisted of approximately \$596 million of fixed maturities and \$5 million of cash and cash equivalents as of September 30, 2017. The Company also deposits funds with various state and governmental authorities in the U.S. For a discussion of the Company’s deposits with state and governmental authorities, see also Note 3 – “Investments” of the Notes to Consolidated Financial Statements in our Annual Report on Form 10-K for the year ended December 31, 2016.

The amortized cost and fair value by maturity periods for fixed maturities are shown below. Actual maturities may differ from contractual maturities because borrowers may have the right to call or prepay obligations with or without call or prepayment penalties, or the Company may have the right to put or sell the obligations back to the issuers.

	September 30, 2017	
	Amortized Cost	Fair Value
<i>(in millions)</i>		
Due in one year or less	\$ 401.2	\$ 404.8
Due after one year through five years	2,763.4	2,841.9
Due after five years through ten years	2,515.0	2,548.9
Due after ten years	387.7	403.2
	<u>6,067.3</u>	<u>6,198.8</u>
Mortgage-backed and asset-backed securities	1,685.1	1,691.7
Total fixed maturities	<u>\$ 7,752.4</u>	<u>\$ 7,890.5</u>

**B. Securities in an unrealized loss position**

The following tables provide information about the Company’s fixed maturities and equity securities that were in an unrealized loss position at September 30, 2017 and December 31, 2016 including the length of time the securities have been in an unrealized loss position:

	September 30, 2017					
	12 months or less		Greater than 12 months		Total	
	Gross Unrealized Losses	Fair Value	Gross Unrealized Losses	Fair Value	Gross Unrealized Losses	Fair Value
<i>(in millions)</i>						
Fixed maturities:						
Investment grade:						
U.S. Treasury and government agencies	\$ 3.1	\$ 213.1	\$ 1.2	\$ 40.8	\$ 4.3	\$ 253.9
Foreign governments	1.1	112.0	0.1	7.3	1.2	119.3
Municipal	2.3	187.3	2.5	57.9	4.8	245.2
Corporate	10.1	792.5	10.2	229.9	20.3	1,022.4
Residential mortgage-backed	6.0	440.5	3.4	95.1	9.4	535.6
Commercial mortgage-backed	1.3	118.5	1.3	50.1	2.6	168.6
Asset-backed	0.1	32.5	—	—	0.1	32.5
Total investment grade	<u>24.0</u>	<u>1,896.4</u>	<u>18.7</u>	<u>481.1</u>	<u>42.7</u>	<u>2,377.5</u>
Below investment grade:						
Corporate	1.3	33.7	7.6	52.4	8.9	86.1
Total fixed maturities	<u>25.3</u>	<u>1,930.1</u>	<u>26.3</u>	<u>533.5</u>	<u>51.6</u>	<u>2,463.6</u>
Equity securities	0.3	11.0	—	—	0.3	11.0
Total	<u>\$ 25.6</u>	<u>\$ 1,941.1</u>	<u>\$ 26.3</u>	<u>\$ 533.5</u>	<u>\$ 51.9</u>	<u>\$ 2,474.6</u>

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	December 31, 2016					
	12 months or less		Greater than 12 months		Total	
	Gross Unrealized Losses	Fair Value	Gross Unrealized Losses	Fair Value	Gross Unrealized Losses	Fair Value
<i>(in millions)</i>						
Fixed maturities:						
Investment grade:						
U.S. Treasury and government agencies	\$ 5.1	\$ 165.9	\$ —	\$ —	\$ 5.1	\$ 165.9
Foreign governments	0.5	55.0	—	1.8	0.5	56.8
Municipal	7.2	268.4	2.0	29.3	9.2	297.7
Corporate	30.6	1,081.0	5.0	64.2	35.6	1,145.2
Residential mortgage-backed	12.1	570.0	1.5	29.0	13.6	599.0
Commercial mortgage-backed	4.1	187.5	—	6.3	4.1	193.8
Asset-backed	0.6	29.1	0.2	3.5	0.8	32.6
Total investment grade	60.2	2,356.9	8.7	134.1	68.9	2,491.0
Below investment grade:						
Corporate	1.2	45.9	12.2	81.8	13.4	127.7
Residential mortgage-backed	—	0.1	—	—	—	0.1
Total below investment grade	1.2	46.0	12.2	81.8	13.4	127.8
Total fixed maturities	61.4	2,402.9	20.9	215.9	82.3	2,618.8
Equity securities	0.7	16.3	—	—	0.7	16.3
Total	\$ 62.1	\$ 2,419.2	\$ 20.9	\$ 215.9	\$ 83.0	\$ 2,635.1

The Company views gross unrealized losses on fixed maturities and equity securities as being temporary since it is its assessment that these securities will recover in the near term, allowing the Company to realize the anticipated long-term economic value. The Company employs a systematic methodology to evaluate declines in fair value below amortized cost for fixed maturity securities or cost for equity securities. In determining OTTI of fixed maturity and equity securities, the Company evaluates several factors and circumstances, including the issuer's overall financial condition; the issuer's credit and financial strength ratings; the issuer's financial performance, including earnings trends, dividend payments and asset quality; any specific events which may influence the operations of the issuer; the general outlook for market conditions in the industry or geographic region in which the issuer operates; and the length of time and the degree to which the fair value of an issuer's securities remains below the Company's cost. With respect to fixed maturity investments, the Company considers any factors that might raise doubt about the issuer's ability to make contractual payments as they come due and whether the Company expects to recover the entire amortized cost basis of the security. With respect to equity securities, the Company considers its ability and intent to hold the investment for a period of time to allow for a recovery in value.

**C. Proceeds from sales**

The proceeds from sales of available-for-sale securities and gross realized gains and losses on those sales, were as follows:

	Three Months Ended September 30,					
	2017			2016		
	Proceeds from Sales	Gross Gains	Gross Losses	Proceeds from Sales	Gross Gains	Gross Losses
<i>(in millions)</i>						
Fixed maturities	\$ 92.6	\$ 3.0	\$ 0.5	\$ 94.2	\$ 3.6	\$ 0.3
Equity securities	\$ 68.2	\$ 12.0	\$ 0.2	\$ 20.7	\$ -	\$ 1.2

  

	Nine Months Ended September 30,					
	2017			2016		
	Proceeds from Sales	Gross Gains	Gross Losses	Proceeds from Sales	Gross Gains	Gross Losses
<i>(in millions)</i>						
Fixed maturities	\$ 322.7	\$ 8.2	\$ 1.9	\$ 402.1	\$ 9.5	\$ 4.5
Equity securities	\$ 114.5	\$ 17.9	\$ 0.3	\$ 194.1	\$ 26.4	\$ 2.9

[Table of Contents](#)**D. Other-than-temporary impairments**

For the three months ended September 30, 2017, total OTTI was \$1.6 million, consisting primarily of fixed maturities. Of this amount, \$1.3 million was recognized in earnings and the remaining \$0.3 million was recorded as unrealized losses in AOCI. For the nine months ended September 30, 2017, total OTTI was \$5.0 million, consisting of equity securities, fixed maturities and other invested assets. Of this amount, \$4.5 million was recognized in earnings and the remaining \$0.5 million was recorded as unrealized losses in AOCI.

For the three months ended September 30, 2016, \$0.1 million of OTTI on fixed maturities was transferred from unrealized losses in AOCI and recognized in earnings, with no impact on total OTTI. For the nine months ended September 30, 2016, total OTTI was \$19.2 million, consisting primarily of fixed maturities and, to a lesser extent, equity securities. Of this amount, \$26.0 million was recognized in earnings, including \$6.8 million which was transferred from unrealized losses in AOCI.

The methodology and significant inputs used to measure the amount of credit losses on fixed maturities in 2017 and 2016 were as follows:

Corporate bonds – the Company utilized a financial model that derives expected cash flows based on probability-of-default factors by credit rating, loss-given-default factors based on security type and position in the capital structure and asset duration. These factors are based on historical data provided by an independent third-party rating agency.

The following table provides rollforwards of the cumulative amounts related to the Company's credit loss portion of the OTTI losses on fixed maturity securities for which the non-credit portion of the loss is included in other comprehensive income.

<i>(in millions)</i>	Three Months Ended September 30,		Nine Months Ended September 30,	
	2017	2016	2017	2016
Credit losses at beginning of period	\$ 9.6	\$ 11.7	\$ 10.0	\$ 18.0
Credit losses on securities for which an OTTI was not previously recognized	0.2	—	0.4	5.2
Additional credit losses on securities for which an OTTI was previously recognized	—	0.1	0.1	2.2
Reductions for securities sold, matured or called	(1.9)	(2.3)	(2.6)	(3.9)
Reductions for securities reclassified as intend to sell	(0.4)	—	(0.4)	(12.0)
Credit losses at end of period	<u>\$ 7.5</u>	<u>\$ 9.5</u>	<u>\$ 7.5</u>	<u>\$ 9.5</u>

**5. Fair Value**

Fair value is defined as the price that would be received to sell an asset or paid to transfer a liability, i.e., exit price, in an orderly transaction between market participants. The Company emphasizes the use of observable market data whenever available in determining fair value. Fair values presented for certain financial instruments are estimates which, in many cases, may differ significantly from the amounts that could be realized upon immediate liquidation. A hierarchy of the three broad levels of fair value are as follows, with the highest priority given to Level 1 as these are the most observable, and the lowest priority given to Level 3:

Level 1 – Unadjusted quoted prices in active markets for identical assets or liabilities.

Level 2 – Quoted prices for similar assets or liabilities in active markets, quoted prices for identical or similar assets or liabilities in markets that are not active, or other inputs that are observable or can be corroborated by observable market data, including model-derived valuations.

Level 3 – Unobservable inputs that are supported by little or no market activity.

When more than one level of input is used to determine fair value, the financial instrument is classified as Level 2 or 3 according to the lowest level input that has a significant impact on the fair value measurement.

The following methods and assumptions were used to estimate the fair value of each class of financial instruments and have not changed since last year.

**Cash and Cash Equivalents**

The carrying amount approximates fair value. Cash equivalents primarily consist of money market instruments, which are generally valued using unadjusted quoted prices in active markets that are accessible for identical assets and are classified as Level 1.

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### **Fixed Maturities**

Level 1 securities generally include U.S. Treasury issues and other securities that are highly liquid and for which quoted market prices are available. Level 2 securities are valued using pricing for similar securities and pricing models that incorporate observable inputs including, but not limited to yield curves and issuer spreads. Level 3 securities include issues for which little observable data can be obtained, primarily due to the illiquid nature of the securities, and for which significant inputs used to determine fair value are based on the Company's own assumptions. Non-binding broker quotes are also included in Level 3.

The Company utilizes a third party pricing service for the valuation of the majority of its fixed maturity securities and receives one quote per security. When quoted market prices in an active market are available, they are provided by the pricing service as the fair value and such values are classified as Level 1. Since fixed maturities other than U.S. Treasury securities generally do not trade on a daily basis, the pricing service prepares estimates of fair value for those securities using pricing techniques based on a market approach. Inputs into the fair value pricing common to all asset classes include: benchmark U.S. Treasury security yield curves; reported trades of identical or similar fixed maturity securities; broker/dealer quotes of identical or similar fixed maturity securities and structural characteristics such as maturity date, coupon, mandatory principal payment dates, frequency of interest and principal payments, and optional redemption features. Inputs into the fair value applications that are unique by asset class include, but are not limited to:

- U.S. government agencies – determination of direct versus indirect government support and whether any contingencies exist with respect to the timely payment of principal and interest.
- Foreign government – estimates of appropriate market spread versus underlying related sovereign treasury curve(s) dependent on liquidity and direct or contingent support.
- Municipals – overall credit quality, including assessments of the level and variability of: sources of payment such as income, sales or property taxes, levies or user fees; credit support such as insurance; state or local economic and political base; natural resource availability; and susceptibility to natural or man-made catastrophic events such as hurricanes, earthquakes or acts of terrorism.
- Corporate fixed maturities – overall credit quality, including assessments of the level and variability of: economic sensitivity; liquidity; corporate financial policies; management quality; regulatory environment; competitive position; ownership; restrictive covenants; and security or collateral.
- Residential mortgage-backed securities – estimates of prepayment speeds based upon: historical prepayment rate trends; underlying collateral interest rates; geographic concentration; vintage year; borrower credit quality characteristics; interest rate and yield curve forecasts; government or monetary authority support programs; tax policies; delinquency/default trends; and, in the case of non-agency collateralized mortgage obligations, severity of loss upon default and length of time to recover proceeds following default.
- Commercial mortgage-backed securities – overall credit quality, including assessments of the value and supply/demand characteristics of: collateral type such as office, retail, residential, lodging, or other; geographic concentration by region, state, metropolitan statistical area and locale; vintage year; historical collateral performance including defeasance, delinquency, default and special servicer trends; and capital structure support features.
- Asset-backed securities – overall credit quality, including assessments of the underlying collateral type such as credit card receivables, auto loan receivables and equipment lease receivables; geographic diversification; vintage year; historical collateral performance including delinquency, default and casualty trends; economic conditions influencing use rates and resale values; and contract structural support features.

Generally, all prices provided by the pricing service, except actively traded securities with quoted market prices, are reported as Level 2.

The Company holds privately placed fixed maturity securities and certain other fixed maturity securities that do not have an active market and for which the pricing service cannot provide fair values. The Company determines fair values for these securities using either matrix pricing utilizing the market approach or broker quotes. The Company will use observable market data as inputs into the fair value techniques, as discussed in the determination of Level 2 fair values, to the extent it is available, but is also required to use a certain amount of unobservable judgment due to the illiquid nature of the securities involved. Unobservable judgment reflected in the Company's matrix model accounts for estimates of additional spread required by market participants for factors such as issue size, structural complexity, high bond coupon or other unique features. These matrix-priced securities are reported as Level 2 or Level 3, depending on the significance of the impact of unobservable judgment on the security's value. Additionally, the Company may obtain non-binding broker quotes which are reported as Level 3.

[Table of Contents](#)**Equity Securities**

Level 1 consists of publicly traded securities, including exchange traded funds, valued at quoted market prices. Level 2 includes securities that are valued using pricing for similar securities and pricing models that incorporate observable inputs. Level 3 consists of common or preferred stock of private companies for which observable inputs are not available.

The Company utilizes a third party pricing service for the valuation of the majority of its equity securities and receives one quote for each equity security. When quoted market prices in an active market are available, they are provided by the pricing service as the fair value and such values are classified as Level 1. The Company holds certain equity securities that have been issued by privately-held entities that do not have an active market and for which the pricing service cannot provide fair values. Generally, the Company estimates fair value for these securities based on the issuer's book value and market multiples and reports them as Level 3. Additionally, the Company may obtain non-binding broker quotes which are reported as Level 3.

**Other Investments**

Other investments primarily include mortgage participations, cost basis limited partnerships, and overseas trust funds required in connection with the Company's Lloyd's business. Fair values of mortgage participations are estimated by discounting the contractual cash flows using the rates at which similar loans would be made to borrowers with comparable credit ratings and are reported as Level 3. The fair values of cost basis limited partnerships are based on the net asset value provided by the general partner adjusted for recent financial information and are excluded from the fair value hierarchy. Fair values of overseas trust funds are provided by the investment manager based on quoted prices for similar instruments in active markets and are reported as Level 2.

**Debt**

The fair value of debt is estimated based on quoted market prices for identical or similar issuances. If a quoted market price is not available, fair values are estimated using discounted cash flows that are based on current interest rates and yield curves for debt issuances with maturities and credit risks consistent with the debt being valued. Debt is reported as Level 2.

The estimated fair value of the financial instruments were as follows:

	September 30, 2017		December 31, 2016	
	Carrying Value	Fair Value	Carrying Value	Fair Value
<i>(in millions)</i>				
<b>Financial Assets</b>				
Cash and cash equivalents	\$ 227.2	\$ 227.2	\$ 282.6	\$ 282.6
Fixed maturities	7,890.5	7,890.5	7,331.3	7,331.3
Equity securities	566.5	566.5	584.4	584.4
Other investments	577.1	586.0	497.8	497.6
Total financial assets	<u>\$ 9,261.3</u>	<u>\$ 9,270.2</u>	<u>\$ 8,696.1</u>	<u>\$ 8,695.9</u>
<b>Financial Liabilities</b>				
Debt	<u>\$ 786.8</u>	<u>\$ 873.3</u>	<u>\$ 786.4</u>	<u>\$ 841.9</u>

The Company has processes designed to ensure that the values received from its third party pricing service are accurately recorded, that the data inputs and valuation approaches and techniques utilized are appropriate and consistently applied, and that the assumptions are reasonable and consistent with the objective of determining fair value. The Company performs a review of the fair value hierarchy classifications and of prices received from its pricing service on a quarterly basis. The Company reviews the pricing services' policies describing its methodology, processes, practices and inputs, including various financial models used to value securities. Also, the Company reviews the portfolio pricing, including a process for which securities with changes in prices that exceed a defined threshold are verified to independent sources, if available. If upon review, the Company is not satisfied with the validity of a given price, a pricing challenge would be submitted to the pricing service along with supporting documentation for its review. The Company does not adjust quotes or prices obtained from the pricing service unless the pricing service agrees with the Company's challenge. During 2017 and 2016, the Company did not adjust any prices received from its pricing service.

Changes in the observability of valuation inputs may result in a reclassification of certain financial assets or liabilities within the fair value hierarchy. Reclassifications between levels of the fair value hierarchy are reported as of the beginning of the period in which the reclassification occurs. As previously discussed, the Company utilizes a third party pricing service for the valuation of the majority of its fixed maturities and equity securities. The pricing service has indicated that it will only produce an estimate of fair value if there is objectively verifiable information to produce a valuation. If the pricing service discontinues pricing an investment, the Company will use observable market data to the extent it is available, but may also be required to make assumptions for market based inputs that are unavailable due to market conditions.

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The following tables provide, for each hierarchy level, the Company's assets that were measured at fair value on a recurring basis.

<i>(in millions)</i>	September 30, 2017			
	Total	Level 1	Level 2	Level 3
<b>Fixed maturities:</b>				
U.S. Treasury and government agencies	\$ 434.1	\$ 198.4	\$ 235.7	\$ —
Foreign government	245.0	44.7	200.3	—
Municipal	1,093.2	—	1,065.1	28.1
Corporate	4,426.5	—	4,425.6	0.9
Residential mortgage-backed, U.S. agency backed	1,000.2	—	1,000.2	—
Residential mortgage-backed, non-agency	32.9	—	32.9	—
Commercial mortgage-backed	598.2	—	583.8	14.4
Asset-backed	60.4	—	60.4	—
Total fixed maturities	7,890.5	243.1	7,604.0	43.4
Equity securities	558.1	557.0	—	1.1
Other investments	118.5	—	114.4	4.1
Total investment assets at fair value	\$ 8,567.1	\$ 800.1	\$ 7,718.4	\$ 48.6

<i>(in millions)</i>	December 31, 2016			
	Total	Level 1	Level 2	Level 3
<b>Fixed maturities:</b>				
U.S. Treasury and government agencies	\$ 341.1	\$ 209.5	\$ 131.6	\$ —
Foreign government	240.7	47.3	193.4	—
Municipal	1,095.4	—	1,064.4	31.0
Corporate	4,053.8	—	4,049.6	4.2
Residential mortgage-backed, U.S. agency backed	924.4	—	924.4	—
Residential mortgage-backed, non-agency	49.8	—	49.8	—
Commercial mortgage-backed	554.3	—	539.3	15.0
Asset-backed	71.8	—	71.8	—
Total fixed maturities	7,331.3	256.8	7,024.3	50.2
Equity securities	574.6	573.1	—	1.5
Other investments	106.3	—	102.2	4.1
Total investment assets at fair value	\$ 8,012.2	\$ 829.9	\$ 7,126.5	\$ 55.8

The following tables provide, for each hierarchy level, the Company's estimated fair values of financial instruments that were not carried at fair value:

<i>(in millions)</i>	September 30, 2017			
	Total	Level 1	Level 2	Level 3
<b>Assets:</b>				
Cash and cash equivalents	\$ 227.2	\$ 227.2	\$ —	\$ —
Equity securities	8.4	—	8.4	—
Other investments	334.4	—	—	334.4
<b>Liabilities:</b>				
Debt	\$ 873.3	\$ —	\$ 873.3	\$ —

<i>(in millions)</i>	December 31, 2016			
	Total	Level 1	Level 2	Level 3
<b>Assets:</b>				
Cash and cash equivalents	\$ 282.6	\$ 282.6	\$ —	\$ —
Equity securities	9.8	—	9.8	—
Other investments	297.2	—	—	297.2
<b>Liabilities:</b>				
Debt	\$ 841.9	\$ —	\$ 841.9	\$ —

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Investments measured at fair value using net asset value based on an ownership interest in partners' capital have not been included in the table above. The fair values of these investments were \$133.1 million and \$94.1 million as of September 30, 2017 and December 31, 2016, respectively, which are approximately 1% of total investment assets.

The tables below provide a reconciliation for all assets measured at fair value on a recurring basis using significant unobservable inputs (Level 3).

<i>(in millions)</i>	Fixed Maturities					Equity and Other	Total Assets
	Municipal	Corporate	Commercial mortgage-backed	Asset-backed	Total		
<b>Three Months Ended</b>							
<b>September 30, 2017</b>							
Balance July 1, 2017	\$ 30.1	\$ 1.0	\$ 14.6	\$ —	\$ 45.7	\$ 5.6	\$ 51.3
Transfers out of Level 3	(1.9)	—	—	—	(1.9)	(0.4)	(2.3)
Total gains:							
Included in other comprehensive income-net appreciation on available-for-sale securities	0.2	—	—	—	0.2	—	0.2
Sales	(0.3)	(0.1)	(0.2)	—	(0.6)	—	(0.6)
Balance September 30, 2017	<u>\$ 28.1</u>	<u>\$ 0.9</u>	<u>\$ 14.4</u>	<u>\$ —</u>	<u>\$ 43.4</u>	<u>\$ 5.2</u>	<u>\$ 48.6</u>
<b>Three Months Ended</b>							
<b>September 30, 2016</b>							
Balance July 1, 2016	\$ 34.4	\$ 4.4	\$ 16.7	\$ 0.4	\$ 55.9	\$ 4.9	\$ 60.8
Transfers out of Level 3	(1.2)	—	—	—	(1.2)	—	(1.2)
Total (losses) gains:							
Included in other comprehensive income-net (depreciation) appreciation on available-for-sale securities	(0.1)	(0.1)	(0.1)	—	(0.3)	0.1	(0.2)
Sales	(0.8)	—	(0.4)	(0.4)	(1.6)	—	(1.6)
Balance September 30, 2016	<u>\$ 32.3</u>	<u>\$ 4.3</u>	<u>\$ 16.2</u>	<u>\$ —</u>	<u>\$ 52.8</u>	<u>\$ 5.0</u>	<u>\$ 57.8</u>

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<i>(in millions)</i>	Fixed Maturities				Total	Equity and Other	Total Assets
	Municipal	Corporate	Commercial mortgage-backed	Asset-backed			
<b>Nine Months Ended September 30, 2017</b>							
Balance January 1, 2017	\$ 31.0	\$ 4.2	\$ 15.0	\$ —	\$ 50.2	\$ 5.6	\$ 55.8
Transfers out of Level 3	(1.9)	—	—	—	(1.9)	(0.4)	(2.3)
Total gains (losses):							
Included in total net realized investment gains	—	0.3	—	—	0.3	—	0.3
Included in other comprehensive income-net appreciation (depreciation) on available-for-sale securities	0.6	(0.2)	0.1	—	0.5	—	0.5
Sales	(1.6)	(3.4)	(0.7)	—	(5.7)	—	(5.7)
Balance September 30, 2017	<u>\$ 28.1</u>	<u>\$ 0.9</u>	<u>\$ 14.4</u>	<u>\$ —</u>	<u>\$ 43.4</u>	<u>\$ 5.2</u>	<u>\$ 48.6</u>
<b>Nine Months Ended September 30, 2016</b>							
Balance January 1, 2016	\$ 34.4	\$ 3.7	\$ 17.0	\$ 0.5	\$ 55.6	\$ 4.9	\$ 60.5
Transfers out of Level 3	(1.2)	—	—	—	(1.2)	—	(1.2)
Total gains (losses):							
Included in total net realized investment gains	0.1	(0.2)	—	—	(0.1)	—	(0.1)
Included in other comprehensive income-net appreciation on available-for-sale securities	1.5	0.6	0.6	—	2.7	0.1	2.8
Purchases and sales:							
Purchases	—	0.3	—	—	0.3	—	0.3
Sales	(2.5)	(0.1)	(1.4)	(0.5)	(4.5)	—	(4.5)
Balance September 30, 2016	<u>\$ 32.3</u>	<u>\$ 4.3</u>	<u>\$ 16.2</u>	<u>\$ —</u>	<u>\$ 52.8</u>	<u>\$ 5.0</u>	<u>\$ 57.8</u>

During the three and nine months ended September 30, 2017 and 2016, fixed maturities transferred from Level 3 to Level 2 primarily as a result of assessing the significance of unobservable inputs on the fair value measurement. During the three and nine months ended September 30, 2017, equity securities transferred from Level 3 to Level 1 upon the availability of pricing from the third party pricing service. There were no transfers between Level 1 and Level 2 in 2017 or 2016.

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The following table provides quantitative information about the significant unobservable inputs used by the Company in the fair value measurements of Level 3 assets. Where discounted cash flows were used in the valuation of fixed maturities, the internally-developed discount rate was adjusted by the significant unobservable inputs shown in the table. Valuations of \$0.6 million at December 31, 2016, for securities based on broker quotes for which there was a lack of transparency as to inputs used to develop the valuations, have been excluded.

<i>(in millions)</i>	Valuation Technique	Significant Unobservable Inputs	September 30, 2017		December 31, 2016	
			Fair Value	Range (Wtd Average)	Fair Value	Range (Wtd Average)
Fixed maturities:						
Municipal	Discounted cash flow	Discount for: Small issue size Credit stress Above-market coupon	\$ 28.1	0.7 - 6.8% (3.4%) 0.9 - 1.5% (1.2%) 0.3 - 0.5% (0.4%)	\$ 31.0	0.7 - 6.8% (3.3%) 0.9 - 1.5% (1.2%) 0.3 - 0.5% (0.4%)
Corporate	Discounted cash flow	Discount for: Small issue size Credit stress Above-market coupon	0.9	2.5% (2.5%) — 0.3% (0.3%)	4.0	2.0 - 2.5% (2.1%) 1.0% (1.0%) 0.3 - 0.8% (0.6%)
Commercial mortgage-backed	Discounted cash flow	Discount for: Small issue size Above-market coupon Lease structure	14.4	1.9 - 3.1% (2.6%) 0.5% (0.5%) 0.3% (0.3%)	15.0	1.9 - 3.1% (2.6%) 0.5% (0.5%) 0.3% (0.3%)
Equity securities	Market comparables	Net tangible asset market multiples	1.1	1.0X (1.0X)	1.1	1.0X (1.0X)
Other	Discounted cash flow	Discount rate	4.1	18.0% (18.0%)	4.1	18.0% (18.0%)

Significant increases (decreases) in any of the above inputs in isolation would result in a significantly lower (higher) fair value measurement. There were no interrelationships between these inputs which might magnify or mitigate the effect of changes in unobservable inputs on the fair value measurement.

### 6. Pension and Other Postretirement Benefit Plans

The components of net periodic pension cost for defined benefit pension and other postretirement benefit plans included in the Company's results of operations are as follows:

<i>(in millions)</i>	Three Months Ended September 30,			
	2017		2016	
	Pension Plans		Postretirement Plans	
Service cost - benefits earned during the period	\$ —	\$ 0.2	\$ —	\$ —
Interest cost	6.4	7.4	0.1	0.2
Expected return on plan assets	(6.8)	(7.4)	—	—
Recognized net actuarial loss	3.8	2.8	—	—
Amortization of prior service cost	—	—	(0.3)	(0.3)
Net periodic pension cost (benefit)	\$ 3.4	\$ 3.0	\$ (0.2)	\$ (0.1)

  

<i>(in millions)</i>	Nine Months Ended September 30,			
	2017		2016	
	Pension Plans		Postretirement Plans	
Service cost - benefits earned during the period	\$ —	\$ 0.6	\$ —	\$ —
Interest cost	19.3	22.2	0.3	0.4
Expected return on plan assets	(20.4)	(22.4)	—	—
Recognized net actuarial loss	11.4	8.4	0.1	0.1
Amortization of prior service cost	—	—	(1.0)	(1.0)
Net periodic pension cost (benefit)	\$ 10.3	\$ 8.8	\$ (0.6)	\$ (0.5)

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**7. Other Comprehensive Income**

The following tables provide changes in other comprehensive income.

<i>(in millions)</i>	Three Months Ended September 30,					
	2017			2016		
	Pre-Tax	Tax Benefit (Expense)	Net of Tax	Pre-Tax	Tax Benefit (Expense)	Net of Tax
Unrealized gains (losses) on available-for-sale securities:						
Unrealized gains arising during period	\$ 23.1	\$ (8.0)	\$ 15.1	\$ 8.1	\$ (2.9)	\$ 5.2
Amount of realized gains from sales and other	(15.2)	3.0	(12.2)	(3.4)	(3.9)	(7.3)
Portion of other-than-temporary impairment losses recognized in earnings	1.3	(0.5)	0.8	0.1	-	0.1
Net unrealized gains (losses)	9.2	(5.5)	3.7	4.8	(6.8)	(2.0)
Pension and postretirement benefits:						
Amortization of net actuarial loss and prior service cost recognized as net periodic benefit cost	3.5	(1.2)	2.3	2.5	(1.0)	1.5
Cumulative foreign currency translation adjustment:						
Foreign currency translation recognized during the period	1.7	(0.6)	1.1	(2.9)	1.0	(1.9)
Other comprehensive income (loss)	\$ 14.4	\$ (7.3)	\$ 7.1	\$ 4.4	\$ (6.8)	\$ (2.4)

<i>(in millions)</i>	Nine Months Ended September 30,					
	2017			2016		
	Pre-Tax	Tax Benefit (Expense)	Net of Tax	Pre-Tax	Tax Benefit (Expense)	Net of Tax
Unrealized gains (losses) on available-for-sale securities:						
Unrealized gains arising during period	\$ 102.1	\$ (35.8)	\$ 66.3	\$ 290.1	\$ (101.5)	\$ 188.6
Amount of realized gains from sales and other	(26.5)	0.6	(25.9)	(30.7)	(3.3)	(34.0)
Portion of other-than-temporary impairment losses recognized in earnings	3.3	(1.2)	2.1	26.0	(9.1)	16.9
Net unrealized gains	78.9	(36.4)	42.5	285.4	(113.9)	171.5
Pension and postretirement benefits:						
Amortization of net actuarial loss and prior service cost recognized as net periodic benefit cost	10.5	(3.5)	7.0	7.5	(2.7)	4.8
Cumulative foreign currency translation adjustment:						
Foreign currency translation recognized during the period	2.6	(0.9)	1.7	(4.9)	1.7	(3.2)
Other comprehensive income	\$ 92.0	\$ (40.8)	\$ 51.2	\$ 288.0	\$ (114.9)	\$ 173.1

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Reclassifications out of accumulated other comprehensive income were as follows:

<i>(in millions)</i>	Three Months Ended September 30,		Nine Months Ended September 30,		Affected Line Item in the Statement Where Net Income is Presented
	2017	2016	2017	2016	
Details about Accumulated Other Comprehensive Income Components	Amount Reclassified from Accumulated Other Comprehensive Income				
Unrealized gains on available-for-sale securities	\$ 15.2	\$ 3.4	\$ 26.5	\$ 30.7	Net realized gains from sales and other Net other-than-temporary impairment losses on investments recognized in earnings
	(1.3)	(0.1)	(3.3)	(26.0)	
	13.9	3.3	23.2	4.7	Total before tax
	(2.5)	3.9	0.6	12.4	Tax (expense) benefit
	11.4	7.2	23.8	17.1	Net of tax
Amortization of defined benefit pension and postretirement plans	(3.5)	(2.5)	(10.5)	(7.5)	Loss adjustment expenses and other operating expenses
	1.2	1.0	3.5	2.7	Tax benefit
	(2.3)	(1.5)	(7.0)	(4.8)	Net of tax
Total reclassifications for the period	\$ 9.1	\$ 5.7	\$ 16.8	\$ 12.3	Benefit to income, net of tax

The amount reclassified from accumulated other comprehensive income for the pension and postretirement benefits was allocated approximately 40% to loss adjustment expenses and 60% to other operating expenses for the three and nine months ended September 30, 2017 and 2016.

## 8. Segment Information

The Company's primary business operations include insurance products and services provided through four operating segments. The domestic operating segments are Commercial Lines, Personal Lines and Other, and the Company's international operating segment is Chaucer. Commercial Lines includes commercial multiple peril, commercial automobile, workers' compensation, and other commercial coverages, such as inland marine, specialty program business, management and professional liability, surety and specialty property. Personal Lines includes personal automobile, homeowners and other personal coverages. Chaucer includes marine, aviation and political, casualty (which includes international liability, specialist coverages, and syndicate participations), energy, property, and assumed reinsurance treaty business ("treaty"). Prior to January 1, 2017, treaty was reflected in the casualty, property, and marine, aviation and political lines. Included in Other are Opus Investment Management, Inc., which markets investment management services to institutions, pension funds and other organizations; earnings on holding company assets; and, a discontinued voluntary pools business. The separate financial information is presented consistent with the way results are regularly evaluated by the chief operating decision maker in deciding how to allocate resources and in assessing performance.

The Company reports interest expense related to debt separately from the earnings of its operating segments. This consists of interest on the Company's senior debentures, subordinated debentures, collateralized borrowings with the Federal Home Loan Bank of Boston, and letter of credit facility. Management evaluates the results of the aforementioned segments based on operating income before taxes, excluding interest expense on debt. Operating income before taxes excludes certain items which are included in net income, such as net realized investment gains and losses. Such gains and losses are excluded since they are determined by interest rates, financial markets and the timing of sales. Also, operating income before taxes excludes net gains and losses on disposals of businesses, gains and losses related to the repayment of debt, discontinued operations, costs to acquire businesses, restructuring costs, the cumulative effect of accounting changes and certain other items. Although the items excluded from operating income before taxes may be important components in understanding and assessing the Company's overall financial performance, management believes that the presentation of operating income before taxes enhances an investor's understanding of the Company's results of operations by highlighting net income attributable to the core operations of the business. However, operating income before taxes should not be construed as a substitute for income before income taxes and operating income should not be construed as a substitute for net income.

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Summarized below is financial information with respect to the Company's business segments.

<i>(in millions)</i>	Three Months Ended September 30,		Nine Months Ended September 30,	
	2017	2016	2017	2016
<b>Operating revenues:</b>				
Commercial Lines	\$ 648.2	\$ 628.4	\$ 1,913.2	\$ 1,857.2
Personal Lines	421.0	391.5	1,234.3	1,154.8
Chaucer	238.6	215.0	674.5	667.9
Other	4.0	2.1	9.0	5.9
Total	1,311.8	1,237.0	3,831.0	3,685.8
Net realized investment gains	13.4	4.2	21.2	5.0
Total revenues	\$ 1,325.2	\$ 1,241.2	\$ 3,852.2	\$ 3,690.8
<b>Operating income (loss) before interest expense and income taxes:</b>				
<b>Commercial Lines:</b>				
Underwriting (loss) income	\$ (13.7)	\$ 3.6	\$ (14.1)	\$ 12.4
Net investment income	42.1	39.0	123.7	117.5
Other expense	(0.2)	(0.1)	(0.8)	(0.7)
Commercial Lines operating income	28.2	42.5	108.8	129.2
<b>Personal Lines:</b>				
Underwriting income	40.8	23.3	61.9	81.2
Net investment income	17.8	17.1	52.3	51.6
Other income	1.1	1.3	3.3	3.4
Personal Lines operating income	59.7	41.7	117.5	136.2
<b>Chaucer:</b>				
Underwriting (loss) income	(87.7)	37.8	(55.9)	53.8
Net investment income	13.4	10.3	37.1	32.3
Other income (expense)	0.5	0.3	(0.4)	1.5
Chaucer operating (loss) income	(73.8)	48.4	(19.2)	87.6
<b>Other:</b>				
Underwriting loss	(1.0)	(0.8)	(2.8)	(2.1)
Net investment income	3.3	1.4	6.9	3.8
Other expense	(3.3)	(3.4)	(10.1)	(9.8)
Other operating loss	(1.0)	(2.8)	(6.0)	(8.1)
Operating income before interest expense and income taxes	13.1	129.8	201.1	344.9
Interest on debt	(12.1)	(12.5)	(36.3)	(42.8)
Operating income before income taxes	1.0	117.3	164.8	302.1
<b>Non-operating income items:</b>				
Net realized investment gains	13.4	4.2	21.2	5.0
Net loss from repayment of debt	—	—	—	(86.1)
Other non-operating items	(5.5)	2.6	(7.1)	4.1
Income before income taxes	\$ 8.9	\$ 124.1	\$ 178.9	\$ 225.1

The Company recognized approximately \$7 million in net foreign currency transaction losses in the Statements of Income during the three months ended September 30, 2016. The Company recognized approximately \$4 million and \$28 million in net foreign currency transaction losses in the Statements of Income during the nine months ended September 30, 2017 and 2016, respectively.

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The following table provides identifiable assets for the Company's business segments and discontinued operations:

<i>(in millions)</i>	September 30, 2017	December 31, 2016
	Identifiable Assets	
U.S. Companies	\$ 10,737.7	\$ 10,225.4
Chaucer	4,574.1	3,915.5
Discontinued operations	77.5	79.5
Total	<u>\$ 15,389.3</u>	<u>\$ 14,220.4</u>

The Company reviews the assets of its U.S. Companies collectively and does not allocate them between the Commercial Lines, Personal Lines and Other segments.

### 9. Stock-based Compensation

As of September 30, 2017, there were 4,267,859 shares, 2,397,260 shares and 689,062 shares available for grant under The Hanover Insurance Group 2014 Long-Term Incentive Plan, The Hanover Insurance Group 2014 Employee Stock Purchase Plan and the Chaucer Share Incentive Plan, respectively.

Compensation cost for the Company's stock-based awards and the related tax benefits were as follows:

<i>(in millions)</i>	Three Months Ended September 30,		Nine Months Ended September 30,	
	2017	2016	2017	2016
Stock-based compensation expense	\$ 4.2	\$ 3.0	\$ 11.5	\$ 8.5
Tax benefit	(1.5)	(1.1)	(4.0)	(3.0)
Stock-based compensation expense, net of taxes	<u>\$ 2.7</u>	<u>\$ 1.9</u>	<u>\$ 7.5</u>	<u>\$ 5.5</u>

### Stock Options

Information on the Company's stock option activity for the nine months ended September 30, 2017 and 2016 is summarized below.

<i>(in whole shares and dollars)</i>	Nine Months Ended September 30,			
	2017		2016	
	Shares <sup>(1)</sup>	Weighted Average Exercise Price	Shares	Weighted Average Exercise Price
Outstanding, beginning of period	1,396,152	\$ 68.63	1,619,948	\$ 56.57
Granted	460,610	90.85	524,940	82.74
Exercised	(327,205)	57.29	(564,389)	48.80
Forfeited or cancelled	(28,042)	79.40	(207,203)	68.23
Outstanding, end of period	<u>1,501,515</u>	<u>77.72</u>	<u>1,373,296</u>	<u>68.01</u>

- (1) Included in outstanding shares at the end of the period were 298,899 shares that are not expected to vest due to the announcement of the pending resignation of the Company's CEO.

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*Restricted Stock Units*

The following tables summarize activity information about employee restricted stock units:

<i>(in whole shares and dollars)</i>	Nine Months Ended September 30,			
	2017		2016	
	Shares <sup>(2)</sup>	Weighted Average Grant Date Fair Value	Shares	Weighted Average Grant Date Fair Value
<b>Time-based restricted stock units:</b>				
Outstanding, beginning of period	269,063	\$ 73.91	301,897	\$ 54.54
Granted	128,850	90.53	143,107	83.43
Vested	(70,590)	59.29	(136,398)	42.49
Forfeited	(26,615)	84.59	(27,411)	68.07
Outstanding, end of period	<u>300,708</u>	<u>83.52</u>	<u>281,195</u>	<u>73.77</u>
<b>Performance-based and market-based restricted stock units:</b>				
Outstanding, beginning of period	115,057	\$ 78.82	196,142	\$ 47.89
Granted	60,101	79.48	118,736	73.14
Vested	(17,642)	58.16	(144,141)	41.11
Forfeited	(2,180)	95.36	(63,740)	64.13
Outstanding, end of period	<u>155,336</u>	<u>81.19</u>	<u>106,997</u>	<u>75.38</u>

(2) Included in outstanding performance-based and market-based restricted stock units at the end of the period were 52,750 stock units that are not expected to vest due to the announcement of the pending resignation of the Company's CEO.

In the first nine months of 2017 and 2016, the Company granted market-based awards totaling 56,571 and 79,153, respectively, to certain members of senior management, which are included in the table above as performance and market-based restricted stock activity. The vesting of these stock units is based on the relative total shareholder return ("TSR") of the Company. This metric is generally based on relative TSR for a three-year period as compared to a pre-selected group of property and casualty companies. The fair value of market-based awards was estimated at the date of grant using a valuation model. These units have the potential to range from 0% to 150% of the shares disclosed. Included in the amount granted above in 2017 and 2016 are 5,881 shares and 30,453 shares, respectively, related to market-based awards that achieved a payout in excess of 100%. These awards vested in the first nine months of 2017 and 2016, respectively.

Performance-based restricted stock units are based upon the achievement of the performance metric at 100%. These units have the potential to range from 0% to 200% of the shares disclosed, which varies based on grant year and individual participation level. Increases above the 100% target level are reflected as granted in the period in which performance-based stock unit goals are achieved. Decreases below the 100% target level are reflected as forfeited. There were no awards vested in 2017 at a level greater than 100%. Included in the amounts granted above in 2016 for the performance-based restricted stock units are 1,949 shares related to awards that a performance metric in excess of 100% was achieved. These awards vested in the first nine months of 2016.

**10. Earnings Per Share and Shareholders' Equity Transactions**

The following table provides weighted average share information used in the calculation of the Company's basic and diluted earnings per share:

<i>(in millions, except per share data)</i>	Three Months Ended		Nine Months Ended	
	September 30,		September 30,	
	2017	2016	2017	2016
Basic shares used in the calculation of earnings per share	42.4	42.7	42.5	42.8
<b>Dilutive effect of securities:</b>				
Employee stock options	0.3	0.2	0.2	0.3
Non-vested stock grants	0.2	0.1	0.2	0.2
Diluted shares used in the calculation of earnings per share	<u>42.9</u>	<u>43.0</u>	<u>42.9</u>	<u>43.3</u>
Per share effect of dilutive securities on income from continuing operations	\$ (0.01)	\$ (0.01)	\$ (0.03)	\$ (0.04)
Per share effect of dilutive securities on net income	\$ —	\$ (0.01)	\$ (0.03)	\$ (0.05)

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Diluted earnings per share for the three months ended September 30, 2017 and 2016 exclude 0.5 million and 0.6 million, respectively, of common shares issuable under the Company's stock compensation plans because their effect would be antidilutive. Diluted earnings per share for the nine months ended September 30, 2017 and 2016 exclude 0.5 million of common shares issuable under the Company's stock compensation plans because their effect would be antidilutive.

The Company's Board of Directors has authorized aggregate repurchases of the Company's common stock of up to \$900 million. Under the repurchase authorizations, the Company may repurchase, from time to time, common shares in amounts, at prices and at such times as the Company deems appropriate, subject to market conditions and other considerations. Repurchases may be executed using open market purchases, privately negotiated transactions, accelerated repurchase programs or other transactions. The Company is not required to purchase any specific number of shares or to make purchases by any certain date under this program. During the first nine months of 2017, the Company purchased approximately 0.4 million shares of the Company's common stock at a cost of \$37.2 million.

## 11. Liabilities for Outstanding Claims, Losses and Loss Adjustment Expenses

### *Reserve Rollforward and Prior Year Development*

The Company regularly updates its reserve estimates as new information becomes available and further events occur which may impact the resolution of unsettled claims. Reserve adjustments are reflected in results of operations as adjustments to losses and LAE. Often these adjustments are recognized in periods subsequent to the period in which the underlying policy was written and loss event occurred. These types of subsequent adjustments are described as "prior years' loss reserves". Such development can be either favorable or unfavorable to the Company's financial results and may vary by line of business. In this section, all amounts presented include catastrophe losses and LAE, unless otherwise indicated.

The table below provides a reconciliation of the gross beginning and ending reserve for unpaid losses and loss adjustment expenses.

<i>(in millions)</i>	Nine Months Ended September 30,	
	2017	2016
Gross loss and LAE reserves, beginning of period	\$ 6,949.4	\$ 6,574.4
Reinsurance recoverable on unpaid losses	2,274.8	2,280.8
Net loss and LAE reserves, beginning of period	4,674.6	4,293.6
Net incurred losses and LAE in respect of losses occurring in:		
Current year	2,414.1	2,145.1
Prior years	(44.6)	(23.8)
Total incurred losses and LAE	2,369.5	2,121.3
Net payments of losses and LAE in respect of losses occurring in:		
Current year	851.2	775.1
Prior years	1,131.5	1,088.3
Total payments	1,982.7	1,863.4
Effect of foreign exchange rate changes	40.3	(52.6)
Net reserve for losses and LAE, end of period	5,101.7	4,498.9
Reinsurance recoverable on unpaid losses	2,533.7	2,303.4
Gross reserve for losses and LAE, end of period	\$ 7,635.4	\$ 6,802.3

As a result of continuing trends in the Company's business, reserves including catastrophes have been re-estimated for all prior accident years and were decreased by \$44.6 million in 2017 in comparison to \$23.8 million in 2016.

### 2017

For the nine months ended September 30, 2017, net favorable loss and LAE development was \$44.6 million, primarily as a result of net favorable development of \$44.3 million for Chaucer.

Chaucer's favorable development during the nine months ended September 30, 2017 was primarily the result of lower loss estimates in the energy line of \$23.0 million, primarily in the 2011 through 2016 accident years, in the political line of \$10.8 million, primarily in the 2014 through 2016 accident years, and to a lesser extent in the treaty business.

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### 2016

For the nine months ended September 30, 2016, net favorable loss and LAE development was \$23.8 million, primarily as a result of net favorable development of \$89.9 million for Chaucer, partially offset by unfavorable development of \$61.8 million for Commercial Lines.

Chaucer's favorable development during the nine months ended September 30, 2016 was primarily the result of lower than expected losses in the treaty business of \$28.4 million, primarily in the 2014 through 2015 accident years, in the casualty line of \$17.6 million, primarily in the 2014 and prior accident years, in the energy line of \$16.8 million, primarily in the 2014 through 2015 accident years, in the political line of \$15.8 million, primarily in the 2014 through 2015 accident years, and in the property line of \$10.1 million, primarily in the 2013 through 2015 accident years. Partially offsetting Chaucer's favorable development was the unfavorable impact of foreign exchange rate movements on prior years' loss reserves.

The net unfavorable Commercial Lines development primarily resulted from higher than expected losses in other commercial lines of \$37.3 million, which includes the AIX program business. This was primarily driven by AIX programs and business classes which have since been terminated or substantially revised in the 2013 and prior accident years and by general liability coverages in the 2013 through 2014 accident years. The Company also experienced higher than expected losses within the commercial multiple peril line of \$30.1 million in the 2012 through 2014 accident years. Partially offsetting the unfavorable development was lower than expected losses within the workers' compensation line of \$14.7 million, primarily related to the 2013 through 2015 accident years.

## **12. Commitments and Contingencies**

### ***Legal Proceedings***

#### *Durand Litigation*

On March 12, 2007, a putative class action suit captioned Jennifer A. Durand v. The Hanover Insurance Group, Inc., and The Allmerica Financial Cash Balance Pension Plan, was filed in the United States District Court for the Western District of Kentucky. The named plaintiff, a former employee of our former life insurance and annuity business who received a lump sum distribution from the Company's Cash Balance Plan (the "Plan") at or about the time of her separation from the company, claims that she and others similarly situated did not receive the appropriate lump sum distribution because in computing the lump sum, the Company and the Plan understated the accrued benefit in the calculation. The plaintiff claims that the Plan underpaid her distributions and those of similarly situated participants by failing to pay an additional so-called "whipsaw" amount reflecting the present value of an estimate of future interest credits from the date of the lump sum distribution to each participant's retirement age of 65 ("whipsaw claim").

The plaintiff filed an Amended Complaint adding two new named plaintiffs and additional claims on December 11, 2009. Two of the three new claims set forth in the Amended Complaint were dismissed by the District Court, which action was upheld in November 2015 by the U.S. Court of Appeals, Sixth Circuit. The District Court, however, did allow to stand the portion of the Amended Complaint which set forth claims against the Company for breach of fiduciary duty and failure to meet notice requirements arising under the Employee Retirement Income Security Act of 1974 ("ERISA") from the various interest crediting and lump sum distribution matters of which plaintiffs complain, but only as to plaintiffs' "whipsaw" claim that remained in the case. On December 17, 2013, the Court entered an order certifying a class to bring "whipsaw" and related breach of fiduciary duty claims consisting of all persons who received a lump sum distribution between March 1, 1997 and December 31, 2003. The Company filed a summary judgment motion that was based on the statute of limitations and seeks to dismiss the subclass of plaintiffs who received lump sum distributions prior to March 13, 2002. This summary judgment motion has been stayed pending additional discovery, which is ongoing.

At this time, the Company is unable to provide a reasonable estimate of the potential range of ultimate liability if the outcome of the suit is unfavorable. The statute of limitations applicable to the sub-class consisting of all persons who received lump sum distributions between March 1, 1997 and March 12, 2002 has not yet been determined, and the extent of potential liability, if any, will depend on this determination. In addition, assuming for these purposes that the plaintiffs prevail with respect to claims that benefits accrued or payable under the Plan were understated, then there are numerous possible theories and other variables upon which any revised calculation of benefits as requested under plaintiffs' claims could be based. Any adverse judgment in this case against the Plan would be expected to create a liability for the Plan, with resulting effects on the Plan's assets available to pay benefits. The Company's future required funding of the Plan could also be impacted by such a liability.

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***Other Matters***

The Company has been named a defendant in various other legal proceedings arising in the normal course of business. In addition, the Company is involved, from time to time, in examinations, investigations and proceedings by governmental and self-regulatory agencies. The potential outcome of any such action or regulatory proceedings in which the Company has been named a defendant or the subject of an inquiry or investigation, and its ultimate liability, if any, from such action or regulatory proceedings, is difficult to predict at this time. The ultimate resolutions of such proceedings are not expected to have a material effect on its financial position, although they could have a material effect on the results of operations for a particular quarter or annual period.

***Residual Markets***

The Company is required to participate in residual markets in various states, which generally pertain to high risk insureds, disrupted markets or lines of business or geographic areas where rates are regarded as excessive. The results of the residual markets are not subject to the predictability associated with the Company's own managed business, and are significant to both the personal and commercial automobile lines of business and the workers' compensation line of business.

**13. Subsequent Events**

There were no subsequent events requiring adjustment to the financial statements and no additional disclosures required in the notes to the interim consolidated financial statements.

**PART I  
ITEM 2**

**MANAGEMENT’S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS**

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### **Introduction**

The following Management's Discussion and Analysis of Financial Condition and Results of Operations is intended to assist readers in understanding the interim consolidated results of operations and financial condition of The Hanover Insurance Group, Inc. and its subsidiaries ("THG"). Consolidated results of operations and financial condition are prepared in accordance with generally accepted accounting principles in the United States of America ("U.S. GAAP"). This discussion should be read in conjunction with the interim consolidated financial statements and related footnotes included elsewhere in this Quarterly Report on Form 10-Q and Management's Discussion and Analysis of Financial Condition and Results of Operations contained in our 2016 Annual Report on Form 10-K filed with the Securities and Exchange Commission on February 22, 2017.

Results of operations include the accounts of The Hanover Insurance Company ("Hanover Insurance") and Citizens Insurance Company of America ("Citizens"), our principal U.S.-domiciled property and casualty companies; Chaucer Holdings Limited ("Chaucer"), our United Kingdom ("U.K.") domiciled specialist insurance underwriting group which operates through the Society and Corporation of Lloyd's ("Lloyd's"); and certain other insurance and non-insurance subsidiaries. Results of operations include our discontinued operations, consisting primarily of our former life insurance and accident and health businesses.

### **Executive Overview**

Business operations consist of four operating segments: Commercial Lines, Personal Lines, Chaucer and Other.

Net income was \$134.7 million during the nine months ended September 30, 2017, compared to \$168.6 million for the nine months ended September 30, 2016, a decrease of \$33.9 million. Net income during the nine months ended September 30, 2017 reflected increased catastrophe losses as compared to 2016 (See operating income discussion below for further details). Net income during the nine months ended September 30, 2016 was adversely affected by prepayment charges of \$56.0 million, net of tax, which we paid in connection with the repayment of \$380.0 million in higher coupon debt following our issuance of \$375 million 4.50% senior notes.

Operating income before interest expense and income taxes was \$201.1 million for the nine months ended September 30, 2017, compared to \$344.9 million in the same period in 2016, a decrease of \$143.8 million. This decrease in operating income before interest expense and income taxes is primarily due to higher catastrophe losses, partially offset by lower current accident year losses, and higher net favorable development on prior years' loss and loss adjustment expense ("LAE") reserves ("prior years' loss reserves"). Pre-tax catastrophe losses were \$335.7 million for the nine months ended September 30, 2017, compared to \$109.1 million during the same period of 2016. This \$226.6 million increase in catastrophe losses is primarily due to hurricanes Harvey, Irma and Maria that occurred in the third quarter of 2017. Net favorable development on prior years' loss reserves was \$29.5 million for the nine months ended September 30, 2017, compared to \$3.1 million during the same period of 2016.

In February 2017, we announced our go-forward strategy, called "Hanover 2021". This strategy reinforces our commitment to our agency partners and is designed to generate growth by leveraging the strengths of our agent-centered distribution strategy. We also plan to increase our capabilities in the domestic and international specialty markets and increase investments designed to develop growth solutions for our agency distribution channel. Our goal is to grow responsibly in all of our businesses, while managing volatility in order to maximize returns to shareholders.

On October 10, 2017, we announced that our president and chief executive officer, Joseph M. Zubretsky, had accepted a position outside of the property and casualty industry and was resigning from his position and as a director of THG, effective November 3, 2017. At that time, we also named John C. Roche president and chief executive officer, effective November 4, 2017. On October 31, 2017, Mr. Roche was appointed a member of the Board of Directors, also effective November 4, 2017. Mr. Roche joined THG in 2006.

### **Commercial Lines**

We believe our approach to the small commercial market, distinctiveness in the middle market, and continued development of specialty lines provides us with a diversified portfolio of products and delivers significant value to agents and policyholders. Small commercial, middle market and specialty lines are all expected to contribute to premium growth in Commercial Lines over the next several years as we continue to pursue our core strategy of developing strong partnerships with agents, enhanced franchise value through limited distribution, distinctive products and coverages, and continued investment in industry segmentation.

We believe these efforts have driven, and will continue to drive, improvement in our overall mix of business and our underwriting profitability. Commercial Lines net premiums written grew by 3.6% in the first nine months of 2017, driven by both our core commercial and specialty businesses. This was due to rate and exposure increases, strong retention and targeted new business expansion, collectively generating growth of 4.5%, partially offset by the impact of higher reinsurance reinstatement premiums driven by large property loss activity.

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Underwriting results declined in the first nine months of 2017, as compared to the same period in 2016, due to higher catastrophe losses, partially offset by a favorable change in prior years' loss reserve development. Catastrophe losses in the first nine months of 2017 were \$141.1 million, an increase of \$78.6 million compared to the same period of 2016. This increase is primarily due to hurricanes Harvey and Irma that occurred in the third quarter of 2017 and two large midwest wind and hail events that occurred in the first two quarters of 2017. Development on prior years' loss reserves for the nine months ended September 30, 2017 was de minimis, compared to unfavorable development of \$61.5 million for the nine months ended September 30, 2016. The competitive nature of the Commercial Lines market requires us to be highly disciplined in our underwriting process to ensure that we write business at acceptable margins, and we continue to seek rate increases across our lines of business.

### **Personal Lines**

Personal Lines focuses on partnering with high quality, value-oriented agencies that deliver consultative selling and stress the importance of account rounding (the conversion of single policy customers to accounts with multiple policies and additional coverages, to address customers' broader objectives). Approximately 84% of our policies in force are account business. We are focused on making investments that help maintain profitability, build a distinctive position in the market, diversify us geographically from our largest historical core states of Michigan, Massachusetts and New York, and provide us with profitable growth opportunities.

Net premiums written grew by 8.0% in the first nine months of 2017, primarily due to increased rates in both the homeowners and personal automobile lines, as well as new business growth and improved retention. Underwriting results declined in the first nine months of 2017, as compared to the same period in 2016, primarily due to higher catastrophe losses, partially offset by growth in earned premiums and lower non-catastrophe losses. We continue to seek rate increases to meet or exceed underlying loss cost trends, subject to regulatory and competitive considerations.

### **Chaucer**

Chaucer deploys specialist underwriters in over 30 major insurance and reinsurance classes, including marine, aviation and political, casualty, energy and property coverages, written on a direct, facultative and treaty basis. We obtain business through Lloyd's, the leading international insurance and reinsurance market, which provides us with access to specialist business in over 200 countries and territories worldwide through its international licenses, brand reputation and strong security rating. Our underwriting strength, diverse portfolio and Lloyd's membership underpin our ability to actively manage the scale, composition and profitable development of this business. In addition, following the authorization of Chaucer Insurance Company DAC in Ireland, it is expected that Chaucer will begin to write business through the company market in the near-term, offering clients greater platform choice and flexibility and supporting Chaucer's international development.

Underwriting results declined in the first nine months of 2017, as compared to the same period in 2016, primarily due to higher catastrophe losses. Catastrophe losses in the first nine months of 2017 were \$125.9 million, an increase of \$114.6 million compared to the same period of 2016. This increase is primarily due to hurricanes Harvey, Irma and Maria and two earthquakes in Mexico, all of which occurred in the third quarter of 2017. Chaucer's net written premiums increased by 1.7% during the first nine months of 2017, as compared to the same period in 2016. Excluding the impact of a first quarter 2016 reinsurance to close ("RITC") transaction, which increased 2016 premiums and loss and LAE reserves by \$17.7 million, net premiums written increased 4.6% due to new business growth initiatives, partially offset by a planned increase in ceded reinsurance premiums and a \$13.4 million impact of foreign exchange fluctuations.

Chaucer continued to experience significant competitive pressure on rates during the nine months ended September 30, 2017. In response to these challenging market conditions, we continued to actively manage Chaucer's underwriting portfolio. As catastrophe losses have affected industry performance, market rates may strengthen.

### **Description of Operating Segments**

Primary business operations include insurance products and services currently provided through four operating segments. Our domestic operating segments are Commercial Lines, Personal Lines, and Other. Our international operating segment is Chaucer. Commercial Lines includes commercial multiple peril, commercial automobile, workers' compensation and other commercial coverages, such as inland marine, specialty program business, management and professional liability, surety and specialty property. Personal Lines includes personal automobile, homeowners and other personal coverages. Chaucer underwriting divisions include marine, aviation and political, casualty (which includes international liability, specialist coverages, and run-off syndicate participations), energy, property and assumed reinsurance treaty business ("treaty"). Prior to January 1, 2017, treaty was reflected in the casualty, property, and marine, aviation and political lines. Included in the "Other" segment are Opus Investment Management, Inc., which markets investment management services to institutions, pension funds and other organizations; earnings on holding company assets; holding company and other expenses, including certain costs associated with retirement benefits due to our former life insurance employees and agents; and, a discontinued voluntary pools business. We present the separate financial information of each segment consistent with the manner in which our chief operating decision maker evaluates results in deciding how to allocate resources and in assessing performance.

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We report interest expense on debt separately from the earnings of our operating segments. This consists of interest on our senior debentures, subordinated debentures, collateralized borrowings with the Federal Home Loan Bank of Boston (“FHLBB”), and letter of credit facility.

### **Results of Operations – Consolidated**

Consolidated net income for the three months ended September 30, 2017 was \$11.1 million, compared to \$88.4 million for the three months ended September 30, 2016, a decrease of \$77.3 million. Operating income for the three months ended September 30, 2017 was \$4.7 million, compared to \$78.6 million for the three months ended September 30, 2016. The \$73.9 million decrease in operating income is primarily due to higher catastrophe losses, principally in our Chaucer segment, and to a lesser extent, our Commercial Lines segment. These losses were partially offset by improved non-catastrophe results in our domestic segments.

Consolidated net income for the nine months ended September 30, 2017 was \$134.7 million, compared to \$168.6 million for the nine months ended September 30, 2016, a decrease of \$33.9 million. Operating income for the nine months ended September 30, 2017 was \$117.8 million, compared to \$204.1 million for the nine months ended September 30, 2016, a decrease of \$86.3 million. This decrease is primarily due to higher catastrophe losses, partially offset by lower current accident year losses and from higher net favorable development. The year over year comparison of consolidated net income was also affected by a loss from the repayment of debt of \$56.0 million, net of tax, recognized during the nine months ended September 30, 2016, that did not recur in 2017.

The following table reflects operating income before interest expense and income taxes for each operating segment and a reconciliation to consolidated net income from operating income before interest expense and income taxes (a non-GAAP measure).

<i>(in millions)</i>	Three Months Ended September 30,		Nine Months Ended September 30,	
	2017	2016	2017	2016
Operating income (loss) before interest expense and income taxes:				
Commercial Lines	\$ 28.2	\$ 42.5	\$ 108.8	\$ 129.2
Personal Lines	59.7	41.7	117.5	136.2
Chaucer	(73.8)	48.4	(19.2)	87.6
Other	(1.0)	(2.8)	(6.0)	(8.1)
Operating income before interest expense and income taxes	13.1	129.8	201.1	344.9
Interest expense on debt	(12.1)	(12.5)	(36.3)	(42.8)
Operating income before income taxes	1.0	117.3	164.8	302.1
Income tax benefit (expense) on operating income	3.7	(38.7)	(47.0)	(98.0)
Operating income	4.7	78.6	117.8	204.1
Non-operating items:				
Net realized investment gains	13.4	4.2	21.2	5.0
Net loss from repayment of debt	—	—	—	(86.1)
Other	(5.5)	2.6	(7.1)	4.1
Income tax (expense) benefit on non-operating items	(0.3)	2.9	4.0	41.2
Income from continuing operations, net of taxes	12.3	88.3	135.9	168.3
Net (loss) gain from discontinued operations, net of taxes	(1.2)	0.1	(1.2)	0.3
Net income	\$ 11.1	\$ 88.4	\$ 134.7	\$ 168.6

### **Non-GAAP Financial Measures**

In addition to consolidated net income, discussed above, we assess our financial performance based upon pre-tax “operating income,” and we assess the operating performance of each of our four operating segments based upon the pre-tax operating income (loss) generated by each segment. As reflected in the table above, operating income before taxes excludes interest expense on debt and certain other items which we believe are not indicative of our core operations, such as net realized investment gains and losses. Such gains and losses are excluded since they are determined by interest rates, financial markets and the timing of sales. Also, operating income before taxes excludes net gains and losses on disposals of businesses, gains and losses related to the repayment of debt, discontinued operations, costs to acquire businesses, restructuring costs, the cumulative effect of accounting changes and certain other items. Excluded from operating income for the three and nine months ended September 30, 2017 are employee termination costs incurred in connection with a company expense initiative. Although the items excluded from operating income before taxes are important components in understanding and assessing our overall financial performance, we believe a discussion of operating income before taxes enhances an investor’s understanding of our results of operations by highlighting net income attributable to the core operations of the business. However, operating income before taxes, which is a non-GAAP measure, should not be construed as a substitute for income before income taxes and operating income should not be construed as a substitute for net income.

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Catastrophe losses and prior years' reserve development are significant components in understanding and assessing the financial performance of our business. Management reviews and evaluates catastrophes and prior years' reserve development separately from the other components of earnings. References to "current accident year underwriting results" exclude prior accident year reserve development. Catastrophes and prior years' reserve development are not predictable as to timing or the amount that will affect the results of our operations and have an effect on each year's operating and net income. Management believes that providing certain financial metrics and trends excluding the effects of catastrophes and prior years' reserve development helps investors to understand the variability in periodic earnings and to evaluate the underlying performance of our operations. Discussion of catastrophe losses in this Management's Discussion and Analysis of Financial Condition and Results of Operations includes development on prior years' catastrophe reserves and, unless otherwise indicated, such development is excluded from discussions of prior year loss and LAE reserve development.

### **Results of Operations – Segments**

The following is our discussion and analysis of the results of operations by business segment. The operating results are presented before interest expense, taxes and other items which management believes are not indicative of our core operations, including realized gains and losses.

The following table summarizes the results of operations for the periods indicated:

<i>(in millions)</i>	Three Months Ended September 30,		Nine Months Ended September 30,	
	2017	2016	2017	2016
<b>Operating revenues</b>				
Net premiums written	\$ 1,322.5	\$ 1,250.9	\$ 3,785.0	\$ 3,616.8
Net premiums earned	1,226.9	1,160.9	3,589.4	3,457.7
Net investment income	76.6	67.8	220.0	205.2
Other income	8.3	8.3	21.6	22.9
Total operating revenues	<b>1,311.8</b>	1,237.0	<b>3,831.0</b>	3,685.8
<b>Losses and operating expenses</b>				
Losses and LAE	874.2	692.0	2,365.7	2,121.3
Amortization of deferred acquisition costs	275.1	257.9	806.1	771.4
Other operating expenses	149.4	157.3	458.1	448.2
Total losses and operating expenses	<b>1,298.7</b>	1,107.2	<b>3,629.9</b>	3,340.9
Operating income before interest expense and income taxes	<b>\$ 13.1</b>	\$ 129.8	<b>\$ 201.1</b>	\$ 344.9

### **Three Months Ended September 30, 2017 Compared to Three Months Ended September 30, 2016**

Operating income before interest expense and income taxes was \$13.1 million in the three months ended September 30, 2017, compared to income of \$129.8 million for the three months ended September 30, 2016, a decrease of \$116.7 million. This decrease was due to higher catastrophe losses in all segments, partially offset by improved current accident year losses, lower expenses, and higher net investment income.

Net premiums written increased by \$71.6 million in the three months ended September 30, 2017 compared to the three months ended September 30, 2016. This improvement was primarily due to growth in our domestic lines.

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**Production and Underwriting Results**

The following table summarizes premiums written on a gross and net basis, net premiums earned and loss, LAE, expense and combined ratios for the Commercial Lines, Personal Lines and Chaucer segments. Loss, LAE, catastrophe loss and combined ratios shown below include prior year reserve development. These items are not meaningful for our Other segment.

	Three Months Ended September 30, 2017						
	Gross Premiums Written	Net Premiums Written	Net Premiums Earned	Catastrophe Loss Ratios	Loss & LAE Ratios	Expense Ratios	Combined Ratios
<i>(dollars in millions)</i>							
Commercial Lines	\$ 772.8	\$ 680.2	\$ 604.0	10.3	67.1	35.0	102.1
Personal Lines	462.0	438.8	400.4	3.7	61.7	27.5	89.2
Chaucer	286.7	203.5	222.5	52.8	99.6	39.8	139.4
Total	<u>\$ 1,521.5</u>	<u>\$ 1,322.5</u>	<u>\$ 1,226.9</u>	15.9	71.3	33.5	104.8

	Three Months Ended September 30, 2016						
	Gross Premiums Written	Net Premiums Written	Net Premiums Earned	Catastrophe Loss Ratios	Loss & LAE Ratios	Expense Ratios	Combined Ratios
<i>(dollars in millions)</i>							
Commercial Lines	\$ 730.0	\$ 647.3	\$ 587.2	3.0	63.5	35.7	99.2
Personal Lines	428.7	407.5	371.5	3.3	64.1	29.0	93.1
Chaucer	243.5	196.1	202.2	(1.5)	39.9	41.4	81.3
Total	<u>\$ 1,402.2</u>	<u>\$ 1,250.9</u>	<u>\$ 1,160.9</u>	2.3	59.6	34.6	94.2

The following table summarizes net premiums written, and loss and LAE and catastrophe loss ratios by line of business for the Commercial Lines and Personal Lines segments. Loss and LAE and catastrophe loss ratios include prior year reserve development.

	Three Months Ended September 30,					
	2017			2016		
	Net Premiums Written	Loss & LAE Ratios	Catastrophe Loss Ratios	Net Premiums Written	Loss & LAE Ratios	Catastrophe Loss Ratios
<i>(dollars in millions)</i>						
Commercial Lines:						
Commercial multiple peril	\$ 240.2	61.4	9.0	\$ 229.3	61.5	6.6
Commercial automobile	87.9	72.9	4.8	81.7	75.9	2.2
Workers' compensation	81.6	61.4	—	73.6	63.3	—
Other commercial	270.5	71.6	16.2	262.7	61.3	1.2
Total Commercial Lines	<u>\$ 680.2</u>	67.1	10.3	<u>\$ 647.3</u>	63.5	3.0
Personal Lines:						
Personal automobile	\$ 272.2	68.0	0.5	\$ 249.6	71.8	1.6
Homeowners	156.1	52.2	9.7	147.5	52.9	6.5
Other personal	10.5	34.4	2.1	10.4	26.9	1.1
Total Personal Lines	<u>\$ 438.8</u>	61.7	3.7	<u>\$ 407.5</u>	64.1	3.3

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The following table summarizes premiums written on a gross and net basis and net premiums earned by line of business for the Chaucer segment.

<i>(in millions)</i>	Three Months Ended September 30,					
	2017			2016		
	Gross Premiums Written	Net Premiums Written	Net Premiums Earned	Gross Premiums Written	Net Premiums Written	Net Premiums Earned
Chaucer:						
Treaty <sup>(1)</sup>	\$ 92.6	\$ 63.4	\$ 77.7	\$ 58.7	\$ 50.0	\$ 58.2
Marine, aviation and political	76.5	59.5	59.7	81.7	64.9	61.7
Casualty	67.5	54.3	50.0	62.8	52.2	45.4
Energy	28.8	21.6	26.7	28.8	18.8	25.2
Property	21.3	4.7	8.4	11.5	10.2	11.7
Total Chaucer	<u>\$ 286.7</u>	<u>\$ 203.5</u>	<u>\$ 222.5</u>	<u>\$ 243.5</u>	<u>\$ 196.1</u>	<u>\$ 202.2</u>

(1) Prior to January 1, 2017, treaty was reflected in the casualty, property and marine, aviation and political lines. The table reflects 2016 information presented in the revised underwriting divisions.

The following table summarizes underwriting results for the Commercial Lines, Personal Lines, Chaucer and Other segments and reconciles it to operating income.

<i>(in millions)</i>	Three Months Ended September 30,									
	2017					2016				
	Commercial Lines	Personal Lines	Chaucer	Other	Total	Commercial Lines	Personal Lines	Chaucer	Other	Total
Underwriting profit (loss), excluding prior year reserve development and catastrophes	\$ 48.4	\$ 55.8	\$ 17.2	\$ (0.7)	\$ 120.7	\$ 40.6	\$ 34.5	\$ 8.1	\$ (0.5)	\$ 82.7
Prior year favorable (unfavorable) loss and LAE reserve development on non-catastrophe losses	—	—	12.5	(0.3)	12.2	(19.3)	1.1	26.6	(0.3)	8.1
Prior year favorable (unfavorable) catastrophe development	0.4	—	7.5	—	7.9	(1.3)	(1.5)	3.5	—	0.7
Current year catastrophe losses	(62.5)	(15.0)	(124.9)	—	(202.4)	(16.4)	(10.8)	(0.4)	—	(27.6)
Underwriting (loss) profit	(13.7)	40.8	(87.7)	(1.0)	(61.6)	3.6	23.3	37.8	(0.8)	63.9
Net investment income	42.1	17.8	13.4	3.3	76.6	39.0	17.1	10.3	1.4	67.8
Fees and other income	2.1	2.8	2.7	0.7	8.3	2.2	2.9	2.5	0.7	8.3
Other operating expenses	(2.3)	(1.7)	(2.2)	(4.0)	(10.2)	(2.3)	(1.6)	(2.2)	(4.1)	(10.2)
Operating income (loss) before interest expense and income taxes	<u>\$ 28.2</u>	<u>\$ 59.7</u>	<u>\$ (73.8)</u>	<u>\$ (1.0)</u>	<u>\$ 13.1</u>	<u>\$ 42.5</u>	<u>\$ 41.7</u>	<u>\$ 48.4</u>	<u>\$ (2.8)</u>	<u>\$ 129.8</u>

### Commercial Lines

Commercial Lines net premiums written were \$680.2 million in the three months ended September 30, 2017, compared to \$647.3 million in the three months ended September 30, 2016. This \$32.9 million increase was primarily driven by pricing increases, strong retention, and targeted new business expansion.

Commercial Lines underwriting loss for the three months ended September 30, 2017 was \$13.7 million, compared to an underwriting profit of \$3.6 million for the three months ended September 30, 2016, a decrease of \$17.3 million. Catastrophe-related losses for the three months ended September 30, 2017 were \$62.1 million, compared to \$17.7 million for the three months ended September 30, 2016, an increase of \$44.4 million. This increase is primarily due to catastrophe losses from hurricane Harvey. Development on prior years' loss reserves for the three months ended September 30, 2017 was de minimus, compared to unfavorable development of \$19.3 million for the three months ended September 30, 2016.

Commercial Lines current accident year underwriting profit, excluding catastrophes, was \$48.4 million for the three months ended September 30, 2017, compared to \$40.6 million for the three months ended September 30, 2016. This \$7.8 million increase was primarily due to lower expenses and lower current accident year losses in our workers' compensation line. Within our other commercial lines, higher large losses in our marine line were offset by improvements in our surety and miscellaneous property lines.

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We are continuing our efforts to improve underwriting results through increased rates, pricing segmentation, specific underwriting actions and targeted new business growth. Our ability to achieve overall rate increases is affected by the current competitive pricing environment, particularly for larger middle market accounts, which may hamper our ability to grow in this portion of our business.

### Personal Lines

Personal Lines net premiums written were \$438.8 million in the three months ended September 30, 2017, compared to \$407.5 million in the three months ended September 30, 2016, an increase of \$31.3 million. This was primarily due to higher renewal premiums, due to both rate and improved retention, as well as new business growth.

Net premiums written in the personal automobile line of business for the three months ended September 30, 2017 were \$272.2 million compared to \$249.6 million for the three months ended September 30, 2016, an increase of \$22.6 million. This was primarily due to rate increases, as well as an increase in policies in force of 4.0%. Net premiums written in the homeowners line of business for the three months ended September 30, 2017 were \$156.1 million compared to \$147.5 million for the three months ended September 30, 2016, an increase of \$8.6 million. This is attributable to rate increases, as well as an increase in policies in force of 4.0%.

Personal Lines underwriting profit for the three months ended September 30, 2017 was \$40.8 million, compared to \$23.3 million for the three months ended September 30, 2016, an improvement of \$17.5 million. Catastrophe losses for the three months ended September 30, 2017 were \$15.0 million, compared to \$12.3 million for the three months ended September 30, 2016, an increase of \$2.7 million. Development on prior years' loss reserves for both the three months ended September 30, 2017 and 2016 was de minimus.

Personal Lines current accident year underwriting profit, excluding catastrophes, was \$55.8 million in the three months ended September 30, 2017, compared to \$34.5 million for the three months ended September 30, 2016. This \$21.3 million improvement was primarily due to lower current accident year losses, lower expenses and earned premium growth.

Although we have been able to obtain rate increases in our Personal Lines markets and believe that our ability to obtain these increases will continue, our ability to maintain Personal Lines net premiums written and to maintain and improve underwriting results may be affected by price competition, recent years' weather-related losses, our exposure management actions, and regulatory and legal developments. We monitor these trends and consider them in our rate actions.

### Chaucer

Chaucer's net premiums written were \$203.5 million for the three months ended September 30, 2017, compared to \$196.1 million for the three months ended September 30, 2016. This increase of \$7.4 million, or 3.8%, is primarily due to new business growth in our treaty and property lines, partially offset by a planned increase in ceded reinsurance premiums.

Chaucer's underwriting loss for the three months ended September 30, 2017 was \$87.7 million, compared to an underwriting profit of \$37.8 million for the three months ended September 30, 2016, a decline of \$125.5 million. This decline is primarily due to catastrophe losses from hurricanes Harvey, Irma and Maria and two earthquakes in Mexico. Catastrophe losses for the three months ended September 30, 2017 were \$117.4 million, compared to a benefit of \$3.1 million for the three months ended September 30, 2016, an increase in losses of \$120.5 million. Consistent with recent trends, favorable development on prior years' loss reserves for the three months ended September 30, 2017 declined to \$12.5 million, compared to \$26.6 million for the three months ended September 30, 2016, a decrease of \$14.1 million, including the effect of foreign exchange fluctuations in 2016 (See "Foreign Exchange" and "Reserve for Losses and Loss Adjustment Expenses" sections below for further discussion).

Chaucer's current accident year underwriting profit, excluding catastrophes, was \$17.2 million in the three months ended September 30, 2017, compared to \$8.1 million for the three months ended September 30, 2016. This \$9.1 million improvement was primarily due to lower losses in our energy line and lower expenses, primarily due to lower performance-based compensation.

We continue to experience significant competition across the international insurance industry, with current pricing conditions in all markets being affected by high industry capacity and competition. Also, losses in many of our product lines are inherently volatile as the underwriting loss for the most recent quarter illustrates. Following recent industry losses, market prices may strengthen, affecting both business lines we write as well as reinsurance we purchase.

### Other

Other operating loss was \$1.0 million for the three months ended September 30, 2017, compared to \$2.8 million for the three months ended September 30, 2016, a change of \$1.8 million.

### **Nine Months Ended September 30, 2017 Compared to Nine Months Ended September 30, 2016**

Operating income before interest expense and income taxes was \$201.1 million in the nine months ended September 30, 2017, compared to \$344.9 million for the nine months ended September 30, 2016, a decrease of \$143.8 million. This decrease is primarily due to higher catastrophe losses, partially offset by lower current accident year losses, higher net favorable development on prior years' reserves and higher net investment income. Overall, catastrophe-related activity was \$335.7 million in the nine months ended

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September 30, 2017, compared to \$109.1 million for the nine months ended September 30, 2016, an increase of \$226.6 million. Net favorable development on prior years' loss reserves was \$29.5 million in the nine months ended September 30, 2017, compared to \$3.1 million for the nine months ended September 30, 2016, an increase of \$26.4 million.

Net premiums written increased by \$168.2 million in the nine months ended September 30, 2017, compared to the nine months ended September 30, 2016. This improvement was due to growth in each of our domestic and Chaucer businesses.

**Production and Underwriting Results**

The following table summarizes premiums written on a gross and net basis, net premiums earned and loss, LAE, expense and combined ratios for the Commercial Lines, Personal Lines and Chaucer segments. Loss, LAE, catastrophe loss and combined ratios shown below include prior year reserve development. These items are not meaningful for our Other segment.

<i>(dollars in millions)</i>	Nine Months Ended September 30, 2017						
	Gross Premiums Written	Net Premiums Written	Net Premiums Earned	Catastrophe Loss Ratios	Loss & LAE Ratios	Expense Ratios	Combined Ratios
Commercial Lines	\$ 2,176.0	\$ 1,897.1	\$ 1,783.5	7.9	65.0	35.6	100.6
Personal Lines	1,298.7	1,231.4	1,173.5	5.9	66.0	28.2	94.2
Chaucer	980.5	656.5	632.4	19.9	68.3	40.6	108.9
Total	<u>\$ 4,455.2</u>	<u>\$ 3,785.0</u>	<u>\$ 3,589.4</u>	9.4	65.9	34.1	100.0

  

<i>(dollars in millions)</i>	Nine Months Ended September 30, 2016						
	Gross Premiums Written	Net Premiums Written	Net Premiums Earned	Catastrophe Loss Ratios	Loss & LAE Ratios	Expense Ratios	Combined Ratios
Commercial Lines	\$ 2,073.0	\$ 1,831.5	\$ 1,733.3	3.6	63.1	36.0	99.1
Personal Lines	1,202.1	1,139.8	1,094.8	3.2	63.7	28.2	91.9
Chaucer	904.1	645.5	629.6	1.8	52.2	39.3	91.5
Total	<u>\$ 4,179.2</u>	<u>\$ 3,616.8</u>	<u>\$ 3,457.7</u>	3.2	61.4	34.1	95.5

The following table summarizes net premiums written, and loss and LAE and catastrophe loss ratios by line of business for the Commercial Lines and Personal Lines segments. Loss and LAE and catastrophe loss ratios include prior year reserve development.

<i>(dollars in millions)</i>	Nine Months Ended September 30,					
	2017			2016		
	Net Premiums Written	Loss & LAE Ratios	Catastrophe Loss Ratios	Net Premiums Written	Loss & LAE Ratios	Catastrophe Loss Ratios
<b>Commercial Lines:</b>						
Commercial multiple peril	\$ 634.6	65.5	11.3	\$ 618.9	61.8	7.4
Commercial automobile	249.4	70.3	2.2	238.9	75.4	1.1
Workers' compensation	241.7	62.3	—	222.4	60.7	—
Other commercial	771.4	63.7	9.3	751.3	61.0	2.4
Total Commercial Lines	<u>\$ 1,897.1</u>	65.0	7.9	<u>\$ 1,831.5</u>	63.1	3.6
<b>Personal Lines:</b>						
Personal automobile	\$ 781.4	69.5	0.6	\$ 717.2	71.1	0.8
Homeowners	421.1	61.5	15.6	394.0	52.4	7.7
Other personal	28.9	38.1	1.7	28.6	43.2	1.4
Total Personal Lines	<u>\$ 1,231.4</u>	66.0	5.9	<u>\$ 1,139.8</u>	63.7	3.2

The following table summarizes premiums written on a gross and net basis and net premiums earned by line of business for the Chaucer segment.

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<i>(in millions)</i>	Nine Months Ended September 30,					
	2017			2016		
	Gross Premiums Written	Net Premiums Written	Net Premiums Earned	Gross Premiums Written	Net Premiums Written	Net Premiums Earned
Chaucer:						
Treaty <sup>(1)</sup>	\$ 367.0	\$ 237.4	\$ 198.5	\$ 305.3	\$ 211.0	\$ 175.7
Marine, aviation and political	227.0	165.2	172.4	247.0	176.9	173.0
Casualty	186.3	146.4	141.2	176.2	148.7	144.8
Energy	128.0	75.0	86.8	131.7	76.2	100.8
Property	72.2	32.5	33.5	43.9	32.7	35.3
Total Chaucer	<u>\$ 980.5</u>	<u>\$ 656.5</u>	<u>\$ 632.4</u>	<u>\$ 904.1</u>	<u>\$ 645.5</u>	<u>\$ 629.6</u>

(1) Prior to January 1, 2017, treaty was reflected in the casualty, property and marine, aviation and political lines. The table reflects 2016 information presented in the revised underwriting divisions.

The following table summarizes underwriting results for the Commercial Lines, Personal Lines, Chaucer and Other segments and reconciles it to operating income.

<i>(in millions)</i>	Nine Months Ended September 30,									
	2017					2016				
	Commercial Lines	Personal Lines	Chaucer	Other	Total	Commercial Lines	Personal Lines	Chaucer	Other	Total
Underwriting profit (loss), excluding prior year reserve development and catastrophes	\$ 126.9	\$ 130.7	\$ 39.6	\$ (1.9)	\$ 295.3	\$ 136.4	\$ 115.6	\$ 0.5	\$ (1.2)	\$ 251.3
Prior year favorable (unfavorable) loss and LAE reserve development on non-catastrophe losses	0.1	(0.1)	30.4	(0.9)	29.5	(61.5)	0.9	64.6	(0.9)	3.1
Prior year favorable (unfavorable) catastrophe development	1.2	—	13.9	—	15.1	(0.3)	(4.3)	25.3	—	20.7
Current year catastrophe losses	(142.3)	(68.7)	(139.8)	—	(350.8)	(62.2)	(31.0)	(36.6)	—	(129.8)
Underwriting (loss) profit	(14.1)	61.9	(55.9)	(2.8)	(10.9)	12.4	81.2	53.8	(2.1)	145.3
Net investment income	123.7	52.3	37.1	6.9	220.0	117.5	51.6	32.3	3.8	205.2
Fees and other income	6.0	8.5	5.0	2.1	21.6	6.4	8.4	6.0	2.1	22.9
Other operating expenses	(6.8)	(5.2)	(5.4)	(12.2)	(29.6)	(7.1)	(5.0)	(4.5)	(11.9)	(28.5)
Operating income (loss) before interest expense and income taxes	<u>\$ 108.8</u>	<u>\$ 117.5</u>	<u>\$ (19.2)</u>	<u>\$ (6.0)</u>	<u>\$ 201.1</u>	<u>\$ 129.2</u>	<u>\$ 136.2</u>	<u>\$ 87.6</u>	<u>\$ (8.1)</u>	<u>\$ 344.9</u>

Commercial Lines

Commercial Lines net premiums written were \$1,897.1 million in the nine months ended September 30, 2017, compared to \$1,831.5 million in the nine months ended September 30, 2016. This \$65.6 million increase was due to growth of \$83.2 million, primarily driven by pricing increases, strong retention, and targeted new business expansion, partially offset by a \$17.6 million increase in reinsurance reinstatement premiums driven by large property losses in our commercial multiple peril and inland marine lines.

Commercial Lines underwriting loss for the nine months ended September 30, 2017 was \$14.1 million, compared to underwriting profit of \$12.4 million for the nine months ended September 30, 2016, a decrease of \$26.5 million. Catastrophe-related losses for the nine months ended September 30, 2017 were \$141.1 million, compared to \$62.5 million for the nine months ended September 30, 2016, an increase of \$78.6 million. This increase is primarily due to hurricanes Harvey and Irma that occurred in the third quarter and two large midwest wind and hail events that occurred in the first two quarters. Development on prior years' loss reserves for the nine months ended September 30, 2017 was de minimis, compared to unfavorable development of \$61.5 million for the nine months ended September 30, 2016.

Commercial Lines current accident year underwriting profit, excluding catastrophes, was \$126.9 million for the nine months ended September 30, 2017, compared to \$136.4 million for the nine months ended September 30, 2016. This \$9.5 million decrease was primarily due to higher large losses and reinstatement premiums in our commercial multiple peril and inland marine lines, partially

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offset by lower losses in our surety and workers' compensation lines and lower expenses. In contrast, we experienced an unusually low level of large property losses and non-catastrophe weather-related losses in the commercial multiple peril line in the first quarter of 2016. The impact of the additional reinstatement premiums, net of ceding commissions, resulted in a decrease of \$12.7 million.

### Personal Lines

Personal Lines net premiums written were \$1,231.4 million in the nine months ended September 30, 2017, compared to \$1,139.8 million in the nine months ended September 30, 2016, an increase of \$91.6 million. This was primarily due to increased rates in both our personal automobile and homeowners lines of business, as well as new business growth and improved retention.

Net premiums written in the personal automobile line of business for the nine months ended September 30, 2017 were \$781.4 million, compared to \$717.2 million for the nine months ended September 30, 2016, an increase of \$64.2 million. This was primarily due to rate increases and an increase in policies in force of 4.0%. Net premiums written in the homeowners' line of business for the nine months ended September 30, 2017 were \$421.1 million compared to \$394.0 million for the nine months ended September 30, 2016, an increase of \$27.1 million. This is attributable to rate increases and an increase in policies in force of 4.0%.

Personal Lines underwriting profit for the nine months ended September 30, 2017 was \$61.9 million, compared to \$81.2 million for the nine months ended September 30, 2016, a decline of \$19.3 million. Catastrophe losses for the nine months ended September 30, 2017 were \$68.7 million, compared to \$35.3 million for the nine months ended September 30, 2016, an increase of \$33.4 million. This increase is primarily due to a large midwest wind event that occurred in the first quarter. Development on prior years' loss reserves for both the nine months ended September 30, 2017 and 2016 was de minimis.

Personal Lines current accident year underwriting profit, excluding catastrophes, was \$130.7 million in the nine months ended September 30, 2017, compared to \$115.6 million for the nine months ended September 30, 2016. This \$15.1 million improvement was primarily a result of earned premium growth and lower current accident year losses. Lower current accident year losses in our personal automobile line were partially offset by higher losses in our homeowners' line.

### Chaucer

Chaucer's net premiums written were \$656.5 million for the nine months ended September 30, 2017, compared to \$645.5 million for the nine months ended September 30, 2016, an increase of \$11.0 million, or 1.7%. An RITC transaction occurred in the first quarter of 2016 that had no impact on net income. The RITC transaction resulted in additional assumed premiums and loss and LAE reserves of \$17.7 million in 2016, representing the increase in Chaucer's retained group share of its 2013 year of account that was closed and reinsured into its 2014 year of account. As we have 100% economic interest in Syndicate 1084 for all years of account after 2013, we did not have significant RITC impacts in 2017 and do not anticipate any further impact from RITC. Excluding the RITC impact, net written premium increased 4.6% due to new business growth in our treaty, property and casualty lines, partially offset by a planned increase in ceded reinsurance premiums and a \$13.4 million impact of foreign exchange fluctuations.

Chaucer's underwriting loss for the nine months ended September 30, 2017 was \$55.9 million, compared to an underwriting profit of \$53.8 million for the nine months ended September 30, 2016, a decline of \$109.7 million. This decrease is primarily due to higher catastrophe losses. Catastrophe losses for the nine months ended September 30, 2017 were \$125.9 million, compared to \$11.3 million for the nine months ended September 30, 2016, an increase of \$114.6 million. This increase is primarily due to hurricanes Harvey, Irma and Maria and two earthquakes in Mexico, all of which occurred in the third quarter. Consistent with recent trends, favorable development on prior years' loss reserves for the nine months ended September 30, 2017 declined to \$30.4 million, compared to \$64.6 million for the nine months ended September 30, 2016, a decrease of \$34.2 million, including the effect of foreign exchange fluctuations in 2016 (See "Foreign Exchange" and "Reserves for Losses and Loss Adjustment Expenses" sections below for further discussion).

Chaucer's current accident year underwriting profit, excluding catastrophes, was \$39.6 million in the nine months ended September 30, 2017, compared to \$0.5 million for the nine months ended September 30, 2016. This \$39.1 million improvement was primarily due to lower large losses in our political line, including losses from commodity price-sensitive trade credit coverages in 2016, and lower losses in our energy line. This was partially offset by higher expenses, principally driven by the effect of foreign exchange fluctuations (See "Foreign Exchange" section below for further discussion).

### Other

Other operating loss was \$6.0 million for the nine months ended September 30, 2017, compared to \$8.1 million for the nine months ended September 30, 2016, a change of \$2.1 million.

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**Foreign Exchange**

Most of Chaucer’s transactions are denominated in the currencies that we use to settle transactions with Lloyd’s, specifically the U.S. Dollar, the U.K. Pound Sterling (“GBP”) and the Canadian Dollar. These are Chaucer’s functional currencies under U.S. GAAP. A portion of Chaucer’s transactions and its assets and liabilities are denominated in other currencies, such as the Euro, the Swiss Franc, the Australian Dollar and the Japanese Yen. Changes in the value of these currencies versus the functional currencies, particularly versus the GBP, cause transactional gains and losses during each reporting period. During the three and nine months ended September 30, 2017, the GBP was relatively stable against most currencies. During the three and nine months ended September 30, 2016, the GBP weakened against most currencies. We believe that this was due, in large part, to the U.K.’s referendum vote to discontinue its membership in the European Union (“Brexit Referendum”). The following table summarizes the total effect of Chaucer’s foreign exchange transactional gains and losses on comprehensive income:

<i>in millions</i>	Three Months Ended September 30,		Nine Months Ended September 30,	
	2017	2016	2017	2016
Effect of revaluing loss and LAE reserves	\$ 0.8	\$ (10.4)	\$ (3.3)	\$ (43.6)
Effect of revaluing overseas deposits and cash	(0.9)	3.3	(0.6)	13.0
Effect of revaluing premium receivables	(0.1)	0.3	(0.1)	3.1
Total FX effect on operating income	(0.2)	(6.8)	(4.0)	(27.5)
FX losses reflected in net realized investment gains	—	—	—	(0.7)
Total FX effect on income before income taxes	(0.2)	(6.8)	(4.0)	(28.2)
Unrealized FX gains from investment securities	—	2.1	1.7	9.6
Total pre-tax effect of transactional FX losses on comprehensive income	(0.2)	(4.7)	(2.3)	(18.6)
Tax benefit	0.1	1.6	0.8	6.5
Total effect of transactional FX losses on comprehensive income	<u>\$ (0.1)</u>	<u>\$ (3.1)</u>	<u>\$ (1.5)</u>	<u>\$ (12.1)</u>

During the three and nine months ended September 30, 2017, foreign exchange losses reduced pre-tax segment income by approximately zero and \$4 million, respectively, compared to foreign exchange losses in pre-tax segment income of approximately \$7 million and \$28 million, respectively, for the three and nine months ended September 30, 2016. These items result primarily from the revaluation of loss and LAE reserves in various currencies, particularly the Euro, the Australian Dollar and the Japanese Yen, partially offset by the revaluation of investments in overseas deposits and cash. During the three and nine months ended September 30, 2017, pre-tax unrealized foreign exchange gains from Euro-denominated investment securities were approximately zero and \$2 million respectively, which were reflected as an increase to accumulated other comprehensive income. During the three and nine months ended September 30, 2016, pre-tax unrealized foreign exchange gains from Euro-denominated investment securities were approximately \$2 million and \$10 million, respectively, which were reflected as an increase to accumulated other comprehensive income.

Although we endeavor to balance assets and liabilities for our foreign currencies, a certain level of net exposure to exchange rate fluctuations persists. We monitor and seek to limit the extent of this exposure. Although these transactional foreign exchange gains and losses are unlikely to be material to our financial position, they may be more significant to our financial results of operations in any one period.

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**Reserve for Losses and Loss Adjustment Expenses**

The table below provides a reconciliation of the gross beginning and ending reserve for unpaid losses and loss adjustment expenses.

<i>(in millions)</i>	Nine Months Ended September 30,	
	2017	2016
Gross loss and LAE reserves, beginning of period	\$ 6,949.4	\$ 6,574.4
Reinsurance recoverable on unpaid losses	2,274.8	2,280.8
Net loss and LAE reserves, beginning of period	4,674.6	4,293.6
Net incurred losses and LAE in respect of losses occurring in:		
Current year	2,414.1	2,145.1
Prior year non-catastrophe loss development	(29.5)	(3.1)
Prior year catastrophe development	(15.1)	(20.7)
Total incurred losses and LAE	2,369.5	2,121.3
Net payments of losses and LAE in respect of losses occurring in:		
Current year	851.2	775.1
Prior years	1,131.5	1,088.3
Total payments	1,982.7	1,863.4
Effect of foreign exchange rate changes	40.3	(52.6)
Net reserve for losses and LAE, end of period	5,101.7	4,498.9
Reinsurance recoverable on unpaid losses	2,533.7	2,303.4
Gross reserve for losses and LAE, end of period	\$ 7,635.4	\$ 6,802.3

The table below summarizes the gross reserve for losses and LAE by line of business.

<i>(in millions)</i>	September 30, 2017	December 31, 2016
Commercial multiple peril	\$ 982.6	\$ 899.7
Workers' compensation	614.4	580.2
Commercial automobile	379.8	374.2
Other commercial lines:		
AIX program business	449.6	453.2
Other	891.5	758.4
Total other commercial lines	1,341.1	1,211.6
Total Commercial Lines	3,317.9	3,065.7
Personal automobile	1,438.2	1,430.2
Homeowners and other personal	140.1	123.8
Total Personal	1,578.3	1,554.0
Total Chaucer	2,700.3	2,289.4
Total Other Segment	38.9	40.3
Total loss and LAE reserves	\$ 7,635.4	\$ 6,949.4

“Other commercial lines – Other” in the table above, is primarily comprised of monoline general liability, management and professional general liability, umbrella, fidelity, marine, miscellaneous property, and healthcare lines. Loss and LAE reserves in our “Total Other Segment” relate to our run-off voluntary assumed reinsurance pools business. Also included in the above table, are \$59.2 million and \$61.0 million of asbestos and environmental reserves as of September 30, 2017 and December 31, 2016, respectively. Included in the Chaucer segment are \$108.4 million and \$117.0 million of reserves as of September 30, 2017 and December 31, 2016, respectively, related to Chaucer’s financial and professional liability lines written in 2008 and prior periods.

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The following table summarizes prior year (favorable) unfavorable development for the periods indicated:

<i>(in millions)</i>	Nine Months Ended September 30,					
	2017			2016		
	Loss & LAE	Catastrophe	Total	Loss & LAE	Catastrophe	Total
Commercial Lines	\$ (0.1)	\$ (1.2)	\$ (1.3)	\$ 61.5	\$ 0.3	\$ 61.8
Personal Lines	0.1	—	0.1	(0.9)	4.3	3.4
Chaucer	(30.4)	(13.9)	(44.3)	(64.6)	(25.3)	(89.9)
Other Segment	0.9	—	0.9	0.9	—	0.9
Total prior year (favorable) unfavorable development	\$ (29.5)	\$ (15.1)	\$ (44.6)	\$ (3.1)	\$ (20.7)	\$ (23.8)

### Catastrophe Loss Development

In the nine months ended September 30, 2017 and 2016, favorable catastrophe development was \$15.1 million and \$20.7 million, respectively. The favorable catastrophe development during the nine months ended September 30, 2017 was primarily driven by lower than expected losses for Chaucer's treaty line of \$11.1 million. The favorable catastrophe development during the nine months ended September 30, 2016 was primarily driven by lower than expected losses in Chaucer's treaty line of \$14.9 million and to a lesser degree in Chaucer's property line.

#### 2017 Loss and LAE Development, excluding catastrophes

For the nine months ended September 30, 2017, net favorable loss and LAE development, excluding catastrophes, was \$29.5 million, primarily due to lower than expected losses in Chaucer's energy line of \$22.3 million and to a lesser degree in Chaucer's political line.

#### 2016 Loss and LAE Development, excluding catastrophes

For the nine months ended September 30, 2016, net favorable loss and LAE development, excluding catastrophes, was \$3.1 million, primarily as a result of net favorable development of \$64.6 million for Chaucer, partially offset by unfavorable development of \$61.5 million for Commercial Lines.

Chaucer's favorable development during the nine months ended September 30, 2016 was primarily the result of lower than expected losses in the casualty line of \$17.6 million, primarily in the 2014 and prior accident years, the political line of \$14.6 million, primarily in the 2014 and 2015 accident years, the energy line of \$13.6 million, primarily in the 2014 and 2015 accident years, and in the treaty line of \$13.5 million, primarily in the 2014 and 2015 accident years. Partially offsetting Chaucer's favorable development was the unfavorable impact of foreign exchange rate movements on prior years' loss reserves.

The net unfavorable Commercial Lines development primarily resulted from higher than expected losses in other commercial lines of \$36.6 million, which includes the AIX program business. This was primarily driven by AIX programs and business classes which have since been terminated or substantially revised in the 2013 and prior accident years and by general liability coverages in the 2013 through 2014 accident years. We also experienced higher than expected losses within the commercial multiple peril lines of \$30.5 million in the 2012 through 2014 accident years. Partially offsetting the unfavorable development was lower than expected losses within the workers' compensation line of \$14.7 million, primarily related to the 2013 through 2015 accident years.

### Analysis of Loss and Loss Adjustment Expense Reserve Development

Although Chaucer reported significant favorable development in recent years, there can be no assurance that this level of favorable development will continue to occur in the future. Due to declining market conditions over recent years at Lloyd's and in the London market generally, changes in our business mix, our increase in ceded reinsurance and other factors, favorable development was \$44.3 million during the nine months ended September 30, 2017, meaningfully lower than the level we experienced in the same nine month periods over the last three years. This trend may continue.

It is not possible to know whether the factors that affected loss reserves in the first nine months of 2017 will also occur in future periods. As discussed in detail in our Form 10-K for the year ended December 31, 2016, due to the highly specialized nature of the Lloyd's business, many of our business classes at Chaucer result in claims experience and development patterns that are less predictable and more volatile than most of our Personal and Commercial lines businesses. We encourage you to read our Form 10-K for more information about our reserving process and the judgments, uncertainties and risks associated therewith.

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**Investments**

***Investment Results***

Net investment income before income taxes was as follows:

<i>(dollars in millions)</i>	Three Months Ended September 30,		Nine Months Ended September 30,	
	2017	2016	2017	2016
Fixed maturities	\$ 62.6	\$ 59.8	\$ 184.9	\$ 182.2
Equity securities	4.1	4.4	13.4	13.5
Other investments	12.6	6.4	30.0	17.7
Investment expenses	(2.7)	(2.8)	(8.3)	(8.2)
Net investment income	<u>76.6</u>	<u>\$ 67.8</u>	<u>\$ 220.0</u>	<u>\$ 205.2</u>
Earned yield, fixed maturities	3.32%	3.43%	3.35%	3.51%
Earned yield, total portfolio	3.40%	3.31%	3.34%	3.36%

The increase in net investment income for the three and nine months ended September 30, 2017 was primarily due to the investment of higher operational cash flows and to acquisitions of additional higher yielding asset classes, including private equity partnerships and commercial mortgage loan participations. Net investment income also benefitted from income on certain reinsurance contracts subject to deposit accounting. These increases were partially offset by the impact of lower new money yields. We expect average fixed income investment yields to continue to decline as new money rates remain lower than embedded book yields.

***Investment Portfolio***

We held cash and investment assets diversified across several asset classes, as follows:

<i>(dollars in millions)</i>	September 30, 2017		December 31, 2016	
	Carrying Value	% of Total Carrying Value	Carrying Value	% of Total Carrying Value
Fixed maturities, at fair value	\$ 7,890.5	84.8 %	\$ 7,331.3	84.0 %
Equity securities, at fair value	566.5	6.1	584.4	6.7
Other investments	616.6	6.6	533.8	6.1
Cash and cash equivalents	227.2	2.5	282.6	3.2
Total cash and investments	<u>\$ 9,300.8</u>	<u>100.0 %</u>	<u>\$ 8,732.1</u>	<u>100.0 %</u>

***Cash and Investments***

Total cash and investments increased \$568.7 million, or 6.5%, for the nine months ended September 30, 2017, primarily due to operational cashflows and market value appreciation, partially offset by the funding of financing activities, including dividend payments and stock repurchases.

The following table provides information about the investment types of our fixed maturities portfolio:

<i>(in millions)</i>	September 30, 2017			
	Amortized Cost	Fair Value	Net Unrealized Gains (Losses)	Change in Net Unrealized For the Year
<b>Investment Type</b>				
U.S. Treasury and government agencies	\$ 434.3	\$ 434.1	\$ (0.2)	\$ 1.2
Foreign government	241.7	245.0	3.3	(1.6)
Municipals:				
Taxable	976.4	1,007.3	30.9	1.3
Tax-exempt	84.7	85.9	1.2	1.2
Corporate	4,330.2	4,426.5	96.3	32.3
Asset-backed:				
Residential mortgage-backed	1,032.8	1,033.1	0.3	4.3
Commercial mortgage-backed	592.0	598.2	6.2	2.5
Asset-backed	60.3	60.4	0.1	0.7
Total fixed maturities	<u>\$ 7,752.4</u>	<u>\$ 7,890.5</u>	<u>\$ 138.1</u>	<u>\$ 41.9</u>

The increase in net unrealized gains on fixed maturities was primarily due to narrower credit spreads.

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Amortized cost and fair value by rating category were as follows:

<i>(dollars in millions)</i> NAIC Designation	Rating Agency Equivalent Designation	September 30, 2017			December 31, 2016		
		Amortized Cost	Fair Value	% of Total Fair Value	Amortized Cost	Fair Value	% of Total Fair Value
1	Aaa/Aa/A	\$ 5,304.0	\$ 5,382.4	68.2 %	\$ 4,867.7	\$ 4,927.6	67.2 %
2	Baa	2,046.9	2,087.8	26.5	1,955.4	1,975.8	26.9
3	Ba	206.0	216.5	2.8	203.2	210.8	2.9
4	B	184.4	191.9	2.4	195.9	203.7	2.8
5	Caa and lower	10.8	11.5	0.1	11.8	11.9	0.2
6	In or near default	0.3	0.4	—	1.1	1.5	—
Total fixed maturities		<u>\$ 7,752.4</u>	<u>\$ 7,890.5</u>	<u>100.0 %</u>	<u>\$ 7,235.1</u>	<u>\$ 7,331.3</u>	<u>100.0 %</u>

Based on ratings by the National Association of Insurance Commissioners (“NAIC”), approximately 95% and 94% of the fixed maturity portfolio consisted of investment grade securities at September 30, 2017 and December 31, 2016, respectively. The quality of our fixed maturity portfolio remains strong based on ratings, capital structure position, support through guarantees, underlying security, issuer diversification and yield curve position.

The duration of our fixed maturity portfolio was as follows:

<i>(dollars in millions)</i> Duration	September 30, 2017			December 31, 2016		
	Amortized Cost	Fair Value	% of Total Fair Value	Amortized Cost	Fair Value	% of Total Fair Value
0-2 years	\$ 1,323.6	\$ 1,352.4	17.1 %	\$ 1,168.6	\$ 1,190.2	16.2 %
2-4 years	2,298.6	2,366.3	30.0	2,107.4	2,171.2	29.6
4-6 years	1,936.8	1,971.5	25.0	1,941.4	1,971.8	26.9
6-8 years	1,836.4	1,839.4	23.3	1,426.7	1,423.0	19.4
8-10 years	270.8	273.2	3.5	515.1	498.4	6.8
10+ years	86.2	87.7	1.1	75.9	76.7	1.1
Total fixed maturities	<u>\$ 7,752.4</u>	<u>\$ 7,890.5</u>	<u>100.0 %</u>	<u>\$ 7,235.1</u>	<u>\$ 7,331.3</u>	<u>100.0 %</u>

Weighted average duration:	<u>4.4</u>	<u>4.5</u>
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Our fixed maturity and equity securities are classified as available-for-sale and are carried at fair value. Financial instruments whose value was determined using significant management judgment or estimation constituted less than 1% of the total assets we measured at fair value. (See also Note 5 – “Fair Value” in the Notes to Interim Consolidated Financial Statements).

Equity securities primarily consist of U.S. income-oriented large capitalization common stocks and developed market equity index exchange-traded funds.

Other investments primarily consist of participations in commercial mortgage loan obligations, investments in private equity limited partnerships and overseas deposits. Commercial mortgage loan participations represent our interest in commercial mortgage loans originated by a third party. We share, on a pro-rata basis, in all related cash flows of the underlying mortgage loans, which are investment-grade quality and diversified by geographic area and property type. Our investments in limited partnerships include interests in middle market mezzanine and private equity funds. Overseas deposits are foreign and U.S. dollar-denominated investments maintained in overseas funds and managed exclusively by Lloyd’s. These funds are required in order to protect policyholders in overseas markets and enable Chaucer to operate in those markets. Access to those funds is restricted, and we have no control over the investment strategy.

Although we expect to invest new funds primarily in investment grade fixed maturities, we have invested, and expect to continue to invest, a portion of funds in common equity securities, below investment grade fixed maturities and other investment assets.

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***Other-than-Temporary Impairments***

For the three months ended September 30, 2017, we recognized in earnings \$1.3 million of other-than-temporary impairments (“OTTI”), primarily on fixed maturities. For the nine months ended September 30, 2017, we recognized in earnings \$4.5 million of OTTI, primarily on equity securities and fixed maturities. For the three and nine months ended September 30, 2016, we recognized in earnings \$0.1 million and \$26.0 million, respectively, of OTTI. For the nine months ended September 30, 2016, OTTI primarily related to fixed maturities in the energy sector and to a lesser extent, equity securities.

The carrying values of fixed maturity securities on non-accrual status at September 30, 2017 and December 31, 2016 were not material. The effects of non-accruals, compared with amounts that would have been recognized in accordance with the original terms of the fixed maturities, were also not material. Any defaults in the fixed maturities portfolio in future periods may negatively affect investment income.

***Unrealized Losses***

The following table provides information about our fixed maturities and equity securities that were in an unrealized loss position, including the length of time the securities have been in an unrealized loss position. (See also Note 4 – “Investments” in the Notes to Interim Consolidated Financial Statements.)

	September 30, 2017		December 31, 2016	
	Gross Unrealized Losses	Fair Value	Gross Unrealized Losses	Fair Value
<i>(in millions)</i>				
Fixed maturities:				
Investment grade:				
12 months or less	\$ 24.0	\$ 1,896.4	\$ 60.2	\$ 2,356.9
Greater than 12 months	18.7	481.1	8.7	134.1
<b>Total investment grade fixed maturities</b>	<b>42.7</b>	<b>2,377.5</b>	<b>68.9</b>	<b>2,491.0</b>
Below investment grade:				
12 months or less	1.3	33.7	1.2	46.0
Greater than 12 months	7.6	52.4	12.2	81.8
<b>Total below investment grade fixed maturities</b>	<b>8.9</b>	<b>86.1</b>	<b>13.4</b>	<b>127.8</b>
Equity securities:				
12 months or less	0.3	11.0	0.7	16.3
<b>Total</b>	<b>\$ 51.9</b>	<b>\$ 2,474.6</b>	<b>\$ 83.0</b>	<b>\$ 2,635.1</b>

Gross unrealized losses at September 30, 2017 decreased \$31.1 million compared to December 31, 2016, primarily attributable to narrower credit spreads. At September 30, 2017, gross unrealized losses consisted primarily of \$29.2 million on corporate fixed maturities, \$9.4 million on residential mortgage-backed securities and \$4.8 million on municipal securities.

We view gross unrealized losses on fixed maturities and equity securities as temporary since it is our assessment that these securities will recover in the near term, allowing us to realize their anticipated long-term economic value. With respect to gross unrealized losses on fixed maturities, we do not intend to sell, nor is it more likely than not we will be required to sell, such debt securities before this expected recovery of amortized cost (See also “Liquidity and Capital Resources” in Management’s Discussion and Analysis of Financial Condition and Results of Operations of this Form 10-Q). With respect to equity securities, we have the intent and ability to retain such investments for the period of time anticipated to allow for this expected recovery in fair value. Inherent in our assessment are the risks that market factors may differ from our expectations; the global economic expansion is less robust than we expect or reverts to recessionary trends; we may decide to subsequently sell a security for unforeseen business needs; or changes in the credit assessment or equity characteristics from our original assessment may lead us to determine that a sale at the then current value would maximize recovery on such investments. To the extent that there are such adverse changes, an OTTI would be recognized as a realized loss. Although unrealized losses are not reflected in the results of financial operations until they are realized or deemed “other-than-temporary,” the fair value of the underlying investment, which does reflect the unrealized loss, is reflected in our Consolidated Balance Sheets.

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The following table sets forth gross unrealized losses for fixed maturities by maturity period and for equity securities at September 30, 2017 and December 31, 2016. Actual maturities may differ from contractual maturities because borrowers may have the right to call or prepay obligations, with or without call or prepayment penalties, or we may have the right to put or sell the obligations back to the issuers.

<i>(in millions)</i>	September 30, 2017	December 31, 2016
Due in one year or less	\$ 0.1	\$ 0.3
Due after one year through five years	8.8	15.9
Due after five years through ten years	22.0	37.6
Due after ten years	8.6	10.0
	<u>39.5</u>	<u>63.8</u>
Mortgage-backed and asset-backed securities	12.1	18.5
Total fixed maturities	<u>51.6</u>	<u>82.3</u>
Equity securities	0.3	0.7
Total fixed maturities and equity securities	<u>\$ 51.9</u>	<u>\$ 83.0</u>

Our investment portfolio and shareholders' equity can be significantly impacted by changes in the market values of our securities. Market volatility could increase and defaults on fixed income securities could occur. As a result, we could incur additional realized and unrealized losses in future periods, which could have a material adverse impact on our results of operations and/or financial position.

Monetary policies in the developed economies, particularly in the United States, Europe and Japan, are supportive of moderate economic growth, while fiscal policies are more divergent and subject to change. Major central banks continue to closely monitor developments in global financial markets and the outlook for growth and are committed to adjust monetary policy as required to provide liquidity funding, support growth and achieve inflation targets. In the United States, the Federal Reserve (the "Fed") maintains its target for the federal funds rate at 1.00% to 1.25%. The Fed expects that economic activity will expand at a moderate pace, labor market conditions will strengthen somewhat further and inflation will stabilize around 2 percent over the medium term. The Fed has communicated that the timing and size of future adjustments to the federal funds rate, and to the size of its balance sheet, will depend on the realized and expected economic conditions relative to its objectives of maximum employment and 2 percent inflation. Additional gradual rate hikes and a reduction in the Fed's balance sheet are likely over the next few years. While the Fed believes near-term risks to the economic outlook appear roughly balanced, they continue to closely monitor inflation indicators and global economic and financial developments.

While the United States, Canada and the United Kingdom have reduced their extraordinary measures and begun to tighten monetary policy, other major central banks continue with their stimulus policies as they seek higher growth and confront inflation and inflation expectations running below target. The removal, modification or suggestion of changes in these policies could have an adverse effect on prevailing market interest rates and on issuers' level of business activity or liquidity. Fundamental conditions in the corporate sector generally remain sound. While we may experience defaults on fixed income securities, particularly with respect to non-investment grade debt securities, it is difficult to foresee which issuers, industries or markets will be affected. As a result, the value of our fixed maturity portfolio could change rapidly in ways we cannot currently anticipate, and we could incur additional realized and unrealized losses in future periods.

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**Other Items**

Net income also included the following items:

<i>(in millions)</i>	Three Months Ended September 30,					
	Commercial Lines	Personal Lines	Chaucer	Other	Discontinued Operations	Total
<b>2017</b>						
Net realized investment gains (losses)	\$ 9.8	\$ 4.2	\$ 0.1	\$ (0.7)	\$ —	\$ 13.4
Other non-operating items	(2.9)	(2.6)	—	—	—	(5.5)
Discontinued operations, net of taxes	—	—	—	—	(1.2)	(1.2)
<b>2016</b>						
Net realized investment gains	\$ 2.2	\$ 1.0	\$ 1.0	\$ —	\$ —	\$ 4.2
Other non-operating items	2.5	—	0.1	—	—	2.6
Discontinued operations, net of taxes	—	—	—	—	0.1	0.1
<i>(in millions)</i>	Nine Months Ended September 30,					
	Commercial Lines	Personal Lines	Chaucer	Other	Discontinued Operations	Total
<b>2017</b>						
Net realized investment gains (losses)	\$ 17.5	\$ 8.0	\$ 0.7	\$ (5.0)	\$ —	\$ 21.2
Other non-operating items	(4.0)	(3.3)	0.2	—	—	(7.1)
Discontinued operations, net of taxes	—	—	—	—	(1.2)	(1.2)
<b>2016</b>						
Net realized investment gains (losses)	\$ 4.8	\$ 2.1	\$ (0.3)	\$ (1.6)	\$ —	\$ 5.0
Net loss from repayment of debt	—	—	—	(86.1)	—	(86.1)
Other non-operating items	2.5	—	1.6	—	—	4.1
Discontinued operations, net of taxes	—	—	—	—	0.3	0.3

We manage investment assets for our Commercial Lines, Personal Lines, and Other segments based on the requirements of our U.S. combined property and casualty companies. We allocate the investment income, expenses and realized gains and losses to our Commercial Lines, Personal Lines and Other segments based on actuarial information related to the underlying businesses. We manage investment assets separately for our Chaucer segment.

Net realized gains on investments were \$13.4 million for the three months ended September 30, 2017 and \$4.2 million for the three months ended September 30, 2016. Net realized gains in 2017 were primarily due to \$15.1 million of net gains recognized from the sale of equity securities and fixed maturities. These gains were partially offset by \$1.3 million of OTTI losses. Net realized gains in 2016 were primarily due to \$3.5 million of net gains recognized from the sale of securities, primarily fixed maturities, as well as \$0.8 million in net gains from other investments, primarily partnerships.

Net realized gains on investments were \$21.2 million for the nine months ended September 30, 2017 compared to \$5.0 million for the nine months ended September 30, 2016. Net realized gains in 2017 were primarily due to \$26.5 million of net gains recognized from the sale of equity securities and fixed maturities. These gains were partially offset by \$4.5 million of OTTI losses. Net realized gains in 2016 were primarily due to \$30.8 million of net gains recognized from the sale of securities, primarily equities, partially offset by \$26.0 million of OTTI losses.

Included in “other non-operating items” above for the three and nine months ended September 30, 2017, were \$5.5 million and \$7.3 million, respectively, of employee termination costs associated with a company-wide expense savings initiative. We expect to incur approximately \$3 million of additional employee termination costs during the fourth quarter of 2017.

Additionally, during the second quarter of 2016, we redeemed senior debentures with a carrying value of \$375.2 million at a cost of \$461.3 million, resulting in a loss of \$86.1 million.

## **Income Taxes**

We are subject to the tax laws and regulations of the U.S. and foreign countries in which we operate. We file a consolidated U.S. federal income tax return that includes the holding company and its U.S. subsidiaries. Generally, taxes are accrued at the U.S. statutory tax rate of 35% for income from the U.S. operations. Our primary non-U.S. jurisdiction is the U.K. In November 2015, the U.K. statutory tax rate decreased from 20% to 19% effective April 1, 2017 and a further decrease in the U.K. tax rate was enacted in September 2016 to reduce the U.K. statutory rate to 17% effective April 1, 2020. We accrue taxes on certain non-U.S. income that is subject to U.S. tax at the U.S. tax rate. Foreign tax credits, where available, are utilized to offset U.S. tax as permitted. Certain of our non-U.S. income is not subject to U.S. tax until repatriated. Foreign taxes on this non-U.S. income are accrued at the local foreign rate and do not have an accrual for U.S. deferred taxes since these earnings are intended to be indefinitely reinvested overseas.

### **Three Months Ended September 30, 2017 Compared to Three Months Ended September 30, 2016**

The provision for income taxes from continuing operations was a benefit of \$3.4 million in the three months ended September 30, 2017, compared to an expense of \$35.8 million during the same period in 2016. These provisions resulted in consolidated effective income tax rates of (38.2%) and 28.8% for the three months ended September 30, 2017 and 2016, respectively. These provisions reflect benefits related to tax planning strategies implemented in prior years of \$2.3 million and \$5.1 million during the three months ended September 30, 2017 and 2016, respectively. The provision for the three months ended September 30, 2017 also included excess tax benefits related to stock-based compensation of \$1.7 million and a decrease in uncertain tax positions of \$0.6 million due to the expiration of a statute of limitation. The adoption of ASC Update No. 2016-09 on January 1, 2017 required the inclusion of excess tax benefits from stock-based compensation in the income statement whereas prior to the adoption, these excess tax benefits were recognized in additional paid-in capital. In addition, the 2017 provision also reflects a tax benefit related to prior years of \$0.8 million, primarily related to our non-U.S. income. Absent these items, the provision for income taxes would have been an expense of \$2.0 million or 22.5% and \$40.9 million or 33.0% for the three months ended September 30, 2017 and 2016, respectively. The significant decrease in the income tax rate for the three months ended September 30, 2017 is primarily due to lower underwriting income.

The income tax provision on operating income was a benefit of \$3.7 million during the three months ended September 30, 2017, compared to an expense of \$38.7 million during the same period in 2016. The provision for the three months ended September 30, 2017 reflects the aforementioned excess tax benefit related to stock-based compensation of \$1.7 million, a decrease in uncertain tax position of \$0.6 million, and tax benefit related to prior years of \$0.8 million. Absent these items, the remaining tax benefit for the three months ended September 30, 2017 of \$0.6 million is primarily due to lower underwriting income.

### **Nine Months Ended September 30, 2017 Compared to Nine Months Ended September 30, 2016**

The provision for income taxes from continuing operations was an expense of \$43.0 million in the nine months ended September 30, 2017, compared to an expense of \$56.8 million during the same period in 2016. These provisions resulted in consolidated effective income tax rates of 24.0% and 25.2% for the nine months ended September 30, 2017 and 2016, respectively. These provisions reflect benefits related to tax planning strategies implemented in prior years of \$8.7 million and \$14.0 million during the nine months ended September 30, 2017 and 2016, respectively. The provision for the nine months ended September 30, 2017 also reflects excess tax benefits related to stock-based compensation of \$4.2 million, a decrease in uncertain tax position of \$0.6 million due to the expiration of a statute of limitation, and a tax benefit related to prior years of \$0.8 million, primarily related to our non-U.S. income. In addition, the 2016 provision reflects a tax benefit of \$30.1 million on the loss from repayment of borrowings as a discrete adjustment calculated at the statutory rate for the nine months ended September 30, 2016. Absent these items, the provision for income taxes would have been \$57.3 million or 32.0% and \$100.9 million or 32.4% for the nine months ended September 30, 2017 and 2016, respectively.

The income tax provision on operating income was an expense of \$47.0 million during the nine months ended September 30, 2017, compared to \$98.0 million during the same period in 2016. The provision for the nine months ended September 30, 2017 reflects the aforementioned excess tax benefit related to stock-based compensation of \$4.2 million, a decrease in uncertain tax position of \$0.6 million, and tax benefit related to prior years of \$0.8 million. Absent these items, the provision for income taxes would have been an expense of \$52.6 million, or 31.9% for the nine months ended September 30, 2017, compared to \$98.0 million or 32.4% for the nine months ended September 30, 2016.

[Table of Contents](#)**Critical Accounting Estimates**

Interim consolidated financial statements have been prepared in conformity with U.S. GAAP and include certain accounting policies that we consider to be critical due to the amount of judgment and uncertainty inherent in the application of those policies. While we believe that the amounts included in our consolidated financial statements reflect our best judgment, the use of different assumptions could produce materially different accounting estimates. As disclosed in our Annual Report on Form 10-K for the year ended December 31, 2016, we believe the following accounting estimates are critical to our operations and require the most subjective and complex judgment:

- Reserve for losses and loss expenses
- Reinsurance recoverable balances
- Pension benefit obligations
- Other-than-temporary impairments
- Deferred tax assets

For a more detailed discussion of these critical accounting estimates, see our Annual Report on Form 10-K for the year ended December 31, 2016.

**Statutory Surplus of U.S. Insurance Subsidiaries**

The following table reflects statutory surplus for our U.S. insurance subsidiaries:

<i>(in millions)</i>	September 30, 2017	December 31, 2016
Total Statutory Capital and Surplus—U.S. Insurance Subsidiaries	\$ 2,061.9	\$ 2,173.4

The statutory capital and surplus for our U.S. insurance subsidiaries decreased \$111.5 million during the first nine months of 2017. This decrease was due to a \$296.8 million dividend paid by Hanover Insurance to THG in the second quarter of 2017, partially offset by profits from operations.

The NAIC prescribes an annual calculation regarding risk based capital (“RBC”). RBC ratios for regulatory purposes are expressed as a percentage of the capital required to be above the Authorized Control Level (the “Regulatory Scale”); however, in the insurance industry, RBC ratios are widely expressed as a percentage of the Company Action Level. The following table reflects the Company Action Level, the Authorized Control Level and RBC ratios for Hanover Insurance (which includes Citizens and other U.S. insurance subsidiaries), as of September 30, 2017, expressed both on the Industry Scale (Total Adjusted Capital divided by the Company Action Level) and Regulatory Scale (Total Adjusted Capital divided by Authorized Control Level):

<i>(dollars in millions)</i>	Company Action Level	Authorized Control Level	RBC Ratio Industry Scale	RBC Ratio Regulatory Scale
The Hanover Insurance Company	\$ 933.5	\$ 466.7	220%	440%

**Funds at Lloyd’s**

Chaucer corporate members operate in the Lloyd’s market, which requires that these members deposit funds, referred to as “Funds at Lloyd’s”, to support their underwriting interests. Lloyd’s sets required capital annually for all participating syndicates based on each syndicate’s business plans, the rating and reserving environment, and discussions with regulatory and rating agencies. Although the minimum capital levels are set by Lloyd’s, it is the responsibility of Chaucer to continually monitor the risk profiles of its managed syndicates to ensure that the level of funding remains appropriate. Such capital can be comprised of investments, undrawn letters of credit provided by various banks, cash and cash equivalents, and undistributed profits.

We have the following securities, letters of credit, and cash and cash equivalents pledged to Lloyd’s to satisfy these capital requirements at September 30, 2017. At that date we were in compliance with the capital requirements, and expect to be able to meet them in the future.

<i>(in millions)</i>		
Fixed maturities, at fair value		\$ 595.7
Letters of credit		227.7
Cash and cash equivalents		5.0
Total pledged to Lloyd’s		<u>\$ 828.4</u>

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In addition to Funds at Lloyd's, as described in "Investments" in Management's Discussion and Analysis of Financial Condition and Results of Operations of this Form 10-Q, access to overseas deposits is also restricted.

### **Liquidity and Capital Resources**

Liquidity is a measure of our ability to generate sufficient cash flows to meet the cash requirements of business operations. As a holding company, our primary ongoing source of liquidity is dividends from our insurance subsidiaries. However, dividend payments to us by our U.S. insurance subsidiaries are subject to limitations imposed by regulators, such as prior notice periods and the requirement that dividends in excess of a specified percentage of statutory surplus or prior year's statutory earnings receive prior approval (so called "extraordinary dividends"). Dividends of \$296.8 million were paid to the holding company by Hanover Insurance in May 2017. This includes \$80.0 million of extraordinary dividends. Accordingly, further dividend payments to our holding company from our domestic insurance companies during the ensuing twelve months would require approval from the New Hampshire Insurance Commissioner.

Dividend payments to the holding company by Chaucer are regulated by U.K. law. Dividends from Chaucer are dependent on dividends from its subsidiaries. Annual dividend payments from Chaucer are limited to retained earnings that are not restricted by capital and other requirements for business at Lloyd's. In addition, Chaucer must provide advance notice to the U.K.'s Prudential Regulation Authority ("PRA"), of certain proposed dividends or other payments from PRA regulated entities. No dividends were paid to the holding company by Chaucer during the first nine months of 2017.

In connection with an intercompany borrowing arrangement between Chaucer and a wholly owned non-insurance subsidiary of the holding company, interest on a \$300 million note is paid by Chaucer on a quarterly basis to this affiliate, which is ultimately available to provide dividends to the holding company. For the nine months ended September 30, 2017, Chaucer paid \$15.1 million of interest related to this note, of which \$14.7 million was then dividended to the holding company. Prior to 2017, interest related to this borrowing arrangement was paid directly to the holding company. For the nine months ended September 30, 2016, Chaucer paid \$16.8 million of interest related to this note.

Sources of cash for our insurance subsidiaries primarily consist of premiums collected, investment income and maturing investments. Primary cash outflows are paid claims, losses and loss adjustment expenses, policy and contract acquisition expenses, other underwriting expenses and investment purchases. Cash outflows related to losses and loss adjustment expenses can be variable because of uncertainties surrounding settlement dates for liabilities for unpaid losses and because of the potential for large losses either individually or in the aggregate. We periodically adjust our investment policy to respond to changes in short-term and long-term cash requirements.

Net cash provided by operating activities was \$532.2 million during the first nine months of 2017, as compared to \$560.0 million during the first nine months of 2016. The \$27.8 million decrease in cash provided was primarily the result of higher loss payments and taxes paid to foreign jurisdictions, partially offset by an increase in premiums collected.

Net cash used in investing activities was \$499.2 million during the first nine months of 2017, as compared to \$319.0 million during the first nine months of 2016. During 2017, cash used in investing activities primarily related to net purchases of fixed maturities. During 2016, cash used in investing activities primarily related to net purchases of fixed maturities, equity securities and other investments.

Net cash used in financing activities was \$92.1 million during the first nine months of 2017, as compared to \$261.7 million during the first nine months of 2016. During 2017, cash used in financing activities primarily resulted from the payment of dividends to shareholders and repurchases of common stock, partially offset by cash inflows related to option exercises. During 2016, cash used in financing activities primarily resulted from the repayment of debt, repurchases of common stock, and payment of dividends to shareholders. These cash outflows were partially offset by cash inflows related to the issuance of \$375 million of senior unsecured debentures, and option exercises.

Dividends to shareholders are subject to quarterly board approval and declaration. During the first nine months of 2017, as declared by the Board, we paid three quarterly dividends, each for \$0.50 per share to our shareholders totaling \$63.8 million. We believe that our holding company assets are sufficient to provide for future shareholder dividends should the Board of Directors declare them.

At September 30, 2017, THG, as a holding company, held \$313.4 million of fixed maturities and cash. We believe our holding company assets will be sufficient to meet our current year obligations, which consist primarily of dividends to our shareholders (as and to the extent declared), interest on our senior and subordinated debentures, certain costs associated with benefits due to our former life insurance employees and agents, and, to the extent required, payments related to indemnification of liabilities associated with the sale of various subsidiaries. We have, and opportunistically may repurchase our common stock and debt. We may decide to provide funds to the holding company for these and other opportunities through dividends or short-term intercompany lending arrangements.

We expect to continue to generate sufficient positive operating cash to meet all short-term and long-term cash requirements relating to current operations, including the funding of our qualified defined benefit pension plan and the Chaucer pension plan. The ultimate payment amounts for our benefit plans are based on several assumptions, including but not limited to, the rate of return on plan assets,

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the discount rate for benefit obligations, mortality experience, interest crediting rates, inflation and the ultimate valuation and determination of benefit obligations. Since differences between actual plan experience and our assumptions are almost certain, changes both positive and negative to our current funding status and ultimately our obligations in future periods are likely.

Our insurance subsidiaries maintain a high degree of liquidity within their respective investment portfolios in fixed maturity and short-term investments. We believe that the quality of the assets we hold will allow us to realize the long-term economic value of our portfolio, including securities that are currently in an unrealized loss position. We do not anticipate the need to sell these securities to meet our insurance subsidiaries' cash requirements since we expect our insurance subsidiaries to generate sufficient operating cash to meet all short-term and long-term cash requirements relating to current operations. However, there can be no assurance that unforeseen business needs or other items will not occur causing us to have to sell those securities in a loss position before their values fully recover, thereby causing us to recognize impairment charges in that time period.

Our Board of Directors has authorized aggregate repurchases of our common stock of up to \$900 million. Under the repurchase authorizations, the Company may repurchase, from time to time, common shares in amounts, at prices and at such times as the Company deems appropriate, subject to market conditions and other considerations. Repurchases may be executed using open market purchases, privately negotiated transactions, accelerated repurchase programs or other transactions. We are not required to purchase any specific number of shares or to make purchases by any certain date under this program. During the first nine months of 2017, we repurchased approximately 0.4 million shares of our common stock at a cost of \$37.2 million. As of September 30, 2017, we have approximately \$146 million available for repurchases under these repurchase authorizations.

We have a \$200.0 million credit agreement which expires in November 2018, with an option to increase the facility to \$300.0 million assuming no default and satisfaction of certain other conditions. The agreement also includes a \$50 million sub-facility for standby letters of credit that can be used for general corporate purposes. The agreement contains financial covenants including, but not limited to, maintaining at least a certain level of consolidated equity, maximum consolidated leverage ratios and requires certain of our subsidiaries to maintain a minimum RBC ratio. We had no borrowings under this agreement during the first nine months of 2017.

Membership in FHLBB provides us with access to additional liquidity based on our stock holdings and pledged collateral at the date of borrowing. At September 30, 2017, we had additional borrowing capacity of \$85.3 million. There were no borrowings outstanding under this short-term facility at September 30, 2017; however, we have and may continue, from time to time, to borrow through this facility to provide short term liquidity.

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On October 27, 2017, we entered into a Standby Letter of Credit Facility Agreement (the “Facility Agreement”) not to exceed £220.0 million (or \$294.7 million) outstanding at any one time, with the option to increase the amount available for issuances of letters of credit to £300.0 million (or \$401.9 million) in the aggregate on one occasion only during the term of the Facility Agreement (subject to the consent of all lenders and assuming no default and satisfaction of other specified conditions). The Facility Agreement amends and restates a Standby Letter of Credit Facility Agreement entered into on October 15, 2015 (the “Prior Facility Agreement”). This prior agreement provided for amounts available for issuances of letters of credit not to exceed £170.0 million (or \$227.7 million) outstanding at any one time, with a similar option to increase the amount available for issuances of letters of credit to £235.0 million (or \$314.8 million). The Facility Agreement, like the Prior Facility Agreement, provides certain covenants including, but not limited to, the syndicates’ financial condition. The Facility Agreement provides regulatory capital supporting Chaucer’s underwriting activities for the 2018 and 2019 years of account and each prior open year of account. The Prior Facility Agreement provided regulatory capital supporting Chaucer’s underwriting activities for the 2016 and 2017 years of account and each prior open year of account. The Facility Agreement is generally renewed biennially to support new underwriting years.

The Facility agreement is subject to a letter of credit commission fee on outstanding letters of credit, which is payable quarterly. The Facility Agreement fee ranges from 0.90% to 1.50% per annum, depending on our credit ratings for portions that are not cash collateralized, 0.275% per annum for portions that are cash collateralized, and 0.40% per annum for portions that are cash-equivalent collateralized, whereas the Prior Facility Agreement fee ranged from 1.125% to 1.50% per annum, also dependent on our credit ratings for portions that were not cash collateralized, and 0.275% per annum for portions that were cash collateralized. We may, from time to time, collateralize a portion of the outstanding letter of credit. In addition to the commission fee on the uncollateralized outstanding letter of credit, a commitment fee in respect of the unutilized commitments under the Facility Agreement is payable quarterly, and ranges from 0.315% to 0.525% per annum, depending on our credit ratings. Unutilized commitment fees for the Prior Facility Agreement were also payable quarterly, and ranged from 0.394% to 0.525% per annum, depending on our credit ratings. Chaucer is also required to pay customary agency fees. Under the previous agreement we paid \$2.4 million and \$2.9 million in fees during the first nine months of 2017 and 2016, respectively.

Simultaneous with the Facility Agreement, we entered into a Guaranty Agreement (the “Guaranty Agreement”) with Lloyds Bank plc, as Facility Agent and Security Agent, pursuant to which we unconditionally guarantee the obligations of Chaucer under the Facility Agreement. The Guaranty Agreement contains certain financial covenants that require us to maintain a minimum net worth and a maximum leverage ratio, and certain negative covenants that limit our ability, among other things, to incur or assume certain debt, grant liens on our property, merge or consolidate, dispose of assets, materially change the nature or conduct of our business and make restricted payments (except, in each case, as provided by certain exceptions). The Guaranty Agreement also contains certain customary representations and warranties. The current Guaranty Agreement contains terms and conditions substantially similar to the previous guaranty agreement we had in place with Lloyds Bank plc in connection with the Prior Facility Agreement. The Guaranty Agreement replaced the prior guaranty agreement upon effectiveness of the Facility Agreement on October 27, 2017.

For a more detailed discussion of our credit agreements, see also “Liquidity and Capital Resources” in Management’s Discussion and Analysis of Financial Condition and Results of Operations in our Annual Report on Form 10-K for the year ended December 31, 2016.

At September 30, 2017, we were in compliance with the covenants of our debt and credit agreements.

### **Off-Balance Sheet Arrangements**

We currently do not have any material off-balance sheet arrangements that are reasonably likely to have an effect on our financial position, revenues, expenses, results of operations, liquidity, capital expenditures, or capital resources.

### **Contingencies and Regulatory Matters**

Information regarding contingencies and regulatory matters appears in Part I – Note 12 “Commitments and Contingencies” in the Notes to Interim Consolidated Financial Statements.

### **Risks and Forward-Looking Statements**

Information regarding risk factors and forward-looking information appears in Part II – Item 1A of this Quarterly Report on Form 10-Q and in Part I – Item 1A of our Annual Report on Form 10-K for the fiscal year ended December 31, 2016. This Management’s Discussion and Analysis should be read and interpreted in light of such factors.

**ITEM 3**  
**QUANTITATIVE AND QUALITATIVE DISCLOSURES**  
**ABOUT MARKET RISK**

Our market risks, the ways we manage them, and sensitivity to changes in interest rates, equity price risk, and foreign currency exchange risk are summarized in Management’s Discussion and Analysis of Financial Condition and Results of Operations as of December 31, 2016, included in our Annual Report on Form 10-K for the year ended December 31, 2016. There have been no material changes in the first nine months of 2017 to these risks or our management of them.

**ITEM 4**  
**CONTROLS AND PROCEDURES**

**Disclosure Controls and Procedures Evaluation**

Under the supervision and with the participation of our management, including our Chief Executive Officer and Chief Financial Officer, we conducted an evaluation of our disclosure controls and procedures, as such term is defined under Rule 13a-15(e) promulgated under the Securities Exchange Act of 1934, as amended (the “Exchange Act”).

**Limitations on the Effectiveness of Controls**

Our management, including our Chief Executive Officer and Chief Financial Officer, does not expect that our disclosure controls over financial reporting will prevent all error and all fraud. A control system, no matter how well designed and operated, can provide only reasonable, not absolute, assurance that the control system’s objectives will be met. Further, the design of a control system must reflect the fact that there are resource constraints, and the benefits of controls must be considered relative to their costs. Because of the inherent limitations in all control systems, no evaluation of controls can provide absolute assurance that all control issues and instances of fraud, if any, have been detected. These inherent limitations include the realities that judgments in decision-making can be faulty and that breakdowns can occur because of simple error or mistake. Controls can also be circumvented by the individual acts of some persons, by collusion of two or more people, or by management override of the controls. The design of any system of controls is based in part on certain assumptions about the likelihood of future events, and there can be no assurance that any design will succeed in achieving its stated goals under all potential future conditions. Over time, controls may become inadequate because of changes in conditions or deterioration in the degree of compliance with policies or procedures. Because of the inherent limitations in a cost-effective control system, misstatements due to error or fraud may occur and not be detected.

**Conclusion Regarding the Effectiveness of Disclosure Controls and Procedures**

Based on our controls evaluation, our Chief Executive Officer and Chief Financial Officer concluded that as of the end of the period covered by this quarterly report, our disclosure controls and procedures were effective to provide reasonable assurance that (i) the information required to be disclosed by us in reports that we file or submit under the Exchange Act is recorded, processed, summarized and reported within the time periods specified in the SEC’s rules and forms and (ii) material information is accumulated and communicated to our management, including our Chief Executive Officer and Chief Financial Officer, as appropriate to allow timely decisions regarding required disclosure.

**Internal Control Over Financial Reporting**

Our management is responsible for establishing and maintaining adequate internal control over financial reporting, as such term is defined in Exchange Act Rule 13a-15(f). Under the supervision and with the participation of our management, including our Chief Executive Officer and the Chief Financial Officer, we conducted an evaluation of the internal control over financial reporting, as required by Rule 13a-15(d) of the Exchange Act, to determine whether any changes occurred during the period covered by this quarterly report on Form 10-Q that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting. Based on that evaluation, the Chief Executive Officer and Chief Financial Officer concluded that there were no such changes during the quarter ended September 30, 2017, that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

## **PART II – OTHER INFORMATION**

### **ITEM 1 – LEGAL PROCEEDINGS**

Reference is made to the litigation matter captioned “Durand Litigation” under “Commitments and Contingencies – Legal Proceedings” in Note 12 in the Notes to Interim Consolidated Financial Statements.

### **ITEM 1A – RISK FACTORS**

This document contains, and management may make, certain “forward-looking statements” within the meaning of the Private Securities Litigation Reform Act of 1995. All statements, other than statements of historical facts, may be forward-looking statements. When used in our Management’s Discussion and Analysis, the words: “believes”, “anticipates”, “expects”, “projections”, “outlook”, “should”, “could”, “plan”, “guidance”, “likely”, “on track to”, “targeted” and similar expressions are intended to identify forward-looking statements. We wish to caution readers that accuracy with respect to forward-looking projections is difficult and risks and uncertainties, in some cases, have affected, and in the future could affect, our actual results and could cause our actual results for the remainder of 2017 and beyond to differ materially from historical results and from those expressed in any of our forward-looking statements. We operate in a business environment that is continually changing, and as such, new risk factors may emerge over time. Additionally, our business is conducted in competitive markets and therefore involves a higher degree of risk. We cannot predict these new risk factors nor can we assess the impact, if any, that they may have on our business in the future. Some of the factors that could cause actual results to differ include, but are not limited to, the following:

- changes in the demand for our products;
- risks and uncertainties with respect to our ability to retain profitable policies in force and attract profitable policies and to increase rates commensurate with, or in excess of, loss trends;
- changes in our estimates of loss and loss adjustment expense reserves, including with respect to the recent Hurricanes Harvey, Irma and Maria and the earthquakes in Mexico, which may result in lower current year underwriting income or adverse loss development, and could impact our carried reserves;
- uncertainties with respect to the long-term profitability of our products, including with respect to new products such as our Hanover Platinum Personal Lines, excess and surplus lines, trade credit coverage, or longer-tail products covering casualty losses;
- changes in frequency and loss severity trends;
- changes in regulation, economic, market and political conditions, particularly with respect to regions where we have geographical concentrations or with respect to Lloyd’s;
- the potential effect of Brexit and related consequences on (i) Chaucer’s licensing permissions in European Union member states if Lloyd’s does not obtain alternative licensing permissions; (ii) market conditions in the U.K. and the European market; and (iii) foreign exchange volatility;
- volatile and unpredictable developments, including severe weather and other natural physical events, catastrophes and terrorist actions;
- changes in weather patterns, whether as a result of global climate change, or otherwise, causing a higher level of losses from weather events to persist;
- the availability of sufficient information to accurately estimate a loss at a point in time;
- risks and uncertainties with respect to our ability to collect all amounts due from reinsurers and to maintain current levels of reinsurance in the future at commercially reasonable rates, or at all;
- heightened volatility, fluctuations in interest rates (which have a significant impact on the market value of our investment portfolio and thus our book value), inflationary pressures, default rates and other factors that affect investment returns from our investment portfolio;
- fluctuations in currencies which affect the values of financial information converted from an originating currency to our reporting currency;
- risks and uncertainties associated with our participation in shared market mechanisms, mandatory reinsurance programs and mandatory and voluntary pooling arrangements;

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- an increase in mandatory assessments by state guaranty funds or by Lloyd's Central Fund;
- actions by our competitors, many of which are larger or have greater financial resources than we do;
- loss or retirement of key employees;
- operating difficulties and other unintended consequences from acquisitions and integration of acquired businesses, the introduction of new products and related technology changes and new operating models;
- changes in our claims-paying and financial strength ratings;
- negative changes in our level of statutory surplus;
- risks and uncertainties with respect to our growth or operating strategies, or with respect to our expense initiatives;
- our ability to declare and pay dividends;
- changes in accounting principles and related financial reporting requirements;
- errors or omissions in connection with the administration of any of our products;
- risks and uncertainties with technology, data security and/or outsourcing relationships that may negatively impact our ability to conduct business;
- an inability to be compliant with recently implemented regulations such as Solvency II or existing regulation such as those relating to sanctions and Sarbanes-Oxley;
- unfavorable judicial or legislative developments; and
- other factors described in such forward-looking statements.

In addition, historical and future reported financial results include estimates with respect to premiums written and earned, reinsurance recoverables, current accident year "picks", loss and loss adjustment reserves and development, fair values of certain investments, other assets and liabilities, tax, contingent and other liabilities, and other items. These estimates are subject to change as more information becomes available.

For a more detailed discussion of our risks and uncertainties, see also Item 1A – Risk Factors in our Annual Report on Form 10-K for the year ended December 31, 2016.

**ITEM 2 – UNREGISTERED SALES OF EQUITY SECURITIES AND USE OF PROCEEDS***Issuer Purchases of Equity Securities*

Shares purchased in the third quarter of 2017 are as follows:

<i>Period</i>	Total Number of Shares Purchased	Average Price Paid per Share	Total Number of Shares Purchased as Part of Publicly Announced Plans or Programs	Approximate Dollar Value of Shares That May Yet be Purchased Under the Plans or Programs <i>(in millions)</i> <sup>(1)</sup>
July 1 - 31, 2017 <sup>(2)</sup>	64,838	\$ 89.10	64,773	\$ 150
August 1 - 31, 2017 <sup>(2)</sup>	35,387	98.72	34,553	146
September 1 - 30, 2017 <sup>(2)</sup>	127	92.33	—	146
Total	100,352	\$ 92.49	99,326	\$ 146

- (1) Since the announcement of our share repurchase program on October 29, 2007, the Board has authorized us to repurchase up to \$900 million in shares of our common stock using open market purchases, privately negotiated transactions, accelerated repurchase programs or other transactions.
- (2) Includes 65 shares, 834 shares, and 127 shares withheld to satisfy tax withholding amounts due from employees related to the receipt of stock which resulted from the exercise or vesting of equity awards for the months ended July 31, August 31, and September 30, 2017, respectively.

**ITEM 5 – OTHER INFORMATION**

As previously announced, effective November 4, 2017, John C. Roche will become President and Chief Executive Officer of The Hanover Insurance Group, Inc. (the “Company”), succeeding Joseph M. Zubretsky, who accepted a career opportunity outside of the property and casualty industry, and submitted his resignation effective at the end of the day on November 3, 2017. In connection, and effective concurrently with, his promotion, the Board voted on October 31, 2017 to:

- appoint Mr. Roche to fill the seat vacated by Mr. Zubretsky on the Company’s Board of Directors for the remainder of its current term expiring at the Company’s 2019 Annual Meeting of Stockholders;
- increase Mr. Roche’s annual base salary rate for the remainder of 2017 to \$850,000; and effective January 1, 2018, increase his annual base salary rate to \$900,000; and
- increase Mr. Roche’s target short-term incentive compensation award to 110% of his base salary rate. For 2017, the increase in his target award, and the annual base salary rate against which it is applied, will be pro-rated to reflect his tenure as CEO during the year. All other terms and conditions applicable to such award are unchanged.

**ITEM 6 – EXHIBITS**

- EX – 10.1+ [The Hanover Insurance Group Cash Balance Pension Plan, as amended.](#)
- EX – 10.2 [Amendment and Restatement Agreement with Amended and Restated Standby Letter of Credit Facility Agreement, dated October 27, 2017, among Chaucer Holdings Limited, Chaucer Corporate Capital \(No. 3\) Limited and the lenders party thereto from time to time, Lloyds Bank plc and ING Bank N.V., London Branch as mandated lead arrangers and Lloyds Bank plc as bookrunner, overdraft provider, and facility agent of the other Finance Parties \(as defined therein\) and security agent to the Secured Parties \(as defined therein\).](#)
- EX – 10.3 [Amended and Restated Guaranty Agreement, dated October 27, 2017, among the Registrant and Lloyds Bank plc, as Facility Agent and Security Agent \(each as defined therein\).](#)
- EX – 31.1 [Certification of the Chief Executive Officer, pursuant to 15 U.S.C. 78m, 78o\(d\), as adopted pursuant to section 302 of the Sarbanes-Oxley Act of 2002.](#)
- EX – 31.2 [Certification of the Chief Financial Officer, pursuant to 15 U.S.C. 78m, 78o\(d\), as adopted pursuant to section 302 of the Sarbanes-Oxley Act of 2002.](#)
- EX – 32.1 [Certification of the Chief Executive Officer, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to section 906 of the Sarbanes-Oxley Act of 2002.](#)
- EX – 32.2 [Certification of the Chief Financial Officer, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to section 906 of the Sarbanes-Oxley Act of 2002.](#)
- EX – 101 The following materials from The Hanover Insurance Group, Inc.’s Quarterly Report on Form 10-Q for the quarter ended September 30, 2017 formatted in eXtensible Business Reporting Language (“XBRL”): (i) Consolidated Statements of Income for the three and nine months ended September 30, 2017 and 2016; (ii) Consolidated Statements of Comprehensive Income for the three and nine months ended September 30, 2017 and 2016; (iii) Consolidated Balance Sheets at September 30, 2017 and December 31, 2016; (iv) Consolidated Statements of Shareholders’ Equity for the nine months ended September 30, 2017 and 2016; (v) Consolidated Statements of Cash Flows for the nine months ended September 30, 2017 and 2016, and (vi) related notes to these financial statements.

+ Management contract or compensatory plan or arrangement.

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned thereunto duly authorized.

The Hanover Insurance Group, Inc.  
Registrant

November 2, 2017  
Date

/s/ Joseph M. Zubretsky  
Joseph M. Zubretsky  
President, Chief Executive Officer and Director

November 2, 2017  
Date

/s/ Jeffrey M. Farber  
Jeffrey M. Farber  
Executive Vice President and Chief Financial Officer

**THE HANOVER INSURANCE GROUP CASH BALANCE  
PENSION PLAN**

**PART I**

**(As amended and restated generally effective January 1, 2016)**

**THE HANOVER INSURANCE GROUP CASH BALANCE  
PENSION PLAN**

**PART I**

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## ARTICLE I

### NAME, PURPOSE AND EFFECTIVE DATE OF PLAN

- 1.01 General Statement. The Hanover Insurance Group Cash Balance Pension Plan (the “**Plan**”) consists of three parts, Part I, Part II and Part III. Part I of the Plan provides a cash balance and pension benefit, which was formerly provided under a plan known as “The Allmerica Financial Cash Balance Pension Plan”. Part II of the Plan provides a pension benefit, which was formerly provided under a plan known as “The Allmerica Financial Agents’ Pension Plan”. Part III of the Plan contains provisions applicable to each of Part I and Part II.

The provisions of Part III of the Plan shall override any provision of Part I and or Part II of the Plan as provided in Part III of the Plan.

The benefits payable to eligible Participants under Part I of the Plan are governed by the terms and conditions of Part I of the Plan and Part III of the Plan. The definitions of terms as used in this Part I of the Plan are as set forth in Article II, except as otherwise provided in this Article I.

- 1.02 Name of Plan. The prior version of this Part I of the Plan, known as The Allmerica Financial Cash Balance Pension Plan, generally effective January 1, 1997 (“**The Allmerica Cash Balance Plan**”), was an amendment and restatement of the State Mutual Companies’ Pension Plan. It was adopted by First Allmerica Financial Life Insurance Company (“**First Allmerica**”) and its affiliates, Citizens Insurance Company (“**Citizens**”) and The Hanover Insurance Company (“**Hanover**”). Effective January 1, 1995, the State Mutual Companies Pension Plan added a cash balance benefit. Effective December 31, 1994, benefit accruals provided under the integrated unit credit benefit formula of the State Mutual Companies’ Pension Plan were frozen for all Participants, except Participants eligible for certain continuing benefit accruals. Certain other accruals and benefits under this Part I of the Plan were subsequently frozen as provided in this Part I.

Prior versions of this Part I of the Plan were sponsored by First Allmerica, formerly known as State Mutual Life Assurance Company of America, from January 1, 1941 to December 31, 2007. Effective January 1, 2008, this Part I of the Plan was adopted by Hanover, an Affiliate of First Allmerica, as the sole Employer. Effective January 1, 1992, a prior version of this Part I of the Plan was merged with The Allmerica Financial Agents’ Pension Plan (formerly known as the State Mutual Agents’ Pension Plan) (the “**Agents’ Pension Plan**”).

Benefits payable under the Agents’ Pension Plan are set forth in Part II of the Plan. Parts I and II of the Plan are permissively aggregated for purposes of the qualification and non-discrimination requirements applicable to the Plan under Code Sections 401 and 410.

- 1.03 Purpose. The Plan has been established for the exclusive benefit of Participants and their Beneficiaries and as far as possible shall be interpreted and administered in a manner consistent with this intent and consistent with the requirements of Code Section 401.

Subject to Article IV of Part III of the Plan and to Section 10.04 of Part III of the Plan, which relates to the return of Employer contributions under special circumstances, until such time as the Plan has been terminated and all Plan liabilities have been satisfied, under no circumstances shall any assets of the Plan, or any contributions made under the Plan, be used for, or diverted to, purposes other than for the exclusive benefit of the Participants and their Beneficiaries and to defray reasonable expenses incurred in the administration of the Plan.

- 1.04 **Restated Plan Effective Date.** The “**effective date**” of this amended and restated Part I of the Plan is January 1, 2016 (except for those provisions of this Part of the Plan which have an alternative effective date). Except to the extent otherwise specifically provided in this Part I of the Plan, (i) the provisions of this amended and restated Part I of the Plan shall apply to a Participant who is in the employ of the Employer on or after January 1, 2016. The rights and benefits of any Participant whose employment with the Employer terminated prior to January 1, 2016 shall be determined in accordance with the provisions of this Part I of the Plan as were in effect at the appropriate time or times prior to January 1, 2016; provided, however, that if the Accrued Benefit of any such Participant has not been completely distributed before January 1, 2016, then such Accrued Benefit shall be accounted for and distributed in accordance with the provisions of this version of Part I of the Plan, but only to the extent that any such provision is not inconsistent with Part III of the Plan and subject to the requirements of applicable law.

## ARTICLE II

### DEFINITIONS

All section and article references in this Part I are to section and article references in this Part I, except as otherwise expressly provided.

As used in Parts I, II and III of the Plan, the following words and phrases shall have the meanings set forth in this Part I, unless a different meaning is clearly required by the context or is otherwise provided in Part II and or Part III of the Plan.

- 2.01 “**Accrued Benefit**”:
- (a) means, except as provided in Section 2.01(b) below, the sum of (i) the monthly retirement benefit payable as a single life annuity to the Participant beginning on his or her Normal Retirement Date which is the Actuarial Equivalent of the Participant’s Projected Account Balance, plus (ii) the Participant’s Grandfathered Benefit, if any.
  - (b) means, with respect to the minimum benefit for Non-Key Employee Participants in a Top Heavy Plan, the sum of such benefits earned by the Participant, which benefits are payable at the Participant’s Normal Retirement Date and are described in Section 2.03 of Part III of the Plan.
- 2.02 “**Actuarial Equivalent**” means a benefit having the same value as the benefit or benefits otherwise payable. Except as otherwise provided in this Section, the present value of any

benefit determined under the terms of the Part I of the Plan will be the actuarial equivalent of the no-death benefit life annuity retirement benefit specified in Section 6.01.

Actuarial Equivalent life annuity settlements of Participants' Projected Account Balances or of optional life annuity Top Heavy Plan benefits will be computed utilizing (i) the Code Section 417 Mortality Table for determining the amount payable to a Participant having an annuity starting date on or after January 1, 2004, and (ii) the Code Section 417 Interest Rate for determining the amount payable to a Participant having an annuity starting date that occurred from January 1, 2004 through December 31, 2007, and the Code Section 417 Applicable Interest Rate for determining the amount payable to a Participant having an annuity starting date on or after January 1, 2008.

Optional annuity settlements of Grandfathered Benefits and of the Actuarial Equivalent monthly life annuity derived from a Participant's Projected Account Balance will be computed utilizing the 1983 Group Annuity Table with Projection H, with mortality rates based on calendar year of birth of 1930 and interest at the rate of 7% per annum. Adjustment factors used to determine optional forms of Grandfathered Benefits and of the Actuarial Equivalent monthly life annuity derived from a Projected Account Balance are included in Exhibit A, attached hereto and made a part of Part I of the Plan.

Adjustment factors used to determine optional Grandfathered Benefits not illustrated and used to determine optional annuities for the Actuarial Equivalent monthly life annuity derived from a Projected Account Balance not included in the preceding paragraph, if any, will be computed on an actuarial basis consistent with that used in computing the factors shown in Exhibit A.

The present value (including, but not limited to, for purposes of Section 7.01(a)(i)(B), Section 7.01(a)(ii)(B), determining eligibility for cashout distributions under Sections 6.06 and 8.02 and determining the amount of any lump sum distribution of a Grandfathered Benefit or a benefit for Non-Key Employee Participants in a Top Heavy Plan) shall be determined on the basis of (i) the mortality rates specified above and an interest rate of 7% per annum, or (ii) the Code Section 417 Mortality Table and the Code Section 417 Interest Rate (or for determining the amount payable to a Participant having an annuity starting date on and after January 1, 2008, the Code Section 417 Applicable Interest Rate), whichever produces the greater benefit.

The preceding paragraphs shall not apply to the extent they would cause the Plan to fail to satisfy the requirements of Article IV of Part III of the Plan or Section 2.03 of Part III of the Plan.

For purposes of the Part I of the Plan,

- (a) the “**Code Section 417 Mortality Table**” means the applicable mortality table prescribed by the Secretary of the Treasury pursuant to Code Section 417(e)(3), as in effect from time to time; provided, however, that notwithstanding the preceding provisions of this paragraph, for distributions commencing on or after December

31, 2002 and prior to January 1, 2008, the Code Section 417 Mortality Table means the Table set forth in Revenue Ruling 2001-62 and for purposes of determining the amount payable to a Participant with an annuity starting date on or after January 1, 2008, the Code Section 417 Mortality Table means the Table set forth in Revenue Ruling 2007-67 or such other Table as may be prescribed by the Secretary of the Treasury pursuant to Code Section 417(e)(3);

- (b) for periods beginning on and after January 1, 2004, the “**Code Section 417 Interest Rate**” means, for the Plan Year which contains the annuity starting date for the distribution, the annual rate of interest on 30-year Treasury securities in effect for the second month immediately preceding the first day of the Plan Year (e.g., November 2006 for the 2007 Plan Year); and
  - (c) for periods beginning on and after January 1, 2008, the “**Code Section 417 Applicable Interest Rate**” means, for the Plan Year which contains the annuity starting date for the distribution, the applicable interest rate described by Code Section 417(e) after its amendment by the Pension Protection Act of 2006, which rate more specifically shall be the adjusted first, second, and third segment rates applied under rules similar to the rules of Code Section 430(h)(2)(C) (without considering any adjustment under rules similar to the rules of Code Section 430(h)(2)(C)(iv)) for the lookback month used to determine the previously applicable interest rate on 30-year Treasury securities (e.g., November 2009 for the 2010 Plan Year) or for such other time as the Secretary of the Treasury may by regulations prescribe.
  - (d) For purposes of determining the Code Section 417 Applicable Interest Rate, the first, second, and third segment rates are the first, second, and third segment rates which would be determined under Code Section 430(h)(2)(C) (without considering any adjustment under Code Section 430(h)(2)(C)(iv)) if:
    - (i) Code Section 430(h)(2)(D) were applied by substituting the average yields for the month described in clause (ii) below for the average yields for the 24-month period described in such Code section, and
    - (ii) Code Section 430(h)(2)(G)(i)(II) were applied by substituting “Section 417(e)(3)(A)(ii)(II)” for “Section 412(b)(5)(B)(ii)(II)”, and
    - (iii) The applicable percentage under Code Section 430(h)(2)(G) is treated as being 20% in 2008, 40% in 2009, 60% in 2010, and 80% in 2011.
- 2.03 (a) “**Affiliate**” means any incorporated Career Agent of an Employer and corporation affiliated with the Employer through the action of such corporation’s board of directors and the Employer’s Board of Directors.
- (b) “**Affiliate**” also means:
    - (i) Any corporation or corporations which together with the Employer constitute a controlled group of corporations or an “affiliated service

group”, as described in Code Sections 414 (b) and 414 (m), as now enacted or as later amended and in regulations promulgated thereunder; and

- (ii) Any partnerships or proprietorships under the common control of the Employer.

2.04 “**Age**” means, except for purposes of determining lump sum cash distributions and optional life annuity benefits, the age of a person at his or her last birthday. Lump sum cash distributions and optional life annuity benefits will be determined on the basis of a person’s age nearest birthday.

2.05 “**Allocation**” means an amount equal to the percentage of a Participant’s Eligible Compensation specified below for each of the Plan Years commencing on or after January 1, 1995 and prior to January 1, 2005.

Plan Year	Percentage
1995	7%
1996	7%
1997	7%
1998	7%
1999	7%
2000	7%
2001	5%
2002	3%
2003	5%
2004	5.5%

An Employee will not receive more than one Allocation for any Plan Year with respect to the same Compensation.

2.06 “**Annuity Commencement Date**” means the date as of which a benefit commences under the Plan.

2.07 “**Beneficiary**” means the person, trust, organization or estate designated to receive Plan benefits payable on or after the death of a Participant.

2.08 “**Compensation**” means:

- (a) For purposes of determining a Participant’s Allocation specified in Section 4.02, the total wages or salary, overtime, bonuses, and any other taxable remuneration paid to an Employee by the Employer during the Plan Year, while the Employee is a Participant, as reported on the Participant’s W-2 for the Plan Year; provided,

however, that Compensation for this purpose shall be determined without reduction for (i) any Code Section 401(k) salary reduction contributions contributed on the Participant's behalf for the Plan Year to any defined contribution plan sponsored by the Employer and (ii) the amount of any salary reduction contributions contributed on the Participant's behalf for the Plan Year to any Code Section 125 plan sponsored by the Employer.

Notwithstanding the above, Compensation for the above purpose shall not include:

- (i) incentive compensation paid to Participants pursuant to the Employer's Executive Long Term Performance Unit Plan or pursuant to any similar or successor executive compensation plan;
  - (ii) Employer contributions to a deferred compensation plan or arrangement (other than salary reduction contributions to a Code Section 401(k) or Code Section 125 plan, as described above) either for the year of deferral or for the year included in the Participant's gross income;
  - (iii) any income which is received by or on behalf of a Participant in connection with the grant, receipt, settlement, exercise, lapse of risk of forfeiture or restriction on transferability, or disposition of any stock option, stock award, stock grant, stock appreciation right or similar right or award granted under any plan, now or hereafter in effect, of the Employer or any successor to the Employer, the Employer's parent, any such successor's parent, any subsidiaries or affiliates of the Employer, or any stock or securities underlying any such option, award, grant or right;
  - (iv) severance payments paid in a lump sum;
  - (v) Code Section 79 imputed income or long term disability and workers' compensation benefit payments;
  - (vi) taxable moving expense allowances or taxable tuition or other educational reimbursements;
  - (vii) for Plan Years commencing after December 31, 1998, compensation paid in the form of commissions;
  - (viii) non-cash taxable benefits provided to executives, including the taxable value of Employer-paid club memberships, chauffeur services and Employer-provided automobiles; and
  - (ix) other taxable amounts received other than cash compensation for services rendered, as determined by the Plan Administrator.
- (b) For purposes of Section 2.03 of Part III of the Plan and for purposes of Article IV of Part III of the Plan, the term "**Compensation**" means a Participant's wages,

salaries, fees for professional services and other amounts received (without regard to whether or not an amount is paid in cash) for personal services actually rendered in the course of employment with the Employer to the extent that the amounts are includible in gross income (including, but not limited to, commissions paid salesmen, compensation for services on the basis of a percentage of profits, commissions on insurance premiums, tips, bonuses, fringe benefits, and reimbursements or other expense allowances under a non-accountable plan (as described in Section 1.62-2(c) of the Treasury Regulations), and excluding the following:

- (i) Employer contributions to a plan of deferred compensation which are not includible in the Employee's gross income for the taxable year in which contributed, or Employer contributions under a simplified employee pension plan to the extent such contributions are deductible by the Employee, or any distributions from a plan of deferred compensation;
- (ii) amounts realized from the exercise of a nonqualified stock option, or when restricted stock (or property) held by an Employee becomes freely transferable or is no longer subject to a substantial risk of forfeiture;
- (iii) amounts realized from the sale, exchange or other disposition of stock acquired under a qualified stock option; and
- (iv) other amounts which receive special tax benefits.

For Plan Years commencing after December 31, 1997, Compensation for purposes of the Part I of the Plan shall also include Employee elective deferrals under Code Section 402(g)(3), and amounts contributed or deferred by the Employer at the election of the Employee and not includible in the gross income of the Employee, by reason of Code Sections 125, 132(f)(4), 402(e)(3) and 402(h)(1)(B).

Additionally, amounts under Code Section 125 include any amounts not available to a Participant in cash in lieu of group health coverage because the Participant is unable to certify that he or she has other health coverage (deemed Code Section 125 compensation). Such an amount will be treated as an amount under Code Section 125 only if the Employer does not request or collect information regarding the Participant's other health coverage as part of the enrollment process for the health plan.

- (c) Notwithstanding Sections 2.08(a) and (b) above, for Plan Years beginning on or after January 1, 1994 and prior to January 1, 2002, the annual Compensation of each Participant taken into account for determining all benefits provided under Part I of the Plan for any determination period shall not exceed \$150,000. This limitation shall be adjusted for inflation by the Secretary under Code Section 401(a)(17)(B) in multiples of \$10,000 by applying an inflation adjustment factor and rounding the result down to the next multiple of \$10,000 (increases of less

than \$10,000 are disregarded). The cost-of-living adjustment in effect for a calendar year applies to any period, not exceeding 12 months, over which Compensation is determined beginning in such calendar year.

If Compensation is being determined for a Plan Year that contains fewer than 12 calendar months, then the annual Compensation limit is an amount equal to the annual Compensation limit for the calendar year in which the Compensation period begins multiplied by the ratio obtained by dividing the number of full months in the period by 12.

If Compensation for any prior determination period is taken into account in determining a Participant's benefits for the current Plan Year, the Compensation for such prior determination period is subject to the applicable annual compensation limit in effect for that prior period. For this purpose, in determining benefits in Plan Years beginning on or after January 1, 1989, the annual Compensation limit in effect for determination periods beginning before that date is \$200,000. In addition, in determining benefits in Plan Years beginning on or after January 1, 1994, the annual Compensation limit in effect for determination periods beginning before that date is \$150,000.

- (d) Notwithstanding the foregoing, the annual Compensation of each Participant taken into account in determining benefit accruals in any Plan Year beginning after December 31, 2001, shall not exceed \$200,000. Annual compensation means Compensation during the Plan Year or such other consecutive 12-month period over which Compensation is otherwise determined under the Part I of the Plan (the "**determination period**"). For purposes of determining benefit accruals in a Plan Year beginning after December 31, 2001, the annual Compensation for any prior determination period shall be limited to \$200,000.

The \$200,000 limit on annual Compensation for determination periods beginning after December 31, 2001 shall be adjusted for cost-of-living increases in accordance with Code Section 401(a)(17)(B). The cost-of-living adjustment in effect for a calendar year applies to annual Compensation for the determination period that begins with or within such calendar year.

- 2.09 "**Credited Service**" means and includes all Hours of Service (except excluded Hours described in Sections 2.23(b), (c), (g) and (h)) completed with the Employer as an eligible Employee on and after the date an Employee becomes a Participant in Part I of the Plan.

For purposes of the Part I of the Plan, a Participant shall receive a Year of Credited Service for each Plan Year in which he or she completes at least 1,000 Hours of Credited Service; provided that for the Plan Year in which an Employee initially becomes a Participant in Part I of the Plan, such Participant shall receive a Year of Credited Service if he or she completes at least 1,000 Hours of Service in the Plan Year.

A Participant who is absent because of sickness or injury shall receive Credited Service for the period described in Sections 2.23(b) or (g). Except as provided in Section 6.05, if any such absence continues beyond such period, the Participant shall receive no further Credited Service.

Notwithstanding the rules for determining Credited Service described above:

- (i) Eligible Re-employed Pensioners of First Allmerica, Citizens, Hanover and General Agents of First Allmerica (as each is described in Section 6.09) shall receive no further Credited Service for periods of re-employment following their retirement unless they complete at least 1,000 Hours of Service in a Plan Year.
- (ii) If during a Plan Year a Participant is employed by the Employer as a member of an eligible class of Employees and is also employed by an Affiliate, employed as a member of an ineligible class of Employees, or employed as a Career Agent or General Agent of First Allmerica, he or she shall receive Credited Service under this Part I of the Plan only for Hours of Service completed while employed as a member of an eligible class of Employees.
- (iii) For purposes only of determining eligibility for early retirement and eligibility for the Rule of 85 and Rule of 95 subsidized Early Retirement Benefits described in Section 6.02, but not for purposes of computing the amount of benefits payable, Credited Service shall include Hours of Service completed with Craftsman Insurance Company and the Hanover Life Insurance Company, both former affiliates of Hanover, and as a Career Agent or General Agent of First Allmerica.

2.10 “**Determination Date**” means the date as of which a Participant’s Accrued Benefit is calculated.

2.11 “**Eligible Compensation**” means the Compensation taken into account for purposes of determining a Participant’s Allocation for a Plan Year pursuant to Section 4.02. If a Participant is a Participant in Part I of the Plan on the first day of any Plan Year, such Participant’s Eligible Compensation shall be his or her Compensation for such Plan Year paid while the Participant is employed as a member of an eligible class of Employees. If an Employee becomes a Participant in Part I of the Plan on any day after the first day of a Plan Year, such Participant’s Eligible Compensation shall be his or her Compensation for such Plan Year paid on and after the date he or she becomes a Participant and while the Participant is employed as a member of an eligible class of Employees.

- 2.12 “**Eligibility Computation Period**” means a period of twelve consecutive months commencing on an Employee’s Employment Commencement Date or, if an Employee does not complete at least 1,000 Hours of Service during such initial period, such Employee’s Eligibility Computation Period means the Plan Year commencing with the first Plan Year following the Employee’s Employment Commencement Date and, if necessary, each succeeding Plan Year.
- 2.13 “**Employee**” means any employee who is employed by the Employer.
- 2.14 “**Employer**” means The Hanover Insurance Company.
- 2.15 “**Employment Commencement Date**” means the date on which an Employee first performs an Hour of Service or, in the case of an Employee who has a One-Year Break in Service, the date on which he or she first performs an Hour of Service after such Break.
- 2.16 “**Fiduciary**” means any person who (i) exercises any discretionary authority or discretionary control respecting management of the Plan or exercises any authority or control respecting management or disposition of its assets; (ii) renders investment advice for a fee or other compensation, direct or indirect, with respect to any monies or other property of the Plan or has any authority or responsibility to do so; or (iii) has any discretionary authority or discretionary responsibility in the administration of the Plan, including, but not limited to, the Plan Administrator.
- 2.17 “**First Allmerica**” means First Allmerica Financial Life Insurance Company.
- 2.18 “**Five Percent Owner**” means, in the case of a corporation, any person who owns (or is considered as owning within the meaning of Code Section 318) more than five percent of the outstanding stock of the Employer or stock possessing more than five percent of the total combined voting power of all stock of the Employer. In the case of an Employer that is not a corporation; “**Five Percent Owner**” means any person who owns or under applicable regulations is considered as owning more than five percent of the capital or profits interest in the Employer. In determining percentage ownership hereunder, employers that would otherwise be aggregated under Code Sections 414(b), (c), and (m) shall be treated as separate employers.
- 2.19 “**Former Participant**” means a person who had been an active Participant in Part I or Part II of the Plan (as applicable), but who has ceased to accrue further Credited Service for any reason.

2.20 “**Grandfathered Benefit**” means either the Basic Grandfathered Benefit or the Special Grandfathered Benefit, as defined below.

- (a) “**Basic Grandfathered Benefit**” means the monthly retirement benefit payable as a single life annuity to an actively employed Participant on his or her Normal Retirement Date, calculated in accordance with the benefit formula set forth in Section 6.01 of Part I of the Plan, as in effect on December 31, 1994. Such benefit shall be calculated based on the Participant’s Average Monthly Compensation and Credited Service, determined as of December 31, 1994, based on the provisions of Part I of the Plan as in effect on such date.
- (b) “**Special Grandfathered Benefit**” means the monthly retirement benefit payable as a single life annuity to an actively employed Participant on his or her Normal Retirement Date, calculated in accordance with the benefit formula set forth in Section 6.01 of Part I of the Plan, as in effect on December 31, 1994. Such benefit shall be based on the Participant’s Average Monthly Compensation and Credited Service calculated as of the date of determination, both being determined in accordance with the provisions of Part I of the Plan as in effect on December 31, 1994. The Special Grandfathered Benefit is available only to Participants who were actively employed by the Employer or by an Affiliate and accruing Credited Service on December 31, 1994, whose age on December 31, 1994, when added to two times their Credited Service as of such date (determined in accordance with the provisions of Part I of the Plan as in effect on December 31, 1994), total at least 85.

For purposes of this Section “**actively employed**” means that the Participant was performing work duties for the Employer or an Affiliate on December 31, 1994 or was then absent by reason of a scheduled day off, paid vacation day, personal day, or sick day or was then absent due to an Employer-approved leave of absence. Additionally, a Participant shall be deemed to have been actively employed on December 31, 1994 if on such date the Participant was then employed by the Employer or by an Affiliate and was then receiving disability benefits under his or her Employer’s long-term disability benefit plan.

Notwithstanding the above, each Section 401(a)(17) Employee’s Special Grandfathered Benefit under this Part I of the Plan will be the greater of the Special Grandfathered Benefit determined for the Employee under (i) or (ii) below:

- (i) the Employee’s Special Grandfathered Benefit, calculated as described above, based on the Employee’s total Years of Credited Service as of the date of determination; or

- (ii) the sum of:
  - (A) the Employee's Plan Accrued Benefit as of December 31, 1993, frozen in accordance with Section 1.401(a)(4)-13 of the Treasury Regulations, and
  - (B) the Employee's Special Grandfathered Benefit determined under the benefit formula applicable for the 1994 Plan Year, as applied to the Employee's Years of Credited Service (calculated as of the date of determination in accordance with the provisions of Part I of the Plan as in effect on December 31, 1994) for Plan Years beginning on or after January 1, 1994 and prior to January 1, 2005.

A "**Section 401(a)(17) Employee**" means an Employee whose Accrued Benefit as of a date on or after the first day of the first Plan Year beginning on or after January 1, 1994, is based on Compensation for a Year beginning prior to the first day of the first Plan Year beginning on or after January 1, 1994, that exceeded \$150,000.

Notwithstanding anything in Part I of the Plan to the contrary, if an Employee who is accruing additional Special Grandfathered Benefits ceases to be eligible to accrue further benefits under Part I of the Plan because of termination of employment, retirement, transfer to an ineligible class of Employees, or for any other reason, such Employee shall not be eligible to accrue any additional Special Grandfathered Benefits upon resumption of service as an otherwise eligible Employee of the Employer.

Notwithstanding anything in Part I of the Plan to the contrary, no additional Special Grandfathered Benefits shall accrue for periods after December 31, 2004. Except as provided in the following paragraph, the amount of a Participant's Special Grandfathered Benefit shall be frozen as of December 31, 2004, with such frozen Special Grandfathered Benefit being calculated based on the Participant's Average Monthly Compensation and Credited Service as of the earlier of December 31, 2004 or the date the Participant ceases to be eligible to accrue additional Special Grandfathered Benefits determined in accordance with the provisions of Part I of the Plan as in effect on such date.

If a Participant was eligible to accrue additional Special Grandfathered Benefits as of December 31, 2004 under the provisions of Part I of the Plan in effect on December 31, 2004, the amount of the Participant's frozen Special Grandfathered Benefit shall be increased to reflect increases in the cost of living after December 31, 2004 by:

- (i) 5% per annum, compounded annually, for each Plan Year commencing on or after January 1, 2005 and ending on the earlier of (A) the date the Participant commences distribution of his or her Special Grandfathered Benefit or (B) the last day of the month within which the Participant

would have completed 35 years of Credited Service (based on the provisions of Part I of the Plan in effect on December 31, 2004) if he or she had remained in continuous employment with the Employer through such date (the “**Maximum Service Date**”), and

- (ii) If the Participant has not commenced receiving distribution of his or her Special Grandfathered Benefit prior to his or her Maximum Service Date, 3% per annum, compounded annually, for each Plan Year commencing after the Participant’s Maximum Service Date and ending on the date the Participant begins receiving his or her Special Grandfathered Benefit.

If the Participant commences receiving distribution of his or her Special Grandfathered Benefit as of any date other than the first day of a Plan Year, the cost of living adjustment percentage for such Plan Year shall be determined by multiplying the applicable cost of living adjustment percentage for such year by a fraction the numerator of which is the number of full or partial months from the first day of such Plan Year until the date as of which distribution of the Participant’s Special Grandfathered Benefit commences and the denominator of which is 12. If a Participant would have completed 35 years of Credited Service on a day other than the last day of the Plan Year, then the cost of living adjustment for such Plan Year shall be determined by multiplying 5% by a fraction the numerator of which is the number of full or partial months from the first day of such Plan Year until the date the Participant would have completed 35 years of Credited Service and the denominator of which is 12. The remaining months of the Plan Year after the Participant would have completed 35 years of Credited Service will be credited with a cost of living adjustment determined by multiplying 3% by a fraction the numerator of which is the remaining full months of such Plan Year and the denominator of which is 12. The foregoing cost of living adjustment provided in this Section 2.20(b) shall be applied to each eligible Participant’s Special Grandfathered Benefit without regard to his or her employment status after December 31, 2004. A Participant will not be eligible for this cost of living adjustment if the Participant had ceased accruing additional Special Grandfathered Benefits prior to December 31, 2004 due to the Participant’s retirement, death or other termination of employment prior to December 31, 2004.

2.21 “**Group Annuity Contract**” means the group annuity contract or contracts issued by the Insurer through which benefits of the Plan are to be funded.

2.22 “**Highly Compensated Employee**” means any Employee who:

- (a) was a Five Percent Owner at any time during the Plan Year or the preceding Plan Year; or

- (b) for the preceding Plan Year:
  - (i) had Compensation from the Employer in excess of \$80,000 (as adjusted pursuant to Code Section 414(q)(1)), and
  - (ii) for such preceding Plan Year was in the top-paid group of Employees for such preceding Year.

For purposes of this Section the “**top-paid group**” for a Plan Year is the top 20% of Employees ranked on the basis of Compensation paid during such Year.

In addition to the foregoing, the term “**Highly Compensated Employee**” shall also mean any former Employee who separated from service prior to the Plan Year, performs no service for the Employer during the Plan Year, and was an actively employed Highly Compensated Employee in the separation year or any Plan Year ending on or after the date the Employee attained Age 55.

In determining whether an Employee is a Highly Compensated Employee for Plan Years beginning in 1997, the amendments of Code Section 414(q) stated above are treated as having been in effect for Plan Years beginning in 1996.

For purposes of this Section, “**Compensation**” means Compensation determined for purposes of Article IV of Part III of the Plan but, for Plan Years beginning before January 1, 1998, without regard to Code Sections 125, 402(e)(3) and 402(h)(1)(B).

The determination of who is a Highly Compensated Employee, including the determinations of the numbers and identity of employees in the top-paid group and the Compensation that is considered will be made in accordance with Code Section 414(q) and regulations thereunder.

2.23 “**Hour of Service**” means:

- (a) Each hour for which an Employee is paid, or entitled to payment, for the performance of duties for the Employer. For purposes of Part I of the Plan, an Employee who is exempt from the requirements of the Fair Labor Standards Act of 1938, as amended, shall be credited with 45 Hours of Service for each complete or partial week he or she would be credited with at least one Hour of Service under this Section 2.23.
- (b) Each hour for which an Employee is paid, or entitled to payment, by the Employer on account of a period of time during which no duties are performed (irrespective of whether the employment relationship has terminated) due to vacation, holiday, illness, incapacity (including disability), layoff, jury duty, military duty or leave of absence. Notwithstanding the preceding sentence:
  - (i) No more than the number of Hours in one regularly scheduled work year of the Employer shall be credited to an Employee under this Subsection
  - (b) on account of any single continuous period during which the Employee

performs no duties (whether or not such period occurs in a single computation period);

- (ii) No hours shall be credited under this Section 2.23(b) for any payments made or due under a plan maintained solely for the purpose of complying with any applicable workers' compensation, unemployment compensation or disability insurance laws; and
- (iii) No hours shall be credited under this Section 2.23(b) for a payment which solely reimburses an Employee for medical or medically related expenses incurred by the Employee.

For purposes of this Section 2.23(b) a payment shall be deemed to be made by or due from the Employer regardless of whether such payment is made by or due from the Employer directly, or indirectly through, among others, a trust fund or insurer, to which the Employer contributes or pays premium.

- (c) Each hour for which back pay, irrespective of mitigation of damages, is either awarded or agreed to by the Employer. The same Hours of Service shall not be both credited under Sections 2.23(a) or (b), as the case may be, and under this Section 2.23(c). No more than 501 Hours shall be credited under this Subsection for a period of time during which an Employee did not or would not have performed duties.
- (d) Special rules for determining Hours of Service for reasons other than the performance of duties.

In the case of a payment which is made or due and which results in the crediting of Hours of Service under Section 2.23(b) or in the case of an award or agreement for back pay, to the extent that such an award or agreement is made with respect to a period during which an Employee performs no duties, the number of Hours of Service to be credited shall be determined as follows:

- (i) In the case of a payment made or due which is calculated on the basis of units of time (such as hours, days, weeks or months), the number of Hours of Service to be credited for "exempt" Employees described in Section 2.23(a) shall be determined as provided in such Section 2.23(a). For all other Employees, the Hours of Service to be credited shall be those regularly scheduled hours in such unit of time; provided, however, that when an Employee does not have regularly scheduled hours, such Employee shall be credited with eight (8) Hours of Service for each workday for which he or she is entitled to be credited with Hours of Service under Section 2.23(b).
- (ii) Except as provided in Section 2.23(d)(iii), in the case of a payment made or due which is not calculated on the basis of units of time, the number of Hours of Service to be credited shall be equal to the amount of the payment divided by the Employee's most recent hourly rate of

compensation (as determined below) before the period during which no duties are performed.

- (A) The hourly rate of compensation of Employees paid on an hourly basis shall be the most recent hourly rate of such Employees.
  - (B) In the case of Employees whose compensation is determined on the basis of a fixed rate for specified periods of time (other than hours) such as days, weeks or months, the hourly rate of compensation shall be the Employee's most recent rate of compensation for a specified period of time (other than an hour), divided by the number of hours regularly scheduled for the performance of duties during such period of time. The rule described in Section 2.23(d)(i) shall be applied under this Section 2.23(d)(ii)(B) to Employees without a regular work schedule.
  - (C) In the case of Employees whose compensation is not determined on the basis of a fixed rate for specified periods of time, the Employee's hourly rate of compensation shall be the lowest hourly rate of compensation paid to Employees in the same job classification as that of the Employee or, if no Employees in the same job classification have an hourly rate, the minimum wage as established from time to time under Section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended.
- (iii) Rule against double credit. An Employee shall not be credited on account of a period during which no duties are performed with more hours than such employee would have been credited but for such absence.
- (e) Crediting of Hours of Service to computation periods
- (i) Hours of Service described in Section 2.23(a) shall be credited to the Employee for the computation period or periods in which the duties are performed.
  - (ii) Hours of Service described in Section 2.23(b) shall be credited as follows:
    - (A) Hours of Service credited to an Employee on account of a payment which is calculated on the basis of units of time (such as hours, days, weeks or months) shall be credited to the computation period or periods in which the period during which no duties are performed occurs, beginning with the first unit of time to which the payment relates.
    - (B) Hours of Service credited to an Employee by reason of a payment which is not calculated on the basis of units of time shall be credited to the computation period in which the period during which no duties are performed occurs, or if the period during

which no duties are performed extends beyond one computation period, such Hours of Service shall be allocated between not more than the first two computation periods in accordance with reasonable rules established by the Employer, which rules shall be consistently applied with respect to all Employees within the same job classification, reasonably defined.

- (iii) Hours of Service described in Section 2.23(c) shall be credited to the computation period or periods to which the award or agreement for back pay pertains, rather than to the computation period in which the award, agreement or payment is made.
- (f) For purposes only of determining participation and vesting under Part I of the Plan, Hours of Service shall include periods of service calculated in accordance with the rules set forth in the other subsections of this Section 2.23:
  - (i) with the Employer in a job or position in which the Employee was not eligible to participate in this Part I of the Plan; or
  - (ii) as a Career Agent or General Agent of First Allmerica;
  - (iii) for periods prior to January 1, 1998, with Citizens, Hanover or as an employee of a General Agent of First Allmerica;
  - (iv) with Financial Profiles, Inc., or Advantage Insurance Network, Affiliates of First Allmerica, including periods of service completed prior to the date it became an Affiliate; or
  - (v) with an Affiliate.
- (g) Rules for Non-Paid Leaves of Absence. For purposes of Part I of the Plan, a Participant will also be credited with Hours of Service during any non-paid leave of absence granted by the Employer. Except as provided in Section 2.23(a) for exempt Employees, the number of Hours of Service to be credited under this Section 2.23(g) shall be the number of regularly scheduled working hours in each workday during the leave of absence; provided, however, that no more than the number of Hours in one regularly scheduled work year of the Employer will be credited for each non-paid leave of absence. In the case of a non-exempt Employee without a regular work schedule, the number of Hours to be credited shall be based on a 40 hour work week and an eight hour workday. Hours of Service described in this Section 2.23(g) shall be credited to the Employee for the computation period or periods during which the leave of absence occurs.

Notwithstanding the foregoing, for Plan Years beginning after December 31, 1998, all Employees (exempt and non-exempt) shall be credited with eight Hours of Service for each workday for which they are entitled to be credited with Hours of Service for a non-paid leave of absence pursuant to this Section 2.23(g)

- (h) Rules for Maternity or Paternity Leaves of Absence. In addition to the foregoing rules and solely for purposes of determining whether a One Year Break in Service for participation and vesting purposes has occurred in a computation period, an individual who is absent for maternity or paternity reasons shall receive credit for the Hours of Service which would otherwise have been credited to such individual but for such absence, or in any case in which such Hours of Service cannot be determined, 8 Hours of Service per day of such absence; provided, however, that:
- (i) Hours of Service shall not be credited under both this Section 2.23(h) and one of the other subsections of this Section 2.23;
  - (ii) no more than 501 Hours of Service shall be credited for each maternity or paternity absence; and
  - (iii) if a maternity or paternity leave extends beyond one Plan Year, the Hours of Service shall be credited to the Plan Year in which the absence begins to the extent necessary to prevent a One Year Break in Service, otherwise such Hours of Service shall be credited to the following Plan Year.

For purposes of this paragraph, an absence from work for maternity or paternity reasons means an absence (i) by reason of the pregnancy of the individual, (ii) by reason of a birth of a child of the individual, (iii) by reason of the placement of a child with the individual in connection with the adoption of such child by such individual, or (iv) for purposes of caring for such child for a period beginning immediately following such birth or placement.

- (i) Other Federal Law. Nothing in this Section 2.23 shall be construed to alter, amend, modify, invalidate, impair or supersede any law of the United States or any rule or regulation issued under any such law.

2.24 “**Insurer**” means First Allmerica.

2.25 “**Internal Revenue Code**” or “**Code**” means the Internal Revenue Code of 1986, as amended, and any future Internal Revenue Code or similar Internal Revenue laws.

2.26 “**Key Employee**”. In determining whether the Plan (in the aggregate, including Parts I, II, and III) is top-heavy for Plan Years beginning after December 31, 2001, “**Key Employee**” means any Employee or former Employee (including any deceased Employee) who at any time during the Plan Year that includes the determination date is: (a) an officer of the Employer (as that term is defined within the meaning of Code Section 416 and the regulations thereunder) having an annual Compensation greater than \$130,000 (as adjusted under Code Section 416(i)(1) for Plan Years beginning after December 31, 2002), a (b) Five Percent Owner, or (c) a 1-percent owner of the Employer having an annual Compensation of more than \$150,000. In determining whether a Plan is top heavy for Plan Years beginning before January 1, 2002, “**Key Employee**” means any Employee or former Employee (including any deceased Employee) who at any time during the 5-year period ending on the determination date, is (i) an officer of the Employer (as that term is defined within the meaning of Code Section 416 and the

regulations thereunder) having an annual Compensation that exceeds 50 percent of the dollar limitation under Code Section 415(b)(1)(A), (ii) an owner (or an individual considered an owner under Code Section 318) of one of the ten largest interests in the Employer if such individual's Compensation exceeds 100 percent of the dollar limitation under Code Section 415(c)(1)(A), (ii) a Five Percent Owner, or (iv) a 1-percent owner of the Employer who has an annual Compensation of more than \$150,000.

The determination of who is a Key Employee will be made in accordance with Code Section 416(i)(1) and the regulations and other guidance of general applicability issued thereunder. For purposes of determining whether a Participant is a Key Employee, the Participant's Compensation means Compensation as defined for purposes of Article IV of Part III of the Plan, but for Plan Years beginning before January 1, 1998, without regard to Code Sections 125, 402(e)(3) and 402(h)(1)(B).

- 2.27 “**Limitation Year**” means a calendar year.
- 2.28 “**Non-Highly Compensated Employee**” means any employee who is not a Highly Compensated Employee.
- 2.29 “**Non-Key Employee**” means any Employee who is not a Key Employee.
- 2.30 “**Normal Retirement Age**” means Age 65.
- 2.31 “**Normal Retirement Date**” means the first day of the month in which the Participant's Normal Retirement Age occurs.
- 2.32 “**One Year Break in Service**” means any Plan Year or Eligibility Computation Period during which the Employee has not completed more than 500 Hours of Service.
- 2.33 “**Participant**” means any eligible Employee who participates in the Plan as provided in Article III of Part I of the Plan and or Article III of Part II of the Plan as applicable; and who has not for any reason become ineligible to participate further in the Plan.
- 2.34 “**Plan Administrator**” means the Benefits Committee, which shall have fiduciary responsibility for the interpretation and administration of the Plan as provided in Article VII of Part III of the Plan (Plan Fiduciary Responsibilities). Members of the Benefits Committee shall be appointed as provided in Section 8.01 of Part III of the Plan.
- 2.35 “**Plan Sponsor**” means the Employer.
- 2.36 “**Plan Year**” means a calendar year.
- 2.37 “**Plan Year Allocation Date**” means for any Plan Year the date each Participant's Account shall be credited with an Allocation for the Plan Year. Such date shall be the March 1 following the Plan Year with respect to which the Allocation is made.

Notwithstanding the foregoing, for Plan Years beginning after December 31, 1997 the Plan Year Allocation Date means the first business day of March following the Plan Year with respect to which the Allocation is made.

2.38 **“Projected Account Balance”** means:

- (a) With respect to a Participant who has attained his or her Normal Retirement Date on the Determination Date, the Participant’s Account Balance as of such Determination Date; and
- (b) With respect to a Participant who has not attained his or her Normal Retirement Date as of the Determination Date, the projected value of the Participant’s Account Balance as of his or her Normal Retirement Date determined as if (i) the Participant has a separation from service on the Determination Date, and (ii) the Participant’s Account Balance is credited with earnings on a daily basis based upon an annual effective rate equal to the Code Section 417 Interest Rate from the Determination Date through the Participant’s Normal Retirement Date.
- (c) Notwithstanding anything in Part I of the Plan to the contrary, in determining a Participant’s Projected Account Balance, the Code Section 417 Interest Rate in effect for the Plan Year that contains the Determination Date shall be assumed to remain the same for all future Plan Years, and a Participant's Projected Account Balance valued as of his Annuity Commencement Date for payment of his entire remaining Account Balance will not be less than the sum of the Allocations to his Account Balance, reduced to reflect the value of any prior distributions.

2.39 **“Qualified Domestic Relations Order”** means any judgment, decree or order (including approval of a property settlement agreement) which:

- (a) relates to the provision of child support, alimony payments, or marital property rights to a spouse, former spouse, child or other dependent of a Participant;
- (b) is made pursuant to a state domestic relations law (including a community property law);
- (c) constitutes a “qualified domestic relations order” within the meaning of Code Section 414(p); and
- (d) is entered on or after January 1, 1985.

Effective April 6, 2007, a domestic relations order that otherwise satisfies the requirements for a qualified domestic relations order (“**QDRO**”) will not fail to be a QDRO: (i) solely because the order is issued after, or revises, another domestic relations order or QDRO; or (ii) solely because of the time at which the order is issued, including issuance after the annuity starting date or after the Participant’s death.

2.40 **“Qualified Joint and Survivor Annuity”** means an immediate annuity for the life of the Participant, with a survivor annuity for the life of the Participant’s spouse which is the

amount of the annuity payable during the joint lives of the Participant and the Participant's spouse. The Qualified Joint and Survivor Annuity (i) for the purposes of Part I of the Plan will be the Actuarial Equivalent of the Plan's no-death benefit life annuity normal form of benefit; and (ii) for the purposes of Part II of the Plan will be the Actuarial Equivalent of the Plan's normal form of benefit.

- 2.41 **"Top Heavy Plan"** means for any Plan Year beginning after December 31, 1983 that any of the following conditions exists:
- (a) If the top heavy ratio (as defined in Article II of Part III of the Plan) for this Plan exceeds 60 percent and this Plan is not part of any required aggregation group or permissive aggregation group of plans.
  - (b) If this Plan is a part of a required aggregation group and part of a permissive aggregation group and the top heavy ratio for the group of plans exceeds 60 percent.
  - (c) If this Plan is a part of a required aggregation group and part of a permissive aggregation group of plans and the top heavy ratio for the permissive aggregation group exceeds 60 percent.

See Article II of Part III of the Plan for requirements and additional definitions applicable to Top Heavy Plans.

- 2.42 **"Top Heavy Plan Year"** means that, for a particular Plan Year commencing after December 31, 1983, the Plan is a Top Heavy Plan.
- 2.43 **"Trustee"** means the bank, trust company or person(s) who shall be constituted the original trustee or trustees for the Plan and Trust created therefor, and also any such successor trustee or trustees. The duties and responsibilities of the Trustee are set forth in the Trust Indenture in the form annexed hereto.
- 2.44 **"Year of Service"** means any Plan Year during which an Employee completes at least 1,000 Hours of Service; provided, however, that for purposes of determining Plan entry under Article III of Part I of the Plan, **"Year of Service"** means an Eligibility Computation Period during which an Employee completes at least 1,000 Hours of Service; provided, further however, that for purposes of determining Plan entry under Article III of Part II of the Plan, **"Year of Service"** shall mean any twelve consecutive month period during which he completes 1,000 Hours of Service computed from the date an Employee first performs an Hour of Service, or any anniversary thereof (or again performs an Hour of Service upon re-employment following a termination resulting in a One Year Break in Service).

## ARTICLE III

### PARTICIPATION REQUIREMENTS

#### 3.01 Participation Requirements.

- (a) Employee Participation. Individuals who were Participants in Part I of the Plan on December 31, 2015 shall continue to be Participants in Part I of the Plan on January 1, 2016.

Notwithstanding anything in Part I of the Plan to the contrary, for periods commencing on and after January 1, 2005, (i) no Employee who had not previously been a Participant in Part I of the Plan shall become a Participant in Part I of the Plan, and (ii) a Former Participant who is re-employed as an Employee shall be reinstated as an active Participant in Part I of the Plan but only for purposes of increasing Plan vesting on his or her frozen Accrued Benefit and for purposes of determining eligibility for early retirement under Section 6.02.

For Plan Years that commenced prior to January 1, 2005, an Employee became eligible to be a Participant on the first day of the calendar month coincident with or next following completion of one Year of Service, provided he or she was then an eligible Employee.

Eligible Employees who were actively employed and who were Participants in The Allmerica Financial Cash Balance Pension Plan as adopted by Citizens Insurance Company of America or in The Allmerica Financial Cash Balance Pension Plan as adopted by The Hanover Insurance Company, each of which were merged with and into this Part I of the Plan, became Participants in this Part I of the Plan on January 1, 1998.

Notwithstanding the foregoing: (i) an Employee who was formerly employed by Financial Profiles, Inc. shall not become eligible to become a Participant in this Part I of the Plan until January 1, 1999; and (ii) an Employee who was formerly employed by Advantage Insurance Network shall not become eligible to become a Participant in this Part I of the Plan until August 1, 1999.

Notwithstanding the foregoing, the following persons shall not be eligible to become or remain active Participants in Part I of the Plan:

- (i) Employees who are or were eligible to participate in The Allmerica Financial Agents' Retirement Plan;
- (ii) Retirees of First Allmerica or retirees of General Agents of First Allmerica who are receiving retirement benefits under this Part I of the Plan whose current period of post-retirement re-employment with First Allmerica, Citizens or Hanover began prior to January 1, 1988;

- (iii) Retirees of Citizens or Hanover who are receiving retirement benefits under this Part I of the Plan whose current period of post-retirement re-employment with First Allmerica, Citizens or Hanover began prior to January 1, 1993;
  - (iv) Leased Employees, within the meaning of Code Sections 414(n) and (o);
  - (v) A contractor's employee, *i.e.*, a person working for a company providing goods or services (including temporary employee services) to the Employer or to an Affiliate whom the Employer does not regard to be its common law employee, as evidenced by its failure to withhold taxes from his or her compensation, even if the individual is actually the Employer's common law employee; or
  - (vi) An independent contractor, *i.e.*, a person who is classified by the Employer as an independent contractor, as evidenced by its failure to withhold taxes from his or her compensation, even if the individual is actually the Employer's common law employee.
- (b) Reeligibility of Former Participants. A Former Participant, who again becomes eligible to participate in Part I of the Plan, will become a Participant in Part I of the Plan on the date of his or her recommencement of service with the Employer. Any other former Employee who again becomes eligible will become a Participant on the entry date determined under the rules set forth in Section 3.01(a).

3.02 Classification Changes. In the event of a change in job classification, such that an Employee, although still in the employment of the Employer, no longer is an eligible Employee, he or she shall receive no further Credited Service under Part I of the Plan, and the Participant's Accrued Benefit on the date he or she becomes ineligible shall continue to vest, become payable or be forfeited, as the case may be, in the same manner and to the same extent as if the Employee had remained an eligible Participant.

For periods commencing prior to January 1, 2005, in the event a Participant becomes ineligible to accrue further Credited Service because he or she is no longer a member of an eligible class of Employees, but has not terminated his or her employment with an Employer, such Participant shall again be eligible to accrue further Credited Service immediately upon his or her return to an eligible class of Employees.

In the event an Employee who is not a member of the eligible class of Employees becomes a member of the eligible class, such Employee shall participate immediately if such Employee has satisfied the minimum service requirements of Part I of the Plan, and would have previously become a Participant had he or she been in the eligible class.

3.03 Participant Cooperation, Participant Refusal. Each Employee who is eligible shall become a Participant on the entry date specified in Section 3.01(a) unless he or she notifies the Plan Administrator in writing prior to such entry date that he or she does not wish to be a Participant under this Part I of the Plan. Any such election not to participate

in this Part I of the Plan shall be irrevocable. In order to waive participation in this Part I of the Plan, an Employee must agree to irrevocably waive his or her right to become a Participant in any other qualified retirement plan sponsored by the Employer. Each eligible Employee who becomes a Participant hereunder thereby agrees to be bound by all of the terms and conditions of this Part I of the Plan. Each eligible Employee, by becoming a Participant in this Part I of the Plan, agrees to cooperate fully with the Insurer, including completion and signing of such forms as are required by the Insurer under the Group Annuity Contract.

## ARTICLE IV

### PARTICIPANT ACCOUNTS

4.01 Establishment of Accounts. For Plan Years commencing on or after January 1, 1995, a memorandum Account shall be established under Part I of the Plan for each Participant. Such Account shall be credited with Allocations in accordance with Section 4.02 and shall be adjusted in accordance with Section 4.03 and for any distributions in accordance with Section 4.04. The resultant value determined at any time, after the operation of Sections 4.02, 4.03 and 4.04, shall be the Participant's "**Account Balance.**" The memorandum Account is part of a mechanism for computing benefits under Part I of the Plan. Accordingly, there need be no relationship between Participants' Account Balances and the amount or nature of Plan assets.

4.02 Allocations to Accounts. For each Plan Year commencing on or after January 1, 1995 and prior to January 1, 2005 during which a Participant completes a Year of Credited Service and, regardless of the number of Hours of Service credited to the Participant, for any such Plan Year during which a Participant dies or first retires, such Participant's Account shall be credited with an Allocation for such Plan Year as of the Plan Year Allocation Date. Allocations under the Plan are part of the mechanism for computing benefits under the Plan and do not relate to actual contributions to the Plan.

Notwithstanding anything in the Plan to the contrary, no Allocations shall be credited to Participants for Plan Years beginning on or after January 1, 2005; provided, however, (i) that Allocations shall be credited to eligible Participants for the 2004 Plan Year as of the 2004 Plan Year Allocation Date and (ii) memorandum Accounts shall continue to be credited with investment experience credits after December 31, 2004, as provided in Section 4.03 of Part I of the Plan.

4.03 Adjustments of Accounts.

(a) Adjustment for Earnings for Plan Years beginning on and after January 1, 2004. For each Plan Year beginning on or after January 1, 2004, each Participant's Account shall be credited with earnings on a daily basis based upon an annual effective rate equal to the Code Section 417 Interest Rate in effect for such Plan Year.

- (b) Adjustment for Investment Experience for Plan Years beginning on or after January 1, 1995 and before January 1, 2004. For each Plan Year beginning on or after January 1, 1995 and before January 1, 2004, Participants in Part I of the Plan shall make investment experience elections with respect to their respective Account Balances from among choices prescribed by the Plan Administrator. The specific investment choices and the time and manner of making elections may be changed from time to time. Each Participant's Account Balance shall be adjusted to reflect investment experience in the same manner as if the Account Balance were actually invested pursuant to the Participant's elections and as if each Allocation were actually a contribution made to the Plan on the relevant Plan Year Allocation Date.

- 4.04 Distributions. The Account Balance shall be decreased for any non-annuity distributions paid to the Participant or his or her Beneficiary. In the event a benefit becomes payable as an annuity in accordance with Article VI or as a survivor annuity in accordance with Article VII, the Account Balance shall be decreased by the Actuarial Equivalent of such annuity as of the Annuity Commencement Date.

## ARTICLE V

### EMPLOYER CONTRIBUTIONS

- 5.01 Employer Contributions.

- (a) Employer Contributions for Plan Years beginning after December 31, 1997. The Employer shall contribute for each Plan Year during which Part I of the Plan is in effect that amount, if any, which the enrolled actuary for the Plan determines is necessary to fund the Plan under the actuarial cost method in effect for the Plan. No contributions will be required of or permitted by Employees.
- (b) Employer Contributions for Plan Years beginning prior to January 1, 1998. Each Employer shall contribute for each Plan Year during which the Plan is in effect that amount, if any, which the enrolled actuary for the Plan determines is necessary to fund Part I of the Plan under the actuarial cost method in effect for Part I of the Plan. No contributions will be required of or permitted by Employees.

Except as provided below, contributions paid by each Employer and earnings thereon will be used only to fund Plan costs and benefits for its Employees and will not be used to fund Plan costs and benefits for any other Employees.

Notwithstanding the foregoing:

- (i) Plan contributions paid by First Allmerica and General Agents of First Allmerica and earnings thereon will be used to fund Plan costs and benefits of both First Allmerica and such General Agents.
- (ii) Plan contributions paid by First Allmerica and General Agents of First Allmerica and earnings thereon will also be used to fund costs and benefits

of The Allmerica Financial Agents' Pension Plan (Part II of the Plan), which plan was merged with this Part I of the Plan on January 1, 1992.

- 5.02 Payment of Contributions to Trustee. The Employer shall make payment of all contributions directly to the Trustee to be held, managed and invested in one or more Group Annuity Contracts and in other investments permitted under the Trust, but subject to Section 5.03.
- 5.03 Receipt of Contributions by Trustee. The Trustee shall accept and hold under the Trust such contributions of money, or other property approved by the Employer for acceptance by the Trustee, on behalf of the Employer and its Employees and Beneficiaries as it may receive from time to time from the Employer, other than cash it is instructed to remit to the Insurer for deposit with the Insurer. However, the Employer may pay contributions directly to the Insurer, and such payment shall be deemed a contribution to the Trust to the same extent as if payment had been made to the Trustee. All such contributions shall be accompanied by written instructions from the Plan Administrator or its designee accounting for the manner in which they are to be credited.

## ARTICLE VI

### RETIREMENT AND DISABILITY BENEFITS

- 6.01 Normal Retirement Benefit. Subject to Section 6.07, each Participant who retires on his or her Normal Retirement Date (and each Former Participant with a vested benefit deferred to his or her Normal Retirement Date) shall be entitled to receive a monthly life annuity commencing on such Date and terminating on the last regular payment date prior to his or her death, which monthly benefit shall equal the Participant's Accrued Benefit (or, in case of each Former Participant with a vested benefit, the Former Participant's vested Accrued Benefit).

Notwithstanding the foregoing, the Grandfathered Benefit (if any) of each Participant shall not be less than the largest periodic Grandfathered Benefit that would have been payable to the Participant upon separation from service at or prior to Normal Retirement Age under Part I of the Plan. For purposes of comparing periodic benefits in the same form commencing prior to and at Normal Retirement Age, the greater benefit is determined by converting the benefit payable prior to Normal Retirement Age into the same form of annuity benefit payable at Normal Retirement Age and comparing the amount of such annuity payments.

Notwithstanding the foregoing, Non-Key Employees who are Participants in a Top Heavy shall be entitled to the minimum benefit described in Section 2.03 of Part III of the Plan if such benefit is greater than the benefit provided by this Section 6.01.

Each actively employed Participant's Accrued Benefit shall become 100% vested and nonforfeitable when the Participant attains his or her Normal Retirement Age. An actively employed Participant may terminate employment with the Employer and retire

on his or her Normal Retirement Date. Upon such date the Participant shall be entitled to receive, or to begin to receive, his or her Normal Retirement Benefit.

The Plan Administrator shall notify the Trustee (and Insurer, if appropriate) as and when the Normal Retirement Age and Normal Retirement Date of each Participant shall occur and shall also advise the Trustee (and Insurer, if appropriate) as to the manner in which retirement benefits are to be distributed to a Participant, subject to the provisions of this Article. Upon receipt of such notification and subject to the other provisions of this Article, the Trustee or Insurer shall take such action as may be necessary in order to commence payment of the Participant's Normal Retirement Benefit.

6.02 Early Retirement Benefit. Any actively employed Participant who has completed at least fifteen Years of Service (or, if earlier, who has completed at least fifteen Years of Credited Service, with Years of Credited Service completed before 1995 being determined in accordance with the terms of Part I of the Plan as in effect on December 31, 1994) may elect to retire on the first day of any month following attainment of Age 55, in which event he or she shall receive, subject to Section 6.07 in the case of a married Participant, a monthly life annuity commencing on the date of his or her early retirement and terminating on the last regular payment date prior to his or her death. Each early retiree's monthly life annuity will be equal to the Actuarial Equivalent of the early retiree's Accrued Benefit, except that the portion of the Accrued Benefit attributable to the Participant's Grandfathered Benefit, if any, shall equal the early retiree's Grandfathered Benefit multiplied by the appropriate percentage.

<u>Retirement Age</u>	<u>Percentage of Monthly Grandfathered Benefit*</u>
65	100
64	93 1/3
63	86 2/3
62	80
61	73 1/3
60	66 2/3
59	63 1/3
58	60
57	56 2/3
56	53 1/3
55	50

\*If benefit payments commence in a month other than the month in which the Participant attains the specified Age, the percentage shall be determined by straight line interpolation.

Provided, however, that an actively employed Participant (i) who is entitled to a Special Grandfathered Benefit, (ii) who has been continuously employed as a member of an eligible class of Employees from January 1, 1995 until the date of his or her early retirement, and (iii) whose combined Age and Years of Credited Service as of the date of determination (calculated in accordance with the provisions of Part I of the Plan in effect

on December 31, 1994) total at least 85 (the “**Rule of 85**”) shall be entitled to receive a Special Grandfathered Benefit determined without the above actuarial reduction.

Provided, however, that an actively employed Participant (i) who is entitled to a Grandfathered Benefit, (ii) who has attained Age 62, and (iii) whose combined Age and Years of Credited Service as of the date of determination (calculated in accordance with the provisions of Part I of the Plan in effect on December 31, 1994) total at least 95 (the “**Rule of 95**”) shall be entitled to receive a Grandfathered Benefit determined without the above actuarial reduction.

For purposes of determining eligibility for the Rule of 85 and Rule of 95 subsidized early retirement benefits, but not for purpose of computing actual benefit amounts, Years of Credited Service shall include Hours of Service completed as a Career Agent or General Agent of First Allmerica.

If a Participant terminates employment after having completed at least fifteen Years of Service, he or she may elect to retire on the first day of any month following his or her 55th birthday and prior to his or her Normal Retirement Date. If any such Former Participant elects to retire early, he or she shall be entitled to receive a monthly retirement benefit equal to a percentage of the monthly benefit to which the Participant would have been entitled on his or her Normal Retirement Date. Such percentage shall be obtained by applying the appropriate percentage set forth in the table above to the monthly benefit payable on the Former Participant’s Normal Retirement Date.

Notwithstanding the foregoing, if this Plan is a Top Heavy Plan, and if greater than the benefit described above, each Non-Key Employee who elects early retirement shall be entitled to receive a monthly early retirement benefit equal to the appropriate percentage above of his or her Accrued Benefit described in Section 2.01(b).

6.03 Subsidized Early Retirement Benefit. Any eligible Participant who elected an immediate early retirement benefit to commence between March 1, 2003 and May 1, 2004 shall be entitled to an increased retirement benefit, computed as described below, to commence on the date of his or her actual retirement.

(a) Eligible Participants. Only Participants in Part I of the Plan who are actively employed by First Allmerica on February 1, 2003 (or are then on an Employer-approved paid leave of absence, which paid leave commenced no earlier than December 18, 2002) shall be eligible for the subsidized early retirement benefit described in this Section 6.03. In addition, in order to be eligible for such benefits, a Participant must have retired between March 1, 2003 and May 1, 2004 and met the following requirements:

- (i) The Participant must be eligible for a “Special Grandfathered Benefit” (as described in Section 2.20(b)) on the date of his or her early retirement.
- (ii) The Participant must have been continuously employed as a member of an eligible class of Employees from January 1, 1995 until the date of his or her retirement.

- (iii) The Participant must not have attained Age 65 on the date of his or her retirement.
  - (iv) The Participant must not be eligible for the Rule of 85 subsidized early retirement benefit (as described in Section 6.02) on the date of his or her retirement.
  - (v) The Participant's job or position with First Allmerica must have been or will be eliminated by May 1, 2003 as a result of the reorganization of the Allmerica Financial Services Division of First Allmerica.
  - (vi) The Participant must be actively at work on the last business day preceding the date of his or her early retirement or then be on vacation, be on an Employer-approved paid leave of absence or be absent due to sickness or injury.
  - (vii) The Participant must execute an appropriate release satisfactory to First Allmerica releasing the company (and its subsidiaries and affiliates and its and their officers, directors and employees) from all liability arising out of or relating to his or her employment with First Allmerica or with any of its predecessors, subsidiaries or affiliates.
- (b) Qualified Early Retirement Benefit. Those eligible Participants as described in Section 6.03(a) who retired between March 1, 2003 and May 1, 2004 shall be entitled to a subsidized early retirement benefit, to be computed as follows:
- (i) Subsidized Early Retirement Benefit. Those eligible Participants electing early retirement under Section 6.03 shall be entitled to an increased retirement benefit commencing on their date of actual retirement, to be computed as follows:

The Participant's early retirement benefit shall be computed as provided in Section 6.02, except as provided below:

Any eligible Participant may elect to retire on the first day of any month between March 1, 2003 and May 1, 2004, in which event he or she shall receive, subject to Section 6.07 in the case of a married Participant, a monthly life annuity commencing on the date of his or her early retirement and terminating on the last regular payment date prior to his or her death. An eligible Participant may also choose one of the distribution options set forth in Section 6.06, with spousal consent if the Participant is married. In the case of a Participant who chooses a monthly life annuity, such benefit will be equal to the sum of (A) and (B) below:

- (A) A monthly life annuity benefit that is the Actuarial Equivalent (as described in Section 2.02) of the Participant's Account Balance (as described in Section 4.01), plus

- (B) A monthly life annuity benefit which is equal to a percentage of the Participant's Special Grandfathered Benefit, accrued to the date of actual retirement, based on the Participant's Age, Average Monthly Compensation and Credited Service (such Average Monthly Compensation and Credited Service being calculated in accordance with the provisions of Part I of the Plan in effect on December 31, 1994), each determined as of the date of the Participant's early retirement. Such percentage shall be equal to the appropriate percentage determined from the Schedule below of the Special Grandfathered Benefit that would have been payable had the Participant's date of initial eligibility for the Rule of 85 subsidized early retirement benefit (as described in Section 6.02) been his or her Normal Retirement Date, based on the assumption that his or her continuous employment had continued until such date, but with the actual benefit being based on the Participant's Special Grandfathered Benefit actually accrued as of the date of early retirement.

<b>Retirement Age*</b>	<b>Percentage of Special Monthly Grand-Fathered Benefit**</b>
55	1.0000
54	0.9333
53	0.8667
52	0.8000
51	0.7333
50	0.6667
49	0.6333
48	0.6000
47	0.5667
46	0.5333
45	0.5000

\*This Schedule assumes the Participant would have been eligible for the Rule of 85 subsidized early retirement benefit at Age 55. If a Participant would have been eligible for the Rule of 85 at a date later than Age 55, the appropriate percentage shall be determined by the Plan actuary using the same assumptions used in constructing the above Schedule.

\*\*If a benefit commences in a month other than the month in which the Participant attains the specified Age, the percentage shall be determined by straight line interpretation.

Example. Assume an eligible Participant will attain Age 52 on January 1, 2004 and will have completed 32 Years of Credited Service on such date. Assume further that as of such date the Participant has accrued a Special Grandfathered Benefit, payable as a single life annuity, of \$1,000 per month. Thus, the Participant will initially be eligible for the Rule of 85 subsidized early retirement benefit on January 1, 2007, the date the Participant will attain Age 55. Under the terms of Section 6.03, the Participant may elect to retire on January 1, 2004 and begin to receive an immediate early retirement benefit. If a single life annuity benefit is chosen, such life annuity benefit will be equal to \$800 per month ( $\$1,000 \times 0.8000 = \$800$ ).

- (ii) Cost-for-Living (“COL”) Adjustments. Notwithstanding anything in Section 6.08 to the contrary, Participants (and the Beneficiaries of Participants) who elect to retire pursuant to this Section 6.03 shall be eligible to receive COL benefits, subject to the other rules and requirements set forth in Section 6.08. Notwithstanding anything in Section 6.08 to the contrary, the early retirement monthly annuity benefits described in this Section 6.03 shall be a part of a Participant’s basic plan benefit and shall be included in determining any COL adjustment to which the Participant may become entitled pursuant to Section 6.08.

6.04 Late Retirement Benefit. If a Participant shall continue in active service beyond his or her Normal Retirement Date, he or she shall continue to participate under Part I of the Plan and Trust. For Employees in Section 203(a)(3)(B) service (as described in Section 6.09(a)), who continue in active employment beyond their Normal Retirement Date, retirement benefits shall be suspended, as provided in Section 6.09. Except as provided in Section 6.07 in the case of a married Participant, the monthly retirement benefit payable to a Participant retiring on a late retirement date shall be a monthly life annuity commencing on the date of his or her late retirement and terminating on the last regular payment date prior to his or her death. Each late retiree’s monthly life annuity will be equal to the late retiree’s Accrued Benefit; provided, however, that the portion of the Accrued Benefit attributable to the Participant’s Grandfathered Benefit, if any, shall equal the Participant’s Basic Grandfathered Benefit, if any, or the Participant’s Special Grandfathered Benefit, if any.

Notwithstanding the foregoing, if this Plan is a Top Heavy Plan and if greater than the benefit described above, each Non-Key Employee who elects late retirement shall be entitled to receive a monthly late retirement benefit equal to his or her Accrued Benefit described in Section 2.01(b).

Notwithstanding the above, monthly annuity benefits shall commence no later than a Participant's required beginning date (as defined in Article III of Part III of the Plan). If a Participant has not retired by his or her required beginning date, monthly retirement benefits shall commence on such date and shall be computed as described in the preceding paragraph, with benefits based on the assumption that the Participant's required beginning date was the date of late retirement.

Notwithstanding the foregoing, if late retirement benefits commence after Age 70½, to the extent required under Code Section 401(a)(9)(C) and regulations thereunder, a Participant's Accrued Benefit shall be actuarially increased to take into account the period after Age 70½ in which the Participant was not receiving any benefits under the Plan, including any period during which the Employee is in Section 203(a)(3)(B) service, as described in Section 6.09(a).

- 6.05 Disability Benefit. Notwithstanding anything in Part I of the Plan to the contrary, if a Participant becomes Totally Disabled while employed by the Employer as an active Participant in Part I of the Plan, such Participant shall have a 100% vested and nonforfeitable right to his or her Accrued Benefit, regardless of his or her length of service.

In addition, if a Participant in Part I of the Plan who is eligible for a Special Grandfathered Benefit was Totally Disabled on December 31, 1994 and before January 1, 2005, becomes Totally Disabled while employed by the Employer as an active Participant in Part I of the Plan, it shall be assumed for purposes of this Part I of the Plan that his or her employment continues from the date of the commencement of his or her total disability to the earliest of his or her Normal Retirement Date, death, termination of employment or date that he or she is no longer Totally Disabled. Prior to January 1, 2005 and while an eligible Employee is Totally Disabled, it shall be assumed for purposes of calculating the Participant's Special Grandfathered Benefit that the Employee continues to earn monthly one-twelfth of the Compensation paid to the Participant during the 12 complete months prior to the month in which he or she ceased active service because of his or her having become Totally Disabled.

For purposes of Part I of the Plan "**Totally Disabled**" means the inability to perform the duties of any occupation for which the Employee is or becomes reasonably fitted by education, training or experience; provided, however, in the case of an Employee receiving disability benefits under a long term disability plan sponsored by the Employer, until benefits have been paid under such policy for 24 months, such Employee will be considered Totally Disabled if he or she is unable to perform the duties of his or her occupation and is not working at any other occupation.

- 6.06 Distribution of Benefits. The Plan Administrator shall direct the Trustee (or Insurer, if applicable) to commence payment of benefits provided under this Article VI of Part I of the Plan (or provided to a Former Participant pursuant to Article VIII of Part I of the Plan). Plan benefits will be paid only on death, termination of service, Plan termination or retirement.

Except as otherwise provided in Section 6.07, the requirements of this Section shall apply to any distribution of a Participant's interest and will take precedence over any inconsistent provisions of this Part I of the Plan.

All distributions required under the Plan shall be determined and made in accordance with the Treasury Regulations under Code Section 401(a)(9), including, to the extent applicable, the minimum distribution incidental benefit requirement of Section 1.401(a)(9)-2 of the Treasury Regulations.

Except as provided below and in Section 6.07, a Participant's retirement benefit shall be payable as a life annuity for the life of the Participant with no further benefits payable after the last regular payment date prior to his or her death.

At any time prior to actual retirement, a Participant, with spousal consent if the Participant is married, may elect to receive his or her retirement benefit under one or more of the following settlement options; provided, however, that a Participant may not elect to have the balance of his or her Account, described in Section 4.01, distributed under more than one annuity option, or his or her Grandfathered Benefit distributed under more than one annuity option.

- (a) An annuity for the joint lives of the Participant and his or her spouse with 50% or 66 2/3% (whichever is specified when this option is elected) of such amount payable as an annuity for life to the survivor. No further benefits are payable after the death of both the Participant and his or her spouse.
- (b) An annuity for the life of the Participant and upon his or her death 100%, 66 2/3%, or 50% (whichever is specified when this option is elected) of the annuity amount will be continued to his or her spouse as his or her contingent annuitant. No further benefits are payable after the death of both the Participant and his or her spouse.
- (c) An annuity for the life of the Participant with guaranteed installment payments for a period certain not longer than the life expectancy of the Participant.
- (d) An annuity for the life of the Participant with guaranteed installment payments for a period certain not longer than the life expectancy of the Participant and his or her spouse.

- (e) Notwithstanding anything in Part I of the Plan to the contrary, a single lump sum payment in an amount equal to the Participant's vested Account Balance on the Determination Date; provided, however, that except as provided in Sections 6.06(f) and (g) below, this form of payment shall not be available with respect to the Participant's vested Accrued Benefit attributable to the Participant's Grandfathered Benefit, if any, on the Determination Date. In the event a Participant elects to have his or her vested Account Balance on the Determination Date payable in a lump sum under this Section 6.06(e), the portion of his or her Accrued Benefit attributable to his or her Grandfathered Benefit, if any, shall be paid only in accordance with the otherwise applicable provisions of this Article VI of Part I of the Plan.
- (f) If the present value of a Participant's vested Grandfathered Benefit, if any, on the Determination Date does not exceed \$5,000, an immediate single sum payment in an amount equal to such present value. If the present value of a Participant's vested Grandfathered Benefit exceeds \$5,000, only annuity options in Sections 6.06(a) through (d) above and the option in Section 6.06(h) below shall be available with respect to such vested Grandfathered Benefit.
- (g) Notwithstanding anything in Part I of the Plan to the contrary except Section 6.10, for involuntary cashouts paid after December 1, 2012, an immediate single lump sum payment of the present value of the Former Participant's vested Accrued Benefit on the Determination Date will be paid to a Former Participant (other than a Former Participant who is a participant in The Hanover Excess Benefit Retirement Plan) who is not an Employee of the Employer or an Affiliate if the present value of the Former Participant's vested Accrued Benefit, if any, on the Determination Date does not exceed \$5,000. Consent to this involuntary cashout from the Former Participant will not be required, and spousal consent to this involuntary cashout will not be required in the case of a married Former Participant. For purposes of Sections 6.06 and 8.02, an "**involuntary cashout**" is a payment under Section 6.06(g) or its counterpart in Section 8.02, as appropriate.
- (h) An annuity for only the life of the Participant that terminates on the last regular payment date prior to the death of the Participant.

All optional forms of benefits shall be the Actuarial Equivalent (as of the date selected) of the normal retirement benefit described in Section 6.01 or in Section 2.03 of Part III of the Plan, if applicable. Any spousal consent shall satisfy the requirements of Section 6.07.

Unless the Participant elects otherwise, distribution of benefits will begin no later than the 60th day after the later of the close of the Plan Year in which:

- (i) the Participant attains Normal Retirement Age; or
- (ii) the Participant terminates service with the Employer.

Notwithstanding the foregoing, the failure of a Participant and spouse (or where either the Participant or the spouse has died, the survivor) to consent to a distribution (other than an involuntary cashout) when a benefit is “immediately distributable” (as described below) shall be deemed to be an election to defer commencement of payment of any benefit sufficient to satisfy this Section 6.06 (and provisions of Article III of Part III of the Plan). In no event will benefits begin to be distributed (other than as an involuntary cashout) prior to the later of Age 62 or Normal Retirement Age without the consent of the Participant. The consent of the Participant’s spouse will also be required for any such distribution (other than an involuntary cashout) unless the benefit is paid in the form of a Qualified Joint and Survivor Annuity. Any spousal consent shall satisfy the requirements of Section 6.07.

If the Accrued Benefit is immediately distributable, the Participant and the Participant’s spouse (or where either the Participant or the spouse has died, the survivor) must consent to any distribution (other than as an involuntary cashout) of such Accrued Benefit. Needed consents of the Participant and the Participant’s spouse shall be obtained in writing within the 180-day period ending on the annuity starting date. The “**annuity starting date**” is the first day of the first period for which an amount is paid as an annuity or any other form. The Plan Administrator shall notify the Participant and the Participant’s spouse of the right to defer any distribution (other than an involuntary cashout) until the Participant’s Accrued Benefit is no longer immediately distributable. Such notification shall include a general description of the material features, and an explanation of the relative values, of the optional forms of benefit available under the Plan in a manner that would satisfy the notice requirements of Code Section 417(a)(3), and shall be provided no less than 30 days and no more than 180 days prior to the annuity starting date; provided, however, that the minimum 30 day notice period described in this sentence may be waived by the Participant's written waiver given after notice to the Participant has described that the Participant was allowed at least 30 days to consider his choice under this Section and that the Participant was allowed to revoke his waiver under this Section at any time through his or her annuity starting date.

Notwithstanding the foregoing, only the Participant need consent to the commencement of a distribution in the form of a Qualified Joint and Survivor Annuity while the Accrued Benefit is immediately distributable. Neither the consent of the Participant nor the Participant’s spouse shall be required to the extent that a distribution is required to satisfy Code Section 401(a)(9) or Code Section 415.

An Accrued Benefit is “**immediately distributable**” if any part of the Accrued Benefit could be distributed to the Participant (or surviving spouse) before the Participant attains (or would have attained if not deceased) the later of Normal Retirement Age or Age 62.

Notwithstanding the above the entire interest of a Participant or a Beneficiary must be distributed in accordance with the minimum required distribution rules set forth in Article III of Part III of the Plan.

6.07 Qualified Joint and Survivor Annuity for Married Participants.

(a) General Rules. Notwithstanding anything in this Article to the contrary, unless a married Participant's Accrued Benefit has been paid in a lump sum pursuant to Section 6.06, such Participant's retirement benefit will be payable to the Participant and his or her spouse in the form of a Qualified Joint and Survivor Annuity, with the survivor to receive 100% of the benefit which had been payable during their joint lives, unless an optional form of benefit is selected pursuant to a qualified election within the 180-day period ending on the annuity starting date. In the case of an unmarried Participant, unless the Participant elects an optional form of benefit, the Participant's retirement benefit will be paid in the form of a no- death benefit life annuity.

(b) Definitions.

(i) Qualified election: A "**qualified election**" means a waiver of a Qualified Joint and Survivor Annuity meeting the requirements of this Section 6.07(b)(i). A qualified election shall not be effective unless: (A) the Participant's spouse consents in writing to the election; (B) the election designates a specific Beneficiary, including any class of Beneficiaries or any contingent Beneficiaries, which may not be changed without spousal consent (or the spouse expressly permits designations by the Participant without any further spousal consent); (C) the spouse's consent acknowledges the effect of the election; and (D) the spouse's consent is witnessed by a Plan representative or notary public. Additionally, a Participant's qualified election will not be effective unless the election designates a form of benefit payment which may not be changed without spousal consent (or the spouse expressly permits designations by the Participant without any further spousal consent). If it is established to the satisfaction of a Plan representative that there is no spouse or that the spouse cannot be located, a waiver will be deemed a qualified election.

Any consent by a spouse obtained under this Section 6.07(b) (or establishment that the consent of a spouse may not be obtained) shall be effective only with respect to such spouse. A consent that permits designations by the Participant without any requirement of further consent by such spouse must acknowledge that the spouse has the right to limit consent to a specific Beneficiary, and a specific form of benefit where applicable, and that the spouse voluntarily elects to relinquish either or both of such rights. A revocation of a prior waiver may be made by a Participant without the consent of the spouse at any time before the commencement of benefits. The number of revocations shall not be limited. No consent obtained under this provision shall be valid unless the Participant has received notice as provided in Section 6.07(c) below.

- (ii) Spouse (surviving spouse): A “**spouse**” means the person, if any, to whom the Participant is lawfully married at his annuity starting date. A “**surviving spouse**” means the person, if any, to whom the Participant is lawfully married at the date of his death. A former spouse will be treated as the spouse or surviving spouse only to the extent provided under a Qualified Domestic Relations Order.
  - (iii) Annuity starting date: An “**annuity start date**” means the first day of the first period for which an amount is paid as an annuity or under any other form.
- (c) Notice Requirement.
- (i) In the case of a Qualified Joint and Survivor Annuity as described in Section 6.07(a), the Plan Administrator shall provide each Participant no less than 30 days and no more than 180 days prior to the annuity starting date a written explanation of: (A) the terms and conditions of a Qualified Joint and Survivor Annuity; (B) the Participant’s right to make and the effect of an election to waive the Qualified Joint and Survivor Annuity form of benefit; (C) the rights of a Participant’s spouse; (D) the right to make, and the effect of, a revocation of a previous election to waive the Qualified Joint and Survivor Annuity; and (E) the relative values of the various optional forms of benefit under the Plan. Notices given to Participants pursuant to Code Section 411(a)(11) shall include a description of how much larger benefits will be if the commencement of distributions is deferred.

(ii) A Participant may commence receiving a distribution in a form other than a Qualified Joint and Survivor Annuity less than 30 days after receipt of the written explanation described in the preceding paragraph provided: (A) the Participant has been provided with information that clearly indicates that the Participant has at least 30 days to consider whether to waive the Qualified Joint and Survivor Annuity and elect (with spousal consent) a form of distribution other than a Qualified Joint and Survivor Annuity; (B) the Participant is permitted to revoke any affirmative distribution election at least until the Distribution Commencement Date or, if later, at any time prior to the expiration of the seven day period that begins the day after the explanation of the Qualified Joint and Survivor Annuity is provided to the Participant; and (C) the Distribution Commencement Date is after the date the written explanation was provided to the Participant. For distributions on or after December 31, 1996, the Distribution Commencement Date may be a date prior to the date the written explanation is provided to the Participant if the distribution does not commence until at least 30 days after such written explanation is provided, subject to the waiver of the 30-day period. For the purposes of this paragraph, the “**Distribution Commencement Date**” is the date a Participant commences distributions from the Plan. If a Participant commences distribution with respect to a portion of his/her Account Balance, a separate Distribution Commencement Date applies to any subsequent distribution. If distribution is made in the form of an annuity, the Distribution Commencement Date is the first day of the first period for which annuity payments are made.

(d) Applicability. The provisions of this Section 6.07 shall apply to any Participant who is credited with at least one Hour of Service with the Employer on or after January 1, 1976. In addition, any living Participant or Former Participant not receiving benefits under Part I of the Plan on August 23, 1984 who would otherwise not receive the benefits prescribed by this Section 6.07 shall be given the opportunity to elect to have the provisions of this Section apply, provided such Participant or Former Participant was credited with at least one Hour of Service under this Part I of the Plan or a predecessor plan on or after September 2, 1974.

The opportunity to elect a Qualified Joint and Survivor retirement option must be afforded to the appropriate Participants or Former Participants during the period commencing on August 23, 1984 and ending on the dates benefits would otherwise commence to such person.

6.08 Supplementary Pension Benefits. Effective July 1, 1986, and on each July 1 thereafter, the amount of monthly retirement benefits payable to eligible retirees (as described below) or their Beneficiaries shall be increased by a percentage determined in accordance with the following formula:

$$\text{Percentage Increase} = .8 (M - .07) \times 100$$

For Plan Years beginning after December 31, 2008, for purposes of the above formula, “M” equals the annual coupon return on December 31, 2009 and on each December 31 thereafter of the Barclays Capital U.S. Government/Credit 5-10 Year Index, or its successor.

For Plan Years beginning after December 31, 1997 and prior to January 1, 2009, for purposes of the above formula, “M” equaled the earnings rate for the prior Plan Year on assets representing retired life reserves for retirees of First Allmerica, Citizens and Hanover. Additionally, retired life reserve assets of the Agents’ Pension Plan (Part II of the Plan) and retired life reserve assets attributable to retirees of General Agents of First Allmerica and retirees of Beacon Insurance Company of America (“**Beacon**”), formerly an affiliate of Hanover, shall be aggregated and combined with the retired life reserve assets of this Part I of the Plan.

For Plan Years beginning prior to January 1, 1998, for purposes of the above formula, “M” equaled the earnings rate for the prior Plan Year on assets representing retired life reserves for retirees of each Employer. The formula shall be applied separately and retired life reserves shall be determined separately for each Employer; provided, however, (i) that for retirees of First Allmerica and its General Agents who have adopted this Part I of the Plan, retired life reserve assets shall be aggregated and combined with the retired life reserve assets of The First Allmerica Agents’ Pension Plan (Part II of the Plan) and (ii) for Plan Years beginning after December 31, 1992, the retired life reserve assets of Beacon shall be combined with the retired life reserve assets of Hanover.

For the Plan Years for which “M” depended on the returns of designated retired life reserve assets, the earnings rate on retired life reserve assets was to be determined by an actuary, using the “investment year block” method of crediting interest that First Allmerica used to credit interest on its Experience Rated group annuity contracts that were in force on an active basis. The resulting earnings rate(s) should neither be associated with nor construed as the investment yield (all or in part) of the pension fund.

For each Plan Year for which “M” depended on the returns of designated retired life reserve assets, the retired life reserve assets for newly qualified retirees to be added to the total retired life assets outstanding was to be determined using a 7% interest rate and the 1971 GAM mortality table.

The determination of “M” and of the overall earning rate(s) shall be final and conclusively binding for all persons.

The effective date for the payment of supplemental pension benefits paid as a result of this Section shall be each July 1, commencing with July 1, 1986. Those eligible to receive supplemental pension benefits as a result of this Section shall be those retirees of First Allmerica, Citizens, Hanover and General Agents of First Allmerica (and their Beneficiaries) who were receiving basic retirement benefits under Part I of the Plan on the July 1 increase effective date, had been retired for at least 18 months on such increase effective date, and:

- (i) had elected an immediate early retirement benefit pursuant to Section 6.02 (or its successor, if any)
- (ii) had terminated employment after having met the eligibility requirements for early retirement specified in Section 6.02 (or its successor, if any) and elected to defer receipt of retirement benefits: or
- (iii) had retired on or after their Normal Retirement Age after having completed at least 15 years of Credited Service.

The Beneficiaries of any retiree meeting the above requirements shall be entitled to receive a supplemental pension benefit under this Section if the Beneficiaries were receiving survivor benefits under Part I of the Plan on the July 1 increase effective date.

A supplemental pension benefit determined under this Section shall be added to and become a part of the recipient's basic benefit under Part I of the Plan and shall be payable during such period and under such option as the basic benefit under Part I of the Plan is being paid.

#### 6.09 Suspension of Retirement Benefits.

- (a) Suspension of Benefits. Except as provided below, Normal, Early or Late Retirement Benefits will be suspended for each calendar month during which an Employee or Eligible Re-employed Pensioner (a "**Pensioner**") completes more than 80 Hours of Service as described in Sections 2.23(a) and (b) with an Employer in a job or position in which the Employee or Pensioner is eligible to participate in Part I of the Plan ("**Section 203(a)(3)(B) service**").

For purposes of this Section 6.09, an "**Eligible Re-employed Pensioner**" means (i) a retiree of First Allmerica or a retiree of a General Agent of First Allmerica who is re-employed by First Allmerica, Citizens or Hanover on or after January 1, 1988, or (ii) a retiree of Citizens or Hanover who is re-employed by First Allmerica, Citizens or Hanover on or after January 1, 1993 and (iii) for Plan Years beginning after December 31, 1988, who had not attained Age 70; provided, however, that (i) benefits will not be suspended during the calendar month a Pensioner first retires from the Employer, regardless of the number of Hours of Service completed by the Pensioner during such month, and (ii) this Section shall not apply to the Top-Heavy Plan minimum benefits to which any Non-Key Employee may be entitled under the top-heavy rules of Section 2.03 of Part III of the Plan.

- (b) Amount Suspended. The benefit suspended shall be equal to the portion of the Employee's or Pensioner's monthly annuity benefit derived from Employer contributions, including any temporary early retirement supplement; provided, however, that earnings credits provided under Section 4.03(a) shall not be suspended by operation of this Section 6.09.
- (c) Resumption of Payment. If retirement benefit payments have been suspended, payments shall resume no later than the first day of the third calendar month after the calendar month in which the Employee or Pensioner ceases to be employed in Section 203(a)(3)(B) service. The initial payment upon resumption shall include the payment scheduled to occur in the calendar month when payments resume and any amounts withheld during the period between the cessation of Section 203(a)(3)(B) service and the resumption of payments.

Notwithstanding the foregoing in this Section 6.09(c), there shall be an offset from any payments to be resumed for the amount of any retirement benefits that had been paid but which should have been withheld under the suspension rules of this Section 6.09. In no event may the offset exceed in any one month more than 25 percent of the amount that would otherwise be payable under Part I of the Plan (excluding the first payment made after resumption which may be offset without limitation). The amount to be resumed shall be the greater of the benefit amount suspended or a benefit computed as described in Sections 6.01 or 6.02 or 6.04, as appropriate, but based on the pensioner's Age (and any joint or contingent annuitant's Age), Credited Service and Compensation on the date of resumption.

- (d) Notification. Notwithstanding anything in Part I of the Plan to the contrary, effective January 1, 2007, no retirement benefits (Early, Normal or Late) shall be withheld by the Plan unless the Employee or Pensioner is notified by personal delivery or first class mail during the first calendar month in which the Plan withholds payments that his or her benefits are suspended.

Such notifications shall contain a description of the specific reasons why benefit payments are being suspended, a description of the plan provisions relating to the suspension of payments, a copy of such provisions, and a statement to the effect that applicable Department of Labor regulations may be found in Section 2530.203-3 of the Labor Regulations.

In addition, the notice shall inform the Employee or Pensioner of the Plan's procedures for affording a review of the suspension of benefits. Requests for such reviews may be considered in accordance with the claims procedure adopted by the Plan, as described in Article IX of Part III of the Plan.

## 6.10 Rollovers to Other Qualified Plans.

- (a) Notwithstanding any provision of Part I of the Plan to the contrary that would otherwise limit a distributee's election under this Article or under Articles VII and VIII other than this Section 6.10(a), a distributee may elect, at the time and in the manner prescribed by the Plan Administrator, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover; provided, however, that if the Actuarial Equivalent present value of a distributee's vested Accrued Benefit does not exceed \$1,000, the distributee does not have to be allowed the eligible rollover election described in this sentence. If the Actuarial Equivalent present value of a Participant's Accrued Benefit exceeds \$1,000 and does not exceed \$5,000 and the Participant does not elect a distribution or a rollover, the Plan shall automatically distribute the Participant's Accrued Benefit, in a direct rollover, to an eligible individual retirement plan (a "**Rollover IRA**") for the benefit of such Participant and pursuant to a written agreement with the Rollover IRA provider that provides (i) the amount rolled over to the Rollover IRA shall be invested in a manner designed to preserve principal and provide a reasonable rate of return and liquidity; (ii) all fees and expenses attendant to a Rollover IRA shall not exceed the fees and expenses charged by the Rollover IRA provider for comparable IRAs established for reasons other than receipt of a rollover distribution; and (iii) the Participant on whose behalf the automatic rollover is made under this Section shall have the right to enforce the terms of the written agreement establishing the Rollover IRA, with regard to his or her rolled over funds, against the Rollover IRA provider. All fees and expenses attendant to the Rollover IRA shall be allocated to the Rollover IRA.

(b) Definitions.

- (i) Eligible rollover distribution: An “**eligible rollover distribution**” is any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include: any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee’s designated Beneficiary, or for a specified period of ten years or more; any distribution to the extent such distribution is required under Code Section 401(a)(9); the portion of any distribution that is not includible in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to employer securities); and any other distribution(s) that is reasonably expected to total less than \$200 during a year. A portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions which are not includible in gross income. However, such portion may be transferred only to (A) an individual retirement account or annuity described in Code Sections 408(a) or (b); (B) for taxable years beginning after December 31, 2001 and before January 1, 2007, to a qualified trust which is part of a defined contribution plan that agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible; or (C) for taxable years beginning after December 31, 2006, to a qualified trust or to an annuity contract described in Code Section 403(b), if such trust or contract provides for separate accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible.
- (ii) Eligible retirement plan: An “**eligible retirement plan**” is an individual retirement account described in Code Section 408(a), an individual retirement annuity described in Code Section 408(b), a Roth IRA as pursuant to in Code Section 408A(e), an annuity contract described in Code Section 403(b), an annuity plan described in Code Section 403(a), a qualified plan described in Code Section 401(a) that accepts the distributee’s eligible rollover distribution, or an eligible plan under Code Section 457(b) which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this Plan. However, in the case of an eligible rollover distribution to the surviving spouse, an eligible retirement plan is an individual retirement account or individual retirement annuity.

- (iii) Distributee: A “**distributee**” includes an Employee or former Employee. In addition, the Employee’s or former Employee’s surviving spouse and the Employee’s surviving spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in Code Section 414(p), are distributees with regard to the interest of the spouse or former spouse.
  - (iv) Direct rollover: A “**direct rollover**” is a payment by the Plan to the eligible retirement plan specified by the distributee.
- (c) For distributions after June 9, 2009, a non-spouse Beneficiary who is a “designated beneficiary” under Code Section 401(a)(9)(E) and the regulations thereunder, by a direct trustee-to-trustee transfer (“**direct rollover**”), may roll over all or any portion of his or her distribution to an individual retirement account the Beneficiary establishes for purposes of receiving the distribution. In order to do a direct rollover of the distribution, the distribution otherwise must satisfy the definition of an eligible rollover distribution.

Although a non-spouse Beneficiary may roll over directly a distribution as provided above, any distribution made prior to January 1, 2010 is not subject to the direct rollover requirements of Code Section 401(a)(31) (including Code Section 401(a)(31)(B), the notice requirements of Code Section 402(f) or the mandatory withholding requirements of Code Section 3405(c)). If a non-spouse Beneficiary receives a distribution from the Plan, the distribution is not eligible for a “60-day” rollover.

If the Participant’s named Beneficiary is a trust, the Plan may make a direct rollover to an individual retirement account on behalf of the trust, provided the trust satisfies the requirements to be a “designated beneficiary” within the meaning of Code Section 401(a)(9)(E).

A non-spouse Beneficiary may not roll over an amount which is a required minimum distribution, as determined under applicable Treasury Regulations and other Internal Revenue Service guidance. If the Participant dies before his or her required beginning date and the non-spouse Beneficiary rolls over to an IRA the maximum amount eligible for rollover, the Beneficiary may elect to use either the 5-year rule or the life expectancy rule, pursuant to Treasury Regulation Section 1.401(a)(9)-3, A-4(c), in determining the required minimum distributions from the IRA that receives the non-spouse Beneficiary’s distribution.

## ARTICLE VII

### DEATH BENEFITS

#### 7.01 Pre-Retirement Death Benefits.

(a) General Rules. The provisions of this Section shall apply to any Participant or Former Participant provided that such Participant or Former Participant completes at least one Hour of Service on or after January 1, 1995.

(i) If a married Participant who has satisfied the eligibility requirements for an early retirement benefit or normal retirement benefit dies (regardless of whether the Participant is still working for the Employer) before beginning to receive such benefits, then the Participant's surviving spouse will receive a monthly retirement benefit equal to the sum of:

(A) the portion of the Accrued Benefit attributable to the Participant's Grandfathered Benefit, if any, that would have been payable if the Participant had retired on the day before his or her death after having elected an immediate Qualified Joint and Survivor Annuity Option with a 50% continuation of monthly benefits to be payable to the survivor; and

(B) the Actuarial Equivalent annuity (payable on the Participant's death) of the portion of the vested Accrued Benefit attributable to the Participant's Projected Account Balance.

The amount of such benefit shall be payable monthly for the life of the spouse, with the first payment payable as of the date of the Participant's death, unless the spouse requests a later commencement date (consistent with the provisions of the Part I of the Plan).

(ii) If a fully or partially vested married Participant dies on or before attaining eligibility for early retirement, the Participant's surviving spouse will receive a monthly retirement benefit equal to the sum of (A) and (B) below.

(A) The portion of the Accrued Benefit attributable to the Participant's Grandfathered Benefit, if any, which would be payable if the Participant had:

(1) separated from service on the date of death;

(2) survived to Age 55 (if younger than Age 55 on the date of death);

- (3) retired at Age 55 (or retired on the day before his or her death, if older than Age 55 at the date of death) after having elected an immediate Qualified Joint and Survivor Annuity Option with a 50% continuation of monthly benefits to be payable to the survivor; and
  - (4) died on the day after retirement.
- (B) The Actuarial Equivalent annuity (payable when the Participant would have attained age 55) of the portion of the vested Accrued Benefit attributable to the Participant's Projected Account Balance.

A surviving spouse entitled to benefits under this Section 7.01(a)(ii) will begin to receive payments on the first day of the month following the date the Participant would have attained Age 55 (or on the first day of the month following the date of death, if the Participant was Age 55 or older on the date of his or her death), unless the spouse requests an earlier or later commencement date (consistent with the provisions of Part I of the Plan).

For purposes of this Section 7.01(a)(ii), the “**earliest retirement age**” is the earliest date on which, under Part I of the Plan, the Participant could elect to receive retirement benefits attributable to his or her Grandfathered Benefit.

The surviving spouse of a Participant who is entitled to receive a pre-retirement death benefit as described in Section 7.01(a)(i) or Section 7.01(a)(ii) may, in lieu of receiving such benefit, elect to receive the portion of such death benefit which is the Participant's Account Balance on the Determination Date in a single sum amount. Such single sum benefit shall be distributed as soon as practicable after the date of the Participant's death (or at any later date, as elected by the surviving spouse, consistent with the provisions of Part I of the Plan) and shall be in an amount equal to the Account Balance as of the Determination Date.

Alternatively, the surviving spouse may elect to have the Actuarial Equivalent of the pre-retirement death benefit (or the Actuarial Equivalent of the Grandfathered Benefit, if the Account Balance is to be paid as a single sum) payable commencing as of the date of the Participant's death (or at any later date as elected by the surviving spouse, consistent with the provisions of Part I of the Plan) in any of the other optional forms of payment available under Section 6.06. In the event that a surviving spouse elects to have the portion of his or her benefit attributable to the Participant's Account Balance payable in a lump sum in accordance with this paragraph, the balance of the death benefit otherwise payable under Part I of the Plan in accordance with Section 7.01(a)(i) or Section 7.01(a)(ii), shall consist solely of that portion of such death benefit that is attributable to the Participant's Grandfathered Benefit, if any.

Any surviving spouse described in the preceding paragraph who elects to receive the Participant's Account Balance in a single sum payment may also elect to receive the present value of the Participant's Grandfathered Benefit, if any, in a single sum amount; provided, however, that this option with respect to a Grandfathered Benefit shall only be available to a surviving spouse if the present value of the Grandfathered Benefit does not exceed \$5,000. Any such single sum benefit shall be distributed as soon as practicable after the date of the Participant's death.

If a Participant, on or after the earlier of the first day of the Plan Year in which he or she attains age 35 or the date of his or her separation from service and prior to his or her death, elects to waive the pre-retirement death benefit which is attributable to the Participant's Projected Account Balance and the participant's spouse consents to the waiver in accordance with Section 6.07(b)(i) (as if the pre-retirement death benefit waiver was a waiver of a Qualified Joint and Survivor Annuity), the Participant may designate a Beneficiary other than his or her spouse to receive the portion of the Participant's pre-retirement death benefit which is attributable to the Participant's Projected Account Balance.

Any such designation shall be in writing on a form provided by or satisfactory to the Plan Administrator, and such designation may include primary and contingent Beneficiaries. Such benefit shall be paid in the form of a lump sum as soon as practicable after the death of the Participant and shall equal the Participant's Account Balance at the Determination Date. In the event that a portion of a Participant's benefit under the Plan is payable to a non-spouse Beneficiary in accordance with this paragraph, the remaining portion of the death benefit attributable to such Participant shall be paid to the Participant's surviving spouse in accordance with Section 7.01(a)(i) or Section 7.01(a)(ii), as applicable. Before a Participant is permitted to waive the pre-retirement death benefit which is attributable to the Participant's Account Balance, the Plan Administrator shall provide each Participant a written explanation with respect to the pre-retirement death benefit comparable to the explanation described in Section 6.07(c)(i).

- (b) Unmarried Participants. If any unmarried Participant dies in any of the circumstances described in Section 7.01(a)(i) or Section 7.01(a)(ii) with respect to married Participants, the Beneficiary (designated in accordance with the rules described in Section 7.01(a)) of such Participant shall receive a death benefit in a single sum as soon as practicable after the date of the Participant's death. The amount of such death benefit shall be equal to the Participant's Account Balance at the Determination Date. There shall be no death benefit payable with respect to the Grandfathered Benefits of any such Participant.

7.02 Death Benefits for Certain Dependent Spouses (Applicable only to certain Employees entitled to Special Grandfathered Benefits).

- (a) Eligibility. The spouse of a deceased Employee (including the spouse of any such deceased Employee who had become and continuously remained Totally Disabled [as described in Section 6.05] until death) shall be entitled to a monthly income as set forth in Section 7.02(b), provided:
- (i) The spouse was married to, living with and was a dependent of the Employee for at least the three year period immediately preceding the death of the Employee. For purposes of this Section 7.02, dependency shall be assumed only if the average earned income of the spouse during such three year period was less than the average earned income of the Employee during the same three year period;
  - (ii) The Employee had attained Age 50 prior to the date of death;
  - (iii) The Employee was an employee of First Allmerica or a General Agent of First Allmerica prior to January 1, 1976 and had not thereafter retired or attained Age 65 and since December 31, 1975 was continuously employed with the Employer until the date of his or her death;
  - (iv) The Employee was eligible to accrue additional Special Grandfathered Benefits (as described in Section 2.20(b)) on December 31, 2004 (or on the date of his or her death, if earlier); and
  - (v) The Employee was not a Highly Compensated Employee on the date of his or her death.

Whether or not a spouse qualifies as a “dependent spouse” shall be determined by the Plan Administrator, whose determination shall be conclusive and binding on all persons. If an Employee or spouse is Totally Disabled (as described in Section 6.05), the “average earned income” of the disabled person shall be determined as of the date the Total Disability commenced. The term “**earned income**” for a year means a person’s Compensation as defined in Section 2.08(b) paid during the year, plus the sum of (i) any salary reduction contributions allocated during the year on the person’s behalf to any tax sheltered annuity qualified under Code Section 403(b) or to any defined contribution plan qualified under Code Section 401(k) maintained by the person’s employer, and (ii) the amount of any salary reduction contributions contributed on the person’s behalf during the year to any Code Section 125 plan maintained by the person’s employer.

- (b) Amount of Benefit. The benefit to spouses qualifying under Section 7.02(a) shall be a monthly income commencing as of the date of the death of the Employee, in an amount equal to (i) less (ii) below:

- (i) the applicable percentage below of the Special Grandfathered Benefit which the Employee would have received at his or her Normal Retirement Date had the Employee lived and remained a Participant in Part I of the Plan until such date and had the Participant continued to earn monthly one-twelfth of the Compensation paid to the Participant during the 12 complete months prior to the month in which occurred the date of his or her death.

Number of Completed Years Over Employee's Age 49 at <u>Date of Employee's Death</u>	Percentage of Grandfathered <u>Retirement Benefit*</u>
1	10%
2	20%
3	30%
4	40%
5 and over	50%; less

\* If death occurs in a month other than the month in which the Participant attains the specified Age, the percentage shall be determined based on straight line interpolation.

- (ii) the amount of any benefits provided to the surviving spouse pursuant to Section 7.01 attributable to the Employee's Special Grandfathered Benefit.

## ARTICLE VIII

### BENEFITS UPON TERMINATION FROM SERVICE

- 8.01 In General. In the event that a Participant shall terminate from service with the Employer for any reason other than death, his becoming Totally Disabled (as described in Section 6.05) or Normal, Early or Late Retirement, the interests and rights of such Participant shall be limited to those contained in this Article.
- 8.02 Termination Benefits. Upon any termination of service described in Section 8.01, a Participant shall be entitled to a benefit under Part I of the Plan, payable at his or her Normal Retirement Date, equal to the vesting percentage specified below of the Participant's Accrued Benefit. The automatic form of benefit shall be a Qualified Joint and Survivor Annuity, with the survivor to receive 100% of the benefit which had been payable during their joint lives, if the Participant is married at the time of commencement of benefits, or a single life annuity if the Participant is not married at the time of commencement. With spousal consent, the Participant may elect to have his or her benefit paid in any of the optional forms described in Section 6.06. The amount of any annuity attributable to a Participant's vested Account Balance shall be the Actuarial Equivalent of such vested Account Balance.

Vesting Percentages

- (a) With respect to the portion of the Accrued Benefit attributable to such Participant's Grandfathered Benefit, if any:

<u>Completed Years of Service</u>	<u>Nonforfeitable Percentage</u>
Less than 5	0
5 or more	100

- (b) With respect to the portion of the Accrued Benefit attributable to such Participant's Projected Account Balance:

<u>Completed Years of Service</u>	<u>Nonforfeitable Percentage</u>
Less than 2	0
2	25
3	50
4	75
5 or more	100

- (c) Notwithstanding the above, if the Plan is a Top Heavy Plan, then the Plan shall meet the following vesting requirements for such Plan Year and for all subsequent Plan Years, even if the Plan is not a Top Heavy Plan for such subsequent Plan Years.

<u>Completed Years of Service</u>	<u>Nonforfeitable Percentage</u>
Less than 2	0
2	25
3	50
4	75
5 or more	100

- (d) Notwithstanding anything in Part I of the Plan to the contrary, effective on August 17, 2006, for those Participants employed by the Employer on or after such date, such Participants shall be 25% vested in their Account Balance, as defined in Section 4.01, upon completion of two (2) Years of Service and 100% vested in their Accrued Benefit, as described in Section 2.01, upon completion of three (3) Years of Service.

For purposes of this Article, “**Years of Service**” means Plan Years during which an Employee was credited with at least 1,000 Hours of Service.

Notwithstanding the foregoing, a Participant who is entitled to a deferred Normal Retirement Benefit may elect to receive his or her vested Account Balance on the Determination Date in a single lump sum. In addition, if a Participant makes an election described in the immediately preceding sentence and if the present value of the portion of the vested Accrued Benefit attributable to such Participant’s vested Grandfathered Benefit does not exceed \$5,000, the Participant may elect to receive such portion of his or her vested Accrued Benefit attributable to the Grandfathered Benefit in a lump sum. Any such Participant may elect to receive either such lump sum at any time after separation from service and, in the case of a single lump sum distribution of his or her vested Account Balance, must receive such benefit no later than the time at which benefits attributable to the Participant’s Grandfathered Benefit, if any, commence. Any such election shall be subject to spousal consent in the case of a married Participant. Any spousal consent must satisfy the requirement of Section 6.07.

Notwithstanding anything in Part I of the Plan to the contrary except Section 6.10, effective for involuntary cashouts paid after December 1, 2012, a Former Participant (other than a Former Participant who is a participant in The Hanover Excess Benefit Retirement Plan) who is not an Employee of the Employer or an Affiliate will be paid the present value of his or her vested Accrued Benefit on the Determination Date in an immediate lump sum if the present value of his or her vested Accrued Benefit, if any, on the Determination Date does not exceed \$5,000. Consent to this involuntary cashout by the Former Participant will not be required, and spousal consent to this involuntary cashout will not be required in the case of a married Former Participant.

Notwithstanding anything in Part I of the Plan to the contrary, an actively employed Participant’s Accrued Benefit shall become 100% vested and non-forfeitable upon the earliest of (i) the date of such Participant’s death; (ii) the date such a Participant becomes Totally Disabled (within the meaning of Section 6.05); or (iii) the date such a Participant attains his or her Normal Retirement Age.

Any distributions under this Article shall be subject to the requirements of Sections 6.06 and 6.07, including the requirement that a Participant shall be eligible to receive any form of distribution provided under Section 6.06 at such time as he or she is eligible to receive his or her vested Account Balance in a lump sum, except to the extent expressly provided otherwise in this Section.

- 8.03 Forfeitures. The non-vested portion of a Participant’s Accrued Benefit shall be treated as a forfeiture when the Participant or his or her spouse (or surviving spouse) receives a distribution of the present value of his or her vested Accrued Benefit, pursuant to Section 8.02, and the Participant’s service attributable to such distribution shall be disregarded as provided in Section 8.07. For purposes of this Section, if the present value of a Participant’s vested Accrued Benefit is zero, the Participant shall be deemed to have received a distribution of such vested Accrued Benefit.

In the case of a partially vested terminated Participant who does not receive a distribution pursuant to the above paragraph, the value of the nonvested portion of his Accrued Benefit shall be treated as a forfeiture at the end of the Plan Year in which the Participant incurs a One Year Break in Service until the Participant has completed one Year of Service after he has been re-employed.

Forfeitures will be used to reduce (i) Employer contributions for the Plan Year following the Plan Year in which the forfeiture occurs; and or (ii) the Employer's costs under the Plan.

- 8.04 Resumption of Service. A Participant who terminates his or her participation in Part I of the Plan and who subsequently resumes service with the Employer will again become a Participant on the entry date determined in accordance with Section 3.01(b).
- 8.05 Service with Affiliates. As provided in Section 2.23, in determining a Participant's vesting percentage, Hours of Service completed with an Affiliate or as a Career Agent or General Agent of First Allmerica shall be deemed to be Hours of Service completed with the Employer.
- 8.06 Distribution of Benefits. On the Former Participant's Normal Retirement Date, benefits to which he or she is entitled pursuant to this Article shall be distributed in accordance with Article VI.

If a Former Participant entitled to a deferred benefit pursuant to this Article VIII dies prior to his or her Normal Retirement Date, the death benefit, if any, to which he or she is entitled shall be as is specified in Article VII.

- 8.07 Cashout Repayment Option.
- (a) Notwithstanding anything in this Article or in Section 2.01 to the contrary, unless a repayment has been made in accordance with Section 8.07(b) below, in determining a partially vested Employee's Grandfathered Benefit (or, in the case of a Top Heavy Plan, the minimum benefit for Non-Key Employees described in Section 2.01(b)) after a resumption of participation, periods of service with respect to which the Employee received a distribution of the present value of his or her vested Accrued Benefit shall be disregarded.

- (b) In the case of the distribution of the present value of a Participant's or Former Participant's vested Accrued Benefit in accordance with Sections 6.06 or 8.02, the Participant's Accrued Benefit described in Sections 2.01(a) and (b) (including all optional forms of benefits and subsidies relating to such benefits) shall be restored if he or she is subsequently an Employee and repays the amount distributed plus interest, if applicable, compounded annually from the date of distribution at the rate of five percent. In determining the amount of any required repayment, interest shall be charged on the portion of any distribution attributable to a Participant's Grandfathered Benefit, if any or, in the case of a Top Heavy Plan, on the portion of any distribution that is a minimum benefit for Non-Key Employees described in Section 2.01(b). No interest shall be payable with respect to the portion of a Participant's distribution attributable to his or her Account Balance. Such repayment must be made by the Employee before the earlier of five years after the first date on which the Employee is subsequently reemployed by the Employer, or the date the Employee incurs five consecutive One Year Breaks in Service following the date of distribution.

If an Employee is deemed to receive a distribution pursuant to this Article, and the Employee resumes employment covered under this Plan before the date the Participant incurs five consecutive One-Year Breaks in Service, upon the reemployment of such Employee, the Employer-derived Accrued Benefit will be restored to the amount of such Accrued Benefit on the date of the deemed distribution.

- 8.08 Early Retirement Election. Any Participant who terminates service after having completed at least fifteen Years of Service may elect to retire on the first day of any month following his or her 55th birthday, as described in Section 6.02.
- 8.09 Amendment to Vesting Schedule. If the Vesting Schedule of the Plan is amended, or the Plan is amended in any way that directly or indirectly affects the computation of a Participant's nonforfeitable percentage, or if the Plan is deemed amended by an automatic change to or from a top-heavy vesting schedule, each Participant with at least three Years of Service with the Employer may elect, within a reasonable period after the adoption of the amendment or change, to have their nonforfeitable percentage computed under the Plan without regard to such amendment or change. The period during which the election may be made shall commence with the date the amendment is adopted or deemed to be made and shall end on the latest of:
- (i) 60 days after the amendment is adopted;
  - (ii) 60 days after the amendment becomes effective; or
  - (iii) 60 days after the Participant is issued written notice of the amendment by the Employer or Plan Administrator.

EXHIBIT A - ADJUSTMENT FACTORS FOR OPTIONAL GRANDFATHERED BENEFITS

Factors for ages not illustrated on the following tables will be computed on an actuarial basis consistent with that used to compute the factors shown.

JOINT AND SURVIVOR OPTION PERCENTAGES

(Applicable only if the Participant's age, nearest birthday, on the date monthly income commences is 65).

Age Nearest Birthday of Joint Annuitant on the Date Monthly Income Commences to the Participant	Percentage of the Adjusted Grandfathered Retirement Annuity Payments which are to be Continued to the Surviving <u>Joint Annuitant</u>		
	<u>100%</u>	<u>66 2/3%</u>	<u>50%</u>
50	80.3%	87.1%	90.9%
51	80.7	87.5	91.3
52	81.1	87.9	91.8
53	81.5	88.4	92.2
54	82.0	88.8	92.7
55	82.4	89.3	93.2
56	82.9	89.8	93.8
57	83.3	90.3	94.3
58	83.8	90.9	94.9
59	84.3	91.4	95.5
60	84.8	92.0	96.1
61	85.3	92.7	96.8
62	85.9	93.3	97.5
63	86.4	94.0	98.3
64	86.9	94.7	99.1
65	87.5	95.4	100.0
66	88.0	96.2	100.0
67	88.6	97.0	101.9
68	89.1	97.9	102.9
69	89.6	98.7	104.0
70	90.2	99.6	105.1

1983 Group Annuity Table with Projection H, with mortality rates based on calendar year of birth of 1930 and interest at the rate of 7% per annum.

Life Ann/Opt.

CONTINGENT ANNUITANT OPTION PERCENTAGES

(Applicable only if the Participant's age, nearest birthday, on the date monthly income commences is 65).

Age Nearest Birthday of Contingent Annuitant on the Date Monthly Income Commences to the Participant	Percentage of the Adjusted Grandfathered Retirement Annuity Payments which are to be Continued to the Surviving <u>Contingent Annuitant</u>		
	<u>100%</u>	<u>66 2/3%</u>	<u>50%</u>
50	80.3%	85.9%	89.0%
51	80.7	86.2	89.3
52	81.1	86.5	89.6
53	81.5	86.9	89.8
54	82.0	87.2	90.1
55	82.4	87.5	90.4
56	82.9	87.9	90.6
57	83.3	88.2	90.9
58	83.8	88.6	91.2
59	84.3	89.0	91.5
60	84.8	89.3	91.8
61	85.3	89.7	92.1
62	85.9	90.1	92.4
63	86.4	90.5	92.7
64	86.9	90.9	93.0
65	87.5	91.3	93.3
66	88.0	91.7	93.6
67	88.6	92.1	93.9
68	89.1	92.5	94.2
69	89.6	92.9	94.5
70	90.2	93.2	94.8

1983 Group Annuity Table with Projection H, with mortality rates based on calendar year of birth of 1930 and interest at the rate of 7% per annum.

Life Ann/Opt.

ANNUITY OPTION ADJUSTMENT PERCENTAGES

Percentages to be applied (to the monthly benefit which would be payable to the Participant on his or her Retirement Date if no Optional Form of Annuity were in effect) to determine the monthly income benefit commencing on the Participant's Retirement Date if one of the following options is in effect.

<u>Age Nearest Birthday on the Date Monthly Income Commences</u>	<u>Annuity Option for Grandfathered Benefit</u>			
	<u>5C&amp;C</u>	<u>10C&amp;C</u>	<u>15C&amp;C</u>	<u>20C&amp;C</u>
50	99.8%	99.2%	98.3%	97.2%
51	99.8	99.1	98.1	96.9
52	99.7	99.0	97.9	96.6
53	99.7	98.9	97.7	96.3
54	99.7	98.8	97.5	96.0
55	99.6	98.6	97.3	95.6
56	99.6	98.5	97.0	95.2
57	99.6	98.4	96.8	94.8
58	99.5	98.3	96.5	94.3
59	99.5	98.1	96.2	93.8
60	99.4	98.0	95.9	93.3
61	99.4	97.8	95.5	92.7
62	99.3	97.6	95.0	92.0
63	99.3	97.3	94.5	91.2
64	99.2	97.1	94.0	90.4
65	99.1	96.7	93.3	89.5
66	99.0	96.4	92.6	88.5
67	98.9	95.9	91.8	87.4
68	98.8	95.4	91.0	86.2
69	98.6	94.9	90.0	84.9
70	98.4	94.3	89.0	83.5

1983 Group Annuity Table with Projection H, with mortality rates based on calendar year of birth of 1930 and interest at the rate of 7% per annum.

Life Ann/Opt.

**THE HANOVER INSURANCE GROUP CASH BALANCE  
PENSION PLAN**

**PART II**

**(As amended and restated generally effective January 1, 2016)**

**THE HANOVER INSURANCE GROUP CASH BALANCE  
PENSION PLAN**

**PART II**

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## ARTICLE I

### NAME, PURPOSE AND EFFECTIVE DATE OF PLAN

- 1.01 General Statement. The Hanover Insurance Group Cash Balance Pension Plan (the “**Plan**”) consists of three parts, Part I, Part II and Part III. Part I of the Plan provides a cash balance and pension benefit, which was formerly provided under a plan known as “The Allmerica Financial Cash Balance Pension Plan”. Part II of the Plan provides a pension benefit, which was formerly provided under a plan known as “The Allmerica Financial Agents’ Pension Plan”. Part III of the Plan contains provisions applicable to each of Part I and Part II.

The provisions of Part III of the Plan shall override any provision of Part II of the Plan as provided in Part III of the Plan.

The benefits payable to eligible Participants under Part II of the Plan are governed by the terms and conditions of Part II of the Plan and Part III of the Plan. Terms used in this Part II of the Plan are defined in Part I of the Plan, except as otherwise specifically provided in this Part II of the Plan.

- 1.02 Name of Plan. The prior version of this Part II of the Plan, known as The Allmerica Financial Agents’ Pension Plan, was generally effective January 1, 1999 (except for those provisions of the Plan which had an alternative effective date). The effective date of the prior version of this Part II of the Plan (the “Prior Agents’ Plan”) was January 1, 1971. Effective January 1, 1992, the Prior Agents’ Plan was merged with and became a part of The Allmerica Financial Cash Balance Pension Plan, formerly known as The State Mutual Companies’ Pension Plan. Thus, the Prior Agents’ Pension Plan became Part II of The Hanover Insurance Group Cash Balance Pension Plan. On December 31, 2007, First Allmerica did not employ any person who was eligible to participate or was actively participating in The Allmerica Financial Agents’ Pension Plan. Effective January 1, 2008, First Allmerica transferred sponsorship of, and the liabilities and obligations associated with, The Hanover Insurance Group Cash Balance Plan (including The Allmerica Financial Agents’ Pension Plan) to Hanover, and Hanover agreed to assume sponsorship of, and the liabilities and obligations associated with, The Hanover Insurance Group Cash Balance Pension Plan as of such date.

- 1.03 Purpose. This Part II of the Plan has been established for the exclusive benefit of Participants and their Beneficiaries and as far as possible shall be interpreted and administered in a manner consistent with this intent and consistent with the requirements of Section 401 of the Internal Revenue Code.

Subject to Article IV of Part III of the Plan and to Section 10.04 of Part III of the Plan, which relates to the return of Employer contributions under special circumstances, until such time as the Plan has been terminated and all Plan liabilities have been satisfied, under no circumstances shall any assets of the Plan, or any contributions made under the Plan, be used for, or diverted to, purposes other than for the exclusive benefit of the

Participants and their Beneficiaries and to defray reasonable expenses incurred in the administration of the Plan.

- 1.04 Restated Plan Effective Date. The effective date of this amended and restated Part II of the Plan is January 1, 2016 (except for those provisions of this Part II of the Plan which have an expressly stated alternative effective date). Except to the extent otherwise specifically provided in this Part II of the Plan, (i) the terms and conditions of this amended and restated Part II of the Plan shall apply only to those eligible Employees actively employed by the Employer (or to those eligible Career Agents with a Career Agent Contract in force) on or after January 1, 2016. The rights and benefits of any Participant whose employment with the Employer terminated (or whose Career Agent Contract terminated) prior to January 1, 2016 shall be determined in accordance with the provisions of this Part II of the Plan as were in effect during the appropriate time or times prior to January 1, 2016; provided, however, that if the Accrued Benefit of any such Participant has not been completely distributed before January 1, 2016, then such Accrued Benefit shall be accounted for and distributed in accordance with the provisions of this version of Part II of the Plan, but only to the extent that any such provision is not inconsistent with Part III of the Plan and subject to the requirements of applicable law and as otherwise specifically provided herein.

## ARTICLE II

### DEFINITIONS

All section and article references in this Part II are to section and article references in this Part II, except as otherwise expressly provided.

Except to the extent a word or phrase is specifically defined in this Part II of the Plan, the words and phrases used in this Part II of the Plan shall have the meanings set forth in Part I of the Plan, unless a different meaning is clearly required by the context or is otherwise provided in Part III of the Plan.

2.01 **“Accrued Benefit”:**

- (a) means, except as provided in Section 2.01(c) or Section 2.01(d) below, the sum of a Participant’s frozen Grandfathered Benefit (accrued during Years of Credited Service completed prior to January 1, 1999) and the defined benefit credited to eligible Participants in accordance with Section 5.01 attributable to Years of Credited Service completed by the Participant after December 31, 1998.

(b) No Employee contributions shall be required or permitted for Plan Years beginning after December 31, 1988. The portion of a Participant's Accrued Benefit derived from required Employee contributions made on or after January 1, 1971 and prior to January 1, 1989 will be determined in accordance with the rules set forth below:

- (i) STEP ONE - Determine the total amount of such contributions made by a Participant as a condition of participation in Part II of the Plan;
- (ii) STEP TWO - Add to the amount in Step One interest required by the terms of Part II of the Plan to be credited to such contributions up to the Plan's ERISA compliance date;
- (iii) STEP THREE - Add to the sum of the amounts determined in Steps One and Two interest compounded annually at the rate of 5% from the Plan's ERISA compliance date or the date the Participant began participation in Part II of the Plan, whichever is later, to the end of the last Plan Year beginning before January 1, 1988 or the Participant's Normal Retirement Date, whichever is earlier.
- (iv) STEP FOUR - Add to the sum of the amounts determined in Steps One, Two and Three interest compounded annually -
  - (A) at the rate of 120 percent of the Federal mid-term rate (as in effect under Code Section 1274 for the first month of the Plan Year) from the beginning of the first Plan Year beginning after December 31, 1987, and ending with the date on which the determination is being made, and
  - (B) at the interest rate which would be used under Part II of the Plan under Code Section 417(e)(3) (as of the determination date) for the period beginning with the determination date and ending on the date on which the Employee attains his Normal Retirement Date.

Notwithstanding the foregoing, for Plan Years beginning after December 31, 1998, the interest rate credited in Step Four (A) shall not be less than 5%.

- (v) STEP FIVE - The amount in Step Four will be converted into the normal form of benefit using the interest rate that would be used under Part II of the Plan under Code Section 417(e)(3).

The portion of a Participant's Accrued Benefit derived from Employee contributions made prior to January 1, 1971 shall be equal to the total amount of such contributions made by a Participant, plus interest credited thereon. For Plan Years beginning prior to January 1, 1999, interest on such contributions shall be credited at the rate or rates in effect for each Plan Year under the terms of Part II of the Plan as in effect on December

31, 1998. For Plan Years beginning after December 31, 1998, interest on such contributions shall be credited as provided in Steps Four and Five above.

The portion of the Accrued Benefit described in Section 2.01(a) derived from Employer contributions as of any date is equal to such total Accrued Benefit less the portion derived from Employee contributions.

At all times the portion of a Participant's Accrued Benefit attributable to mandatory Employee contributions shall be 100% vested and nonforfeitable.

- (c) means, with respect to the minimum benefit for Non-Key Employee Participants in a Top Heavy Plan, the sum of such benefits earned by the Participant, which benefits are payable at the Participant's Normal Retirement Date and are described in Section 2.03 of Part III of the Plan.
- (d)
  - (i) Notwithstanding anything in Sections 2.01(a), (b) or (c) to the contrary, unless a repayment has been made in accordance with the rules set forth in Section 2.01(d)(ii) below, in determining the portion of an Employee's Accrued Benefit derived from Employer Contributions upon a resumption of participation, periods of service with respect to which the Employee received a distribution of the present value of his vested Accrued Benefit shall be disregarded.
  - (ii) In the case of an election of Option 2 described in Section 7.02 or in the case of an involuntary cash-out of the present value of an Employee's Accrued Benefit in accordance with such Section, the Employee's Accrued Benefit described in Sections 2.01(a), (b) and (c) (including all optional forms of benefits and subsidies relating to such benefits) shall be restored if the Employee repays the amount distributed plus interest, compounded annually from the date of distribution at the rate of 5 percent. Such repayment must be made by the Employee before the earlier of five years after the first date on which the Employee is subsequently reemployed by the Employer, or the date the Employee incurs five consecutive One Year Breaks in Service following the date of distribution; provided, however, that there shall be no right of repayment if the Employee was 100% vested on the date of his termination of participation.

Notwithstanding anything in Part II of the Plan to the contrary, for Plan Years beginning before Code Section 411 is applicable hereto, the Participant's Accrued Benefit shall be the greater of that provided by Part II of the Plan, or ½ of the benefit which would have accrued had the provisions of this Section 2.01 been in effect. In the event the Accrued Benefit as of the effective date of Code Section 411 is less than that provided hereunder, such difference shall be accrued in accordance with this Section.

2.02 “**Actuarial Equivalent**” means a benefit having the same value as the benefit or benefits otherwise payable. Except as otherwise provided in this Section, the present value of any benefit determined under the terms of Part II of the Plan will be the actuarial equivalent of the no-death benefit life annuity retirement benefit specified in Section 5.01.

Actuarial Equivalent life annuity settlements of optional life annuity Top Heavy Plan benefits will be computed utilizing (i) the Code Section 417 Mortality Table for determining the amount payable to a Participant having an annuity starting date on or after January 1, 2004, and (ii) the Code Section 417 Interest Rate for determining the amount payable to a Participant having an annuity starting date from January 1, 2004 through December 31, 2007, and the Code Section 417 Applicable Interest Rate for determining the amount payable to a Participant having an annuity starting date on or after January 1, 2008.

Optional life annuity benefits will be computed on the basis of the 1983 Group Annuity Table with Projection H, with mortality rates based on calendar year of birth of 1930 and interest at the rate of 7% per annum. Adjustment factors used to determine optional forms of life annuity benefits are included in Exhibit A, attached hereto and made a part of Part II of the Plan. Adjustment factors for optional life annuity benefits not illustrated will be computed on an actuarial basis consistent with that used in computing the factors shown in Exhibit A.

The present value of any Plan benefit and the amount of any cash distribution shall be determined on the basis of (i) the mortality rates specified above and an interest rate of 7% per annum or (ii) the Code Section 417 Mortality Table and the Code Section 417 Interest Rate (or for determining the amount payable to a Participant having an annuity starting date on and after January 1, 2008, the Code Section 417 Applicable Interest Rate), whichever produces the greater benefit.

The preceding paragraphs shall not apply to the extent they would cause the Plan to fail to satisfy the requirements of Article IV of Part III of the Plan or Section 2.03 of Part III of the Plan.

For purposes of Part II of the Plan,

- (a) the “**Code Section 417 Mortality Table**” means the applicable mortality table prescribed by the Secretary of the Treasury pursuant to Code Section 417(e)(3), as in effect from time to time; provided, however, that notwithstanding the preceding provisions of this paragraph, for distributions commencing on or after December 31, 2002 and prior to January 1, 2008, the Code Section 417 Mortality Table means the Table set forth in Revenue Ruling 2001-62 and for purposes of determining the amount payable to a Participant with an annuity starting date on or after January 1, 2008, the Code Section 417 Mortality Table means the Table set forth in Revenue Ruling 2007-67 or such other Table as may be prescribed by the Secretary of the Treasury pursuant to Code Section 417(e)(3);

- (b) for periods beginning on and after January 1, 2004, the “**Code Section 417 Interest Rate**” means, for the Plan Year which contains the annuity starting date for the distribution, the annual rate of interest on a 30-year Treasury securities in effect for the second month immediately preceding the first day of the Plan Year (*e.g.*, November 2006 for the 2007 Plan Year); and
- (c) for periods beginning on and after January 1, 2008, the “**Code Section 417 Applicable Interest Rate**” means, for the Plan Year which contains the annuity starting date for the distribution, the applicable interest rate described by Code Section 417(e) after its amendment by the Pension Protection Act of 2006, which rate more specifically shall be the adjusted first, second, and third segment rates applied under rules similar to the rules of Code Section 430(h)(2)(C) (without considering any adjustment under Code Section 430(h)(2)(C)(iv)) for the lookback month used to determine the previously applicable interest rate on 30-year Treasury securities (*e.g.*, November 2009 for the 2010 Plan Year) or for such other time as the Secretary of the Treasury may by regulations prescribe.
- (d) For purposes of determining the Code Section 417 Applicable Interest Rate, the first, second, and third segment rates are the first, second, and third segment rates which would be determined under Code Section 430(h)(2)(C) (without considering any adjustment under Code Section 430(h)(2)(C)(iv)) if:
  - (i) Code Section 430(h)(2)(D) were applied by substituting the average yields for the month described in clause (ii) below for the average yields for the 24-month period described in such Code section, and
  - (ii) Code Section 430(h)(2)(G)(i)(II) were applied by substituting “Section 417(e)(3)(A)(ii)(II) for “Section 412(b)(5)(B)(ii)(II)”, and
  - (iii) The applicable percentage under Code section 430(h)(2)(G) is treated as being 20% in 2008, 40% in 2009, 60% in 2010, and 80% in 2011.

2.03 “**Compensation**” means:

- (a) For purposes of determining a Participant’s Normal Retirement Benefit specified in Section 5.01, a Participant’s total calendar year compensation paid (or deferred pursuant to an unfunded, non-qualified deferred payment arrangement) on and after the date he becomes a Participant and while he remains in an eligible class of Employees for (i) and (ii) below:
  - (i) services performed in connection with the sale and service of products of First Allmerica Financial Life Insurance Company.
  - (ii) services performed in connection with the sale and service of products of Allmerica Financial Life Insurance and Annuity Company.

Compensation shall also mean and include:

- (iii) commissions paid to the Participant by Allmerica Investments, Inc., and
- (iv) compensation which is not currently includable in the Participant's gross income by reason of the application of Code Sections 125, 402(e)(3) or 132(f)(4).

Notwithstanding the foregoing, for purposes of Section 2.03(a), renewal commissions received which are attributable to business sold prior to the date the Employee became a Career Agent or General Agent of the Employer shall be excluded.

- (b) For purposes of Section 2.03 of Part III of the Plan and for purposes of Article IV of Part III of the Plan, the term "**Compensation**" means a Participant's earned income, wages, salaries, fees for professional services and other amounts received (without regard to whether or not an amount is paid in cash) for personal services actually rendered in the course of employment with the Employer maintaining the plan to the extent that the amounts are includible in gross income (including, but not limited to, commissions paid salesmen, compensation for services on the basis of a percentage of profits, commissions on insurance premiums, tips, bonuses, fringe benefits, and reimbursements or other expense allowances under a nonaccountable plan (as described in Section 1.62-2(c) of the Treasury Regulations), and excluding the following:
  - (i) Employer contributions to a plan of deferred compensation which are not includible in the Employee's gross income for the taxable year in which contributed, or Employer contributions under a simplified employee pension plan to the extent such contributions are deductible by the employee, or any distributions from a plan of deferred compensation;
  - (ii) Amounts realized from the exercise of a non-qualified stock option, or when restricted stock (or property) held by the Employee either becomes freely transferable or is no longer subject to a substantial risk of forfeiture;
  - (iii) Amounts realized from the sale, exchange or other disposition of stock acquired under a qualified stock option; and
  - (iv) Other amounts which received special tax benefits.

For Plan Years commencing after December 31, 1997, Compensation for purposes of Section 2.03 of Part III of the Plan and Article IV of Part III of the Plan shall also include Employee elective deferrals under Code Section 402(g)(3), amounts contributed or deferred by the Employer at the election of the Employee and not includable in the gross income of the Employee by reason of Code Section 125, and elective amounts that are not includable in the gross income of the Employee by reason of Code Section 132(f)(4).

- (c) Notwithstanding Sections 2.03(a) and (b) above, for Plan Years beginning on or after January 1, 1994 and prior to January 1, 2002, the annual Compensation of each Participant taken into account for determining all benefits provided under Part II of the Plan for any determination period shall not exceed \$150,000. This limitation shall be adjusted for inflation by the Secretary under Code Section 401(a)(17)(B) in multiples of \$10,000 by applying an inflation adjustment factor and rounding the result down to the next multiple of \$10,000 (increases of less than \$10,000 are disregarded). The cost-of-living adjustment in effect for a calendar year applies to any period, not exceeding 12 months, over which Compensation is determined beginning in such calendar year. If Compensation is being determined over a period of time that contains fewer than 12 calendar months, then the annual Compensation limit is an amount equal to the annual Compensation limit for the calendar year in which the Compensation period begins multiplied by the ratio obtained by dividing the number of full months in the period by 12.

If Compensation for any prior determination period is taken into account in determining a Participant's benefits for the current Plan Year, the Compensation for such prior determination period is subject to the applicable annual Compensation limit in effect for that prior period. For this purpose, in determining benefits in Plan Years beginning on or after January 1, 1989, the annual compensation limit in effect for determination periods beginning before that date is \$200,000. In addition, in determining benefits in Plan Years beginning on or after January 1, 1994, the annual Compensation limit in effect for determination periods beginning before that date is \$150,000.

- (d) Notwithstanding the foregoing, the annual Compensation of each Participant taken into account in determining benefit accruals in any Plan Year beginning after December 31, 2001, shall not exceed \$200,000. Annual Compensation means Compensation during the Plan Year or such other consecutive 12-month period over which Compensation is otherwise determined under Part II of the Plan (the "**determination period**"). For purposes of determining benefit accruals in a Plan Year beginning after December 31, 2001, the annual Compensation for any prior determination period shall be limited to \$200,000.

The \$200,000 limit on annual Compensation for determination periods beginning after December 31, 2001 shall be adjusted for cost-of-living increases in accordance with Code Section 401(a)(17)(B). The cost-of-living adjustment in effect for a calendar year applies to annual Compensation for the determination period that begins with or within such calendar year.

- 2.04 "**Career Agent Contract**" means that form of contract between a life insurance agent and the Employer whereby the agent agrees to sell insurance and annuity policies on a full-time basis.

2.05 **“Credited Interest”** means interest utilized in determining the minimum death benefit specified in Section 6.02. Such interest shall be at the rate determined in accordance with the Group Annuity Contract, but not less than 3% per annum compounded annually from the January 1st next following the date such contributions were made to the first day of the month as of which the Credited Interest is being determined for periods prior to January 1, 1976, plus 5% per annum compounded annually for periods beginning on or after January 1, 1976 and prior to January 1, 1988, plus the greater of (i) 5% per annum compounded annually or (ii) the interest rate which would be credited under Part II of the Plan under Step Four (A) of Section 2.01(b) for periods beginning on or after January 1, 1988.

2.06 **“Credited Service”**

- (a) Except as provided in Section 2.06(c) and except for Hours of Service excluded under Sections 2.12(b), (c), and (g), Credited Service means and shall include all Hours of Service completed with the Employer on and after the date the Employee becomes a Participant in Part II of the Plan, completed while the Participant remains in an eligible class of Employees.
- (b) A Participant shall receive a year of Credited Service for each Plan Year in which he is credited with 1,000 or more Hours of Service with the Employer.

Additionally, for Plan Years beginning after 1998, a Participant shall receive a Year of Credited Service for the Plan Year he retires or dies, and a Former Participant shall receive a Year of Credited Service for the Year he again becomes a Participant upon a rehire, in each case regardless of the number of Hours of Service completed in such Year. In no event will a Participant receive more than one Year of Credited Service for any one Plan Year.

- (c) Notwithstanding anything in this Section to the contrary, Credited Service shall not include periods of service with respect to which any Employee has received a distribution described in Section 2.01(d) unless a repayment has been made pursuant to the rules set forth in paragraph (ii) of such Section.
- (d) For purposes only of determining a Participant’s eligibility for the Disability Benefit specified in Section 5.04, the following periods of service shall be counted:
  - (i) periods of prior service with an Affiliate during which he was a participant in a qualified pension or profit sharing plan sponsored by the Affiliate;
  - (ii) periods of prior service with the Employer in a position in which he was not eligible to participate in this Plan during which he was a participant in another qualified pension or profit sharing plan sponsored by the Employer; and

- (iii) the number of full years and completed months during which a General Agent or former General Agent made contributions under Part II of his General Agent's Contract.
- 2.07 **"Employee"** means any General Agent or life insurance agent who is a common-law employee of the Company or any life insurance agent who holds a Career Agent's Contract with the Employer.
- 2.08 **"Employee Contributions"** means contributions made by a Participant prior to January 1, 1989 as a condition of participation in Part II of the Plan.
- 2.09 **"Employer"** means First Allmerica; provided that on and after January 1, 2008, the term "Employer" shall also mean the Plan Sponsor.
- 2.10 **"General Agent"** means an agent of the Company whose relationship is determined by a General Agent's Agreement wherein the General Agent is required to devote his full-time business activities in the hiring, supervision and management of life insurance agents who sell, administer and service the policies and contracts of the Employer.
- 2.11 **"Grandfathered Benefit"** means the frozen monthly retirement benefit payable as a single life annuity to a Participant on his Normal Retirement Date, calculated in accordance with the benefit formulas set forth in Section 5.01, and if applicable, Section 2.03 of Part III of the Plan, as in effect on December 31, 1998. Such benefit shall be calculated based on the Participant's Average Compensation, Final Average Compensation, Credited Service, and the amount of benefit offset as determined by applying Section 5.06, each determined as of December 31, 1998, based on the provisions of Part II of the Plan in effect on such date.
- 2.12 **"Hour of Service"** means:
  - (a) Each hour for which an Employee is paid, or entitled to payment, for the performance of duties for the Employer. For purposes of Part II of the Plan, a Career Agent shall be credited with 45 Hours of Service for each complete or partial week his Career Agent's Contract remains in force, and a General Agent or life insurance agent who is a common-law employee shall be credited with 45 Hours of Service for each complete or partial week he performs duties for the Employer.
  - (b) Each hour for which the Employee is paid, or entitled to payment, by the Employer on account of a period of time during which no duties are performed (irrespective of whether the employment relationship has terminated) due to vacation, holiday, illness, incapacity (including disability), layoff, jury duty, military duty or leave of absence. Notwithstanding the preceding sentence:
    - (i) Except in the case of a Participant who is eligible for the Disability Benefit specified in Section 5.04, no more than 1,000 Hours shall be credited to an Employee under this Section 2.12(b) on account of any

single continuous period during which the Employee performs no duties (whether or not such period occurs in a single computation period);

- (ii) No hours shall be credited under this Section 2.12(b) for any payments made or due under a plan maintained solely for the purpose of complying with any applicable workers' compensation, unemployment compensation or disability insurance laws; and
- (iii) No hours shall be credited under this Section 2.12(b) for a payment which solely reimburses an Employee for medical or medically related expenses incurred by the Employee.

For purposes of this Section 2.12(b), a payment shall be deemed to be made by or due from the Employer regardless of whether such payment is made by or due from the Employer directly, or indirectly through, among others, a trust fund or insurer, to which the Employer contributes or pays premiums.

- (c) Each hour for which back pay, irrespective of mitigation of damages, is either awarded or agreed to by the Employer. The same Hours of Service shall not be both credited under Section 2.12(a) or Section 2.12(b), as the case may be, and under this Section 2.12(c). No more than 501 Hours shall be credited under this Section 2.12(c) for a period of time during which an Employee did not or would not have performed duties.
- (d) Special rules for determining Hours of Service for reasons other than the performance of duties. In the case of a payment which is made or due which results in the crediting of Hours of Service under Section 2.12(b) or in the case of an award or agreement for back pay, to the extent that such an award or agreement is made with respect to a period during which an Employee performs no duties, the number of Hours of Service to be credited shall be determined as follows:
  - (i) In the case of a payment made or due which is calculated on the basis of units of time (such as hours, days, weeks or months), the number of Hours of Service to be credited shall be determined as provided in Section 2.12(a).
  - (ii) Except as provided in Section 2.12(d)(iii), in the case of a payment made or due which is not calculated on the basis of units of time, the number of Hours of Service to be credited shall be equal to the amount of the payment divided by the Employee's most recent hourly rate of compensation (as determined below) before the period during which no duties are performed.
    - (A) In the case of General Agents, the hourly rate of compensation shall be the Employee's most recent rate of semi-monthly compensation divided by 80.

- (B) In the case of life insurance agents, the hourly rate of compensation shall be the minimum wage as established from time to time under Section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended.
- (iii) Rule against double credit. An Employee shall not be credited on account of a period during which no duties are performed with more hours than such Employee would have been credited but for such absence.
- (e) Crediting of Hours of Service to computation periods.
  - (i) Hours of Service described in Section 2.12(a) shall be credited to the Employee for the computation period or periods in which the duties are performed.
  - (ii) Hours of Service described in Section 2.12(b) shall be credited as follows:
    - (A) Hours of Service credited to an Employee on account of a payment which is calculated on the basis of units of time (such as hours, days, weeks or months) shall be credited to the computation period or periods in which the period during which no duties are performed occurs, beginning with the first unit of time to which the payment relates.
    - (B) Hours of Service credited to an Employee by reason of a payment which is not calculated on the basis of units of time shall be credited to the computation period in which the period during which no duties are performed occurs, or if the period during which no duties are performed extends beyond one computation period, such Hours of Service shall be allocated between not more than the first two computation periods in accordance with reasonable rules established by the Employer, which rules shall be consistently applied with respect to all Employees within the same job classification, reasonably defined.
  - (iii) Hours of Service described in Section 2.12(c) shall be credited to the computation period or periods to which the award or agreement for back pay pertains, rather than to the computation period in which the award, agreement or payment is made.
- (f) For purposes of Article III, determining eligibility for early retirement (Section 5.02) and Article VII, Hours of Service shall also include Hours of Service determined in accordance with the rules set forth in this Section 2.12 and which would not have been excluded if such Service had been performed with the Employer, completed prior or subsequent to the Employee's commencement of service with the Employer, completed with an Affiliate, as a General Agent or with the Employer in a position in which he was not eligible to participate in this Plan.

- (g) Rules for Maternity or Paternity Leaves of Absence. In addition to the foregoing rules and solely for purposes of determining whether a One Year Break in Service for participation and vesting purposes has occurred in a computation period, an individual who is absent for maternity or paternity reasons shall receive credit for the Hours of Service which would otherwise have been credited to such individual but for such absence, or in any case in which such Hours cannot be determined, eight Hours of Service per day of such absence; provided, however, that:
- (i) Hours of Service shall not be credited under both this Section 2.12(g) and one of the other subsections of this Section 2.12;
  - (ii) no more than 501 Hours of Service shall be credited for each maternity or paternity absence; and
  - (iii) if a maternity or paternity leave extends beyond one Plan Year, Hours of Service shall be credited to the Plan Year in which the absence begins to the extent necessary to prevent a One Year Break in Service, otherwise such Hours of Service shall be credited to the following Plan Year. For purposes of this paragraph, an absence from work for maternity or paternity reasons means an absence (i) by reason of the pregnancy of the individual, (ii) by reason of a birth of a child of the individual, (iii) by reason of the placement of a child with the individual, in connection with the adoption of such child by such individual, or (iv) for purposes of caring for such child for a period beginning immediately following such birth or placement.
- (h) Other Federal Law. Nothing in this Section 2.12 shall be construed to alter, amend, modify, invalidate, impair or supersede any law of the United States or any rule or regulation issued under any such law.

2.13 “**Normal Retirement Age**” means the later of:

- (a) the 65th birthday of the Employee; or
- (b) the fifth anniversary of the time the Participant commenced participation in Part II of the Plan.

For purposes of the foregoing, the participation commencement date is the first day of the Plan Year in which the Participant commenced participation in Part II of the Plan.

2.14 “**Normal Retirement Date**” means the first day of the month next following the Participant’s Normal Retirement Age.

2.15 (a) “**One Year Break in Service**” means, except for purposes of Article III of this Part II, any Plan Year during which the Employee has not completed more than 500 Hours of Service.

- (b) For purposes of Article III of this Part II, “**One Year Break in Service**” means a twelve consecutive month period, computed with reference to the date the Employee’s employment commenced, during which the Employee does not complete more than 500 Hours of Service.

### ARTICLE III

#### PARTICIPATION REQUIREMENTS

##### 3.01 Participation Requirements.

- (a) Employee Participation. Individuals who were Participants in Part II of the Plan on December 31, 2015 shall continue as a Participant in this Part II of the Plan on January 1, 2016. On and after January 1, 1983, no additional Employees shall be eligible to become Participants in Part II of the Plan.
- (b) Notwithstanding the rules set forth in Section 3.01(a), a Former Participant who again becomes eligible to participate in Part II of the Plan will become a Participant on the date of his recommencement of service with the Employer.
- (c) Notwithstanding anything in Part II of the Plan to the contrary, for periods commencing on and after January 1, 2003, a Former Participant who is re-employed as an Employee shall be reinstated as an active Plan Participant only for purposes of increasing Plan vesting on his or her frozen Accrued Benefit and for purposes of determining eligibility for early retirement under Section 5.02.

##### 3.02 Classification Changes. In the event of a change in job classification, such that an Employee, although still in the employment of the Employer, no longer is an eligible Employee, he shall receive no further Credited Service under Part II of the Plan, and the Participant’s Accrued Benefit on the date he becomes ineligible shall continue to vest, become payable or be forfeited, as the case may be, in the same manner and to the same extent as if the Employee had remained a Participant.

For periods commencing prior to January 1, 2003, in the event a Participant becomes ineligible to accrue further Credited Service because he is no longer a member of an eligible class of Employees, but has not terminated his employment with the Employer, such Employee shall again be eligible to accrue further Credited Service immediately upon his return to an eligible class of Employees.

##### 3.03 Participant Cooperation. Each eligible Employee who becomes a Participant thereby agrees to be bound by all of the terms and conditions of this Plan. Each eligible Employee, by becoming a Participant, agrees to cooperate fully with the Insurer, including completion and signing of such forms as are required by the Insurer under the Group Annuity Contract.

## ARTICLE IV

### EMPLOYER CONTRIBUTIONS

- 4.01 Employer Contributions. Each Employer shall pay to the Trustee for each Plan Year such amount which, when combined with required Employee Contributions, shall be necessary in the opinion of the Plan's enrolled actuary to provide the benefits of Part II of the Plan.
- 4.02 Plan Contributions to Trustees. The Employer shall make payment of all contributions directly to the Trustee to be held, managed and invested in one or more Group Annuity Contracts and in other investments permitted under the Trust, but subject to Section 4.03.
- 4.03 Receipt of Contributions by Trustee. The Trustee shall accept and hold under the Trust Indenture such contributions of money, or other property approved for acceptance by the Trustee, on behalf of the Employer and its Employees and Beneficiaries, as it may receive from time to time, other than cash it is instructed to remit to the Insurer for deposit with the Insurer. However, the payor may pay contributions directly to the Insurer and such payment shall be deemed a contribution to the Trust to the same extent as if payment had been made to the Trustee. All such contributions shall be accompanied by written instructions from the Plan Administrator accounting for the manner in which they are to be credited.

Notwithstanding the foregoing, for periods commencing on and after January 1, 1992, Plan contributions will also be used to fund costs and provide benefits under the merged State Mutual Companies' Pension Plan, which plan was merged with The Allmerica Financial Agents' Pension Plan on such date.

## ARTICLE V

### RETIREMENT AND DISABILITY BENEFITS

- 5.01 Normal Retirement Benefit. (Applicable to all Employees who are active Participants on or after January 1, 1999).

Except as provided in Section 2.03 of Part III of the Plan and Section 5.06, each Participant who retires on his Normal Retirement Date shall be entitled to receive a monthly retirement income, commencing on his Normal Retirement Date and terminating on the last regular payment date prior to his death, which monthly retirement income will be equal to the sum of (a) and, if applicable, (b) below:

- (a) The Participant's Grandfathered Benefit; and
- (b) For those Participants whose Participant Number is listed on Exhibit B, attached hereto and made a part hereof, an amount equal to 1/12 of the Participant's Post-1998 Annual Accrued Benefit.

For purposes of Part II of the Plan, a Participant's "Post-1998 Annual Accrued Benefit" shall be equal to the Participant's total Compensation paid during all Years of Credited Service completed after December 31, 1998 multiplied by the Participant's individual accrual percentage. Each eligible Participant's accrual percentage is set forth in Exhibit B.

5.02 Early Retirement Benefit.

An actively employed Participant in Part II of the Plan who has completed at least 15 Years of Service may retire on the first day of any month after his 55th birthday, in which event, except as provided in Section 5.06, he shall receive a monthly retirement benefit equal to the appropriate percentage set forth below of his Accrued Benefit.

Notwithstanding the above, if the Plan is top heavy and the minimum benefit for Non-Key Employees described in Section 2.03 of Part III of the Plan is to be provided to the Participant, the Participant's early retirement benefit shall be equal to the appropriate percentage set forth below of the Participant's Accrued Benefit (as described in Section 2.03 of Part III of the Plan) earned as of the date of his early retirement.

In the event of early retirement, benefits shall be determined as of the date of retirement and shall be equal to the following percentage of the benefit payable at Age 65:

<u>Retirement Age*</u>	<u>Percentage of Monthly Accrued Benefit</u>
65	100%
64	97
63	94
62	91
61	88
60	85
59	82
58	79
57	76
56	73
55	70
54	67
53	64
52	61
51	58
50	55

\*If benefit payments commence in a month other than the month in which the Participant attains the specified Age, the percentage shall be determined by straight line interpolation.

If a Participant terminates his employment (or terminates his Career Agent Contract) after having completed at least 15 Years of Service, he may elect to retire at any time after the first day of the month next following his 55th birthday and prior to his Normal Retirement Date and receive a retirement benefit based on his Credited Service as of the date of termination. The benefit to be provided to any such terminnee shall be equal to the appropriate percentage set forth above of his Accrued Benefit.

Notwithstanding anything in this Section to the contrary, any Participant who was actively employed on June 30, 1977 may elect early retirement on the earlier of (i) and (ii) below, in which event, except as provided in Section 5.06, he shall receive a monthly retirement benefit equal to the appropriate percentage set forth above of his Accrued Benefit.

- (i) the first day of the month following attainment of Age 50, and completion of at least 20 Years of Service; and
- (ii) the first day of any month following attainment of Age 55 and completion of at least 15 Years of Service.

### 5.03 Late Retirement Benefit.

With the consent of the Employer, a Participant may elect to have his retirement benefit deferred to a late retirement date which may be the first day of any month after his Normal Retirement Date; provided, however, that Employer consent shall not be required for Employees protected beyond their Normal Retirement Date under the Age Discrimination in Employment Act of 1967, as amended or under applicable state law. Except as provided in Section 5.06, the monthly benefit payable to the Participant on his late retirement date shall be equal to the sum of (a) and (b) below:

- (a) The Participant's Grandfathered Benefit, which benefit will be actuarially increased; and
- (b) For those Participants whose Participant Number is listed on Exhibit B, attached hereto and made a part hereof, an amount equal to 1/12 the Participant's Post-1998 Annual Accrued Benefit, which benefit will be actuarially increased.

For purposes of Section 5.03, and notwithstanding anything in Section 5.01, a Participant's "**Post-1998 Annual Accrued Benefit**" shall be equal to the Participant's total Compensation paid during all Years of Credited Service completed after December 31, 1998, including Years of Credited Service completed after the Participant's Normal Retirement Date, multiplied by the Participant's individual accrual percentage. Each eligible Participant's accrual percentage is set forth in Exhibit B.

Actuarial increases will be determined as provided in Exhibit A, attached hereto and made a part hereof.

Notwithstanding the above, if the Plan is top heavy and the minimum benefit for Non-Key Employees described in Section 2.03 of Part III of the Plan is to be provided to the Participant, the Participant's late retirement benefit shall be determined in accordance with Section 2.03 of Part III of the Plan, with top-heavy minimum benefits being computed for each Year of Service completed until the Participant's Late Retirement Date, which resulting benefit shall be actuarially increased.

5.04 Disability Benefit.

If a Participant becomes Totally Disabled while employed as a General Agent or while his Career Agent Contract remains in force and if such total disability commenced after the Participant had completed at least five Years of Credited Service, it shall be assumed for purposes of this Plan that his employment or contractual relationship continued unchanged from the date of the commencement of his total disability to the earliest of his Normal Retirement Date, death, termination of employment (or, in the case of an Agent, termination of his Career Agent Contract) or the date that he is no longer Totally Disabled. While an Employee is Totally Disabled it shall be assumed for purposes of this Section that the Employee continued to earn annually an amount determined by dividing by three the Compensation paid to the Participant during the 36 months prior to the month in which he became Totally Disabled.

For purposes of this Part II of the Plan "**Totally Disabled**" means the inability to perform the duties of any occupation for which the Employee is reasonably fitted by training, education or experience; provided, however, that during the first 30 months of any disability an Employee will be considered Totally Disabled if he is unable to perform the duties of his occupation and is not working at any other occupation unless such occupation constitutes rehabilitative employment approved by the Plan Administrator.

5.05 Distribution of Benefits. The Plan Administrator shall direct the Insurer to commence payment of benefits provided under this Article V (or provided to a Former Participant pursuant to Article VII). Plan benefits will be paid only on death, disability, termination of employment, Plan termination or retirement.

Except as otherwise provided in Section 5.06, the requirements of this Section shall apply to any distribution of a Participant's interest and will take precedence over any inconsistent provisions of this Part II of the Plan.

All distributions required under the Plan shall be determined and made in accordance with the Treasury Regulations under Code Section 401(a)(9), including, to the extent applicable, the minimum distribution incidental benefit requirement of Section 1.401(a)(9)-2 of the Treasury Regulations.

Except as provided below and in Section 5.06, a Participant's retirement benefit shall be payable as a life annuity for the life of the Participant with no further benefits payable after the last regular payment date prior to his death.

At any time prior to actual retirement a Participant, with spousal consent if the Participant is married, may elect to receive his retirement benefit under one or more of the following settlement options:

- (a) An annuity for the joint lives of the Participant and his spouse with 50% or 66 2/3% (whichever is specified when this option is elected) of such amount payable as an annuity for life to the survivor. No further benefits are payable after the death of both the Participant and his spouse.
- (b) An annuity for the life of the Participant and upon his death 100%, 66 2/3%, or 50% (whichever is specified when this option is elected) of the annuity amount will be continued to his spouse as his contingent annuitant. No further annuity benefits are payable after the death of both the Participant and his spouse.
- (c) An annuity for the life of the Participant with guaranteed installment payments for a period certain not longer than the life expectancy of the Participant.
- (d) An annuity for the life of the Participant with guaranteed installment payments for a period certain not longer than the life expectancy of the Participant and his spouse.
- (e) A lump sum amount equal to the present value of the portion of the Participant's Accrued Benefit described in Section 2.01(b) attributable to required Employee Contributions. Additionally, the Participant shall be entitled to receive a monthly annuity benefit equal to the portion of his Accrued Benefit described in Section 2.01(a) attributable to Employer Contributions. The Participant may elect to receive such monthly annuity benefit under one or more of the options described in Sections 5.05(a) through (d) above, subject to spousal consent if the Participant is married.
- (f) An annuity payable for only the life of the Participant that terminates on the last regular payment date prior to the death of the Participant.

All optional forms of benefits shall be the Actuarial Equivalent (as of the date selected) of the normal retirement benefits described in Section 5.01, or Section 2.03 of Part III of the Plan. Any spousal consent shall satisfy the requirements of Section 5.06.

Unless the Participant elects otherwise, distribution of benefits will begin no later than the 60th day after the later of the close of the Plan Year in which:

- (i) the Participant attains Normal Retirement Age; or
- (ii) the Participant terminates service with the Employer.

Notwithstanding anything in Part II of the Plan to the contrary except Section 5.08, effective for involuntary cashouts paid after December 1, 2012, a Former Participant (other than a Former Participant who is a participant in The Hanover Excess Benefit Retirement Plan) who is not an Employee of the Employer or an Affiliate will be paid the present value of his or her vested Accrued Benefit on the Determination Date in an immediate lump sum if the present value of the Former Participant's vested Accrued Benefit, if any, on the Determination Date does not exceed \$5,000. Consent to this involuntary cashout by the Former Participant will not be required, and spousal consent to this involuntary cashout will not be required in the case of a married Former Participant

Notwithstanding the foregoing, the failure of a Participant and spouse (or where either the Participant or the spouse has died, the survivor) to consent to a distribution (other than an involuntary cashout) when a benefit is "immediately distributable" (as described below) shall be deemed to be an election to defer commencement of payment of any benefit sufficient to satisfy this Section 5.05 (and provisions of Article III of Part III of the Plan). In no event will benefits begin to be distributed (other than as an involuntary cashout) prior to the later of Age 62 or Normal Retirement Age without the consent of the Participant. The consent of the Participant's spouse will also be required for any such distribution (other than an involuntary cashout) unless the benefit is paid in the form of a Qualified Joint and Survivor Annuity.

If the Accrued Benefit is immediately distributable, the Participant and the Participant's spouse (or where either the Participant or the spouse has died, the survivor) must consent to any distribution (other than as an involuntary cashout) of such Accrued Benefit. Needed consents of the Participant and the Participant's spouse shall be obtained in writing within the 90-day period (180-day period for Plan Years beginning January 1, 2007 and thereafter) ending on the annuity starting date. The "**annuity starting date**" is the first day of the first period for which an amount is paid as an annuity or any other form. The Plan Administrator shall notify the Participant and the Participant's spouse of the right to defer any distribution (other than an involuntary cashout) until the Participant's Accrued Benefit is no longer immediately distributable. Such notification shall include a general description of the material features, and an explanation of the relative values of, the optional forms of benefit available under Part II of the Plan in a manner that would satisfy the notice requirements of Code Section 417(a)(3), and shall be provided no less than 30 days and no more than 90 days (180 days for Plan Years beginning January 1, 2007 and thereafter) prior to the annuity starting date; provided, however, that the minimum 30 day notice period described in this sentence may be waived by the Participant's written waiver given after notice to the Participant has described that the Participant was allowed at least 30 days to consider his choice under this Section and that the Participant was allowed to revoke his waiver under this Section at any time through his or her annuity starting date.

Notwithstanding the foregoing, only the Participant need consent to the commencement of a distribution in the form of a Qualified Joint and Survivor Annuity while the Accrued Benefit is immediately distributable. Neither the consent of the Participant nor the

Participant's spouse shall be required to the extent that a distribution is required to satisfy Code Section 401(a)(9) or Code Section 415.

An Accrued Benefit is "**immediately distributable**" if any part of the Accrued Benefit could be distributed to the Participant (or surviving spouse) before the Participant attains (or would have attained if not deceased) the later of Normal Retirement Age or Age 62.

Notwithstanding the above, the distribution of the entire interest of a Participant or a Beneficiary must not violate the minimum required distribution rules set forth in Article III of Part III of the Plan.

#### 5.06 Qualified Joint and Survivor Annuity for Married Participants.

(a) General Rules. Notwithstanding anything in this Article to the contrary, unless a married Participant's Accrued Benefit has been paid in a lump sum pursuant to Section 5.05 above, such Participant's retirement benefit will be payable to the Participant and his spouse in the form of a Qualified Joint and Survivor Annuity, with the survivor to receive 100% of the benefit which had been payable during their joint lives, unless an optional form of benefit is selected pursuant to a qualified election within the 90-day period (180-day period for Plan Years beginning January 1, 2007 and thereafter) ending on the annuity starting date. In the case of an unmarried Participant, unless the Participant elects an optional form of benefit the Participant's retirement benefit will be paid in the form of a no-death benefit life annuity.

(b) Definitions.

(i) Qualified election: A waiver of a Qualified Joint and Survivor Annuity. Any waiver of a Qualified Joint and Survivor Annuity shall not be effective unless: (A) the Participant's spouse consents in writing to the election; (B) the election designates a specific Beneficiary, including any class of Beneficiaries or any contingent Beneficiaries, which may not be changed without spousal consent (or the spouse expressly permits designations by the Participant without any further spousal consent); (C) the spouse's consent acknowledges the effect of the election; and (D) the spouse's consent is witnessed by a Plan representative or notary public. Additionally, a Participant's waiver of the Qualified Joint and Survivor Annuity will not be effective unless the election designates a form of benefit payment which may not be changed without spousal consent (or the spouse expressly permits designations by the Participant without any further spousal consent). If it is established to the satisfaction of a Plan representative that there is no spouse or that the spouse cannot be located, a waiver will be deemed a qualified election.

Any consent by a spouse obtained under this provision (or establishment that the consent of a spouse may not be obtained) shall be effective only with respect to such spouse. A consent that permits designations by the

Participant without any requirement of further consent by such spouse must acknowledge that the spouse has the right to limit consent to a specific Beneficiary, and a specific form of benefit where applicable, and that the spouse voluntarily elects to relinquish either or both of such rights. A revocation of a prior waiver may be made by a Participant without the consent of the spouse at any time before the commencement of benefits. The number of revocations shall not be limited. No consent obtained under this provision shall be valid unless the Participant has received notice as provided in Section 5.06(c) below.

- (ii) Spouse (surviving spouse): the person, if any, to whom the Participant is lawfully married at the date of his death or at his annuity starting date, whichever is earlier; provided, however, that a former spouse will be treated as the spouse or surviving spouse to the extent provided under a Qualified Domestic Relations Order.
- (iii) Annuity starting date: The first day of the first period for which an amount is paid as an annuity or under any other form.

(c) Notice Requirement.

- (i) In the case of a Qualified Joint and Survivor Annuity as described in Subsection (a), the Plan Administrator shall provide each Participant no less than 30 days and no more than 90 days (180 days for Plan Years beginning January 1, 2007 and thereafter) prior to the annuity starting date a written explanation of: (A) the terms and conditions of a Qualified Joint and Survivor Annuity; (B) the Participant's right to make and the effect of an election to waive the Qualified Joint and Survivor Annuity form of benefit; (C) the rights of a Participant's spouse; (D) the right to make, and the effect of, a revocation of a previous election to waive the Qualified Joint and Survivor Annuity; and (E) the relative values of the various optional forms of benefit. Notices given to Participants pursuant to Code Section 411(a)(11) in Plan Years beginning after December 31, 2006 shall include a description of how much larger benefits will be if the commencement of distributions is deferred.

(ii) A Participant may commence receiving a distribution in a form other than a Qualified Joint and Survivor Annuity less than 30 days after receipt of the written explanation described in the preceding paragraph provided: (A) the Participant has been provided with information that clearly indicates that the Participant has at least 30 days to consider whether to waive the Qualified Joint and Survivor Annuity and elect (with spousal consent) a form of distribution other than a Qualified Joint and Survivor Annuity; (B) the Participant is permitted to revoke any affirmative distribution election at least until the Distribution Commencement Date or, if later, at any time prior to the expiration of the 7-day period that begins the day after the explanation of the Qualified Joint and Survivor Annuity is provided to the Participant; and (C) the Distribution Commencement Date is after the date the written explanation was provided to the Participant. For distributions on or after December 31, 1996, the Distribution Commencement Date may be a date prior to the date the written explanation is provided to the Participant if the distribution does not commence until at least 30 days after such written explanation is provided, subject to the waiver of the 30-day period. For the purposes of this paragraph, the “**Distribution Commencement Date**” is the date a Participant commences distributions from Part II of the Plan. If a Participant commences distribution with respect to a portion of his/her Accrued Benefit, a separate Distribution Commencement Date applies to any subsequent distribution. If distribution is made in the form of an annuity, the Distribution Commencement Date is the first day of the first period for which annuity payments are made.

(d) Applicability. The provisions of this Section 5.06 shall apply to any Participant who is credited with at least one Hour of Service with the Employer on or after January 1, 1976. In addition, any living Participant or Former Participant not receiving Plan benefits on August 23, 1984 who would otherwise not receive the benefits prescribed by this Section 5.06 shall be given the opportunity to elect to have the provisions of this Section apply provided such Participant or Former Participant was credited with at least one Hour of Service under this Plan or a predecessor Plan on or after September 2, 1974.

The opportunity to elect a Qualified Joint and Survivor retirement option must be afforded to the appropriate Participants or Former Participants during the period commencing on August 23, 1984 and ending on the dates benefits would otherwise commence to such person.

#### 5.07 Supplementary Pension Benefits.

Effective July 1, 1986, and on each July 1 thereafter, the amount of monthly retirement benefits payable to eligible retirees (as described below) or their Beneficiaries shall be increased by a percentage determined in accordance with the following formula:

$$\text{Percentage Increase} = .8 (M - .07) \times 100$$

For Plan Years beginning after December 31, 2008, for purposes of the above formula, “M” equals the annual coupon return on December 31, 2009 and on each December 31 thereafter of the Barclays Capital U.S. Government/Credit 5-10 Year Index, or its successor.

For Plan Years beginning before January 1, 2009, for purposes of the above formula, “M” equals the earnings rate for the prior Plan Year on assets representing retired life reserves for retirees under this Plan and retirees under The Allmerica Financial Cash Balance Pension Plan as adopted by First Allmerica (now known as The Hanover Insurance Company Cash Balance Pension Plan), certain of First Allmerica’s General Agents, retirees of The Hanover Insurance Company (“**Hanover**”) and retirees of Citizens Insurance Company of America, both Affiliates of First Allmerica. Additionally, in determining “M”, retired life reserve assets attributable to retirees of Beacon Insurance Company of America, formerly an Affiliate of Hanover, shall be aggregated and combined with the retired life reserve assets of this Plan.

For the Plan Years for which “M” depended on the returns of designated retired life reserve assets, the earnings rate on retired life reserve assets was to be determined by an actuary, using the “investment year block” method of crediting interest that First Allmerica used to credit interest on its Experience Rated group annuity contracts that are in force on an active basis. The resulting earnings rate(s) should neither be associated with nor construed as the investment yield (all or in part) of the pension fund.

For each Plan Year for which “M” depended on the returns of designated retired life reserve assets, the retired life reserve assets for newly qualified retirees to be added to the total retired life assets outstanding was to be determined using a 7% interest rate and the 1971 GAM mortality table.

The determination of “M” and of the overall earnings rate(s) shall be final and conclusively binding for all persons.

The effective date for the payment of supplemental pension benefits paid as a result of this Section shall be each July 1, commencing with July 1, 1986. Those eligible to receive supplemental pension benefits as a result of this Section shall be those Plan retirees and their Beneficiaries who were receiving basic Plan retirement benefits on the July 1 increase effective date, had been retired for at least 18 months on such increase effective date, and:

- (A) were actively employed Plan Participants who had elected an immediate early retirement benefit pursuant to Section 5.02 (or its successor, if any);
- (B) had terminated employment after having met the eligibility requirements for early retirement specified in Section 5.02 (or its successor, if any) and elected to defer receipt of retirement benefits; or

- (C) had retired on or after their Normal Retirement Age after having completed at least 15 Years of Service.

The Beneficiaries of any retiree meeting the above requirements shall be entitled to receive a supplemental pension benefit under this Section if the Beneficiaries were receiving Plan survivor benefits on the July 1 increase effective date.

A supplemental pension benefit determined under this Section shall be added to and become a part of the recipient's basic Plan benefit and shall be payable during such period and under such option as the basic Plan benefit is being paid.

#### 5.08 Rollovers to Other Qualified Plans.

- (a) Notwithstanding any provision of Part II of the Plan to the contrary that would otherwise limit a distributee's election under this Article or under Articles VI and VII other than this Section 5.08(a), a distributee may elect, at the time and in the manner prescribed by the Plan Administrator, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover; provided, however, that if the Actuarial Equivalent present value of a distributee's vested Accrued Benefit does not exceed \$1,000, the distributee does not have to be allowed the eligible rollover election described in this sentence. If the Actuarial Equivalent present value of a Participant's Accrued Benefit exceeds \$1,000 and does not exceed \$5,000 and the Participant does not elect a distribution or a rollover, the Plan shall automatically distribute the Participant's Accrued Benefit, in a direct rollover, to an eligible individual retirement plan (a "**Rollover IRA**") for the benefit of such Participant and pursuant to a written agreement with the Rollover IRA provider that provides (i) the amount rolled over to the Rollover IRA shall be invested in a manner designed to preserve principal and provide a reasonable rate of return and liquidity; (ii) all fees and expenses attendant to a Rollover IRA shall not exceed the fees and expenses charged by the Rollover IRA provider for comparable IRAs established for reasons other than receipt of a rollover distribution; and (iii) the Participant on whose behalf the automatic rollover is made under this Section shall have the right to enforce the terms of the written agreement establishing the Rollover IRA, with regard to his or her rolled over funds, against the Rollover IRA provider. All fees and expenses attendant to the Rollover IRA shall be allocated to the Rollover IRA.

(b) Definitions.

- (i) Eligible rollover distribution: An “**eligible rollover distribution**” is any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include: any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee’s designated Beneficiary, or for a specified period of ten years or more; any distribution to the extent such distribution is required under Code Section 401(a)(9); the portion of any distribution that is not includible in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to employer securities); and any other distribution(s) that is reasonably expected to total less than \$200 during a year. A portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions which are not includible in gross income. However, such portion may be transferred only to (i) an individual retirement account or annuity described in Code Sections 408(a) or (b); (ii) for taxable years beginning after December 31, 2001 and before January 1, 2007, to a qualified trust which is part of a defined contribution plan that agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible; or (iii) for taxable years beginning after December 31, 2006, to a qualified trust or to an annuity contract described in Code Section 403(b), if such trust or contract provides for separate accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible.
- (ii) Eligible retirement plan: An “**eligible retirement plan**” is an individual retirement account described in Code Section 408(a), an individual retirement annuity described in Code Section 408(b), a Roth IRA as pursuant to in Code Section 408A(e), an annuity plan described in Code Section 403(a), an annuity contract described in Code Section 403(b), a qualified plan described in Code Section 401(a) that accepts the distributee’s eligible rollover distribution, or an eligible plan under Code Section 457(b) which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this plan. However, in the case of an eligible rollover distribution to the surviving spouse, an eligible retirement plan is an individual retirement account or individual retirement annuity.

- (iii) Distributee: A “**distributee**” includes an Employee or former Employee. In addition, the Employee’s or former Employee’s surviving spouse and the Employee’s surviving spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in Code Section 414(p), are distributees with regard to the interest of the spouse or former spouse.
  - (iv) Direct rollover: A “**direct rollover**” is a payment by the Plan to the eligible retirement plan specified by the distributee.
- (c) For distributions after June 9, 2009, a non-spouse Beneficiary who is a “designated beneficiary” under Code Section 401(a)(9)(E) and the regulations thereunder, by a direct trustee-to-trustee transfer (“**direct rollover**”), may roll over all or any portion of his or her distribution to an individual retirement account the Beneficiary establishes for purposes of receiving the distribution. In order to do a direct rollover of the distribution, the distribution otherwise must satisfy the definition of an eligible rollover distribution.

Although a non-spouse Beneficiary may roll over directly a distribution as provided above, any distribution made prior to January 1, 2010 is not subject to the direct rollover requirements of Code Section 401(a)(31) (including Code Section 401(a)(31)(B)), the notice requirements of Code Section 402(f) or the mandatory withholding requirements of Code Section 3405(c)). If a non-spouse Beneficiary receives a distribution from the Plan, the distribution is not eligible for a “60-day” rollover.

If the Participant’s named Beneficiary is a trust, the Plan may make a direct rollover to an individual retirement account on behalf of the trust, provided the trust satisfies the requirements to be a “designated beneficiary” within the meaning of Code Section 401(a)(9)(E).

A non-spouse Beneficiary may not roll over an amount which is a required minimum distribution, as determined under applicable Treasury regulations and other Internal Revenue Service guidance. If the Participant dies before his or her required beginning date and the non-spouse Beneficiary rolls over to an IRA the maximum amount eligible for rollover, the Beneficiary may elect to use either the 5-year rule or the life expectancy rule, pursuant to Treasury Regulation Section 1.401(a)(9)-3, Q&A-4(c), in determining the required minimum distributions from the IRA that receives the non-spouse Beneficiary’s distribution.

## ARTICLE VI

### DEATH BENEFITS

#### 6.01 Pre-Retirement Spouse Benefit for Married Participants.

(a) General Rules. The provisions of this Section shall apply to any Participant or Former Participant described in Section 6.01(b).

(i) If an eligible married Participant:

- (A) dies after attaining eligibility for early retirement but before actually retiring;
- (B) dies on or after his Normal Retirement Age while still working for the Employer; or
- (C) separates from service on or after his Normal Retirement Age (or after attaining the age necessary for early retirement) and after satisfying the eligibility requirements for the payment of benefits under Part II of the Plan and thereafter dies before beginning to receive such benefits;

then the Participant's surviving spouse will receive a monthly retirement benefit equal to the benefit that would have been payable if the Participant had retired on the day before his death after having elected an immediate Qualified Joint and Survivor Annuity option with a 50% continuation of monthly benefits to be payable to the survivor. The amount of such 50% continuation shall be payable monthly for the life of such spouse, with the first payment payable as of the date of the Participant's death, unless the spouse requests a later commencement date (consistent with the provisions of Part II of the Plan).

(ii) If a fully or partially vested eligible married Participant dies on or before the earliest retirement age, the Participant's surviving spouse will receive the same benefit that would be payable if the Participant had:

- (A) separated from service on the date of death;
- (B) survived to the earliest retirement age;
- (C) retired at the earliest retirement age after having elected an immediate Qualified Joint and Survivor Annuity option with a 50% continuation of monthly benefits to be payable to the survivor; and
- (D) died on the day after the earliest retirement age.

A surviving spouse entitled to benefits under this Section 6.01(a)(ii) will begin to receive payments at the earliest retirement age unless the spouse requests an earlier or later commencement date (consistent with the provisions of Part II of the Plan).

For purposes of this Section 6.01(a)(ii) the “**earliest retirement age**” is the earliest date on which, under Part II of the Plan, the Participant could elect to receive retirement benefits.

In the case of a partially vested Participant, benefits under this Section 6.01(a)(ii) will be based on the Participant’s vested Accrued Benefit computed on the date of his death.

- (b) Applicability. The provisions of Section 6.01(a)(i) shall apply to all Participants or Former Participants who were credited with an Hour of Service on or after January 1, 1976 who meet the eligibility requirements described in such Section 6.01(a)(i) and thereafter die before actually retiring. The provisions of Section 6.01(a)(ii) shall apply to any Participant who is credited with at least one Hour of Service on or after August 23, 1984 and to any Participant or Former Participant living on August 23, 1984 not receiving Plan benefits on such date who was credited with at least one Hour of Service on or after January 1, 1976 and who had at least ten years of vesting service when he separated from service.

- 6.02 Minimum Death Benefit. If no optional form of retirement benefit has been elected by a Participant pursuant to Section 5.05, a death benefit, as described below, shall be payable. If the death benefit is payable as a result of the Participant’s death, any such death benefit shall be payable to the Participant’s Beneficiary or, if no Beneficiary survives the Participant, to the executors or administrators of the Participant’s estate. If the Participant was survived by his spouse and (i) if the joint and survivor benefit described in Section 5.06 was in effect on the date of the spouse’s death, or (ii) the pre-retirement spouse benefit described in Section 6.01 was being paid to the spouse, any such death benefit shall be payable to the Participant’s Beneficiary, or if such Beneficiary does not survive the spouse, to the executors or administrators of the spouse’s estate.

The amount of this minimum death benefit will be equal to the Participant’s unrefunded required Contributions with Credited Interest to the first day of the month in which the earlier of the Participant’s death or retirement occurred reduced by (i), (ii) and (iii) below:

- (i) the amount of monthly retirement payments which had been paid to the Participant;
- (ii) the amount of monthly payments which had been paid to the Participant and his spouse, if the joint and survivor benefit described in Section 5.06 was being paid; and
- (iii) the amount of retirement benefits which had been paid to the spouse, if the pre-retirement spouse benefit described in Section 6.01 was being paid.

## ARTICLE VII

### BENEFITS UPON TERMINATION FROM SERVICE

- 7.01 In General. In the event that an Employee shall terminate from service (or, in the case of a Career Agent, the agent terminates his Career Agent's Contract) for any reason other than death, his becoming Totally Disabled (as described in Section 5.04), or Normal, Early or Late Retirement, the interests and rights of such Participant shall be limited to those contained in this Article.
- 7.02 Options on Termination of Participation. Upon any termination of service described in Section 7.01, a Participant shall have the right, subject to any required spousal consent, to elect either Option 1 or Option 2 described below.

For purposes of determining the Actuarial Equivalent present value of benefits, values shall be calculated using the interest rate(s) specified in Section 2.02.

Any distributions made pursuant to this Article shall be subject to the requirements of Sections 5.05 and 5.06 (and Article III of Part III of the Plan).

Option 1 - Deferred Benefit - Under this Option the Participant will receive a monthly retirement benefit commencing on his Normal Retirement Date equal to the sum of (a) and, if applicable, (b) below:

- (a) 1/12 of the annual deferred benefit described in Section 2.01(b), which deferred benefit is attributable to required Employee contributions.
- (b) In addition, if as of his date of termination of participation the Employee has completed at least the minimum Years of Service required for vesting, he will receive commencing on his Normal Retirement Date, an additional monthly retirement benefit equal to (i) or (ii) below, whichever is applicable:
  - (i) the portion of the Accrued Benefit described in Section 2.01(a) derived from Employer Contributions, multiplied by the appropriate percentage in Option 1(b)(iii) below.
  - (ii) in the case of a Non-Key Employee Participant in a Top Heavy Plan, if greater than (i) above, the Accrued Benefit described in Section 2.01(c), multiplied by the appropriate percentage in Option 1(b)(iii) below.

(iii)

<u>Completed Years of Service</u>	<u>Nonforfeitable Percentage</u>
Less than 5	0%
5 or more	100%

Notwithstanding the above, if the Plan is a Top Heavy Plan for any Plan Year beginning after December 31, 1983, then the Plan shall meet the following vesting requirements for such Plan Year and for all subsequent Plan Years, even if the Plan is not a Top Heavy Plan for such subsequent Plan Years.

<u>Completed Years of Service</u>	<u>Nonforfeitable Percentage</u>
Less than 2	0%
2	20
3	40
4	60
5 or more	100

Notwithstanding anything in Part II of the Plan to the contrary, the portion of an Employee's Accrued Benefit derived from Employer Contributions shall be 100% vested upon completion of three (3) Years of Service.

Option 2 - Cash Option - Under this option, except as provided in Section 5.08, the Participant will receive an amount equal to (a) below plus, if applicable, a deferred benefit as described in (b) below:

- (a) an amount equal to the present value of the portion of the Participant's Accrued Benefit described in Section 2.01(b) attributable to required Employee Contributions, and
- (b) In addition, if the Employee is fully or partially vested in the portion of his Accrued Benefit derived from Employer Contributions, as determined from the appropriate table above on the date of his termination of participation, he will receive, commencing on his Normal Retirement Date, a monthly retirement benefit determined in accordance with Option 1(b).

Option 1 will be deemed to have been elected by an Employee unless he elects Option 2 within 90 days of his termination of participation in this Plan.

For purposes of this Article VII, “**Years of Service**” means Plan Years during which an Employee completed at least 1,000 Hours of Service; provided, however, for purposes of this Article, service shall not be deemed to be interrupted or employment terminated because employment is transferred to a position or job with the Employer in which he is no longer eligible to participate in this Plan, or because the Employee becomes a General Agent who is not a common-law employee of the Company, but service shall be deemed terminated if the Employee terminates from the Employer or as a General Agent.

Notwithstanding anything in of Part II of the Plan to the contrary, a Participant’s Normal Retirement Benefit shall become 100% vested and nonforfeitable upon the attainment of his Normal Retirement Age.

Notwithstanding anything in Part II of the Plan to the contrary, (i) a Participant who was actively employed on December 31, 2002 (or an agent whose Career Agent’s Contract had not been terminated prior to such date), and (ii) all Former Participants who had not incurred five consecutive One Year Breaks in Service as of December 31, 2002, shall have a fully vested and non-forfeitable interest in any Accrued Benefit that had not been distributed to the Participant or Former Participant prior to December 31, 2002.

- 7.03 Forfeitures. The non-vested portion of a Participant’s Accrued Benefit shall be treated as a forfeiture when the Participant or his or her spouse (or surviving spouse) receives a distribution of the present value of his or her vested Accrued Benefit attributable to Employer and Employee Contributions pursuant to Section 7.02 and the Participant’s service attributable to such distribution shall be disregarded as provided in Section 7.06. For purposes of this Section, if the present value of a Participant’s vested Accrued Benefit is zero, the Participant shall be deemed to have received a distribution of such vested Accrued Benefit.

In the case of a partially vested terminated Participant who does not receive a distribution pursuant to the above paragraph, the value of the nonvested portion of his Accrued Benefit shall be treated as a forfeiture at the end of the Plan Year in which the Participant incurs a One Year Break in Service until the Participant has completed one Year of Service after he has been re-employed.

Forfeitures will be used to reduce (i) Employer contributions for the Plan Year following the Plan Year in which the forfeiture occurs; and or (ii) the Employer’s costs under the Plan.

- 7.04 Resumption of Service. A Participant who terminates his or her participation in Part II of the Plan and who subsequently resumes service with the Employer will again become a Participant, if eligible, on the date of his or her recommencement of such service.
- 7.05 Distribution of Benefits. On the Former Participant’s Normal Retirement Date, benefits to which he or she is entitled pursuant to this Article shall be distributed in accordance with Article V.

If a Former Participant entitled to a deferred benefit pursuant to this Article VII dies prior to his or her Normal Retirement Date, the death benefit, if any, to which he is entitled shall be as is specified in Article VI.

7.06 Cashout Repayment Option.

- (a) Notwithstanding anything in this Article to the contrary, unless a repayment has been made in accordance with Section 7.06(b) below, in determining the portion of an Employee's Accrued Benefit derived from Employer contributions (or, in the case of a Top Heavy Plan, the minimum benefit for Non-Key Employees described in Section 2.01(c)) after a resumption of participation, periods of service with respect to which the Employee received a distribution of the present value of his vested Accrued Benefit shall be disregarded.
- (b) In the case of the distribution of the present value of a partially vested Employee's vested Accrued Benefit in accordance with Sections 5.05 or 7.02, the Employee's Accrued Benefit described in Sections 2.01(a) and (b) (including all optional forms of benefits and subsidies relating to such benefits) shall be restored if he or she is subsequently an Employee and repays the amount distributed plus interest, compounded annually from the date of distribution at the rate of five percent. Such repayment must be made by the Employee before the earlier of five years after the first date on which the Employee is subsequently reemployed by the Employer, or the date the Employee incurs five consecutive One Year Breaks in Service following the date of distribution.

If an Employee is deemed to receive a distribution pursuant to this Article, and the Employee resumes employment covered under this Plan before the date on which the Employee could no longer repay his distribution under the preceding paragraph, upon the reemployment of such Employee, the Employer-derived Accrued Benefit will be restored to the amount of such Accrued Benefit on the date of the deemed distribution.

7.07 Early Retirement Election. Any Participant who terminates service after having completed at least fifteen Years of Service may elect to retire on the first day of any month following his 55th birthday. Any Participant who was actively employed on June 30, 1977 who terminates service after having completed at least twenty Years of Service may elect to retire on the first day of any month following his 50th birthday.

7.08 Amendment to Vesting Schedule. If the Vesting Schedule of Part II of the Plan is amended, or the Plan is amended in any way that directly or indirectly affects the computation of a Participant's nonforfeitable percentage, or if the Plan is deemed amended by an automatic change to or from a top-heavy vesting schedule, each Participant with at least three Years of Service with the Employer may elect, within a reasonable period after the adoption of the amendment or change, to have their nonforfeitable percentage computed under Part II of the Plan without regard to such amendment or change. The period during which the election may be made shall

commence with the date the amendment is adopted or deemed to be made and shall end on the latest of:

- (a) 60 days after the amendment is adopted;
- (b) 60 days after the amendment becomes effective; or
- (c) 60 days after the Participant is issued written notice of the amendment by the Employer or Plan Administrator.

**EXHIBIT A**  
**ADJUSTMENT FACTORS FOR OPTIONAL AND LATE RETIREMENT BENEFITS**

Factors for ages not illustrated on the following tables will be computed on an actuarial basis consistent with that used to compute the factors shown.

**JOINT AND SURVIVOR OPTION PERCENTAGES**

(Applicable only if the Participant's age, nearest birthday, on the date monthly income commences is 65).

Age Nearest Birthday of Joint Annuitant on the Date Monthly Income Commences to the Participant	Percentage of the Adjusted Retirement Annuity Payments which are to be Continued to the Surviving Joint Annuitant		
	<u>100%</u>	<u>66 2/3%</u>	<u>50%</u>
50	80.3%	87.1%	90.9%
51	80.7	87.5	91.3
52	81.1	87.9	91.8
53	81.5	88.4	92.2
54	82.0	88.8	92.7
55	82.4	89.3	93.2
56	82.9	89.8	93.8
57	83.3	90.3	94.3
58	83.8	90.9	94.9
59	84.3	91.4	95.5
60	84.8	92.0	96.1
61	85.3	92.7	96.8
62	85.9	93.3	97.5
63	86.4	94.0	98.3
64	86.9	94.7	99.1
65	87.5	95.4	100.0
66	88.0	96.2	100.0
67	88.6	97.0	101.9
68	89.1	97.9	102.9
69	89.6	98.7	104.0
70	90.2	99.6	105.1

1983 Group Annuity Table with Projection H, with mortality rates based on calendar year of birth of 1930 and interest at the rate of 7% per annum.

## CONTINGENT ANNUITANT OPTION PERCENTAGES

(Applicable only if the Participant's age, nearest birthday, on the date monthly income commences is 65).

Age Nearest Birthday of Contingent Annuitant on the Date Monthly Income Commences to the Participant	Percentage of the Adjusted Retirement Annuity Payments which are to be Continued to the Surviving Contingent Annuitant		
	<u>100%</u>	<u>66 2/3%</u>	<u>50%</u>
50	80.3%	85.9%	89.0%~
51	80.7	86.2	89.3
52	81.1	86.5	89.6
53	81.5	86.9	89.8
54	82.0	87.2	90.1
55	82.4	87.5	90.4
56	82.9	87.9	90.6
57	83.3	88.2	90.9
58	83.8	88.6	91.2
59	84.3	89.0	91.5
60	84.8	89.3	91.8
61	85.3	89.7	92.1
62	85.9	90.1	92.4
63	86.4	90.5	92.7
64	86.9	90.9	93.0
65	87.5	91.3	93.3
66	88.0	91.7	93.6
67	88.6	92.1	93.9
68	89.1	92.5	94.2
69	89.6	92.9	94.5
70	90.2	93.2	94.8

1983 Group Annuity Table with Projection H, with mortality rates based on calendar year of birth of 1930 and interest at the rate of 7% per annum.

Life Ann/Opt.

ANNUITY OPTION ADJUSTMENT PERCENTAGES

Percentages to be applied (to the monthly benefit which would be payable to the Participant on his Retirement Date if no Optional Form of Annuity were in effect) to determine the monthly income benefit commencing on the Participant's Retirement Date if one of the following options is in effect.

Age Nearest Birthday on the Date Monthly Income Commences	Annuity Option			
	<u>5C&amp;C</u>	<u>10C&amp;C</u>	<u>15C&amp;C</u>	<u>20C&amp;C</u>
50	99.8%	99.2%	98.3%	97.2%
51	99.8	99.1	98.1	96.9
52	99.7	99.0	97.9	96.6
53	99.7	98.9	97.7	96.3
54	99.7	98.8	97.5	96.0
55	99.6	98.6	97.3	95.6
56	99.6	98.5	97.0	95.2
57	99.6	98.4	96.8	94.8
58	99.5	98.3	96.5	94.3
59	99.5	98.1	96.2	93.8
60	99.4	98.0	95.9	93.3
61	99.4	97.8	95.5	92.7
62	99.3	97.6	95.0	92.0
63	99.3	97.3	94.5	91.2
64	99.2	97.1	94.0	90.4
65	99.1	96.7	93.3	89.5
66	99.0	96.4	92.6	88.5
67	98.9	95.9	91.8	87.4
68	98.8	95.4	91.0	86.2
69	98.6	94.9	90.0	84.9
70	98.4	94.3	89.0	83.5

1983 Group Annuity Table with Projection H, with morality rates based on calendar year of birth of 1930 and interest at the rate of 7% per annum.

Life Ann/Opt.

## LATE RETIREMENT PERCENTAGES

(Applicable only if the Participant's age, nearest birthday, on his or her Normal Retirement Date is 65).

The following percentages are applied to retirement benefits determined in accordance with Part II of the Plan, prior to any actuarial increase with respect to a Participant whose date of retirement is subsequent to his or her Normal Retirement Date, to determine actuarially increased retirement benefits commencing on his or her Late Retirement Date. If benefits commence in a month other than the month in which the Participant attains the specified age, the percentage shall be determined by straight line interpolation. Percentages for Late Retirement Dates and ages not illustrated will be computed on an actuarial basis consistent with that used to compute the factors shown.

<u>Number of Years Late Retirement Date Succeeds Normal Retirement Date</u>	<u>Actuarial Increase Percentage</u>
1	111.3%
2	124.3%
3	139.2%
4	156.6%
5	176.8%
6	200.4%
7	228.3%
8	261.5%
9	301.1%
10	348.8%

The actuarial basis increase percentages beyond ten years after Normal Retirement Date shall be determined based on the 1951 Group Annuity Table with 2/3 of Projection C, with mortality rates based on calendar year of birth of 1910 and interest at a rate of 6% per annum (male rate).

Notwithstanding the foregoing, if late retirement benefits commence after Age 70½, a Participant's Accrued Benefit shall be actuarially increased to take into account the period after Age 70½ in which the Participant was not receiving any benefits under Part II of the Plan. Any such actuarial increase shall be the greater of (i) the actuarial increase determined in accordance with the rules described above, or (ii) such actuarial increase as shall be required under Code Section 401(a)(9)(C) and regulations promulgated thereunder.

Exhibit B

Participant Accrual Percentages

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**THE HANOVER INSURANCE GROUP CASH BALANCE  
PENSION PLAN  
PART III**

**(As amended and restated generally effective January 1, 2016)**

**THE HANOVER INSURANCE GROUP CASH BALANCE  
PENSION PLAN**

**PART III**

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## ARTICLE I

### PURPOSE AND EFFECTIVE DATE OF PLAN

- 1.01 General Statement. The Hanover Insurance Group Cash Balance Pension Plan (the “**Plan**”) consists of three parts, Part I, Part II and Part III. Part I of the Plan provides a cash balance and pension benefit, which was formerly provided under a plan known as “The Allmerica Financial Cash Balance Pension Plan”. Part II of the Plan provides a pension benefit, which was formerly provided under a plan known as “The Allmerica Financial Agents’ Pension Plan”. This Part III of the Plan contains provisions applicable to each of Part I and Part II.

The provisions of this Part III of the Plan shall override any provision of Part I and or Part II of the Plan as provided in Part III of the Plan.

The words and phrases used in this Part III of the Plan shall have the meanings set forth in Part I of the Plan, unless a different meaning is clearly required by the context or is otherwise provided in Part III of the Plan.

- 1.02 Effective Date. The effective date of this Part III of the Plan is January 1, 2016 (except for those provisions of this Part of the Plan which have an expressly stated alternative effective date).

## ARTICLE II

### PROVISIONS APPLICABLE TO TOP HEAVY PLANS

- 2.01 Top Heavy Plan Requirements.

- (a) For any Top Heavy Plan Year, the Plan shall provide the following:
- (i) the minimum vesting requirements for Top Heavy Plans set forth in Section 8.02 of Part I of the Plan and Section 7.02 of Part II of the Plan; and
  - (ii) the minimum benefit accruals for Non-Key Employees set forth in Section 2.03 of this Part III below.
- (b) Once the Plan has become a Top Heavy Plan, the top heavy vesting requirements described in Section 8.02 of Part I of the Plan and Section 7.02 of Part II of the Plan shall be applicable to all subsequent Plan Years, regardless of whether such years are Top Heavy Plan Years.
- (c) If the Plan is or becomes a Top Heavy Plan, the provisions of this Article II of this Part III will supersede any conflicting provision in the Plan.

- (d) In determining Top Heavy Plan vesting, the Top Heavy vesting schedule set forth in Section 8.02 of Part I of the Plan and in Section 7.02 of Part II of the Plan applies to all benefits within the meaning of Code Section 411(a)(7), including benefits accrued before the effective date of Code Section 416 and benefits accrued before the Plan became top-heavy. Further, no reduction in vested benefits may occur in the event the Plan's status as top heavy changes for any Plan Year. However, this Section does not apply to the Accrued Benefits of any Employee who does not have an Hour of Service after the Plan has initially become top-heavy and such Employee's Accrued Benefits attributable to Employer contributions will be determined without regard to this Section.

## 2.02 Determination of Top Heavy Status.

- (a) This Plan shall be a Top Heavy Plan for any Plan Year commencing after December 31, 1983 if any of the following conditions exists:
  - (i) The top heavy ratio for this Plan exceeds 60 percent, and this Plan is not part of any required aggregation group or permissive aggregation group of plans.
  - (ii) This Plan is a part of a required aggregation group of plans (but not part of a permissive aggregation group), and the top heavy ratio for the group of plans exceeds 60 percent.
  - (iii) This Plan is a part of a required aggregation group and part of a permissive aggregation group of plans, and the top heavy ratio for the permissive aggregation group exceeds 60 percent.

- (b) The Plan's “**top heavy ratio**” shall be determined as follows:
- (i) If the Employer maintains one or more defined benefit plans and the employer has not maintained any defined contribution plan (including any simplified employee pension, as defined in Code Section 408(k)) which during the 5-year period ending on the determination date(s) has or has had account balances, the top-heavy ratio for this plan alone or for the required or permissive aggregation group as appropriate is a fraction, the numerator of which is the sum of the present value of Accrued Benefits of all Key Employees as of the determination date(s) (including any part of any Accrued Benefit distributed in the 1-year period ending on the determination date(s)) (5-year period ending on the determination date in the case of a distribution made for a reason other than severance from employment, death or disability), and the denominator of which is the sum of the present value of Accrued Benefits (including any part of any Accrued Benefits distributed in the 1-year period ending on the determination date(s)) (5-year period ending on the determination date in the case of a distribution made for a reason other than severance from employment, death or disability), determined in accordance with Code Section 416 and the regulations thereunder.
  - (ii) If the Employer maintains one or more defined benefit plans and the employer maintains or has maintained one or more defined contribution plans (including any simplified employee pension) which during the 5-year period ending on the determination date(s) has or has had any account balances, the top-heavy ratio for any required or permissive aggregation group as appropriate is a fraction, the numerator of which is the sum of the present value of accrued benefits under the aggregated defined benefit plan or plans for all Key Employees, determined in accordance with Section 2.02(b)(i) of this Part III above, and the sum of account balances under the aggregated defined contribution plan or plans for all Key Employees as of the determination date(s), and the denominator of which is the sum of the present value of accrued benefits under the defined benefit plan or plans for all participants, determined in accordance with Section 2.02(b)(i) of this Part III above, and the account balances under the aggregated defined contribution plan or plans for all participants as of the determination date(s), all determined in accordance with Code Section 416 and the regulations thereunder. The account balances under a defined contribution in both the numerator and denominator of the top heavy ratio are increased for any distribution of an account balance made in the 1-year period ending on the determination date (5-year period ending on the determination date in the case of a distribution made for a reason other than severance from employment, death or disability).

- (iii) For purposes of Sections 2.02(b)(i) and 2.02(b)(ii) of this Part III above, the value of account balances and the present value of Accrued Benefits will be determined as of the most recent valuation date that falls within or ends with the 12-month period ending on the determination date, except as provided in Code Section 416 and the regulations thereunder for the first and second plan years of a defined benefit plan. The account balances and accrued benefits of a Participant (1) who is not a Key Employee but who was a Key Employee in a prior year, or (2) who has not been credited with at least one Hour of Service with any employer maintaining the Plan at any time during the 1-year period ending on the determination date will be disregarded. The calculation of the top-heavy ratio and the extent to which distributions, rollovers, and transfers are taken into account will be made in accordance with Code Section 416 and the regulations thereunder. Deductible employee contributions will not be taken into account for purposes of computing the top-heavy ratio. When aggregating plans, the value of account balances and Accrued Benefits will be calculated with reference to the determination dates that fall within the same calendar year.

The Accrued Benefit of a Participant other than a Key Employee shall be determined under (A) the method, if any, that uniformly applies for accrual purposes under all defined benefit plans maintained by the Employer, or (B) if there is no such method, as if such benefit accrued not more rapidly than the slowest accrual rate permitted under the fractional rule of Code Section 411(b)(1)(C).

- (c) Permissive aggregation group: “**Permissive aggregation group**” means the required aggregation group of plans plus any other plan or plans of the Employer which, when considered as a group with the required aggregation group, would continue to satisfy the requirements of Code Sections 401(a)(4) and 410.
- (d) Required aggregation group: “**Required aggregation group**” means (i) each qualified plan of the Employer in which at least one Key Employee participates or participated at any time during the determination period (regardless of whether the Plan has terminated), and (ii) any other qualified plan of the Employer which enables a plan described in (i) to meet the requirements of Code Sections 401(a)(4) or 410.
- (e) Determination date: “**Determination date**” means the last day of the preceding Plan Year.
- (f) Valuation date: “**Valuation date**” means the last day of each Plan Year, as of which Accrued Benefits are valued for purposes of calculating the top heavy ratio.
- (g) Present value: “**Present value**” shall be based on the interest and mortality rates specified in the definition of Actuarial Equivalent.

## 2.03 Minimum Benefit Requirements for Top Heavy Plans.

### (a) Minimum Benefit Requirements for Top Heavy Plans.

Notwithstanding any other provision in this Plan except Section 2.03(b) and Section 2.03(c) of this Part III below, for any Plan Year in which this Plan is a Top Heavy Plan, each Participant who is not a Key Employee and has completed at least 1,000 Hours of Service will accrue a benefit (to be provided solely by Employer contributions and expressed as a life annuity commencing at Normal Retirement Age) of not less than 2% of the Participant's highest average Compensation for the five consecutive years in which such Non-Key Employee had the highest Compensation (as defined for purposes of Article III of Part III of the Plan). The aggregate Compensation for the years during such five-year period in which the Participant was credited with a Year of Service will be divided by the number of such years in order to determine average annual Compensation.

Provided, however, that no additional benefit accruals shall be provided pursuant to this Section to the extent that the total accruals on behalf of the Participant attributable to Employer contributions will provide a benefit expressed as a life annuity commencing at Normal Retirement Age that equals or exceeds 20% of the Participant's average Compensation for the five consecutive years in which the Participant had the highest Compensation (as defined for purposes of Article III of Part III of the Plan). All accruals of Employer-derived benefits, whether or not attributable to years for which the Plan is Top Heavy, may be used in computing whether the minimum 20% accrual requirements of this paragraph are satisfied.

The minimum accrual above applies even though under other Plan provisions the Participant would not otherwise be entitled to receive an accrual, or would have received a lesser accrual for the Plan Year because (i) the Non-Key Employee fails to make mandatory contributions to the Plan, (ii) the Non-Key Employee's Compensation is less than a stated amount, (iii) the Non-Key Employee is not employed on the last day of the accrual computation period, or (iv) the Plan is integrated with Social Security.

The Compensation required to be taken into account under this Section is Compensation as defined for purposes of Article III of Part III of the Plan that is not in excess of the applicable dollar limitation imposed by Code Section 401(a)(17). However, Compensation received by a Non-Key Employee for Plan Years beginning after the close of the last year in which the Plan was a Top Heavy Plan shall be disregarded. The minimum accrual determined under this Section shall be determined without regard to any Social Security contribution.

The top-heavy minimum benefit is a life annuity benefit (with no ancillary benefits) commencing at Normal Retirement Age. If the benefit commences at a date other than Normal Retirement Age, the Employee must receive at least an amount that is the Actuarial Equivalent of the minimum single life annuity benefit commencing at Normal Retirement Age.

Notwithstanding the foregoing, for Plan Years beginning after December 31, 2001, for purposes of satisfying the minimum benefit requirements of Code Section 416(c)(1) and the Plan, in determining Years of Service with the Employer, any service with the Employer shall be disregarded to the extent that such service occurs during a Plan Year when the Plan benefits (within the meaning of Code Section 410(b)) no Key Employee or former Key Employee.

- (b) Notwithstanding anything herein to the contrary, in any Plan Year in which a Non-Key Employee participates in both a defined benefit plan and a defined contribution plan included in a Required or Permissive Aggregation Group of Top Heavy Plans, the Employer is not required to provide the Non-Key Employee with both the full and separate minimum benefit and the full and separate minimum contribution. Therefore, if the Employer maintains such a defined benefit and defined contribution plan, the top-heavy minimum benefits shall be provided as follows:
- (i) If a Non-Key Employee is a participant in any such Top Heavy defined contribution plan, the minimum benefit described in Section 2.03(a) of this Part III above shall not be provided to each such Non-Key Employee who receives at least the full Top Heavy minimum contribution provided in such defined contribution plan for Non-Key Employee participants.
  - (ii) If a Non-Key Employee is not a Participant in any such Top Heavy defined contribution plan, the minimum and extra minimum benefits, if applicable, described in Section 2.03(a) of this Part III shall be provided to each such Non-Key Employee meeting the requirements of Section 2.03(a) of this Part III above.

Notwithstanding any provision herein to the contrary, no minimum benefit will be required (or the minimum benefit will be reduced, as the case may be) for a Participant under this Plan for any Plan Year if the Employer maintains another qualified defined benefit plan under which a minimum benefit is being accrued in whole or in part for the Participant in accordance with Code Section 416(c).

- (c) The minimum accrued benefit described in this Section (to the extent required to be nonforfeitable under Code Section 416(b)) may not be forfeited under Code Sections 411(a)(3)(B) or 411(a)(3)(D).

## ARTICLE III

### MINIMUM DISTRIBUTION REQUIREMENTS

#### 3.01 General Rules.

- (a) Effective date. The provisions of this Article will apply with respect to distributions under the Plan made for calendar years beginning on or after January 1, 2006. With respect to distributions under the Plan made for calendar years beginning on or after January 1, 2002 and prior to the effective date of the application of the Treasury Regulations under Code Section 401(a)(9) that were finalized on June 15, 2004, the Plan used the 1987 proposed regulations.
- (b) Requirements of Treasury Regulations incorporated. All distributions required under this Article of this Part III shall be determined and made in accordance with Code Section 401(a)(9), including the incidental death benefit requirement in Code Section 401(a)(9)(G), and the regulations thereunder.
- (c) Precedence. Subject to the joint and survivor annuity requirements of the Plan, the requirements of this Article of this Part III will take precedence over any inconsistent provisions of the Plan.
- (d) TEFRA Section 242(b)(2) elections.
  - (i) Notwithstanding the other provisions of this Article and the Plan, other than the spouse's right of consent afforded under the Plan, distributions may be made on behalf of any Participant, including a five percent (5%) owner, who has made a designation in accordance with Section 242(b)(2) of the Tax Equity and Fiscal Responsibility Act ("TEFRA") and in accordance with all of the following requirements (regardless of when such distribution commences):
    - (A) The distribution by the Plan is one which would not have disqualified such plan under Code Section 401(a)(9) as in effect prior to amendment by the Deficit Reduction Act of 1984.
    - (B) The distribution is in accordance with a method of distribution designated by the Participant whose interest in the plan is being distributed or, if the Participant is deceased, by a beneficiary of such Participant.
    - (C) Such designation was in writing, was signed by the Participant or beneficiary, and was made before January 1, 1984.
    - (D) The Participant had accrued a benefit under the Plan as of December 31, 1983.

- (E) The method of distribution designated by the Participant or the beneficiary specifies the time at which distribution will commence, the period over which distributions will be made, and in the case of any distribution upon the Participant's death, the beneficiaries of the Participant listed in order of priority.
- (ii) A distribution upon death will not be covered by the transitional rule of this Section 3.01(d) of this Part III unless the information in the designation contains the required information described above with respect to the distributions to be made upon the death of the Participant.
- (iii) For any distribution which commences before January 1, 1984, but continues after December 31, 1983, the Participant, or the beneficiary, to whom such distribution is being made, will be presumed to have designated the method of distribution under which the distribution is being made if the method of distribution was specified in writing and the distribution satisfies the requirements in (i)(A) and (i)(E) of Section 3.01(d) of this Part III.
- (iv) If a designation is revoked, any subsequent distribution must satisfy the requirements of Code Section 401(a)(9) and the regulations thereunder. If a designation is revoked subsequent to the date distributions are required to begin, the Plan must distribute by the end of the calendar year following the calendar year in which the revocation occurs the total amount not yet distributed which would have been required to have been distributed to satisfy Code Section 401(a)(9) and the regulations thereunder, but for the TEFRA Section 242(b)(2) election. For calendar years beginning after December 31, 1988, such distributions must meet the minimum distribution incidental benefit requirements. Any changes in the designation will be considered to be a revocation of the designation. However, the mere substitution or addition of another beneficiary (one not named in the designation) under the designation will not be considered to be a revocation of the designation, so long as such substitution or addition does not alter the period over which distributions are to be made under the designation, directly or indirectly (for example, by altering the relevant measuring life).
- (v) In the case in which an amount is transferred or rolled over from one plan to another plan, the rules in Treasury Regulation Section 1.401(a)(9)-8, Q&A-14 and Q&A-15, shall apply.

- (e) Limits on distribution periods. To the extent otherwise permitted under the terms of the Plan, as of the first Distribution Calendar Year, distributions to a Participant, if not made in a single sum, may only be made over one of the following periods:
  - (i) The life of the Participant;
  - (ii) The joint lives of the Participant and a Designated Beneficiary;
  - (iii) A period certain not extending beyond the Life Expectancy of the Participant; or
  - (iv) A period certain not extending beyond the joint life and last survivor expectancy of the Participant and a Designated Beneficiary.

### 3.02 Time and Manner of Distribution.

- (a) Required Beginning Date. The Participant's entire interest will be distributed, or begin to be distributed, to the Participant no later than the Participant's Required Beginning Date.
- (b) Death of Participant before distributions begin. If the Participant dies before distributions begin, the Participant's entire interest will be distributed, or begin to be distributed, no later than as follows:
  - (i) Life Expectancy rule, spouse is beneficiary. If the Participant's surviving spouse is the Participant's sole Designated Beneficiary, then, except as provided in Section 3.01(d) of this Part III, distributions to the surviving spouse will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died, or by December 31 of the calendar year in which the Participant would have attained age 70½, if later.
  - (ii) Life Expectancy rule, spouse is not beneficiary. If the Participant's surviving spouse is not the Participant's sole Designated Beneficiary, then, except as provided in Section 3.01(d) of this Part III, distributions to the Designated Beneficiary will begin by December 31st of the calendar year immediately following the calendar year in which the Participant died.
  - (iii) No Designated Beneficiary, 5-year rule. If there is no Designated Beneficiary as of September 30 of the year following the year of the Participant's death, the Participant's entire interest will be distributed by December 31st of the calendar year containing the fifth anniversary of the Participant's death.
  - (iv) Surviving spouse dies before distributions begin. If the Participant's surviving spouse is the Participant's sole Designated Beneficiary and the surviving spouse dies after the Participant but before distributions to the

surviving spouse begin, Section 3.02(b) of this Part III, other than Section 3.02(b)(i) of this Part III, will apply as if the surviving spouse were the Participant.

For purposes of Section 3.02(b) of this Part III, distributions are considered to begin on the Participant's Required Beginning Date (or, if Section 3.02(b)(iv) of this Part III applies, the date distributions are required to begin to the surviving spouse under Section 3.02(a) of this Part III). If annuity payments irrevocably commence to the Participant before the Participant's Required Beginning Date (or to the Participant's surviving spouse before the date distributions are required to begin to the surviving spouse under Section 3.02(b)(i) of this Part III), the date distributions are considered to begin is the date distributions actually commence.

- (c) Form of distribution. Unless the Participant's interest is distributed in the form of an annuity purchased from an insurance company or in a single sum on or before the Required Beginning Date, distributions will be made in accordance with Sections 3.03, 3.04 and 3.05 of this Part III as of the first Distribution Calendar Year. If the Participant's interest is distributed in the form of an annuity purchased from an insurance company, distributions thereunder will be made in accordance with the requirements of Code Section 401(a)(9) and the regulations thereunder. Any part of the Participant's interest which is in the form of an individual account described in Code Section 414(k) will be distributed in a manner satisfying the requirements of Code Section 401(a)(9) and the regulations thereunder applicable to individual accounts.

### 3.03 Determination of Amount to be Distributed Each Year.

- (a) General annuity requirements. A Participant who is required to begin payments as a result of attaining his or her Required Beginning Date and whose interest has not been distributed in the form of an annuity purchased from an insurance company or in a single sum before such date may receive such payments in the form of annuity payments under the Plan. Payments under such annuity must satisfy the following requirements:
- (i) The annuity distributions will be paid in periodic payments made at intervals not longer than one year;
  - (ii) The distribution period will be over a life (or lives) or over a period certain not longer than the period described in Sections 3.04 or 3.05 of this Part III;
  - (iii) Once payments have begun over a period certain, the period certain will not be changed, even if the period certain is shorter than the maximum period permitted, unless otherwise elected in Section 3.01(d) of this Part III;

- (iv) Payments will either be non-increasing or increase only to the extent permitted by one of more of the following conditions:
  - (A) By an annual percentage increase that does not exceed the annual percentage increase in an Eligible Cost-of-Living Index for a 12-month period ending in the year during which the increase occurs or the prior year;
  - (B) By a percentage increase that occurs at specified times (*e.g.*, at specified ages) and does not exceed the cumulative total of annual percentage increases in an Eligible Cost-of-Living Index since the annuity starting date, or if later, the date of the most recent percentage increase. In cases providing such a cumulative increase, an actuarial increase may not be provided to reflect the fact that increases were not provided in the interim years;
  - (C) To the extent of the reduction in the amount of the Participant's payments to provide for a survivor benefit upon death, but only if the beneficiary whose life was being used to determine the distribution period described in Section 3.04 of this Part III dies or is no longer the Participant's beneficiary pursuant to a qualified domestic relations order within the meaning of Code Section 414(p);
  - (D) To allow a beneficiary to convert the survivor portion of a joint and survivor annuity into a single sum distribution upon the Participant's death;
  - (E) To pay increased benefits that result from a Plan amendment or other increase in the Participant's accrued benefit under the Plan;
  - (F) By a constant percentage, applied not less frequently than annually, at a rate that is less than 5 percent per year;
  - (G) To provide a final payment upon the death of the Participant that does not exceed the excess of the actuarial present value of the Participant's accrued benefit (within the meaning of Code Section 411(a)(7)) calculated as of the annuity starting date using the applicable interest rate and the applicable mortality table under Code Section 417(e) (or, if greater, the total amount of employee contributions) over the total of payments before the death of the Participant; or
  - (H) As a result of dividend or other payments that result from Actuarial Gains, provided:
    - (1) Actuarial Gain is measured not less frequently than annually;

- (2) The resulting dividend or other payments are either paid no later than the year following the year for which the actuarial experience is measured or paid in the same form as the payment of the annuity over the remaining period of the annuity (beginning no later than the year following the year for which the actuarial experience is measured);
- (3) The Actuarial Gain taken into account is limited to actuarial gain from investment experience;
- (4) The assumed interest rate used to calculate such Actuarial Gains is not less than 3 percent; and
- (5) The annuity payments are not also being increased by a constant percentage as described in Section 3.03(a)(iv)(F)

(b) Amount required to be distributed by Required Beginning Date.

- (i) In the case of a Participant whose interest in the Plan is being distributed as an annuity pursuant to Section 3.03(a) of this Part III, the amount that must be distributed on or before the Participant's Required Beginning Date (or, if the Participant dies before distributions begin, the date distributions are required to begin under Sections 3.02(b)(i) or 3.02(b)(ii) of this Part III) is the payment that is required for one payment interval. The second payment need not be made until the end of the next payment interval even if that payment interval ends in the next calendar year. Payment intervals are the periods for which payments are received, *e.g.*, bi-monthly, monthly, semiannually, or annually. All of the Participant's benefit accruals as of the last day of the first Distribution Calendar Year will be included in the calculation of the amount of the annuity payments for payment intervals ending on or after the Participant's Required Beginning Date.

- (ii) In the case of a single sum distribution of a Participant's entire accrued benefit during a Distribution Calendar Year, the amount that is the required minimum distribution for the Distribution Calendar Year (and thus not eligible for rollover under Code Section 402(c)) is determined under this Section 3.03(b)(ii) of this Part III. The portion of the single sum distribution that is a required minimum distribution is determined by treating the single sum distribution as a distribution from an individual account Plan and treating the amount of the single sum distribution as the Participant's account balance as of the end of the relevant valuation calendar year. If the single sum distribution is being made in the calendar year containing the Required Beginning Date and the required minimum distribution for the Participant's first Distribution Calendar Year has not been distributed, the portion of the single sum distribution that represents the required minimum distribution for the Participant's first and second Distribution Calendar Years is not eligible for rollover.
  
- (c) Additional accruals after first Distribution Calendar Year. Any additional benefits accruing to the Participant in a calendar year after the first Distribution Calendar Year will be distributed beginning with the first payment interval ending in the calendar year immediately following the calendar year in which such amount accrues. Notwithstanding the preceding, the Plan will not fail to satisfy the requirements of this Section 3.03(c) of this Part III and Code Section 401(a)(9) merely because there is an administrative delay in the commencement of the distribution of the additional benefits accrued in a calendar year, provided that the actual payment of such amount commences as soon as practicable. However, payment must commence no later than the end of the first calendar year following the calendar year in which the additional benefit accrues, and the total amount paid during such first calendar year must be no less than the total amount that was required to be paid during that year under this Section 3.03(c) of this Part III.
  
- (d) Death after distributions begin. If a Participant dies after distribution of the Participant's interest begins in the form of an annuity meeting the requirements of this Article, then the remaining portion of the Participant's interest will continue to be distributed over the remaining period over which distributions commenced.

### 3.04 Requirements for Annuity Distributions That Commence During Participant's Lifetime.

- (a) Joint life annuities where the beneficiary is the Participant's spouse. If distributions commence under a distribution option that is in the form of a joint and survivor annuity for the joint lives of the Participant and the Participant's spouse, the minimum distribution incidental benefit requirement will not be satisfied as of the date distributions commence unless, under the distribution option, the periodic annuity payment payable to the survivor does not at any time on and after the Participant's Required Beginning Date exceed the annuity payable to the Participant. In the case of an annuity that provides for increasing payments, the requirement of this Section 3.04(a) of this Part III will not be violated merely because benefit payments to the beneficiary increase, provided the increase is determined in the same manner for the Participant and the beneficiary. If the form of distribution combines a joint and survivor annuity for the joint lives of the Participant and the Participant's spouse and a period certain annuity, the preceding requirements will apply to annuity payments to be made to the Designated Beneficiary after the expiration of the period certain.
- (b) Joint life annuities where the beneficiary is not the Participant's spouse. If distributions commence under a distribution option that is in the form of a joint and survivor annuity for the joint lives of the Participant and a beneficiary other than the Participant's spouse, the minimum distribution incidental benefit requirement will not be satisfied as of the date distributions commence unless under the distribution option, the annuity payments to be made on and after the Participant's Required Beginning Date will satisfy the conditions of this Section 3.04(b) of this Part III. The periodic annuity payment payable to the survivor must not at any time on and after the Participant's Required Beginning Date exceed the applicable percentage of the annuity payment payable to the Participant using the table set forth in Q&A-2(c)(2) of Section 1.401(a)(9)-6 of the Treasury Regulations. The applicable percentage is based on the adjusted Participant/beneficiary age difference. The adjusted Participant/beneficiary age difference is determined by first calculating the excess of the age of the Participant over the age of the beneficiary based on their ages on their birthdays in a calendar year. If the Participant is younger than age 70, the age difference determined in the previous sentence is reduced by the number of years that the Participant is younger than age 70 on the Participant's birthday in the calendar year that contains the annuity starting date. In the case of an annuity that provides for increasing payments, the requirement of this Section 3.04(b) of this Part III will not be violated merely because benefit payments to the beneficiary increase, provided the increase is determined in the same manner for the Participant and the beneficiary. If the form of distribution combines a joint and survivor annuity for the joint lives of the Participant and a non-spouse beneficiary and a period certain annuity, the preceding requirements will apply to annuity payments to be made to the Designated Beneficiary after the expiration of the period certain.

- (c) Period certain annuities. Unless the Participant's spouse is the sole Designated Beneficiary and the form of distribution is a period certain and no life annuity, the period certain for an annuity distribution commencing during the Participant's lifetime may not exceed the applicable distribution period for the Participant under the Uniform Lifetime Table set forth in Section 1.401(a)(9)-9 of the Treasury Regulations for the calendar year that contains the annuity starting date. If the annuity starting date precedes the year in which the Participant reaches age 70, the applicable distribution period for the Participant is the distribution period for age 70 under the Uniform Lifetime Table set forth in Section 1.401(a)(9)-9 of the Treasury Regulations plus the excess of 70 over the age of the Participant as of the Participant's birthday in the year that contains the annuity starting date. If the Participant's spouse is the Participant's sole Designated Beneficiary and the form of distribution is a period certain and no life annuity, the period certain may not exceed the longer of the Participant's applicable distribution period, as determined under this Section 3.04(c) of this Part III, or the joint life and last survivor expectancy of the Participant and the Participant's spouse as determined under the Joint and Last Survivor Table set forth in Section 1.401(a)(9)-9 of the Treasury regulations, using the Participant's and spouse's attained ages as of the Participant's and spouse's birthdays in the calendar year that contains the annuity starting date.

3.05 Requirements for Minimum Distributions Where Participant Dies Before Date Distributions Begin.

- (a) Participant survived by Designated Beneficiary. Except as provided in Section 3.01(d) of this Part III, if the Participant dies before the date distribution of his or her interest begins and there is a Designated Beneficiary, the Participant's entire interest will be distributed, beginning no later than the time described in Section 3.02(b)(i) or Section 3.02(b)(ii) of this Part III, over the life of the Designated Beneficiary or over a period certain not exceeding:
- (i) Unless the annuity starting date is before the first Distribution Calendar Year, the Life Expectancy of the Designated Beneficiary determined using the beneficiary's age as of the beneficiary's birthday in the calendar year immediately following the calendar year of the Participant's death; or
  - (ii) If the annuity starting date is before the first Distribution Calendar Year, the Life Expectancy of the Designated Beneficiary determined using the beneficiary's age as of the beneficiary's birthday in the calendar year that contains the annuity starting date.
- (b) No Designated Beneficiary. If the Participant dies before the date distributions begin and there is no Designated Beneficiary as of September 30 of the year following the year of the Participant's death, distribution of the Participant's entire interest will be completed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.

- (c) Death of surviving spouse before distributions to surviving spouse begin. If the Participant dies before the date distribution of his or her interest begins, the Participant's surviving spouse is the Participant's sole Designated Beneficiary, and the surviving spouse dies before distributions to the surviving spouse begin, this Section 3.05 of this Part III will apply as if the surviving spouse were the Participant, except that the time by which distributions must begin will be determined without regard to Section 3.02(b)(i) of this Part III.

### 3.06 Definitions.

- (a) Actuarial Gain. “**Actuarial Gain**” means the difference between an amount determined using the actuarial assumptions (*i.e.*, investment return, mortality, expense, and other similar assumptions) used to calculate the initial payments before adjustment for any increases and the amount determined under the actual experience with respect to those factors. Actuarial Gain also includes differences between the amount determined using actuarial assumptions when an annuity was purchased or commenced and such amount determined using actuarial assumptions used in calculating payments at the time the Actuarial Gain is determined.
- (b) Designated Beneficiary. “**Designated Beneficiary**” means the individual who is designated as the beneficiary under the Plan and is the Designated Beneficiary under Code Section 401(a)(9) and Section 1.401(a)(9)-4, Q&A-1, of the Treasury Regulations.
- (c) Distribution Calendar Year. “**Distribution Calendar Year**” means a calendar year for which a minimum distribution is required. For distributions beginning before the Participant's death, the first Distribution Calendar Year is the calendar year immediately preceding the calendar year that contains the Participant's Required Beginning Date. For distributions beginning after the Participant's death, the first Distribution Calendar Year is the calendar year in which distributions are required to begin pursuant to Section 3.02(b) of this Part III.
- (d) Eligible Cost-of-Living Index. An “**Eligible Cost-of-Living Index**” means an index described below:
  - (i) A consumer price index that is based on prices of all items (or all items excluding food and energy) and issued by the Bureau of Labor Statistics, including an index for a specific population (such as urban consumers or urban wage earners and clerical workers) and an index for a geographic area or areas (such as a given metropolitan area or state); or

- (ii) A percentage adjustment based on a cost-of-living index described in Section 3.06(d)(i) of this Part III above, or a fixed percentage, if less. In any year when the cost-of-living index is lower than the fixed percentage, the fixed percentage may be treated as an increase in an Eligible Cost-of-Living Index, provided it does not exceed the sum of:
  - (A) The cost-of-living index for that year, and
  - (B) The accumulated excess of the annual cost-of-living index from each prior year over the fixed annual percentage used in that year (reduced by any amount previously utilized under this Section 3.06(d)(ii) of this Part III).
- (e) Life Expectancy. **“Life Expectancy”** means the life expectancy as computed by use of the Single Life Table in Section 1.401(a)(9)-9 of the Treasury Regulations.
- (f) Required Beginning Date. Except as otherwise provided in the Plan, the **“Required Beginning Date”** means the April 1st of the calendar year following the later of the calendar year in which the Participant attains age 70 ½, or the calendar year in which the Participant retires, except that benefit distributions to a “5-percent owner” must commence by April 1 of the calendar year following the calendar year in which the Participant attains age 70 ½. Once distributions have begun to a “5-percent owner” under this Article III, they must continue to be distributed, even if the Participant ceases to be a “5-percent owner” in a subsequent Plan Year.

**“5-percent owner”** means a Participant who is a 5-percent owner as defined in Code Section 416 at any time during the Plan Year ending with or within the calendar year in which such owner attains age 70 ½. Once required minimum distributions have begun to a 5-percent owner, they must continue to be distributed, even if the Participant ceases to be a 5-percent owner in a subsequent year.

## ARTICLE IV

### LIMITATIONS ON BENEFITS

The limitations of Sections 4.01 through 4.05 of this Part III shall be subject to those of Section 4.06 of this Part III, which shall apply in Limitation Years beginning on or after July 1, 2007, except as otherwise provided therein.

4.01 General Limitations. Section 4.01 of this Part III applies regardless of whether any Participant is or has ever been a participant in another qualified plan maintained by the Employer. If any Participant is or has ever been a participant in another qualified plan, a welfare benefit fund (as defined in Code Section 419(e)), an individual medical account (as defined in Code Section 415(1)(2)), or a simplified employee pension (as defined in Code Section 408(k)) maintained by the Employer which provides an Annual Addition, Section 4.02 of this Part III is also applicable to that Participant's benefits.

- (a) The Annual Benefit otherwise payable to a Participant at any time will not exceed the Maximum Permissible Benefit. If the benefit the Participant would otherwise accrue in a Limitation Year would produce an Annual Benefit in excess of the Maximum Permissible Benefit, the benefit must be limited (or the rate of accrual reduced) so that the Annual Benefit does not exceed the Maximum Permissible Benefit.
- (b) If a Participant has made voluntary employee contributions, or mandatory employee contributions as defined in Code Section 411(c)(2)(C) under the terms of this Plan, the amount of such contributions is treated as an Annual Addition to a qualified defined contribution plan, for purposes of Sections 4.01(a) and 4.01(b) of this Part III.

4.02 Additional General Limitations. Section 4.02 of this Part III applies if any Participant is also a participant, or has ever participated, in another plan maintained by the Employer, including a qualified plan, a welfare benefit fund maintained by the Employer (as defined in Code Section 419(e)) under which amounts attributable to post-retirement medical benefits are allocated to separate accounts of Key Employees (as defined in Code Section 419(A)(d)(3)), an individual medical account, or a simplified employee pension which provides an Annual Addition.

- (a) If a Participant is, or has ever been, a participant covered under more than one defined benefit plan maintained by the Employer, the sum of the Participant's Annual Benefits from all such plans may not exceed the Maximum Permissible Benefit. If a Participant is or has ever been a participant in more than one defined benefit plan maintained by an Employer, the rate of accrual in this Plan will be reduced so that the total Annual Benefits payable at any time under such plans will not exceed the Maximum Permissible Benefit.
- (b) For Limitation Years beginning before January 1, 2000, if the Employer maintains, or ever maintained, one or more qualified defined contribution plans covering any Participant in this Plan, a welfare benefit fund (as defined in Code Section 419(e)), an individual medical account (as defined in Code Section 415(1)(2)), or a simplified employee pension (as defined in Code Section 408(k)), the sum of the Participant's Defined Contribution Fraction and Defined Benefit Fraction (the "**Combined Limit**") will not exceed 1.0 in any Limitation Year. In the event that a Participant's Combined Limit would otherwise be exceeded for a Limitation Year, the Participant's rate of accrual under this Plan will be reduced, to the extent necessary, such that such accrual plus the Annual Additions credited

to any such Participant's account for the Limitation Year under the defined contribution plan, welfare benefit fund, individual medical account or simplified employee pension will not exceed the Combined Limit.

- 4.03 Limitation Year beginning after December 31, 1986. In the case of an individual who was a participant in one or more defined benefit plans of the Employer as of the first day of the first Limitation Year beginning after December 31, 1986, the application of the limitations of this Article shall not cause the Maximum Permissible Benefit for such individual under all such defined benefit plans to be less than the individual's current Accrued Benefit. The preceding sentence applies only if all such defined benefit plans met the requirements of Code Section 415 for all Limitation Years beginning before January 1, 1987.
- 4.04 Limitation Year beginning after December 31, 1994. In the case of an individual who was a participant in one or more defined benefit plans of the Employer as of the first day of the first Limitation Year beginning after December 31, 1994, the application of the limitations of this Article shall not cause the Maximum Permissible Amount for such individual under all such defined benefit plans to be less than the individual's Retirement Protection Act of 1994 ("**RPA `94**") old law benefit. The preceding sentence applies only if all such defined benefit plans met the requirements of Code Section 415 on December 7, 1994.
- 4.05 Definitions. For the purposes of this Article, the following words and phrases shall have the meanings set forth in this Section 4.05 of this Part III, unless a different meaning is clearly required by the context.
- (a) Annual Additions. "**Annual Additions**" means the sum of the following amounts credited to a Participant's account for the Limitation Year:
- (i) Employer contributions;
  - (ii) Employee contributions;
  - (iii) Allocations under a simplified employee pension;
  - (iv) Forfeitures; and
  - (v) Amounts allocated after March 31, 1984, to an individual medical account that is part of a pension or annuity plan maintained by the Employer are treated as Annual Additions to a defined contribution plan. Also, amounts derived from contributions paid or accrued after December 31, 1985, in taxable years ending after such date, which are attributable to post-retirement medical benefits allocated to the separate account of a Key Employee, as defined in Code Section 419A(d)(3), under a welfare benefit fund, as defined in Code Section 419(e), maintained by the Employer, are treated as Annual Additions to a defined contribution plan.

- (b) Annual Benefit. “**Annual Benefit**” means a retirement benefit under the Plan which is payable annually in the form of a straight life annuity. A benefit which is payable in a form other than a straight life annuity must be adjusted to an actuarially equivalent straight life annuity before applying the limitations of this Article. In the case of a “**GATT Benefit**” (which for this purpose is any benefit unless it is paid in the form of a non-decreasing annuity payable over a period not less than the life of the Participant) or a “**Non-GATT Benefit**” (which for this purpose is any benefit other than a GATT Benefit), the actuarial equivalent straight life annuity commencing as of the benefit commencement date of such GATT Benefit or Non-GATT Benefit is the greater of (i) the equivalent annual life annuity determined by using the interest rate and mortality table in Section 2.02 in Part I of the Plan (the definition of the term “Actuarial Equivalent” for the purposes of Part I of the Plan), or Section 2.02 in Part II of the Plan (the definition of the term “Actuarial Equivalent” for the purposes of Part II of the Plan); and (ii) the equivalent annual life annuity determined by using the combination of (A) a 5% interest rate in the case of a Non-GATT Benefit or the Code Section 417 Interest Rate in the case of a GATT Benefit; and (B) the Code Section 417 Mortality Table. The portion of the actuarial equivalent straight life annuity attributable to the GATT Benefit is the “**GATT Percentage**,” and the portion of the actuarial equivalent straight life annuity attributable to the Non-GATT Benefit is the “**Non-GATT Percentage**.” The Annual Benefit does not include any benefits attributable to Employee contributions or rollover contributions, or the assets transferred from a qualified plan that was not maintained by the Employer. No actuarial adjustment to the benefit is required for (i) the value of a Qualified Joint and Survivor Annuity, (ii) the value of benefits that are not directly related to retirement benefits (such as the qualified disability benefit, pre-retirement death benefits, and post-retirement medical benefits), and (iii) the value of post-retirement cost-of-living increases made in accordance with Code Section 415(d) and Treasury Regulation Section 1.415(c)(2)(iii).
- (c) Defined Benefit Dollar Limitation. The “**Defined Benefit Dollar Limitation**” is \$90,000. Effective on January 1 of each year, the \$90,000 limitation above will be automatically adjusted by multiplying such limit by the cost of living adjustment factor prescribed by the Secretary of the Treasury under Code Section 415(d) in such manner as the Secretary shall prescribe. The new limitation will apply to Limitation Years ending within the calendar year of the date of the adjustment.

Notwithstanding the foregoing, effective for Limitation Years ending after December 31, 2001, the Defined Benefit Dollar Limitation is \$160,000, as adjusted effective January 1 of each year under Code Section 415(d) in such manner as the Secretary shall prescribe, and payable in the form of a straight life annuity. A limitation as adjusted under Code Section 415(d) will apply to Limitation Years ending with or within the calendar year for which the adjustment applies.

- (d) Defined Benefit Fraction. “**Defined Benefit Fraction**” means a fraction, the numerator of which is the sum of the Participant’s Projected Annual Benefits under all the defined benefit plans (whether or not terminated) maintained by the Employer, and the denominator of which is the lesser of 125 percent of the dollar limitation determined for the Limitation Year under Code Section 415(b)(1)(A) and Code Section 415(d) or 140 percent of the Highest Average Compensation, including any adjustments under Code Section 415(b)(5), both in accordance with Section 4.05(h) of this Part III below.

Notwithstanding the above, if the Participant was a participant as of the first day of the first Limitation Year beginning after December 31, 1986, in one or more defined benefit plans maintained by the Employer which were in existence on May 6, 1986, the denominator of this fraction will not be less than 125 percent of the sum of the annual benefits under such plans which the Participant had accrued as of the close of the last Limitation Year beginning before January 1, 1987, disregarding any changes in the terms and conditions of the Plan after May 5, 1986. The preceding sentence applies only if the defined benefit plans individually and in the aggregate satisfied the requirements of Code Section 415 for all Limitation Years beginning before January 1, 1987.

Notwithstanding the foregoing, for Limitation Years beginning before January 1, 2000, for any Top Heavy Plan Year, 100 percent shall be substituted for 125 percent unless an extra minimum benefit or contribution is credited pursuant to Section 2.03(b) of Part III of the Plan. However, for any such Plan Year in which this Plan is a super top heavy plan, 100 percent shall be substituted for 125 percent in any event.

- (e) Defined Contribution Fraction. “**Defined Contribution Fraction**” means a fraction, the numerator of which is the sum of the Annual Additions to the Participant’s account under all the defined contribution plans (whether or not terminated) maintained by the Employer for the current and all prior Limitation Years (including the Annual Additions attributable to the Participant’s nondeductible employee contributions to this and all other defined benefit plans (whether or not terminated) maintained by the Employer), and the Annual Additions attributable to all welfare benefit funds (as defined in Code Section 419(e)), individual medical accounts (as defined in Code Section 415(1)(2)), or simplified employee pensions (as defined in Code Section 408(k)), and the denominator of which is the sum of the maximum aggregate amounts for the current and all prior Limitation Years of service with the Employer (regardless of whether a defined contribution plan was maintained by the Employer).

The maximum aggregate amount in any Limitation Year is the lesser of (i) 125 percent of the dollar limitation under Code Section 415(c)(1)(A) after adjustment under Section 415(d), or (ii) 35 percent of the Participant’s Compensation for such year.

If the Employee was a participant as of the first day of the first Limitation Year beginning after December 31, 1986, in one or more defined contribution plans maintained by the Employer which were in existence on May 6, 1986, the numerator of this fraction will be adjusted if the sum of this fraction and the defined benefit fraction would otherwise exceed 1.0 under the terms of this Plan. Under the adjustment, an amount equal to the product of (i) the excess of the sum of the fractions over 1.0 times (ii) the denominator of this fraction, will be permanently subtracted from the numerator of this fraction. The adjustment is calculated using the fractions as they would be computed as of the end of the last Limitation Year beginning before January 1, 1987, and disregarding any changes in the terms and conditions of the plans made after May 6, 1986, but using the Code Section 415 limitation applicable to the first Limitation Year beginning on or after January 1, 1987.

The annual addition for any Limitation Year beginning before January 1, 1987 shall not be recomputed to treat all employee contributions as Annual Additions.

Notwithstanding the foregoing, for Limitation Years beginning before January 1, 2000, for any Top Heavy Plan Year, 100 percent shall be substituted for 125 percent unless an extra minimum allocation is made pursuant to Section 2.03(b) of Part III of the Plan. However, for any such Plan Year in which this Plan is a super top heavy plan, 100 percent shall be substituted for 125 percent in any event.

- (f) Employer. “**Employer**” means the employer that adopt this Plan and all members of a controlled group of corporations (as defined in Code Section 414(b) as modified by Code Section 415(h)), all trades or businesses under common control (as defined in Code Section 414(c) as modified by Code Section 415(h)), or all members of an affiliated service group (as defined in Code Section 414(m)) of which the adopting Employer is a part, and any other entity required to be aggregated with the Employer pursuant to regulations under Code Section 414(o).
- (g) Highest Average Compensation. “**Highest Average Compensation**” means the average Compensation for the three consecutive years of service with the Employer that produces the highest average. A “**year of service**” with the Employer is the 12-consecutive month period defined in Section 2.44 of Part I of the Plan.

In the case of a Participant who has separated from service, the Participant’s Highest Average Compensation will be automatically adjusted by multiplying such compensation by the cost of living adjustment factor prescribed by the Secretary of the Treasury under Code Section 415(d) in such manner as the Secretary shall prescribe. The adjusted compensation amount will apply to Limitation Years ending within the calendar year of the date of the adjustment.

- (h) Maximum Permissible Benefit. “**Maximum Permissible Benefit**” means
- (i) The lesser of the Defined Benefit Dollar Limitation or 100 percent of the Participant’s Highest Average Compensation.
  - (ii) If the Participant has less than ten years of participation in the Plan, the Defined Benefit Dollar Limitation is reduced by one-tenth for each year of participation (or part thereof) less than ten.
  - (iii) If the Participant has less than ten years of service with the Employer, the Compensation limitation is reduced by one-tenth for each Year of Service (or part thereof) less than ten. The adjustments of this Section 4.05(h)(iii) of this Part III shall be applied in the denominator of the Defined Benefit Fraction based upon Years of Service. For purposes of computing the Defined Benefit Fraction only, Years of Service shall include future years of service occurring before the Participant’s Normal Retirement Age. Such future years of service shall include the year that contains the date the Participant reaches Normal Retirement Age, only if it can be reasonably anticipated that the Participant will receive a Year of Service for such year, or the year in which the Participant terminates employment, if earlier.
  - (iv) If the Annual Benefit of the Participant commences before the Participant’s Social Security Retirement Age, but on or after Age 62, the Defined Benefit Dollar Limitation as reduced above, if necessary, shall be determined as follows:
    - (A) If a Participant’s Social Security Retirement Age is 65, the Dollar Limitation for benefits commencing on or after Age 62 is determined by reducing the Defined Benefit Dollar Limitation by  $\frac{5}{9}$  of one percent for each month by which benefits commence before the month in which the Participant attains Age 65.
    - (B) If a Participant’s Social Security Retirement Age is greater than 65, the Dollar Limitation for benefits commencing on or after Age 62 is determined by reducing the Defined Benefit Dollar Limitation by  $\frac{5}{9}$  of one percent for each of the first 36 months and  $\frac{5}{12}$  of one percent for each of the additional months (up to 24 months) by which benefits commence before the month of the Participant’s Social Security Retirement Age.

- (v) If the Annual Benefit of a Participant commences prior to Age 62, the Defined Benefit Dollar Limitation shall be the actuarial equivalent of an Annual Benefit beginning at Age 62, as determined above, reduced for each month by which benefits commence before the month in which the Participant attains Age 62. The reduced dollar limitation is the sum of the Non-GATT Limitation and the GATT Limitation. For purposes of the immediately preceding sentence, the “**Non-GATT Limitation**” is the product of the Non-GATT Percentage and the lesser of the equivalent early retirement dollar amount computed as described in Section 6.02 of Part I of the Plan or in Section 5.02 of Part II of the Plan and the amount computed using an interest rate of 5% and the Code Section 417 Mortality Table in Section 2.02 in Part I of the Plan (the definition of the term “Actuarial Equivalent” for the purposes of Part I of the Plan) or Section 2.02 in Part II of the Plan (the definition of the term “Actuarial Equivalent” for the purposes of Part II of the Plan), as appropriate; and the “**GATT Limitation**” is the product of the GATT Percentage (as described in Section 4.05(b) of Part III of the Plan) and the lesser of the equivalent early retirement dollar amount computed as described in Section 6.02 of Part I of the Plan or in Section 5.02 of Part II of the Plan and the amount computed using the Code Section 417 Interest Rate and the Code Section 417 Mortality Table (as described in Section 2.02 in Part I of the Plan (the definition of the term “Actuarial Equivalent” for the purposes of Part I of the Plan)) or Section 2.02 in Part II of the Plan (the definition of the term “Actuarial Equivalent” for the purposes of Part II of the Plan). Any decrease in the Defined Benefit Dollar Limitation determined in accordance with Section 4.05(h)(v) of this Part III shall not reflect a mortality decrement to the extent that benefits will not be forfeited upon the death of the Participant.
- (vi) If the Annual Benefit of a Participant commences after the Participant’s Social Security Retirement Age, the Defined Benefit Dollar Limitation as reduced in Section 4.05(h)(ii) of this Part III above, if necessary, shall be adjusted so that it is the actuarial equivalent of an annual benefit of such Dollar Limitation beginning at the Participant’s Social Security Retirement Age. The increased dollar limitation is the lesser of the equivalent dollar amount computed using the interest rate and mortality table used for actuarial equivalence set forth in Part I of the Plan (the definition of the term “Actuarial Equivalent” for the purposes of Part I of the Plan) or Section 2.02 in Part II of the Plan (the definition of the term “Actuarial Equivalent” for the purposes of Part II of the Plan) and the amount computed using an interest rate of 5 percent and the Code Section 417 Mortality Table as described in Part I of the Plan (the definition of the term “Actuarial Equivalent” for the purposes of Part I of the Plan) or in Section 2.02 in Part II of the Plan (the definition of the term “Actuarial Equivalent” for the purposes of Part II of the Plan).

- (i) Projected Annual Benefit. “**Projected Annual Benefit**” means the Annual Benefit, as defined in Section 4.05(b) of this Part III, to which the Participant would be entitled under the terms of the Plan assuming:
- (i) the Participant will continue employment until Normal Retirement Age under the Plan (or current Age, if later); and
  - (ii) the Participant’s Compensation for the current Limitation Year and all other relevant factors used to determine benefits under the Plan will remain constant for all future Limitation Years.
- (j) RPA ‘94 Old Law Benefit. “**RPA ‘94 Old Law Benefit**” means the Participant’s Accrued Benefit under the terms of the plan as of December 31, 1996, (the “**RPA ‘94 freeze date**”), for the annuity starting date and optional form and taking into account the limitations of Code Section 415, as in effect on December 7, 1994, including the participation requirements under Code Section 415(b)(5). In determining the amount of a Participant’s RPA ‘94 Old Law Benefit, the following shall be disregarded:
- (i) any Plan amendment increasing benefits adopted after the RPA ‘94 freeze date; and
  - (ii) any cost of living adjustments that become effective after such date.
- A Participant’s RPA ‘94 Old Law Benefit is not increased after the RPA ‘94 freeze date, but if the limitations of Code Section 415, as in effect on December 7, 1994, are less than the limitations that were applied to determine the Participant’s RPA ‘94 Old Law Benefit on the RPA ‘94 freeze date, then the Participant’s RPA ‘94 Old Law Benefit will be reduced in accordance with such reduced limitation. If, at any date after the RPA ‘94 freeze date, the Participant’s total plan benefit, before the application of Code Section 415, is less than the Participant’s RPA ‘94 Old Law Benefit, the RPA ‘94 Old Law Benefit will be reduced to the Participant’s total plan benefit.
- (k) Social Security Retirement Age. “**Social Security Retirement Age**” means age 65 in the case of a Participant attaining Age 62 before January 1, 2000 (*i.e.*, born before January 1, 1938), Age 66 for a Participant attaining age 62 after December 31, 1999, and before January 1, 2017 (*i.e.*, born after December 31, 1937, but before January 1, 1955), and Age 67 for a participant attaining Age 62 after December 31, 2016 (*i.e.*, born after December 31, 1954).

- (l) TRA '86 Accrued Benefit. “**TRA '86 Accrued Benefit**” means a Participant’s Accrued Benefit under the Plan, determined as if the Participant had separated from service as of the close of the last Limitation Year beginning before January 1, 1987, when expressed as an annual benefit within the meaning of Code Section 415(b)(2). In determining the amount of a Participant’s TRA '86 Accrued Benefit, the following shall be disregarded:
- (i) any change in the terms and conditions of the Plan after May 5, 1986; and
  - (ii) any cost of living adjustments occurring after May 5, 1986.
- (m) Year of Participation. “**Year of Participation**” means the Participant shall be credited with a year of participation (computed to fractional parts of a year) for each accrual computation period for which the following conditions are met: (i) The Participant is credited with at least the number of Hours of Service for benefit accrual purposes, required under the terms of the Plan in order to accrue a benefit for the accrual computation period, and (ii) the Participant is included as a Participant under the eligibility provisions of the plan for at least one day of the accrual computation period. If these two conditions are met, the portion of a year of participation credited to the Participant shall equal the amount of benefit accrual service credited to the Participant for such accrual computation period.

4.06 Final Section 415 Regulations Effective Date. The limitations of this Section shall apply in Limitation Years beginning on or after July 1, 2007, except as otherwise provided herein.

- (a) Grandfather Provision. The application of the provisions of this Section shall not cause the maximum permissible benefit for any Participant to be less than the Participant’s accrued benefit under all the defined benefit plans of the employer or a predecessor employer as of the end of the last Limitation Year beginning before July 1, 2007 under provisions of the plans that were both adopted and in effect before April 5, 2007. The preceding sentence applies only if the provisions of such defined benefit plans that were both adopted and in effect before April 5, 2007 satisfied the applicable requirements of statutory provisions, regulations, and other published guidance relating to Code Section 415 in effect as of the end of the last Limitation Year beginning before July 1, 2007, as described in Section 1.415(a)-1(g)(4) of the Treasury Regulations.
- (b) Incorporation by Reference. Notwithstanding anything contained in the Plan to the contrary, the limitations, adjustments, and other requirements prescribed in the Plan shall comply with the provisions of Code Section 415 and the final regulations promulgated thereunder, the terms of which are specifically incorporated herein by reference as of the first Limitation Year beginning on or after July 1, 2007, except where an earlier effective date is otherwise provided in the final regulations or in this Section. However, where the final regulations permit the Plan to specify an alternative option to a default option set forth in the regulations, and the alternative option was available under statutory provisions,

regulations, and other published guidance relating to Code Section 415 as in effect prior to April 5, 2007, and the Plan provisions in effect as of April 5, 2007 incorporated the alternative option, said alternative option shall remain in effect as a plan provision for Limitation Years beginning on or after July 1, 2007.

- (c) High Three-Year Average Compensation. For purposes of the Plan's provisions reflecting Code Section 415(b)(3) (*i.e.*, limiting the annual benefit payable to no more than 100% of the Participant's average annual compensation), a Participant's average compensation shall be the average compensation for the three consecutive years of service, during which the Employee had the greatest aggregate compensation from the Employer, except that a Participant's compensation for a year of service shall not include compensation in excess of the limitation under Code Section 401(a)(17) that is in effect for the calendar year in which such year of service begins. If the Participant has less than three consecutive years of service, compensation shall be averaged over the Participant's longest consecutive period of service, including fractions of years, but not less than one year. In the case of a Participant who is rehired by the Employer after a severance of employment, the Participant's high three-year average compensation shall be calculated by excluding all years for which the Participant performs no services for and receives no compensation from the Employer (the "**break period**"), and by treating the years immediately preceding and following the break period as consecutive.
- (d) Adjustment to dollar limit after date of severance. In the case of a Participant who has had a severance from employment with the Employer, the Defined Benefit Dollar Limitation applicable to the Participant in any Limitation Year beginning after the date of severance shall be automatically adjusted under Code Section 415(d).
- (e) Compensation paid after severance from employment. For Limitation Years beginning on or after July 1, 2007 compensation for a Limitation Year, within the meaning of Code Section 415(c)(3), shall also include the following types of compensation paid by the later of 2½ months after a Participant's severance from employment with the employer maintaining the plan or the end of the Limitation Year that includes the date of the Participant's severance from employment with the employer maintaining the plan. Any other payment of compensation paid after severance of employment that is not described in the following types of compensation is not considered compensation within the meaning of Code Section 415(c)(3), even if payment is made within the time period specified above.
  - (i) Regular pay after severance from employment. Compensation shall include regular pay after severance of employment if:
    - (A) The payment is regular compensation for services during the Participant's regular working hours, or compensation for services outside the Participant's regular working hours (such as overtime

or shift differential), commissions, bonuses, or other similar payments; and

(B) The payment would have been paid to the Participant prior to a severance from employment if the Participant had continued in employment with the employer.

(ii) Leave cashouts and deferred compensation. Leave cashouts and deferred compensation shall be included in compensation, if those amounts would have been included in the definition of compensation if they were paid prior to the Participant's severance from employment with the Employer maintaining the Plan, and the amounts are either:

(A) Payment for unused accrued bona fide sick, vacation, or other leave, but only if the Participant would have been able to use the leave if employment had continued; or

(B) Received pursuant to a nonqualified unfunded deferred compensation plan, but only if the payment would have been paid to the if the Participant had continued in employment with the employer and only to the extent that the payment is includible in the Participant's gross income.

(iii) Salary continuation payments for military service Participants. Compensation does not include payments to an individual who does not currently perform services for the employer by reason of qualified military service (as that term is used in Code Section 414(u)(1)) to the extent those payments do not exceed the amounts the individual would have received if the individual had continued to perform services for the employer rather than entering qualified military service. Notwithstanding the foregoing, for Plan Years beginning after December 31, 2008, a differential wage payment, as defined by Code Section 3401(h)(2), shall be treated as compensation, for purposes of Code Section 415(c)(3) and Treasury Regulation Section 1.415(c)-2, as provided Section 11.02 of Part III of the Plan.

(iv) Salary continuation payments for disabled Participants. Compensation does not include compensation paid to a Participant who is permanently and totally disabled (as defined in Code Section 22(e)(3)) if the Participant is not a highly compensated employee (as defined in Code Section 414(q)) immediately before becoming disabled, or to all Participants if the Plan provides for the continuation of compensation on behalf of all Participants who are permanently and totally disabled for a fixed or determinable period.

- (f) Administrative delay. Compensation for a Limitation Year shall not include amounts earned but not paid during the Limitation Year solely because of the timing of pay periods and pay dates, provided the amounts are paid during the first few weeks of the next Limitation Year, the amounts are included on a uniform and consistent basis with respect to all similarly situation Participants, and no compensation is included in more than one Limitation Year.
- (g) Option to apply compensation provisions early. The rules in Section 4.06(f) of this Part III shall apply for Limitation Years beginning on or after July 1, 2007.

## **ARTICLE V**

### **PRE-TERMINATION BENEFIT RESTRICTIONS**

- 5.01 In General. In the event of Plan termination, the benefit of any Highly Compensated Employee is limited to a benefit that is nondiscriminatory under Code Section 401(a)(4).

Benefits distributed to any of the 25 most Highly Compensated Employees shall be restricted such that the annual payments shall be no greater than an amount equal to the payment that would be made on behalf of the Employee under a single life annuity that is the Actuarial Equivalent of the sum of the Employee's Accrued Benefit and the Employee's other benefits under the Plan.

- 5.02 Exceptions. Section 5.01 of this Part III shall not apply if: (i) after payment of the benefit to an Employee described in the preceding Section, the value of Plan assets equals or exceeds 110% of the value of current liabilities, as defined in Code Section 412(1)(7); or (ii) the value of the benefits for an Employee described above is less than 1% of the value of current liabilities.

- 5.03 Included Benefits. For purposes of this Article, benefits include any periodic income, any withdrawal values payable to a living Employee, and any death benefits not provided for by insurance on the Employee's life.

## **ARTICLE VI**

### **BENEFIT RESTRICTIONS**

- 6.01 Effective Date and Application of Section.

- (a) Effective Date. The provisions of this Section 6.01 of this Part III apply to Plan Years beginning after December 31, 2007.
- (b) Notwithstanding anything in this Section to the contrary, the provisions of Code Section 436 and the regulations thereunder are incorporated herein by reference.
- (c) For Plans that have a valuation date other than the first day of the Plan Year, the provisions of Code Section 436 and this Article will be applied in accordance with the regulations under Code Section 436.

6.02 Funding-Based Limitation on Shutdown Benefits and Other Unpredictable Contingent Event Benefits.

- (a) In general. If a Participant is entitled to an “unpredictable contingent event benefit” payable with respect to any event occurring during any Plan Year, then such benefit may not be provided if the “adjusted funding target attainment percentage” for such Plan Year (i) is less than sixty percent (60%) or, (ii) would be less than sixty percent (60%) percent taking into account such occurrence.
- (b) Exemption. Section 6.02(a) of this Part III shall cease to apply with respect to any Plan Year, effective as of the first day of the Plan Year, upon payment by the Employer of a contribution (in addition to any minimum required contribution under Code Section 430) equal to:
  - (i) in the case of Section 6.02(a)(i) of this Part III above, the amount of the increase in the funding target of the Plan (under Code Section 430) for the Plan Year attributable to the occurrence referred to in Section 6.02(a) of this Part III, and
  - (ii) in the case of Section 6.02(a)(ii) of this Part III above, the amount sufficient to result in an “adjusted funding target attainment percentage” of sixty percent (60%).
- (c) Unpredictable contingent event benefit. For purposes of this subsection, the term “**unpredictable contingent event benefit**” means any benefit payable solely by reason of:
  - (i) a plant shutdown (or similar event, as determined by the Secretary of the Treasury), or
  - (ii) an event other than the attainment of any age, performance of any service, receipt or derivation of any compensation, or occurrence of death or disability.

6.03 Limitations on Plan Amendments Increasing Liability for Benefits.

- (a) In general. No amendment which has the effect of increasing liabilities of the Plan by reason of increases in benefits, establishment of new benefits, changing the rate of benefit accrual, or changing the rate at which benefits become nonforfeitable may take effect during any Plan Year if the “adjusted funding target attainment percentage” for such Plan Year is:
  - (i) less than eighty percent (80%), or
  - (ii) would be less than eighty percent (80%) taking into account such amendment.

- (b) Exemption. Section 6.03(a) of this Part III above shall cease to apply with respect to any Plan Year, effective as of the first day of the Plan Year (or if later, the effective date of the amendment), upon payment by the Employer of a contribution (in addition to any minimum required contribution under Code Section 430) equal to -
  - (i) in the case of Section 6.03(a)(i) of this Part III above, the amount of the increase in the funding target of the Plan (under Code Section 430) for the Plan Year attributable to the amendment, and
  - (ii) in the case of Section 6.03(a)(ii) of this Part III above, the amount sufficient to result in an “adjusted funding target attainment percentage” of eighty percent (80%).
- (c) Exception for certain benefit increases. Section 6.03(a) of this Part III shall not apply to any amendment which provides for an increase in benefits under a formula which is not based on a Participant’s compensation, but only if the rate of such increase is not in excess of the contemporaneous rate of increase in average wages of Participants covered by the amendment.

#### 6.04 Limitations on Accelerated Benefit Distributions.

- (a) Funding percentage less than sixty percent (60%). If the Plan’s “adjusted funding target attainment percentage” for a Plan Year is less than sixty percent (60%), then the Plan may not pay any “prohibited payment” after the valuation date for the Plan Year.
- (b) Bankruptcy. During any period in which the Employer is a debtor in a case under title 11, United States Code, or similar Federal or State law, the Plan may not pay any “prohibited payment.” The preceding sentence shall not apply on or after the date on which the enrolled actuary of the Plan certifies that the “adjusted funding target attainment percentage” of the Plan is not less than one hundred percent (100%).
- (c) Limited payment if percentage at least sixty percent (60%) but less than eighty percent (80%) percent.
  - (i) In general. If the Plan’s “adjusted funding target attainment percentage” for a Plan Year is sixty percent (60%) or greater but less than eighty percent (80%), then the Plan may not pay any “prohibited payment” after the valuation date for the Plan Year to the extent the amount of the payment exceeds the lesser of:
    - (A) fifty (50) percent of the amount of the payment which could be made without regard to this subsection, or

- (B) the present value (determined under guidance prescribed by the Pension Benefit Guaranty Corporation, using the interest and mortality assumptions under Code Section 417(e)) of the maximum guarantee with respect to the participant under ERISA Section 4022.
- (ii) One-time application.
  - (A) In general. Only 1 “prohibited payment” meeting the requirements of Section 6.04(c)(i) of this Part III may be made with respect to any Participant during any period of consecutive Plan Years to which the limitations under Section 6.04(a) or Section 6.04(b) or this Section 6.04(c)(ii)(A) of this Part III applies.
  - (B) Treatment of beneficiaries. For purposes of this subparagraph, a Participant and any Beneficiary (including an alternate payee, as defined in Code Section 414(p)(8)) shall be treated as one Participant. If the Accrued Benefit of a Participant is allocated to such an alternate payee and one or more other persons, the amount under Section 6.04(c)(i) of this Part III shall be allocated among such persons in the same manner as the Accrued Benefit is allocated unless the qualified domestic relations order (as defined in Code Section 414(p)(1)(A)) provides otherwise.
- (d) Exception. Section 6.04 of this Part III shall not apply for any Plan Year if the terms of the Plan (as in effect for the period beginning on September 1, 2005, and ending with such Plan Year) provide for no benefit accruals with respect to any Participant during such period.
- (e) “Prohibited payment.” For purpose of Section 6.04 of this Part III, the term “**prohibited payment**” means:
  - (i) any payment, in excess of the monthly amount paid under a single life annuity (plus any Social Security supplements described in the last sentence of Code Section 411(a)(9)), to a Participant or Beneficiary whose Annuity Starting Date occurs during any period in which a limitation under Section 6.04(a) or Section 6.04(b) of this Part III is in effect,
  - (ii) any payment for the purchase of an irrevocable commitment from an insurer to pay benefits, and
  - (iii) any other payment specified by the Secretary by regulations under Code Section 436.

Such term shall not include the payment of a benefit which under Code Section 411(a)(11) may be immediately distributed without the consent of the Participant.

6.05 Limitation on Benefit Accruals for Plans With Severe Funding Shortfalls.

- (a) In general. If the Plan's "adjusted funding target attainment percentage" for a Plan Year is less than sixty percent (60%), benefit accruals under the Plan shall cease as of the valuation date for the Plan Year.
- (b) Exemption. Section 6.05(a) of this Part III shall cease to apply with respect to any Plan Year, effective as of the first day of the Plan Year, upon payment by the Employer of a contribution (in addition to any minimum required contribution under Code Section 430) equal to the amount sufficient to result in an "adjusted funding target attainment percentage" of sixty percent (60%).
- (c) Temporary modification of limitation. In the case of the first Plan Year beginning during the period beginning on October 1, 2008, and ending on September 30, 2009, the provisions of Section 6.05(a) of this Part III above shall be applied by substituting the Plan's "adjusted funding target attainment percentage" for the preceding Plan Year for such percentage for such Plan Year, but only if the "adjusted funding target attainment percentage" for the preceding year is greater.

6.06 Rules Relating to Contributions Required to Avoid Benefit Limitations.

- (a) Security may be provided.
  - (i) In general. For purposes of this section, the "adjusted funding target attainment percentage" shall be determined by treating as an asset of the Plan any security provided by the Employer in a form meeting the requirements of Section 6.06(a)(ii) of this Part III.
  - (ii) Form of security. The security required under Section 6.06(a)(i) of this Part III shall consist of:
    - (A) a bond issued by a corporate surety company that is an acceptable surety for purposes of ERISA Section 412;
    - (B) cash, or United States obligations which mature in three (3) years or less, held in escrow by a bank or similar financial institution; or
    - (C) such other form of security as is satisfactory to the Secretary and the parties involved.
  - (iii) Enforcement. Any security provided under Section 6.06(a)(i) of this Part III may be perfected and enforced at any time after the earlier of:
    - (A) the date on which the Plan terminates;
    - (B) if there is a failure to make a payment of the minimum required contribution for any Plan Year beginning after the security is provided, the due date for the payment under Code Section 430(j); or

- (C) if the “adjusted funding target attainment percentage” is less than sixty percent (60%) for a consecutive period of 7 years, the valuation date for the last year in the period.
- (iv) Release of security. The security shall be released (and any amounts thereunder shall be refunded together with any interest accrued thereon) at such time as the Secretary may prescribe in regulations under Code Section 436, including regulations for partial releases of the security by reason of increases in the “adjusted funding target attainment percentage.”
- (b) Prefunding balance or funding standard carryover balance may not be used. No prefunding balance under Code Section 430(f) or funding standard carryover balance may be used under Sections 6.02, 6.03, or 6.05 of this Part III to satisfy any payment an Employer may make under any such subsection to avoid or terminate the application of any limitation under such subsection.
- (c) Deemed reduction of funding balances:
  - (i) In general. In any case in which a benefit limitation under Sections 6.02, 6.03, 6.04, or 6.05 of this Part III would (but for this Section 6.06(c) of this Part III and determined without regard to Sections 6.02(b), 6.03(b), or 6.05(b) of this Part III) apply to such Plan for the Plan Year, the Employer shall be treated for purposes of this title as having made an election under Code Section 430(f) to reduce the prefunding balance or funding standard carryover balance by such amount as is necessary for such benefit limitation to not apply to the Plan for such Plan Year.
  - (ii) Exception for insufficient funding balances. Section 6.06(a)(i) of this Part III shall not apply with respect to a benefit limitation for any Plan Year if the application of Section 6.06(a)(i) of this Part III would not result in the benefit limitation not applying for such Plan Year.

6.07 Presumed Underfunding for Purposes of Benefit Limitations.

- (a) Presumption of continued underfunding. In any case in which a benefit limitation under Sections 6.02, 6.03, 6.04, or 6.05 of this Part III has been applied to a Plan with respect to the Plan Year preceding the current Plan Year, the “adjusted funding target attainment percentage” of the Plan for the current Plan Year shall be presumed to be equal to the “adjusted funding target attainment percentage” of the Plan for the preceding Plan Year until the enrolled actuary of the Plan certifies the actual “adjusted funding target attainment percentage” of the Plan for the current Plan Year.

- (b) Presumption of underfunding after 10th month. In any case in which no certification of the “adjusted funding target attainment percentage” for the current Plan Year is made with respect to the Plan before the first day of the 10th month of such year, for purposes of Sections 6.02, 6.03, 6.04, and 6.05 of this Part III; such first day shall be deemed, for purposes of such subsection, to be the valuation date of the Plan for the current Plan Year and the Plan’s “adjusted funding target attainment percentage” shall be conclusively presumed to be less than sixty percent (60%) as of such first day.
- (c) Presumption of underfunding after 4th month for nearly underfunded plans. In any case in which:
- (i) a benefit limitation under Sections 6.02, 6.03, 6.04, or 6.05 of this Part III did not apply to a Plan with respect to the Plan Year preceding the current Plan Year, but the “adjusted funding target attainment percentage” of the Plan for such preceding Plan Year was not more than ten (10) percentage points greater than the percentage which would have caused such subsection to apply to the Plan with respect to such preceding Plan Year, and
  - (ii) as of the first day of the 4th month of the current Plan Year, the enrolled actuary of the Plan has not certified the actual “adjusted funding target attainment percentage” of the Plan for the current Plan Year, until the enrolled actuary so certifies, such first day shall be deemed, for purposes of such subsection, to be the valuation date of the Plan for the current Plan Year and the “adjusted funding target attainment percentage” of the Plan as of such first day shall, for purposes of such subsection, be presumed to be equal to ten (10) percentage points less than the “adjusted funding target attainment percentage” of the Plan for such preceding Plan Year.

6.08 Treatment of Plan as of Close of Prohibited or Cessation Period. The following provisions apply for purposes of applying this Article.

- (a) Operation of Plan after period. Payments will resume effective as of the day following the close of the period for which any limitation of payment of benefits under Section 6.04 of this Part III applies. If a limitation on benefit accruals under Section 6.05 of this Part III applies to the Plan as of a “Section 436 measurement date,” but that limit no longer applies to the Plan as of a later “Section 436 measurement date,” then that limitation shall not apply to benefit accruals that are based on service on or after that later “Section 436 measurement date,” except to the extent that the Plan does then not provide for such benefit accruals or provides that benefit accruals will not resume when the limitation ceases to apply. A “**Section 436 measurement date**” is the date that is used to determine when the limitations of Code Sections 436(d) and 436(e) apply or cease to apply.

- (b) Treatment of affected benefits. Nothing in this Section 6.08 of this Part III shall be construed as affecting the Plan's treatment of benefits which would have been paid or accrued but for this Article.

6.09 Definitions.

- (a) The term “**funding target attainment percentage**” has the same meaning given such term by Code Section 430(d)(2), except as otherwise provided herein. However, in the case of Plan Years beginning in 2008, the “funding target attainment percentage” for the preceding Plan Year may be determined using such methods of estimation as the Secretary may provide.
- (b) The term “**adjusted funding target attainment percentage**” means the “funding target attainment percentage” which is determined under paragraph (a) by increasing each of the amounts under subparagraphs (A) and (B) of Code Section 430(d)(2) by the aggregate amount of purchases of annuities for employees other than highly compensated employees (as defined in Code Section 414(q)) which were made by the Plan during the preceding two (2) Plan Years.
- (c) Application to plans which are fully funded without regard to reductions for funding balances.
  - (i) In general. In the case of a Plan for any Plan Year, if the “funding target attainment percentage” is one hundred percent (100%) or more (determined without regard to this paragraph and without regard to the reduction in the value of assets under Code Section 430(l)(4)(A)), the “funding target attainment percentage” for purposes of Sections 6.09(a) and (b) of this Part III shall be determined without regard to such reduction.
  - (ii) Transition rule. Section 6.09(c)(i) of this Part III shall be applied to Plan Years beginning after 2007 and before 2011 by substituting for “one hundred percent (100%)” the applicable percentage determined in accordance with the following table:

In the case of a Plan Year beginning in calendar year:                      The applicable percentage is:

2008	92%
2009	94%
2010	96%

- (iii) Section 6.09(c)(ii) of this Part III shall not apply with respect to any Plan Year after 2008 unless the “funding target attainment percentage” (determined without regard to Section 6.09(c)(iii) of this Part III) of the Plan for each preceding Plan Year after 2007 was not less than the applicable percentage with respect to such preceding Plan Year determined under Section 6.09(c)(ii) of this Part III.

## ARTICLE VII

### PLAN FIDUCIARY RESPONSIBILITIES

7.01 Plan Fiduciaries. The Plan Fiduciaries shall be:

- (a) the Trustee(s) of the Plan;
- (b) the Plan Administrator; and
- (c) such other person or persons as may be designated by the Plan Administrator as a fiduciary in accordance with the provisions of this Article.

7.02 General Fiduciary Duties. Each Plan Fiduciary shall discharge his or her or her duties solely in the interest of the Participants and their Beneficiaries and act:

- (a) for the exclusive purpose of providing benefits to Participants and their Beneficiaries and defraying reasonable expenses of administering the Plan;
- (b) with the care, skill, prudence and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims;
- (c) by diversifying the investments of the Plan so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so, if the Fiduciary has the responsibility to invest plan assets; and
- (d) in accordance with the documents and instruments governing the Plan insofar as such documents and instruments are consistent with the provisions only Title I of ERISA.

Each Plan Fiduciary shall perform the duties specifically assigned to him or her. No Plan Fiduciary shall have any responsibility for the performance or non-performance of any duties not specifically allocated to him or her.

- 7.03 Duties of the Trustee(s). The specific responsibilities and duties of the Trustee(s) are set forth in the Trust Indenture among the Plan Sponsor, the Plan Administrator, and the Trustee(s). In general, the Trustee(s) shall:
- (a) invest Plan assets, subject to directions from the Plan Administrator or from any duly appointed investment manager;
  - (b) maintain adequate records of receipts, disbursements, and other transactions involving the Plan; and
  - (c) prepare such reports, statements, tax returns and other forms as may be required under the Trust Indenture or applicable laws and regulations.
- 7.04 Powers and Duties of the Plan Administrator. The “**Plan Administrator**” is the Benefits Committee. The Plan Administrator shall have the power, discretionary authority, and duty to interpret the provisions of the Plan and to make all decisions and take all actions that shall be necessary or proper in order to carry out the provisions of the Plan. Without limiting the generality of the foregoing, the Plan Administrator shall:
- (a) monitor compliance with the provisions of ERISA and other applicable laws with respect to the Plan;
  - (b) establish an investment policy and funding method consistent with objectives of the Plan and with the requirements of applicable laws and regulations;
  - (c) invest Plan assets except to the extent that the Plan Administrator has delegated such investment duties to an investment manager;
  - (d) evaluate from time to time investment policy and the performance of any investment manager or investment advisor appointed by it;
  - (e) be solely responsible to, and shall, interpret and construe the Plan and resolve any ambiguities therein, with any such interpretations or constrictions to be conclusively binding and final, to the extent permitted by applicable law, upon all persons interested or claiming under the Plan;
  - (f) determine, in its sole discretion, all questions concerning the eligibility of any person to participate in the Plan, the right to and the amount of any benefit payable under the Plan to or on behalf of an individual and the date on which any individual ceases to be a Participant, with any such determination to be conclusively binding and final, to the extent permitted by applicable law, upon all persons interested or claiming an interest in the Plan;

- (g) establish guidelines as required for the orderly and uniform administration of the Plan;
- (h) exercise overall control of the operation and administration of the Plan in matters not allocated to some other Fiduciary by the terms of this Plan.
- (i) administer the Plan on a day-to-day basis in accordance with the provisions of this Plan and all other pertinent documents;
- (j) retain and maintain Plan records, including Participant census data, participation dates, compensation records, and such other records necessary or desirable for proper Plan administration;
- (k) prepare and arrange for delivery to Participants of such summaries, descriptions, announcements and reports as are required to be given to participants under applicable laws and regulations;
- (l) file with the U.S. Department of Labor, the Internal Revenue Service and other regulatory agencies on a timely basis all required reports, forms and other documents;
- (m) prepare and furnish to the Trustee(s) sufficient records and data to enable the Trustee(s) to properly perform its obligations under the Trust Indenture; and
- (n) to take appropriate actions required to correct any errors made in determining the eligibility of any employee for benefits under the Plan or the amount of benefits payable under the Plan, including as part of correcting any error made in computing the benefits of any Participant or Beneficiary, making equitable adjustments (an increase or decrease) in the amount of any future benefits payable under the Plan and including the recovery of any overpayment of benefits paid from the Plan as provided in Treasury Regulation Section 1.401(a)-13(c)(2)(iii).

The Plan Administrator may appoint or employ such advisers or assistants as the Plan Administrator deems necessary and may delegate to any one or more of its members any responsibility it may have under the Plan or designate any other person or persons to carry out any responsibility it may have under the Plan.

Notwithstanding any provisions elsewhere to the contrary, the Plan Administrator shall have total discretion to fulfill the above responsibilities as the Plan Administrator sees fit on a uniform and consistent basis and as the Plan Administrator believes a prudent person acting in a like capacity and familiar with such matters would do.

7.05 Designation of Fiduciaries. The Plan Administrator shall have the authority to appoint and remove Trustee(s) in accordance with the Trust Indenture. The Plan Administrator may appoint and remove an investment manager and delegate to said investment manager power to manage, acquire or dispose of any assets of the Plan.

While there is an investment manager, the Plan Administrator shall have no obligation under this Plan with regard to the performance or non-performance of the duties delegated to the investment manager.

The Plan Administrator shall appoint all other Fiduciaries of this Plan. In making its appointment or delegation of authority, the Plan Administrator may designate all of the responsibilities to one person or it may allocate the responsibilities, on a continuing basis or on an ad hoc basis, to one or more individuals either jointly or severally. No individual named a Fiduciary shall have any responsibility for the performance or non-performance of any responsibilities or duties not allocated to him or her.

The appointing authority of a Fiduciary shall periodically, but not less frequently than annually, review the performance of each Fiduciary appointed in order to carry out the general fiduciary duties specified in Section 7.02 of this Part III and, where appropriate, in its sole discretion, take or recommend remedial action.

- 7.06 Delegation of Duties by a Fiduciary. Except as provided in this Plan or in the appointment as a Fiduciary, no Fiduciary may delegate his or her or her fiduciary responsibilities. If authorized by the appointing authority, a Fiduciary may appoint such agents as may be deemed necessary and delegate to such agents any non-fiduciary powers or duties, whether ministerial or discretionary. No Fiduciary or agent of a Fiduciary who is a full-time employee of the Employer will receive any compensation from the Plan for his or her or her services, but the Employer or the Plan shall pay all expenses that such employee reasonably incurs in the discharge of his or her duties.

## ARTICLE VIII

### BENEFITS COMMITTEE

- 8.01 Appointment of Benefits Committee. The Benefits Committee (the “**Benefits Committee**”) shall consist of three or more members appointed from time to time by the President of the Employer (the “**President**”), who shall also designate one of the members as chairperson. Each member of the Benefits Committee and its chairperson shall serve at the pleasure of the appointing authority.
- 8.02 Benefits Committee to Act by Majority Vote. The Benefits Committee shall act by majority vote of all members. All actions, determinations, interpretations and decisions of the Benefits Committee with respect to any matter within its jurisdiction will be conclusive and binding on all persons. Any person may rely conclusively upon any action if certified by the Benefits Committee.

Notwithstanding the above, a member of the Benefits Committee who is also a Participant shall not vote or act upon any matter relating solely or primarily to himself or herself.

- 8.03 Records and Reports of the Benefits Committee. The Benefits Committee shall keep a record of all of its proceedings and acts, and shall keep such books of account, records and other data as may be necessary for the proper administration of the Plan and file or deliver to Participants and their Beneficiaries whatever reports are required by any regulatory authority.
- 8.04 Costs and Expenses of Administration. Notwithstanding any provisions of the Plan to the contrary, all clerical, legal and other expenses of the Plan and the Trust, including Trustee's fees, shall be paid by the Plan, except to the extent the Employer elects to pay such amounts; provided, however, that if the Employer pays such amounts, it shall be reimbursed by the Trust for such amounts unless the Employer elects not to be so reimbursed.
- 8.05 Indemnification of the Plan Administrator and Assistants. The Employer shall indemnify and defend, to the extent permitted under the By-Laws of the Employer, any Employee or former Employee (i) who serves or has served as a member of the Benefits Committee, (ii) who has been appointed to assist the Benefits Committee in administering the Plan, or (iii) to whom the Benefits Committee has delegated any of its duties or responsibilities against any liabilities, damages, costs and expenses (including attorneys' fees and amounts paid in settlement of any claims approved by the Employer) occasioned by any act or omission to act in connection with the Plan, if such act or omission to act is in good faith and without gross negligence; provided that such Employee or former Employee is not otherwise indemnified or saved harmless under any liability insurance or other indemnification arrangement.

## ARTICLE IX

### CLAIMS PROCEDURE

- 9.01 Claims Fiduciary. The Plan Administrator will act as "**Claims Fiduciary**," except to the extent that the Plan Administrator has delegated the function to some other person or persons, committee or entity.

Notwithstanding anything in the Plan to the contrary, the Claims Fiduciary shall have total and complete discretion to fulfill its fiduciary responsibilities as it sees fit on a uniform and consistent basis and as it believes a prudent person acting in a like capacity and familiar with such matters would do.

- 9.02 Claims for Benefits. Claims for benefits or to enforce or clarify rights under the Plan, under any provision of law, whether statutory or not, may be filed with the Plan Administrator using forms supplied by the Employer. For the purpose of this procedure, "**claim**" means a request for a Plan benefit or to enforce or clarify rights under the Plan, under any provision of law, whether statutory or not, by a Participant or a Beneficiary of a Participant. If the basis of the claim includes documentation not a part of the records of the Plan or of the Employer, all such documentation must be included with the claim.

- 9.03 Duty to Keep Plan Administrator Informed of Current Address. Each Participant and Beneficiary must file with the Plan Administrator from time to time his or her post office address and each change thereof. Any communication, statement or notice addressed to a Participant or Beneficiary at his or her last post office address filed with the Plan Administrator, or if no address is filed with the Plan Administrator, then at his or her last post office address as shown on the Employer's records, will be binding on the Participant and Beneficiary for all purposes of the Plan. Neither the Plan Administrator nor the Employer shall be required to search for or locate a Participant or Beneficiary.
- 9.04 Failure to Claim Benefits. If the Plan Administrator notifies a Participant or Beneficiary by registered or certified mail at his or her last known address that he or she is entitled to a distribution and also notifies him or her of the provision of this Section, and the Participant or Beneficiary fails to claim his or her benefits under the Plan, the Plan Administrator shall make reasonable efforts to locate such Participant or Beneficiary. If the Participant or Beneficiary fails to claim his or her benefits under the Plan or fails to make his or her or her current address known to the Plan Administrator within three years after such notification, the Plan Administrator, at the end of such three-year period, shall direct that benefits which would have been payable to such Participant or Beneficiary shall be forfeited. In the event that the Participant or Beneficiary is subsequently located, the benefits which were forfeited shall be reinstated, and such reinstatement shall be taken into account in determining the Employer contribution for the Plan Year of the reinstatement.
- 9.05 Notice of Denial of Claim. If a claim is wholly or partially denied, the Plan Administrator shall notify the claimant of the denial of the claim within a reasonable period of time. Such notice of denial (i) shall be in writing, (ii) shall be written in a manner calculated to be understood by the claimant, and (iii) shall contain (A) the specific reason or reasons for denial of the claim, (B) a specific reference to the pertinent Plan provisions upon which the denial is based, (C) a description of any additional material or information necessary for the claimant to perfect the claim, along with an explanation why such material or information is necessary, and (D) an explanation of the Plan's claim review procedure. Unless special circumstances require an extension of time for processing the claim, the Plan Administrator shall notify the claimant of the claim denial no later than 90 days after the Plan Administrator's receipt of the claim. If such an extension is required, written notice of the extension shall be furnished to the claimant prior to the termination of the initial 90-day period. The extension notice shall indicate the special circumstances requiring the extension of time and the date by which the Plan Administrator expects to render the final decision, which date will not be later than 180 days after the Plan Administrator's receipt of the claim.

- 9.06 Request for Review of Denial of Claim. Within 120 days of the receipt by the claimant of the written notice of the denial of the claim, or such later time as shall be deemed reasonable in the sole discretion of the Plan Administrator, taking into account the nature of the benefit subject to the claim and any other attendant circumstances, or if the claim has not been granted within a reasonable period of time, the claimant may file a written request with the Plan Administrator to conduct a full and fair review of the denial of the claimant's claim for benefits. In connection with the claimant's appeal of the denial of his or her benefit, the claimant may review pertinent documents and may submit issues and comments in writing.
- 9.07 Decision on Review of Denial of Claim. The Plan Administrator shall deliver to the claimant a written decision on the claim promptly, but not later than 60 days, after the receipt of the claimant's request for review, except that if there are special circumstances which require an extension of time for processing, the aforesaid 60-day period may be extended to 120 days. Such decision shall (i) be written in a manner calculated to be understood by the claimant, (ii) include specific reasons for the decision, and (iii) contain specific references to the pertinent Plan provisions upon which the decision is based.
- 9.08 Disability Claims. Notwithstanding anything in this Article IX of Part III of the Plan to the contrary, when a claim under this Article is made in connection with a benefit payable under Section 6.05 of Part I (as a result of a qualifying Participant's being Totally Disabled under Part I) or is made in connection with a benefit payable under Section 5.04 of Part II (as a result of a qualifying Participant's being Totally Disabled under Part II), solely for purposes of processing such a claim, (i) all references in Sections 9.05 and 9.07 of this Part III to "90 days" and "60 days" are deemed to have been replaced with "45 days", (ii) the reference to "180 days" in Section 9.05 of this Part III is deemed to have been replaced with "75 days", (iii) the reference to "120 days" in Section 9.07 of this Part III is deemed to have been replaced with "90 days", (iv) a second, maximum 30 day extension of time will be allowed only under Section 9.05 of this Part III in the case of a claim within this Section, but only if the other requirements for an extension of time to respond described in Section 9.05 of this Part III are satisfied with respect to this second extension, and (v) the claimant will be allowed at least 45 days within which to provide any needed additional information sought in connection with any extension under Sections 9.05 and 9.08 of this Part III.

9.09 Limitations Periods for Filing Claims and Legal Actions. To be considered timely filed under the Plan's claims procedures and notwithstanding anything in this Part III to the contrary, a claim for benefits filed after 2015 must be filed with the appropriate Claims Fiduciary under Sections 9.02 or 9.08 of this Part III before the first (1st) anniversary of the date on which claimant knew or reasonably should have known of the principal facts upon which the claim is based. Notwithstanding anything in this Part III to the contrary, a legal action to recover Plan benefits or to enforce or clarify rights under the Plan under ERISA Section 502, ERISA Section 510 or under any other provision of law, whether statutory or not, may not be brought after 2015 by any claimant on any matter pertaining to this Plan unless the legal action is initiated in the proper forum before the earlier of (i) the expiration of thirty (30) completed calendar months after the date on which the claimant knew or reasonably should have known of the principal facts on which the claim is based, or (ii) the expiration of six (6) completed calendar months after the claimant has exhausted the applicable claims procedures under this Plan. For the purpose of applying this Section, knowledge of all facts that the Participant knew or reasonably should have known will be imputed to every claimant who is, or who purports to be, a Beneficiary of the Participant or otherwise purports to derive an entitlement to a Plan benefit or a Plan right by reference to the Participant.

Exhaustion of the Plan's claims procedures is mandatory for every claim and dispute of whatever nature or from whatever source and arising under this Plan. As to such claims and disputes, no claimant shall be permitted to commence any legal action to recover Plan benefits or to enforce or clarify rights under the Plan under ERISA Section 502, ERISA Section 510 or under any other provision of law, whether or not statutory, until the applicable claims procedures set forth in the Plan have been exhausted in their entirety.

In any legal action described in this Section, all explicit and implicit determinations by the Plan Administrator, any Claims Fiduciary and all other persons determining or reviewing claims in such legal action (including, but not limited to, determinations as to whether the claim, or a request for a review of a denied claim, was timely filed) shall be afforded the maximum deference permitted by law. Any interpretation, determination or other action of such persons shall be subject to change only if it was arbitrary or capricious or a more serious abuse of discretion. Any external review of a final decision or action by such persons reviewing a claim under this Part III shall be based only on such evidence presented to or considered by such persons at the time they made the decision or decisions that are the subject of review.

## ARTICLE X

### AMENDMENT AND TERMINATION

10.01 Amendment of Plan. The right is reserved to the Employer to amend the Plan at any time and from time to time and all parties or any person claiming any interest hereunder shall be bound thereby; except no person having an already vested interest in the Plan shall be deprived of any interest already existing nor have such interest adversely affected. No such amendment shall have the effect of vesting in the Employer any right, title or interest to any assets of the Plan. The decision of the Employer shall be binding upon the Participants and all other persons and parties interested as to whether or not any amendment does deprive a Participant or any other person or adversely affects such interest. No amendment to the Plan (including a change in the actuarial basis for determining optional or early retirement benefits) shall decrease a Participant's Accrued Benefit or eliminate an optional form of distribution. Notwithstanding the preceding sentence, a Participant's Accrued Benefit may be reduced to the extent permitted under Code Section 412(c)(8). For purposes of this paragraph, a Plan amendment which has the effect of (i) eliminating or reducing an early retirement benefit or a retirement-type subsidy, or (ii) eliminating an optional form of benefit with respect to benefits attributable to service before the amendment shall be treated as reducing accrued benefits. In the case of a retirement-type subsidy, the preceding sentence shall apply only with respect to a Participant who satisfies (either before or after the amendment) the pre-amendment conditions for the subsidy. In general, a retirement-type subsidy is a subsidy that continues after retirement, but does not include a qualified disability benefit, a medical benefit, or a social security supplement that does not continue after retirement age. Furthermore, no amendment to the Plan shall have the effect of decreasing a Participant's vested interest determined without regard to such amendment as of the later of the date such amendment is adopted, or becomes effective. Participants shall be notified of any Plan amendments.

In the case of any merger, consolidation with or transfer of assets or liabilities by the Employer to another Plan, each Participant in the Plan on the date of the transaction shall have a benefit in the surviving Plan (determined as if such Plan were terminated immediately after the transaction) at least equal to the benefit to which he or she would have been entitled to receive immediately prior to the transaction if the Plan had been terminated. However, this provision shall not be construed to be a termination or discontinuance of the Plan or to be a guarantee of a specific level of benefits from this Plan.

Notwithstanding the foregoing, a transfer of amounts from this Plan or its related trust to a nonqualified foreign trust as described in Revenue Ruling 2008-40 shall be treated as a distribution from the Plan.

10.02 Employer May Discontinue Plan. The Employer reserves the right at any time to reduce its annual payments, to partially terminate its Plan or to terminate its Plan in its entirety.

In the event of the liquidation of the Employer or the bona fide sale of the controlling interest thereof, the Employer or its successors or assigns shall not be obligated to continue the Plan.

Upon termination of the Employer's Plan or upon a partial termination of the Plan, each affected Participant shall have a 100% vested and non-forfeitable right to his or her Accrued Benefit to the extent then funded.

In the event of termination or partial termination of the Employer's Plan, the assets of the Plan then available to provide benefits shall be applied in accordance with ERISA Section 4044 and regulations promulgated thereunder, in accordance with the following order of priority; provided, however, that no benefits being provided to former Participants or their Beneficiaries by the Insurer shall be canceled.

- (a) First, to provide that portion of each affected Participant's Accrued Benefit which is derived from any mandatory Employee contributions.
- (b) Second, to provide, in the case of retirement income benefits of each affected Participant or Beneficiary:
  - (i) Annuity benefits which were in pay status for at least the three-year period ending on the date of Plan termination; and
  - (ii) Annuity benefits which would have been in pay status during the three-year period ending on the date of Plan termination, had a Participant eligible to retire at the beginning of such three-year period retired on the date of Plan termination.

The level of benefits allocated to this priority class shall be determined on the basis of the Plan's provisions which were in effect at any time during the five-year period ending on the date of Plan termination under which the annuity benefits would be the least. Additionally, the level of such benefits is limited to the lowest level which was, or could have been, in pay status during the three-year period ending on the date of Plan termination (but, in the case of a benefit which would have been in pay status, the amount of the benefit, but not the entitlement to the benefit, shall be determined using the age, service and other relevant factors for computing the benefit under the Plan with respect to the Participant as of the date of Plan termination).

- (c) Third, to provide all other benefits guaranteed to affected Participants under Title IV of ERISA and regulations promulgated thereunder (determined as if the insurance limits provided under the Act for benefits payable to one person with respect to more than one Participant or from more than one terminated Plan and the insurance limits on benefits payable to a substantial owner all were not applicable).
- (d) Fourth, to provide all other non-forfeitable benefits accrued by affected Participants under the Plan.

- (e) Fifth, to provide all other benefits accrued by affected Participants under the Plan.
- (f) Any residual assets of the Plan remaining after distribution in accordance with this Article shall be distributed to the Employer provided that all liabilities of the Plan to Participants and their Beneficiaries have been satisfied.

Notwithstanding anything in this Section to the contrary, in the event of a partial termination of the Plan, this Section shall be applicable only to those Participants and their Beneficiaries affected by the partial termination.

Notwithstanding anything in the Plan to the contrary, the following special rules will apply to adjust Account Balances after the effective date of a termination of the Plan under this Section and Treasury Regulation Section 1.411(b)(5)-1(e)(2)(iv)(E) (the “**termination date**”):

- (x) The interest crediting rate used to credit interest to Account Balances under Section 4.03 of Part I of the Plan for all periods ending after the termination date will be the arithmetic average of the actual rate used to add interest credits to Account Balances for each of the five interest crediting periods that ended within the 60 month period ending on the termination date.
- (y) Whether an Account Balance has been converted to an Actuarial Equivalent annuity after the termination date will be determined by applying the arithmetic average of the Code Section 417 Applicable Interest Rates (or its successor) actually used during the 60 months ending on the termination date and the Code Section 417 Mortality Table (or its successor) specified for such conversions in Section 2.02 of Part I of the Plan, as appropriate, on the termination date. If tabular factors have been substituted for the Code Section 417 Applicable Interest Rate and the Code Section 417 Mortality Table for these annuity conversions prior to the termination date, the average of the tabular factors used during the 60 months ending on the Plan's termination date will be substituted and used to calculate conversions of Account Balances to an annuity after the termination date. If neither of the preceding two options in Section 10.02(y) of this Part III applies, the actuarial assumptions to be used to convert an Account Balance to an annuity after the termination date will be determined using guidance issued under Code Section 411(b)(5) and the regulations thereunder.

10.03 Distribution of Benefits Upon Plan Termination. Subject to Article IV of Part III and upon approval of the Pension Benefit Guaranty Corporation (“**PBGC**”), when required, upon a termination or partial termination of the Plan, benefits shall be distributed to affected Participants in any manner which the Plan Administrator deems to be in the best interests of the Participants which is acceptable under applicable PBGC and Internal Revenue Code statutes and regulations. Any such distribution may include a lump sum payment, deferment of the distribution or the distribution of an annuity contract without life insurance, immediate or deferred, which by its terms may not be sold, assigned discounted or pledged as collateral for a loan or as security for the performance of an obligation or for any other purpose to any party other than the issuer thereof. Spousal consent shall be required for distributions made on account of Plan termination. In no event shall the payment of benefits be deferred beyond the Participant’s Normal Retirement Date.

10.04 Return of Employer Contributions Under Special Circumstances.

Notwithstanding any provisions of this Plan to the contrary:

- (a) Any monies or other Plan assets attributable to any contributions made by the Employer to the Plan because of a mistake of fact must be returned to the Employer within one year after the date of contribution.
- (b) Any monies or other Plan assets attributable to any contribution made by the Employer which is conditional on the deductibility of such contribution must be refunded to the Employer, to the extent the deduction is disallowed, within one year after the date of such disallowance.

## **ARTICLE XI**

### **MISCELLANEOUS**

11.01 Protection of Employee Interest. No Participant or Beneficiary shall have the right to assign, pledge, alienate or convey any right, benefit or payment to which he or she shall be entitled in accordance with the provisions of the Plan, and any such attempted assignment, pledge, alienation or conveyance shall be null and void and of no effect. To the extent permitted by law, none of the benefits, payments, proceeds or rights herein created and provided for shall in any way be subject to any debts, contracts or engagements of any Participant or Beneficiary, as herein before described, nor to any suits, actions or other judicial process to levy upon or attach the same for the payment thereof; provided, however, that this provision does not preclude the Plan Administrator from complying with the terms of a Qualified Domestic Relations Order.

11.02 USERRA Compliance. Notwithstanding any provisions of this Plan to the contrary, contributions, benefits and service credit with respect to qualified military service will be provided in accordance with the rules and requirements of the Uniformed Services Employment and Reemployment Rights Act of 1994 (“**USERRA**”) and Code Section 414(u).

- (a) Differential Wage Payments. For Plan Years beginning after December 31, 2008, (i) an individual receiving a differential wage payment (as defined by Code Section 3401(h)(2)), shall be treated as an employee of the employer making the payment, (ii) the differential wage payment shall be treated as compensation, the differential wage payment shall be treated as compensation, for purposes of Code Section 415(c)(3) and Treasury Regulation Section 1.415(c)-2 (e.g., for purposes of Code Section 415, top-heavy provisions of Code Section 416, determination of highly compensated employees under Code Section 414(q), and applying the 5% gateway requirement under the Code Section 401(a)(4) regulations), and (iii) the Plan shall not be treated as failing to meet the requirements of any provision described in Code Section 414(u)(1)(C) by reason of any contribution or benefit which is based on the differential wage payment. Section 11.02(a)(iii) of this Part III shall apply only if all employees of the Employer performing service in the uniformed services described in Code Section 3401(h)(2)(A) are entitled to receive differential wage payments (as defined in Code Section 3401(h)(2)) on reasonably equivalent terms and, if eligible to participate in a retirement plan maintained by the employer, to make contributions based on the payments on reasonably equivalent terms (taking into account Code Sections 410(b)(3), (4), and (5)).
- (b) Death Benefits Under USERRA. Effective for deaths occurring on or after January 1, 2007, in the case of a Participant who dies while performing qualified military service as defined in Code Section 414(u), the survivors of the Participant are entitled to any additional benefits (other than benefit accruals relating to the period of qualified military service) provided under the Plan had the Participant resumed and then terminated employment on account of death. Moreover, the Plan will credit the Participant’s qualified military service as service for vesting purposes, as though the Participant had resumed employment under USERRA immediately prior to the Participant’s death.

11.03 Meaning of Words Used in Plan. Wherever any words are used herein in the masculine gender, they shall be construed as though they were also used in the feminine or neuter gender in all cases where they would so apply. Wherever any words are used herein in the singular form, they shall be construed as though they were also used in the plural form in all cases where they would so apply.

Titles used herein are for general information only, and this Plan is not to be construed by reference thereto.

11.04 Plan Does Not Create or Modify Employment Rights. The Plan shall not be construed as creating or modifying any contract of employment between the Employer and any

Participant. All Employees shall be subject to discharge to the same extent that they would have been if the Plan had never been adopted.

- 11.05 Massachusetts Law Controls. This Plan shall be governed by the laws of the Commonwealth of Massachusetts to the extent that they are not pre-empted by the laws of the United States of America.
- 11.06 Payments to come from Plan Assets. All benefits and amounts payable under the Plan shall be paid or provided for solely from the assets of the Plan, and neither the Employer nor the Plan Administrator assumes any liability or responsibility therefor.
- 11.07 Receipt and Release for Payments. Any payment to any Participant, his or her legal representative, Beneficiary, or to any guardian, custodian or committee appointed for such Participant or Beneficiary in accordance with the provisions of this Plan, shall, to the extent thereof, be in full satisfaction of all claims hereunder against the Employer and the Insurer, any of whom may require such Participant, legal representative, Beneficiary, guardian, custodian or committee, as a condition precedent to such payment, to execute a receipt and release thereof in such form as shall be determined by the Employer or Insurer.
- 11.08 Mandatory Withholding on Eligible Rollover Distributions. Except as provided in Code Section 3405 and in regulations promulgated thereunder, the Employer is required to withhold 20% on any portion of an eligible rollover distribution not paid directly to an eligible retirement plan.
- 11.09 Payment under Qualified Domestic Relations Orders. Notwithstanding any provisions of the Plan to the contrary, if there is entered any Qualified Domestic Relations Order that affects the payment of benefits hereunder, such benefits shall be paid in accordance with the applicable requirements of such Order, provided that such Order (i) does not require the Plan to provide any type or form of benefits, or any option that is not otherwise provided hereunder, (ii) does not require the Plan to provide increased benefits, and (iii) does not require the payment of benefits to an alternate payee which are required to be paid to another alternate payee under another order previously determined to be a Qualified Domestic Relations Order.

The Plan Administrator shall establish reasonable procedures to determine whether an order or other decree is a Qualified Domestic Relations Order and to administer distributions under such orders.

To the extent required or permitted by any such Order, at any time on or after the date the Plan Administrator has determined that the Order is a Qualified Domestic Relations Order, the alternate payee shall have the right to request the Plan Administrator to commence distribution of benefits under the Plan (including any single sum cash-out that would be available if the Participant were the payee and entitled to a benefit payment on account of termination from service) regardless of whether the Participant is otherwise entitled to a distribution at such time under the Plan.

11.10 Electronic Communications. Effective for Plan Years beginning on or after January 1, 2007, any electronic communications made by the Plan to Participants in regards to eligible rollover distribution tax notices, Participant consents to distributions, and tax withholding notices shall comply with the requirements contained in Treasury Regulation Section 1.401(a)-21, in addition to all otherwise applicable requirements relating to the specific communication.

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EXECUTED this 17<sup>th</sup> day of December, 2015.

The Hanover Insurance Company

By: /s/ Elena Patronas  
Name: Elena Patronas  
Title: Vice President

**THE HANOVER INSURANCE GROUP  
CASH BALANCE PENSION PLAN**

**FIRST AMENDMENT**

This First Amendment is executed by The Hanover Insurance Company, a New Hampshire corporation (the “**Company**”).

**WHEREAS**, the Company sponsors The Hanover Insurance Group Cash Balance Pension Plan (the “**Plan**”); and

**WHEREAS**, the Plan consists of the following three component parts, each of which is set forth in the same document: (i) Part I, which provides a cash balance and pension benefit which were formerly provided under a plan known as “The Allmerica Financial Cash Balance Pension Plan”, and then “The Hanover Insurance Group Cash Balance Pension Plan”, (ii) Part II, which provides a pension benefit which was formerly provided under a plan known as “The Allmerica Financial Agents’ Pension Plan”, and (iii) Part III, which contains Plan terms applicable to each of Part I and Part II; and

**WHEREAS**, the Plan was most recently amended and restated generally effective January 1, 2016; and

**WHEREAS**, the Company has the authority to amend the Plan at any time pursuant to Section 10.01 of Part III of the Plan; and

**WHEREAS**, the Company desires to amend the Plan to require the purchase of a group annuity contract from an insurance company in order to transfer the benefit liabilities and obligations to pay the benefits of certain retirees listed in Appendix A to the Plan, as added by this Amendment, to the insurance company; and

**NOW, THEREFORE**, the Plan is amended, effective as provided below, as follows:

***Part I is amended as follows:***

1. Effective August 9, 2016, existing Section 6.06 of Part 1 of the Plan is amended to delete the second paragraph of existing Section 6.06 and to substitute the following as the new second paragraph of Section 6.06:

“Except as otherwise provided in Sections 6.07 and 6.11, the requirements of this Section shall apply to any distribution of a Participant's interest and will take precedence over any inconsistent provisions of Part I of the Plan.”

2. Effective August 9, 2016 for only the Designated Retirees (as defined in new Section 6.11 of Part I), the following new Section 6.11 of Part I of the Plan is added to Part I of the Plan immediately after existing Section 6.10, as follows:

“6.11 Purchase of Annuity Contract. On or before December 31, 2016 (or as soon as practicable thereafter) and notwithstanding anything in the Plan to the contrary,

the Plan shall purchase one or more annuity contracts as provided in this Section (the “**Annuity Purchase**”).

- (a) Designated Retirees. The annuity contract or contracts purchased under this Section and Section 5.09 of Part II (the “**Annuity Contract**”) shall pay the pension being paid under the Plan to a “Designated Retiree.” For purposes of only this Section 6.11, a “**Designated Retiree**” is a Plan participant, Beneficiary, or alternate payee (duly qualified under Section 11.09 of Part III and listed as such on Appendix A to this Amendment) (for this Section and Section 5.09 of Part II, an “**Alternate Payee**”) who is listed on Appendix A to this Amendment and who satisfied the following conditions as of the Annuity Contract's purchase date: (i) the individual's entire benefit under the Plan was calculated and was being paid exclusively under Part I of the Plan or a combination of Parts I and II of the Plan; (ii) the annuity starting date (or annuity starting dates) for the individual's entire pension benefit under the Plan (whether paid to the Participant or to his Beneficiary, survivor, or Alternate Payee) occurred before June 1, 2016; and (iii) as of the date of the Annuity Purchase under this Section, the individual's entire pension benefit under the Plan was being paid (whether to a Participant or to his Beneficiary, survivor, or Alternate Payee) in the form of an annuity or as the term certain portion of a certain and continuous annuity under Section 6.06(c) or Section 6.06(d). For purposes of clauses (i) through (iii) above, any benefit earned under the Plan by the Designated Retiree for which the Plan had no liability immediately before the Annuity Purchase is disregarded, and any benefit is disregarded for which, under circumstances specified under the terms of the Plan, annuity payments to a Designated Retiree may cease and a new benefit payment form may be selected by a Participant. The Plan Administrator may, on behalf of the sponsor of the Plan, make *de minimis* changes to the list of Designated Retirees in Appendix A for administrative purposes, but the final list of Designated Retirees shall be the list of individuals, designated as “Annuitants” and “Contingent Annuitants” (or by the Annuity Contract's equivalent designations) and identified by identification number and birthdate, that was included as an exhibit to an Annuity Contract purchased under this Section.
- (b) Required Contract Content. The Annuity Contract shall fully guarantee and pay each Designated Retiree's pension benefit (without regard to whether it is being paid to the Participant or his Beneficiary, survivor or Alternate Payee) in the same form that was in effect immediately before the Annuity Purchase under the Plan, including, but not limited to, any named Beneficiary or contingent annuitant designation and any survivor benefit feature, and under any qualified domestic relations order. The Annuity Contract shall provide that the benefits payable under the Annuity Contract are legally enforceable by the sole choice of the individual against the insurance company issuing the Annuity Contract.

- (c) Annuity Provider Selection. The Benefits Committee shall cause the Plan to enter into an Annuity Purchase and, acting as a Named Fiduciary, shall select the annuity provider (or providers) and determine the terms of the Annuity Contract to be purchased. A certificate under the Annuity Contract shall be issued to each Designated Retiree on, or as soon as practicable after, the date of the Annuity Purchase, except where delivery is impracticable, for example, because an individual cannot, using reasonable efforts, be located.
- (d) Post-Purchase Obligation. After the Annuity Purchase and notwithstanding in the Plan anything to the contrary, the Plan shall have no further obligation to make any payment with respect to any Designated Retiree or to any survivor, alternate payee, beneficiary, or other person claiming by or through a Designated Retiree.
- (e) Amendments to this Section. Notwithstanding anything to the contrary in the Plan, (i) only an act of the Employer's Board of Directors can amend this Section, and (ii) only an amendment in writing can amend this Section.”

*Part II is amended as follows:*

1. Effective August 9, 2016, existing Section 5.05 of Part II of the Plan is amended to delete the second paragraph of existing Section 5.05 and to substitute the following as the new second paragraph of Section 5.05:

“Except as otherwise provided in Sections 5.06 and 5.09, the requirements of this Section shall apply to any distribution of a Participant's interest and will take precedence over any inconsistent provisions of Part II of the Plan.”
2. Effective August 9, 2016 for only the Designated Part II Retirees (as defined in new Section 5.09 of Part II), the following new Section 5.09 of Part II of the Plan is added to Part II of the Plan immediately after existing Section 5.08, as follows:

“5.09 Purchase of Annuity Contract. On or before December 31, 2016 (or as soon as practicable thereafter) and notwithstanding anything in the Plan to the contrary, the Plan shall purchase one or more annuity contracts as provided in this Section (the “**Annuity Purchase**”).

- (a) Designated Part II Retirees. The annuity contract or contracts purchased under this Section and Section 6.11 of Part I (the “**Annuity Contract**”) shall pay the pension being paid under the Plan to a Designated Part II Retiree. For purposes of only this Section 5.09, a “**Designated Part II Retiree**” is a Plan participant, Beneficiary, or alternate payee (duly qualified under Section 11.09 of Part III and listed as such on Appendix A to this Amendment) (for this Section and Section 6.11 of Part I, an “**Alternate Payee**”) who is listed on Appendix A to this Amendment and who satisfied the following conditions as of the Annuity Contract's purchase date: (i) the individual's entire benefit under the Plan was calculated and was being paid exclusively under Part II of the Plan; (ii) the annuity starting date (or annuity starting dates) for the individual's entire pension benefit under the Plan (whether paid to the Participant or to his Beneficiary, survivor, or Alternate Payee) occurred before June 1, 2016; and (iii) as of the date of the Annuity Purchase under this Section, the individual's entire pension benefit under the Plan was being paid (whether to a Participant or to his Beneficiary, survivor, or Alternate Payee) in the form of an annuity or as the term certain portion of a certain and continuous annuity under Section 5.05(c) or Section 5.05(d). For purposes of clauses (i) through (iii) above, any benefit earned under the Plan by the Designated Part II Retiree for which the Plan had no liability immediately before the Annuity Purchase is disregarded, and any benefit is disregarded for which, under circumstances specified under the terms of the Plan, annuity payments to a Designated Part II Retiree may cease and a new benefit payment form may be selected by a Participant. The Plan Administrator may, on behalf of the sponsor of the Plan, make *de minimis* changes to the list of Designated Part II Retirees in Appendix A for administrative purposes, but the final list of Designated Part II Retirees shall be the list of individuals, designated as “Annuitants” and “Contingent Annuitants” (or by the Annuity Contract's equivalent designations) and identified by identification number and birthdate, that was included as an exhibit to an Annuity Contract purchased under this Section.
- (b) Required Contract Content. The Annuity Contract shall fully guarantee and pay each Designated Part II Retiree's pension benefit (without regard to whether it is being paid to the Participant or his Beneficiary, survivor or Alternate Payee), in the same form that was in effect immediately before the Annuity Purchase under the Plan, including, but not limited to, any named Beneficiary or contingent annuitant designation and any survivor benefit feature, and under any qualified domestic relations order. The Annuity Contract shall provide that the benefits payable under the Annuity Contract are legally enforceable by the sole choice of the individual against the insurance company issuing the Annuity Contract.

- (c) Annuity Provider Selection. The Benefits Committee shall cause the Plan to enter into an Annuity Purchase and, acting as a Named Fiduciary, shall select the annuity provider (or providers) and determine the terms of the Annuity Contract to be purchased. A certificate under the Annuity Contract shall be issued to each Designated Part II Retiree on, or as soon as practicable after, the date of the Annuity Purchase, except where delivery is impracticable, for example, because an individual cannot, using reasonable efforts, be located.
- (d) Post-Purchase Obligation. After the Annuity Purchase and notwithstanding anything in the Plan to the contrary, the Plan shall have no further obligation to make any payment with respect to any Designated Part II Retiree or to any survivor, alternate payee, beneficiary, or other person claiming by or through a Designated Part II Retiree.
- (e) Amendments to this Section. Notwithstanding anything to the contrary in the Plan, (i) only an act of the Employer's Board of Directors can amend this Section, and (ii) only an amendment in writing can amend this Section.”

This First Amendment shall supersede the provisions of the Plan to the extent those provisions are inconsistent with the provisions of this Amendment, and except as amended by this Amendment, the Plan shall remain in full force and effect.

**IN WITNESS WHEREOF**, this First Amendment has been executed this 10th day of August, 2016.

**THE HANOVER INSURANCE COMPANY**

/s/ Elena N. Patronas

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Authorized Representative

**THE HANOVER INSURANCE GROUP  
CASH BALANCE PENSION PLAN**

**SECOND AMENDMENT**

This Second Amendment is executed by The Hanover Insurance Company, a New Hampshire corporation (the “**Company**”).

**WHEREAS**, the Company sponsors The Hanover Insurance Group Cash Balance Pension Plan (the “**Plan**”); and

**WHEREAS**, the Plan consists of the following three component parts, each of which is set forth in the same document: (i) Part I, which provides a cash balance and pension benefit which were formerly provided under a plan known as “The Allmerica Financial Cash Balance Pension Plan”, and then “The Hanover Insurance Group Cash Balance Pension Plan”, (ii) Part II, which provides a pension benefit which was formerly provided under a plan known as “The Allmerica Financial Agents’ Pension Plan”, and (iii) Part III, which contains Plan terms applicable to each of Part I and Part II; and

**WHEREAS**, the Plan was most recently amended and restated generally effective January 1, 2016, and such restatement has been amended one time; and

**WHEREAS**, the Company has the authority to amend the Plan at any time pursuant to Section 10.01 of Part III of the Plan; and

**WHEREAS**, the Plan has been filed with the Internal Revenue Service seeking a favorable determination letter; and

**WHEREAS**, the Company desires to amend the Plan to make changes in the Plan requested by the IRS in order to obtain its favorable determination letter; and

**NOW, THEREFORE**, the Plan is amended, effective as provided below, as follows:

***Part III is amended as follows:***

1. Effective January 1, 2008, Section 6.01 of Part III of the Plan is amended to add the following at the end of existing Section 6.01 as new Section 6.01(d):

“(d) In the event the Plan becomes subject to a limitation described in this Article, ERISA section 101(j) should be consulted to determine whether there are applicable rules, if any, requiring the Plan Administrator to provide a written notice to participants and the beneficiaries about the limitation and any deadline for providing such a notice.

This Second Amendment shall supersede the provisions of the Plan to the extent those provisions are inconsistent with the provisions of this Amendment, and except as amended by this Amendment, the Plan shall remain in full force and effect.

**IN WITNESS WHEREOF**, this Second Amendment has been executed this 26th day of July, 2017.

**THE HANOVER INSURANCE COMPANY**

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Authorized Representative

**THE HANOVER INSURANCE GROUP  
CASH BALANCE PENSION PLAN**

**THIRD AMENDMENT**

This Third Amendment is executed by The Hanover Insurance Company, a New Hampshire corporation (the “**Company**”).

**WHEREAS**, the Company sponsors The Hanover Insurance Group Cash Balance Pension Plan (the “**Plan**”); and

**WHEREAS**, the Plan consists of the following three component parts, each of which is set forth in the same document: (i) Part I, which provides a cash balance and pension benefit which were formerly provided under a plan known as “The Allmerica Financial Cash Balance Pension Plan”, and then “The Hanover Insurance Group Cash Balance Pension Plan”, (ii) Part II, which provides a pension benefit which was formerly provided under a plan known as “The Allmerica Financial Agents’ Pension Plan”, and (iii) Part III, which contains Plan terms applicable to each of Part I and Part II; and

**WHEREAS**, the Plan was most recently amended and restated generally effective January 1, 2016, and such restatement has been amended two times; and

**WHEREAS**, the Company has the authority to amend the Plan at any time pursuant to Section 10.01 of Part III of the Plan; and

**WHEREAS**, the Company desires to amend the Plan to clarify the application of the Plan’s “Rule of 95” to Separation Participants (as defined below) during the remainder of 2017 and 2018.

**NOW, THEREFORE**, the Plan is amended, effective as provided below, as follows:

***Part I is amended as follows:***

1. Effective July 1, 2017 and for only the Separation Participants, the fourth paragraph of Section 6.02 of Part I (which defines the Plan’s “Rule of 95”) is amended to add the following as a new sentence at the end of the fourth paragraph of Section 6.02 of Part I:

“Notwithstanding anything to the contrary in the preceding portions of this “Provided, however...” paragraph and solely during the period beginning on August 1, 2017 and ending on December 31, 2018 (the “**Separation Period**”), a Participant (x) who involuntarily terminated employment with the Company during the Separation Period (his “**Separation Date**”) as a result of a Company-initiated action (other than circumstances where Participant was terminated “for cause”), (y) who received salary continuation payments during the Separation Period, pursuant to a duly executed and enforceable Separation Agreement entered into by the Participant and the Company during the Separation Period (his “**Separation Agreement**”), and (z) who satisfied the requirements of the Plan’s “Rule of 95” (other than the requirement to be at least age 62) on or before his Separation Date (a “**Separation Participant**”) shall, only for purposes of the Plan’s Rule of 95, be deemed to have been “actively employed” through the earlier of his last salary continuation payment date or December 31, 2018 and shall be allowed to consider time elapsed through the earlier of his last salary continuation payment date or December 31, 2018 towards qualifying for the age 62 requirement for the Plan’s Rule of 95.”

2. Effective January 1, 2019, the sentence added to the fourth paragraph of Section 6.02 of Part I by this Amendment is deleted.

This Third Amendment shall supersede the provisions of the Plan to the extent those provisions are inconsistent with the provisions of this Amendment, and except as amended by this Amendment, the Plan shall remain in full force and effect.

**IN WITNESS WHEREOF**, this Third Amendment has been executed this 26th day of July, 2017.

**THE HANOVER INSURANCE COMPANY**

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Authorized Representative

**THE HANOVER INSURANCE GROUP  
CASH BALANCE PENSION PLAN**

**FOURTH AMENDMENT**

This Fourth Amendment is executed by The Hanover Insurance Company, a New Hampshire corporation (the “**Company**”).

**WHEREAS**, the Company sponsors The Hanover Insurance Group Cash Balance Pension Plan (the “**Plan**”); and

**WHEREAS**, the Plan consists of the following three component parts, each of which is set forth in the same document: (i) Part I, which provides a cash balance and pension benefit which were formerly provided under a plan known as “The Allmerica Financial Cash Balance Pension Plan”, and then “The Hanover Insurance Group Cash Balance Pension Plan”, (ii) Part II, which provides a pension benefit which was formerly provided under a plan known as “The Allmerica Financial Agents’ Pension Plan”, and (iii) Part III, which contains Plan terms applicable to each of Part I and Part II; and

**WHEREAS**, the Plan was most recently amended and restated generally effective January 1, 2016, and such restatement has been amended three times; and

**WHEREAS**, the Company has the authority to amend the Plan at any time pursuant to Section 10.01 of Part III of the Plan; and

**WHEREAS**, the Company wants to refine and clarify certain elements of Part I’s “Rule of 95” applicable to value grandfathered benefits for eligible early retirees.

**NOW, THEREFORE**, the Plan is amended, effective as provided below, as follows:

***Part I is amended as follows:***

Effective January 1, 2017, existing Section 6.02 of Part I of the Plan is amended to delete the period at the end of the third paragraph of Section 6.02 of Part I (beginning “Provided, however,..., and containing the defined term “**Rule of 95**”) and substituting the following in its place:

“; and provided further that (a) qualifying for the Rule of 95 will not depend on how quickly the Rule of 95 eligible Participant began to receive payment of his Grandfathered Benefit after his date of determination under this paragraph, (b) effective September 1, 2017, and for purposes of a Participant on a paid FMLA leave of absence or on paid short term disability leave adding qualifying Years of Credited Service for his Grandfathered Benefit, adding qualifying Years of Credited Service towards reaching a total of 95 in order to qualify for the Rule of 95, and reaching age 62 in order to qualify for the Rule of 95, the date of determination of his Rule of 95 eligibility will not be earlier than his date of termination of service (for purposes of Articles VI or VIII of Part I) as determined from the books and records of Company (which shall be conclusive and binding for this purpose) (his “**Rule of 95 Date**”), (c) effective September 1, 2017 and for purposes of a Participant on an unpaid leave of absence (including, without limitation, a leave of absence due to long term disability) adding qualifying Years of Credited Service towards reaching a total of 95 in order to qualify for the Rule of 95, and reaching age 62 in order to qualify for the Rule of 95, the date of determination of his Rule of 95 eligibility will not be earlier than his Rule of 95 Date, and (d) effective September 1, 2017, when a Participant is on an unpaid leave of absence, no more than thirty (30) months from the date of disability (while on a leave of

absence due to a long term disability), and no more than the greater of six (6) months from the first day of any other unpaid leave or the minimum number of months required for such a leave by applicable law, will be considered for any Rule of 95 purpose.”

This Fourth Amendment shall supersede the provisions of the Plan to the extent those provisions are inconsistent with the provisions of this Amendment, and except as amended by this Amendment, the Plan shall remain in full force and effect.

**IN WITNESS WHEREOF**, this Fourth Amendment has been executed this 26th day of September, 2017.

**THE HANOVER INSURANCE COMPANY**

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Authorized Representative



# Amendment and Restatement Agreement

Chaucer Holdings Limited

as Borrower

Lloyds Bank plc and ING Bank N.V., London Branch

as Mandated Lead Arrangers

Lloyds Bank plc

as Bookrunner

Lloyds Bank plc

as Facility Agent

Lloyds Bank plc

as Security Agent

relating to a standby letter of credit facility agreement dated  
15 October 2015

27 October 2017

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**THIS AMENDMENT AND RESTATEMENT AGREEMENT** is made on 27 October 2017

**BETWEEN:**

- (1) **CHAUCER HOLDINGS LIMITED**, a company incorporated in England and Wales with company number 02847982 (the "**Borrower**");
- (2) **CHAUCER CORPORATE CAPITAL (NO. 3) LIMITED**, a company incorporated in England and Wales with company number 05203226 (the "**Account Party**");
- (3) **THE HANOVER INSURANCE INTERNATIONAL HOLDINGS LIMITED**, a company incorporated in England and Wales with company number 07606589 as original guarantor (the "**Original Guarantor**");
- (4) **LLOYDS BANK PLC** and **ING BANK N.V., LONDON BRANCH** as mandated lead arrangers (the "**Arrangers**");
- (5) **LLOYDS BANK PLC** as bookrunner (the "**Bookrunner**");
- (6) **THE FINANCIAL INSTITUTIONS** listed in schedule 1 as original lenders (the "**Original Lenders**");
- (7) **LLOYDS BANK PLC** as provider of the Overdraft (the "**Overdraft Provider**");
- (8) **LLOYDS BANK PLC** as agent of the other Finance Parties (the "**Facility Agent**"); and
- (9) **LLOYDS BANK PLC** as security agent of the other Secured Parties (the "**Security Agent**").

**WHEREAS:**

- (A) The parties to this agreement entered into a standby letter of credit facility agreement dated 15 October 2015 under which the Lenders made available to the Borrower a £170,000,000 sterling letter of credit facility (the "**Facility Agreement**").
- (B) The parties to this agreement have agreed to enter into this agreement in order to amend and restate the terms of the Facility Agreement in the manner set out below.

**THE PARTIES AGREE AS FOLLOWS:**

1. **INTERPRETATION**

1.1 **Definitions**

Unless a contrary intention appears in this agreement, any word or expression defined in the Restated Facility Agreement will have the same meaning when it is used in this agreement.

In this agreement:

**"Coordination Fee Letter"** means the coordination fee letter dated on or about the date of this agreement between the Bookrunner and the Borrower setting out the terms of the coordination fee referred to in clause 4.1 (Participation and Coordination Fees);

**"Effective Date"** means the date on which the Facility Agent notifies the Borrower that all the conditions precedent listed in schedule 2 have been fulfilled to its satisfaction; and

**"Participation Fee Letter"** means the participation fee letter dated on or about the date of this agreement between the Agent and the Borrower setting out the terms of the participation fee referred to in clause 4.1 (Participation and Coordination Fees); and

**"Restated Facility Agreement"** means the Facility Agreement as amended and restated in accordance with this agreement in the form set out in schedule 3.

## 1.2 **Construction**

Clause 1.2 (Construction) of the Facility Agreement will be deemed to be set out in full in this agreement, but as if references in that clause to the Facility Agreement were references to this agreement.

## 2. **AMENDMENT AND RESTATEMENT OF FACILITY AGREEMENT**

### 2.1 **Amendment and Restatement**

- (a) The Facility Agreement will, with effect from (and including) the Effective Date, be amended and restated in the form set out in schedule 3 so that the rights and obligations of the parties to this agreement relating to their performance under the Facility Agreement from (and including) the Effective Date shall be governed by, and construed in accordance with, the terms of the Restated Facility Agreement.
- (b) The parties to this agreement agree that, with effect from (and including) the Effective Date, they shall have the rights and take on the obligations ascribed to them under the Restated Facility Agreement.

### 2.2 **Effective Date**

- (a) The Facility Agent will notify the Borrower and the Lenders promptly when the Effective Date occurs.
- (b) If the Effective Date has not occurred by 30 November 2017 (or any later date which the Facility Agent and the Account Party may agree), then clauses 2.1 (Amendment and Restatement) and 3 (Status of Documents) will lapse and none of the amendments recorded in clause 2.1 (Amendment and Restatement) will take effect.

## 3. **STATUS OF DOCUMENTS**

### 3.1 **Continuing Obligations**

- (a) Except as varied by the terms of this agreement, the Facility Agreement and the other Finance Documents will remain in full force and effect. Each party to this agreement reconfirms all of its obligations under the Facility Agreement (as amended and restated by this agreement) and under the other Finance Documents.
- (b) Any reference in the Finance Documents to the Facility Agreement or to any provision of the Facility Agreement will be construed as a reference to the Facility Agreement, or that provision, as amended and restated by this agreement.

### 3.2 **Finance Document**

This agreement will constitute a Finance Document for the purposes of the Restated Facility Agreement.

### 3.3 **Guarantee Confirmation**

The Original Guarantor confirms and agrees that with effect from (and including) the Effective Date, the guarantees and indemnities set out in clause 21 (Guarantee and Indemnity) of the Restated Facility Agreement shall apply and extend to the obligations of each Obligor under the Finance Documents (as defined in the Restated Facility Agreement).

### 3.4 **Security Confirmation**

The Borrower confirms and agrees that the liabilities and obligations arising under the Restated Facility Agreement form part of (but do not limit) the obligations which are secured by the Security Documents created by it.

## 4. **FEES AND TRANSACTION EXPENSES**

### 4.1 **Participation and Coordination Fees**

- (a) The Borrower shall pay to the Agent (for the account of each Lender pro rata to its Commitments) a participation fee in the amount and at the times agreed in the Participation Fee Letter.
- (b) The Borrower shall pay to the Bookrunner (for its own account) a coordination fee in the amount and at the times agreed in the Coordination Fee Letter.

### 4.2 **Transaction Expenses**

The Borrower will on demand pay to the Facility Agent and the Arrangers the amount of all costs and expenses (including legal fees and other out-of-pocket expenses and any value added tax or other similar tax thereon) reasonably incurred by any of the Facility Agent, the Security Agent or the Arrangers in connection with the negotiation, preparation, execution and completion of this agreement and all documents, matters and things referred to in, or incidental to, this agreement.

## 5. **REPRESENTATIONS AND WARRANTIES**

Each Obligor makes to each Finance Party each of the representations and warranties set out in clause 22 (Representations) of the Facility Agreement, in each case:

- (a) on the date of this agreement and on the Effective Date;
- (b) by reference to the facts and circumstances then existing; and
- (c) on the basis that references in those representations and warranties to the Finance Documents include this agreement and, on the Effective Date, the Restated Facility Agreement;

and acknowledges that each Finance party has entered into this agreement and has agreed to the amendment and restatement effected by this agreement in full reliance on those representations and warranties.

## 6. **MISCELLANEOUS**

### 6.1 **Incorporation of Terms**

The provisions of clauses 36 (Notices), 38 (Partial Invalidity), 40 (Amendments and Waivers) of the Facility Agreement shall be incorporated into this agreement as if set out in full in this agreement and as if references in those clauses to "this agreement" or to "the Facility Agreement" or "the Finance Documents" are references to this agreement.

## 6.2 **Counterparts**

This agreement may be executed in any number of counterparts and all of those counterparts taken together will be deemed to constitute one and the same instrument.

## 6.3 **Third Party Rights**

The Contracts (Rights of Third Parties) Act 1999 shall not apply to this agreement and no person other than the parties to this agreement shall have any rights under it.

## 7. **GOVERNING LAW AND SUBMISSION TO JURISDICTION**

### 7.1 **Governing Law**

This agreement and any non-contractual obligations arising out of or in connection with it are governed by English law.

### 7.2 **Jurisdiction of English Courts**

- (a) The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this agreement (including a dispute regarding the existence, validity or termination of this agreement or any non-contractual obligation arising out of or in connection with this agreement) (a "**Dispute**").
- (b) The parties to this agreement agree that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly no party will argue to the contrary.

**IN WITNESS** whereof this agreement has been duly executed on the date first above written.

**SCHEDULE 1**

**Original Lenders**

Lloyds Bank plc

ING Bank N.V., London Branch

## **SCHEDULE 2**

### **Conditions Precedent**

#### **1. FORMALITIES CERTIFICATE**

A certificate in the agreed form from each Group Obligor signed by a director or authorised signatory:

- (a) confirming that there has been no amendment to its constitutional documents since 15 October 2015 or, if there has been any such amendment, attaching a certified copy of the constitutional documents of such Group Obligor and in the case of the Parent such constitutional documents shall be certified as of a recent date together with a certificate of good standing issued by the Secretary of State of Delaware as of a recent date;
- (b) attaching a copy of the resolution of its board of directors:
  - (i) approving the terms of and the transactions contemplated by this agreement and resolving that it executes, delivers and performs this agreement;
  - (ii) authorising a specified person or persons to execute this agreement on its behalf; and
  - (iii) authorising a specified person or persons, on its behalf, to sign and/or despatch all documents and notices (including, if relevant, any Utilisation Request) to be signed and/or despatched by it under or in connection with this agreement;
- (c) attaching a specimen of the signature of each person authorised by the resolution referred to in paragraph 1(b) above;
- (d) confirming that borrowing, guaranteeing or securing, as appropriate, the Total Commitments would not cause any borrowing, guaranteeing, securing or similar limit binding on that Group Obligor to be exceeded; and
- (e) certifying that each copy document relating to it specified in this schedule 2 is correct, complete and in full force and effect as at a date no earlier than the date of this agreement.

#### **2. SHAREHOLDER RESOLUTIONS**

A copy of a resolution signed by all the holders of the issued shares in the Original Guarantor, approving the terms of, and the transactions contemplated by, the Finance Documents to which the Original Guarantor is a party.

#### **3. FINANCE DOCUMENTS**

Copies of:

- (a) this agreement;
- (b) the Participation Fee Letter;
- (c) the Coordination Fee Letter; and
- (d) the Parent Guarantee,

in each case, duly executed and delivered by the parties thereto.

4. **LEGAL OPINIONS**

Each of the following legal opinions in form and substance satisfactory to the Facility Agent:

- (a) a legal opinion of Ashurst LLP as to matters of English law; and
- (b) a legal opinion of Ropes & Gray LLP as to matters of New York and Delaware law.

5. **OTHER DOCUMENTS AND EVIDENCE**

- 5.1 The Letter of Comfort signed on behalf of Lloyd's by an authorised signatory.
- 5.2 A certificate of the Borrower (signed by a director) addressed to the Finance Parties confirming which Subsidiaries of the Borrower (other than the Account Party) are Material Companies.
- 5.3 Evidence that the fees, costs and expenses then due from the Borrower pursuant to clause 3.4 (Fees and Transaction Expenses) have been paid or will be paid within three Business Days of the signing of this agreement or in accordance with the terms of the relevant Fee Letter as appropriate.
- 5.4 Customary and required "Know Your Customer" information for each Lender in respect of the Obligors.
- 5.5 The most recent financial statements of each Obligor (other than the Original Guarantor) and the most recent audited financial statements of the Parent.

1.1

**SCHEDULE 3**

**Restated Facility Agreement**

**Signatories To The Amendment Agreement**

**THE BORROWER**

**CHAUCER HOLDINGS LIMITED**

By: /s/ Robert J Callan

Name: Robert J Callan

Address: Plantation Place  
30 Fenchurch Street  
London  
EC3M 3AD

Fax:  
Attention: Chief Financial Officer

**THE ACCOUNT PARTY**

**CHAUCER CORPORATE CAPITAL (NO. 3) LIMITED**

By: /s/ Robert J Callan

Name: Robert J Callan

Address: Plantation Place  
30 Fenchurch Street  
London  
EC3M 3AD

Fax:  
Attention: Company Secretary

**THE ORIGINAL GUARANTOR**

**THE HANOVER INSURANCE INTERNATIONAL HOLDINGS LIMITED**

By: /s/ Robert J Callan

Name: Robert J Callan

Address: Plantation Place  
30 Fenchurch Street  
London  
EC3M 3AD

Fax:  
Attention: Company Secretary

**THE ARRANGERS**

**LLOYDS BANK PLC**

By: /s/ Josette Simon and Leah Gorospe

Name: Josette Simon and Leah Gorospe

Address: 10 Gresham Street  
London  
EC2V 7AE

Attention:

**ING BANK N.V., LONDON BRANCH**

By: /s/ M. Sharman and N. Marchant

Name: M. Sharman and N. Marchant

Address: 9-10 Moorgate  
London  
EC2R 6DA

Attention:

**THE BOOKRUNNER**

**LLOYDS BANK PLC**

By: /s/ Josette Simon and Leah Gorospe

Name: Josette Simon and Leah Gorospe

Address: 10 Gresham Street  
London  
EC2V 7AE

Attention:

**THE OVERDRAFT PROVIDER**

**LLOYDS BANK PLC**

By: /s/ Josette Simon and Leah Gorospe

Name: Josette Simon and Leah Gorospe

Address: 10 Gresham Street  
London  
EC2V 7AE

Attention:

**THE FACILITY AGENT**

**LLOYDS BANK PLC**

By: /s/ Iain Brown

Name: Iain Brown

For Operational Duties (such as Utilisations, Interest Rate Fixing, Interest/fee calculations and payments):

Address: Lloyds Bank plc  
CityMark  
150 Fountainbridge  
Edinburgh EH3 9PE  
Fax: +44 (0)207 397 9710  
Attention: Wholesale Loans Servicing Agency Operations

For Non Operational Matters (such as documentation; covenant compliance; amendments and waivers etc):

Address: Lloyds Bank plc  
10 Gresham Street  
London EC2V 7AE  
Attention: Wholesale Loans Agency

**THE SECURITY AGENT**

**LLOYDS BANK PLC**

By: /s/ Iain Brown

Name: Iain Brown

Address: Lloyds Bank plc  
10 Gresham Street  
London EC2V 7AE  
Attention: Wholesale Loans Agency

**THE ORIGINAL LENDERS**

**LLOYDS BANK PLC**

By: /s/ Veronica Cranny and Dennis McClellan

Name: Veronica Cranny and Dennis McClellan

Address: 10 Gresham Street  
London  
EC2V 7AE

Attention:

**ING BANK N.V., LONDON BRANCH**

By: /s/ M. Sharman and N. Marchant

Name: M. Sharman and N. Marchant

Address: 9-10 Moorgate  
London  
EC2R 6DA

Attention:



## Standby Letter of Credit Facility

Chaucer Holdings Limited

as Borrower

Chaucer Corporate Capital (No. 3) Limited

as Account Party

Lloyds Bank plc and ING Bank N.V., London Branch

as Mandated Lead Arrangers

Lloyds Bank plc

as Bookrunner

Lloyds Bank plc

as Facility Agent

Lloyds Bank plc

as Security Agent

dated 15 October 2015 as amended and restated pursuant to an amendment and restatement agreement dated 27 October 2017

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**THIS AGREEMENT** is made on 15 October 2015 as amended and restated pursuant to an amendment and restatement agreement dated 27 October 2017.

**BETWEEN:**

- (1) **CHAUCER HOLDINGS LIMITED**, a company incorporated in England and Wales with company number 02847982 (the "**Borrower**");
- (2) **CHAUCER CORPORATE CAPITAL (NO. 3) LIMITED**, a company incorporated in England and Wales with company number 05203226 (the "**Account Party**");
- (3) **THE HANOVER INSURANCE INTERNATIONAL HOLDINGS LIMITED**, a company incorporated in England and Wales with company number 07606589 as original guarantor (the "**Original Guarantor**");
- (4) **LLOYDS BANK PLC** and **ING BANK N.V., LONDON BRANCH** as mandated lead arrangers (the "**Arrangers**");
- (5) **LLOYDS BANK PLC** as bookrunner (the "**Bookrunner**");
- (6) **THE FINANCIAL INSTITUTIONS** listed in schedule 4 (The Original Lenders) as lenders (the "**Original Lenders**");
- (7) **LLOYDS BANK PLC** as provider of the Overdraft (the "**Overdraft Provider**");
- (8) **LLOYDS BANK PLC** as agent of the other Finance Parties (the "**Facility Agent**"); and
- (9) **LLOYDS BANK PLC** as security agent of the other Secured Parties (the "**Security Agent**").

**THE PARTIES AGREE AS FOLLOWS:**

1. **DEFINITIONS AND INTERPRETATION**

1.1 **Definitions**

In this agreement:

**"Accession Date"** means, in relation to an accession by a New Lender pursuant to clauses 14 (Extension of the Facility) and 34 (Changes to the Lenders), the later of:

- (a) the proposed Accession Date specified in the relevant Accession Letter; and
- (b) the date on which the Facility Agent executes the relevant Accession Letter;

**"Accession Letter"** means:

- (a) in respect of a proposed Additional Guarantor, a document substantially in the form set out in part 1 of schedule 11 (Form of Guarantor Accession Letter); or
- (b) in respect of any proposed New Lender pursuant to clause 14 (Extension of the Facility) a document substantially in the form set out in part 2 of schedule 11 (Form of New Lender Accession Letter);

**"Account Control Agreement"** means the account control agreement in respect of the Custody Account entered into or to be entered into between the Parent, the Custodian and the Security Agent;

**"Additional Guarantor"** means a company which becomes an Additional Guarantor in accordance with clause 35 (Changes to the Obligors);

**"Advance Rate"** means, for a category of Eligible Cash Equivalents, the percentage specified for that category in schedule 18 (Eligible Cash Equivalents);

**"Affiliate"** means in relation to any person, a Subsidiary of that person or a Holding Company of that person or any other Subsidiary of that Holding Company;

**"Amendment and Restatement Agreement"** means the amendment and restatement agreement dated on or about 27 October 2017 relating to this agreement and made between, among others, the Account Party, the Original Guarantors, the Original Lenders, the Facility Agent and the Security Agent;

**"Assignment Agreement"** means an agreement substantially in the form set out in schedule 10 (Form of Assignment Agreement) or any other form agreed between the relevant assignor and assignee;

**"Authorisation"** means an authorisation, consent, approval, resolution, licence, exemption, filing, notarisation or registration;

**"Authorised Signatory"** means, in relation to any Obligor, any person who is duly authorised (in such manner as may be reasonably acceptable to the Facility Agent) and in respect of whom the Facility Agent has received a certificate signed by a director or authorised officer of that Obligor setting out the name and signature of that person and confirming that person's authority to act;

**"Authority"** means any of the European Union, Her Majesty's Treasury of the United Kingdom or the United States government including OFAC or the U.S. Department of State;

**"Availability Period"** means the period from and including the Effective Date to and including 31 December 2018;

**"Available Commitment"** means, in relation to the Facility, a Lender's Commitment at any time and save as otherwise provided in this agreement, minus:

- (a) the amount of its participation in the Outstandings at that time; and
- (b) in relation to any proposed Utilisation, the amount of its participation in any other Utilisations that are due to be made under the Facility on or before the proposed Utilisation Date.

For the purposes of calculating a Lender's Available Commitment in relation to any proposed Utilisation, the amount of that Lender's participation in any Letter of Credit that is due to expire or be returned as cancelled on or before the proposed Utilisation Date shall not be deducted from a Lender's Commitments;

**"Available Facility"** means, at any time, the aggregate of the Available Commitments of the Lenders;

**"Basel III"** means:

- (a) the agreements on capital requirements, a leverage ratio and liquidity standards contained in "Basel III: A global regulatory framework for more resilient banks and banking systems", "Basel III: International framework for liquidity risk measurement, standards and monitoring and Guidance for national authorities operating the countercyclical capital buffer" published by the Basel Committee on

Banking Supervision in December 2010, each as amended, supplemented or restated;

- (b) the rules for global systemically important banks contained in "Global systemically important banks: assessment methodology and the additional loss absorbency requirement – Rules text" published by the Basel Committee on Banking Supervision in November 2011, as amended, supplemented or restated; and
- (c) any further guidance or standards published by the Basel Committee on Banking Supervision relating to Basel III;

**"Borrower Group"** means the Borrower, each of its Subsidiaries for the time being and the Original Guarantor;

**"Borrowing Base"** means:

- (e) the aggregate value of all Cash Equivalent Collateral at that time;

multiplied in each case by,

- (f) the applicable Advance Rate;

less,

- (g) the aggregate value of the amount by which:

- (i) any securities of financial institutions exceed 25%; and

- (ii) any Investment Grade Corporate Bonds exceed 50%,

of the value of the product of paragraphs (a) and (b) above;

**"Borrowing Base Certificate"** means a certificate substantially in the form set out in schedule 19 (Borrowing Base Certificate) setting out, among other things, details of the Borrowing Base at that time;

**"Business Day"** means a day (other than a Saturday or Sunday) on which banks are open for general business in London;

**"Cash Collateral"** means, in relation to a Letter of Credit or (as applicable) any Lender's Proportion of a Letter of Credit, cash deposited in the Specified Account in accordance with this agreement and **"Cash Collateralised"** shall be construed accordingly;

**"Cash Equivalent Collateral"** means, in relation to a Letter of Credit or (as applicable) any Lender's Proportion of a Letter of Credit, any Eligible Cash Equivalents deposited in the Custody Account in accordance with clause 18.2 (Voluntary Collateralisation of Letters of Credit) and **"Cash Equivalent Collateralised"** shall be construed accordingly;

**"Change in Control"** means any of the following events:

- (c) any "person" or "group" (as such terms are used for purposes of sections 13(d) and 14(d) of the Securities Exchange Act of 1934, whether or not applicable, except that for purposes of this paragraph (a) such person or group shall be deemed to have "beneficial ownership" of all shares that such person or group has the right to acquire, whether such right is exercisable immediately or only after the passage of time), is or becomes the "beneficial owner" (as such term is used in Rule 13d-3 promulgated pursuant to said Act), directly or indirectly, of more than 35 per cent. of the Voting Shares of the Parent; or

- (d) during any period of 25 consecutive calendar months, a majority of the board of directors of the Parent shall no longer be composed of individuals (i) who were members of said board on the first day of such period or (ii) whose election or nomination to said board was approved by a majority of the board of the directors of the Parent, which members comprising such majority were either the individuals referred to in sub-clause (i) in this paragraph (b) or whose election or nomination was previously so approved;

**"Charge Over Account"** means the charge over account dated on or about the date of this agreement and executed by the Borrower and the Security Agent pursuant to which a charge is granted by the Borrower to the Security Agent in respect of the Specified Account;

**"Charged Property"** means all of the assets which from time to time are, or are expressed to be, the subject of the Security;

**"Code"** means the US Internal Revenue Code of 1986;

**"Collateral"** means, in relation to a Letter of Credit or (as applicable) any Lender's Proportion of a Letter of Credit, Cash Collateral or Cash Equivalent Collateral (as applicable) and **"Collateralised"** shall be construed accordingly;

**"Commencement Date"** means, in relation to any Letter of Credit, the date as and from which the Lenders' liabilities (whether actual or contingent) under that Letter of Credit start to accrue;

**"Commitment"** means:

- (h) in relation to an Original Lender, the amount set opposite its name under the heading "Commitment" in schedule 4 (The Original Lenders) and the amount of any other Commitment transferred to it under this agreement, assumed by it pursuant to clause 14 (Extension of the Facility); and
- (i) in relation to any other Lender, the amount of any Commitment transferred to it under this agreement, assumed by it pursuant to clause 14 (Extension of the Facility),

in each case, to the extent not cancelled, reduced or transferred by it under this agreement;

**"Compliance Certificate"** means a certificate substantially in the form set out in schedule 13 (Form of Compliance Certificate);

**"Confidential Information"** means all information relating to the Parent, the Borrower, the Account Party, any Guarantor, the Group, the Borrower Group, the Finance Documents or the Facility of which a Finance Party becomes aware in its capacity as, or for the purpose of becoming, a Finance Party or which is received by a Finance Party in relation to, or for the purpose of becoming a Finance Party under, the Finance Documents or the Facility from either:

- (a) any member of the Group or any of its advisers; or
- (b) another Finance Party, if the information was obtained by that Finance Party directly or indirectly from any member of the Group or any of its advisers,

in whatever form, and includes information given orally and any document, electronic file or any other way of representing or recording information which contains or is derived or copied from such information but excludes:

- (i) information that:
  - (A) is or becomes public information other than as a direct or indirect result of any breach by that Finance Party of clause 48 (Confidentiality); or
  - (B) is identified in writing at the time of delivery as non-confidential by any member of the Group or any of its advisers; or
  - (C) is known by that Finance Party before the date the information is disclosed to it in accordance with paragraphs (a) or (b) above or is lawfully obtained by that Finance Party after that date, from a source which is, as far as that Finance Party is aware, unconnected with the Group and which, in either case, as far as that Finance Party is aware, has not been obtained in breach of, and is not otherwise subject to, any obligation of confidentiality;
- (ii) any Funding Rate or Reference Bank Quotation.

**"Confidentiality Undertaking"** means a confidentiality undertaking substantially in a recommended form of the LMA as set out in schedule 15 (LMA Form of Confidentiality Undertaking) or in any other form agreed between the Borrower and the Facility Agent;

**"Corporate Member"** means a corporate member of Lloyd's;

**"Corporate Member's Deed"** means Lloyd's Security and Trust Deed or such other deed or document as Lloyd's may from time to time require the Account Party (being or having applied to become a Member) to execute and deliver for the purposes of providing a Lloyd's Deposit;

**"CRD IV"** means:

- (a) Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU No. 648/2012); and
- (b) Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directive 2006/48/EC and 2006/49/EC;

**"CS Satisfaction Date"** has the meaning given to it in clause 32.22(b) (Condition Subsequent);

**"CTA"** means the Corporation Tax Act 2009;

**"Custodian"** means the custodian agreed between the Parent (or the Borrower on behalf of the Parent) and the Security Agent from time to time;

**"Custody Account"** means the custody account of the Parent with the Custodian which is subject to the Account Control Agreement and effectively secured in favour of the Security Agent under the US Pledge Agreement;

**"Debt Rating"** means, as of any date of determination, the rating of the Parent's senior, unsecured, non-credit enhanced, long-term debt obligations then outstanding most recently announced by Standard & Poor's and Moody's, provided that:

- (a) if the respective Debt Ratings issued by the foregoing rating agencies differ by one level, then the Pricing Level (as set out in the table in the definition of "L/C Commission Rate" below) for the higher of such Debt Ratings shall apply (with the Debt Rating for Pricing Level 1 being the highest and the Debt Rating for Pricing Level 4 being the lowest);
- (b) if there is a split in Debt Ratings of more than one level, then the Pricing Level that is one level lower than the Pricing Level of the higher Debt Rating shall apply;
- (c) if the Parent has only one Debt Rating, the Pricing Level for that Debt Rating shall apply;
- (d) if the Parent does not have any Debt Rating, Pricing Level 4 shall apply; and
- (e) if the rating system of Standard & Poor's and Moody's shall change, or if either such rating agency shall cease to be in the business of rating corporate debt obligations, the Parent and the Lenders shall negotiate in good faith to amend this definition to reflect such changed rating system or the unavailability of ratings from such rating agency and, pending the effectiveness of any such amendment, the Pricing Level shall be determined by reference to the rating most recently in effect prior to such change or cessation;

**"Default"** means an Event of Default or any event or circumstance specified in clause 32.21(b)(ii) (Events of Default) which would (with the expiry of a grace period, the giving of notice, the making of any determination under the Finance Documents or any combination of any of the foregoing) be an Event of Default;

**"Defaulting Lender"** means any Lender:

- (a) which has rescinded or repudiated a Finance Document; or
- (b) with respect to which an Insolvency Event has occurred and is continuing;

**"Delegate"** means any delegate, agent, attorney or co-trustee appointed by the Security Agent;

**"Disruption Event"** means either or both of:

- (a) a material disruption to those payment or communications systems or to those financial markets which are, in each case, required to operate in order for payments to be made in connection with the Facility (or otherwise in order for the transactions contemplated by the Finance Documents to be carried out) which disruption is not caused by, and is beyond the control of, any of the Parties; or
- (b) the occurrence of any other event which results in a disruption (of a technical or systems-related nature) to the treasury or payments operations of a Party preventing that, or any other Party:
  - (i) from performing its payment obligations under the Finance Documents; or
  - (ii) from communicating with other Parties in accordance with the terms of the Finance Documents,

and which (in either such case) is not caused by, and is beyond the control of, the Party whose operations are disrupted;

**"Economic Capital Assessment Requirement"** has the meaning given to it in the Lloyd's Membership and Underwriting Conditions and Requirements (Funds at Lloyd's) (M&URs);

**"Effective Date"** has the meaning given to that term in the Amendment and Restatement Agreement;

**"Eligible Cash Equivalents"** means any category of cash, obligation or investment specified in schedule 18 (Eligible Cash Equivalents);

**"Eligible Institution"** means any Lender or other bank, financial institution, trust, fund or other entity which is regularly engaged in or established for the purpose of making, purchasing or investing in loans, securities or other financial assets which is a credit institution within the meaning of the Council Directive on the co-ordination of laws, regulations and administrative provisions relating to the taking up and pursuit of the business of credit institutions (No. 2006/48/EC) which has been approved by the Council of Lloyd's for the purpose of providing guarantees and issuing or confirming letters of credit comprising a Member's Funds at Lloyd's;

**"Encumbrance"** means a mortgage, charge, pledge, lien or other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect;

**"Equity Interests"** has the meaning given to it in the Parent Guarantee;

**"ERISA Event"** has the meaning given to it in the Parent Guarantee;

**"Event of Default"** means any event or circumstance specified as such in clause 32.21(b)(ii) (Events of Default);

**"Expiry Date"** means, in relation to any Letter of Credit, the date on which the maximum aggregate liability thereunder is reduced to zero;

**"Extreme Stress Scenario"** means an extreme event which is not a Realistic Disaster Scenario and which falls outside the guidelines issued by Lloyd's' Franchise Performance Directorate department;

**"Facility"** means the Sterling letter of credit facility granted to the Borrower under this agreement;

**"Facility Extension"** means the exercising by the Borrower of the option to increase the Total Commitments by up to the Facility Extension Amount in accordance with clause 14 (Extension of the Facility);

**"Facility Extension Amount"** means an additional amount of up to £80,000,000;

**"Facility Extension Request"** means a request in the form set out in schedule 17 (Form of Facility Extension Request);

**"Facility Office"** means the office or offices notified by a Finance Party to the Facility Agent in writing on or before the date it becomes a Finance Party (or, following that date, by not less than five Business Days' written notice) as the office or offices through which it will perform its obligations under this agreement;

**"FATCA"** means:

- (e) sections 1471 to 1474 of the Code or any associated regulations or other official guidance;

- (f) any treaty, law, regulation or other official guidance enacted in any other jurisdiction, or relating to an intergovernmental agreement between the US and any other jurisdiction, which (in either case) facilitates the implementation of paragraph (a) above; or
- (g) any agreement pursuant to the implementation of paragraphs (a) or (b) above with the US Internal Revenue Service, the US government or any governmental or taxation authority in any other jurisdiction;

**"FATCA Application Date"** means:

- (h) in relation to a "withholdable payment" described in section 1473(1)(A)(i) of the Code (which relates to payments of interest and certain other payments from sources within the US), 1 July 2014;
- (i) in relation to a "withholdable payment" described in section 1473(1)(A)(i) of the Code (which relates to "gross proceeds" from the disposition of property of a type that can produce interest from sources within the US), 1 January 2019; or
- (j) in relation to a "passthru payment" described in section 1471(d)(7) of the Code not falling within paragraphs (a) or (b) above, 1 January 2019,

or, in each case, such other date from which such payment may become subject to a deduction or withholding required by FATCA as a result of any change in FATCA after the date of this agreement;

**"FATCA Deduction"** means a deduction or withholding from a payment under a Finance Document required by FATCA;

**"FATCA Exempt Party"** means a Party that is entitled to receive payments free from any FATCA Deduction;

**"FCA"** means the Financial Conduct Authority in the United Kingdom and any regulatory body which succeeds to one or more of the functions and/or duties performed by it as at the date of this agreement;

**"Fee Letter"** means any letter or letters dated on or about the date of this agreement between the Arrangers and the Borrower (or the Facility Agent and the Borrower or the Security Agent and the Borrower) setting out any of the fees referred to in clause 19 (Commission and Fees);

**"Finance Document"** means this agreement, the Amendment and Restatement Agreement, any Fee Letter, any Accession Letter, any Resignation Letter, each Compliance Certificate, each Borrowing Base Certificate, the Mandate Letter, each Utilisation Request, a Facility Extension Request, the Security Documents, the Parent Guarantee and any other document designated as such by the Facility Agent and the Borrower;

**"Finance Party"** means the Facility Agent, the Security Agent, an Arranger or a Lender;

**"Financial Indebtedness"** means any indebtedness for or in respect of:

- (k) Indebtedness for Borrowed Money;
- (l) any documentary or standby letter of credit facility or performance bond facility;
- (m) any interest rate swap, currency swap, forward foreign exchange transaction, cap, floor, collar or option transaction or any other treasury transaction or any combination thereof or any other transaction entered into in connection with

protection against or benefit from fluctuation in any rate or price (and the amount of the Financial Indebtedness in relation to any such transaction shall be calculated by reference to the mark-to-market valuation of such transaction at the relevant time); and

- (n) any guarantee or indemnity for any of the items referred to in paragraphs (a) to (c) above;

**"Funding Rate"** means any individual rate notified by a Lender to the Facility Agent pursuant to paragraph (a)(ii) of clause 27.4 (Cost of Funds);

**"Funds at Lloyd's" or "FAL"** has the meaning given in paragraph 16 of the Membership Byelaw (No. 5 of 2005);

**"GAAP"** means generally accepted accounting principles in the United Kingdom, including IFRS;

**"General Prudential Sourcebook"** means the General Prudential Sourcebook for Banks, Building Societies, Insurers and Investment Firms (as amended and replaced from time to time), which forms part of the Handbook;

**"Group"** means the Parent and each of its Subsidiaries (as defined in the Parent Guarantee) for the time being;

**"Group Obligor"** means the Parent or an Obligor;

**"Guaranteed Documents"** means the Finance Documents and the Overdraft Letter;

**"Guaranteed Finance Parties"** means the Finance Parties and the Overdraft Provider;

**"Guarantor"** means the Original Guarantor or an Additional Guarantor, unless it has ceased to be a Guarantor in accordance with clause 35 (Changes to the Obligors);

**"Handbook"** means the PRA Handbook of Rules and Guidance or the FCA Handbook of Rules and Guidance, as applicable (each as amended from time to time);

**"Hanover Credit Agreement"** means the \$200,000,000 credit agreement dated 12 November 2013 as amended and restated from time to time between, amongst others, the Parent as borrower and JPMorgan Chase Bank, N.A., as administrative agent;

**"Holding Company"** means, in relation to a company or corporation, any other company or corporation in respect of which it is a Subsidiary;

**"IFRS"** means international accounting standards within the meaning of the IAS Regulation 1606/2002 to the extent applicable to the relevant financial statements;

**"Impaired Agent"** means the Agent at any time when:

- (a) it has failed to make (or has notified a Party that it will not make) a payment required to be made by it under the Finance Documents by the due date for that payment;
- (b) the Agent otherwise rescinds or repudiates a Finance Document;
- (c) (if the Agent is also a Lender) it is a Defaulting Lender under paragraph (a) of the definition of Defaulting Lender; or
- (d) an Insolvency Event has occurred and is continuing with respect to the Agent;

**"Indebtedness for Borrowed Money"** means any indebtedness (other than such indebtedness incurred by a Managed Syndicate as a result of a Syndicate Arrangement) for or in respect of:

- (a) moneys borrowed;
- (b) any amount raised by acceptance under any acceptance credit facility or dematerialised equivalent;
- (c) any amount raised pursuant to any note purchase facility or the issue of bonds, notes, debentures, loan stock or any similar instrument;
- (d) the amount of any liability in respect of any lease or hire purchase contract which would, in accordance with GAAP, be treated as a balance sheet liability (other than any liability in respect of a lease or hire purchase contract which would, in accordance with GAAP in force prior to 1 January 2019, have been treated as an operating lease);
- (e) receivables sold or discounted (other than any receivables to the extent they are sold on a non-recourse basis);
- (f) any agreement or option to re-acquire an asset if one of the primary reasons for entering into such agreement or option is to raise finance;
- (g) any counter-indemnity obligation in respect of a guarantee, indemnity, bond, standby or documentary letter of credit or any other instrument issued by a bank or financial institution;
- (h) any redeemable preference share;
- (i) any amount raised under any other transaction (including any forward sale or purchase agreement) having the commercial effect of a borrowing; and
- (j) the amount of any liability in respect of any guarantee or indemnity for any of the items referred to in paragraphs (a) to (i) (inclusive) above;

**"Insolvency Event"** means, in relation to a Finance Party:

- (a) any receiver, administrative receiver, administrator, liquidator, bank liquidator, bank administrator, compulsory manager or other similar officer is appointed in respect of that Finance Party or all or substantially all of its assets;
- (b) that Finance Party is subject to any event which has an analogous effect to any of the events specified in paragraph (a) above under the applicable laws of any jurisdiction; or
- (c) that Finance Party suspends making payments on all or substantially all of its debts or publicly announces an intention to do so;

**"INSPRU"** means the Prudential Sourcebook for Insurers (as amended and replaced from time to time), which forms part of the Handbook;

**"Interest Period"** means, save as otherwise provided herein, in relation to an Unpaid Sum, any of those periods mentioned in clause 26.1 (Default Interest Periods);

**"Interpolated Screen Rate"** means, in relation to LIBOR for any Utilisation, the rate (rounded to the same number of decimal places as the two relevant Screen Rates) which results from interpolating on a linear basis between:

- (a) the applicable Screen Rate for the longest period (for which that Screen Rate is available) which is less than the Term of that Utilisation; and
- (b) the applicable Screen Rate for the shortest period (for which that Screen Rate is available) which exceeds the Term of that Utilisation,

each as of the Specified Time for the currency of that Utilisation;

**"ITA"** means the Income Tax Act 2007;

**"L/C Commission Rate"** means:

- (a) in relation to the portion of any Letter of Credit that is not Collateralised, the rate per annum set out opposite the applicable Debt Rating in the table below:

Pricing Level	Debt Rating (S&P/Moody's)	L/C Commission Rate
1	BBB+ / Baa1 or above	0.90 per cent
2	BBB / Baa2	1.00 per cent
3	BBB- / Baa3	1.125 per cent
4	BB+ / Ba1 or below	1.50 per cent

provided that any change in the applicable L/C Commission Rate resulting from a publicly announced change in the Debt Rating shall be effective on the date on which the relevant change in such Debt Rating is first announced by Standard & Poor's or Moody's, as the case may be;

- (b) in relation to any portion of a Letter of Credit that is Cash Collateralised, 0.25 per cent per annum; and
- (c) in relation to any portion of a Letter of Credit that is Cash Equivalent Collateralised, 0.40 per cent per annum.

**"Legal Reservations"** means:

- (a) the principle that equitable remedies may be granted or refused at the discretion of a court and the limitation of enforcement by laws relating to insolvency, reorganisation and other laws generally affecting the rights of creditors;
- (b) the time barring of claims under applicable statutes of limitation, the possibility that an undertaking to assume liability for or indemnify a person against non-payment of stamp duty may be void and defences of set-off or counterclaim;
- (c) similar principles, rights and defences under the laws of any jurisdiction of incorporation of any Obligor; and
- (d) any other matters which are set out as qualifications or reservations as to matters of law of general application in any legal opinion delivered pursuant to clause 12 (Conditions of Utilisation) or clause 35 (Changes to the Obligors);

**"Lender"** means:

- (a) any Original Lender; and
- (b) any Eligible Institution which has become a Party as a "Lender" in accordance with clause 34 (Changes to the Lenders),

which in each case has not ceased to be a Party as such in accordance with the terms of this agreement;

**"Letter of Comfort"** means a letter of comfort from Lloyd's to the Borrower in substantially the form set out in schedule 8 (Letter of Comfort) or in such other form as may be agreed between the Facility Agent and the Borrower in order to procure the execution of that letter by Lloyd's;

**"Letter of Credit"** means a letter of credit issued or to be issued pursuant to clause 13 (Utilisation) substantially in the form set out in schedule 7 (Form of Letter of Credit);

**"LIBOR"** means, in relation to any Unpaid Sum, the applicable Screen Rate as of the Specified Time for the currency of that Unpaid Sum and for a period equal in length to the Interest Period for that Unpaid Sum and, if that rate is less than zero, LIBOR shall be deemed to be zero;

**"Lloyd's"** means the Society incorporated by Lloyd's Act 1871 by the name of Lloyd's;

**"Lloyd's Deposit"** has the meaning given in the Definitions Byelaw (No. 7 of 2005);

**"Lloyd's Syndicate Accounting Rules"** means the Lloyd's syndicate accounting rules within the meaning of the Definitions Byelaw (No. 7 of 2005);

**"LMA"** means the Loan Market Association;

**"Majority Lenders"** means a Lender or Lenders whose Commitments aggregate at least 66⅔ per cent of the Total Commitments (or, if the Commitments have been reduced to zero, aggregated at least 66⅔ per cent of the Commitments immediately prior to the reduction);

**"Managed Syndicate"** means:

- (a) any one of Syndicate 1084 and/or Syndicate 1176; and
- (b) any other Syndicate at Lloyd's managed by the Managing Agent and through which the Account Party underwrites business at Lloyd's of more than 10 per cent of the aggregate underwriting risk in respect of all such Syndicates;

**"Managing Agent"** means Chaucer Syndicates Limited, a company incorporated in England and Wales with company number 00184915;

**"Mandate Letter"** means the mandate letter dated on or about the date of this agreement from the Arrangers to the Parent;

**"Material Adverse Effect"** means a material adverse effect on:

- (a) the business, financial condition or results of operations of the Group (taken as a whole);
- (b) the ability of any Group Obligor to perform or comply with its payment obligations under the Finance Documents (taking into account the existence of the guarantee

contained in clause 27.5 (Guarantee and Indemnity) and the guarantee contained in section 2.01 (The Guaranty) of the Parent Guarantee);

- (c) the ability of the Parent to comply with its financial covenant obligations under section 4.03 (Financial Covenants) of the Parent Guarantee or the Borrower to comply with its financial covenant obligations under clause 31.1 (Financial Condition);
- (d) the ability of the Group Obligors, taken as a whole, to perform any of their other obligations under the Finance Documents not referred to in paragraph (b) or (c) above; or
- (e) the legality, validity or enforceability of any Finance Document;

**"Material Company"** means, at any time:

- (a) an Obligor (other than the Account Party);
- (b) a member of the Group (other than the Parent and Chaucer Syndicates Limited) that holds shares in an Obligor; or
- (c) a Subsidiary of the Borrower (other than Chaucer Syndicates Limited) which has profit before tax representing 5 per cent or more of consolidated profit before tax of the Borrower Group or has gross assets representing 5 per cent or more of the gross assets of the Borrower Group, calculated on a consolidated basis.

Compliance with the conditions set out in paragraph (c) above shall be determined by reference to the latest annual financial statements of that Subsidiary (consolidated in the case of a Subsidiary which itself has Subsidiaries) and the latest annual consolidated financial statements of the Borrower Group delivered pursuant to clause 30.1(a) (Financial Statements of the Borrower Group) or clause 30.1(b) (Financial Statements of the Borrower Group). However, if a Subsidiary has been acquired since the date as at which the latest consolidated financial statements of the Borrower Group were prepared, the financial statements shall be deemed to be adjusted in order to take into account the acquisition of that Subsidiary;

A report by the auditors of the Borrower that a Subsidiary is or is not a Material Company shall, in the absence of manifest error, be conclusive and binding on all Parties;

**"Material Subsidiary"** has the meaning given to it in the Parent Guarantee;

**"Member"** means a Corporate Member or an individual member of Lloyd's;

**"Month"** means a period starting on one day in a calendar month and ending on the numerically corresponding day in the next calendar month, except that:

- (a) if the numerically corresponding day is not a Business Day, that period shall end on the next Business Day in that calendar month in which that period is to end if there is one, or if there is not, on the immediately preceding Business Day; and
- (b) if there is no numerically corresponding day in the calendar month in which that period is to end, that period shall end on the last Business Day in that calendar month.

The above exceptions will only apply to the last Month of any period; **"Monthly"** shall be construed accordingly;

**"Moody's"** means Moody's Investors Service Limited and any successor to the rating agency business of Moody's Investors Service Limited;

**"New Lender"** has the meaning given to it in clause 34.1 (Assignments and Transfers by the Lenders);

**"Notice of Termination"** means a notice of the kind defined in clause 15.1 (Availability and Termination Provisions);

**"Obligor"** means the Account Party, the Borrower or a Guarantor;

**"Obligors' Agent"** means the Borrower, appointed to act on behalf of each Obligor in relation to the Finance Documents pursuant to clause 9.3 (Obligors' Agent);

**"OFAC"** means the Office of Foreign Assets Control of the U.S. Department of the Treasury;

**"Original Financial Statements"** means:

- (a) in relation to the Borrower, the audited consolidated financial statements of the Borrower Group for the financial year ended 31 December 2014; and
- (b) in relation to the Account Party, its audited consolidated financial statements for the financial year ended 31 December 2014;

**"Other FAL"** means, in relation to the Account Party, its Funds at Lloyd's other than Own FAL, Reinsurance FAL and FAL provided under this agreement;

**"Outstandings"** means, at any time, the aggregate of the maximum actual and contingent liabilities of the Lenders in respect of any outstanding Letter of Credit;

**"Overdraft"** means the £2,000,000 overdraft facility made available to the Borrower by Lloyds TSB Bank plc (now known as Lloyds Bank plc);

**"Overdraft Letter"** means the overdraft facility letter between Lloyds TSB Bank plc (now known as Lloyds Bank plc) and the Borrower dated 13 January 2013, as amended, supplemented or extended from time to time, which documents the terms and conditions of the Overdraft;

**"Own FAL"** means, in relation to the Account Party, such part of its Funds at Lloyd's as is provided by the Borrower or by the Account Party or any other member of the Group by way of cash and/or investments and/or covenant and charge or otherwise as permitted by Lloyd's from time, to time excluding the Reinsurance FAL;

**"Parent"** means The Hanover Insurance Group, Inc. a Delaware corporation;

**"Parent Guarantee"** means the guarantee agreement dated as of 15 October 2015 as amended and restated on or around the date of the Amendment and Restatement Agreement, between the Parent, the Facility Agent and the Security Agent;

**"Party"** means a party to this agreement;

**"Permitted Encumbrance"** means:

- (a) any Encumbrance arising under the Finance Documents;
- (b) any Encumbrance granted with the prior consent of the Majority Lenders, provided the amount secured thereby is not increased;
- (c) any Encumbrance granted or subsisting under any deed or agreement required by Lloyd's or by the PRA or its successor or successors to be executed or entered into

by or on behalf of the Account Party in connection with its insurance business at Lloyd's;

- (d) any Encumbrance over or affecting any asset forming part of a trust fund (or, in the case of reinsurance recoveries or other things in action, whose proceeds will form part of a trust fund) which is held subject to the provisions of any deed or agreement of the kind referred to in paragraph (c) above, where that Encumbrance is created to secure obligations arising under a Syndicate Arrangement;
- (e) any Encumbrance over or affecting any asset acquired by a member of the Borrower Group after the date of this agreement and subject to which that asset is acquired, provided:
  - (i) that Encumbrance was not created in contemplation of the acquisition of that asset by a member of the Borrower Group;
  - (ii) the amount secured by that Encumbrance has not been increased in contemplation of, or since the date of, the acquisition of that asset by a member of the Borrower Group; and
  - (iii) that Encumbrance is released or discharged within six Months of the date of acquisition of that asset;
- (f) any Encumbrance over or affecting any asset of any company which becomes a member of the Borrower Group after the date of this agreement, where that Encumbrance is created prior to the date on which that company becomes a member of the Borrower Group, provided:
  - (i) that Encumbrance was not created in contemplation of the acquisition of that company;
  - (ii) the amount secured by that Encumbrance has not been increased in contemplation of, or since the date of, the acquisition of that company; and
  - (iii) such Encumbrance is released or discharged within six Months of that company becoming a member of the Borrower Group;
- (g) any netting or set-off arrangement entered into by any member of the Borrower Group in the normal course of its banking arrangements for the purpose of netting debit and credit balances;
- (h) any title transfer or retention of title arrangement entered into by any member of the Borrower Group in the normal course of its trading activities on the counterparty's standard or usual terms;
- (i) any lien arising by operation of law and in the normal course of business, provided that lien is discharged within ten days of the date on which it arises;
- (j) any Encumbrance that is registered at Companies House at the date of this agreement in respect of a member of the Borrower Group; and
- (k) any other Encumbrance granted by a member of the Borrower Group securing Financial Indebtedness provided the amount secured by the aggregate of any such Encumbrances does not at any time exceed £5,000,000 (or its equivalent in other currencies);

**"Permitted Financial Indebtedness"** means Financial Indebtedness:

- (a) arising under the Finance Documents;

- (b) arising under the Overdraft Letter provided that the principal amount borrowed under the Overdraft Letter does not exceed £2,000,000 (or its equivalent in other currencies);
- (c) arising under any Syndicate Arrangement;
- (d) approved in writing by the Majority Lenders in accordance with a written request delivered by the Borrower to the Facility Agent in accordance with clause 47 (Amendments and Waivers);
- (e) among members of the Borrower Group;
- (f) arising under the \$300,000,000 loan agreement between The Hanover (Barbados) Capital SRL and the Original Guarantor dated 2 August 2011;
- (g) of a member of the Borrower Group where such Financial Indebtedness is owed to a member of the Group;
- (h) arising under any multicurrency pooling arrangements entered into by any member of the Borrower Group in the ordinary course of their banking arrangements which involves a netting or a set-off of any debit and credit balances of such member of the Borrower Group, provided that the net amount of such financial indebtedness does not exceed zero;
- (i) arising under any interest rate swap, currency swap, forward foreign exchange transaction, cap, floor, collar or option transaction or any other treasury transaction or any combination thereof or any other transaction entered into in connection with protection against or benefit from fluctuation in any rate or price (and the amount of the Financial Indebtedness in relation to any such transaction shall be calculated by reference to the mark-to-market valuation of such transaction at the relevant time) in an amount not exceeding in aggregate £20,000,000 (or its equivalent in other currencies) and not for investment or speculative purposes; and
- (j) other Indebtedness for Borrowed Money of members of the Borrower Group not exceeding in aggregate £5,000,000 (or its equivalent in other currencies);

**"PRA"** means the Prudential Regulation Authority in the United Kingdom and any regulatory body which succeeds to one or more of the functions and/or duties performed by it as at the date of this agreement;

**"Proportion"** means, in relation to a Lender:

- (a) the proportion borne by its Commitment to the Total Commitments (or, if the Total Commitments are then zero, by its Commitment to the Total Commitments immediately prior to their reduction to zero); and
- (b) in respect of any Letter of Credit and save as otherwise provided in this agreement, the proportion (expressed as a percentage) borne by that Lender's Available Commitment to the Available Facility immediately prior to the issue of that Letter of Credit;

**"Qualifying Lender"** has the meaning given to it in clause 20 (Tax Gross-Up and Indemnities);

**"Quotation Day"** means, in relation to any period for which an interest rate is to be determined, the first day of that period;

**"Realistic Disaster Scenario"** means any realistic disaster scenario presented in a business plan prepared in relation to a Managed Syndicate under paragraph 35 of the Underwriting Byelaw (No. 2 of 2003) which shows the potential impact upon a Managed Syndicate of a catastrophic event, which for the avoidance of doubt, shall not be taken to include any Extreme Stress Scenario which may be requested to be covered by Lloyd's from time to time;

**"Receiver"** means a receiver or receiver and manager, or administrative receiver, administrator or trustee (as the context requires) or other similar officer of the whole or any part of the Charged Property;

**"Reference Banks"** means the principal London office of two or more recognised banks as may be appointed by the Facility Agent in consultation with the Borrower;

**"Reference Bank Rate"** means the arithmetic mean of the rates (rounded upwards to four decimal places) as supplied to the Facility Agent at its request by the Reference Banks, in relation to LIBOR:

(a) if:

(i) the Reference Bank is a contributor to the applicable Screen Rate; and

(ii) it consists of a single figure,

the rate (applied to the relevant Reference Bank and the relevant currency and period) which contributors to the applicable Screen Rate are asked to submit to the relevant administrator; or

(b) in any other case, the rate at which the relevant Reference Bank could fund itself in the relevant currency for the relevant period with reference to the unsecured wholesale funding market;

**"Reference Bank Quotation"** means any quotation supplied to the Facility Agent by a Reference Bank;

**"Reinsurance FAL"** means any letter or letters of credit to be provided to Lloyd's on behalf of the Borrower and/or the Account Party and which are supported by a reinsurance contract;

**"Related Fund"** in relation to a fund (the **"First Fund"**), means a fund which is managed or advised by the same investment manager or adviser as the First Fund or, if it is managed by a different investment manager or adviser, a fund whose investment manager or adviser is an Affiliate of the investment manager or adviser of the First Fund;

**"Relevant Interbank Market"** means the London interbank market;

**"Repeating Representations"** means each of the representations set out in clauses 29.1 (Status) to 29.6 (Legality, Validity and Enforceability) (inclusive), clauses 29.10 (No Filing or Stamp Taxes) to 29.13 (Financial Statements) (inclusive), clauses 29.15 (No Proceedings Pending or Threatened) to 29.18 (Shares) (inclusive), clauses 29.21 (No Breach of Borrowing Restrictions) to 29.23 (Anti-corruption law) (inclusive);

**"Representative"** means any delegate, agent, manager, administrator, nominee, attorney, trustee or custodian;

**"Resignation Letter"** means a letter substantially in the form set out in schedule 12 (Form of Resignation Letter);

**"Sanctions"** means economic or financial sanctions or trade embargoes imposed, administered or enforced from time to time by any Authority;

**"Screen Rate"** means, in relation to LIBOR, the London interbank offered rate administered by ICE Benchmark Administration Limited (or any other person which takes over the administration of that rate) for the relevant currency and period displayed on pages LIBOR1 or LIBOR2 of the Thomson Reuters screen (or any replacement Thomson Reuters page which displays that rate) or, on the appropriate page of such other information service which publishes that rate from time to time in place of Thomson Reuters. If such page or service ceases to be available, the Facility Agent may specify another page or service displaying the relevant rate after consultation with the Borrower and the Lenders;

**"SDN List"** means the Specially Designated Nationals List maintained by OFAC, or any similar list maintained by any Authority;

**"Secured Obligations"** means all present and future obligations at any time due, owing or incurred by any Group Obligor to any Secured Party under the Guaranteed Documents, both actual and contingent and whether incurred solely or jointly and as principal or surety or in any other capacity;

**"Secured Party"** means the Security Agent, any Receiver or Delegate, or any other Guaranteed Finance Party;

**"Security"** means the security granted under or pursuant to the Security Documents;

**"Security Documents"** means the Charge Over Account, the US Pledge Agreement and the Account Control Agreement together with any other document entered into by any Obligor or any other member of the Group, in form and substance acceptable to the Security Agent, creating or expressed to create any Encumbrance over all or any part of its assets in respect of the obligations of any of the Group Obligors under any of the Guaranteed Documents;

**"Solvency Deficit"** has the meaning given to it in the Lloyd's Membership and Underwriting Conditions and Requirements (Funds at Lloyd's) (M&URs);

**"Specified Account"** means the Sterling interest-bearing account in the name of the Borrower held with the Security Agent, at the Security Agent's branch at 39 Threadneedle Street, London EC2R 8AU, with account number 01193214, sort code 30-00-09 and designated LTSB plc re Chaucer Holdings plc Sterl;

**"Specified Time"** means a day or time determined in accordance with schedule 16 (Timetables);

**"Standard & Poor's"** or **"S&P"** means Standard and Poor's Rating Service and any successor to the rating agency business of Standard & Poor's Rating Services;

**"Sterling"** and **"£"** means the lawful currency of the United Kingdom;

**"Subordinated Funds at Lloyd's"** has the meaning given to it in clause 11.1 (Ranking of Funds at Lloyd's);

**"Subsidiary"** means a subsidiary undertaking within the meaning of section 1162 of the Companies Act 2006;

**"Substitution Letter"** a letter dated on or about the date of this agreement from Lloyd's to the Borrower in the form agreed between the Facility Agent and the Borrower relating to the substitution of a Letter of Credit for the letter of credit issued under the Existing Facility;

**"Syndicate"** means a group of Members or a single Corporate Member underwriting insurance business at Lloyd's through the agency of a managing agent to which a particular syndicate number is assigned by the Council of Lloyd's;

**"Syndicate Arrangement"** means any arrangement (whether pursuant to guarantees, letters of credit or otherwise) entered into by a managing agent at Lloyd's on behalf of the Account Party, together with the other Members of a Syndicate with respect to financing or reinsurance for the purposes of or in connection with the underwriting business carried on by all such Members of that Syndicate;

**"Tax"** means any tax, levy, impost, duty or other charge or withholding of a similar nature (including any penalty or interest payable in connection with any failure to pay or any delay in paying any of the same);

**"Term"** means, save as otherwise provided in this agreement:

- (a) in relation to any Letter of Credit, the period from its Commencement Date until its Expiry Date; and
- (b) in relation to an Unpaid Sum, any Interest Period;

**"Third Party Syndicate"** means a syndicate at Lloyd's:

- (a) which is managed by the Third Party Syndicate Managing Agent; or
  - (b) through which the Account Party underwrites business at Lloyd's,
- and which, in each case, is not a Managed Syndicate;

**"Third Party Syndicate Managing Agent"** means:

- (a) the Managing Agent; or
- (b) a limited liability company which is controlled by the Borrower and acts as a managing agent;

**"Total Commitments"** means the aggregate of the Commitments, being £220,000,000 at the Effective Date;

**"Transfer Certificate"** means a certificate substantially in the form set out in schedule 9 (Form of Transfer Certificate) or any other form agreed between the Facility Agent and the Borrower;

**"Transfer Date"** means, in relation to an assignment or a transfer, the later of:

- (a) the proposed Transfer Date specified in the relevant Assignment Agreement or Transfer Certificate; and
- (b) the date on which the Facility Agent executes the relevant Assignment Agreement or Transfer Certificate;

**"Uncollateralised Outstandings"** means the Outstandings in respect of which the Borrower has not deposited Collateral into the Specified Account and/or the Custody Account;

**"United States"** or **"US"** means the United States of America;

**"Unpaid Sum"** means any sum due and payable but unpaid by an Obligor under the Finance Documents;

**"US Dollars"** and **"\$"** means the lawful currency of the United States;

**"US GAAP"** means generally accepted accounting principles in the United States, including IFRS;

**"US Pledge Agreement"** means the pledge agreement entered into or to be entered into between the Parent and the Security Agent;

**"Utilisation"** means a utilisation of the Facility;

**"Utilisation Date"** means the date of a Utilisation, being the date on which the relevant Letter of Credit is to be issued (or, as applicable, amended);

**"Utilisation Request"** means a notice substantially in the form set out in schedule 6 (Requests);

**"VAT"** means value added tax as provided for in the Value Added Tax Act 1994 and any other tax of a similar nature;

**"Voluntary Collateralisation Date"** means, in any year, any of 1 January, 31 March, 30 June and 30 September or, if such date is not a Business Day, the next Business Day; and

**"Voting Shares"** means, with respect to any Person (as defined in the Hanover Credit Agreement) at any time, Equity Interests entitling the holder thereof to vote generally in an election of directors or other individuals performing similar functions.

## 1.2 Construction

- (a) Unless a contrary indication appears, any reference in this agreement to:
- (i) the **"Facility Agent"**, the **"Arrangers"**, the **"Security Agent"**, any **"Secured Party"**, any **"Finance Party"**, any **"Lender"**, the **"Overdraft Provider"**, any **"Obligor"**, the **"Parent"** or any **"Party"** or any other person shall be construed so as to include its successors in title, permitted assigns and permitted transferees;
  - (i) **"amendment"** includes any amendment, supplement, variation, novation, modification, replacement or restatement and **"amend"**, **"amending"** and **"amended"** shall be construed accordingly;
  - (ii) **"assets"** includes present and future properties, revenues and rights of every description;
  - (iii) a **"Finance Document"** or any other agreement or instrument is (unless otherwise specified in this agreement) a reference to that Finance Document or other agreement or instrument as amended, novated, supplemented, extended or restated (however fundamentally) (excluding any amendment, novation, supplement, extension or restatement made contrary to any provision of the Finance Documents);
  - (iv) **"including"** means including without limitation and **"includes"** and **"included"** shall be construed accordingly;
  - (v) **"indebtedness"** includes any obligation (whether incurred as principal or as surety) for the payment or repayment of money, whether present or future, actual or contingent;
  - (vi) a **"person"** includes any individual, firm, company, corporation, government, state or agency of a state or any association, trust, joint

venture, consortium or partnership (whether or not having separate legal personality) of two or more of the foregoing;

- (vii) a "**regulation**" includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, intergovernmental or supranational body, agency, department or of any regulatory, self-regulatory or other authority or organisation;
  - (viii) "**controlled**" for the purposes of the defined term "**Third Party Syndicate Managing Agent**" means that the Borrower:
    - (A) has the power (whether by way of ownership of shares, proxy, contract, agency or otherwise) to cast, or control the casting of, more than 50 per cent of the maximum number of votes that might be cast at a general meeting of the relevant company; or
    - (B) holds beneficially 50 per cent or more of the issued share capital of such a company (excluding any part of that issued share capital that carries no right to participate beyond a specified amount in a distribution of either profits or capital);
  - (ix) a provision of law (including any by-law) is a reference to that provision as amended or re-enacted; and
  - (x) a time of day is a reference to London time.
- (b) Clause and schedule headings are for ease of reference only.
  - (c) Unless a contrary indication appears, a term used in any other Finance Document or in any notice given under or in connection with any Finance Document has the same meaning in that Finance Document or notice as in this agreement.
  - (d) A Default is "**continuing**" if it has not been remedied or waived.

### 1.3 **Third Party Rights**

- (a) Unless expressly provided to the contrary in a Finance Document a person who is not a Party has no right under the Contracts (Rights of Third Parties) Act 1999 (the "**Third Parties Act**") to enforce or to enjoy the benefit of any term of this agreement.
- (b) Notwithstanding any term of any Finance Document, the consent of any person who is not a Party is not required to rescind or vary this agreement at any time.

## 2. **THE FACILITY**

### 2.1 **The Facility**

Subject to the terms of this agreement, the Lenders make available to the Borrower a Sterling letter of credit facility in an aggregate principal amount equal to the Total Commitments.

### 2.2 **Finance Parties' Rights and Obligations**

- (a) The obligations of each Finance Party under the Finance Documents are several. Failure by a Finance Party to perform its obligations under the Finance Documents does not affect the obligations of any other Party under the Finance Documents. No Finance Party is responsible for the obligations of any other Finance Party under the Finance Documents.

- (b) The rights of each Finance Party under or in connection with the Finance Documents are separate and independent rights and any debt arising under the Finance Documents to a Finance Party from an Obligor shall be a separate and independent debt in respect of which a Finance Party shall be entitled to enforce its rights in accordance with paragraph (c) below. The rights of each Finance Party include any debt owing to that Finance Party under the Finance Documents and, for the avoidance of doubt, any part of a Utilisation or any other amount owed by an Obligor which relates to a Finance Party's Proportion or its role under a Finance Document (including any such amount payable to the Facility Agent on its behalf) is a debt owing to that Finance Party by that Obligor.
- (c) A Finance Party may, except as otherwise stated in the Finance Documents, separately enforce its rights under the Finance Documents.

### 2.3 **Obligors' Agent**

- (a) Each Obligor (other than the Borrower) by its execution of this agreement or an Accession Letter irrevocably appoints the Borrower to act on its behalf as its agent in relation to the Finance Documents and irrevocably authorises:
  - (i) the Borrower on its behalf to supply all information concerning itself contemplated by this agreement to the Finance Parties and to give all notices and instructions, to execute on its behalf any Accession Letter, to make such agreements and to effect the relevant amendments, supplements and variations (in each case, however fundamental) capable of being given, made or effected by any Obligor (notwithstanding that they may increase the Obligor's obligations or otherwise affect the Obligor) and to give confirmation as to continuation of surety obligations, without further reference to or the consent of that Obligor; and
  - (ii) each Finance Party to give any notice, demand or other communication to that Obligor pursuant to the Finance Documents to the Borrower,

and in each case the Obligor shall be bound as though the Obligor itself had given the notices and instructions (including, without limitation, any Utilisation Requests) or executed or made the agreements or effected the amendments, supplements or variations, or received the relevant notice, demand or other communication.

- (b) Every act, omission, agreement, undertaking, settlement, waiver, amendment, supplement, variation, notice or other communication given or made by the Obligors' Agent or given to the Obligors' Agent under any Finance Document on behalf of an Obligor or in connection with any Finance Document (whether or not known to any Obligor and whether occurring before or after such Obligor became an Obligor under any Finance Document) shall be binding for all purposes on that Obligor as if that Obligor had expressly made, given or concurred with it. In the event of any conflict between any notices or other communications of the Obligors' Agent and any Obligor, those of the Obligors' Agent shall prevail.

## 3. **PURPOSE**

### 3.1 **Purpose and Application**

The Facility is made available to the Borrower for the purpose of providing one or more Letters of Credit to be used as Funds at Lloyd's to support and stand security for the general business at Lloyd's of the Account Party for the 2018 and 2019 years of account and each prior open year of account and, accordingly, the Borrower and the Account Party will each apply all amounts raised under this agreement towards the satisfaction of that purpose.

### 3.2 **Monitoring**

No Finance Party is bound to monitor or verify the application of any amount raised pursuant to this agreement.

## 4. **RANKING AND APPLICATION OF FUNDS AT LLOYD'S**

### 4.1 **Ranking of Funds at Lloyd's**

It is acknowledged by the Parties that, subject to the duties of Lloyd's as trustee of all Funds at Lloyd's and to any conditions and requirements prescribed under the Membership Byelaw (No. 5 of 2005) which are for the time being applicable, the Facility will provide Funds at Lloyd's for the Account Party for the 2018 and 2019 years of account and each prior open year of account which, to the extent that it is able to procure the same upon and subject to the terms of this agreement, shall rank senior to all Funds at Lloyd's of the Account Party constituted from time to time by Own FAL, Reinsurance FAL and Other FAL (together the "**Subordinated Funds at Lloyd's**").

### 4.2 **Application of Funds at Lloyd's**

The Borrower shall use all reasonable endeavours to ensure that the Subordinated Funds at Lloyd's of the Account Party are applied or otherwise utilised to the fullest extent possible before any payment is requested under a Letter of Credit.

## 5. **CONDITIONS OF UTILISATION**

### 5.1 **Initial Conditions Precedent**

The Borrower may only deliver a Utilisation Request if the Facility Agent has received all of the documents and other evidence listed in part 1 of schedule 5 (Conditions Precedent) in form and substance satisfactory to the Facility Agent. The Facility Agent shall notify the Borrower and the Lenders promptly upon being so satisfied.

### 5.2 **Further Conditions Precedent**

Subject to clause 12.1 (Initial Conditions Precedent), the Lenders will only be obliged to comply with clause 13.4 (Each Lender's Participation in Letters of Credit) if, on the date of the Utilisation Request and on the proposed Utilisation Date:

- (a) no Default is continuing or would result from the issue of the proposed Letter of Credit; and
- (b) the Repeating Representations to be made by each Obligor and the representations to be made by the Parent in the Parent Guarantee are true in all material respects.

## 6. **UTILISATION**

### 6.1 **Delivery of a Utilisation Request**

The Borrower may utilise the Facility by delivery to the Facility Agent of a duly completed Utilisation Request no later than five Business Days before the proposed Utilisation Date (or such shorter period as the Facility Agent may agree).

## 6.2 **Completion of a Utilisation Request**

Each Utilisation Request is irrevocable and will not be regarded as having been duly completed unless:

- (a) the proposed Utilisation Date is a Business Day falling on or before 31 December 2018;
- (b) the proposed Term of the Letter of Credit is not less than four years and the Expiry Date of the Letter of Credit is no later than 31 December 2022;
- (c) the proposed Commencement Date of the Letter of Credit is a Business Day falling within the Availability Period;
- (d) the Letter of Credit is substantially in the form set out in schedule 7 (Form of Letter of Credit);
- (e) the beneficiary of the Letter of Credit is Lloyd's;
- (f) the currency and amount of the Letter of Credit comply with clause 13.3 (Currency and Amount); and
- (g) as a result of the proposed Utilisation, no more than three Letters of Credit would be outstanding.

## 6.3 **Currency and Amount**

- (a) The currency specified in a Utilisation Request must be Sterling;
- (b) The amount of the proposed Letter of Credit is:
  - (i) a minimum of £250,000 or, if less, the Available Facility; and
  - (ii) less than or equal to the Available Facility.

## 6.4 **Each Lender's Participation in Letters of Credit**

- (a) If the conditions set out in this agreement have been met, each Lender shall participate in each Letter of Credit through its Facility Office.
- (b) Save as otherwise provided in this agreement, the amount of each Lender's participation in each Letter of Credit issued in accordance with this clause 13 will be equal to the proportion borne by its Available Commitment to the Available Facility immediately prior to the issue of that Letter of Credit.

## 6.5 **Applied Letters of Credit**

If, notwithstanding the provisions of clause 11.2 (Application of Funds at Lloyd's), any sum is paid under a Letter of Credit (an "**Applied Letter of Credit**") which is greater than any sum which would have been paid had Subordinated Funds at Lloyd's been applied prior to the Funds at Lloyd's provided pursuant to this Facility in accordance with clause 11.2 (Application of Funds at Lloyd's) (the difference between the sum paid under the Applied Letter of Credit and the sum which should have been paid being the "**Overpayment**"), the Borrower shall, to any extent necessary to facilitate the indemnification of the Lenders under clause 17.1 (Borrower's Indemnity to the Lenders), use all reasonable endeavours to procure the release by Lloyd's of the Subordinated Funds at Lloyd's and, upon the Lenders being indemnified in full thereunder (but subject to the Lenders receiving confirmation in writing from the Borrower that no Default is continuing):

- (a) a supplementary Letter of Credit will be issued by the Facility Agent on behalf of the Lenders in an amount equal to the Overpayment having an Expiry Date which is the same as that of the Applied Letter of Credit; or
- (b) the Applied Letter of Credit will be amended by increasing the amount thereof by an amount equal to the Overpayment.

## 6.6 **Completion of Letters of Credit**

The Facility Agent is authorised to arrange for the issue or amendment of any Letter of Credit pursuant to clause 13.2 (Completion of a Utilisation Request) or clause 13.5 (Applied Letters of Credit) by:

- (a) completing the Commencement Date and the Expiry Date of that Letter of Credit;
- (b) (in the case of an amendment increasing or decreasing the amount thereof) amending that Letter of Credit in such manner as Lloyd's may agree;
- (c) completing schedule 1 to that Letter of Credit with the percentage participation of each Lender as allocated pursuant to the terms of this agreement;
- (d) executing that Letter of Credit and following such execution delivering that Letter of Credit to Lloyd's on the Utilisation Date; and
- (e) issuing such formal notification as Lloyd's may require confirming that the Letter of Credit has been issued or amended.

## 7. **EXTENSION OF THE FACILITY**

- (a) The Borrower may, on one occasion only during the life of the Facility, request that the Total Commitments are increased by an amount up to the Facility Extension Amount by delivery to the Facility Agent of a duly completed Facility Extension Request inviting the Lenders or any Eligible Institution (the "**Facility Extension Invitee**") in its discretion to provide or participate in that Facility Extension Amount.
- (b) Each Facility Extension Invitee shall have the right (but not the obligation) to notify the Borrower and the Facility Agent within 20 Business Days from receipt of the completed Facility Extension Request from the Facility Agent of its decision (which shall be in its absolute and sole discretion) whether or not to provide or participate in the proposed Facility Extension Amount and, if applicable, the proportion of the Facility Extension Amount which it is prepared to provide or participate in and subject to such conditions as it may specify (the "**Facility Extension Acceptance Notice**").

- (c) The Borrower shall promptly confirm to each Facility Extension Invitee that has accepted pursuant to paragraph (b) above (each, an "**Accepting Lender**") the proportion of the Facility Extension Amount to be allocated to it and shall promptly notify the Facility Agent of each Accepting Lender and their respective proportions of the Facility Extension Amount.
- (d) The Facility Extension Amount shall be allocated amongst the Accepting Lenders at the Borrower's discretion.
- (e) Each Lender, each new Accepting Lender and the Obligors agree to negotiate (in good faith and acting reasonably) and document any necessary amendments to this agreement to facilitate the Facility Extension.
- (f) A new Accepting Lender shall accede as a Lender in accordance with clause 34.5 (Procedure for Transfer or Accession).

## 8. **TERMINATION OF LETTERS OF CREDIT**

### 8.1 **Availability and Termination Provisions**

The Finance Parties agree that each Letter of Credit will continue in effect until such time as a notice is given in accordance with the terms of clause 15.2 (Notice of Termination) and that accordingly such Letter of Credit will expire on the later of the date specified in the notice and:

- (a) in relation to any Letter of Credit that the Parties intend to cover the 2018 year of account (and each prior open year of account but no subsequent year of account), 31 December 2021; and
- (b) in relation to any Letter of Credit that the Parties intend to cover the 2019 year of account (and each prior open year of account but no subsequent year of account), 31 December 2022.

### 8.2 **Notice of Termination**

The Parties agree that, in respect of every Letter of Credit issued in accordance with this agreement, the Facility Agent shall, in respect of:

- (j) the 2018 year of account (and each prior open year of account but no subsequent year of account) no earlier than 28 November 2017 and no later than 31 December 2017, give a Notice of Termination to Lloyd's so that each such Letter of Credit expires no later than 31 December 2021; and
- (k) the 2019 year of account (and each prior open year of account but no subsequent year of account) no earlier than 28 November 2018 and no later than 31 December 2018, give a Notice of Termination to Lloyd's so that each such Letter of Credit expires no later than 31 December 2022,

and upon such expiry, the maximum actual and contingent liabilities of the Finance Parties thereunder are reduced to zero).

9. **NOTIFICATION**

9.1 **Letters of Credit**

Not less than one Business Day before the first day of a Letter of Credit, the Facility Agent shall notify each Lender of:

- (a) the proposed length of the relevant Term; and
- (b) the aggregate principal amount,

of that Letter of Credit allocated to that Lender pursuant to this agreement.

9.2 **Demands under a Letter of Credit**

If a demand is made under a Letter of Credit, the Facility Agent shall promptly make demand upon the Borrower in accordance with this agreement and notify the Lenders.

10. **BORROWER'S LIABILITIES IN RELATION TO LETTERS OF CREDIT**

10.1 **Borrower's Indemnity to the Lenders**

The Borrower shall irrevocably and unconditionally as a primary obligation indemnify each Finance Party, within 3 Business Days of a written demand by the Facility Agent, against:

- (a) any sum paid or due and payable by that Finance Party under or in connection with any Letter of Credit; and
- (b) all liabilities, costs (including, without limitation, any costs incurred in funding any amount which falls due from that Finance Party under or in connection with any Letter of Credit), claims, losses and expenses which that Finance Party may at any time incur or sustain in connection with any Letter of Credit (other than as a result of its gross negligence or wilful misconduct).

10.2 **Preservation of Rights**

The obligations of the Borrower under this clause 17 will not be affected by any act, omission, matter or thing which, but for this clause, would reduce, release or prejudice any of its obligations under this clause including (without limitation and whether or not known to it or any other person):

- (a) any time, waiver or consent granted to, or composition with, any Obligor, any beneficiary under a Letter of Credit or any other person;
- (b) the release of any other Group Obligor or any other person under the terms of any composition or arrangement with any creditor or any member of the Group;
- (c) the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or security over assets of, any Obligor, any beneficiary under a Letter of Credit or other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any security;
- (d) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of a Group Obligor, any beneficiary under a Letter of Credit or any other person;
- (e) any amendment (however fundamental) or replacement of a Finance Document, any Letter of Credit or any other document or security;

- (f) any unenforceability, illegality or invalidity of any obligation of any person under any Finance Document, any Letter of Credit or any other document or security; or
- (g) any insolvency or similar proceedings.

### 10.3 **Settlement Conditional**

Any settlement or discharge between the Borrower and the Facility Agent or any Lender shall be conditional upon no security or payment to the Facility Agent or any Lender by the Borrower, or any other person on behalf of the Borrower, being avoided or reduced by virtue of any laws relating to bankruptcy, insolvency, liquidation or similar laws of general application and, if any such security or payment is so avoided or reduced, the Facility Agent shall be entitled to recover the value or amount of such security or payment from the Borrower subsequently as if such settlement or discharge had not occurred.

### 10.4 **Right to make Payments under Letters of Credit**

- (a) Each Lender shall be entitled to make any payment in accordance with the terms of a Letter of Credit without any reference to or further authority from the Borrower, the other Finance Parties or any other investigation or enquiry. The Borrower irrevocably authorises the Lenders to comply with any demand under a Letter of Credit which appears on its face to be in order (a "**demand**").
- (b) The obligations of the Borrower under this clause 17 will not be affected by:
  - (i) the sufficiency, accuracy or genuineness of any demand or other document; or
  - (ii) any incapacity of, or limitation on the powers of, any person signing a demand or other document.

## 11. **COLLATERALISATION AND CANCELLATION**

### 11.1 **Cancellation of the Facility**

- (a) The Borrower may, by giving to the Facility Agent not less than five Business Days' prior notice to that effect, cancel the whole or any part (being a minimum amount of £5,000,000 and an integral multiple of £1,000,000) of the Available Facility. Any such cancellation shall reduce the Available Commitment and Commitment of each Lender rateably.
- (b) On the last day of the Availability Period, the Available Commitment shall be cancelled and reduced to zero.

### 11.2 **Voluntary Collateralisation of Letters of Credit**

- (a) Subject to the terms of this clause 18.2, the Borrower may, by giving to the Facility Agent not less than five Business Days' prior notice to that effect, procure that, on any Voluntary Collateralisation Date, the liability of the Lenders under any Letter of Credit is Collateralised in full or in part, in minimum amounts of £5,000,000 (and in integral multiples of £1,000,000 thereafter), by either:
  - (i) depositing Cash Collateral into the Specified Account; or
  - (ii) at any time after the CS Satisfaction Date, depositing Cash Equivalent Collateral into the Custody Account.

- (b) The Facility Agent shall promptly notify the Lenders of receipt of a notice described in paragraph (a) above and the type and amount of Collateral deposited or to be deposited (as shall be specified by the Borrower in such notice).
- (c) The Borrower may only deliver a notice described in paragraph (a) above on four occasions during the life of the Facility.
- (d) If the Borrower elects to Cash Equivalent Collateralise any Letter of Credit in full in accordance with paragraph (a) above and subject to paragraph **Error! Reference source not found.** below, the Borrower shall procure that:
  - (i) the amount of Eligible Cash Equivalents deposited into, and at all times thereafter maintained in, the Custody Account is the minimum amount which is necessary to ensure that the Borrowing Base is equal to or greater than the Outstandings in respect of the relevant Letter of Credit; and
  - (ii) if, at any time thereafter, the Outstandings in respect of the relevant Letter of Credit exceed the Borrowing Base, then the Borrower shall, within 5 Business Days of the earlier of the Borrower becoming aware of such shortfall or such shortfall being notified by the Facility Agent to the Borrower, deposit such further Eligible Cash Equivalents as may be necessary to satisfy the foregoing,
- (e) If the Borrower elects to provide Cash Equivalent Collateral in respect of any Letter of Credit in part in accordance with paragraph (a) above and subject to paragraph **Error! Reference source not found.** below, the Borrower shall procure that the amount of the deposited Eligible Cash Equivalents is, subject to paragraph (h) below, maintained in the Custody Account.
- (f) Any Letter of Credit that is Cash Collateralised in part pursuant to this clause 18.2 (Voluntary Collateralisation of Letters of Credit) may not simultaneously be Cash Equivalent Collateralised. For the avoidance of doubt, nothing in this paragraph (f) shall restrict the Borrower from electing to substitute all such Cash Collateral with Cash Equivalent Collateral by delivering a notice of its intention to do so in accordance with paragraph (a) above.
- (g) Any Letter of Credit that is Cash Equivalent Collateralised in part pursuant to this clause 18.2 (Voluntary Collateralisation of Letters of Credit) may not simultaneously be Cash Equivalent Collateralised. For the avoidance of doubt, nothing in this paragraph (g) shall restrict the Borrower from electing to substitute all such Cash Equivalent Collateral with Cash Collateral by delivering a notice of its intention to do so in accordance with paragraph (a) above.
- (h) For so long as no Event of Default has occurred, which is continuing, the Borrower may give the Facility Agent not less than five Business Days' notice of its intention (or the intention of the Parent, as applicable) to withdraw all or any part of the Collateral provided in accordance with paragraph (a) above on a Voluntary Collateralisation Date (whereupon it or the Parent shall do so). At any time following the withdrawal of Collateral pursuant to the terms of this paragraph (h), the L/C Commission Rate in respect of the portion of each Letter of Credit previously Collateralised by the withdrawn Collateral shall be immediately increased to the applicable rate set out in paragraph (a) of the definition of L/C Commission Rate.

### 11.3 **Mandatory Cash Collateralisation or Cancellation of Letters of Credit**

If:

- (a) the Borrower ceases to be a direct wholly-owned Subsidiary of the Original Guarantor; or
- (b) the Original Guarantor ceases to be a direct wholly-owned Subsidiary of the Parent,

then:

- (i) the Borrower and the Original Guarantor shall promptly notify the Facility Agent upon becoming aware of that event;
- (ii) the Lenders shall not thereafter be obliged to participate in or issue any further Letter of Credit;
- (iii) the Facility Agent shall, if so instructed by all the Lenders, by not less than five Business Days' notice to the Borrower, cancel the Total Commitments and declare all amounts (together with any accrued interest, commission and fees) accrued under the Finance Documents immediately due and payable;
- (iv) the Borrower shall procure that on such date as the Facility Agent shall have specified (acting on the instructions of all the Lenders) the liabilities of the Lenders under or in respect of each Letter of Credit is reduced to zero or otherwise secured by providing Cash Collateral in an amount equal to the aggregate Outstandings; and
- (v) the Facility Agent shall give a Notice of Termination to Lloyd's in respect of each Letter of Credit for which the Outstandings are reduced to zero in accordance with this clause 18.3.

### 11.4 **Mandatory Cancellation – Extension of the Facility**

If, by 30 November 2019, the Lenders and the Borrower have not:

- (a) agreed to extend the Facility to provide Funds at Lloyd's for the Account Party for the 2020 underwriting year of account and each prior open year of account; and
- (b) effected such amendments to the Finance Documents as the Lenders consider necessary to effect such extension or otherwise require in connection with such extension,

the Borrower shall procure that, no later than the date falling three Business Days after 31 December 2019, the aggregate liability of the Lenders under each applicable Letter of Credit is reduced to zero or otherwise secured by providing Cash Collateral, in an amount equal to the aggregate Outstandings.

### 11.5 **Notice of Removal of a Lender**

If:

- (a) any sum payable to any Lender by an Obligor is required to be increased pursuant to clause 20.2 (Tax Gross-up); or

(b) any Lender claims indemnification from the Borrower under clause 20.3 (Tax Indemnity) or clause 21 (Increased Costs); or

(c) any Lender is a Defaulting Lender,

the Borrower may, whilst such circumstance giving rise to the requirement or indemnification continues or (as the context requires) whilst the relevant Lender is a Defaulting Lender, give the Facility Agent at least five Business Days' notice (which notice shall be irrevocable) of its intention to procure that the liabilities of that Lender under each Letter of Credit are reduced to zero and/or provide Cash Collateral in an amount equal to such Lender's Proportion of each Letter of Credit.

Upon receipt by the Facility Agent of such notice, the Commitment of the relevant Lender shall immediately be reduced to zero and, on the last day of each Term which ends after the Borrower has given any such notice (or, if earlier, the date specified by the Borrower in that notice) the Borrower shall procure either that that Lender's Proportion of each Letter of Credit be reduced to zero (by reduction of the amount of that Letter of Credit in an amount equal to that Lender's Proportion) or that it is otherwise secured by providing Cash Collateral to the Facility Agent in an amount equal to that Lender's Outstandings.

#### **11.6 No Further Availability**

A Lender whose total aggregate liabilities under each Letter of Credit have been reduced to zero or Cash Collateralised pursuant to clause 18.5 (Notice of Removal of a Lender) or have been Cash Collateralised pursuant to clause 18.2 (Voluntary Cash Collateralisation of Letters of Credit) shall not be obliged to participate in any Letter of Credit issued on or after the date upon which the Facility Agent receives the Borrower's notice of its intention to procure the repayment of or provide Cash Collateral in respect of such Lender's share of the Outstandings, and such Lender's Available Commitment shall be reduced to zero.

#### **11.7 No Other Cancellation**

The Available Facility may be cancelled, and the liabilities of each Lender under any applicable Letter of Credit may be reduced to zero, only at the times and in the manner expressly provided for herein.

#### **11.8 Reduction of Liabilities to Zero**

For the purposes of this clause 18 and all other purposes of this agreement, each Lender's liability under any Letter of Credit shall be deemed to be reduced to zero upon the determination by Lloyd's (or other trustee for the time being) of the trusts created by the Corporate Member's Deed in respect of that Letter of Credit and the return to each Lender of that Letter of Credit for cancellation.

### **12. COMMISSION AND FEES**

#### **12.1 Letter of Credit Commission**

The Borrower shall, in respect of each Letter of Credit requested by it, pay to the Facility Agent for the account of each Lender (for distribution in proportion to each Lender's Proportion of such Letter of Credit) a letter of credit commission in Sterling at the relevant L/C Commission Rate on the Outstandings under the relevant Letter of Credit. Such letter of credit commission shall be paid in arrears in respect of each successive period of three Months (or such shorter period as shall end on the relevant Expiry Date) which begins during the Term of the relevant Letter of Credit, the first such payment to be made on the date falling three Months after the Utilisation Date for such Letter of Credit and thereafter on the last day of each successive three Month period.

## 12.2 **Commitment Fee**

- (a) The Borrower shall pay to the Facility Agent (for the account of each Lender) a commitment fee in Sterling computed at the rate per annum equal to 35 per cent of the applicable L/C Commission Rate, as set out in paragraph (a) of the definition of L/C Commission Rate, on that Lender's Available Commitment for the Availability Period.
- (b) The accrued commitment fee is payable quarterly in arrears on the last day of each successive period of three Months which ends during the Availability Period, on the last day of the Availability Period and on any cancelled amount of the Lender's Commitment at the time the cancellation is effective.

## 12.3 **Participation Fee**

The Borrower shall pay to the Facility Agent (for the account of each Original Lender) a participation fee in the amount and at the time agreed in a Fee Letter.

## 12.4 **Agency Fee**

The Borrower shall pay to the Facility Agent and the Security Agent an agency fee in the amount and at the times agreed in a Fee Letter.

## 13. **TAX-GROSS UP AND INDEMNITIES**

### 13.1 **Definitions**

- (a) In this agreement:

**"Protected Party"** means a Finance Party which is or will be subject to any liability, or required to make any payment, for or on account of Tax in relation to a sum received or receivable (or any sum deemed for the purposes of Tax to be received or receivable) under a Finance Document;

**"Qualifying Lender"** means:

- (i) a Lender which is beneficially entitled to interest payable to that Lender in respect of an advance under a Finance Document and is:
  - (A) a Lender:
    - (aa) which is a bank (as defined for the purpose of section 879 of the ITA) making an advance under a Finance Document and is within the charge to United Kingdom corporation tax as respects any payments of interest made in respect of that advance or would be within such charge as respects such payments apart from section 18A of the CTA; or
    - (bb) in respect of an advance made under a Finance Document by a person that was a bank (as defined for the purpose of section 879 of the ITA) at the time that that advance was made and within the charge to United Kingdom corporation tax as respects any payments of interest made in respect of that advance; or
  - (B) a Treaty Lender; or
- (ii) a Lender which is a building society (as defined for the purpose of section 880 of the ITA) making an advance under a Finance Document;

**"Tax Confirmation"** means a confirmation by a Lender that the person beneficially entitled to interest payable to that Lender in respect of an advance under a Finance Document is either:

- (i) a company resident in the United Kingdom for tax purposes;
- (ii) a partnership each member of which is:
  - (A) a company so resident in the United Kingdom; or
  - (B) a company not so resident in the United Kingdom which carries on a trade in the United Kingdom through a permanent establishment and which brings into account in computing its chargeable profits (within the meaning of section 19 of the CTA) the whole of any share of interest payable in respect of that advance that falls to it by reason of part 17 of the CTA; or
- (iii) a company not so resident in the United Kingdom which carries on a trade in the United Kingdom through a permanent establishment and which brings into account interest payable in respect of that advance in computing the chargeable profits (within the meaning of section 19 of the CTA) of that company;
- (iv) **"Tax Credit"** means a credit against, relief or remission for, or repayment of any Tax;

**"Tax Deduction"** means a deduction or withholding for or on account of Tax from a payment under a Finance Document other than a FATCA Deduction;

**"Tax Payment"** means either the increase in a payment made by an Obligor to a Finance Party under clause 20.2 (Tax Gross-Up) or a payment under clause 20.3 (Tax Indemnity);

**"Treaty Lender"** means a Lender which:

- (iii) is treated as a resident of a Treaty State for the purposes of the Treaty; and
- (iv) does not carry on a business in the United Kingdom through a permanent establishment with which that Lender's participation in the Facility is effectively connected;

**"Treaty State"** means a jurisdiction having a double taxation agreement (a **"Treaty"**) with the United Kingdom which makes provision for full exemption from tax imposed by the United Kingdom on interest; and

**"UK Non-Bank Lender"** means an Original Lender listed in Schedule 1 (The Original Lenders) and a Lender which is not an Original Lender and which gives a Tax Confirmation in the documentation which it executes on becoming a Party as a Lender.

- (b) Unless a contrary indication appears, in this clause 20 a reference to **"determines"** or **"determined"** means a determination made in the absolute discretion of the person making the determination.

### 13.2 Tax Gross-Up

- (a) Each Obligor shall make all payments to be made by it without any Tax Deduction, unless a Tax Deduction is required by law.

- (b) The Borrower shall promptly upon becoming aware that an Obligor must make a Tax Deduction (or that there is any change in the rate or the basis of a Tax Deduction) notify the Facility Agent accordingly. Similarly, a Lender shall notify the Facility Agent on becoming so aware in respect of a payment payable to that Lender. If the Facility Agent receives such notification from a Lender it shall notify the Borrower and that Obligor.
- (c) If a Tax Deduction is required by law to be made by an Obligor, the amount of the payment due from that Obligor shall be increased to an amount which (after making any Tax Deduction) leaves an amount equal to the payment which would have been due if no Tax Deduction had been required.
- (d) A payment shall not be increased under paragraph (c) above by reason of a Tax Deduction on account of Tax imposed by the United Kingdom if on the date on which the payment falls due:
  - (i) the payment could have been made to the relevant Lender without a Tax Deduction if the Lender had been a Qualifying Lender, but on that date that Lender is not or has ceased to be a Qualifying Lender other than as a result of any change after the date it became a Lender under this agreement in (or in the interpretation, administration, or application of) any law or Treaty, or any published practice or published concession of any relevant taxing authority; or
  - (ii) the relevant Lender is a Qualifying Lender at the date it becomes a New Lender (or it would have been a Qualifying Lender on that date but for a change in any Treaty which change occurs between the date of this agreement and the date on which it becomes a New Lender) and (y) the corresponding Existing Lender would have received, in respect of a payment, at the time of transfer or assignment to that New Lender, additional amounts with respect to such Tax Deduction pursuant to paragraphs (c) above; or
  - (iii) the relevant Lender is a Treaty Lender and the Obligor making the payment is able to demonstrate that the payment could have been made to the Lender without the Tax Deduction had that Lender complied with its obligations under paragraph (g) below.
- (e) If an Obligor is required to make a Tax Deduction, that Obligor shall make that Tax Deduction and any payment required in connection with that Tax Deduction within the time allowed and in the minimum amount required by law.
- (f) Within 30 days of making either a Tax Deduction or any payment required in connection with that Tax Deduction, the Obligor making that Tax Deduction shall deliver to the Facility Agent for the Finance Party entitled to the payment a statement under section 975 of the ITA or other evidence reasonably satisfactory to that Finance Party that the Tax Deduction has been made or (as applicable) any appropriate payment paid to the relevant taxing authority.
- (g) A Treaty Lender and each Obligor which makes a payment to which that Treaty Lender is entitled shall co-operate in completing any procedural formalities necessary for that Obligor to obtain authorisation to make that payment without a Tax Deduction.

- (h) A UK Non-Bank Lender which becomes a Party on the day on which this agreement is entered into gives a Tax Confirmation to the Borrower by entering into this agreement.
- (i) A UK Non-Bank Lender shall promptly notify the Borrower and the Facility Agent if there is any change in the position from that set out in the Tax Confirmation.

### 13.3 Tax Indemnity

- (a) The Borrower shall (within three Business Days of demand by the Facility Agent) pay to a Protected Party an amount equal to the loss, liability or cost which that Protected Party determines will be or has been (directly or indirectly) suffered for or on account of Tax by that Protected Party in respect of a Finance Document.
- (b) Paragraph (a) above shall not apply:
  - (i) with respect to any Tax assessed on a Finance Party:
    - (A) under the law of the jurisdiction in which that Finance Party is incorporated or, if different, the jurisdiction (or jurisdictions) in which that Finance Party is treated as resident for tax purposes; or
    - (B) under the law of the jurisdiction in which that Finance Party's Facility Office is located in respect of amounts received or receivable in that jurisdiction,  
  
if that Tax is imposed on or calculated by reference to the net income received or receivable (but not any sum deemed to be received or receivable) by that Finance Party; or
  - (ii) to the extent a loss, liability or cost:
    - (A) is compensated for by an increased payment under clause 20.2 (Tax Gross-Up);
    - (B) would have been compensated for by an increased payment under clause 20.2 (Tax Gross-Up) but was not so compensated solely because one of the exclusions in clause 20.2(d) (Tax Gross-Up) applied; or
    - (C) relates to a FATCA Deduction required to be made by a Party.
- (c) A Protected Party making, or intending to make a claim under paragraph (a) above shall promptly notify the Facility Agent of the event which will give, or has given, rise to the claim, following which the Facility Agent shall notify the Borrower.
- (d) A Protected Party shall, on receiving a payment from an Obligor under this clause 20.3, notify the Facility Agent.

### 13.4 Tax Credit

If an Obligor makes a Tax Payment and the relevant Finance Party determines that:

- (a) a Tax Credit is attributable of which that Tax Payment forms part, to that Tax Payment or to a Tax Deduction in consequence of which that Tax Payment was required; and
- (b) that Finance Party has obtained and utilised that Tax Credit,

the Finance Party shall pay an amount to the Obligor which that Finance Party determines will leave it (after that payment) in the same after-Tax position as it would have been in had the Tax Payment not been required to be made by the Obligor.

**13.5 Lender Status Confirmation**

Each Lender which is not an Original Lender shall indicate, in the documentation which it executes on becoming a Party as a Lender, and for the benefit of the Facility Agent and without liability to any Obligor, which of the following categories it falls in:

- (a) not a Qualifying Lender;
- (b) a Qualifying Lender (other than a Treaty Lender); or
- (c) a Treaty Lender.

If such a Lender fails to indicate its status in accordance with this clause 20.5 then that Lender shall be treated for the purposes of this agreement (including by each Obligor) as if it is not a Qualifying Lender until such time as it notifies the Facility Agent which category applies (and the Facility Agent, upon receipt of such notification, shall inform the Borrower). For the avoidance of doubt, the documentation which a Lender executes on becoming a Party as a Lender shall not be invalidated by any failure of a Lender to comply -with this clause 20.5.

**13.6 Stamp Taxes**

The Borrower shall pay and, within three Business Days of demand, indemnify each Secured Party against any cost, loss or liability that Finance Party incurs in relation to all stamp duty, registration and other similar Taxes payable in respect of any Finance Document.

**13.7 VAT**

- (a) All amounts expressed to be payable under a Finance Document by any Party to a Finance Party which (in whole or in part) constitute the consideration for any supply for VAT purposes are deemed to be exclusive of any VAT which is chargeable on that supply and accordingly, subject to paragraph (b) below, if VAT is or becomes chargeable on any supply made by any Finance Party to any Party under a Finance Document and such Finance party is required to account to the relevant tax authority for the VAT, that Party must pay the Finance Party (in addition to and at the same time as paying any other consideration for such supply) an amount equal to the amount of the VAT (and such Finance Party must promptly provide an appropriate VAT invoice to that Party).

- (b) If VAT is or becomes chargeable on any supply made by any Finance Party (the "**Supplier**") to any other Finance Party (the "**Recipient**") under a Finance Document, and any Party other than the Recipient (the "**Relevant Party**") is required by the terms of any Finance Document to pay an amount equal to the consideration for that supply to the Supplier (rather than being required to reimburse or indemnify the Recipient in respect of that consideration):
  - (i) (where the Supplier is the person required to account to the relevant tax authority for the VAT) the Relevant Party must also pay to the Supplier (at the same time as paying that amount) an additional amount equal to the amount of the VAT. The Recipient must (where this paragraph (i) applies) promptly pay to the Relevant Party an amount equal to any credit or repayment the Recipient receives from the relevant tax authority which the Recipient reasonably determines relates to the VAT chargeable on that supply; and
  - (ii) (where the Recipient is the person required to account to the relevant tax authority for the VAT) the Relevant Party must promptly, following demand from the Recipient, pay to the Recipient an amount equal to the VAT chargeable on that supply but only to the extent that the Recipient reasonably determines that it is not entitled to credit or repayment from the relevant tax authority in respect of that VAT.
- (c) Where a Finance Document requires any Party to reimburse or indemnify a Finance Party for any cost or expense, that Party shall reimburse or indemnify (as the case may be) such Finance Party for the full amount of such cost or expense, including such part thereof as represents VAT, save to the extent that such Finance Party reasonably determines that it is entitled to credit or repayment in respect of such VAT from the relevant tax authority.
- (d) Any reference in this clause 20.7 to any Party shall, at any time when such Party is treated as a member of a group for VAT purposes, include (where appropriate and unless the context otherwise requires) a reference to the representative member of such group at such time (the term "representative member" to have the same meaning as in the Value Added Tax Act 1994).
- (e) In relation to any supply made by a Finance Party to any Party under a Finance Document, if reasonably requested by such Finance Party, that Party must promptly provide such Finance Party with details of that Party's VAT registration and such other information as is reasonably requested in connection with such Finance Party's VAT reporting requirements in relation to such supply.

### 13.8 **FATCA Information**

- (a) Subject to paragraph (c) below, each Party shall, within ten Business Days of a reasonable request by another Party:
  - (i) confirm to that other Party whether it is:
    - (A) a FATCA Exempt Party; or
    - (B) not a FATCA Exempt Party;

- (ii) supply to that other Party such forms, documentation and other information relating to its status under FATCA as that other Party reasonably requests for the purposes of that other Party's compliance with FATCA; and
  - (iii) supply to that other Party such forms, documentation and other information relating to its status as that other Party reasonably requests for the purposes of that other Party's compliance with any other law, regulation, or exchange of information regime.
- (b) If a Party confirms to another Party pursuant to paragraph (a)(i) above that it is a FATCA Exempt Party and it subsequently becomes aware that it is not, or has ceased to be, a FATCA Exempt Party, that Party shall notify that other Party reasonably promptly.
  - (c) Paragraph (a) above shall not oblige any Finance Party to do anything which would or might in its reasonable opinion constitute a breach of:
    - (i) any law or regulation;
    - (ii) any fiduciary duty; or
    - (iii) any duty of confidentiality.
  - (d) If a Party fails to confirm whether or not it is a FATCA Exempt Party or to supply such forms, documentation or other information requested in accordance with paragraph (a) above (including, for the avoidance of doubt, where paragraph (c) above applies), then such Party shall be treated for the purposes of the Finance Documents (and payments under them) as if not a FATCA Exempt Party until such time as the Party in question provides the requested confirmation, forms, documentation or other information.

#### 13.9 **FATCA Deduction**

- (a) Each Party may make any FATCA Deduction it is required to make by FATCA, and any payment required in connection with that FATCA Deduction, and no Party shall be required to increase any payment in respect of which it makes such a FATCA Deduction or otherwise compensate the recipient of the payment for that FATCA Deduction.
- (b) Each Party shall promptly, upon becoming aware that it must make a FATCA Deduction (or that there is any change in the rate or the basis of such FATCA Deduction) notify the Party to whom it is making the payment and, in addition, shall notify the Borrower, the Facility Agent and the Facility Agent shall notify the other Finance Parties.

#### 14. **INCREASED COSTS**

##### 14.1 **Increased Costs**

- (a) Subject to clause 21.3 (Exceptions) the Borrower shall, within three Business Days of a demand by the Facility Agent, pay for the account of a Finance Party the amount of any Increased Costs incurred by that Finance Party or any of its Affiliates as a result of:
  - (i) the introduction of or any change in (or in the interpretation, administration or application of) any law or regulation made after the date of this agreement;

- (ii) compliance with any law or regulation made after the date of this agreement; or
- (iii) the implementation or application of or compliance with Basel III or CRD IV or any law or regulation that implements or applies Basel III or CRD IV (in each case, whether before or after the date of this agreement and whether such implementation, application or compliance is by a government, regulator, Finance Party or any of its Affiliates),

provided, however, that for purposes of this agreement, the Dodd-Frank Wall Street Reform and Consumer Protection Act and all regulations, rules, requests, guidelines and directives in connection therewith shall be deemed to be a change in law or regulation regardless of the date enacted, adopted or issued.

- (b) In this agreement "**Increased Costs**" means:
  - (i) a reduction in the rate of return from the Facility or on a Finance Party's (or its Affiliate's) overall capital;
  - (ii) an additional or increased cost; or
  - (iii) a reduction of any amount due and payable under any Finance Document,
 which is incurred or suffered by a Finance Party or any of its Affiliates to the extent that it is attributable to that Finance Party having entered into its Commitment or funding or performing its obligations under any Finance Document.

#### 14.2 **Increased Cost Claims**

- (a) A Finance Party intending to make a claim pursuant to clause 21.1 (Increased Costs) shall notify the Facility Agent of the event giving rise to the claim, following which the Facility Agent shall promptly notify the Borrower.
- (b) Each Finance Party shall, as soon as practicable after a demand by the Facility Agent, provide a certificate confirming the amount of its Increased Costs.

#### 14.3 **Exceptions**

- (a) Clause 21.1 (Increased Costs) does not apply to the extent that any Increased Cost is:
  - (i) attributable to a Tax Deduction required by law to be made by an Obligor;
  - (ii) attributable to a FATCA Deduction required to be made by a Party;
  - (iii) compensated for by clause 20.3 (Tax Indemnity) (or would have been compensated for under clause 20.3 (Tax Indemnity) but was not so compensated solely because any of the exclusions in clause 20.3(b) (Tax Indemnity) applied);
  - (iv) attributable to the wilful breach by the relevant Finance Party or its Affiliates of any law or regulation; or
  - (v) attributable to the implementation or application of or compliance with the "International Convergence of Capital Measurement and Capital Standards, a Revised Framework" published by the Basel Committee on Banking Supervision in June 2004 in the form existing on the date of this agreement (but excluding any amendment arising out of Basel III) ("**Basel II**") or any other law or regulation which implements Basel II (whether such

implementation, application or compliance is by a government, regulator, Finance Party or any of its Affiliates).

- (b) In this clause 21.3, a reference to a **"Tax Deduction"** has the same meaning given to the term in clause 20.1 (Definitions).

## 15. **OTHER INDEMNITIES**

### 15.1 **Currency Indemnity**

- (a) If any sum due from an Obligor under the Finance Documents (a **"Sum"**), or any order, judgment or award given or made in relation to a Sum, has to be converted from the currency (the **"First Currency"**) in which that Sum is payable into another currency (the **"Second Currency"**) for the purpose of:

- (i) making or filing a claim or proof against that Obligor;
- (ii) obtaining or enforcing an order, judgment or award in relation to any litigation or arbitration proceedings,

that Obligor shall as an independent obligation, within three Business Days of demand, indemnify each Finance Party to whom that Sum is due against any cost, loss or liability arising out of or as a result of the conversion including any discrepancy between (A) the rate of exchange used to convert that Sum from the First Currency into the Second Currency and (B) the rate or rates of exchange available to that person at the time of its receipt of that Sum.

- (b) Each Obligor waives any right it may have in any jurisdiction to pay any amount under the Finance Documents in a currency or currency unit other than that in which it is expressed to be payable.

### 15.2 **Other Indemnities**

The Borrower shall (or shall procure that an Obligor will), within three Business Days of demand, indemnify each Finance Party against any cost, loss or liability incurred by that Finance Party as a result of:

- (a) the occurrence of any Event of Default;
- (b) a failure by an Obligor to pay any amount due under a Finance Document on its due date, including without limitation, any cost, loss or liability arising as a result of clause 39 (Sharing among the Finance Parties);
- (c) issuing or making arrangements to issue a Letter of Credit requested by the Borrower in a Utilisation Request but not issued by reason of the operation of any one or more of the provisions of this agreement (other than by reason of default or negligence by that Finance Party alone); and
- (d) any claim by the Facility Agent against any Lender pursuant to clause 36.11 (Lenders' indemnity to the Facility Agent).

### 15.3 **Indemnity to the Facility Agent**

The Borrower shall promptly indemnify the Facility Agent against any cost, loss or liability incurred by the Facility Agent (acting reasonably) as a result of:

- (a) investigating any event which it reasonably believes is a Default; or
- (b) acting or relying on any notice, request or instruction which it reasonably believes to be genuine, correct and appropriately authorised.

### 15.4 **Indemnity to the Security Agent**

- (a) Each Obligor shall promptly indemnify the Security Agent and every Receiver and Delegate against any cost, loss or liability incurred by any of them:
  - (i) (acting reasonably) as a result of the taking, holding or protection of the Security;
  - (ii) as a result of enforcement of the Security;
  - (iii) (acting reasonably at any time other than when a Default is continuing) as a result of the exercise of any of the rights, powers, discretions and remedies vested in the Security Agent and each Receiver and Delegate by the Finance Documents or by law; or
  - (iv) any default by any Obligor in the performance of any of the obligations expressed to be assumed by it in the Finance Documents.
- (b) The Security Agent may, in priority to any payment to the Secured Parties, indemnify itself out of the Charged Property in respect of, and pay and retain, all sums necessary to give effect to the indemnity in this clause 22.4 and shall have a lien on the Security and the proceeds of the enforcement of the Security for all monies payable to it.

## 16. **ILLEGALITY**

The provisions of this clause 23 shall take effect subject to clause 24.1 (Mitigation). If, at any time, it is or becomes unlawful in any applicable jurisdiction or prohibited pursuant to any request from or requirement of any central bank or other fiscal, monetary or other authority (being a request or requirement with which banks are accustomed to comply) for a Lender to make, fund, issue, participate in or allow to remain outstanding all or part of the Letters of Credit, or to perform any of its obligations as contemplated by this agreement, or it becomes unlawful for any Affiliate of a Lender of that Lender to do so, then:

- (a) that Lender shall, promptly after becoming aware of the same, deliver to the Borrower through the Facility Agent a notice to that effect;
- (b) that Lender shall not, following delivery of a notice in accordance with paragraph (a) above, be obliged to participate in or issue any Letter of Credit and its Commitment shall be immediately reduced to zero;
- (c) if that Lender so requires, the Borrower shall, on such date as the Facility Agent shall have specified:
  - (i) repay all amounts owing to that Lender under this agreement; and
  - (ii) ensure that the liabilities of that Lender under or in respect of each affected Letter of Credit are reduced to zero or otherwise secured by providing Cash

Collateral in an amount equal to that Lender's Proportion of the Outstandings under each affected Letter of Credit; and

- (d) the Borrower shall ensure that the liabilities of that Lender under or in respect of each affected Letter of Credit are promptly reduced to zero and/or a replacement Lender is identified who is prepared to take an assignment of the liabilities of that Lender in accordance with clause 34.5 (Procedure for Transfer or Accession).

## 17. **MITIGATION BY THE LENDERS**

### 17.1 **Mitigation**

- (a) Each Finance Party shall, in consultation with the Borrower, take all reasonable steps to mitigate any circumstances which arise and which would result in any amount becoming payable under or pursuant to, or cancelled pursuant to, any of clause 20 (Tax Gross-Up and Indemnities), clause 21 (Increased Costs) or clause 23 (Illegality) or including (but not limited to) transferring its rights and obligations under the Finance Documents to another Affiliate or Facility Office.
- (b) Paragraph (a) above does not in any way limit the obligations of any Obligor under the Finance Documents.

### 17.2 **Limitation of Liability**

- (a) The Borrower shall promptly indemnify each Finance Party for all costs and expenses reasonably incurred by that Finance Party as a result of steps taken by it under clause 24.1 (Mitigation).
- (b) A Finance Party is not obliged to take any steps under clause 24.1 (Mitigation) if, in the opinion of that Finance Party (acting reasonably), to do so might be prejudicial to it.

## 18. **COSTS AND EXPENSES**

### 18.1 **Transaction Expenses**

The Borrower shall, promptly on demand pay the Facility Agent, the Arrangers, the Facility Agent and the Security Agent the amount of all costs and expenses (including legal fees) reasonably incurred by any of them in connection with the negotiation, preparation, printing, execution, syndication and perfection of:

- (a) this agreement and any other documents referred to in this agreement and the Security; and
- (b) any other Finance Documents executed after the date of this agreement.

### 18.2 **Amendment Costs**

If (a) an Obligor or the Parent requests an amendment, waiver or consent or (b) an amendment is required pursuant to clause 40.9 (Change of Currency), the Borrower shall, within three Business Days of demand, reimburse the Facility Agent, the Security Agent and any Receiver for the amount of all costs and expenses (including legal fees) reasonably incurred by any of them in responding to, evaluating, negotiating or complying with that request or requirement.

### 18.3 **Security Agent's Ongoing Costs**

- (a) Any amount payable to the Security Agent under clause 15.4 (Indemnity to the Security Agent) and this clause 25 shall include the cost of utilising the Security

Agent's management time or other resources and will be calculated on the basis of such reasonable daily or hourly rates as the Security Agent may notify to the Parent and the Lenders, and is in addition to any other fee paid or payable to the Security Agent.

- (a) In the event of:
  - (i) a Default; or
  - (ii) the Security Agent considering it necessary or expedient; or
  - (iii) the Security Agent being requested by an Obligor, the Parent or the Majority Lenders to undertake duties which the Security Agent and the Borrower agree to be of an exceptional nature and/or outside the scope of the normal duties of the Security Agent under the Finance Documents,

the Borrower shall pay to the Security Agent any additional remuneration that may be agreed between them.

- (b) If the Security Agent and the Borrower fail to agree upon the nature of the duties or upon any additional remuneration, that dispute shall be determined by an investment bank (acting as an expert and not as an arbitrator) selected by the Security Agent and approved by the Borrower or, failing approval, nominated (on the application of the Security Agent) by the President for the time being of the Law Society of England and Wales (the costs of the nomination and of the investment bank being payable by the Borrower) and the determination of any investment bank shall be final and binding upon the Parties.

#### **18.4 Enforcement and Preservation Costs**

The Borrower shall, within three Business Days of demand, pay to the Arrangers and each other Secured Party the amount of all costs and expenses (including legal fees) incurred by it in connection with the enforcement of or the preservation of any rights under any Finance Document and the Security and any proceedings instituted by or against the Security Agent as a consequence of taking or holding the Security or enforcing these rights.

### **19. DEFAULT INTEREST AND BREAKAGE COSTS**

#### **19.1 Default Interest Periods**

If any sum due and payable by an Obligor under a Finance Document is not paid on its due date or if any sum due and payable by the Obligor under any judgement of any court in connection with any Finance Document is not paid on the date of such judgement, the period beginning on such due date or, as the case may be, the date of such judgement and ending on the date upon which the obligation of such Obligor to pay such sum is discharged shall be divided into successive periods, each of which (other than the first) shall start on the last day of the preceding such period and the duration of each of which shall (except as otherwise provided in this clause 26) be selected by the Facility Agent.

#### **19.2 Default Interest**

An Unpaid Sum shall bear interest during each Term in respect thereof at the rate per annum which is the sum from time to time of 1.0 per cent per annum above LIBOR (on the Quotation Day therefor) plus:

- (a) in respect of any portion of an Unpaid Sum under clause 17.1 (Borrower's Indemnity to the Lenders) which is Cash Collateralised, the rate per annum as set out in paragraph (b) of the definition of L/C Commission Rate;

- (b) in respect of any portion of an Unpaid Sum under clause 17.1 (Borrower's Indemnity to the Lenders) which is Cash Equivalent Collateralised, the rate per annum as set out in paragraph (c) of the definition of L/C Commission Rate; and
- (c) in respect of the balance of an Unpaid Sum or any other Unpaid Sum, the applicable rate per annum as set out in paragraph (a) of the definition of L/C Commission Rate.

### 19.3 **Payment of Default Interest**

Any interest which has accrued under clause 26.2 (Default Interest) in respect of an Unpaid Sum shall be due and payable and shall be paid by the Obligor owing such Unpaid Sum on the last day of each Interest Period in respect thereof or on such other dates as the Facility Agent may specify by notice to such Obligor or the Parent (as the case may be).

### 19.4 **Break Costs**

If any Lender or the Facility Agent on its behalf receives or recovers all or any part of an Unpaid Sum otherwise than on the last day of a Term in respect thereof, the Borrower shall pay to the Facility Agent on demand for the account of that Lender an amount equal to the amount (if any) by which (a) the additional interest which would have been payable on the amount so received or recovered had it been received or recovered on the last day of such Term exceeds (b) the amount of interest which in the opinion of the Facility Agent would have been payable to the Facility Agent on the last day of that Term in respect of a sterling deposit equal to the amount so received or recovered placed by it with a prime bank in the Relevant Interbank Market for a period starting on the first Business Day following the date of such receipt or recovery and ending on the last day of that Term.

### 19.5 **Notification of Rates of Interest**

The Agent shall promptly notify the Borrower of each Funding Rate relating to an Unpaid Sum.

## 20. **CHANGES TO THE CALCULATION OF INTEREST**

### 20.1 **Unavailability of Screen Rate**

#### (a) **Interpolated Screen Rate**

If no Screen Rate is available for LIBOR for the Interest Period of any Unpaid Sum, the applicable LIBOR shall be the Interpolated Screen Rate for a period equal in length to the Interest Period of that Unpaid Sum.

#### (b) **Reference Bank Rate**

If no Screen Rate is available for LIBOR for:

- (ii) the currency of an Unpaid Sum; or
- (iii) the Interest Period of an Unpaid Sum and it is not possible to calculate the Interpolated Screen Rate,

the applicable LIBOR shall be the Reference Bank Rate as of the Specified Time for the currency of that Unpaid Sum and for a period equal in length to the Interest Period of that Unpaid Sum.

#### (c) **Costs of funds**

If paragraph (b) above applies but no Reference Bank Rate is available for the relevant currency or Interest Period there shall be no LIBOR for that Unpaid Sum and clause 27.4 (Costs of Funds) shall apply to that Unpaid Sum for that Interest Period.

## 20.2 **Calculation of Reference Bank Rate**

- (a) Subject to paragraph (b) below, if LIBOR is to be determined on the basis of a Reference Bank Rate but a Reference Bank does not supply a quotation by the Specified Time, the Reference Bank Rate shall be calculated on the basis of the quotations of the remaining Reference Banks.
- (b) If at or about noon on the Quotation Day none or only one of the Reference Banks supplies a quotation, there shall be no Reference Bank Rate for the relevant Interest Period.

## 20.3 **Market Disruption**

If before close of business in London on the Quotation Day for the relevant Interest Period, the Facility Agent receives notifications from a Lender or Lenders (whose participations in an Unpaid Sum exceed 35 per cent of that Unpaid Sum) that the cost to it of funding its participation in that Unpaid Sum from whatever source it may reasonably select would be in excess of LIBOR then clause 27.4 (Cost of funds) shall apply to that Unpaid Sum for the relevant Interest Period.

## 20.4 **Cost of Funds**

- (a) If this clause 27.4 applies, the rate of interest on each Lender's share of the relevant Unpaid Sum for the relevant Interest Period shall be the percentage rate per annum which is the sum of:
  - (i) the L/C Commission Rate; and
  - (ii) the rate notified to the Agent by that Lender as soon as practicable and in any event before interest is due to be paid in respect of that Interest Period, to be that which expresses as a percentage rate per annum the cost to the relevant Lender of funding its participation in that Unpaid Sum from whatever source it may reasonably select.
- (b) If this clause 27.4 applies and the Facility Agent or the Borrower so requires, the Facility Agent and the Borrower shall enter into negotiations (for a period of not more than 30 days) with a view to agreeing a substitute basis for determining the rate of interest.
- (c) Any alternative basis agreed pursuant to clause 27.4(b) shall, with the prior consent of all the Lenders and the Borrower, be binding on all Parties.
- (d) If this clause 27.4 applies pursuant to clause 27.1 (Unavailability of Screen Rate) but any Lender does not supply a quotation by the time specified in paragraph (a)(ii) above the rate of interest shall be calculated on the basis of the quotations of the remaining Lenders.

## 20.5 **Notification to Borrower**

If clause 27.4 (Cost of Funds) applies the Facility Agent shall, as soon as practicable, notify the Borrower.

## 21. **GUARANTEE AND INDEMNITY**

### 21.1 **Guarantee and indemnity**

Each Guarantor irrevocably and unconditionally jointly and severally:

- (a) guarantees to each Guaranteed Finance Party punctual performance by each other Group Obligor of all that Group Obligor's obligations under the Guaranteed Documents;
- (b) undertakes with each Guaranteed Finance Party that whenever another Group Obligor does not pay any amount when due under or in connection with any Guaranteed Document, that Guarantor shall immediately on demand pay that amount as if it was the principal obligor; and
- (c) agrees with each Guaranteed Finance Party that if any obligation guaranteed by it is or becomes unenforceable, invalid or illegal, it will, as an independent and primary obligation, indemnify that Guaranteed Finance Party immediately on demand against any cost, loss or liability it incurs as a result of the Borrower not paying any amount which would, but for such unenforceability, invalidity or illegality, have been payable by it under any Guaranteed Document on the date when it would have been due. The amount payable by a Guarantor under this indemnity will not exceed the amount it would have had to pay under this clause 27.5 if the amount claimed had been recoverable on the basis of a guarantee.

### 21.2 **Continuing Guarantee**

This guarantee is a continuing guarantee and will extend to the ultimate balance of sums payable by any Group Obligor under the Guaranteed Documents, regardless of any intermediate payment or discharge in whole or in part.

### 21.3 **Reinstatement**

If any discharge, release or arrangement (whether in respect of the obligations of any Group Obligor or any security for those obligations or otherwise) is made by a Guaranteed Finance Party in whole or in part on the basis of any payment, security or other disposition which is avoided or must be restored in insolvency, liquidation, administration or otherwise, without limitation, then the liability of each Guarantor under this clause 27.5 will continue or be reinstated as if the discharge, release or arrangement had not occurred.

### 21.4 **Waiver of Defences**

The obligations of each Guarantor under this clause 27.5 will not be affected by an act, omission, matter or thing which, but for this clause, would reduce, release or prejudice any of its obligations under this clause 27.5 (without limitation and whether or not known to it or any Guaranteed Finance Party) including:

- (a) any time, waiver or consent granted to, or composition with, any Group Obligor or other person;
- (b) the release of any other Group Obligor or any other person under the terms of any composition or arrangement with any creditor of any member of the Group;
- (c) the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or security over assets of, any Group Obligor or other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any security;

- (d) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of a Group Obligor or any other person;
- (e) any amendment, novation, supplement, extension, restatement (however fundamental and whether or not more onerous) or replacement of any Guaranteed Document or any other document or security including without limitation any change in the purpose of, any extension of or any increase in any facility or the addition of any new facility under any Guaranteed Document or other document or security;
- (f) any unenforceability, illegality or invalidity of any obligation of any person under any Guaranteed Document or any other document or security; or
- (g) any insolvency or similar proceedings.

#### 21.5 **Guarantor Intent**

Without prejudice to the generality of clause 28.4 (Waiver of Defences), each Guarantor expressly confirms that it intends that this guarantee shall extend from time to time to any (however fundamental) variation, increase, extension or addition of or to any of the Guaranteed Documents and/or any facility or amount made available under any of the Guaranteed Documents for the purposes of or in connection with any of the following: acquisitions of any nature; increasing working capital; enabling investor distributions to be made; carrying out restructurings; refinancing existing facilities; refinancing any other indebtedness; making facilities available to new borrowers; any other variation or extension of the purposes for which any such facility or amount might be made available from time to time; and any fees, costs and/or expenses associated with any of the foregoing.

#### 21.6 **Immediate Recourse**

Each Guarantor waives any right it may have of first requiring any Guaranteed Finance Party (or any trustee or agent on its behalf) to proceed against or enforce any other rights or security or claim payment from any person before claiming from that Guarantor under this clause 27.5. This waiver applies irrespective of any law or any provision of a Guaranteed Document to the contrary.

#### 21.7 **Appropriations**

Until all amounts which may be or become payable by the Group Obligors under or in connection with the Guaranteed Documents have been irrevocably paid in full, each Guaranteed Finance Party (or any trustee or agent on its behalf) may:

- (a) refrain from applying or enforcing any other moneys, security or rights held or received by that Guaranteed Finance Party (or any trustee or agent on its behalf) in respect of those amounts, or apply and enforce the same in such manner and order as it sees fit (whether against those amounts or otherwise) and no Guarantor shall be entitled to the benefit of the same; and
- (b) hold in an interest-bearing suspense account any moneys received from any Guarantor or on account of any Guarantor's liability under this clause 27.5.

## 21.8 **Deferral of Guarantors' Rights**

Until all amounts which may be or become payable by the Group Obligor under or in connection with the Guaranteed Documents have been irrevocably paid in full and unless the Facility Agent otherwise directs, no Guarantor will exercise any rights which it may have by reason of performance by it of its obligations under the Guaranteed Documents or by reason of any amount being payable, or liability arising under this clause 27.5:

- (a) to be indemnified by a Group Obligor;
- (b) to claim any contribution from any other guarantor of any Group Obligor's obligations under the Guaranteed Documents;
- (c) to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Guaranteed Finance Parties under the Guaranteed Documents or of any other guarantee or security taken pursuant to, or in connection with, the Guaranteed Documents by any Finance Party;
- (d) to bring legal or other proceedings for an order requiring any Group Obligor to make any payment, or perform any obligation, in respect of which any Guarantor has given a guarantee, undertaking or indemnity under clause 28 (Guarantee and Indemnity);
- (e) to exercise any right of set-off against any Group Obligor; and/or
- (f) to claim or prove as a creditor of any Obligor in competition with any Guaranteed Finance Party.

If a Guarantor receives any benefit, payment or distribution in relation to such rights it shall hold that benefit, payment or distribution to the extent necessary to enable all amounts which may be or become payable to the Guaranteed Finance Parties by the Group Obligor under or in connection with the Guaranteed Documents to be repaid in full on trust for the Guaranteed Finance Parties and shall promptly pay or transfer the same to the Facility Agent or as the Facility Agent may direct for application in accordance with clause 40 (Payment Mechanics).

## 21.9 **Release of Guarantors' Right of Contribution**

If any Guarantor (a "**Retiring Guarantor**") ceases to be a Guarantor in accordance with the terms of the Guaranteed Documents for the purpose of any sale or other disposal of that Retiring Guarantor then on the date such Retiring Guarantor ceases to be a Guarantor:

- (a) that Retiring Guarantor is released by each other Guarantor from any liability (whether past, present or future and whether actual or contingent) to make a contribution to any other Guarantor arising by reason of the performance by any other Guarantor of its obligations under the Guaranteed Documents; and
- (b) each other Guarantor waives any rights it may have by reason of the performance of its obligations under the Guaranteed Documents to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Finance Parties under any Guaranteed Document or of any other security taken pursuant to, or in connection with, any Guaranteed Document where such rights or security are granted by or in relation to the assets of the Retiring Guarantor.

## 21.10 **Additional Security**

This guarantee is in addition to and is not in any way prejudiced by any other guarantee or security now or subsequently held by any Guaranteed Finance Party.

## 22. **REPRESENTATIONS**

Each Obligor makes the representations and warranties set out in this clause 29 to each Finance Party on the date of this agreement.

### 22.1 **Status**

- (a) It is a corporation, duly incorporated and validly existing under the law of its jurisdiction of incorporation.
- (b) It and each of its Subsidiaries has the power to own its assets and carry on its business as it is being conducted.

### 22.2 **Binding Obligations**

Subject to the Legal Reservations, the obligations expressed to be assumed by it in each Finance Document are legal, valid, binding and enforceable obligations.

### 22.3 **Non-Conflict with other Obligations**

The entry into and performance by it of, and the transactions contemplated by, the Finance Documents do not and will not conflict with:

- (a) any law or regulation applicable to it;
- (b) its constitutional documents; or
- (c) any agreement or instrument binding upon it or any of its assets in such a way which is likely to have a material adverse effect on the interest of the Lenders under the Finance Documents.

### 22.4 **Power and Authority**

It has the power to enter into, perform and deliver, and has taken all necessary action to authorise its entry into, performance and delivery of, the Finance Documents to which it is a party and the transactions contemplated by those Finance Documents.

### 22.5 **Validity and Admissibility in Evidence**

All Authorisations required:

- (a) to enable it lawfully to enter into, exercise its rights and comply with its obligations in the Finance Documents to which it is a party; and
- (b) to make the Finance Documents to which it is a party admissible in evidence in its jurisdiction of incorporation,

have been obtained or effected and are in full force and effect.

### 22.6 **Legality, Validity and Enforceability**

All acts, conditions and things required to be done, fulfilled and performed (other than compliance with section 860 of the Companies Act 2006) in order (a) to enable it lawfully to enter into, exercise its rights under and perform and comply with the obligations expressed to be assumed by it in the Finance Documents and (b) to ensure that (subject to the Legal Reservations) the obligations expressed to be assumed by it in the Finance Documents are legal, valid, binding and enforceable have been done, fulfilled and performed.

## 22.7 **No Material Adverse Change**

Since the date as at which the most recent financial statements of the Borrower Group were stated to be prepared and save as disclosed in writing to the Facility Agent on or prior to the Effective Date, there has been no material adverse change in its business or financial condition or, as the case may be, that of the Borrower Group as a whole.

## 22.8 **Insolvency**

No:

- (a) corporate action, legal proceeding or other procedure or step described in clause 33.9(a) (Insolvency Proceedings); or
- (b) creditors' process described in clause 33.10 (Creditors' Process),

has been taken or, to the knowledge of the Borrower, threatened in relation to a member of the Borrower Group and none of the circumstances described in clause 33.8 (Insolvency) applies to a member of the Borrower Group.

## 22.9 **Deduction of Tax**

It is not required under the law of its jurisdiction of incorporation to make any deduction for or on account of Tax from any payment it may make under any Finance Document.

## 22.10 **No Filing or Stamp Taxes**

Under the law of its jurisdiction of incorporation, it is not necessary that the Finance Documents be filed, recorded or enrolled with any court or other authority in that jurisdiction or that any stamp, registration or similar tax be paid on or in relation to the Finance Documents or the transactions contemplated by the Finance Documents, save for the registration of any registrable charges created under the Security Documents and the payment of a fee in connection therewith.

## 22.11 **No Default**

- (a) No Event of Default and, on the date of this agreement, no Default is continuing or might reasonably be expected to result from the making of any Utilisation.
- (b) No other event or circumstance is outstanding which constitutes a default under any other agreement or instrument which is binding on it or any of its Subsidiaries or to which its (or any of its Subsidiaries') assets are subject which would have a Material Adverse Effect.

## 22.12 **No Misleading Information**

All written information provided to a Finance Party by any member of the Borrower Group was true, complete and accurate in all material respects as at the date it was provided and is not misleading in any material respect. No information has been given or withheld that results in the information supplied to the Finance Parties by any member of the Borrower Group being untrue or misleading in any material respect.

## 22.13 **Financial Statements**

Its Original Financial Statements (in each case consolidated, if appropriate):

- (a) were prepared in accordance with accounting principles generally accepted in its jurisdiction of incorporation and consistently applied;

- (b) disclose all liabilities (contingent or otherwise) of which its directors were or might reasonably be expected to have been aware and all unrealised or anticipated losses of such Obligor (or, as the case may be, any member of the Borrower Group); and
- (c) save as disclosed therein, give a true and fair view of the financial condition and operations of such Obligor (or, as the case may be, the Borrower Group) during the relevant financial year.

#### 22.14 **Pari Passu Ranking**

Its payment obligations under the Finance Documents rank at least pari passu with the claims of all its other unsecured and unsubordinated creditors, except for obligations mandatorily preferred by law applying to companies generally.

#### 22.15 **No Proceedings Pending or Threatened**

No litigation, arbitration or administrative proceedings of or before any court, arbitral body or agency which, if adversely determined, might reasonably be expected to have a material adverse effect on its business or financial condition have (to the best of its knowledge and belief) been started or threatened against it or any of its Subsidiaries or involves a Managed Syndicate in the ordinary course of its insurance business.

#### 22.16 **Ranking**

The Security has or (when duly registered) will have first ranking priority and is not subject to any prior ranking or pari passu ranking Encumbrances other than any Permitted Encumbrances which have prior ranking or pari passu ranking.

#### 22.17 **Security**

Subject to the Legal Reservations, each Security Document to which it is a party validly creates each of the Encumbrances which is expressed by that Security Document and evidences each of the Encumbrances it is expressed to evidence.

#### 22.18 **Shares**

- (a) The shares of any member of the Borrower Group which are subject to the Security are fully paid and not subject to any option to purchase or similar rights.
- (b) The constitutional documents of companies whose shares are subject to the Security do not and could not restrict or inhibit any transfer of those shares on creation or enforcement of the Security.
- (c) There are no agreements in force which provide for the issue or allotment of, or grant any person the right to call for the issue or allotment of, any share or loan capital of any Obligor or member of the Borrower Group (including any option or right of pre-emption or conversion).

#### 22.19 **Encumbrances**

Save for Permitted Encumbrances, no Encumbrance exists over all or any of the present or future revenues or assets of any member of the Borrower Group.

#### 22.20 **Ownership of the Account Party**

The Account Party is a wholly-owned Subsidiary of the Borrower and is duly authorised to underwrite business at Lloyd's.

#### 22.21 **No Breach of Borrowing Restrictions**

The utilisation of the Facility in full by the Borrower will not result in or cause a breach of any borrowing restriction which applies to any Obligor.

#### 22.22 **Sanctions**

No Obligor, nor any of its Subsidiaries or directors, is either:

- (a) listed, or is owned or controlled, directly or indirectly, by any person which is listed, on an SDN List;
- (b) located, organised or resident in a country which is the subject of Sanctions; or
- (c) a governmental agency, authority, or body or state-owned enterprise of any country which is the subject of Sanctions.

#### 22.23 **Anti-corruption law**

Each member of the Borrower Group has conducted its businesses in compliance with applicable anti-corruption laws and has instituted and maintained policies and procedures designed to promote and achieve compliance with such laws.

#### 22.24 **Repetition**

The Repeating Representations are deemed to be made by each Obligor by reference to the facts and circumstances then existing on:

- (a) the date of each Utilisation Request; and
- (b) the Commencement Date of each Letter of Credit and every six Months after that date until the Expiry Date of that Letter of Credit.

### 23. **INFORMATION UNDERTAKINGS**

The undertakings in this clause 30 remain in force from the date of this agreement for so long as any amount is outstanding under the Finance Documents or any Commitment is in force.

#### 23.1 **Financial Statements of the Borrower Group**

The Borrower shall supply to the Facility Agent in sufficient copies for all the Lenders:

- (a) as soon as the same become available, but in any event within 210 days after the end of each of its financial years, the annual financial statements of the Account Party and any other member of the Borrower Group which is an Obligor for that financial year; and
- (b) as soon as the same become available, but in any event within 60 days after the end of each quarter of its financial years, its consolidated management accounts for that quarter prepared in accordance with US GAAP.

#### 23.2 **Borrowing Base Certificates**

The Borrower shall procure that a Borrowing Base Certificate is delivered to the Facility Agent within 5 Business Days of the end of each month during which any Eligible Cash Equivalents are held in the Custody Account in accordance with clause 18.2(d) (Voluntary Collateralisation of Letters of Credit) and at the same time as providing any Cash

Equivalent Collateral in accordance with clause 18.2(d) (Voluntary Collateralisation of Letters of Credit).

### 23.3 **Compliance Certificates**

- (a) The Borrower shall supply to the Facility Agent, with each set of financial statements delivered pursuant to clause 30.1 (Financial Statements of the Borrower Group), a Compliance Certificate:
  - (i) setting out (in reasonable detail) computations as to compliance with clause 31.1 (Financial Condition) as at the date as at which those financial statements were drawn up; and
  - (ii) listing all Material Companies and setting out (in reasonable detail) computations which determine those companies' classification as Material Companies.
- (b) Each Compliance Certificate shall be signed by two directors of the Borrower.

### 23.4 **Budget of the Borrower**

- (a) The Borrower shall supply to the Facility Agent in sufficient copies for all the Lenders, as soon as the same have been approved by its board of directors but in any event no later than 30 days prior to the start of each of its financial years, an annual budget and/or annual consolidated budget for that financial year.
- (b) The Borrower shall ensure that each budget:
  - (i) is in a form reasonably acceptable to the Facility Agent and includes a projected consolidated profit and loss account (or equivalent income statement) and cashflow statement for the Borrower Group and projected financial covenant calculations;
  - (ii) is prepared in accordance with US GAAP, and the accounting practices and financial reference periods applied to financial statements under clause 30.1 (Financial Statements of the Borrower Group),and has been approved by the board of directors of the Borrower.

### 23.5 **Annual Report for each Managed Syndicate**

The Borrower shall, as soon as the same become available, but in any event within 90 days after the end of each year of account of each Managed Syndicate, deliver to the Facility Agent in sufficient copies for all the Lenders, the annual report for that Managed Syndicate, audited by an internationally recognised firm of auditors licensed to practice in the jurisdiction of incorporation of the Managing Agent and on the list of auditors approved by the Council of Lloyd's from time to time.

### 23.6 **Quarterly Information Pack**

The Borrower shall, as soon as the same become available, but in any event within 60 days after the end of each quarter of each year of account of each Managed Syndicate, deliver to the Facility Agent an information pack which will include (but is not limited to) a profit and loss statement, balance sheet, cashflow statement, quarterly returns or its equivalent, settlement statistics, a statement of current forecast underwriting results and a statement on the solvency deficit position (including calculations in reasonable detail) for each Managed Syndicate.

**23.7 Business Plan and Realistic Disaster Scenario for each Managed Syndicate**

The Borrower shall, as soon as the same becomes available, but in any event within 30 days of the date prescribed by the Council of Lloyd's with respect to the preparation and despatch thereof, deliver to the Facility Agent the annual business plan then prepared in respect of a Managed Syndicate (including details of the capital stack and reinsurance layers) and (if separate) the Realistic Disaster Scenario relating thereto.

**23.8 Reinsurance Resume for each Managed Syndicate**

The Borrower shall, as soon as the same becomes available but in any event within 90 days of 1 January each year, deliver to the Facility Agent a copy of the reinsurance resume of each Managed Syndicate as delivered by the Borrower to Lloyd's from time to time in accordance with the Lloyd's Syndicate Accounting Rules.

**23.9 Information in respect of Third Party Syndicates**

The Borrower shall, as soon as the same become available but in any event within 90 days after the end of each year of account of each Third Party Syndicate, deliver to the Facility Agent the annual report of that Third Party Syndicate audited by an internationally recognised firm of auditors licensed to practise in the jurisdiction of incorporation of the Managing Agent and on the list of auditors approved by the Council of Lloyd's from time to time.

**23.10 Requirements as to Financial Statements**

- (a) Each set of financial statements delivered by the Borrower pursuant to clause 30.1 (Financial Statements of the Borrower Group) shall be certified by a director of the relevant company as fairly presenting its financial condition as at the date as at which those financial statements were drawn up.
- (b) The Borrower shall procure that each set of financial statements of an Obligor delivered pursuant to clause 30.1 (Financial Statements of the Borrower Group) is prepared using accounting policies, practices, procedures and reference periods consistent with those applied in the preparation of the Original Financial Statements for that Obligor (or, in respect of the financial statements of the Original Guarantor, is prepared using accounting policies, practices, procedures and reference periods consistent with those applied in the preparation of the Original Financial Statements for the Borrower) (other than the consolidated management accounts for each quarter which will be prepared in accordance with US GAAP) unless, in relation to any set of financial statements, it notifies the Facility Agent that there has been a change in such accounting policies, practices, procedures or reference periods and its auditors (or, if appropriate, the auditors of that Obligor) deliver to the Facility Agent:
  - (i) a description of any change necessary for those financial statements to reflect the accounting policies, practices, procedures and reference periods upon which that Obligor's Original Financial Statements were prepared; and
  - (ii) sufficient information, in form and substance as may be reasonably required by the Facility Agent, to enable the Lenders to determine whether clause 31 (Financial Condition) has been complied with and make an accurate comparison between the financial position indicated in those financial statements and that Obligor's Original Financial Statements.

**23.11 Lloyd's Syndicate Accounting Rules**

The Borrower shall ensure that each annual report in respect of each Managed Syndicate delivered pursuant to clause 30.5 (Annual Report for each Managed Syndicate) is

prepared in accordance with Lloyd's Syndicate Accounting Rules under accounting policies consistently applied.

**23.12 Litigation and Regulatory Intervention**

The Borrower shall notify the Facility Agent of any actual or (upon it becoming aware of the same) any threatened litigation or arbitration (whether as plaintiff or defendant and whether civil, criminal or administrative) and/or any actual or threatened regulatory intervention by Lloyd's and/or the FCA and/or the PRA in respect of the Borrower Group and/or a Managed Syndicate which are likely to be adversely determined and/or made and which, if adversely determined and/or made, would have a material adverse effect on the business or financial condition of the Borrower Group and/or a Managed Syndicate (but excluding any litigation or arbitration involving a Managed Syndicate in the ordinary course of its insurance business).

**23.13 Inspection of Books and Records**

If there are reasonable grounds to believe that an Event of Default has occurred and is continuing, each Obligor shall, on request of the Facility Agent and upon reasonable notice, provide the Facility Agent and/or its advisers with access, during the normal business hours to and permit inspection of its books and records.

**23.14 Information on FAL**

The Borrower shall provide the Facility Agent with a description and valuation of its FAL in the Compliance Certificate to be accompanied with the quarterly financial statements delivered in accordance with clause 30.1 (Financial Statements of the Borrower Group).

**23.15 Uncovered Solvency Deficit**

If, at any time, Funds at Lloyd's in respect of any Solvency Deficit have not been provided by the date upon which Lloyd's has requested such Funds at Lloyd's be provided (an "**Uncovered Solvency Deficit**"), the Borrower shall immediately notify the Facility Agent of the occurrence of such Uncovered Solvency Deficit and confirm the value of such Uncovered Solvency Deficit as a percentage of the Account Party's Economic Capital Assessment Requirement for all open years of account.

**23.16 Information: Miscellaneous**

The Borrower shall supply to the Facility Agent (in sufficient copies for all the Lenders, if the Facility Agent so requests):

- (a) all documents dispatched by the Borrower to its shareholders (or any class of them) or its creditors generally at the same time as they are dispatched;
- (b) all regulatory returns dispatched by the Borrower to Lloyd's;
- (c) promptly, such information as the Security Agent may reasonably require about the Charged Property and compliance of the Obligors with the terms of any Security Documents;
- (d) promptly upon becoming aware of them, the details of any judgment or order of a court, arbitral body or agency which is made against any member of the Borrower Group, and which might have a Material Adverse Effect; and
- (e) promptly, such further information regarding the financial condition and business of any member of the Group, the Managed Syndicates and the Third Party Syndicates as any Finance Party (through the Facility Agent) may reasonably request except (i) where the furnishing of such information is restricted or prohibited by applicable

law or regulation or (ii) the furnishing of such information does not comply with any requirement as to confidentiality which applies to such Obligor.

**23.17 Notification of Default**

- (a) Each Obligor shall (unless that Obligor is aware that a notification has already been provided by another Obligor) notify the Facility Agent of any Default (and the steps, if any, being taken to remedy it) promptly upon becoming aware of its occurrence.
- (b) Promptly upon a request by the Facility Agent, the Borrower shall supply to the Facility Agent a certificate signed by two of its directors or senior officers on its behalf certifying that no Default is continuing (or if a Default is continuing, specifying the Default and the steps, if any, being taken to remedy it).

**23.18 "Know Your Customer" Checks**

- (a) If:
  - (i) the introduction of or any change in (or in the interpretation, administration or application of) any law or regulation made after the date of this agreement;
  - (ii) any change in the status of an Obligor or the composition of the shareholders of an Obligor after the date of this agreement; or
  - (iii) a proposed assignment or transfer by a Lender of any of its rights and obligations under this agreement to a party that is not a Lender prior to such assignment or transfer,

obliges the Facility Agent or any Lender (or, in the case of paragraph (iii) above, any prospective new Lender) to comply with "know your customer" or similar identification procedures in circumstances where the necessary information is not already available to it, each Obligor shall promptly upon the request of the Facility Agent or any Lender supply, or procure the supply of, such documentation and other evidence as is reasonably requested by the Facility Agent (for itself or on behalf of any Lender) or any Lender (for itself or, in the case of the event described in paragraph (iii) above, on behalf of any prospective new Lender) in order for the Facility Agent, such Lender or, in the case of the event described in paragraph (iii) above, any prospective new Lender to carry out and be satisfied it has complied with all necessary "know your customer" or other similar checks under all applicable laws and regulations pursuant to the transactions contemplated in the Finance Documents.

- (b) Each Lender shall promptly upon the request of the Facility Agent supply, or procure the supply of, such documentation and other evidence as is reasonably requested by the Facility Agent (for itself) in order for the Facility Agent to carry out and be satisfied it has complied with all necessary "know your customer" or other similar checks under all applicable laws and regulations pursuant to the transactions contemplated in the Finance Documents.
- (c) The Borrower shall, by giving not less than ten Business Days' prior written notice to the Facility Agent, notify the Facility Agent (which shall promptly notify the Lenders) of its intention to request that one of its Subsidiaries becomes an Additional Guarantor pursuant to clause 35 (Changes to the Obligors).
- (d) Following the giving of any notice pursuant to paragraph (c) above, if the accession of such Additional Guarantor obliges the Facility Agent or any Lender to comply with "know your customer" or similar identification procedures in circumstances

where the necessary information is not already available to it, the Borrower shall promptly upon the request of the Facility Agent or any Lender supply, or procure the supply of, such documentation and other evidence as is reasonably requested by the Facility Agent (for itself or on behalf of any Lender) or any Lender (for itself or on behalf of any prospective new Lender) in order for the Facility Agent or such Lender or any prospective new Lender to carry out and be satisfied it has complied with all necessary "know your customer" or other similar checks under all applicable laws and regulations pursuant to the accession of such Subsidiary to this agreement as an Additional Guarantor.

**23.19 Debt Rating**

The Borrower shall notify the Facility Agent of any changes to the Debt Rating as soon as reasonably practicable after becoming aware of such changes.

**24. FINANCIAL CONDITION**

**24.1 Financial Condition**

The Borrower shall ensure that its financial condition is such that the Uncollateralised Outstandings shall not at any time exceed 50 per cent of the total Funds at Lloyd's of the Account Party (including Subordinated Funds at Lloyd's and FAL provided in accordance with this agreement).

**24.2 Financial Testing**

The financial covenants set out in clause 31.1 (Financial Condition) shall be complied with at all times but compliance with such financial covenants shall be verified by reference to each of the relevant financial statements and each relevant Compliance Certificate delivered pursuant to clause 30.2 (Compliance Certificates).

**24.3 Accounting Terms**

All accounting expressions which are not otherwise defined in this agreement shall be construed in accordance with GAAP.

**25. GENERAL UNDERTAKINGS**

The undertakings in this clause 32 remain in force from the date of this agreement for so long as any amount is outstanding under the Finance Documents or any Commitment is in force.

**25.1 Authorisations**

Each Obligor shall promptly:

(a) obtain, comply with and do all that is necessary to maintain in full force and effect; and

(b) supply certified copies to the Facility Agent of,

any Authorisation required under any law or regulation of its jurisdiction of incorporation to enable it to perform its obligations under the Finance Documents and to ensure the legality, validity, enforceability or admissibility in evidence in its jurisdiction of incorporation of any Finance Document.

## 25.2 **Compliance with Laws**

Each Obligor shall comply in all respects with all laws, by-laws and regulations (including, without limitation, under the Financial Services and Markets Act 2000 (and related subordinate legislation), the Lloyd's Acts 1871 to 1982 and the Lloyd's Sourcebook Instrument 2001 (as amended from time to time) and any conditions or requirements prescribed thereunder) to which it may be subject, if failure so to comply would reasonably be expected to have a Material Adverse Effect.

## 25.3 **Negative Pledge**

- (a) No Obligor shall (and the Borrower shall ensure that no other member of the Borrower Group will) create or permit to subsist any Security over any of its assets other than a Permitted Encumbrance.
- (b) No Obligor shall (and the Borrower shall ensure that no other member of the Borrower Group will):
  - (i) sell, transfer or otherwise dispose of any of its assets on terms whereby they are or may be leased to or re-acquired by an Obligor or any other member of the Group;
  - (ii) sell, transfer or otherwise dispose of any of its receivables on recourse terms;
  - (iii) enter into any arrangement under which money or the benefit of a bank or other account may be applied, set-off or made subject to a combination of accounts; or
  - (iv) enter into any other preferential arrangement having a similar effect, in circumstances where the arrangement or transaction is entered into primarily as a method of raising Financial Indebtedness or of financing the acquisition of an asset, other than a Permitted Encumbrance.

## 25.4 **Disposals**

- (a) No Obligor shall (and the Borrower shall ensure that no other member of the Borrower Group will), enter into a single transaction or a series of transactions (whether related or not) and whether voluntary or involuntary to sell, lease, transfer or otherwise dispose of any asset.
- (b) Paragraph (a) does not apply to any sale, lease, transfer or other disposal by a member of the Borrower Group:
  - (i) of any investments made in the ordinary course of business of the disposing entity;
  - (ii) of obsolete assets for cash;
  - (iii) made with the prior consent of the Majority Lenders; or
  - (iv) of tangible assets where the book value (when aggregated with the book value of all other tangible assets sold, leased, transferred or otherwise disposed of in the same financial year) does not exceed £10,000,000 (or its equivalent in another currency or currencies).

## 25.5 **Merger**

No Obligor shall (and the Borrower shall ensure that no other member of the Borrower Group will) enter into any amalgamation, demerger, merger or corporate reconstruction without the prior consent of the Majority Lenders (which consent, in the case of a merger or amalgamation between two members of the Group which are not Obligors, shall not be unreasonably withheld or delayed).

## 25.6 **Change of Business**

The Borrower shall procure that no substantial change is made to the general nature of the business of the Borrower, any member of the Borrower Group or any other Obligor from that carried on at the date of this agreement.

## 25.7 **Financial Indebtedness**

No Obligor shall (and the Borrower shall ensure that no other member of the Borrower Group will) incur or allow to remain outstanding any Financial Indebtedness, other than Permitted Financial Indebtedness.

## 25.8 **Pari Passu Ranking**

Each Obligor shall ensure that at all times the claims of a Finance Party against it under the Finance Documents rank at least pari passu with the claims of all its other unsecured and unsubordinated creditors except those creditors whose claims are mandatorily preferred by laws of general application to companies.

## 25.9 **Insurance**

Each Obligor shall (and the Borrower shall ensure that each other member of the Borrower Group will) maintain insurance (other than and in addition to any reinsurance in respect of such members' underwriting business) on and in relation to its business and assets against those risks and to such extent as is usual for companies carrying on the same or substantially similar business with any reputable underwriters or reputable insurance company.

## 25.10 **Further Assurance**

Each Obligor shall take all steps reasonably requested by the Facility Agent to ensure the creation, perfection and maintenance at all times of the Security intended to be constituted by the Security Documents.

## 25.11 **Ownership of the Account Party**

The Borrower shall ensure that the Account Party remains its wholly-owned Subsidiary.

## 25.12 **Application of Funds at Lloyd's and Cash Calls**

- (a) The Borrower shall use all reasonable endeavours to ensure that the Subordinated Funds at Lloyd's of the Borrower are applied to the fullest extent possible before any payment is requested under a Letter of Credit.
- (b) The Borrower shall ensure that the Managing Agent will make a request for funds of the Account Party in its capacity as a member of each Managed Syndicate before applying the Funds at Lloyd's of the Account Party in the payment of any claims, expenses or outgoings made or incurred in connection with its underwriting business.

25.13 **Demands for Payment of FAL**

The Borrower shall upon service on the Account Party by Lloyd's (or the trustee for the time being of such Funds at Lloyd's) of a written demand for the payment of a sum on account of its Funds at Lloyd's immediately inform the Facility Agent of such demand.

25.14 **Investment Strategy**

The Borrower shall ensure that there is no material change to the investment strategy pursued by the Borrower Group as at the date of this agreement without the prior written consent of the Majority Lenders.

25.15 **Business plan**

The Borrower shall ensure that there is no material change to the business plan submitted in accordance with clause 30.7 (Business Plan and Realistic Disaster Scenario for each Managed Syndicate) without the prior written consent of the Majority Lenders.

25.16 **Prohibition on underwriting by Obligors**

The Borrower shall procure that the only member of the Borrower Group to underwrite business at Lloyd's will be the Account Party.

25.17 **Reinsurance FAL**

- (a) The Borrower will not amend its FAL arrangements, including the addition of any Reinsurance FAL, without first obtaining the written consent of the Majority Lenders, such consent not to be unreasonably withheld or delayed.
- (b) If the Borrower obtains any Reinsurance FAL for the 2018 or 2019 years of account or any prior open year of account ("**2018/2019 Reinsurance FAL**"), the Borrower shall use its best endeavours to:
  - (i) obtain and deliver to the Facility Agent, a replacement Letter of Comfort executed by Lloyd's incorporating the 2018/2019 Reinsurance FAL as additional Subordinated Funds at Lloyd's for the 2018/2019 years of account and each prior open year of account; and
  - (ii) procure entry into a Funds at Lloyd's providers deed on terms satisfactory to the Facility Agent.

25.18 **Ownership of Obligors**

The Borrower shall ensure that each other Obligor (other than the Original Guarantor) is and remains a direct or indirect Subsidiary of the Borrower.

25.19 **Centre of Main Interests**

No Obligor shall, and each Obligor will procure that none of its Subsidiaries will, do anything to change the location of its centre of main interests, for the purposes of Council Regulation (EC) No 1346/2000 of 29 May 2000 on insolvency proceedings, where that change would be reasonably likely to be materially adverse to the interests of the Finance Parties.

## 25.20 **Sanctions**

- (a) Each Obligor will ensure that the proceeds of the Letter of Credit will not, directly or indirectly, be used or paid for the purposes of any transaction in violation of applicable Sanctions.
- (b) No Obligor shall engage in any conduct which would reasonably be expected to cause it to become a subject of Sanctions.

## 25.21 **Anti-corruption law**

- (a) No Obligor shall (and the Borrower shall ensure that no other member of the Borrower Group will) directly or indirectly use the proceeds of the Facility for any purpose which would breach the Bribery Act 2010, the United States Foreign Corrupt Practices Act of 1977 or other similar legislation in other jurisdictions.
- (b) Each Obligor shall (and the Borrower shall ensure that each other member of the Borrower Group will):
  - (i) conduct its businesses in compliance with applicable anti-corruption laws; and
  - (ii) maintain policies and procedures designed to promote and achieve compliance with such laws.

## 25.22 **Condition Subsequent**

- (a) The Borrower may, upon no less than five Business Days' written notice, deliver to the Facility Agent each of the following (in form and substance satisfactory to the Facility Agent):
  - (i) copies of:
    - (A) the US Pledge Agreement; and
    - (B) the Account Control Agreement,in each case, duly executed and delivered by the parties thereto;
  - (ii) a certificate in the agreed form from the Parent signed by a director or authorised signatory:
    - (A) confirming that there has been no amendment to its constitutional documents since the most recent certificate in this respect delivered to the Facility Agent as a condition precedent to the Amendment and Restatement Agreement or, if there has been any such amendment, attaching a copy of the constitutional documents of the Parent, such constitutional documents, certified as of a recent date, together with a certificate of good standing issued by the Secretary of State of Delaware as of a recent date;
    - (B) attaching a copy of a resolution of the board of directors of the Parent:
      - (aa) approving the terms of, and the transactions contemplated by, the documents referred to in sub-paragraph (i) above and resolving that it execute those documents;

- (bb) authorising a specified person or persons to execute the documents referred to in sub-paragraph (i) above on its behalf; and
- (cc) authorising a specified person or persons, on its behalf, to sign and/or despatch all documents and notices to be signed and/or despatched by it under or in connection with the documents referred to in sub-paragraph (i) above;
- (C) attaching a specimen of the signature of each person authorised by the resolution referred to in sub-paragraph (ii)(B) above;
- (D) confirming that securing the Total Commitments would not cause any securing or similar limit binding on the Parent to be exceeded; and
- (E) certifying that each copy document relating to it specified in this clause 25.22(a) (Condition subsequent) is correct, complete and in full force and effect as at a date no earlier than the latest in date of the documents listed at sub-paragraph (i) above; and
- (iii) a legal opinion of Ropes & Gray LLP as to matters of New York and Delaware law.
- (b) The Facility Agent will notify the Borrower and the Lenders promptly upon receipt (to its satisfaction) of the items listed in paragraph (a) above (the date upon which such notice is given being, the "**CS Satisfaction Date**").

## 26. **EVENTS OF DEFAULT**

Each of the events or circumstances set out in clause 32.21(b)(ii) is an Event of Default (save for clause 33.25 (Acceleration and Cancellation)).

### 26.1 **Non-Payment**

Any Group Obligor does not pay on the due date any amount payable pursuant to a Finance Document at the place at and in the currency in which it is expressed to be payable unless:

- (a) its failure to pay is caused by:
  - (i) administrative or technical error; or
  - (ii) a Disruption Event; and
- (b) payment is made within five Business Days of its due date.

### 26.2 **Financial Condition and Other Specific Covenants**

- (a) At any time any requirement of clause 31.1 (Financial Condition) or section 4.03 (Financial Covenants) of the Parent Guarantee is not satisfied.

- (b) An Obligor fails duly to perform or comply with any of the obligations expressed to be assumed by it in clause 30 (Information Undertakings), clause 32.3 (Negative Pledge), clause 32.4 (Disposals), clause 32.5 (Mergers), clause 32.7 (Financial Indebtedness), clause 32.11 (Ownership of the Borrower), clause 32.12(a) (Application of Funds at Lloyd's and Cash Calls) and clause 32.13 (Demands for Payment of FAL).
- (c) The Parent fails duly to perform or comply with any of the obligations expressed to be assumed by it in sections 4.02(a) (Reporting Requirements) and section 4.04(a) (Financial Debt) to (d) (Disposition of Assets) (inclusive) of the Parent Guarantee.

### 26.3 **Other Obligations**

- (a) Any Group Obligor does not comply with any provision of the Finance Documents (other than those referred to in clause 33.1 (Non-Payment) and clause 33.2 (Financial Condition and Other Specific Covenants)).
- (b) No Event of Default under paragraph (a) will occur if the failure to comply is capable of remedy and is remedied within 30 days of the earlier of:
  - (i) the Facility Agent giving notice to the Borrower or the Parent; and
  - (ii) any Group Obligor becoming aware of the failure to comply.

### 26.4 **Misrepresentation**

Any representation or statement made or deemed to be made by any Group Obligor in the Finance Documents or any notice or other document, certificate or statement delivered by or on behalf of any Group Obligor under or in connection with any Finance Document is or proves to have been incorrect or misleading in any material respect when made or deemed to be made.

### 26.5 **Change in Control**

The occurrence of a Change in Control.

### 26.6 **Cross Default**

- (a) Any Financial Indebtedness of any member of the Group is not paid when due nor within any originally applicable grace period.
- (b) Any Financial Indebtedness of any member of the Group is declared to be or otherwise becomes due and payable prior to its specified maturity as a result of an event of default (however described).
- (c) Any commitment for any Financial Indebtedness of any member of the Group is cancelled or suspended by a creditor of any member of the Group as a result of an event of default (however described).
- (d) Any creditor of any member of the Group becomes entitled to declare any Financial Indebtedness of any member of the Group due and payable prior to its specified maturity as a result of an event of default (however described).
- (e) No Event of Default will occur under this clause 33.6 if the aggregate amount of Financial Indebtedness or commitment for Financial Indebtedness falling within paragraphs (a) to (d) (inclusive) above in respect of the Group, is less than \$50,000,000 (or its equivalent in any other currency or currencies).

## 26.7 **Failure to Comply with Final Judgment**

Any member of the Group fails to comply with or pay any sum due from it in excess of \$50,000,000 (to the extent not covered by an insurer having a minimum A.M. Best financial strength rating of A- that has not denied coverage) under any final judgement or any final order made or given by any court of competent jurisdiction within 45 days of any such judgement or order being made or given.

## 26.8 **Insolvency**

- (a) Any Group Obligor or a Material Subsidiary is unable or admits inability to pay its debts as they fall due, suspends making payments on any of its debts or, by reason of actual or anticipated financial difficulties, commences negotiations with one or more of its creditors with a view to rescheduling any of its indebtedness.
- (b) The value of the assets of any Group Obligor or a Material Subsidiary is less than its liabilities (taking into account contingent and prospective liabilities).
- (c) A moratorium is declared in respect of any indebtedness of any Group Obligor or a Material Subsidiary.

## 26.9 **Insolvency Proceedings**

- (a) Any corporate action, legal proceedings or other procedure or step is taken in relation to:
  - (i) the suspension of payments, a moratorium of any indebtedness, winding-up, dissolution, administration or reorganisation (by way of voluntary arrangement, scheme of arrangement or otherwise) of any Group Obligor or a Material Subsidiary;
  - (ii) a composition, compromise, assignment or arrangement with any creditor of any Group Obligor or a Material Subsidiary;
  - (iii) the appointment of a liquidator, receiver, administrative receiver, administrator, compulsory manager or other similar officer in respect of any Group Obligor or a Material Subsidiary or any of its assets; or
  - (iv) enforcement of any Security over any assets of any Group Obligor or a Material Subsidiary provided such enforcement is not stayed within 15 Business Days or any event occurs which under the laws of any jurisdiction has a similar or analogous effect.
- (b) Paragraph (a)(i) to (iii) shall not apply to any winding-up petition which is frivolous or vexatious and is discharged, stayed or dismissed within 60 days of commencement or, if earlier, the date on which it is advertised.

## 26.10 **Creditors' Process**

Any expropriation, attachment, sequestration, distress or execution affects any asset or assets of any Group Obligor or a Material Subsidiary and is not discharged within 15 Business Days.

## 26.11 **Similar Events Elsewhere**

There occurs in relation to any Group Obligor or any Material Subsidiary or any of its assets in any country or territory in which it is incorporated or carries on business or to the jurisdiction of whose courts it or any of its assets is subject any event which appears

to the Facility Agent to correspond in that country or territory with any of those mentioned in clauses 33.8 (Insolvency) to 33.10 (Creditors' Process) (inclusive).

**26.12 Unlawfulness**

- (a) It is or becomes unlawful for any Group Obligor to perform any of its obligations under the Finance Documents.
- (b) Any Finance Document or any obligation of any Group Obligor thereunder are not or ceases to be in full force and effect or is alleged by a Group Obligor to be ineffective for any reason.

**26.13 Repudiation**

Any Group Obligor repudiates a Finance Document or evidences an intention to repudiate a Finance Document.

**26.14 Cessation of Business**

Any member of the Borrower Group or the Parent suspends or ceases to carry on (or threatens to suspend or cease to carry on) all or a material part of the business which it carries on at the date of this agreement or enters into any unrelated business.

**26.15 Litigation**

Any litigation, arbitration, administrative, governmental, regulatory or other investigations, proceedings or disputes are commenced against any member of the Group or its assets which, in the opinion of the Majority Lenders (acting reasonably), has, or is reasonably likely to have, a Material Adverse Effect.

**26.16 Solvency Test**

The Account Party fails as a Member to maintain the members' capital resources requirement calculated by Lloyd's and notified to it in accordance with the General Prudential Sourcebook and INSPRU.

**26.17 Ownership of the Account Party**

The Account Party ceases to be a wholly-owned Subsidiary of the Borrower.

**26.18 Financial Services and Markets Act 2000 and Lloyd's Acts 1871-1982**

- (a) A failure by Lloyd's (or, where appropriate, the Members taken together) to satisfy the solvency requirements to which it is or they are subject by virtue of Part XIX of the Financial Services and Markets Act 2000, the General Prudential Sourcebook, INSPRU (each as amended from time to time) or any statutory provision enacted after the date of this agreement and a failure to comply with any binding requirement to rectify the position within the time period permitted for such rectification; or
- (b) the authorisation or permission granted to Lloyd's to carry on a regulated activity pursuant to the Financial Markets and Services Act 2000 is withdrawn, removed, revoked or cancelled by the PRA,

which, in either such case, in the reasonable opinion of the Majority Lenders, is reasonably likely materially and adversely to affect the ability of the Borrower to perform or comply with its material obligations under the Finance Documents.

#### 26.19 **Modification of Lloyd's Acts, Byelaws or Trusts**

Any modification, repeal, amendment, replacement or revocation of Lloyd's Acts 1871 to 1982, any byelaw or any deed or agreement required by Lloyd's to be executed or entered into by any person in connection with insurance business at Lloyd's (whether carried on by such person or otherwise) or any trust created thereby is made or proposed which, in the reasonable opinion of the Majority Lenders, is reasonably likely materially and adversely to affect the ability of the Borrower to perform or comply with its material obligations under the Finance Documents.

#### 26.20 **Lloyd's Market Reorganisation Order**

The making of a Lloyd's Market Reorganisation Order provided that:

- (a) the Borrower is an affected market participant as defined in the Insurers (Reorganisation and Winding Up) (Lloyd's) Regulations 2005; and
- (b) the making of the order in the reasonable opinion of the Facility Agent (acting on the instructions of the Majority Lenders) is reasonably likely materially and adversely to affect the ability of the Borrower to perform or comply with its material obligations under the Finance Documents.

#### 26.21 **Cash Collateral**

The Borrower fails duly to perform or comply with its obligations to pay Cash Collateral into the Specified Account in the amounts and at the times required under clause 18.3 (Mandatory Cash Collateralisation of Letters of Credit).

#### 26.22 **Material Adverse Change**

Any event or circumstance occurs which the Majority Lenders reasonably believe has or is reasonably likely to have a Material Adverse Effect.

#### 26.23 **ERISA**

An ERISA Event shall have occurred that, in the opinion of the Majority Lenders, when taken together with all other ERISA Events that have occurred, would reasonably be expected to have a Material Adverse Effect.

#### 26.24 **US Bankruptcy Proceeding**

Without limiting any of the other clauses of this clause 32.21(b)(ii):

- (a) a court of the United States of America or any state thereof (a "**US Federal or State Court**") having jurisdiction in the premises shall enter a decree or order for relief in respect of the Parent or any Material Subsidiary in an involuntary case under the US Bankruptcy Code or under any other applicable bankruptcy, insolvency or similar law of the United States of America or any state thereof now or hereafter in effect, which decree or order is not stayed within seven days of it being entered; or any other similar relief shall be granted under any applicable US federal or state law;
- (b) an involuntary case shall be commenced against the Parent or any Material Subsidiary under the US Bankruptcy Code or under any other applicable bankruptcy, insolvency or similar law of the United States of America or any state thereof now or hereafter in effect; or a decree or order of a US Federal or State Court having jurisdiction in the premises for the appointment of a receiver, liquidator, sequestrator, trustee, custodian or other officer having similar powers over the Parent or any Material Subsidiary, or over all or a substantial part of its

property, shall have been entered; and in any such event described in this paragraph (b) shall continue for 60 days unless dismissed, bonded or discharged; or

- (c) the Parent or any Material Subsidiary shall have an order for relief entered with respect to it or commence a voluntary case under the US Bankruptcy Code or under any other applicable bankruptcy, insolvency or similar law of the United States of America or any state thereof now or hereafter in effect, or shall consent to the entry of an order for relieve in an involuntary case, or to the conversion of an involuntary case to a voluntary case, under any such law.

#### 26.25 **Acceleration and Cancellation**

- (a) Subject to paragraph (b) below, on and at any time after the occurrence of an Event of Default which is continuing, the Facility Agent may, and shall if so directed by all the Lenders:
  - (i) by notice to the Borrower:
    - (A) require the Borrower to use best endeavours to procure that the liabilities of the Lenders under each Letter of Credit are promptly reduced to zero; and/or
    - (B) require the Borrower to procure that Cash Collateral is, within 3 Business Days of demand, provided for each Letter of Credit in an amount specified by the Facility Agent (acting on the instructions of the Majority Lenders) (whereupon the Borrower shall do so); and/or
    - (C) declare that the whole of the Available Facility shall be cancelled, whereupon the same shall be cancelled and the Available Commitment of each Lender shall be reduced to zero;
  - (ii) require the Borrower to use best endeavours to procure that:
    - (A) all Letters of Credit are cancelled and returned by Lloyd's to the Facility Agent; and
    - (B) in relation to any Letters of Credit which are cancelled, Lloyd's deliver written confirmation to the Facility Agent (on behalf of the Lenders) that:
      - (aa) Lloyd's has not retained any copies of any Letter of Credit; and
      - (bb) Lloyd's no longer places any reliance on any Letter of Credit, in form and substance reasonably satisfactory to the Facility Agent;
  - (iii) exercise (or direct the Security Agent to exercise) any or all of its rights, remedies, powers or discretions under any of the Finance Documents; and/or
  - (iv) give a Notice of Termination to Lloyd's in respect of any Letter of Credit.
- (b) If an Event of Default under clause 33.24 (US Bankruptcy Proceeding) occurs, then without notice to the Parent or any other act by the Facility Agent or any other person, the Facility, interest thereon, Cash Collateral in respect of each Letter of Credit issued for the account of the relevant member of the Group and all other amounts owed by such Obligor under the Finance Documents shall become

immediately due and payable without presentment, demand, protest or notice of any kind, all of which are expressly waived.

27. **CHANGES TO THE LENDERS**

27.1 **Assignments and Transfers by the Lenders**

Subject to this clause 34, a Lender (the "**Existing Lender**") may:

- (a) assign any of its rights; or
- (b) transfer by novation any of its rights and obligations,

to an Eligible Institution (the "**New Lender**").

27.2 **Conditions of Assignment, Transfer or Accession**

- (a) An assignment will only be effective on:
  - (i) receipt by the Facility Agent (whether in the Assignment Agreement or otherwise) of written confirmation from the New Lender (in form and substance satisfactory to the Facility Agent) that the New Lender will assume the same obligations to the other Finance Parties as it would have been under if it had been an Original Lender; and
  - (ii) performance by the Facility Agent (to the extent it thinks fit) of all necessary "know your customer" or other similar checks under all applicable laws and regulations in relation to such assignment to a New Lender, the completion of which the Facility Agent shall promptly notify to the Existing Lender and the New Lender.
- (b) A transfer or accession will only be effective if the procedure set out in clause 34.5 (Procedure for Transfer or Accession) is complied with.
- (c) If:
  - (i) a Lender assigns or transfers any of its rights or obligations under the Finance Documents or changes its Facility Office; and
  - (ii) as a result of circumstances existing at the date the assignment, transfer or change occurs, an Obligor would be obliged to make a payment to the New Lender or Lender acting through its new Facility Office under clause 20 (Tax Gross-Up and Indemnities) or clause 21 (Increased Costs),

then the New Lender or Lender acting through its new Facility Office is only entitled to receive payment under those clauses to the same extent as the Existing Lender or Lender acting through its previous Facility Office would have been if the assignment, transfer or change had not occurred.

- (d) Each New Lender, by executing the relevant Transfer Certificate, Assignment Agreement or Accession Letter, confirms, for the avoidance of doubt, that the Facility Agent has authority to execute on its behalf any amendment or waiver that has been approved by or on behalf of the requisite Lender or Lenders in accordance with this agreement on or prior to the date on which the transfer or assignment or accession becomes effective in accordance with this agreement and that it is bound by that decision to the same extent as the Existing Lender would have been had it remained a Lender.

### 27.3 **Assignment, Transfer or Accession Fee**

The New Lender shall, on the date upon which an assignment, transfer or accession takes effect, pay to the Facility Agent (for its own account) a fee of £3,000.

### 27.4 **Limitation of Responsibility of Existing Lenders**

- (a) Unless expressly agreed to the contrary, an Existing Lender makes no representation or warranty and assumes no responsibility to a New Lender for:
- (i) the legality, validity, effectiveness, adequacy or enforceability of the Finance Documents or any other documents;
  - (ii) the financial condition of any Obligor;
  - (iii) the performance and observance by any Obligor of its obligations under the Finance Documents or any other documents; or
  - (iv) the accuracy of any statements (whether written or oral) made in or in connection with any Finance Document or any other document,
- and any representations or warranties implied by law are excluded.
- (b) Each New Lender confirms to the Existing Lender and the other Finance Parties that it:
- (i) has made (and shall continue to make) its own independent investigation and assessment of the financial condition and affairs of each Obligor and its related entities in connection with its participation in this agreement and has not relied exclusively on any information provided to it by the Existing Lender in connection with any Finance Document; and
  - (ii) will continue to make its own independent appraisal of the creditworthiness of each Obligor and its related entities whilst any amount is or may be outstanding under the Finance Documents or any Commitment is in force.
- (c) Nothing in any Finance Document obliges an Existing Lender to:
- (i) accept a re-transfer or re-assignment from a New Lender of any of the rights and obligations assigned or transferred under this clause 34; or
  - (ii) support any losses directly or indirectly incurred by the New Lender by reason of the non-performance by any Obligor of its obligations under the Finance Documents or otherwise.

### 27.5 **Procedure for Transfer or Accession**

- (a) Subject to the conditions set out in clause 34.2 (Conditions of Assignment, Transfer or Accession) a transfer or accession is effected in accordance with paragraph (c) below when the Facility Agent executes an otherwise duly completed (i) Transfer Certificate delivered to it by the Existing Lender and the New Lender or (ii) Accession Letter duly completed by the New Lender. The Facility Agent shall, subject to paragraph (b) below, as soon as reasonably practicable after receipt by it of a duly completed Transfer Certificate or Accession Letter appearing on its face to comply with the terms of this agreement and delivered in accordance with the terms of this agreement, execute that Transfer Certificate or Accession Letter.
- (b) The Facility Agent shall only be obliged to execute a Transfer Certificate delivered to it by the Existing Lender and the New Lender or an Accession Letter delivered to

it by a New Lender once it is satisfied it has complied with all necessary "know your customer" or other similar checks under all applicable laws and regulations in relation to the transfer to such New Lender.

- (c) On the Transfer Date:
  - (i) to the extent that in the Transfer Certificate the Existing Lender seeks to transfer by novation its rights and obligations under the Finance Documents each of the Obligors and the Existing Lender shall be released from further obligations towards one another under the Finance Documents and their respective rights against one another under the Finance Documents shall be cancelled (being the "**Discharged Rights and Obligations**");
  - (ii) each of the Obligors and the New Lender shall assume obligations towards one another and/or acquire rights against one another which differ from the Discharged Rights and Obligations only insofar as that Obligor and the New Lender have assumed and/or acquired the same in place of that Obligor and the Existing Lender;
  - (iii) the Facility Agent, the Arrangers, the New Lender and other Lenders shall acquire the same rights and assume the same obligations between themselves as they would have acquired and assumed had the New Lender been an Original Lender with the rights and/or obligations acquired or assumed by it as a result of the transfer and to that extent the Facility Agent, the Arrangers and the Existing Lender shall each be released from further obligations to each other under the Finance Documents; and
  - (iv) the New Lender shall become a Party as a "Lender".
- (d) On the Accession Date:
  - (i) each of the New Lender and the other Parties shall assume the same obligations between themselves as they would have acquired and assumed had the New Lender been an Original Lender with the rights and obligations acquired as a result of the Accession Letter; and
  - (ii) the New Lender shall become a Party to this agreement as a "Lender".

#### 27.6 **Procedure for Assignment**

- (a) Subject to the conditions set out in clause 34.2 (Conditions of Assignment, Transfer or Accession) an assignment may be effected in accordance with paragraph (c) below when the Facility Agent executes an otherwise duly completed Assignment Agreement delivered to it by the Existing Lender and the New Lender. The Facility Agent shall, subject to paragraph (b) below, as soon as reasonably practicable after receipt by it of a duly completed Assignment Agreement appearing on its face to comply with the terms of this agreement and delivered in accordance with the terms of this agreement, execute that Assignment Agreement.
- (b) The Facility Agent shall only be obliged to execute an Assignment Agreement delivered to it by the Existing Lender and the New Lender once it is satisfied it has complied with all necessary "know your customer" or other similar checks under all applicable laws and regulations in relation to the assignment to such New Lender.
- (c) On the Transfer Date:
  - (i) the Existing Lender will assign absolutely to the New Lender the rights under the Finance Documents expressed to be the subject of the assignment in the Assignment Agreement;

- (ii) the Existing Lender will be released by each Obligor and the other Finance Parties from the obligations owed by it (the "**Relevant Obligations**") and expressed to be the subject of the release in the Assignment Agreement; and
  - (iii) the New Lender shall become a Party as a "Lender" and will be bound by obligations equivalent to the Relevant Obligations.
- (d) Lenders may utilise procedures other than those set out in this clause 34.6 to assign their rights under the Finance Documents (but not, without the consent of the relevant Obligor or unless in accordance with clause 34.5 (Procedure for Transfer), to obtain a release by that Obligor from the obligations owed to that Obligor by the Lenders nor the assumption of equivalent obligations by a New Lender) **provided that** they comply with the conditions set out in clause 34.2 (Conditions of Assignment, Transfer or Accession).

#### 27.7 **Copy of Transfer Certificate or Assignment Agreement to the Borrower**

The Facility Agent shall, as soon as reasonably practicable after it has executed a Transfer Certificate or an Assignment Agreement, send to the Borrower a copy of that Transfer Certificate or Assignment Agreement.

#### 27.8 **Security over Lenders' rights**

In addition to the other rights provided to Lenders under this clause 34, each Lender may without consulting with or obtaining consent from any Obligor, at any time charge, assign or otherwise create Security in or over (whether by way of collateral or otherwise) all or any of its rights under any Finance Document to secure obligations of that Lender including, without limitation:

- (a) any charge, assignment or other Security to secure obligations to a federal reserve or central bank or to a government authority, department or agency (including, without limitation, HM Treasury); and
- (b) in the case of any Lender which is a fund, any charge, assignment or other Security granted to any holders (or trustee or representatives of holders) of obligations owed, or securities issued, by that Lender as security for those obligations or securities,

except that no such charge, assignment or Security shall:

- (i) release a Lender from any of its obligations under the Finance Documents or substitute the beneficiary of the relevant charge, assignment or Security for the Lender as a party to any of the Finance Documents; or
- (ii) require any payments to be made by an Obligor other than or in excess of, or grant to any person any more extensive rights than, those required to be made or granted to the relevant Lender under the Finance Documents.

### 28. **CHANGES TO THE OBLIGORS**

#### 28.1 **Assignments and Transfer by Obligors**

No Obligor may assign any of its rights or transfer any of its rights or obligations under the Finance Documents.

## 28.2 **Additional Guarantors**

- (a) Subject to compliance with the provisions of clauses 30.18(c) and (d) ("Know Your Customer" Checks), the Borrower may request that any of its wholly-owned Subsidiaries become an Additional Guarantor.
- (b) The Borrower shall procure that any other member of the Borrower Group which is a Material Company shall, as soon as possible after becoming a Material Company, become an Additional Guarantor.
- (c) A Subsidiary of the Borrower shall become an Additional Guarantor if:
  - (i) all the Lenders and the Overdraft Provider approve the addition of that Subsidiary (and each Lender hereby approves each Material Company);
  - (ii) the Borrower delivers to the Security Agent a duly completed and executed Accession Letter; and
  - (iii) the Security Agent has received all of the documents and other evidence listed in part 2 of schedule 5 (Conditions Precedent) in relation to that Additional Guarantor, each in form and substance satisfactory to the Security Agent.
- (d) The Security Agent shall notify the Borrower and all the Guaranteed Finance Parties promptly upon being satisfied that it has received (in form and substance satisfactory to it) all the documents and other evidence listed in part 2 of schedule 5 (Conditions Precedent).

## 28.3 **Repetition of Representations**

Delivery of an Accession Letter constitutes confirmation by the relevant Subsidiary that the Repeating Representations are true and correct in relation to it as at the date of delivery as if made by reference to the facts and circumstances then existing.

## 28.4 **Resignation of a Guarantor**

- (a) The Borrower may request that a Guarantor ceases to be a Guarantor by delivering to the Security Agent a Resignation Letter.
- (b) The Security Agent shall accept a Resignation Letter and notify the Borrower and the Facility Agent, the Lenders and the Overdraft Provider of its acceptance if:
  - (i) no Default is continuing or would result from the acceptance of the Resignation Letter (and the Borrower has confirmed this is the case); and
  - (ii) all the Lenders and the Overdraft Provider have consented to the Borrower's request.

## 29. **ROLE OF THE FACILITY AGENT, THE ARRANGERS AND THE REFERENCE BANKS**

### 29.1 **Appointment of the Facility Agent**

- (a) Each of the Finance Parties appoints the Facility Agent to act as its facility agent under and in connection with the Finance Documents.
- (b) Each of the Finance Parties authorises the Facility Agent to perform the duties, obligations and responsibilities and to exercise the rights, powers, authorities and discretions specifically given to the Facility Agent under or in connection with the

Finance Documents together with any other incidental rights, powers, authorities and discretions.

## 29.2 **Instructions**

- (a) The Facility Agent shall:
  - (i) unless a contrary indication appears in a Finance Document, exercise or refrain from exercising any right, power, authority or discretion vested in it as Facility Agent in accordance with any instructions given to it by:
    - (A) all Lenders if the relevant Finance Document stipulates the matter is an all Lender decision; and
    - (B) in all other cases, the Majority Lenders; and
  - (ii) not be liable for any act (or omission) if it acts (or refrains from acting) in accordance with paragraph (i) above.
- (b) The Facility Agent shall be entitled to request instructions, or clarification of any instruction, from the Majority Lenders (or, if the relevant Finance Document stipulates the matter is a decision for any other Lender or group of Lenders, from that Lender or group of Lenders) as to whether, and in what manner, it should exercise or refrain from exercising any right, power, authority or discretion. The Facility Agent may refrain from acting unless and until it receives any such instructions or clarification that it has requested.
- (c) Save in the case of decisions stipulated to be a matter for any other Lender or group of Lenders under the relevant Finance Document and unless a contrary indication appears in a Finance Document, any instructions given to the Facility Agent by the Majority Lenders shall override any conflicting instructions given by any other Parties and will be binding on all Finance Parties.
- (d) The Facility Agent may refrain from acting in accordance with any instructions of any Lender or group of Lenders until it has received any indemnification and/or security that it may in its discretion require (which may be greater in extent than that contained in the Finance Documents and which may include payment in advance) for any cost, loss or liability which it may incur in complying with those instructions.
- (e) In the absence of instructions, the Facility Agent may act (or refrain from acting) as it considers to be in the best interest of the Lenders.

The Facility Agent is not authorised to act on behalf of a Lender (without first obtaining that Lender's consent) in any legal or arbitration proceedings relating to any Finance Document.

## 29.3 **Duties of the Facility Agent**

- (a) The Facility Agent's duties under the Finance Documents are solely mechanical and administrative in nature.
- (b) Subject to paragraph (c) below, the Facility Agent shall promptly forward to a Party the original or a copy of any document which is delivered to the Facility Agent for that Party by any other Party.
- (c) Without prejudice to clause 34.7 (Copy of Transfer Certificate or Assignment Agreement to the Borrower), paragraph (b) above shall not apply to any Transfer Certificate or to any Assignment Agreement.

- (d) Except where a Finance Document specifically provides otherwise, the Facility Agent is not obliged to review or check the adequacy, accuracy or completeness of any document it forwards to another Party.
- (e) If the Facility Agent receives notice from a Party referring to this agreement, describing a Default and stating that the circumstance described is a Default, it shall promptly notify the Finance Parties.
- (f) If the Facility Agent is aware of the non-payment of any principal, interest, commitment fee or other fee payable to a Finance Party (other than the Facility Agent or the Arrangers or the Security Agent) under this agreement it shall promptly notify the other Finance Parties.
- (g) The Facility Agent shall have only those duties, obligations and responsibilities expressly specified in the Finance documents to which it is expressed to be a party (and no others shall be implied).

#### 29.4 **Role of the Arrangers**

Except as specifically provided in the Finance Documents, the Arrangers has no obligations of any kind to any other Party under or in connection with any Finance Document.

#### 29.5 **No Fiduciary Duties**

- (a) Nothing in this agreement constitutes the Facility Agent or the Arrangers as a trustee or fiduciary of any other person.
- (b) None of the Facility Agent nor the Arrangers or the Security Agent shall be bound to account to any Lender for any sum or the profit element of any sum received by it for its own account.

#### 29.6 **Business with the Group**

The Facility Agent and the Arrangers may accept deposits from, lend money to and generally engage in any kind of banking or other business with any member of the Group.

#### 29.7 **Rights and Discretions of the Facility Agent**

- (a) The Facility Agent may:
  - (i) rely on any representation, communication, notice or document believed by it to be genuine, correct and appropriately authorised;
  - (ii) assume that:
    - (A) any instructions received by it from the Majority Lenders, any Lenders or any group of Lenders are fully given in accordance with the terms of the Finance Documents; and
    - (B) unless it has received notice of revocations, that those instructions have not been revoked; and

- (iii) rely on a certificate from any person:
  - (A) as to any matter of fact or circumstance which might reasonably be expected to be within the knowledge of that person; or
  - (B) to the effect that such person approves of any particular dealing, transaction, step, action or thing,  
  
as sufficient evidence that that is the case and, in the case of paragraph (A) above, may assume the truth and accuracy of that certificate.
- (b) The Facility Agent may assume (unless it has received notice to the contrary in its capacity as agent for the Lenders) that:
  - (i) no Default has occurred (unless it has actual knowledge of a Default arising under clause 33.1 (Non-Payment));
  - (ii) any right, power, authority or discretion vested in any Party or the Majority Lenders has not been exercised; and
  - (iii) any notice or request made by the Borrower (other than a Utilisation Request) is made on behalf of and with the consent and knowledge of all the Obligors.
- (c) The Facility Agent may engage, and pay for the advice or services of any lawyers, accountants, surveyors or other professional advisers or experts.
- (d) Without prejudice to the generality of paragraph (c) above or paragraph (e) below, the Facility Agent may at any time engage and pay for the services of any lawyers to act as independent counsel to the Facility Agent (and so separate from any lawyers instructed by the Lenders) if the Facility Agent in its reasonable opinion deems this to be necessary.
- (e) The Facility Agent may rely on the advice or services of any lawyers, accountants, tax advisers, surveyors or other professional advisers or experts (whether obtained by the Facility Agent or by any other Party) and shall not be liable for any damages, costs or losses to any person, any diminution in value or any liability whatsoever arising as a result of its so relying.
- (f) The Facility Agent may act in relation to the Finance Documents through its officers, employees and agents.
- (g) Unless a Finance Document expressly provides otherwise, the Facility Agent may disclose to any other Party any information it reasonably believes it has received as agent under this agreement.
- (h) Notwithstanding any other provision of any Finance Document to the contrary, neither the Facility Agent nor the Arrangers is obliged to do or omit to do anything if it would or might in its reasonable opinion constitute a breach of any law or regulation or a breach of a fiduciary duty or duty of confidentiality.
- (i) Notwithstanding any provision of any Finance Document to the contrary, the Facility Agent is not obliged to expend or risk its own funds or otherwise incur any financial liability in the performance of its duties, obligations or responsibilities or the exercise of any right, power, authority or discretion if it has grounds for believing the repayment of such funds or adequate indemnity against, or security for, such risk or liability is not reasonably assured to it.

## 29.8 **Responsibility for Documentation**

Neither the Facility Agent nor the Arrangers is responsible or liable for:

- (a) the adequacy, accuracy or completeness of any information (whether oral or written) supplied by the Facility Agent, the Arrangers, any Group Obligor or any other person given in or in connection with any Finance Document or the transactions contemplated by the Finance Documents or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document; or
- (b) the legality, validity, effectiveness, adequacy or enforceability of any Finance Document or Security or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document or the Security; or
- (c) any determination as to whether any information provided or to be provided to any Finance Party is non-public information the use of which may be regulated or prohibited by applicable law or regulation relating to insider dealing or otherwise.

## 29.9 **No duty to monitor**

The Facility Agent shall not be bound to enquire:

- (a) whether or not any Default has occurred;
- (b) as to the performance, default or any breach by any Party of its obligations under any Finance Document; or
- (c) whether any other event specified in any Finance Document has occurred.

## 29.10 **Exclusion of Liability**

- (a) Without limiting paragraph (b) below, and without prejudice to any other provision of any Finance Document excluding or limiting the liability of the Facility Agent, the Facility Agent will not be liable for:
  - (i) any damages, costs or losses to any person, any diminution in value, or any liability whatsoever arising as a result of taking or not taking any action under or in connection with any Finance Document, unless directly caused by its gross negligence or wilful misconduct;
  - (ii) exercising, or not exercising, any right, power, authority or discretion given to it by, or in connection with, any Finance Document or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with, any Finance Document, other than by reason of its gross negligence or wilful misconduct; or
  - (iii) without prejudice to the generality of paragraphs (i) and (ii) above, any damages, costs or losses to any person, any diminution in value or any liability whatsoever (including, without limitation, for negligence or any other category of liability whatsoever) but not including any claim based on the fraud of the Facility Agent) arising as a result of:
    - (A) any act, event or circumstance not reasonably within its control; or
    - (B) the general risks of investment in, or the holding of assets in, any jurisdiction,

including (in each case and without limitation) such damages, costs, losses, diminution in value or liability arising as a result of: nationalisation, expropriation or other governmental actions; any regulation, currency restriction, devaluation or fluctuation; market conditions affecting the execution or settlement of transactions or the value of assets (including any Disruption Event); breakdown, failure or malfunction of any third party transport, telecommunications, computer services or systems; natural disasters or acts of God; war, terrorism, insurrection or revolution; or strikes or industrial action.

- (b) No Party (other than the Facility Agent) may take any proceedings against any officer, employee or agent of the Facility Agent in respect of any claim it might have against the Facility Agent or in respect of any act or omission of any kind by that officer, employee or agent in relation to any Finance Document and any officer, employee or agent of the Facility Agent may rely on this clause subject to clause 8.3 (Third Party Rights) and the provisions of the Third Parties Act.
- (c) The Facility Agent will not be liable for any delay (or any related consequences) in crediting an account with an amount required under the Finance Documents to be paid by the Facility Agent if the Facility Agent has taken all necessary steps as soon as reasonably practicable to comply with the regulations or operating procedures of any recognised clearing or settlement system used by the Facility Agent for that purpose.
- (d) Nothing in this agreement shall oblige the Facility Agent or the Arrangers to carry out:
  - (i) any "know your customer" or other checks in relation to any person; or
  - (ii) any check on the extent to which any transaction contemplated by this agreement might be unlawful for any Lender,

on behalf of any Lender and each Lender confirms to the Facility Agent and the Arrangers that it is solely responsible for any such checks it is required to carry out and that it may not rely on any statement in relation to such checks made by the Facility Agent or the Arrangers.

- (e) Without prejudice to any provision of any Finance Document excluding or limiting the Facility Agent's liability, any liability of the Facility Agent arising under or in connection with any Finance Document shall be limited to the amount of actual loss which has been suffered (as determined by reference to the date of default of the Facility Agent or, if later, the date on which the loss arises as a result of such default) but without reference to any special conditions or circumstances known to the Facility Agent at any time which increase the amount of that loss. In no event shall the Facility Agent be liable for any loss of profits, goodwill, reputation, business opportunity or anticipated saving, or for special, punitive, indirect or consequential damages, whether or not the Facility Agent has been advised of the possibility of such loss or damages.

#### 29.11 **Lenders' Indemnity to the Facility Agent**

Each Lender shall (in proportion to its share of the Total Commitments or, if the Total Commitments are then zero, to its share of the Total Commitments immediately prior to their reduction to zero) indemnify the Facility Agent, within three Business Days of demand, against any cost, loss or liability (including, without limitation, for negligence or any other category of liability whatsoever) incurred by the Facility Agent (otherwise than by reason of the Facility Agent's gross negligence or wilful misconduct) (or, in the case of any cost, loss or liability pursuant to clause 40.10 (Disruption to Payment Systems etc.)

notwithstanding the Facility Agent's negligence, gross negligence or any other category of liability whatsoever but not including any claim based on the fraud of the Facility Agent) in acting as Facility Agent under the Finance Documents (unless the Facility Agent has been reimbursed by an Obligor pursuant to a Finance Document).

#### 29.12 **Resignation of the Facility Agent**

- (a) The Facility Agent may resign and appoint one of its Affiliates acting through an office in the United Kingdom as successor by giving notice to the other Finance Parties and the Borrower.
- (b) Alternatively the Facility Agent may resign by giving 30 days' notice to the other Finance Parties and the Borrower, in which case the Majority Lenders (after consultation with the Borrower) may appoint a successor Facility Agent. In addition, the Majority Lenders (after consultation with the Borrower) may require an Impaired Agent to resign after any notice period and (after consultation with the Borrower) may appoint a successor Facility Agent.
- (c) If the Majority Lenders have not appointed a successor Facility Agent in accordance with paragraph (b) above within 30 days after notice of resignation was given, the retiring Facility Agent (after consultation with the Borrower) may appoint a successor Facility Agent (acting through an office in the United Kingdom).
- (d) If the Facility Agent wishes to resign because (acting reasonably) it has concluded that it is no longer appropriate for it to remain as agent and the Facility Agent is entitled to appoint a successor Facility Agent under paragraph (c) above, the Facility Agent may (if it concludes (acting reasonably) that it is necessary to do so in order to persuade the proposed successor Facility Agent to become a party to this agreement as Facility Agent) agree with the proposed successor Facility Agent amendments to this Clause 29 and any other term of this agreement dealing with the rights or obligations of the Facility Agent consistent with then current market practice for the appointment and protection of corporate trustees together with any reasonable amendments to the agency fee payable under this agreement which are consistent with the successor Facility Agent's normal fee rates and those amendments will bind the Parties.
- (e) The retiring Facility Agent shall, at its own cost, make available to the successor Facility Agent such documents and records and provide such assistance as the successor Facility Agent may reasonably request for the purposes of performing its functions as Facility Agent under the Finance Documents. The Borrower shall within 3 Business Days of demand, reimburse the retiring Facility Agent for the amount of all costs and expenses (including legal fees) properly incurred by it in making available such documents and records and providing such assistance.
- (f) The Facility Agent's resignation notice shall only take effect upon the appointment of a successor.
- (g) Upon the appointment of a successor, the retiring Facility Agent shall be discharged from any further obligation in respect of the Finance Documents (other than its obligations under paragraph (e) above) but shall remain entitled to the benefit of clause 15.3 (Indemnity to the Facility Agent) and this clause 36 (and any agency fees for the account of the retiring Facility Agent shall cease to accrue from (and shall be payable on) that date). Any successor and each of the other Parties shall have the same rights and obligations amongst themselves as they would have had if such successor had been an original Party.

- (h) After consultation with the Borrower, the Majority Lenders may, by notice to the Facility Agent, require it to resign in accordance with paragraph (b) above. In this event, the Facility Agent shall resign in accordance with paragraph (b) above.
- (i) The Facility Agent shall resign in accordance with paragraph (b) above (and, to the extent applicable, shall use reasonable endeavours to appoint a successor Facility Agent pursuant to paragraph (c) above) if on or after the date which is three months before the earliest FATCA Application Date relating to any payment to the Facility Agent under the Finance Documents, either:
  - (i) the Facility Agent fails to respond to a request under Clause 20.8 (*FATCA Information*) and a Lender reasonably believes that the Facility Agent will not be (or will have ceased to be) a FATCA Exempt Party on or after that FATCA Application Date;
  - (ii) the information supplied by the Facility Agent pursuant to Clause 13.8 (*FATCA Information*) indicates that the Facility Agent will not be (or will have ceased to be) a FATCA Exempt Party on or after that FATCA Application Date; or
  - (iii) the Facility Agent notifies the Borrower and the Lenders that the Facility Agent will not be (or will have ceased to be) a FATCA Exempt Party on or after that FATCA Application Date;

and (in each case) a Lender reasonably believes that a Party will be required to make a FATCA Deduction that would not be required if the Facility Agent were a FATCA Exempt Party, and that Lender, by notice to the Agent, requires it to resign.

#### 29.13 **Confidentiality**

- (a) In acting as agent for the Finance Parties, the Facility Agent shall be regarded as acting through its agency division which shall be treated as a separate entity from any other of its divisions or departments.
- (b) If information is received by another division or department of the Facility Agent, it may be treated as confidential to that division or department and the Facility Agent shall not be deemed to have notice of it.
- (c) Notwithstanding any other provision of any Finance Document to the contrary, neither the Facility Agent nor the Arrangers are obliged to disclose to any other person:
  - (i) any confidential information; or
  - (ii) any other information

if the disclosure would or might in its reasonable opinion constitute a breach of any law or a breach of a fiduciary duty.

#### 29.14 **Relationship with the Lenders**

- (a) The Facility Agent may treat the person shown in its records as Lender at the opening of business (in the place of the Facility Agent's principal office as notified to the Finance Parties from time to time) as the Lender acting through its Facility Office:
- (i) entitled to or liable for any payment due under any Finance Document on that day; and
  - (ii) entitled to receive and act upon any notice, request, document or communication or make any decision or determination under any Finance Document made or delivered on that day,
- unless it has received not less than five Business Days' prior notice from that Lender to the contrary in accordance with the terms of this agreement.
- (b) Each Lender shall supply the Facility Agent with any information that the Security Agent may reasonably specify (through the Facility Agent) as being necessary or desirable to enable the Security Agent to perform its functions as Security Agent. Each Lender shall deal with the Security Agent exclusively through the Facility Agent and shall not deal directly with the Security Agent.
- (c) Any Lender may by notice to the Facility Agent appoint a person to receive on its behalf all notices, communications, information and documents to be made or despatched to that Lender under the Finance Documents. Such notice shall contain the address and (where communication by electronic mail or other electronic means is permitted under clause 43.6 (Electronic communication)) electronic mail address and/or any other information required to enable the sending and receipt of information by that means (and, in each case, the department or officer, if any, for whose attention communication is to be made) and be treated as a notification of a substitute address, electronic mail address, department and officer by that Lender for the purposes of clause 43.2 (Addresses) and clause 43.6(a)(iii) (Electronic communication) and the Facility Agent shall be entitled to treat such person as the person entitled to receive all such notices, communications, information and documents as though that person were that Lender.

#### 29.15 **Credit Appraisal by the Lenders**

Without affecting the responsibility of any Group Obligor for information supplied by it or on its behalf in connection with any Finance Document, each Lender confirms to the Facility Agent and the Arrangers that it has been, and will continue to be, solely responsible for making its own independent appraisal and investigation of all risks arising under or in connection with any Finance Document including but not limited to:

- (a) the financial condition, status and nature of each member of the Group;
- (b) the legality, validity, effectiveness, adequacy or enforceability of any Finance Document and the Security and any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document or the Security;
- (c) whether that Lender has recourse, and the nature and extent of that recourse, against any Party or any of its respective assets under or in connection with any Finance Document, the Security, the transactions contemplated by the Finance Documents or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document;

- (d) the adequacy, accuracy and/or completeness of any other information provided by the Facility Agent, any Party or by any other person under or in connection with any Finance Document, the transactions contemplated by the Finance Documents or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document; and
- (e) the right or title of any person in or to, or the value or sufficiency of any part of the Charged Property, the priority of any of the Security or the existence of any Encumbrance affecting the Charged Property.

#### **29.16 Facility Agent's Management Time**

Any amount payable to the Agent under clause 22.3 (Indemnity to the Facility Agent), clause 25 (Costs and Expenses) and clause 36.11 (Lenders' indemnity to the Facility Agent) shall include the cost of utilising the Facility Agent's management time or other resources, up to a maximum of £10,000 in any 12 month period, and will be calculated on the basis of such reasonable daily or hourly rates as the Agent may notify to the Borrower and the Lenders.

#### **29.17 Deduction from Amounts Payable by the Facility Agent**

If any Party owes an amount to the Facility Agent under the Finance Documents the Facility Agent may, after giving notice to that Party, deduct an amount not exceeding that amount from any payment to that Party which the Facility Agent would otherwise be obliged to make under the Finance Documents and apply the amount deducted in or towards satisfaction of the amount owed. For the purposes of the Finance Documents that Party shall be regarded as having received any amount so deducted.

#### **29.18 Role of Reference Banks**

- (a) No Reference Bank is under any obligation to provide a quotation or any other information to the Facility Agent.
- (b) No Reference Bank will be liable for any action taken by it under or in connection with any Finance Document, or for any Reference Bank Quotation, unless directly caused by its gross negligence or wilful misconduct.
- (c) No Party (other than the relevant Reference Bank) may take any proceedings against any officer, employee or agent of any Reference Bank in respect of any claim it might have against that Reference Bank or in respect of any act or omission of any kind by that officer, employee or agent in relation to any Finance Document, or to any Reference Bank Quotation, and any officer, employee or agent of each Reference Bank may rely on this Clause 29.17 subject to Clause 1.3 (Third party rights) and the provisions of the Third Parties Act.

#### **29.19 Third party Reference Bank**

A Reference Bank which is not a Party may rely on Clause 29.17 (Role of Reference Banks), Clause 47.2 (Exceptions) and Clause 49 (Confidentiality of Funding Rates and Reference Bank Quotations) subject to Clause 8.3 (Third party rights) and the provisions of the Third Parties Act.

## 30. **ROLE OF THE SECURITY AGENT**

### 30.1 **Appointment of the Security Agent**

- (a) Each of the Guaranteed Finance Parties appoints the Security Agent to act as its security agent under and in connection with the Guaranteed Documents.
- (b) Each of the Guaranteed Finance Parties authorises the Security Agent to exercise the rights, powers, authorities and discretions specifically given to the Security Agent under or in connection with the Guaranteed Documents together with any other incidental rights, powers, authorities and discretions.

### 30.2 **Trust**

- (a) The Security Agent declares that it shall hold the Security on trust for the Secured Parties on the terms contained in this agreement.
- (b) Each of the Parties agrees that the Security Agent shall have only those duties, obligations and responsibilities expressly specified in this agreement or in the Security Documents to which the Security Agent is expressed to be a party (and no others shall be implied).

### 30.3 **No Independent Power**

The Secured Parties shall not have any independent power to enforce, or have recourse to, any of the Security or to exercise any rights or powers arising under the Security Documents except through the Security Agent.

### 30.4 **Instructions to Security Agent and Exercise of Discretion**

- (a) Subject to paragraphs (d) and (e) below, the Security Agent shall act in accordance with any instructions given to it by the Majority Lenders or, if so instructed by the Majority Lenders, refrain from exercising any right, power, authority or discretion vested in it as Security Agent and shall be entitled to assume that (i) any instructions received by it from the Facility Agent, the Lenders or a group of Lenders are duly given in accordance with the terms of the relevant Finance Documents and (ii) unless it has received actual notice of revocation, that those instructions or directions have not been revoked.
- (b) The Security Agent shall be entitled to request instructions, or clarification of any direction, from the Majority Lenders as to whether, and in what manner, it should exercise or refrain from exercising any rights, powers, authorities and discretions and the Security Agent may refrain from acting unless and until those instructions or clarification are received by it.
- (c) Any instructions given to the Security Agent by the Majority Lenders shall override any conflicting instructions given by any other Parties.
- (d) Paragraph (a) above shall not apply:
  - (i) where a contrary indication appears in this agreement;
  - (ii) where this agreement requires the Security Agent to act in a specified manner or to take a specified action;
  - (iii) in respect of any provision which protects the Security Agent's own position in its personal capacity as opposed to its role of Security Agent for the Secured Parties including, without limitation, the provisions set out in

clauses 37.6 (Security Agent's Discretions) to clause 37.21 (Disapplication) (inclusive).

- (e) In exercising any discretion to exercise a right, power or authority under this agreement where it has not received any instructions from the Majority Lenders as to the exercise of that discretion, the Security Agent shall do so having regard to the interests of all the Secured Parties.

### 30.5 **Security Agent's Actions**

The Security Agent may (but shall not be obliged to), in the absence of any instructions to the contrary, take such action in the exercise of any of its powers and duties under the Finance Documents as it considers in its discretion to be appropriate.

### 30.6 **Security Agent's Discretions**

The Security Agent may:

- (a) assume (unless it has received actual notice to the contrary from the Facility Agent) that (i) no Default has occurred and no Group Obligor is in breach of or default under its obligations under any of the Guaranteed Documents and (ii) any right, power, authority or discretion vested by any Guaranteed Document in any person has not been exercised;
- (b) if it receives any instructions or directions from the Agent to take any action in relation to the Security, assume that all applicable conditions under the Guaranteed Documents for taking that action have been satisfied
- (c) engage, pay for and rely on the advice or services of any legal advisers, accountants, tax advisers, surveyors or other experts (whether obtained by the Security Agent or by any other Secured Party) whose advice or services may at any time seem necessary, expedient or desirable;
- (d) rely upon any communication or document believed by it to be genuine and, as to any matters of fact which might reasonably be expected to be within the knowledge of a Secured Party or any Group Obligor, upon a certificate signed by or on behalf of that person; and
- (e) refrain from acting in accordance with the instructions of any Party (including bringing any legal action or proceeding arising out of or in connection with the Guaranteed Documents) until it has received any indemnification and/or security that it may in its discretion require (whether by way of payment in advance or otherwise) for all costs, losses and liabilities which it may incur in so acting.

### 30.7 **Security Agent's Obligations**

The Security Agent shall promptly:

- (a) copy to the Facility Agent the contents of any notice or document received by it from any Group Obligor under any Finance Document;
- (b) forward to a Party the original or a copy of any document which is delivered to the Security Agent for that Party by any other Party provided that, except where a Finance Document expressly provides otherwise, the Security Agent is not obliged to review or check the adequacy, accuracy or completeness of any document it forwards to another Party; and
- (c) inform the Facility Agent of the occurrence of any Default or any default by any Group Obligor in the due performance of or compliance with its obligations under

any Guaranteed Document of which the Security Agent has received notice from any other party to this agreement.

### 30.8 **Excluded Obligations**

Notwithstanding anything to the contrary expressed or implied in the Guaranteed Documents, the Security Agent shall not:

- (a) be bound to enquire as to (i) whether or not any Default has occurred or (ii) the performance, default or any breach by any Group Obligor of its obligations under any of the Guaranteed Documents;
- (b) be bound to account to any other Party for any sum or the profit element of any sum received by it for its own account;
- (c) be bound to disclose to any other person (including but not limited to any Secured Party) (i) any confidential information or (ii) any other information if disclosure would, or might in its reasonable opinion, constitute a breach of any law or be a breach of fiduciary duty; or
- (d) have or be deemed to have any relationship of trust or agency with any Group Obligor.

### 30.9 **Exclusion of Liability**

None of the Security Agent, any Receiver nor any Delegate shall accept responsibility or be liable for:

- (a) the adequacy, accuracy or completeness of any information (whether oral or written) supplied by the Security Agent or any other person in or in connection with any Guaranteed Document or the transactions contemplated in the Guaranteed Documents, or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Guaranteed Document;
- (b) the legality, validity, effectiveness, adequacy or enforceability of any Guaranteed Document, the Charged Property or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Guaranteed Document or the Charged Property;
- (c) any losses to any person or any liability arising as a result of taking or refraining from taking any action in relation to any of the Guaranteed Documents, the Charged Property or otherwise, whether in accordance with an instruction from the Facility Agent or otherwise unless directly caused by its gross negligence or wilful misconduct;
- (d) the exercise of, or the failure to exercise, any judgment, discretion or power given to it by or in connection with any of the Guaranteed Documents, the Charged Property or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with, the Guaranteed Documents or the Charged Property; or
- (e) any shortfall which arises on the enforcement or realisation of the Charged Property.

### 30.10 **No Proceedings**

No Party (other than the Security Agent, that Receiver or that Delegate) may take any proceedings against any officer, employee or agent of the Security Agent, a Receiver or a

Delegate in respect of any claim it might have against the Security Agent, a Receiver or a Delegate or in respect of any act or omission of any kind by that officer, employee or agent in relation to any Guaranteed Document or any Charged Property and any officer, employee or agent of the Security Agent, a Receiver or a Delegate may rely on this clause subject to clause 8.3 (Third Party Rights) and the provisions of the Third Parties Rights Act.

### 30.11 **Own Responsibility**

Without affecting the responsibility of any Group Obligor for information supplied by it or on its behalf in connection with any Guaranteed Document, each Secured Party confirms to the Security Agent that it has been, and will continue to be, solely responsible for making its own independent appraisal and investigation of all risks arising under or in connection with any Guaranteed Document including but not limited to:

- (a) the financial condition, status and nature of each member of the Group;
- (b) the legality, validity, effectiveness, adequacy and enforceability of any Guaranteed Document, the Charged Property and any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Guaranteed Document or the Charged Property;
- (c) whether that Secured Party has recourse, and the nature and extent of that recourse, against any Party or any of its respective assets under or in connection with any Guaranteed Document, the Charged Property, the transactions contemplated by the Guaranteed Documents or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Guaranteed Document or the Charged Property;
- (d) the adequacy, accuracy and/or completeness of any information provided by the Security Agent or by any other person under or in connection with any Guaranteed Document, the transactions contemplated by any Guaranteed Document or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Guaranteed Document; and
- (e) the right or title of any person in or to, or the value or sufficiency of any part of the Charged Property, the priority of any of the Security or the existence of any Security affecting the Charged Property,

and each Secured Party warrants to the Security Agent that it has not relied on and will not at any time rely on the Security Agent in respect of any of these matters.

### 30.12 **No Responsibility to Perfect Security**

The Security Agent shall not be liable for any failure to:

- (a) require the deposit with it of any deed or document certifying, representing or constituting the title of any Group Obligor to any of the Charged Property;
- (b) obtain any licence, consent or other authority for the execution, delivery, legality, validity, enforceability or admissibility in evidence of any of the Guaranteed Documents or the Security;
- (c) register, file or record or otherwise protect any of the Security (or the priority of any of the Security) under any applicable laws in any jurisdiction or to give notice to any person of the execution of any of the Guaranteed Documents or of the Security;

- (d) take, or to require any of the Group Obligors to take, any steps to perfect its title to any of the Charged Property or to render the Security effective or to secure the creation of any ancillary Encumbrance under the laws of any jurisdiction; or
- (e) require any further assurances in relation to any of the Security Documents.

### 30.13 **Insurance by Security Agent**

- (a) The Security Agent shall not be under any obligation to insure any of the Charged Property, to require any other person to maintain any insurance or to verify any obligation to arrange or maintain insurance contained in the Guaranteed Documents. The Security Agent shall not be responsible for any loss which may be suffered by any person as a result of the lack of or inadequacy of any such insurance.
- (b) Where the Security Agent is named on any insurance policy as an insured party, it shall not be responsible for any loss which may be suffered by reason of, directly or indirectly, its failure to notify the insurers of any material fact relating to the risk assumed by such insurers or any other information of any kind, unless the Facility Agent shall have requested it to do so in writing and the Security Agent shall have failed to do so within fourteen days after receipt of that request.

### 30.14 **Custodians and Nominees**

The Security Agent may appoint and pay any person to act as a custodian or nominee on any terms in relation to any assets of the trust as the Security Agent may determine, including for the purpose of depositing with a custodian this agreement or any document relating to the trust created under this agreement and the Security Agent shall not be responsible for any loss, liability, expense, demand, cost, claim or proceedings incurred by reason of the misconduct, omission or default on the part of any person appointed by it under this agreement or be bound to supervise the proceedings or acts of any person.

### 30.15 **Acceptance of Title**

The Security Agent shall be entitled to accept without enquiry, and shall not be obliged to investigate, any right and title that any of the Group Obligors may have to any of the Charged Property and shall not be liable for or bound to require any Obligor to remedy any defect in its right or title.

### 30.16 **Refrain from Illegality**

Notwithstanding anything to the contrary expressed or implied in the Guaranteed Documents, the Security Agent may refrain from doing anything which in its opinion will or may be contrary to any relevant law, directive or regulation of any jurisdiction and the Security Agent may do anything which is, in its opinion, necessary to comply with any such law, directive or regulation.

### 30.17 **Business with the Obligors**

The Security Agent may accept deposits from, lend money to, and generally engage in any kind of banking or other business with any of the Group Obligors.

### 30.18 **Winding up of Trust**

If the Security Agent, with the approval of the Majority Lenders, determines that (a) all of the Secured Obligations and all other obligations secured by the Security Documents have been fully and finally discharged and (b) none of the Secured Parties is under any commitment, obligation or liability (actual or contingent) to make advances or provide other financial accommodation to any Obligor pursuant to the Guaranteed Documents:

- (a) the trusts set out in this agreement shall be wound up and the Security Agent shall release, without recourse or warranty, all of the Security and the rights of the Security Agent under each of the Security Documents; and
- (b) any Retiring Security Agent shall release, without recourse or warranty, all of its rights under each of the Security Documents.

### 30.19 **Powers Supplemental**

The rights, powers and discretions conferred upon the Security Agent by this agreement shall be supplemental to the Trustee Act 1925 and the Trustee Act 2000 and in addition to any which may be vested in the Security Agent by general law or otherwise.

### 30.20 **Trustee Division Separate**

- (a) In acting as trustee for the Secured Parties, the Security Agent shall be regarded as acting through its trustee division which shall be treated as a separate entity from any of its other divisions or departments.
- (b) If information is received by another division or department of the Security Agent, it may be treated as confidential to that division or department and the Security Agent shall not be deemed to have notice of it.

### 30.21 **Disapplication**

Section 1 of the Trustee Act 2000 shall not apply to the duties of the Security Agent in relation to the trusts constituted by this agreement. Where there are any inconsistencies between the Trustee Act 1925 or the Trustee Act 2000 and the provisions of this agreement, the provisions of this agreement shall, to the extent allowed by law, prevail and, in the case of any inconsistency with the Trustee Act 2000, the provisions of this agreement shall constitute a restriction or exclusion for the purposes of that Act.

### 30.22 **Resignation of the Security Agent**

- (a) The Security Agent may resign and appoint one of its affiliates as successor by giving notice to the Borrower and the Secured Parties.
- (b) Alternatively the Security Agent may resign by giving notice to the other Parties in which case the Majority Lenders may appoint a successor Security Agent.
- (c) After consultation with the Borrower, the Majority Lenders may, by notice to the Security Agent, terminate the appointment of the Security Agent and appoint a successor Security Agent. That termination and new appointment may be made in respect of all or any part of the Security Agent's duties, obligations and responsibilities.
- (d) If the Majority Lenders have not appointed a successor Security Agent in accordance with paragraph (b) or (c) above within 30 days after the notice of resignation or termination was given, the Security Agent (after consultation with the Facility Agent) may appoint a successor Security Agent.

- (e) The resigning or terminated Security Agent (the "**Retiring Security Agent**") shall, at its own cost (in the case of resignation) and at the Borrower 's cost (in the case of termination), make available to the successor Security Agent such documents and records and provide such assistance as the successor Security Agent may reasonably request for the purposes of performing its functions as Security Agent under the Guaranteed Documents.
- (f) The Security Agent's resignation or termination shall only take effect upon the transfer of all of the Charged Property to a duly appointed successor (unless the Security Agent, the intended successor and the Majority Lenders agree otherwise).
- (g) Upon the appointment of a successor, the Retiring Security Agent shall be discharged from any further obligation in respect of the Guaranteed Documents (other than its obligations under clause 37.18 (Winding up of Trust) and under paragraph (d) above) but shall, in respect of any act or omission by it whilst it was the Security Agent, remain entitled to the benefit of clauses 36.18 (Role of the Security Agent) and clause 17.1 (Borrower 's Indemnity to the Secured Parties). Its successor and each of the other Parties shall have the same rights and obligations amongst themselves as they would have had if that successor had been an original Party.
- (h) The Facility Agent shall resign in accordance with paragraph (b) above (and, to the extent applicable, shall use reasonable endeavours to appoint a successor Facility Agent pursuant to paragraph (c) above) if on or after the date which is three Months before the earliest FATCA Application Date relating to any payment to the Facility Agent under the Finance Documents, either:
  - (i) the Facility Agent fails to respond to a request under clause 13.8 (FATCA Information) and a Lender reasonably believes that the Facility Agent will not be (or will have ceased to be) a FATCA Exempt Party on or after that FATCA Application Date;
  - (ii) the information supplied by the Facility Agent pursuant to clause 13.8 (FATCA Information) indicates that the Facility Agent will not be (or will have ceased to be) a FATCA Exempt Party on or after that FATCA Application Date; or
  - (iii) the Facility Agent notifies the Borrower and the Lenders that the Facility Agent will not be (or will have ceased to be) a FATCA Exempt Party on or after that FATCA Application Date,

and (in each case) a Lender reasonably believes that a Party will be required to make a FATCA Deduction that would not be required if the Facility Agent were a FATCA Exempt Party, and that Lender, by notice to the Agent, requires it to resign.

### 30.23 **Delegation**

- (a) Each of the Security Agent, any Receiver and any Delegate may, at any time, delegate by power of attorney or otherwise to any person for any period, all or any of the rights, powers and discretions vested in it by any of the Guaranteed Documents.
- (b) That delegation may be made upon any terms and conditions (including the power to sub-delegate) and subject to any restrictions that the Security Agent, that Receiver or that Delegate (as the case may be) may, in its discretion, think fit in the interests of the Secured Parties and it shall not be bound to supervise, or be in any way responsible for any loss incurred by reason of any misconduct or default on the part of any such delegate or sub-delegate.

### 30.24 **Additional Security Agents**

- (a) The Security Agent may at any time appoint (and subsequently remove) any person to act as a separate trustee or as a co-trustee jointly with it (i) if it considers that appointment to be in the interests of the Secured Parties or (ii) for the purposes of conforming to any legal requirements, restrictions or conditions which the Security Agent deems to be relevant or (iii) for obtaining or enforcing any judgment in any jurisdiction, and the Security Agent shall give prior notice to the Borrower and to the Facility Agent of that appointment.
- (b) Any person so appointed shall have the rights, powers and discretions (not exceeding those conferred on the Security Agent by this agreement) and the duties and obligations that are conferred or imposed by the instrument of appointment.
- (c) The remuneration that the Security Agent may pay to that person, and any costs and expenses (together with any applicable VAT) incurred by that person in performing its functions pursuant to that appointment shall, for the purposes of this agreement, be treated as costs and expenses incurred by the Security Agent.

### 31. **CONDUCT OF BUSINESS BY THE FINANCE PARTIES**

No provision of this agreement will:

- (a) interfere with the right of any Finance Party to arrange its affairs (tax or otherwise) in whatever manner it thinks fit;
- (b) oblige any Finance Party to investigate or claim any credit, relief, remission or repayment available to it or the extent, order and manner of any claim; or
- (c) oblige any Finance Party to disclose any information relating to its affairs (tax or otherwise) or any computations in respect of Tax.

### 32. **SHARING AMONG THE FINANCE PARTIES**

#### 32.1 **Payments to Finance Parties**

If a Finance Party (a "**Recovering Finance Party**") receives or recovers any amount from any Obligor other than in accordance with clause 40 (Payment Mechanics) (a "**Recovered Amount**") and applies that amount to a payment due under the Finance Documents then:

- (a) the Recovering Finance Party shall, within three Business Days, notify details of the receipt or recovery to the Facility Agent;
- (b) the Facility Agent shall determine whether the receipt or recovery is in excess of the amount the Recovering Finance Party would have been paid had the receipt or recovery been received or made by the Facility Agent and distributed in accordance with clause 40 (Payment Mechanics), without taking account of any Tax which would be imposed on the Facility Agent in relation to the receipt, recovery or distribution; and
- (c) the Recovering Finance Party shall, within three Business Days of demand by the Facility Agent, pay to the Facility Agent an amount (the "**Sharing Payment**") equal to such receipt or recovery less any amount which the Facility Agent determines may be retained by the Recovering Finance Party as its share of any payment to be made, in accordance with clause 40.5 (Partial Payments).

### 32.2 **Redistribution of Payments**

The Facility Agent shall treat the Sharing Payment as if it had been paid by the relevant Obligor and distribute it between the Finance Parties (other than the Recovering Finance Party) (the "**Sharing Finance Parties**") in accordance with clause 40.5 (Partial Payments) towards the obligations of that Obligor to the Sharing Finance Parties.

### 32.3 **Recovering Finance Party's Rights**

On a distribution by the Facility Agent under clause 39.2 (Redistribution of payments) of a payment received by a Recovering Finance Party from an Obligor, as between the relevant Obligor and the Recovering Finance Party, an amount of the Recovered Amount equal to the Sharing Payment will be treated as not having been paid by that Obligor.

### 32.4 **Reversal of Redistribution**

If any part of the Sharing Payment received or recovered by a Recovering Finance Party becomes repayable and is repaid by that Recovering Finance Party, then:

- (a) each Sharing Finance Party shall, upon request of the Facility Agent, pay to the Facility Agent for the account of that Recovering Finance Party an amount equal to the appropriate part of its share of the Sharing Payment (together with an amount as is necessary to reimburse that Recovering Finance Party for its proportion of any interest on the Sharing Payment which that Recovering Finance Party is required to pay) (the "**Redistributed Amount**"); and
- (b) as between the relevant Obligor and each relevant Sharing Finance Party, an amount equal to the relevant Redistributed Amount will be treated as not having been paid by that Obligor.

### 32.5 **Exceptions**

- (a) This clause 39 shall not apply to the extent that the Recovering Finance Party would not, after making any payment pursuant to this clause, have a valid and enforceable claim against the relevant Obligor.
- (b) A Recovering Finance Party is not obliged to share with any other Finance Party any amount which the Recovering Finance Party has received or recovered as a result of taking legal or arbitration proceedings, if:
  - (i) it notified that other Finance Party of the legal or arbitration proceedings; and
  - (ii) that other Finance Party had an opportunity to participate in those legal or arbitration proceedings but did not do so as soon as reasonably practicable having received notice and did not take separate legal or arbitration proceedings.

### 33. **PAYMENT MECHANICS**

#### 33.1 **Payments to the Facility Agent**

- (a) On each date on which an Obligor or a Lender is required to make a payment under a Finance Document, that Obligor or Lender shall make the same available to the Facility Agent (unless a contrary indication appears in a Finance Document) for value on the due date at the time and in such funds specified by the Facility Agent as being customary at the time for settlement of transactions in the relevant currency in the place of payment.
- (b) Payment shall be made to such account in the principal financial centre of the country of that currency with such bank as the Facility Agent specifies.

#### 33.2 **Distributions by the Facility Agent**

Each payment received by the Facility Agent under the Finance Documents for another Party shall, subject to clause 40.3 (Distributions to an Obligor) and clause 40.4 (Clawback), be made available by the Facility Agent as soon as practicable after receipt to the Party entitled to receive payment in accordance with this agreement (in the case of a Lender, for the account of its Facility Office), to such account as that Party may notify to the Facility Agent by not less than five Business Days' notice with a bank in the principal financial centre of the country of that currency (or, in relation to euro, in the principal financial centre of a Participating Member State or London).

#### 33.3 **Distributions to an Obligor**

The Facility Agent may (with the consent of the Obligor or in accordance with clause 41 (Set-Off)) apply any amount received by it for that Obligor in or towards payment (on the date and in the currency and funds of receipt) of any amount due from that Obligor under the Finance Documents or in or towards purchase of any amount of any currency to be so applied.

#### 33.4 **Clawback**

- (a) Where a sum is to be paid to the Facility Agent under the Finance Documents for another Party, the Facility Agent is not obliged to pay that sum to that other Party (or to enter into or perform any related exchange contract) until it has been able to establish to its satisfaction that it has actually received that sum.
- (b) If the Facility Agent pays an amount to another Party and it proves to be the case that the Facility Agent had not actually received that amount, then the Party to whom that amount (or the proceeds of any related exchange contract) was paid by the Facility Agent shall on demand refund the same to the Facility Agent together with interest on that amount from the date of payment to the date of receipt by the Facility Agent, calculated by the Facility Agent to reflect its cost of funds.
- (c) If the Facility Agent has notified the Lenders that it is willing to make available amounts for the account of the Borrower before receiving funds from the Lenders then if and to the extent that the Facility Agent does so but it proves to be the case that it does not then receive funds from a Lender in respect of a sum which it paid to the Borrower:
  - (i) the Borrower shall on demand refund it to the Facility Agent; and
  - (ii) the Lender by whom those funds should have been made available or, if that Lender fails to do so, the Borrower shall on demand pay to the Facility Agent the amount (as certified by the Facility Agent) which will indemnify the

Facility Agent against any funding cost incurred by it as a result of paying out that sum before receiving those funds from that Lender.

### 33.5 **Partial Payments**

- (a) If the Facility Agent receives a payment that is insufficient to discharge all the amounts then due and payable by any Obligor under the Finance Documents, the Facility Agent shall (to the extent permitted by applicable law) apply that payment towards the obligations of that Obligor under the Finance Documents in the following order:
  - (i) **first**, in or towards payment pro rata of any unpaid fees, costs and expenses of the Facility Agent and the Security Agent under the Finance Documents;
  - (ii) **secondly**, in or towards payment pro rata of any accrued interest, fee or commission due but unpaid under this agreement;
  - (iii) **thirdly**, in or towards payment pro rata of any principal due but unpaid under this agreement; and
  - (iv) **fourthly**, in or towards payment pro rata of any other sum due but unpaid under the Finance Documents.
- (b) The Facility Agent shall, if so directed by Majority Lenders, vary the order set out in paragraphs (a)(ii) to (iv) (inclusive) above.
- (c) Paragraphs (a) and (b) above will override any appropriation made by an Obligor.

### 33.6 **No Set-Off by Obligors**

All payments to be made by an Obligor under the Finance Documents shall be calculated and be made without (and free and clear of any deduction for) set-off or counterclaim.

### 33.7 **Business Days**

- (a) Any payment which is due to be made on a day that is not a Business Day shall be made on the next Business Day in the same calendar month (if there is one) or the preceding Business Day (if there is not).
- (b) During any extension of the due date for payment of any principal or Unpaid Sum under this agreement interest is payable on the principal or Unpaid Sum at the rate payable on the original due date.

### 33.8 **Currency of Account**

- (a) Subject to paragraphs (b) to (e) (inclusive) below, Sterling is the currency of account and payment for any sum due from an Obligor under any Finance Document.
- (b) A repayment or prepayment of an Unpaid Sum or a part of an Unpaid Sum shall be made in the currency in which that Unpaid Sum is denominated on its due date.
- (c) Each payment of interest shall be made in the currency in which the sum in respect of which the interest is payable was denominated when that interest accrued.

- (d) Each payment in respect of costs, expenses or Taxes shall be made in the currency in which the costs, expenses or Taxes are incurred.
- (e) Any amount expressed to be payable in a currency other than Sterling shall be paid in that other currency.

### 33.9 **Change of Currency**

- (a) Unless otherwise prohibited by law, if more than one currency or currency unit are at the same time recognised by the central bank of any country as the lawful currency of that country, then:
  - (i) any reference in the Finance Documents to, and any obligations arising under the Finance Documents in, the currency of that country shall be translated into, or paid in, the currency or currency unit of that country designated by the Facility Agent (after consultation with the Borrower); and
  - (ii) any translation from one currency or currency unit to another shall be at the official rate of exchange recognised by the central bank for the conversion of that currency or currency unit into the other, rounded up or down by the Facility Agent (acting reasonably).
- (b) If a change in any currency of a country occurs, this agreement will, to the extent the Facility Agent (acting reasonably and after consultation with the Borrower) specifies to be necessary, be amended to comply with any generally accepted conventions and market practice in the Relevant Interbank Market and otherwise to reflect the change in currency.

### 33.10 **Disruption to Payment Systems etc.**

If either the Facility Agent determines (in its discretion) that a Disruption Event has occurred or the Facility Agent is notified by the Borrower that a Disruption Event has occurred:

- (a) the Facility Agent may, and shall if requested to do so by the Borrower, consult with the Borrower with a view to agreeing with the Borrower such changes to the operation or administration of the Facility as the Facility Agent may deem necessary in the circumstances;
- (b) the Facility Agent shall not be obliged to consult with the Borrower in relation to any changes mentioned in paragraph (a) above if, in its opinion, it is not practicable to do so in the circumstances and, in any event, shall have no obligation to agree to such changes;
- (c) the Facility Agent may consult with the Finance Parties in relation to any changes mentioned in paragraph (a) above but shall not be obliged to do so if, in its opinion, it is not practicable to do so in the circumstances;
- (d) any such changes agreed upon by the Facility Agent and the Borrower shall (whether or not it is finally determined that a Disruption Event has occurred) be binding upon the Parties as an amendment to (or, as the case may be, waiver of) the terms of the Finance Documents notwithstanding the provisions of clause 47 (Amendments and Waivers);

- (e) the Facility Agent shall not be liable for any damages, costs or losses whatsoever (including, without limitation for negligence, gross negligence or any other category of liability whatsoever but not including any claim based on the fraud of the Facility Agent) arising as a result of its taking, or failing to take, any actions pursuant to or in connection with this clause 40.10; and
- (f) the Facility Agent shall notify the Finance Parties of all changes agreed pursuant to paragraph (d) above.

### 33.11 **Impaired Agent**

- (a) If, at any time, the Facility Agent becomes an Impaired Agent, an Obligor or a Lender which is required to make a payment under the Finance Documents to the Facility Agent in accordance with this clause 40 may instead either pay that amount direct to the required recipient or pay that amount to an interest-bearing account held with a Lender nominated by the Majority Lenders and in relation to which no Insolvency Event has occurred and is continuing, in the name of the Obligor or the Lender making the payment and designated as a trust account for the benefit of the Party or Parties beneficially entitled to that payment under the Finance Documents. In each case such payments must be made on the due date for payment under the Finance Documents.
- (b) All interest accrued on the amount standing to the credit of the trust account shall be for the benefit of the beneficiaries of that trust account pro rata to their respective entitlements.
- (c) A Party which has made a payment in accordance with this clause 40.11 shall be discharged of the relevant payment obligation under the Finance Documents and shall not take any credit risk with respect to the amounts standing to the credit of the trust account.
- (d) Promptly upon the appointment of a successor Facility Agent in accordance with this agreement, each Party which has made a payment to a trust account in accordance with this clause 40.11 shall give all requisite instructions to the bank with whom the trust account is held to transfer the amount (together with any accrued interest) to the successor Facility Agent for distribution in accordance with clause 40.2 (Distributions by the Facility Agent).

### 34. **SET-OFF**

Following an Event of Default which is continuing, a Finance Party may set off any matured obligation due from an Obligor under the Finance Documents (to the extent beneficially owned by that Finance Party) against any matured obligation owed by that Finance Party to that Obligor, regardless of the place of payment, booking branch or currency of either obligation. If the obligations are in different currencies, the Finance Party may convert either obligation at a market rate of exchange in its usual course of business for the purpose of the set-off.

## 35. **APPLICATION OF PROCEEDS**

### 35.1 **Order of Application**

All amounts from time to time received or recovered by the Security Agent in connection with the realisation or enforcement of all or any part of the Security shall be held by the Security Agent on trust to apply them at any time as the Security Agent (in its discretion) sees fit, to the extent permitted by applicable law (and subject to the provisions of this clause 42), in the following order of priority:

- (a) in discharging any sums owing to the Security Agent, any Receiver or any Delegate;
- (b) in payment to the Agent, on behalf of the Secured Parties (or, in the case of the Overdraft, directly to the Overdraft Provider), for application on a pro rata basis towards the discharge of all sums due and payable by any Obligor under any of the Finance Documents (to be applied) in accordance with clause 40.5 (Partial Payments) and the Overdraft Letter to the extent that it constitutes Permitted Financial Indebtedness;
- (c) if none of the Obligors is under any further actual or contingent liability under any Guaranteed Document, in payment to any person to whom the Security Agent is obliged to pay in priority to any Obligor; and
- (d) the balance, if any, in payment to the relevant Obligor.

### 35.2 **Investment of Proceeds**

Prior to the application of the proceeds of the Security Property in accordance with clause 42.1 (Order of Application), the Security Agent may, in its discretion, hold all or part of those proceeds in an interest-bearing suspense or impersonal account(s) in the name of the Security Agent with such financial institution (including itself) and for so long as the Security Agent shall think fit (the interest being credited to the relevant account) pending the application from time to time of those monies in the Security Agent's discretion in accordance with the provisions of this clause 42.

### 35.3 **Currency Conversion**

- (a) For the purpose of, or pending the discharge of, any of the Secured Obligations, the Security Agent may convert any moneys received or recovered by the Security Agent from one currency to another, at the Security Agent's spot rate of exchange.
- (b) The obligations of any Obligor to pay in the due currency shall only be satisfied to the extent of the amount of the due currency purchased after deducting the costs of conversion.

### 35.4 **Permitted Deductions**

The Security Agent shall be entitled, in its discretion, (a) to set aside by way of reserve amounts required to meet and (b) to make and pay, any deductions and withholdings (on account of taxes or otherwise) which it is or may be required by any applicable law to make from any distribution or payment made by it under this agreement, and to pay all Taxes which may be assessed against it in respect of any of the Charged Property, or as a consequence of performing its duties, or by virtue of its capacity as Security Agent under any of the Finance Documents or otherwise (other than in connection with its remuneration for performing its duties under this agreement).

### 35.5 **Good Discharge**

- (a) Any payment to be made in respect of the Secured Obligations by the Security Agent may be made to the Facility Agent on behalf of the Lenders or (as applicable) the Overdraft Provider and any payment made in that way shall be a good discharge, to the extent of that payment, by the Security Agent.
- (b) The Security Agent is under no obligation to make the payments to the Facility Agent or (as applicable) the Overdraft Provider under paragraph (a) above in the same currency as that in which the Secured Obligations owing to the relevant Lender or (as applicable) the Overdraft Provider are denominated.

### 35.6 **Sums received by Obligors**

If any of the Obligors receives any sum which, pursuant to any of the Guaranteed Documents, should have been paid to the Security Agent, that sum shall promptly be paid to the Security Agent for application in accordance with this clause 42.

## 36. **NOTICES**

### 36.1 **Communications in Writing**

Any communication to be made under or in connection with the Finance Documents shall be made in writing and, unless otherwise stated, may be made by letter.

### 36.2 **Addresses**

The address (and the department or officer, if any, for whose attention the communication is to be made) of each Party for any communication or document to be made or delivered under or in connection with the Finance Documents is identified with its name below or any substitute address or department or officer as the Party may notify to the Facility Agent (or the Facility Agent may notify to the other Parties, if a change is made by the Facility Agent) by not less than five Business Days' notice.

### 36.3 **Delivery**

- (a) Any communication or document made or delivered by one person to another under or in connection with the Finance Documents will only be effective when it has been left at the relevant address or five Business Days after being deposited in the post postage prepaid in an envelope addressed to it at that address and, if a particular department or officer is specified as part of its address details provided under clause 43.2 (Addresses), if addressed to that department or officer.
- (b) Any communication or document to be made or delivered to the Facility Agent or the Security Agent will be effective only when actually received by the Facility Agent and then only if it is expressly marked for the attention of the department or officer identified with the Facility Agent's signature below (or any substitute department or officer as the Facility Agent shall specify for this purpose).
- (c) All notices from or to an Obligor shall be sent through the Facility Agent.
- (d) Any communication or document made or delivered to the Borrower or the Parent (as applicable) in accordance with this clause will be deemed to have been made or delivered to each of the Obligors.

#### 36.4 **Notification of Address**

Promptly upon receipt of notification of an address or change of address pursuant to clause 43.2 (Addresses) or changing its own address, the Facility Agent shall notify the other Parties.

#### 36.5 **Communication when Facility Agent is Impaired Agent**

If the Facility Agent is an Impaired Agent, the Parties may, instead of communicating with each other through the Facility Agent, communicate with each other directly and (while the Facility Agent is an Impaired Agent) all the provisions of the Finance Documents which require communications to be made or notices to be given to or by the Facility Agent shall be varied so that communications may be made and notices given to or by the relevant Parties directly. This provision shall not operate after a replacement Facility Agent has been appointed.

#### 36.6 **Electronic Communication**

- (a) Any communication to be made between the Facility Agent and a Lender or the Security Agent under or in connection with the Finance Documents may be made by electronic mail or other electronic means, if the Facility Agent, the Security Agent and the relevant Lender:
  - (i) agree that, unless and until notified to the contrary, this is to be an accepted form of communication;
  - (ii) notify each other in writing of their electronic mail address and/or any other information required to enable the sending and receipt of information by that means; and
  - (iii) notify each other of any change to their address or any other such information supplied by them.
- (b) Any electronic communication made between the Facility Agent and a Lender or the Security Agent will be effective only when actually received in readable form and in the case of any electronic communication made by a Lender to the Facility Agent or the Security Agent only if it is addressed in such a manner as the Facility Agent or the Security Agent shall specify for this purpose.

#### 36.7 **English Language**

- (a) Any notice given under or in connection with any Finance Document must be in English.
- (b) All other documents provided under or in connection with any Finance Document must be:
  - (i) in English; or
  - (ii) if not in English, and if so required by the Facility Agent, accompanied by a certified English translation and, in this case, the English translation will prevail unless the document is a constitutional, statutory or other official document.

## 37. **CALCULATIONS AND CERTIFICATES**

### 37.1 **Accounts**

In any litigation or arbitration proceedings arising out of or in connection with a Finance Document, the entries made in the accounts maintained by a Finance Party are prima facie evidence of the matters to which they relate.

### 37.2 **Certificates and Determinations**

Any certification or determination by a Finance Party of a rate or amount under any Finance Document is, in the absence of manifest error, conclusive evidence of the matters to which it relates.

### 37.3 **Day Count Convention**

Any interest, commission or fee accruing under a Finance Document will accrue from day to day and is calculated on the basis of the actual number of days elapsed and a year of 365 days or, in any case where the practice in the Relevant Interbank Market differs, in accordance with that market practice.

## 38. **PARTIAL INVALIDITY**

If, at any time, any provision of the Finance Documents is or becomes illegal, invalid or unenforceable in any respect under any law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions nor the legality, validity or enforceability of such provision under the law of any other jurisdiction will in any way be affected or impaired.

## 39. **REMEDIES AND WAIVERS**

No failure to exercise, nor any delay in exercising, on the part of any Finance Party, any right or remedy under the Finance Documents shall operate as a waiver, nor shall any single or partial exercise of any right or remedy prevent any further or other exercise or the exercise of any other right or remedy. The rights and remedies provided in this agreement are cumulative and not exclusive of any rights or remedies provided by law.

## 40. **AMENDMENTS AND WAIVERS**

### 40.1 **Required Consents**

- (a) Subject to clause 47.2 (Exceptions) any term of the Finance Documents may be amended or waived only with the consent of the Majority Lenders, the Borrower and the Parent and any such amendment or waiver will be binding on all Parties.
- (b) The Facility Agent or in respect of the Security Documents, the Security Agent may effect, on behalf of any Finance Party, any amendment or waiver permitted by this clause.
- (c) Each Obligor agrees to any such amendment or waiver permitted by this clause 47. which is agreed to by the Borrower and the Parent. This includes any amendment or waiver which would, but for this paragraph (c), require the consent of all of the Guarantors.

### 40.2 **Exceptions**

- (a) An amendment or waiver that has the effect of changing or which relates to:
  - (i) the definition of "Majority Lenders" in clause 8.1 (Definitions);

- (ii) an extension to the date of payment of any amount under the Finance Documents;
- (iii) a reduction in the amount of any payment of principal, interest, fees or commission payable;
- (iv) an increase in or an extension of any Commitment;
- (v) a change to the Guarantors other than in accordance with clause 35 (Changes to the Obligors) or a change to the identity of the guarantor under the Parent Guarantee;
- (vi) any provision which expressly requires the consent of all the Lenders;
- (vii) clause 9.2 (Finance Parties' Rights and Obligations), clause 34 (Changes to the Lenders), clause 39 (Sharing among the Finance Parties) or this clause 47;
- (viii) clause 18.3 (Mandatory Cash Collateralisation or Cancellation of Letters of Credit) or clause 18.4 (Mandatory Cancellation – Extension of the Facility);
- (ix) the definition of "Availability Period" in clause 8.1 (Definitions);
- (x) clause 31.1 (Financial Condition) or section 4.03 (Financial Covenants) of the Parent Guarantee;
- (xi) a waiver of an Event of Default;
- (xii) the nature or scope of the guarantee and indemnity granted under clause 26.5 (Guarantee and Indemnity) or under the Parent Guarantee;
- (xiii) the nature and scope of the Charged Property or the manner in which the proceeds of enforcement of the Security are distributed; or
- (xiv) the release of any Security or the Parent Guarantee,

shall not be made without the prior consent of all the Lenders.

- (b) An amendment or waiver which relates to the rights or obligations of the Facility Agent, an Arranger, a Reference Bank or the Security Agent (each in their capacity as such) may not be effected without the consent of the Facility Agent, that Arranger, that Reference Bank or, as the case may be, the Security Agent.
- (c) An amendment or waiver which relates to the rights or obligations of the Overdraft Provider (including any such amendment or waiver referred to in paragraphs (a)(v), (viii), (ix) or (x) above) may not be effected without the consent of the Overdraft Provider.

#### 40.3 **Replacement of a Defaulting Lender**

- (a) The Borrower may, at any time a Lender has become and continues to be a Defaulting Lender, by giving ten Business Days' prior written notice to the Facility Agent and that Lender:
  - (i) replace that Lender by requiring that Lender to (and that Lender shall) transfer pursuant to clause 34 (Changes to the Lenders) all (and not part only) of its rights and obligations under this agreement;

- (ii) require that Lender to (and that Lender shall) transfer pursuant to clause 34 (Changes to the Lenders) all (and not part only) of the undrawn Commitment of that Lender; or
- (iii) require that Lender to (and that Lender shall) transfer pursuant to clause 34 (Changes to the Lenders) all (and not part only) of its rights and obligations in respect of the Facility,

to a Lender or other Eligible Institution selected by the Borrower, and which (unless the Facility Agent is an Impaired Agent) is acceptable to the Facility Agent (acting reasonably), which confirms its willingness to assume and does assume all the obligations or all the relevant obligations of the transferring Lender (including the assumption of the transferring Lender's participations on the same basis as the transferring Lender).

- (b) Any transfer of rights and obligations of a Defaulting Lender pursuant to this clause shall be subject to the following conditions:
  - (i) the Borrower shall have no right to replace the Facility Agent or Security Agent;
  - (ii) the Default Lender must receive the purchase price in cash payable at the time of transfer equal to any amount paid by that Defaulting Lender under or in connection with any Letter of Credit and all accrued interest, fees, break costs and any other amount payable to such Defaulting Lender under the Finance Documents;
  - (iii) neither the Facility Agent nor the Defaulting Lender shall have any obligation to the Borrower to find a replacement Lender; and
  - (iv) in no event shall the Defaulting Lender be required to pay or surrender to the replacement Lender any of the fees received by the Defaulting Lender pursuant to the Finance Documents.

## 41. **CONFIDENTIALITY**

### 41.1 **Confidential Information**

Each Finance Party agrees to keep all Confidential Information confidential and not to disclose it to anyone, save to the extent permitted by clause 48.2 (Disclosure of Confidential Information), and to ensure that all Confidential Information is protected with security measures and a degree of care that would apply to its own confidential information.

### 41.2 **Disclosure of Confidential Information**

Any Finance Party may disclose:

- (a) to any of its Affiliates and Related Funds and any of its or their officers, directors, employees, professional advisers, auditors, partners and Representatives such Confidential Information as that Finance Party shall consider appropriate if any person to whom the Confidential Information is to be given pursuant to this paragraph (a) is informed in writing of its confidential nature and that some or all of such Confidential Information may be price-sensitive information except that there shall be no such requirement to so inform if the recipient is subject to professional obligations to maintain the confidentiality of the information or is otherwise bound by requirements of confidentiality in relation to the Confidential Information;

- (b) to any person:
- (i) to (or through) whom it assigns or transfers (or may potentially assign or transfer) all or any of its rights and/or obligations under one or more Finance Documents or which succeeds (or which may potentially succeed) it as Facility Agent or Security Agent and, in each case, to any of that person's Affiliates, Related Funds, Representatives and professional advisers;
  - (ii) with (or through) whom it enters into (or may potentially enter into), whether directly or indirectly, any sub-participation in relation to, or any other transaction under which payments are to be made or may be made by reference to, one or more Finance Documents and/or one or more Obligors and to any of that person's Affiliates, Related Funds, Representatives and professional advisers;
  - (iii) appointed by any Finance Party or by a person to whom paragraph (b)(i) or (ii) above applies to receive communications, notices, information or documents delivered pursuant to the Finance Documents on its behalf (including, without limitation, any person appointed of clause 36.14(c) (Relationship with the Lenders));
  - (iv) who invests in or otherwise finances (or may potentially invest in or otherwise finance), directly or indirectly, any transaction referred to in paragraph (b)(i) or (b)(ii) above;
  - (v) to whom information is required or requested to be disclosed by any court of competent jurisdiction or any governmental, banking, taxation or other regulatory authority or similar body, the rules of any relevant stock exchange or pursuant to any applicable law or regulation;
  - (vi) to whom information is required to be disclosed in connection with, and for the purposes of, any litigation, arbitration, administrative or other investigations, proceedings or disputes;
  - (vii) to whom or for whose benefit that Finance Party charges, assigns or otherwise creates security (or may do so) pursuant to clause 34.8 (Security over Lenders' rights);
  - (viii) who is a Party; or
  - (ix) with the consent of the Borrower;

in each case, such Confidential Information as that Finance Party shall consider appropriate if:

- (A) in relation to paragraphs (b)(i), (b)(ii) and b(iii) above, the person to whom the Confidential Information is to be given has entered into a Confidentiality Undertaking except that there shall be no requirement for a Confidentiality Undertaking if the recipient is a professional adviser and is subject to professional obligations to maintain the confidentiality of the Confidential Information;

- (B) in relation to paragraph (b)(iv) above, the person to whom the Confidential Information is to be given has entered into a Confidentiality Undertaking or is otherwise bound by requirements of confidentiality in relation to the Confidential Information they receive and is informed that some or all of such Confidential Information may be price-sensitive information;
  - (C) in relation to paragraphs (b)(v), (b)(vi) and (b)(vii) above, the person to whom the Confidential Information is to be given is informed of its confidential nature and that some or all of such Confidential Information may be price-sensitive information except that there shall be no requirement to so inform if, in the opinion of that Finance Party, it is not practicable so to do in the circumstances;
- (c) to any person appointed by that Finance Party or by a person to whom paragraph (b)(i) or (b)(ii) above applies to provide administration or settlement services in respect of one or more of the Finance Documents including without limitation, in relation to the trading of participations in respect of the Finance Documents, such Confidential Information as may be required to be disclosed to enable such service provider to provide any of the services referred to in this paragraph (c) if the service provider to whom the Confidential Information is to be given has entered into a confidentiality agreement substantially in the form of the LMA Master Confidentiality Undertaking for Use With Administration/Settlement Service Providers or such other form of confidentiality undertaking agreed between the Parent and the relevant Finance Party;
  - (d) to any rating agency (including its professional advisers) such Confidential Information as may be required to be disclosed to enable such rating agency to carry out its normal rating activities in relation to the Finance Documents and/or the Obligors if the rating agency to whom the Confidential Information is to be given is informed of its confidential nature and that some or all of such Confidential Information may be price-sensitive information; and
  - (e) the size and term of the Facility and the name of each of the Obligors to any investor or a potential investor in a securitisation (or similar transaction of broadly equivalent economic effect) of that Lender's rights or obligations under the Finance Documents.

#### 41.3 **Disclosure to Numbering Service Providers**

- (a) Any Finance Party may disclose to any national or international numbering service provider appointed by that Finance Party to provide identification numbering services in respect of this agreement, the Facility and/or one or more Obligors the following information:
  - (i) names of Group Obligors;
  - (ii) country of domicile of Group Obligors;
  - (iii) place of incorporation of Group Obligors;
  - (iv) date of this agreement;
  - (v) the names of the Facility Agent and the Arrangers;
  - (vi) date of each amendment and restatement of this agreement;
  - (vii) amounts of, and names of, the Facility;

- (viii) amount of Total Commitments;
  - (ix) currency of the Facility;
  - (x) type of Facility;
  - (xi) ranking of Facility;
  - (xii) termination date for Facility;
  - (xiii) changes to any of the information previously supplied pursuant to paragraphs (i) to (xi) (inclusive) above; and
  - (xiv) such other information agreed between such Finance Party and the Parent,  
to enable such numbering service provider to provide its usual syndicated loan numbering identification services.
- (b) The Parties acknowledge and agree that each identification number assigned to this agreement, the Facility and/or one or more Group Obligors by a numbering service provider and the information associated with each such number may be disclosed to users of its services in accordance with the standard terms and conditions of that numbering service provider.
- (c) The Borrower represents that none of the information set out in paragraphs (i) to (xiii) (inclusive) of paragraph (a) above is, nor will at any time be, unpublished price-sensitive information.
- (d) The Facility Agent shall notify the Parent and the other Finance Parties of:
- (i) the name of any numbering service provider appointed by the Facility Agent in respect of this agreement, the Facility and/or one or more Group Obligors; and
  - (ii) the number or, as the case may be, numbers assigned to this agreement, the Facility and/or one or more Group Obligors by such numbering service provider.

#### 41.4 **Entire agreement**

This clause 48 (Confidentiality) constitutes the entire agreement between the Parties in relation to the obligations of the Finance Parties under the Finance Documents regarding Confidential Information and supersedes any previous agreement, whether express or implied, regarding Confidential Information.

#### 41.5 **Inside information**

Each of the Finance Parties acknowledges that some or all of the Confidential Information is or may be price-sensitive information and that the use of such information may be regulated or prohibited by applicable legislation including securities law relating to insider dealing and market abuse and each of the Finance Parties undertakes not to use any Confidential Information for any unlawful purpose.

#### 41.6 **Notification of disclosure**

Each of the Finance Parties agrees (to the extent permitted by law and regulation) to inform the Borrower:

- (a) of the circumstances of any disclosure of Confidential Information made pursuant to clause 48.2(b)(v) (Disclosure of Confidential Information) except where such disclosure is made to any of the persons referred to in that paragraph during the ordinary course of its supervisory or regulatory function; and
- (b) upon becoming aware that Confidential Information has been disclosed in breach of this clause 48 (Confidentiality).

#### 41.7 **Continuing obligations**

The obligations in this clause 48 (Confidentiality) are continuing and, in particular, shall survive and remain binding on each Finance Party for a period of twelve Months from the earlier of:

- (a) the date on which all amounts payable by the Obligors under or in connection with this agreement have been paid in full and all Commitments have been cancelled or otherwise cease to be available; and
- (b) the date on which such Finance Party otherwise ceases to be a Finance Party.

### 42. **CONFIDENTIALITY OF FUNDING RATES AND REFERENCE BANK QUOTATIONS**

#### 42.1 **Confidentiality and disclosure**

- (a) The Facility Agent and each Obligor agree to keep each Funding Rate (and, in the case of the Facility Agent, each Reference Bank Quotation) confidential and not to disclose it to anyone, save to the extent permitted by paragraphs (b), (c) and (d) below.
- (b) The Facility Agent may disclose:
  - (i) any Funding Rate (but not, for the avoidance of doubt, any Reference Bank Quotation) to the Borrower pursuant to clause 26.5 (Notification of rates of interest); and
  - (ii) any Funding Rate or any Reference Bank Quotation to any person appointed by it to provide administration services in respect of one or more of the Finance Documents to the extent necessary to enable such service provider to provide those services if the service provider to whom that information is to be given has entered into a confidentiality agreement substantially in the form of the LMA Master Confidentiality Undertaking for Use With Administration/Settlement Service Providers or such other form of confidentiality undertaking agreed between the Facility Agent and the relevant Lender or Reference Bank, as the case may be.
- (c) The Facility Agent may disclose any Funding Rate or any Reference Bank Quotation, and each Obligor may disclose any Funding Rate, to:
  - (i) any of its Affiliates and any of its or their officers, directors, employees, professional advisers, auditors, partners and Representatives if any person to whom that Funding Rate or Reference Bank Quotation is to be given pursuant to this paragraph (i) is informed in writing of its confidential nature and that it may be price-sensitive information except that there shall be no such requirement to so inform if the recipient is subject to professional

obligations to maintain the confidentiality of that Funding Rate or Reference Bank Quotation or is otherwise bound by requirements of confidentiality in relation to it;

- (ii) any person to whom information is required or requested to be disclosed by any court of competent jurisdiction or any governmental, banking, taxation or other regulatory authority or similar body, the rules of any relevant stock exchange or pursuant to any applicable law or regulation if the person to whom that Funding Rate or Reference Bank Quotation is to be given is informed in writing of its confidential nature and that it may be price-sensitive information except that there shall be no requirement to so inform if, in the opinion of the Agent or the relevant Obligor, as the case may be, it is not practicable to do so in the circumstances;
  - (iii) any person to whom information is required to be disclosed in connection with, and for the purposes of, any litigation, arbitration, administrative or other investigations, proceedings or disputes if the person to whom that Funding Rate or Reference Bank Quotation is to be given is informed in writing of its confidential nature and that it may be price-sensitive information except that there shall be no requirement to so inform if, in the opinion of the Facility Agent or the relevant Obligor, as the case may be, it is not practicable to do so in the circumstances; and
  - (iv) any person with the consent of the relevant Lender or Reference Bank, as the case may be.
- (d) The Facility Agent's obligations in this clause 49 relating to Reference Bank Quotations are without prejudice to its obligations to make notifications under clause 26.5 (Notification of rates of interest) provided that (other than pursuant to paragraph (b)(i) above) the Facility Agent shall not include the details of any individual Reference Bank Quotation as part of any such notification.

#### 42.2 **Related obligations**

- (a) The Facility Agent and each Obligor acknowledge that each Funding Rate (and, in the case of the Facility Agent, each Reference Bank Quotation) is or may be price-sensitive information and that its use may be regulated or prohibited by applicable legislation including securities law relating to insider dealing and market abuse and the Facility Agent and each Obligor undertake not to use any Funding Rate or, in the case of the Facility Agent, any Reference Bank Quotation for any unlawful purpose.
- (b) The Facility Agent and each Obligor agree (to the extent permitted by law and regulation) to inform the relevant Lender or Reference Bank, as the case may be:
  - (i) of the circumstances of any disclosure made pursuant to paragraph (c)(ii) of clause 49.1 (Confidentiality and disclosure) except where such disclosure is made to any of the persons referred to in that paragraph during the ordinary course of its supervisory or regulatory function; and
  - (ii) upon becoming aware that any information has been disclosed in breach of this clause 49.

#### 42.3 **No Event of Default**

No Event of Default will occur under clause 33.3 (Other obligations) by reason only of an Obligor's failure to comply with this clause 49.

43. **COUNTERPARTS**

Each Finance Document may be executed in any number of counterparts, and this has the same effect as if the signatures on the counterparts were on a single copy of the Finance Document.

44. **GOVERNING LAW**

This agreement and any non-contractual obligations arising out of or in connection with it are governed by the laws of England.

45. **ENFORCEMENT**

45.1 **Jurisdiction of English Courts**

- (a) The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this agreement (including a dispute relating to the existence, validity or termination of this agreement or any non-contractual obligation arising out of or in connection with this agreement) (a "**Dispute**").
- (b) The Parties agree that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly no Party will argue to the contrary.
- (c) Notwithstanding paragraph (a) above, no Finance Party shall be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Finance Parties may take concurrent proceedings in any number of jurisdictions.

45.2 **Service of Process**

- (a) Without prejudice to any other mode of service allowed under any relevant law, each Guarantor (other than any Guarantor incorporated in England and Wales):
  - (i) irrevocably appoints the Borrower as its agent for service of process in relation to any proceedings before the English courts in connection with any Finance Document the Borrower by its execution of this agreement, accepts that appointment); and
  - (ii) agrees that failure by an agent for service of process to notify the relevant Guarantor of the process will not invalidate the proceedings concerned.
- (b) If any person appointed as an agent for service of process is unable for any reason to act as agent for service of process, the Borrower (on behalf of all the Obligors) must immediately (and in any event within five days of such event taking place) appoint another agent on terms acceptable to the Facility Agent. Failing this, the Facility Agent may appoint another agent for this purpose.
- (c) The Borrower expressly agrees and consents to the provisions of this clause 52 and clause 51 (Governing Law).

**IN WITNESS** whereof this agreement has been executed on the date first above written

## **SCHEDULE 1**

### **The Original Lenders**

<b>Name of Original Lender</b>	<b>Commitment</b>
Lloyds Bank plc	£110,000,000
ING Bank N.V., London Branch	£110,000,000
	£220,000,000

## SCHEDULE 2

### Conditions Precedent

#### Part 1 - Conditions Precedent to Initial Utilisation

*[Each of the conditions precedent in this Part 1 of Schedule 2 has previously been satisfied]*

#### 6. GROUP OBLIGORS

- 6.1 A copy of the constitutional documents of each Group Obligor and in the case of the Parent, such constitutional documents shall be certified as of a recent date together with a certificate of good standing.
- 6.2 A copy of a resolution of the board of directors of each Group Obligor:
- (a) approving the terms of, and the transactions contemplated by, the Finance Documents to which it is a party and resolving that it execute the Finance Documents to which it is a party;
  - (b) authorising a specified person or persons to execute the Finance Documents to which it is a party on its behalf; and
  - (c) authorising a specified person or persons, on its behalf, to sign and/or despatch all documents and notices (including, if relevant, any Utilisation Request) to be signed and/or despatched by it under or in connection with the Finance Documents to which it is a party.
- 6.3 A specimen of the signature of each person authorised by the resolution referred to in paragraph 6.2 above.
- 6.4 A copy of a resolution signed by all the holders of the issued shares in the Original Guarantor, approving the terms of, and the transactions contemplated by, the Finance Documents to which the Original Guarantor is a party.
- 6.5 A certificate of each Group Obligor (other than the Account Party) (signed by a director or officer, as appropriate):
- (a) confirming that borrowing or guaranteeing, as appropriate, the Total Commitments would not cause any borrowing, guaranteeing or similar limit binding on that Group Obligor to be exceeded; and
  - (b) certifying that each copy document relating to it specified in this part 1 of schedule 5 is correct, complete and in full force and effect as at a date no earlier than the date of this agreement.

#### 7. FINANCE DOCUMENTS

- 7.1 This agreement executed by the members of the Group party to it.
- 7.2 The Parent Guarantee executed by the Parent.
- 7.3 The Fee Letters executed by the parties to it.
- 7.4 The Charge Over Account executed and delivered by the parties to it.

8. **PERFECTION OF SECURITY**

Notices of assignment or charge to be sent under the Security Documents executed on behalf of each relevant Obligor.

9. **LEGAL OPINIONS**

9.1 A legal opinion of Ashurst LLP, legal advisers to the Arrangers and the Facility Agent in England, substantially in the form distributed to the Original Lenders prior to signing this agreement.

9.2 A legal opinion of Ropes & Gray, legal advisers to the Parent, substantially in the form distributed to the Original Lenders prior to signing this agreement.

10. **OTHER DOCUMENTS AND EVIDENCE**

10.1 The Substitution Letter.

10.2 The Letter of Comfort.

10.3 Evidence, satisfactory to the Facility Agent, that on or before the first Utilisation Date, all amounts outstanding under the Existing Facility Agreement, have been or will be refinanced and the facility made available under the Existing Facility Agreement has been or will be cancelled in full and all Encumbrances granted under the Existing Facility Agreement have been or will be irrevocably released.

10.4 The Original Financial Statements of each Obligor (other than the Original Guarantor) and the most recent audited financial statements of the Parent.

10.5 Evidence that the fees, costs and expenses then due from the Borrower pursuant to clause 19 (Commission and Fees) and clause 25 (Costs and Expenses) have been paid or will be paid within three Business Days of the signing of this agreement or in accordance with the terms of the relevant Fee Letter as appropriate.

10.6 A certificate of the Borrower (signed by a director) addressed to the Finance Parties confirming which companies within the Group are Material Companies and which has earnings before interest, tax, depreciation and amortisation representing five per cent or more of consolidated earnings before interest, tax, depreciation and amortisation of the Group or has gross assets representing five per cent, or more of the gross assets of the Group, calculated on a consolidated basis.

10.7 Evidence satisfactory to the Facility Agent that all Encumbrances (if any) other than Permitted Encumbrances over the revenues or assets of the Borrower and its subsidiaries have been released or discharged.

10.8 Customary and required "know your customer" information for each Lender in respect of the Obligors.

10.9 The Overdraft Letter.

## **Part 2 - Conditions Precedent Required to be Delivered by an Additional Guarantor**

1. An Accession Letter, duly executed by the Additional Guarantor and the Borrower
2. A copy of the constitutional documents of the Additional Guarantor.
3. A copy of a resolution of the board of directors of the Additional Guarantor:
  - 3.1 approving the terms of, and the transactions contemplated by, the Accession Letter and the Finance Documents and resolving that it execute the Accession Letter;
  - 3.2 authorising a specified person or persons to execute the Accession Letter on its behalf; and
  - 3.3 authorising a specified person or persons, on its behalf, to sign and/or despatch all other documents and notices to be signed and/or despatched by it under or in connection with the Finance Documents.
4. A specimen of the signature of each person authorised by the resolution referred to in paragraph 3 above.
5. A copy of a resolution signed by all the holders of the issued shares of the Additional Guarantor, approving the terms of, and the transactions contemplated by, the Finance Documents to which the Additional Guarantor is a party.
6. A certificate of the Additional Guarantor (signed by a director) confirming that borrowing or guaranteeing, as appropriate, the Total Commitments would not cause any borrowing, guaranteeing or similar limit binding on it to be exceeded.
7. A certificate of an Authorised Signatory of the Additional Guarantor certifying that each copy document listed in this part 2 of schedule 5 is correct, complete and in full force and effect as at a date no earlier than the date of the Accession Letter.
8. A copy of any other Authorisation or other document, opinion or assurance which the Facility Agent considers to be necessary or desirable in connection with the entry into and performance of the transactions contemplated by the Accession Letter or for the validity and enforceability of any Finance Document.
9. If available, the latest financial statements of the Additional Guarantor.
10. A legal opinion of Ashurst LLP, legal advisers to the Facility Agent in England and Wales.
11. If the Additional Guarantor is incorporated in a jurisdiction other than England and Wales, a legal opinion of the legal advisers to the Facility Agent in the jurisdiction in which the Additional Guarantor is incorporated.
12. If the proposed Additional Guarantor is incorporated in a jurisdiction other than England and Wales, evidence that the process agent specified in clause 52.2 (Service of Process), if not an Obligor, has accepted its appointment in relation to the proposed Additional Guarantor.
13. Customary and required "know your customer" information for each Lender in respect of each Additional Guarantor.

### SCHEDULE 3

#### Utilisation Request

From: Chaucer Holdings Limited (the "**Borrower** ")

To: Lloyds Bank plc (the "**Facility Agent**")

Dated: [●]

Dear Sirs

**Chaucer Holdings Limited – £220,000,000 standby letter of credit facility agreement dated 15 October 2015 as amended and restated pursuant to an amendment and restatement agreement dated [●] 2017 (the "Agreement")**

1. We refer to the Agreement. This is a Utilisation Request. Terms defined in the Agreement have the same meaning in this Utilisation Request unless given a different meaning in this Utilisation Request.

2. We wish to arrange for a Letter of Credit to be issued by the Lenders on the following terms:

Applicant: Chaucer Corporate Capital (No. 3)

Proposed Utilisation Date: [●] (or, if that is not a Business Day, the next Business Day)

Commencement Date of Letter of Credit: [●]

Face amount: [£[●]] or, if less, the Available Facility]

Term: [●]

Expiry Date: [●]

3. We confirm that each condition specified in clause 12.2 (Further Conditions Precedent) of the Agreement is satisfied on the date of this Utilisation Request.

4. This Utilisation Request is irrevocable.

5. The Letter of Credit should be issued in favour of Lloyd's in the form attached and delivered to the recipient at The Society and the Council of Lloyd's, C/o The Manager, Market Services, Fidentia House, Walter Burke Way, Chatham Maritime, Chatham, Kent ME4 4RN.

Yours faithfully

.....  
Authorised Signatory for  
Chaucer Holdings Limited



6. All charges are for the Applicant's account.
7. Subject to any contrary indication herein, this Credit is subject to the International Standby Practices - ISP98 (1998 publication - International Chamber of Commerce Publication No. 590).
8. This Credit and all non-contractual obligations arising from or in connection with it shall be governed by and interpreted in accordance with English law and the Issuing Banks hereby irrevocably submit to the jurisdiction of the High Court of Justice in England.
9. Each Issuing Bank engages with Lloyd's that demands made on it under and in compliance with the terms and conditions of this Credit will be duly honoured on presentation.

Yours faithfully

.....

for and on behalf of  
**Lloyds Bank plc**

For and on behalf of  
**[Names of all Issuing Banks including the Facility Agent]**

**Schedule 1 to the Letter of Credit**

**Issuing Banks' Commitments**

**Name and Address of Issuing Bank**

**Commitment (Sterling)**

Total Value: \_\_\_\_\_

**Schedule 2 to the Letter of Credit**

**Form of Demand Sterling**

**[On Lloyd's letterhead]**

Dear Sir/Madam

**THE SOCIETY OF LLOYD'S  
TRUSTEE OF  
LETTER OF CREDIT NO.**

With reference to the above, we enclose for your attention a Bill of Exchange, together with the respective Letter of Credit. Payment should be made by way of CHAPS. The account details are as follows:

Lloyd's of London  
NatWest  
City of London Office  
P.O. Box 12258  
1 Princes Street  
London  
EC2R 8AP

Sort Code 60-00-01  
Account

Please quote Member Code:

Yours faithfully

for Manager  
Market Services

By:

Name:

Title:

Your ref:

Our ref: MEM/ / / /

Extn:

**BILL OF EXCHANGE**

**The Society of Lloyd's**

Trustee of  
Letter of Credit No.

Please pay in accordance with the terms of the Letter of Credit to our order the amount of £ .

For and on behalf of

Authorised signatory  
Market Services

To: Lloyds Bank plc  
as Bank

## SCHEDULE 5

### Letter of Comfort

[on Lloyd's letterhead]

To:  
Chaucer Holdings Limited  
Plantation Place  
30 Fenchurch Street  
London, EC3M 3AD

Lloyd's Ref: [insert]

[date]

Dear Sir / Madam

#### CHAUCER HOLDINGS LIMITED

1. We acknowledge that Chaucer Holdings Limited (**Holdings**) has procured or may procure the provision to Lloyd's of:
  - (a) cash and/or securities in a form prescribed by Lloyd's by way of third party deposit for the benefit of Chaucer Corporate Capital (No.3) Limited (**Chaucer No.3**) in the amount of £210,060,000 (the **Own FAL**); and
  - (b) a syndicated letter of credit in respect of Chaucer No.3 by Lloyds Bank plc and ING Bank N.V., London Branch pursuant to a facility agreement dated 15 October 2015 as amended and restated on or about the date of this letter, such letter of credit having a face value (at the date of this letter) of £220,000,000 (the **Bank LOC**) and which will form part of the funds at Lloyd's of Chaucer No.3.
2. We further acknowledge that Chaucer No.3's Lloyd's deposit account includes cash and/or investments in the amount of £261,450,000 which forms part of its funds at Lloyd's (**Chaucer No.3 Own FAL**).
3. You have asked whether, in the event of monies having to be drawn down or applied out of Chaucer No.3's funds at Lloyd's, the Bank LOC and other funds at Lloyd's of Chaucer No.3 may be drawn down in a pre-determined order namely:
  - (a) in respect of Chaucer No.3's participation on Syndicate 1176 for the 2018 and prior open years of account:
    - (i) first, from the Chaucer No.3 Own FAL (to the extent not previously applied to meet a Lloyd's obligation of Chaucer No.3 pursuant to paragraphs 3(b), (c) or (d)) until such funds are exhausted;
    - (ii) secondly, from the Own FAL (to the extent not previously applied to meet a Lloyd's obligation of Chaucer No.3 pursuant to paragraphs 3(b), (c) or (d)) until such funds are exhausted; and
    - (iii) thirdly, from the Bank LOC (to the extent not previously applied to meet a Lloyd's obligation of Chaucer No.3 pursuant to paragraphs 3(b), (c) or (d)) until such funds are exhausted;

- (b) in respect of Chaucer No.3's participation in Syndicate 1084 for the 2018 and prior open years of account:
    - (i) first, from the Chaucer No.3 Own FAL (to the extent not previously applied to meet a Lloyd's obligation of Chaucer No.3 pursuant to paragraphs 3(a), (c) or (d)) until such funds are exhausted;
    - (ii) secondly, from the Own FAL (to the extent not previously applied to meet a Lloyd's obligation of Chaucer No.3 pursuant to paragraphs 3(a), (c) or (d)) until such funds are exhausted; and
    - (iii) thirdly, from the Bank LOC (to the extent not previously applied to meet a Lloyd's obligation of Chaucer No.3 pursuant to paragraphs 3(a), (c) or (d)) until such funds are exhausted;
  - (c) in respect of Chaucer No.3's participation on Syndicate 1176 for the 2019 and prior open years of account:
    - (i) first, from the Chaucer No.3 Own FAL (to the extent not previously applied to meet a Lloyd's obligation of Chaucer No.3 pursuant to paragraphs 3(a), (b) or (d)) until such funds are exhausted;
    - (ii) secondly, from the Own FAL (to the extent not previously applied to meet a Lloyd's obligation of Chaucer No.3 pursuant to paragraphs 3(a), (b) or (d)) until such funds are exhausted; and
    - (iii) thirdly, from the Bank LOC (to the extent not previously applied to meet a Lloyd's obligation of Chaucer No.3 pursuant to paragraphs 3(a), (b) or (d)) until such funds are exhausted; and
  - (d) in respect of Chaucer No.3's participation in Syndicate 1084 for the 2019 and prior open years of account:
    - (i) first, from the Chaucer No.3 Own FAL (to the extent not previously applied to meet a Lloyd's obligation of Chaucer No.3 pursuant to paragraphs 3(a), (b) or (c) above) until such funds are exhausted;
    - (ii) secondly, from the Own FAL (to the extent not previously applied to meet a Lloyd's obligation of Chaucer No.3 pursuant to paragraphs 3(a), (b) or (c) above) until such funds are exhausted; and
    - (iii) thirdly, from the Bank LOC (to the extent not previously applied to meet a Lloyd's obligation of Chaucer No.3 pursuant to paragraphs 3(a), (b) or (c) above) until such funds are exhausted.
4. As you are aware, the Bank LOC and other funds at Lloyd's of Chaucer No.3 are held by Lloyd's in its capacity as trustee. Any decision to draw down or apply any such Bank LOC involves an exercise of discretion in light of the circumstances prevailing at the time of such decision and thus no binding undertaking can be given now by Lloyd's as to the order of drawdown or application.
  5. However, we confirm that at the time of considering the drawdown or application of Chaucer No.3's funds at Lloyd's, Lloyd's will take into account the requested order of drawdown set out in paragraph 3 of this letter.
  6. It should be noted that the funds at Lloyd's requirements of Chaucer No.3 for the 2018 and 2019 years of account have not yet been determined by Lloyd's. Accordingly, this letter should not be taken as confirmation that the assets comprising Chaucer No.3's funds at Lloyd's for the 2017 year of account will meet the funds at Lloyd's requirement of

those members for the 2018 or 2019 years of account (and paragraph 2 of this letter should be construed accordingly).

7. For the avoidance of doubt, Lloyd's shall not be responsible to you or any other person for any losses incurred by you or such other person as a consequence of acting in reliance upon this letter.
8. This letter supersedes any prior letter issued by us in relation to Holdings and Chaucer No.3 with respect to the subject matter hereof.

Yours faithfully

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for and on behalf of  
**The Society & Council of Lloyd's**

## SCHEDULE 6

### Form of Transfer Certificate

To: [●] as Facility Agent

From: [**The Existing Lender**] (the "**Existing Lender**") and [**The New Lender**] (the "**New Lender**")

Dated: [●]

**Chaucer Holdings Limited – £220,000,000 standby letter of credit facility agreement dated 15 October 2015 as amended and restated pursuant to an amendment and restatement agreement dated [●] 2017 (the "Agreement")**

1. We refer to the Agreement. This is a Transfer Certificate. Terms defined in the Agreement have the same meaning in this Transfer Certificate unless given a different meaning in this Transfer Certificate.
2. We refer to clause 34.5 (Procedure for Transfer) of the Agreement:
  - 2.1 the Existing Lender and the New Lender agree to the Existing Lender transferring to the New Lender by novation all or part of the Existing Lender's Commitment, rights and obligations referred to in the schedule in accordance with clause 34.5 (Procedure for Transfer) of the Agreement;
  - 2.2 the proposed Transfer Date is [●];
  - 2.3 the Facility Office and address and attention details for notices of the New Lender for the purposes of clause 43.2 (Addresses) of the Agreement are set out in the schedule.
3. The New Lender expressly acknowledges the limitations on the Existing Lender's obligations set out in clause 34.4(c) (Limitation of Responsibility of Existing Lenders) of the Agreement.
4. The New Lender confirms, for the benefit of the Facility Agent and without liability to any Obligor, that it is:
  - (e) [a Qualifying Lender falling within paragraph (i)(A) [or paragraph (ii)] of the definition of Qualifying Lender;]
  - (f) [a Treaty Lender;]
  - (g) [not a Qualifying Lender].
5. This Transfer Certificate may be executed in any number of counterparts and this has the same effect as if the signatures on the counterparts were on a single copy of this Transfer Certificate.
6. This Transfer Certificate and any non-contractual obligations arising out of or in connection with it are governed by English law.
7. This Transfer Certificate has been entered into on the date stated at the beginning of this Transfer Certificate.

**THE SCHEDULE**

**Commitment/Rights and Obligations to be Transferred**

*[insert relevant details]*

*[Facility Office address and attention details  
for notices and account details for payments]*

***[Existing Lender]***

***[New Lender]***

By:

By:

This Transfer Certificate is accepted by the Facility Agent and the Transfer Date is confirmed as [●].

***[Facility Agent]***

By:

## SCHEDULE 7

### Form of Assignment Agreement

To: [ ] as Facility Agent and [ ] as Borrower, for and on behalf of each Obligor

From: [the Existing Lender] (the "**Existing Lender**") and [the New Lender] (the "**New Lender**")

Dated: [●]

**Chaucer Holdings Limited – £220,000,000 standby letter of credit facility agreement dated 15 October 2015 as amended and restated pursuant to an amendment and restatement agreement dated [●] 2017 (the "Agreement")**

1. We refer to the Agreement. This is an Assignment Agreement. Terms defined in the Agreement have the same meaning in this Assignment Agreement unless given a different meaning in this Assignment Agreement.
2. We refer to clause 34.6 (Procedure for Assignment) of the Agreement:
  - (a) the Existing Lender assigns absolutely to the New Lender all the rights of the Existing Lender under the Agreement and the other Finance Documents which relate to that portion of the Existing Lender's Commitments and participations in the Letter of Credit under the Agreement as specified in the Schedule;
  - (b) the Existing Lender is released from all the obligations of the Existing Lender which correspond to that portion of the Existing Lender's Commitments and participations in Utilisations under the Agreement specified in the Schedule; and
  - (c) the New Lender becomes a Party as a Lender and is bound by obligations equivalent to those from which the Existing Lender is released under paragraph (b) above.<sup>1</sup>
3. The proposed Transfer Date is [●].
4. On the Transfer Date the New Lender becomes Party to the Finance Documents as a Lender.
5. The Facility Office and address and attention details for notices of the New Lender for the purposes of clause 43.2 (Addresses) of the Agreement are set out in the Schedule.
6. The New Lender expressly acknowledges the limitations on the Existing Lender's obligations set out in clause 34.4(c) (Limitation of Responsibility of Existing Lenders) of the Agreement.
7. The New Lender confirms, for the benefit of the Facility Agent and without liability to any Obligor, that it is:
  - (a) [a Qualifying Lender falling within paragraph (i)(A) [or paragraph (ii)] of the definition of Qualifying Lender;]

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<sup>1</sup> If the Assignment Agreement is used in place of a Transfer Certificate in order to avoid a novation of rights/obligations for reasons relevant to a civil jurisdiction, local law advice should be sought to check the suitability of the Assignment Agreement due to the assumption of obligations contained in paragraph 2(c). This issue should be addressed at primary documentation stage.

- (b) [a Treaty Lender;]
  - (c) [not a Qualifying Lender].<sup>2</sup>
8. [The New Lender confirms that the person beneficially entitled to interest payable to that Lender in respect of an advance under a Finance Document is either:
- (a) a company resident in the United Kingdom for United Kingdom tax purposes; or
  - (b) a partnership each member of which is:
    - (i) a company so resident in the United Kingdom; or
    - (ii) a company not so resident in the United Kingdom which carries on a trade in the United Kingdom through a permanent establishment and which brings into account in computing its chargeable profits (within the meaning of section 19 of the CTA) the whole of any share of interest payable in respect of that advance that falls to it by reason of Part 17 of the CTA; or
  - (c) a company not so resident in the United Kingdom which carries on a trade in the United Kingdom through a permanent establishment and which brings into account interest payable in respect of that advance in computing the chargeable profits (within the meaning of section 19 of the CTA) of that company.]<sup>3</sup>
- [8/9]. This Assignment Agreement acts as notice to the Facility Agent (on behalf of each Finance Party) and, upon delivery in accordance with clause 34.7 (Copy of Transfer Certificate or Assignment Agreement to the Borrower) of the Agreement, to the Borrower (on behalf of each Obligor) of the assignment referred to in this Assignment Agreement.
- [9/10]. This Assignment Agreement may be executed in any number of counterparts and this has the same effect as if the signatures on the counterparts were on a single copy of this Assignment Agreement.
- [10/11]. This Assignment Agreement and any non-contractual obligations arising out of or in connection with it are governed by English law.
- [11/12]. This Assignment Agreement has been entered into on the date stated at the beginning of this Assignment Agreement.

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<sup>2</sup> Delete as applicable - each New Lender is required to confirm which of these three categories it falls within.

<sup>3</sup> Include only if New Lender is a UK Non-Bank Lender - i.e. falls within paragraph (i)(B) of the definition of Qualifying Lender in clause 0 (Definitions).

**THE SCHEDULE**

**Rights to be assigned and obligations to be released and undertaken**

***[insert relevant details]***

***[Facility office address and attention details for notices and account details for payments]***

***[Existing Lender]***

***[New Lender]***

By:

By:

This Assignment Agreement is accepted by the Facility Agent and the Transfer Date is confirmed as [ ].

Signature of this Assignment Agreement by the Facility Agent constitutes confirmation by the Facility Agent of receipt of notice of the assignment referred to herein, which notice the Facility Agent receives on behalf of each Finance Party.

[Facility Agent]

By:

## SCHEDULE 8

### Form of Accession Letter

#### Part 1 - Form of Guarantor Accession Letter

To: [●] as Facility Agent

From: [**Subsidiary**] and [**Borrower**]

Dated: [●]

Dear Sirs

**Chaucer Holdings Limited – £220,000,000 standby letter of credit facility agreement dated 15 October 2015 as amended and restated pursuant to an amendment and restatement agreement dated [●] 2017 (the "Agreement")**

1. We refer to the Agreement. This is an Accession Letter. Terms defined in the Agreement have the same meaning in this Accession Letter unless given a different meaning in this Accession Letter.
2. [**Subsidiary**] agrees to become an Additional Guarantor and to be bound by the terms of the Agreement as an Additional Guarantor pursuant to clause 35.2 (Additional Guarantors) of the Agreement. [Subsidiary] is a company duly incorporated under the laws of [**name of relevant jurisdiction**].
3. [**Subsidiary's**] administrative details are as follows:  
Address:  
  
Attention:
4. This Accession Letter and any non-contractual obligations arising out of or in connection with it are governed by English law.

This Guarantor Accession Letter is entered into by deed.

[**Borrower**]

[**Subsidiary**]

**Part 2 – Form of New Lender Accession Letter**

To: [●] as Facility Agent  
From: [The New Lender] (the "**New Lender**")  
Dated: [●]

**Chaucer Holdings Limited – £220,000,000 standby letter of credit facility agreement dated 15 October 2015 as amended and restated pursuant to an amendment and restatement agreement dated [●] 2017 (the "Agreement")**

1. We refer to the Agreement. This is an Accession Letter. Terms defined in the Agreement have the same meaning in this Accession Letter unless given a different meaning in this Accession Letter;
2. We refer to clause 34.5 (Procedure for Transfer or Accession) of the Agreement;
  - (a) the New Lender agrees to be bound by the terms of the Agreement and the other Finance Documents as a Lender;
  - (b) the proposed Accession Date is [●];
  - (c) the Facility Office and address and attention details for notices of the New Lender for the purposes of clause 43.2 (Addresses) of the Agreement are set out in the schedule;
3. The New Lender expressly acknowledges the limitations on the Existing Lender's obligations set out in clause 34.4(c) (Limitation of Responsibility of Existing Lenders) of the Agreement.
4. The New Lender confirms, for the benefit of the Facility Agent and without liability to any Obligor, that it is:
  - (a) [a Qualifying Lender falling within paragraph (i)(A) [or paragraph (ii)] of the definition of Qualifying Lender;]
  - (b) [a Treaty Lender;]
  - (c) [not a Qualifying Lender].
5. This Accession Letter may be executed in any number of counterparts and this has the same effect as if the signatures on the counterparts were on a single copy of this Transfer Certificate.
6. This Accession Letter and any non-contractual obligations arising out of or in connection with it are governed by English law.
7. This Accession Letter has been entered into on the date stated at the beginning of this Accession Letter.

## SCHEDULE 9

### Form of Resignation Letter

To: [●] as Facility Agent

From: [**resigning Obligor**] and [**Borrower**]

Dated: [●]

Dear Sirs

**Chaucer Holdings Limited – £220,000,000 standby letter of credit facility agreement dated 15 October 2015 as amended and restated pursuant to an amendment and restatement agreement dated [●] 2017 (the "Agreement")**

1. We refer to the Agreement. This is a Resignation Letter. Terms defined in the Agreement have the same meaning in this Resignation Letter unless given a different meaning in this Resignation Letter.
2. Pursuant to clause 35.4 (Resignation of a Guarantor) of the Agreement, we request that [**resigning Obligor**] be released from its obligations as a Guarantor under the Agreement.
3. We confirm that no Default is continuing or would result from the acceptance of this request.
4. This Resignation Letter and any non-contractual obligations arising out of or in connection with it are governed by English law.

[**Borrower**]

[**Subsidiary**]

By:

By:

**SCHEDULE 10**

**Form of Compliance Certificate**

To: Lloyds Bank plc as Facility Agent

From: Chaucer Holdings Limited

Dated: [●]

Dear Sirs

**Chaucer Holdings Limited – £220,000,000 standby letter of credit facility agreement dated 15 October 2015 as amended and restated pursuant to an amendment and restatement agreement dated [●] 2017 (the "Agreement")**

1. We refer to the Agreement. This is a Compliance Certificate. Terms defined in the Agreement have the same meaning when used in this Compliance Certificate unless given a different meaning in this Compliance Certificate.
2. The Uncollateralised Outstandings as at 31 December [year] were [●].
3. The total Funds at Lloyd's of Chaucer Corporate Capital (No. 3) Limited (including Subordinated Funds at Lloyd's and FAL provided in accordance with this agreement) were [●] as at 31 December [year].
4. Therefore, we confirm that as at [**Insert Date**] the Uncollateralised Outstandings do not exceed 50% of the total Funds at Lloyd's of Chaucer Corporate Capital (No. 3) Limited (including Subordinated Funds at Lloyd's).
5. [We confirm that the following companies constitute Material Companies for the purposes of the Agreement: [X].]  
  
*[Computations which determine those companies classification as Material Companies (in reasonable detail) to be included]*
6. We confirm that, as at the date hereof no Event of Default or Default has occurred which is continuing.

Signed: .....  
Director  
of  
**Chaucer Holdings Limited**

.....  
Director  
of  
**Chaucer Holdings Limited**

**SCHEDULE 11**

**Form of Parent Compliance Certificate<sup>4</sup>**

**COMPLIANCE CERTIFICATE**

**THIS CERTIFICATE** is delivered pursuant to the Amended and Restated Guaranty Agreement, dated as of [ ], (the "**Agreement**"), among The Hanover Insurance Group, Inc., a Delaware corporation (the "**Guarantor**") and Lloyds Bank plc, as Facility Agent and Security Agent. Capitalized terms used herein without definition shall have the meanings given to such terms in the Agreement.

The undersigned hereby certifies that:

1. The undersigned is a Responsible Officer of the Guarantor.
2. Enclosed with this Certificate are copies of the financial statements of the Guarantor and its Subsidiaries as of [ ], and for the [ -month period] [year] then ended, required to be delivered under Section [4.02(a)(i)][4.02(a)(ii)] of the Agreement. Such financial statements have been prepared in accordance with GAAP [(subject to normal year-end audit adjustments and the absence of footnotes)]<sup>5</sup> and present fairly, in all material respects, the Consolidated financial position of the Guarantor and its Subsidiaries as of the date indicated and the Consolidated results of operations of the Guarantor and its Subsidiaries for the period covered thereby.
3. The undersigned has no knowledge of the existence of (i) any Default or Event of Default (as such terms are defined in the Hanover Credit Agreement) continuing as of the date of this Certificate or (ii) any Default or Event of Default continuing as of the date of this Certificate. [ , except as set forth below.

Describe here or in a separate attachment any exceptions to paragraph 3 above by listing, in reasonable detail, the nature of the Default or Event of Default and the action that the Guarantor has taken or proposes to take with respect thereto.]

4. Attached to this Certificate as Attachment A is a covenant compliance worksheet reflecting the computation of the financial covenants set forth in Section 4.03 of the Agreement as of the last day of and for the period covered by the financial statements enclosed herewith.

**IN WITNESS WHEREOF**, the undersigned has executed and delivered this Certificate as of the            day of            ,            .

**THE HANOVER INSURANCE GROUP, INC.**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

<sup>4</sup>

<sup>5</sup> Insert in the case of quarterly financial statements.

**WORKSHEET**

**Minimum Net Worth<sup>6</sup> (Section 4.03(a) of the Agreement)**

1.	Base for calculating Minimum Net Worth:		\$2,080,750,000
2.	(a) Consolidated net income for each fiscal quarter (if positive) ending after the Effective Date:	[\$]_____	
	(b) Net income adjustment: Multiply Line 2(a) by 50%		[\$]_____
3.	(a) Net Equity Proceeds of any Equity Issuances made after the Effective Date:	[\$]_____	
	(b) Net Equity Proceeds adjustment: Multiply Line 3(a) by 50%		[\$]_____
4.	Required Net Worth: Add Lines 1, 2(b) and 3(b)		[\$]_____
5.	Actual Net Worth (total shareholders' equity of the Guarantor determined in accordance with GAAP; provided that the net unrealized appreciation and depreciation of securities that are classified as available for sale and are subject to ASC 320 shall be excluded) as of measurement date:		[\$]_____

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<sup>6</sup> The calculation of Net Worth shall exclude the financial results of any Securitization Subsidiaries of the Borrower.

**Leverage Ratio (Section 4.03(c) of the Agreement)**

1.	Modified Total Debt as of the date of determination:	
	<p>(a) Aggregate outstanding principal amount of Debt of the Guarantor and its Subsidiaries (other than any Securitization Subsidiaries) of the following types, in each case determined on a Consolidated basis without duplication in accordance with GAAP (but without giving effect to any election under the Statement of Financial Accounting Standards No. 159 (ASC 825) or any similar accounting principle permitting a Person to value its financial liabilities or indebtedness at the fair value thereof):<sup>7</sup></p> <p>(i) indebtedness of each such Person for borrowed money</p> <p>(ii) obligations of each such Person evidenced by bonds, debentures, notes or other similar instruments</p> <p>(iii) obligations of each such Person to pay the deferred purchase price of Property or services (other than trade payables and accrued expenses incurred in the ordinary course of business and not overdue by more than 90 days)</p> <p>(iv) obligations of each such Person as lessee under leases which shall have been or should be, in accordance with GAAP, recorded as capital leases</p> <p>(v) Debt of others secured by a Lien on the Property of any such Person, whether or not the Debt so secured has been assumed by such Person</p> <p>(vi) obligations of any such Person under Guaranties in respect of Debt of others (including any obligations constituting Limited Originator Recourse in respect of Debt of Securitization Subsidiary)</p> <p>(vii) without duplication, obligations of any such Person in respect of Hybrid Securities (disregarding clause (ii) of the definition of Hybrid Securities), Disqualified Equity Interests (disregarding clause (ii) of the definition of Disqualified Equity Interests) and Preferred Securities (disregarding clause (ii) of the definition of Preferred Securities), in each case requiring repayments, prepayments, mandatory redemptions or repurchases prior to 91 days after the Final Maturity Date, with the amount of Debt represented by any such Disqualified Equity Interest or Preferred Security being equal to the greater of its voluntary or involuntary liquidation amount and its maximum fixed repurchase price or redemption</p>	<p>[ \$ ] _____</p>

<sup>7</sup> Not including Hybrid Securities, Disqualified Equity Interests, Preferred Securities and Specified Convertible Debt Securities included in Lines 1(b), 1(c), 1(d) and 1(e) below.

	amount	
	(b) Without duplication of Lines 1(c), 1(d) and 1(e), the portion of all outstanding Hybrid Securities that is deemed to constitute indebtedness, as determined in accordance with S&P's methodology:	[\$]_____
	(c) Without duplication of Lines 1(b), 1(d) and 1(e), the portion of all outstanding Disqualified Equity Interests that is deemed to constitute indebtedness, as determined in accordance with S&P's methodology:	[\$]_____
	(d) Without duplication of Lines 1(b), 1(c) and 1(e), the portion of all outstanding Preferred Securities that is deemed to constitute indebtedness, as determined in accordance with S&P's methodology:	[\$]_____
	(e) Without duplication of Lines 1(b), 1(c) and 1(d), the portion of all outstanding Specified Convertible Debt Securities that is deemed to constitute indebtedness, as determined in accordance with S&P's methodology:	
	(f) The amount (if any) by which Line 2(b) below plus the portion of all Preferred Securities issued by the Guarantor or any Subsidiary (other than any Securitization Subsidiary) that is deemed to constitute equity, as determined in accordance with S&P's methodology plus the portion of all Disqualified Equity Interests issued by the Guarantor or any Subsidiary (other than any Securitization Subsidiary) that is deemed to constitute equity, as determined in accordance with S&P's methodology, plus the portion of all Specified Convertible Debt Securities issued by the Guarantor or any Subsidiary (other than any Securitization Subsidiary) that is deemed to constitute equity, as determined in accordance with S&P's methodology. exceeds 15% of Line 3 below:	[\$]_____
	(g) Modified Total Debt: Add Lines 1(a)(i) through 1(a)(vii), Line 1(b), Line 1(c), Line 1(d), Line 1(e) and Line 1(f):	[\$]_____
2.	Net Worth:	
	(a) Total shareholders' equity of the Guarantor determined in accordance with GAAP; <sup>8</sup> provided that the net unrealized appreciation and depreciation of securities that are classified as available for sale and are subject to ASC 320 shall be excluded:	[\$]_____
	(b) Without duplication of Lines 2(c) and 2(d), the portion of all outstanding Hybrid Securities issued by the Guarantor or any Subsidiary (other than a Securitization Subsidiary) that is deemed to constitute equity, as determined in accordance with S&P's methodology:	[\$]_____

<sup>8</sup> Excluding the financial results of any Securitization Subsidiary of the Borrower.

	(c) Without duplication of Lines 2(b) and 2(d), the portion of all outstanding Preferred Securities issued by the Guarantor or any Subsidiary (other than any Securitization Subsidiary) that is deemed to constitute indebtedness, as determined in accordance with S&P's methodology:	[\$]_____
	(d) Without duplication of Lines 2(b) and 2(c), the portion of all outstanding Disqualified Equity Interests issued by the Guarantor or any Subsidiary (other than any Securitization Subsidiary) that is deemed to constitute indebtedness, as determined in accordance with S&P's methodology:	[\$]_____
	(e) Net Worth: Add Lines 2(a) and 2(b) and subtract Lines 2(c), and 2(d)	[\$]_____
3.	Total Capitalization: Add Lines 1(a)(i) through 1(a)(vii), Line 1(b), Line 1(c), Line 1(d), Line 1(e) and Line 2(e)	[\$]_____
4.	Leverage Ratio: Divide Line 1(g) by Line 3	_____
5.	Maximum Leverage Ratio permitted under the Agreement as of the date of determination:	35%

## SCHEDULE 12

### LMA Form of Confidentiality Undertaking

#### [Letterhead of Transferring Lender]

To: [insert name of Potential Lender]

Re: Chaucer Holdings Limited- £220,000,000 Facility Agreement dated 15 October 2015 as amended and restated on [●] 2017 (the "Facility")

Company: [●] (the "Company")

Date: [●]

Facility Agent: [●]

Dear Sirs

We understand that you are considering participating in the Facility. In consideration of us agreeing to make available to you certain information, by your signature of a copy of this letter you agree as follows:

#### 1. CONFIDENTIALITY UNDERTAKING

You undertake:

- 1.1 to keep all Confidential Information confidential and not to disclose it to anyone, save to the extent permitted by paragraph 2 below and to ensure that all Confidential Information is protected with security measures and a degree of care that would apply to your own confidential information;
- 1.2 to keep confidential and not disclose to anyone except as provided for by paragraph 2 below the fact that the Confidential Information has been made available or that discussions or negotiations are taking place or have taken place between us in connection with the Facility;
- 1.3 to use the Confidential Information only for the Permitted Purpose; and
- 1.4 to use all reasonable endeavours to ensure that any person to whom you pass any Confidential Information (unless disclosed under paragraph 2.2 below) acknowledges and complies with the provisions of this letter as if that person were also a party to it; [and
- 1.5 not to make enquiries of any member of the Group or any of their officers, directors, employees or professional advisers relating directly or indirectly to the Facility.

#### 2. PERMITTED DISCLOSURE

We agree that you may disclose such Confidential Information and those matters referred to in paragraph 1.2 above:

- 2.1 to members of the Participant Group and their officers, directors, employees and professional advisers to the extent necessary for the Permitted Purpose and to any auditors of members of the Participant Group;

- 2.2 where:
- (a) requested or required by any court of competent jurisdiction or any competent judicial, governmental, supervisory or regulatory body;
  - (b) required by the rules of any stock exchange on which the shares or other securities of any member of the Participant Group are listed; or
  - (c) required by the laws or regulations of any country with jurisdiction over the affairs of any member of the Participant Group; or

2.3 with the prior written consent of us and the Company.

### 3. **NOTIFICATION OF REQUIRED OR UNAUTHORISED DISCLOSURE**

You agree (to the extent permitted by law and except where disclosure is to be made to any competent supervisory or regulatory body during the ordinary course of its supervisory or regulatory function over you) to inform us of the full circumstances of any disclosure under paragraph 2.2 above or upon becoming aware that Confidential Information has been disclosed in breach of this letter.

### 4. **RETURN OF COPIES**

If we so request in writing, you shall return all Confidential Information supplied to you by us and destroy or permanently erase (to the extent technically practicable) all copies of Confidential Information made by you and use all reasonable endeavours to ensure that anyone to whom you have supplied any Confidential Information destroys or permanently erases (to the extent technically practicable) such Confidential Information and any copies made by them, in each case save to the extent that you or the recipients are required to retain any such Confidential Information by any applicable law, rule or regulation or by any competent judicial, governmental, supervisory or regulatory body or in accordance with internal policy, or where the Confidential Information has been disclosed under paragraph 2.2 above.

### 5. **CONTINUING OBLIGATIONS**

The obligations in this letter are continuing and, in particular, shall survive the termination of any discussions or negotiations between you and us. Notwithstanding the previous sentence, the obligations in this letter shall cease on the earlier of:

- 5.1 the date you become a party to or otherwise acquire (by assignment, sub participation or otherwise) an interest, direct or indirect in the Facility; and
- 5.2 12 Months after you have returned all Confidential Information supplied to you by us and destroyed or permanently erased [to the extent technically practicable] all copies of Confidential Information made by you (other than such Confidential Information or copies which have been disclosed under paragraph 2 above (other than paragraph 2.1) or which, pursuant to paragraph 4 above, are not required to be returned or destroyed); and
- 5.3 36 Months from the date of this letter.

### 6. **NO REPRESENTATION; CONSEQUENCES OF BREACH, ETC.**

You acknowledge and agree that:

- 6.1 neither we nor any of our officers, employees or advisers (each a "**Relevant Person**"):
  - (a) make any representation or warranty, express or implied, as to, or assume any responsibility for, the accuracy, reliability or completeness of any of the

Confidential Information or any other information supplied by us or any member of the Group or the assumptions on which it is based; or

- (b) shall be under any obligation to update or correct any inaccuracy in the Confidential Information or any other information supplied by us or any member of the Group or be otherwise liable to you or any other person in respect of the Confidential Information or any such information; and

6.2 we or members of the Group may be irreparably harmed by the breach of the terms of this letter and damages may not be an adequate remedy; each Relevant Person or member of the Group may be granted an injunction or specific performance for any threatened or actual breach of the provisions of this letter by you.

7. **NO WAIVER; AMENDMENTS, ETC.**

This letter sets out the full extent of your obligations of confidentiality owed to us in relation to the information the subject of this letter. No failure or delay in exercising any right, power or privilege under this letter will operate as a waiver thereof nor will any single or partial exercise of any right, power or privilege preclude any further exercise thereof or the exercise of any other right, power or privileges under this letter. The terms of this letter and your obligations under this letter may only be amended or modified by written agreement between us.

8. **INSIDE INFORMATION**

You acknowledge that some or all of the Confidential Information is or may be price-sensitive information and that the use of such information may be regulated or prohibited by applicable legislation [including securities law]<sup>9</sup> relating to insider dealing and market abuse and you undertake not to use any Confidential Information for any unlawful purpose.

9. **NATURE OF UNDERTAKINGS**

The undertakings given by you under this letter are given to us and (without implying any fiduciary obligations on our part) are also given for the benefit of the Company and each other member of the Group.

10. **THIRD PARTY RIGHTS**

10.1 Subject to paragraphs 6 and 9, the terms of this letter may be enforced and relied upon only by you and us and the operation of the Contracts (Rights of Third Parties) Act 1999 is excluded.

10.2 Notwithstanding any provisions of this letter, the parties to this letter do not require the consent of any Relevant Person or any member of the Group to rescind or vary this letter at any time.

11. **GOVERNING LAW AND JURISDICTION**

This letter (including the agreement constituted by your acknowledgement of its terms) and any non-contractual obligations arising out of or in connection with it shall be governed by and construed in accordance with the laws of England and the parties submit to the non-exclusive jurisdiction of the English courts.

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<sup>9</sup> Insert if relevant.

12. **DEFINITIONS**

In this letter (including the acknowledgement set out below):

**"Confidential Information"** means any information relating to the Company, the Group and/or the Facility [including, without limitation, the information memorandum)]<sup>10</sup> provided to you by us or any of our affiliates or advisers, in whatever form, and includes information given orally and any document, electronic file or any other way of representing or recording information which contains or is derived or copied from such information but excludes information that:

- (a) is or becomes public information other than as a direct or indirect result of any breach of this letter; or
- (b) is known by you before the date the information is disclosed to you by us or any of our affiliates or advisers or is lawfully obtained by you after that date, other than from a source which is connected with the Group and which, in either case, as far as you are aware, has not been obtained in violation of, and is not otherwise subject to, any obligation of confidentiality.

**"Group"** means the Company and each of its holding companies and subsidiaries and each subsidiary of each of its holding companies (as each such term is defined in the Companies Act 2006).

**"Participant Group"** means you, each of your holding companies and subsidiaries and each subsidiary of each of your holding companies (as each such term is defined in the Companies Act 2006).

**"Permitted Purpose"** means considering and evaluating whether to enter into the Facility.

Please acknowledge your agreement to the above by signing and returning the enclosed copy.

Yours faithfully

.....  
For and on behalf of  
[**Transferring Lender**]

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<sup>10</sup> Insert if relevant.

To: **[Transferring Lender]**  
The Company and each other member of the Group

We acknowledge and agree to the above:

.....

For and on behalf of  
**[Potential Lender]**

## **SCHEDULE 13**

### **Timetables**

#### **Utilisations in sterling**

Delivery of a duly completed Utilisation Request (Clause 13.1 (Delivery of a Utilisation Request))

U -1  
10.00 a.m.

LIBOR is fixed

Quotation Day  
11:00 a.m.

Reference Bank Rate calculated by reference to available quotations in accordance with Clause 27.2  
*(Calculation of Reference Bank Rate)*

Noon on the  
Quotation Day

**SCHEDULE 14**

**Form of Facility Extension Request**

To: Lloyds Bank plc (the "**Facility Agent**")  
From: Chaucer Holdings Limited (the "**Borrower**")  
Dated: [●]

Dear Sirs

**Chaucer Holdings Limited – £220,000,000 standby letter of credit facility agreement dated 15 October 2015 as amended and restated pursuant to an amendment and restatement agreement dated [●] 2017 (the "Agreement")**

1. We refer to the Agreement. This is a Facility Extension Request. Terms defined in the Agreement have the same meaning in this Facility Extension Request unless given a different meaning in this Facility Extension Request.
2. We wish to request that the Total Commitments are increased by [£[●]] (the "**Facility Extension Amount**") by inviting [*insert names of applicable existing Lender[s] and / or applicable other Eligible Institution[s]*] (each a "**Facility Extension Invitee**") in its discretion to provide or participate in the Facility Extension Amount.
3. We request each Facility Extension Invitee's written confirmation by [*insert date, to be no less than 20 Business Days from the date of this Facility Extension Request*] of:
  - (a) its decision (which shall be in its absolute and sole discretion) whether or not to provide or participate in (as applicable) the proposed Facility Extension Amount; and
  - (b) in the case of a Facility Extension Invitee which agrees to participate in the Facility Extension Amount (an "**Accepting Lender**"), of the proportion of the Facility Extension Amount it is prepared to lend subject to such conditions as it may specify (the "**Existing Lender Notice**").
4. We certify that no Default is continuing or would occur as a result of the extension of the Total Commitments as contemplated by this Facility Extension Request.
5. This Facility Extension Request is irrevocable.

Yours faithfully

.....  
[Authorised Signatory]  
For and on behalf of **Chaucer Holdings Limited**

**SCHEDULE 15**

**Eligible Cash Equivalents**

<b>Eligible Cash Equivalents</b>	<b>Advance applicable sterling</b>	<b>Rate for</b>	<b>Advance applicable for any other currency</b>	<b>Rate for any</b>
<p><b>Cash:</b></p> <p>(other than cash held in the Specified Account).</p>	100%		95%	
<p><b>US\$ deposits, CDs and Money Market Deposits:</b></p> <p>time deposits, certificates of deposit and money market deposits of any commercial banks incorporated in the US with a rating of at least A- from S&amp;P and A3 from Moody's and maturing in less than two years.</p>	95%		90%	
<p><b>US Government Securities:</b></p> <p>US\$ Government Bills, Notes and US Government Guaranteed or Sponsored Agency Securities (including FNMA and FHLMC)</p> <p>Maturity ≤ 2 years</p> <p>Maturity ≤ 10 years, but &gt; 2 years</p> <p>Maturity &gt; 10 years</p>	95%		90%	
<p><b>US\$ Municipal Bonds:</b></p> <p>US Municipal bonds rated at least AAA by S&amp;P and at Aaa by Moody's</p> <p>Maturity &lt; 10 years</p>	90%		85%	
<p><b>US\$ Investment Grade Corporate Bonds:</b></p> <p>Fixed Income Securities rated at least AA- by S&amp;P and Aa3 by Moody's</p> <p>Maturity ≤ 5 years</p> <p>Maturity ≤ 10 years but &gt; 5 years</p> <p>Maturity &gt; 10 years</p>	90%		85%	
	85%		80%	
	80%		75%	

**SCHEDULE 16**

**Borrowing Base Certificate**

To: Lloyds Bank plc (the "**Facility Agent**")  
From: Chaucer Holdings Limited (the "**Borrower**")  
Dated: [●]

Dear Sirs

**Chaucer Holdings Limited – £220,000,000 standby letter of credit facility agreement dated 15 October 2015 as amended and restated pursuant to an amendment and restatement agreement dated [●] 2017 (the "Agreement")**

1. We refer to the Agreement. This is a Borrowing Base Certificate. Terms defined in the Agreement have the same meaning in this Borrowing Base Certificate unless given a different meaning in this Borrowing Base Certificate.
2. The position as at [*specify date*] was as follows:
  - 2.1 The Cash Equivalent Collateralised Outstandings were [*specify amount*];
  - 2.2 the Borrowing Base was as follows:

	<b>Value</b>	<b>Advance Rate</b>	<b>Borrowing Base contribution (£)</b>
<b>Cash</b>	[●]	[●]	[●]
<b>Category of Eligible Cash Equivalents</b>	[●]	[●]	[●]
<b>Total:</b>	[●]	[●]	[●]

Yours faithfully

.....  
[Authorised Signatory]  
For and on behalf of **Chaucer Holdings Limited**

**SIGNATURES TO THE RESTATED FACILITY AGREEMENT**

*[PARTICULARS NOT RESTATED]*

**AMENDED AND RESTATED GUARANTY**

**dated as of October 27, 2017 among**

**THE HANOVER INSURANCE GROUP, INC.**

**and**

**LLOYDS BANK PLC,  
as Facility Agent and Security Agent**

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- Exhibit A            -    Compliance Certificate

This Amended and Restated Guaranty Agreement (as may be further amended, restated, supplemented or otherwise modified from time to time, this "**Agreement**") dated as of October 27, 2017 by THE HANOVER INSURANCE GROUP, INC., a Delaware Corporation (the "**Guarantor**"), LLOYDS BANK PLC, as Facility Agent for itself and on behalf of the Finance Parties (the "**Facility Agent**") and LLOYDS BANK PLC, as Security Agent on behalf of the Guaranteed Finance Parties (the "**Security Agent**").

## RECITALS

Chaucer Holdings Limited, a company incorporated in England and Wales (the "**Borrower**"), and Chaucer Corporate Capital (No. 3) Limited, a company incorporated in England and Wales (the "**Account Party**"), each of them subsidiaries of the Guarantor, are party to a Standby Letter of Credit Facility, dated October 15, 2015 (the "**Existing Facility Agreement**"), between, among others, the Borrower, the Account Party, the Facility Agent and the Security Agent, as amended and restated pursuant to a certain Amendment and Restatement Agreement, dated October 27, 2017 (the "**Amendment and Restatement Agreement**"), between, among others, the Borrower, the Account Party, the Facility Agent and the Security Agent (as may be further amended, restated, supplemented, extended (including, without limitation, as extended pursuant to Clause 8 (*Termination of Letters of Credit*) thereof), or otherwise modified in writing from time to time, the "**Facility Agreement**"). In connection with the Existing Facility Agreement, the Guarantor entered into a certain Guaranty, dated as of October 15, 2015, between the Guarantor, the Facility Agent and the Security Agent (the "**Original Guaranty**"). In connection with the Amendment and Restatement Agreement, the Guarantor, the Facility Agent and the Security Agent have agreed to amend and restate the Original Guaranty on the terms and subject to the conditions set forth in this Agreement.

The Guarantor will derive substantial direct and indirect benefits from the transactions contemplated by the Facility Agreement. It is a condition precedent to the issuance of Letters of Credit by the Lenders under the Facility Agreement that the Guarantor shall have executed and delivered this Agreement. Capitalized terms used herein but undefined shall have the meanings ascribed to such terms in the Facility Agreement.

NOW, THEREFORE, in consideration of the premises and in order to induce the Lenders to issue Letters of Credit under the Facility Agreement, the Guarantor hereby agrees as follows:

## ARTICLE I DEFINITIONS

**Section 1.01 Definitions** As used in this Agreement, the following terms shall have the following respective meanings:

"Account Control Agreement" has the meaning specified in the Facility Agreement.

"Account Party" has the meaning set forth in the Recitals hereof.

"Acquisition" means any transaction, or any series of related transactions, by which the Guarantor and/or any of its Subsidiaries directly or indirectly (i) acquires any ongoing business or all or substantially all of the assets of any Person or division thereof, whether through purchase of assets, merger or otherwise, (ii) acquires (in one transaction or as the most recent transaction in a series of transactions) Control of at least a majority in ordinary voting power of the securities of a Person which have ordinary voting power for the election of directors or (iii) otherwise acquires Control of a more than 50% ownership interest in any such Person.

"Administrative Agent" means JPMorgan Chase Bank, N.A., in its capacity as Administrative Agent, together with its successors and assigns appointed under the Hanover Credit Agreement.

"Affiliate" means, with respect to a specified Person, another Person that, directly, or indirectly through one or more intermediaries, Controls or is Controlled by or is under common Control with the Person specified. For the avoidance of doubt, any Lloyd's syndicate which is not a legal entity and has

no power to enter into contracts or other binding obligations shall not be deemed to be an Affiliate of the Guarantor.

"Agreement" has the meaning set forth in the preamble hereof.

"Amendment and Restatement Agreement" has the meaning set forth in the Recitals hereof.

"Anti-Corruption Laws" means all laws, rules, and regulations of any jurisdiction applicable to the Guarantor or its Subsidiaries from time to time concerning or relating to bribery or corruption.

"Bankruptcy Code" means 11 U.S.C. §§ 101 et seq., as amended from time to time, and any successor statute, and all regulations from time to time promulgated thereunder.

"Borrower" has the meaning set forth in the Recitals hereof.

"CIC" means Citizens Insurance Company of America, a property and casualty insurance company organized under the laws of Michigan as a corporation.

"CitySquare Project" means the CitySquare development in Worcester, Massachusetts as described in Form 10-K of The Hanover Insurance Group, Inc. for the fiscal year ended December 31, 2010.

"Code" means the United States Internal Revenue Code of 1986, as amended.

"Consolidated" refers to the consolidation of accounts of the Guarantor and its Subsidiaries in accordance with GAAP.

"Control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ability to exercise voting power, by contract or otherwise. The terms "Controlling" and "Controlled" have meanings correlative thereto.

"Controlled Investment Affiliate" means, as to any future, present, or former employee, director, officer or consultant of the Guarantor and its Subsidiaries, any other Person, which directly or indirectly is in Control of, is Controlled by, or is under common Control with such Person and is organized by such Person (or any Person Controlling such Person) primarily for making direct or indirect equity investments in the Guarantor or its Subsidiaries.

"CSL" means Chaucer Syndicates Limited.

"Debt" of any Person means, without duplication, (a) indebtedness of such Person for borrowed money, (b) obligations of such Person evidenced by bonds, debentures, notes or other similar instruments, (c) obligations of such Person to pay the deferred purchase price of Property or services (other than trade payables and accrued expenses incurred in the ordinary course of business and not overdue by more than 90 days), (d) obligations of such Person as lessee under leases which shall have been or should be, in accordance with GAAP, recorded as capital leases, (e) Debt of others secured by a Lien on the Property of such Person, whether or not the Debt so secured has been assumed by such Person, (f) obligations of such Person under Guaranties in respect of Debt of others (including any obligations constituting Limited Originator Recourse in respect of Debt of a Securitization Subsidiary), (g) without duplication, (A) obligations of such Person in respect of Hybrid Securities (disregarding clause (ii) of the definition thereof) and (B) in each case, Disqualified Equity Interests (disregarding clause (ii) of the definition thereof) and Preferred Securities (disregarding clause (ii) of the definition thereof) requiring repayments, prepayments, mandatory redemptions or repurchases prior to 91 days after Final Maturity Date, with the amount of Debt represented by such Disqualified Equity Interest or Preferred Security being equal to the greater of its voluntary or involuntary liquidation amount and its maximum fixed repurchase price or redemption amount, (h) all indebtedness created or arising under any conditional sale or other title retention agreement with

respect to Property acquired by such Person, (i) the net termination obligations of such Person under any Hedge Agreements, calculated as of any date as if such agreement or arrangement were terminated as of such date and (j) the principal balance outstanding and owing by such Person under any synthetic lease, tax retention operating lease or similar off-balance sheet financing product.

"Debtor Relief Laws" means the Bankruptcy Code, and all other liquidation, conservatorship, bankruptcy, assignment for the benefit of creditors, moratorium, rearrangement, receivership, insolvency, reorganization, or similar debtor relief laws of the United States or other applicable jurisdictions from time to time in effect.

"Default" means a "Default" under (and as defined in) the Facility Agreement.

"Discharge of Finance Obligations" has the meaning specified in Section 2.04.

"Disqualified Equity Interest" means, with respect to any Person, any Equity Interest of such Person that, by its terms (or by the terms of any security into which it is convertible or for which it is exchangeable), or upon the happening of any event or otherwise, (i) (a) matures or is mandatorily redeemable or subject to any mandatory repurchase requirement, pursuant to a sinking fund obligation or otherwise (except as a result of a change of control or asset sale so long as the rights of holder thereof upon the occurrence of a change of control or asset sale event shall be subject to the prior repayment in full of the Guaranteed Obligations that are accrued and payable, (b) is redeemable or subject to any mandatory repurchase requirement at the sole option of the holder thereof, or (c) is convertible into or exchangeable for (whether at the option of the issuer or the holder thereof) (y) debt securities or (z) any Equity Interest referred to in (a) or (b) above, and (ii) requires no such repayments, prepayments, mandatory redemptions or repurchases, in each case in the foregoing clauses (a), (b) and (c), prior to 91 days after the Final Maturity Date; provided that (1) if such Equity Interests are issued pursuant to a plan for the benefit of employees of the Guarantor or any of its Subsidiaries or by any such plan to such employees, such Equity Interests shall not constitute Disqualified Equity Interests solely because they may be required to be repurchased by the Guarantor or its Subsidiaries in order to satisfy applicable statutory or regulatory obligations and (2) no such Equity Interests held by any future, present or former employee, director, officer or individual consultant (or their respective Controlled Investment Affiliates or Immediate Family Members) of the Guarantor (or any of its Subsidiaries) shall be considered Disqualified Equity Interests because such Equity Interests are redeemable or subject to repurchase pursuant to any management equity subscription agreement, stock option, stock appreciation right or other stock award agreement, stock ownership plan, put agreement, stockholder agreement or similar agreement that may be in effect from time to time.

"Effective Date" means the "Effective Date" under (and as defined in) the Facility Agreement.

"Electronic System" means any electronic system, including e-mail, e-fax, Intralinks®, ClearPar® and any other internet or extranet-based site, whether such electronic system is owned, operated or hosted by the Facility Agent or any other Person, providing for access to data protected by passcodes or other security system.

"Equity Interests" means shares of capital stock, partnership interests, membership interests in a limited liability company, beneficial interests in a trust or other equity ownership interests in a Person, and any warrants, options or other rights entitling the holder thereof to purchase or acquire any of the foregoing.

"Equity Issuance" means any issuance or sale by the Guarantor or any of its Subsidiaries after the date of this Agreement of Equity Interests, other than (a) any such issuance or sale by a Subsidiary of the Guarantor to the Guarantor or to a Wholly-Owned Subsidiary of the Guarantor, (b) any capital contribution by the Guarantor or a Wholly-Owned Subsidiary of the Guarantor to any Subsidiary of the Guarantor, (c) stocks, warrants, options or other rights to obtain Equity Interests issued to directors, officers, consultants and other employees of the Guarantor or any of its Subsidiaries or (d) any sale or disposition of a non-Material Subsidiary.

"ERISA" means the United States Employee Retirement Income Security Act of 1974, as amended from time to time, and the regulations promulgated and rulings issued thereunder.

"ERISA Affiliate" means any trade or business (whether or not incorporated) that, together with the Guarantor, is treated as a single employer under section 414(b) or (c) of the Code or, solely for purposes of section 302 of ERISA and section 412 of the Code, is treated as a single employer under section 414 of the Code.

"ERISA Event" means (a) any "reportable event", as defined in section 4043 of ERISA or the regulations issued thereunder with respect to a Plan (other than an event for which the 30-day notice period is waived); (b) a determination that a Plan is, or is expected to be, in "at risk" status (as defined in Section 303(i)(4) of ERISA); (c) the failure to timely make a contribution required to be made with respect to any Plan or any Multiemployer Plan; (d) a determination that a Multiemployer Plan is, or is expected to be, in "endangered status" or "critical status" (each as defined or Section 305(b) of ERISA); (e) the incurrence by the Guarantor or any of its ERISA Affiliates of any liability under Title IV of ERISA with respect to the termination of any Plan; (f) the receipt by the Guarantor or any of its ERISA Affiliates from the PBGC or a plan administrator of any notice relating to an intention to terminate any Plan or Plans or to appoint a trustee to administer any Plan; (g) the incurrence by the Guarantor or any of its ERISA Affiliates of any liability with respect to the withdrawal or partial withdrawal from any Plan or Multiemployer Plan; or (h) the receipt by the Guarantor or any of its ERISA Affiliates of any notice, or the receipt by any Multiemployer Plan from the Guarantor or any of its ERISA Affiliates of any notice, concerning the imposition of Withdrawal Liability or a determination that a Multiemployer Plan is, or is expected to be, insolvent or in reorganization, within the meaning of Title IV of ERISA; or (i) the occurrence of a non-exempt prohibited transaction under section 406 of ERISA or section 4975 of the Code which could reasonably be expected to result in liability to the Guarantor or any of its ERISA Affiliates.

"Event of Default" means an "Event of Default" under (and as defined in) the Facility Agreement.

"Existing Facility Agreement" has the meaning set forth in the Recitals hereof.

"Facility Agent" has the meaning set forth in the preamble hereof.

"Facility Agreement" has the meaning set forth in the Recitals hereof.

"FATCA" means "FATCA" under (and as defined in) the Facility Agreement.

"FATCA Deduction" means "FATCA Deduction" under (and as defined in) the Facility Agreement.

"Financial Debt" means, without duplication, Debt of the kinds set forth in clauses (a), (b), (d) or (g) of the definition of Debt, or of the kinds set forth in clauses (e) or (f) thereof to the extent relating to Debt of the type referred to in (a), (b), (d) and (g) of the definition thereof.

"Final Maturity Date" means, (i) so long as the Hanover Credit Agreement is in full force and effect, the Hanover Commitment Termination Date or (ii) otherwise, the date of the Discharge of Finance Obligations.

"GAAP" means generally accepted accounting principles in the United States of America as in effect from time to time.

"Governmental Authority" means any federal, state, municipal, national or other government, governmental department, commission, board, bureau, court, agency or instrumentality or political subdivision thereof or any entity, officer or examiner exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to any government or any court, in each case whether associated with a state of the United States, the United States, or a foreign entity or

government (including any supra-national bodies such as the European Union or the European Central Bank).

"Guaranteed Documents" means the "Guaranteed Documents" under (and as defined in) the Facility Agreement.

"Guaranteed Obligations" has the meaning specified in Section 2.01.

"Guarantor" has the meaning set forth in the preamble hereof.

"Guaranty" of or by any Person (the "guarantor") means any obligation, contingent or otherwise, of the guarantor guaranteeing or having the economic effect of guaranteeing any Debt of any other Person (the "primary obligor") in any manner, whether directly or indirectly, and including any obligation of the guarantor, direct or indirect, (a) to purchase or pay (or to advance or supply funds for the purchase or payment of) such Debt or to purchase (or to advance or supply funds for the purchase of) any security for the payment thereof, (b) to purchase or lease Property or services for the purpose of assuring the owner of such Debt or other obligation of the payment thereof, or (c) to maintain working capital, equity capital or any other financial statement condition or liquidity of the primary obligor so as to enable the primary obligor to pay such Debt or other obligation or as an account party in respect of any letter of credit or letter of guarantee issued to support such Debt; provided that the term "Guaranty" shall not include (i) endorsements for collection or deposit in the ordinary course of business or (ii) credit insurance or payment obligations under insurance policies or surety bonds issued by the Guarantor and its Subsidiaries in the ordinary course of business.

"Hanover Business Day" means a day on which banks are not required or authorized to close in New York City and Charlotte, North Carolina.

"Hanover Commitment Termination Date" means November 12, 2018, as the same may be extended (in the case of each lender consenting thereto) pursuant to Section 2.22 of the Hanover Credit Agreement or pursuant to an amendment and restatement thereof not prohibited by the terms of this Agreement or the Facility Agreement; provided that if such date is not a Hanover Business Day, the Hanover Commitment Termination Date shall be the immediately preceding Hanover Business Day.

"Hanover Credit Agreement" has the meaning specified in the Facility Agreement.

"Hedge Agreement" means any interest or foreign currency rate swap, cap, collar, option, hedge, forward rate or other similar agreement or arrangement designed to protect against fluctuations in interest rates or currency exchange rates.

"HIC" means The Hanover Insurance Company, a property and casualty insurance company organized under the laws of New Hampshire as a corporation.

"Hybrid Securities" means securities (i) that afford equity benefit to the issuer thereof (under the procedures and guidelines of S&P) by having ongoing payment requirements that are more flexible than interest payments associated with conventional indebtedness for borrowed money and by being contractually subordinated to such indebtedness and (ii) that require no repayments or prepayments and no mandatory redemptions or repurchases, in each case, prior to 91 days after the Final Maturity Date.

"Immediate Family Member" means with respect to any individual, such individual's child, stepchild, grandchild or more remote descendant, parent, stepparent, grandparent, spouse, former spouse, qualified domestic partner, sibling, mother-in-law, father-in-law, son-in-law and daughter-in-law (including adoptive relationships) and any trust, partnership or other bona fide estate-planning vehicle the only beneficiaries of which are any of the foregoing individuals or any private foundation or fund that is controlled by any of the foregoing individuals or any donor-advised fund of which any such individual is the donor.

"Index Debt" means senior, unsecured, long-term indebtedness for borrowed money of the Guarantor that is not guaranteed by any other person or entity or subject to any other credit enhancement.

"Insurance Regulatory Authority" means, for any Insurance Subsidiary, the insurance department or similar administrative authority or agency located in the state or other jurisdiction in which such Insurance Subsidiary is domiciled (including "commercially domiciled" as that term is defined under relevant state law), including, for the avoidance of doubt, the Society and Corporation of Lloyd's.

"Insurance Subsidiary" means a Subsidiary of the Guarantor that is licensed to do an insurance or reinsurance business.

"Leverage Ratio" means, at any time, the ratio of (i) Modified Total Debt to (ii) Total Capitalization.

"Lien" means any lien, security interest or other charge or encumbrance of any kind, or any other type of preferential arrangement, including, without limitation, the lien or retained security title of a conditional vendor.

"Limited Originator Recourse" means a letter of credit, revolving loan commitment, cash collateral account or other such credit enhancement issued in connection with the incurrence of Financial Debt by a Securitization Subsidiary in connection with a Securitization Transaction; provided that, the aggregate amount of such letter of credit reimbursement obligations and the aggregate available amount of such revolving loan commitments, cash collateral accounts or other such credit enhancements of the Guarantor and any of its Subsidiaries (other than any other Securitization Subsidiary) shall not exceed 10% of the principal amount of such Financial Debt at any time.

"Margin Stock" means margin stock within the meaning of Regulation U.

"Material Adverse Change" or "Material Adverse Effect" means a material adverse change in or effect on (i) the business, financial condition or results of operations of the Guarantor and its Subsidiaries, taken as a whole, or (ii) the ability of the Guarantor to perform its obligations under this Agreement, or (iii) the legality, validity or enforceability of this Agreement.

"Material Insurance Subsidiary" means any of CIC, HIC and CSL and any other Insurance Subsidiary that constitutes a Material Subsidiary.

"Material Subsidiary" means any Subsidiary of the Guarantor, other than any Subsidiary the book value of whose assets do not constitute more than 5% of the book value (determined on a Consolidated basis) of the total assets of the Guarantor and its Subsidiaries.

"Modified Total Debt" means, at any time, the sum of the following:

(a) Total Debt plus

(b) without duplication, the amount (if any) by which (i) the aggregate outstanding amount of all Hybrid Securities that is attributed to Net Worth pursuant to clause (b) of the definition of "Net Worth" plus (ii) the portion of all Preferred Securities issued by the Guarantor or any Subsidiary (other than any Securitization Subsidiary) that is deemed to constitute equity, as determined in accordance with S&P's methodology at such time plus (iii) the portion of all Disqualified Equity Interests issued by the Guarantor or any Subsidiary (other than any Securitization Subsidiary) that is deemed to constitute equity, as determined in accordance with S&P's methodology at such time plus (iv) the portion of all Specified Convertible Debt Securities issued by the Guarantor or any Subsidiary (other than any Securitization Subsidiary) that is deemed to constitute equity, as determined in accordance with S&P's methodology at such time, exceeds 15% of Total Capitalization.

"Moody's" means Moody's Investors Service, Inc. and its successors.

"Multiemployer Plan" means a multiemployer plan as defined in section 4001(a)(3) of ERISA.

"NAIC" means the National Association of Insurance Commissioners or any successor thereto, or in lieu thereof, any other association, agency or other organization performing substantially similar advisory, coordination or other like functions among insurance departments, insurance commissions and similar governmental authorities of the various states of the United States of America toward the promotion of uniformity in the practices of such governmental authorities.

"Net Equity Proceeds" means, with respect to any Equity Issuance, the aggregate amount of all cash received by the Guarantor and its Subsidiaries (other than any Securitization Subsidiaries) in respect of such Equity Issuance net of all reasonable fees and expenses incurred by the Guarantor and its Subsidiaries in connection therewith.

"Net Worth" means, at any time, the sum of the following for the Guarantor and its Subsidiaries (other than any Securitization Subsidiaries) (determined on a Consolidated basis without duplication in accordance with GAAP):

(a) total shareholders' equity of the Guarantor determined in accordance with GAAP; provided that the net unrealized appreciation and depreciation of securities that are classified as available for sale and are subject to ASC 320 shall be excluded, plus

(b) without duplication of clauses (c) and (d) hereof, solely for purposes of determining "Total Capitalization" the portion of all outstanding Hybrid Securities that is deemed to constitute equity, as determined in accordance with S&P's methodology at such time, minus

(c) without duplication of clauses (b) and (d) hereof, solely for purposes of determining "Total Capitalization" the portion of all outstanding Preferred Securities that is deemed to constitute indebtedness, as determined in accordance with S&P's methodology at such time, minus

(d) without duplication of clauses (b) and (c) hereof, solely for purposes of determining "Total Capitalization" the portion of all outstanding Disqualified Equity Interests that is deemed to constitute indebtedness, as determined in accordance with S&P's methodology at such time.

"Non-Public Information" means information which has not been disseminated in a manner making it available to investors generally, within the meaning of Regulation FD.

"Original Guaranty" has the meaning set forth in the Recitals hereof.

"PATRIOT Act" means USA PATRIOT Act (Title III of Pub. L. No. 107-56 (signed into law October 26, 2001)).

"PBGC" means the United States Pension Benefit Guaranty Corporation referred to and defined in ERISA and any successor entity performing similar functions.

"Permitted Liens" means any of the following Liens:

(a) Liens imposed by any governmental authority for taxes, assessments or charges not yet due or that are being contested in good faith and by appropriate proceedings;

(b) carriers', warehousemen's, mechanics', materialmen's, repairmen's, construction contractors' or other like Liens arising in the ordinary course of business that are not overdue for a period of more than 60 days or that are being contested in good faith and by appropriate proceedings and Liens securing judgments or orders for the payment of money but only to the extent not resulting in an Event of Default under Clause 26.7 (*Events of Default, Failure to Comply with Final Judgment*) of the Facility Agreement;

(c) pledges or deposits made (i) in connection with, or to secure payment of, worker's compensation, unemployment insurance, old age pensions, other social security legislation and other statutory obligations and in each case in compliance therewith, (ii) to secure in the ordinary course of business the performance of bids, tenders, contracts or leases, (iii) to secure statutory obligations, surety and customs bonds, performance bonds and other obligations of a like nature (including those to secure health, safety and environmental obligations) in the ordinary course of business, (iv) to secure stay and appeal bonds, (v) to secure indemnity, performance or other similar bonds in the ordinary course of business, or (v) in connection with contested amounts in the ordinary course of business;

(d) encumbrances in the nature of (i) easements, (ii) rights-of-way, (iii) zoning restrictions or similar laws or rights reserved to or vested in any Governmental Authority to control or regulate the use of any real property, (iv) leases and subleases (other than any capital leases or synthetic leases), and licenses and sublicenses, (v) encroachments, protrusions and other similar encumbrances and restrictions on the use of real property or minor imperfections in title thereto, (vi) landlords' and lessors' Liens on rented premises, and (vii) restrictions on transfers or assignment of leases, which in each case do not secure monetary obligations and do not in any case materially detract from the value of the property subject thereto or interfere with the ordinary conduct of the business of the Guarantor or any of its Subsidiaries;

(e) Liens arising under escrows, trusts, custodianships, separate accounts, funds withheld procedures, and similar deposits, arrangements, or agreements established with respect to insurance or reinsurance policies, annuities, guaranteed investment contracts and similar products underwritten by, or Reinsurance Agreements entered into by, the Guarantor or any Insurance Subsidiary in the ordinary course of business;

(f) deposits with Insurance Regulatory Authorities;

(g) Liens securing obligations under letters of credit issued for the benefit of Insurance Regulatory Authorities and letters of credit issued in support of funds at the Society and Corporation of Lloyd's requirements, including as permitted under Section 4.04(a)(xiv);

(h) Liens granted by Securitization Subsidiaries in connection with Securitization Transactions;

(i) Liens on Property of any Person that becomes a Subsidiary of the Guarantor after the date hereof, provided that such Liens are in existence at the time such Person becomes a Subsidiary of the Guarantor and were not created in anticipation thereof;

(j) Liens upon real and/or tangible personal Property acquired after the date hereof (by purchase, construction or otherwise) by the Guarantor or any of its Subsidiaries, each of which Liens either (A) existed on such Property before the time of its acquisition and was not created in anticipation thereof or (B) was created solely for the purpose of securing Debt representing, or incurred to finance, refinance or refund, the cost (including the cost of construction) of such Property, provided that no such Lien shall extend to or cover any Property of the Guarantor or such Subsidiary other than the Property so acquired and improvements thereon;

(k) Liens on securities or financial instruments arising out of (i) repurchase (and reverse repurchase) agreements for liquidity or yield enhancement purposes and in no event outstanding for a period exceeding ninety (90) days in each case and (ii) other investment strategies with respect to securities and financial instruments in each case entered into in the ordinary course of business and on ordinary business terms;

(l) the sale of delinquent accounts receivable for collection in the ordinary course of business;

(m) Liens in existence on the date hereof and set forth in Schedule 1.01 (and any extension, renewal or replacement thereof permitted under Section 4.04(a)(xvi));

(n) Liens in favor of a Federal Home Loan Bank to secure borrowings from such Federal Home Loan Bank in the ordinary course of business and on ordinary business terms pursuant to a membership in such Federal Home Loan Bank;

(o) Liens on deposits made in connection with the discharge, defeasance or redemption of Debt;

(p) Liens securing Debt permitted under Section 4.04(a)(v);

(q) Liens (i) of a collection bank arising under Section 4-208 of the Uniform Commercial Code on the items in the course of collection and (ii) in favor of a banking or other financial institution arising as a matter of law or under customary contractual provisions encumbering deposits or other funds maintained with such banking or other financial institution (including the right of set off and grants of security interests in deposits and/or securities held by such banking or other financial institution) and that are within the general parameters customary in the banking industry;

(r) Liens deemed to exist in connection with reasonable customary initial deposits, margin deposits and similar Liens attaching to brokerage accounts maintained in the ordinary course of business and not for speculative purposes;

(s) Liens arising from Uniform Commercial Code financing statements or similar filings that have not been authorized by the Guarantor or a Subsidiary of the Guarantor;

(t) Liens solely on any cash earnest money deposits made by the Guarantor or any of its Subsidiaries in connection with any letter of intent or purchase agreement, provided that any such Lien is in existence for a period of no longer than one year;

(u) Liens on insurance policies and the proceeds thereof securing the financing of the premiums with respect thereto;

(v) Customary rights of first refusal and tag, drag and similar rights relating to the sale of equity in joint venture agreements and franchise agreements entered into in the ordinary course of business;

(w) Liens on cash or securities to secure Hedge Agreements and obligations under other derivatives transactions entered into in the ordinary course of business and not for speculative purposes; *provided* that the amount of Debt secured by such Liens shall not exceed \$150,000,000 at any time outstanding;

(x) Liens arising from the deposit of cash, securities or other property into collateral or reinsurance trusts for the benefit of ceding companies or Insurance Regulatory Authorities;

(y) Liens arising in connection with securities lending transactions entered into in the ordinary course of business, for liquidity or yield enhancement purposes and in no event outstanding for a period exceeding two hundred and seventy (270) days in each case;

(z) Liens securing Debt in an aggregate principal amount at any time outstanding not to exceed \$25,000,000; and

(aa) any Liens arising under the Security Documents.

“Person” means any natural person, corporation, limited liability company, trust, joint venture, association, company, partnership, Government Authority or other entity.

“Plan” means an employee benefit or other plan established or maintained by the Guarantor or any ERISA Affiliate and that is covered by Title IV of ERISA, including a Multiemployer Plan.

"Preferred Securities" of any Person shall mean any preferred Equity Interests (or capital stock) of such Person that (i) have preferential rights with respect to dividends or redemptions or upon liquidation or dissolution of such Person over shares of common Equity Interests (or capital stock) of any other class of such Person and (ii) that require no repayments or prepayments and no mandatory redemptions or repurchases, in each case, prior to 91 days after the Final Maturity Date.

"Property" of any Person means any property or assets, or interest therein, of such Person.

"Public Lenders" means the Lenders that do not wish to receive material non-public information with respect to the Guarantor, its Subsidiaries or their securities.

"Regulation FD" means Regulation FD as promulgated by the SEC under the Securities Act of 1933 and the Securities and Exchange Act of 1934 as in effect from time to time.

"Regulations T, U and X" means Regulations T, U and X issued by the Board of Governors of the Federal Reserve System, as from time to time amended.

"Reinsurance Agreement" means any agreement, contract, treaty or other arrangement whereby other insurers assume insurance from the Guarantor or any Insurance Subsidiary.

"Responsible Officer" of the Guarantor means the President, the Chief Executive Officer, the Chief Financial Officer, the Treasurer, any Executive Vice President, any Senior Vice President, or any Vice President of the Guarantor.

"Restricted Payments" means (a) any cash dividend or other distribution in cash with respect to any Equity Interests in any Person, or any cash payment, including any sinking fund or similar cash deposit, on account of the purchase, redemption, retirement, acquisition, cancellation or termination of any such Equity Interests in such Person or any option, warrant or other right to acquire any such Equity Interests in such Person and (b) any prepayment, redemption, purchase, defeasance or other satisfaction prior to the scheduled maturity thereof in any manner of any Subordinated Indebtedness of any Person (it being understood that payments of regularly scheduled principal and interest payments shall not constitute a Restricted Payment).

"Restricted Payment Event of Default" means (i) while the Hanover Credit Agreement is in full force and effect, any "Event of Default" (as such term is defined in the Hanover Credit Agreement) under Section 7.01(a), Section 7.01(c) (only if such Event of Default arises due to the Guarantor's failure to perform or observe any term, covenant or agreement contained in Section 5.01(a), Section 5.01(b) or Section 6.01 of the Hanover Credit Agreement), Section 7.01(d), Section 7.01(e), Section 7.01(f), or Section 7.01(j) of the Hanover Credit Agreement or (ii) otherwise, any Event of Default under Clause 26.1 (*Events of Default, Non-Payment*), Clause 26.2 (*Events of Default, Financial Condition and Other Specific Covenants*), Clause 26.3 (*Events of Default, Other Obligations*) (only if such Event of Default arises due to the Guarantor's failure to perform or observe any term, covenant or agreement contained in Section 4.02(a)(i), Section 4.02(a)(ii) or Section 4.03), Clause 26.6 (*Events of Default, Cross Default*), Clause 26.8 (*Events of Default, Insolvency*), Clause 26.9 (*Events of Default, Insolvency Proceedings*), Clause 26.13 (*Events of Default, Repudiation*) or Clause 26.25 (*Events of Default, US Bankruptcy Proceeding*) of the Facility Agreement.

"S&P" means Standard & Poor's Ratings Services, a Standard & Poor's Financial Services LLC business.

"SAP" means the accounting procedures and practices prescribed or permitted by the applicable Insurance Regulatory Authority.

"SEC" means the United States Securities and Exchange Commission.

"Sanctions" means, economic or financial sanctions or trade embargoes imposed, administered or enforced from time to time by (a) the U.S. government, including those administered by OFAC or

the U.S. Department of State or (b) the European Union or Her Majesty's Treasury of the United Kingdom.

"Sanctioned Country" means, at any time, a country or territory which is the subject or target of any Sanctions and with respect to which such Sanctions apply to all Persons in such country or territory (for example, as of the date of this Agreement, Cuba), as opposed to any country or territory with respect to which Sanctions are applicable only to Persons listed in any Sanctions-related list.

"Sanctioned Person" means, at any time, (a) any Person listed in any Sanctions-related list of designated Persons maintained by OFAC, the U.S. Department of State, the European Union or Her Majesty's Treasury of the United Kingdom, (b) any Person operating, organized or resident in a Sanctioned Country, or (c) any Person controlled by any such Person.

"Securitization Subsidiary" shall mean a Subsidiary which engages in no activities other than in connection with the financing of accounts receivable or portfolio investments of the Guarantor or any other Subsidiary (a) no portion of the Debt or any other obligations (contingent or otherwise) of which (i) is guaranteed by the Guarantor or any other Subsidiary (other than another Securitization Subsidiary) (excluding guarantees of obligations (other than the principal of, and interest on, Debt) pursuant to Standard Securitization Undertakings or Limited Originator Recourse), (ii) is recourse to or obligates the Guarantor or any other Subsidiary (other than another Securitization Subsidiary) in any way (other than pursuant to Standard Securitization Undertakings or Limited Originator Recourse) or (iii) subjects any property or asset of the Guarantor or any other Subsidiary (other than another Securitization Subsidiary), directly or indirectly, contingently or otherwise, to the satisfaction thereof, other than pursuant to Standard Securitization Undertakings or Limited Originator Recourse, (b) with which neither the Guarantor nor any of its Subsidiaries (other than another Securitization Subsidiary) has any contract, agreement, arrangement or understanding (other than pursuant to the documentation entered into in connection with any Securitization Transaction (including with respect to fees payable in the ordinary course of business in connection with the servicing of accounts receivable and related assets)) on terms less favorable to the Guarantor or such Subsidiary than those that might be obtained at the time from persons that are not Affiliates of the Guarantor, and (c) to which neither the Guarantor nor any other Subsidiary of the Guarantor (other than another Securitization Subsidiary) has any obligation to maintain or preserve such entity's financial condition or cause such entity to achieve certain levels of operating results (other than pursuant to Standard Securitization Undertakings or Limited Originator Recourse).

"Securitization Transaction" means any transaction or series of transactions that may be entered into by the Guarantor or any of its Subsidiaries pursuant to which the Guarantor or such Subsidiary, as the case may be, may sell, convey or otherwise transfer assets to any special purpose, bankruptcy-remote Subsidiary in a true sale transaction and such special purpose Subsidiary incurs Financial Debt to finance the purchase of such assets, provided that there shall be no recourse under any such securitization to the Guarantor or any of its other Subsidiaries other than pursuant to Standard Securitization Undertakings or Limited Originator Recourse.

"Security Agent" has the meaning set forth in the preamble hereof.

"Security Documents" has the meaning specified in the Facility Agreement.

"Security" has the meaning specified in the Facility Agreement.

"Solvent" means, with respect to any Person at any time, that (a) the fair value of the Property of such Person is greater than the total amount of liabilities (including without limitation contingent liabilities) of such Person, (b) the present fair saleable value of the Property of such Person is not less than the amount that will be required to pay the probable liability of such Person on its debts as they become absolute and matured, (c) such Person does not intend to, and does not believe that it will, incur debts or liabilities beyond such Person's ability to pay as such debts and liabilities mature, and (d) such Person is not engaged in a business and is not about to engage in a business for which such Person's Property would constitute an unreasonably small capital.

"Specified Convertible Debt Securities" means any debt securities the terms of which provide for the conversion thereof into Equity Interests, cash or a combination of Equity Interests and cash and (i) that afford equity benefit to the issuer thereof (under the procedures and guidelines of S&P) by having ongoing payment requirements that are more flexible than interest payments associated with conventional indebtedness for borrowed money and by being contractually subordinated to such indebtedness and (ii) that require no repayments or prepayments and no mandatory redemptions or repurchases of principal payable in cash, in each case, prior to 91 days after the Final Maturity Date.

"Standard Securitization Undertakings" means representations, warranties, covenants and indemnities entered into by the Guarantor or any Subsidiary in connection with any Securitization Transaction that are customary in comparable non-recourse securitization transactions.

"Statutory Statement" means, as to any Material Insurance Subsidiary, a statement of the condition and affairs of such Material Insurance Subsidiary, prepared in accordance with SAP, and filed with the applicable Insurance Regulatory Authority.

"Subordinated Indebtedness" means any Debt of the Guarantor or any Subsidiary the payment of which is contractually subordinated in right of payment to the obligations under this Agreement.

"Subsidiary" means, with respect to any Person, any other Person of which at least a majority of the securities or other ownership interests having by the terms thereof ordinary voting power to elect a majority of the board of directors or other persons performing similar functions of such other Person (irrespective of whether or not at the time securities or other ownership interests of any other class or classes of such other Person shall have or might have voting power by reason of the happening of any contingency) is at the time directly or indirectly owned or Controlled by such Person or one or more Subsidiaries of such first Person or by such first Person and one or more Subsidiaries of such first Person. For the avoidance of doubt, any Lloyd's syndicate which is not a legal entity and has no power to enter into contracts or other binding obligations shall not be deemed to be a Subsidiary of the Guarantor.

"Total Capitalization" means, at any time, the sum of (a) Total Debt plus (b) Net Worth.

"Total Debt" means, at any time, an amount equal to the aggregate outstanding principal amount of Debt of the Guarantor and its Subsidiaries (other than any Securitization Subsidiary) of the kinds set forth in clauses (a) through (g) of the definition of Debt determined on a Consolidated basis without duplication in accordance with GAAP, but without giving effect to any election under the Statement of Financial Accounting Standards No. 159 (ASC 825) (or any similar accounting principle) permitting a Person to value its financial liabilities or indebtedness at the fair value thereof; provided, that solely for purposes of determining "Total Debt," (i) without duplication of clauses (ii), (iii) and (iv) hereof, the outstanding principal amount of Debt attributed to any Hybrid Security shall be deemed equal to the portion of such Hybrid Security that is deemed to constitute indebtedness, as determined in accordance with S&P's methodology at such time, (ii) without duplication of clauses (i), (iii) and (iv) hereof, the outstanding principal amount of Debt attributed to any Disqualified Equity Interest shall be deemed equal to the portion of such Disqualified Equity Interest that is deemed to constitute indebtedness, as determined in accordance with S&P's methodology at such time, (iii) without duplication of clauses (i), (ii) and (iv) hereof, the outstanding principal amount of Debt attributed to any Preferred Security shall be deemed equal to the portion of such Preferred Security that is deemed to constitute indebtedness, as determined in accordance with S&P's methodology at such time and (iv) without duplication of clauses (i), (ii) and (iii) hereof, the outstanding principal amount of Debt attributed to any Specified Convertible Debt Securities shall be deemed equal to the portion of such Specified Convertible Debt Securities that is deemed to constitute indebtedness, as determined in accordance with S&P's methodology at such time.

"UKGAAP" means generally accepted accounting principles in the United Kingdom as in effect from time to time.

"US Pledge Agreement" has the meaning specified in the Facility Agreement.

"Wholly-Owned Subsidiary" means, with respect to any Person, any corporation, partnership, limited liability company or other entity of which all of the equity securities or other ownership interests (other than, in the case of a corporation, directors' qualifying shares) are directly or indirectly owned or Controlled by such Person or one or more Wholly-Owned Subsidiaries of such Person or by such Person and one or more Wholly-Owned Subsidiaries of such Person.

"Withdrawal Liability" has the meaning specified in Part 1 of Subtitle E of Title IV of ERISA.

**Section 1.02 Accounting Terms; GAAP** Except as otherwise expressly provided herein, all terms of an accounting or financial nature shall be construed in accordance with GAAP, as in effect from time to time; provided, that if the Guarantor notifies the Facility Agent that it requests an amendment to any provision hereof to eliminate the effect of any change occurring after the date hereof in GAAP or in the application thereof on the operation of such provision (or if the Facility Agent notifies the Guarantor that the Lenders, in accordance with the Facility Agreement, request an amendment to any provision hereof for such purpose), regardless of whether any such notice is given before or after such change in GAAP or in the application thereof, then such provision shall be interpreted on the basis of GAAP as in effect and applied immediately before such change shall have become effective until such notice shall have been withdrawn or such provision amended in accordance herewith. To enable the ready and consistent determination of compliance with the covenants set forth in Section 4.03, the Guarantor will cause the last day of its fiscal year to be December 31.

## ARTICLE II GUARANTY

**Section 2.01 The Guaranty** The Guarantor unconditionally guarantees, as a primary obligor and not merely as a surety the due and punctual payment of any amounts due under or in connection with any Guaranteed Document, together with all renewals, modifications, consolidations or extensions thereof and whether now or hereafter due, owing or incurred in any manner, whether actual or contingent, whether incurred solely or jointly with any other Person and whether as principal or surety (and including all liabilities in connection with any notes, bills or other instruments accepted by any Guaranteed Finance Party in connection therewith), together in each case with all renewals, modifications, consolidations or extensions thereof (all such obligations being herein collectively referred to as the "**Guaranteed Obligations**").

Anything contained in this Agreement to the contrary notwithstanding, the obligations of the Guarantor hereunder shall be limited to a maximum aggregate amount equal to the greatest amount that would not render the Guarantor's obligations hereunder subject to avoidance as a fraudulent transfer or conveyance under Section 548 of Title 11 of the United States Code or any provisions of applicable state Law (collectively, the "**Fraudulent Transfer Laws**"), in each case after giving effect to all other liabilities of the Guarantor, contingent or otherwise, that are relevant under the Fraudulent Transfer Laws (specifically excluding, however, any liabilities of the Guarantor (i) in respect of intercompany indebtedness to any other Group Obligor or any of its Affiliates to the extent that such indebtedness (A) would be discharged or would be subject to a right of set-off in an amount equal to the amount paid by the Guarantor hereunder or (B) has been pledged to, and is enforceable by, the Security Agent on behalf of the Guaranteed Finance Parties and (ii) under any guaranty of Debt subordinated in right of payment to the Guaranteed Obligations which guaranty contains a limitation as to a maximum amount similar to that set forth in this paragraph pursuant to which the liability of the Guarantor hereunder is included in the liabilities taken into account in determining such maximum amount) and after giving effect as assets of the Guarantor to the value (as determined under the applicable provisions of the Fraudulent Transfer Laws) of any rights to subrogation, contribution, reimbursement, indemnity or similar rights of the Guarantor pursuant to (i) applicable Law or (ii) any agreement providing for an equitable allocation among the Guarantor and any other Group Obligor and its Affiliates of obligations arising under guaranties by such parties (including the agreements in Article II of this Agreement). If the Guarantor's liability hereunder is limited pursuant to this paragraph to an amount that is less than the total amount of the Guaranteed Obligations, then it is understood and agreed that the portion of the Guaranteed Obligations for which the Guarantor is liable hereunder shall be the last portion of the Guaranteed Obligations to be repaid.

**Section 2.02 Guaranty Absolute** The Guarantor guarantees that the Guaranteed Obligations will be paid strictly in accordance with the terms of the Guaranteed Documents, regardless of any Law now or hereafter in effect in any jurisdiction affecting any of such terms or the rights of the Guaranteed Finance Parties with respect thereto. The obligations of the Guarantor under this Agreement are independent of the Guaranteed Obligations, and a separate action or actions may be brought and prosecuted against the Guarantor to enforce this Agreement, irrespective of whether any action is brought against the Borrower or any other Group Obligor or whether the Borrower or any other Group Obligor is joined in any such action or actions. This Agreement is an absolute and unconditional guaranty of payment when due, and not of collection, by the Guarantor of the Guaranteed Obligations in each and every particular. The obligations of the Guarantor hereunder are several from those of the other Group Obligors and are primary obligations concerning which the Guarantor is the principal obligor. The Guaranteed Finance Parties shall not be required to mitigate damages or take any action to reduce, collect or enforce the Guaranteed Obligations.

The obligations of the Guarantor hereunder shall not be subject to any reduction, limitation, impairment or termination for any reason, including the existence of any claim, set-off or other right which the Guarantor may have at any time against any other Group Obligor or any Guaranteed Finance Party or any other Person, whether in connection herewith or any unrelated transactions. Without limiting the generality of the foregoing, the Guarantor's liability shall extend to all amounts that constitute part of the Guaranteed Obligations and would be owed by any Group Obligor to any Guaranteed Finance Party under the Guaranteed Documents but for the fact that they are unenforceable or not allowable due to the existence of a bankruptcy, reorganization or similar proceeding involving the Borrower or such Group Obligor.

Without limiting the generality of the foregoing, the obligations of the Guarantor hereunder shall not be released, discharged or otherwise affected or impaired by:

(i) any extension, renewal, settlement, compromise, acceleration, waiver or release in respect of any obligation of any Group Obligor or any Guaranteed Document or any other agreement or instrument evidencing or securing any Guaranteed Obligation, by operation of Law or otherwise;

(ii) any change in the manner, place, time or terms of payment of any Guaranteed Obligation or any other amendment, supplement or modification to the Facility Agreement or any other Guaranteed Document or any other agreement or instrument evidencing or securing any Guaranteed Obligation;

(iii) any release, non-perfection or invalidity of any direct or indirect security for any Guaranteed Obligation, any sale, exchange, surrender, realization upon, offset against or other action in respect of any direct or indirect security for any Guaranteed Obligation or any release of any other Group Obligor or any other guarantor or guarantors of any Guaranteed Obligation;

(iv) any change in the existence, structure or ownership of any Group Obligor or any insolvency, bankruptcy, reorganization, arrangement, readjustment, composition, liquidation or other similar proceeding affecting any Group Obligor or its assets or any resulting disallowance, release or discharge of all or any portion of any Guaranteed Obligation, other than in connection with the payment in full of all obligations under and termination of the Guaranteed Documents;

(v) the existence of any claim, set-off or other right which the Guarantor may have at any time against any other Group Obligor, any Guaranteed Finance Party or any other Person, whether in connection herewith or any unrelated transaction; provided that nothing herein shall prevent the assertion of any such claim by separate suit or compulsory counterclaim;

(vi) any invalidity or unenforceability relating to or against any Group Obligor for any reason of the Facility Agreement, any other Guaranteed Document or any

other agreement or instrument evidencing or securing any Guaranteed Obligation or any provision of applicable Law purporting to prohibit the payment by any Group Obligor of any Guaranteed Obligation;

(vii) any failure by any Guaranteed Finance Party: (A) to file or enforce a claim against any Group Obligor or its estate (in a bankruptcy or other proceeding); (B) to give notice of the existence, creation or incurrence by any Group Obligor of any new or additional indebtedness or obligation under or with respect to the Guaranteed Obligations; (C) to commence any action against any Group Obligor; (D) to disclose to the Guarantor any facts which such Guaranteed Finance Party may now or hereafter know with regard to any Group Obligor; or (E) to proceed with due diligence in the collection, protection or realization upon any collateral securing the Guaranteed Obligations;

(viii) any direction as to application of payment by any Group Obligor or any other Person;

(ix) any subordination by any Guaranteed Finance Party of the payment of any Guaranteed Obligation to the payment of any other liability (whether matured or unmatured) of any Group Obligor to its creditors;

(x) any act or failure to act by any Guaranteed Finance Party under this Agreement or otherwise which may deprive the Guarantor of any right to subrogation, contribution or reimbursement against any other Group Obligor or any right to recover full indemnity for any payments made by the Guarantor in respect of the Guaranteed Obligations; or

(xi) any other act or omission to act or delay of any kind by any Group Obligor or any Guaranteed Finance Party or any other Person or any other circumstance whatsoever which might, but for the provisions of this clause, constitute a legal or equitable discharge of the Guarantor's obligations hereunder.

The Guarantor has irrevocably and unconditionally delivered this Agreement to the Facility Agent and the Security Agent, for the benefit of the Guaranteed Finance Parties, and the failure by any other Group Obligor or any other Person to sign this Agreement or a guaranty similar to this Agreement or otherwise shall not discharge the obligations of the Guarantor hereunder. The irrevocable and unconditional liability of the Guarantor hereunder applies whether it is jointly and severally liable for the entire amount of the Guaranteed Obligations, or only for a pro-rata portion, and without regard to any rights (or the impairment thereof) of subrogation, contribution or reimbursement that the Guarantor may now or hereafter have against any other Group Obligor or any other Person. This Agreement is and shall remain fully enforceable against the Guarantor irrespective of any defenses that any Group Obligor may have or assert in respect of the Guaranteed Obligations, including, without limitation, failure of consideration, breach of warranty, payment, statute of frauds, statute of limitations, accord and satisfaction and usury, except that the Guarantor may assert the defense of final payment in full of the Guaranteed Obligations.

### **Section 2.03 Payments.**

(a) *Payments to be Made When Due.* The Guarantor shall, forthwith on demand of the Facility Agent or (as applicable) the Security Agent following the failure of any Group Obligor to make any payment under the Guaranteed Documents when due, including following the acceleration of the maturity of any Guaranteed Obligations pursuant to Clause 26.25 (*Events of Default, Acceleration and Cancellation*) of the Facility Agreement, pay the aggregate amount of all Guaranteed Obligations to the Facility Agent or (as applicable) the Security Agent.

(b) General Provisions as to Payments. Each payment hereunder shall be made without set-off, counterclaim or other deduction, in immediately available funds, to the Facility Agent or (as applicable) the Security Agent at the address(es) referred to in Section 7.01.

(c) Application of Payments. All amounts from time to time received or recovered by the Facility Agent or (as applicable) the Security Agent in connection with this Agreement (the "**Guaranty Payments**") shall be applied by the Facility Agent, to the extent permitted by applicable law (and subject to the provisions of this Section 2.03), in the following order of priority:

(i) in discharging any sums owing to the Facility Agent or Security Agent under the Guaranteed Documents;

(ii) in payment to the Facility Agent, on behalf of the Finance Parties (or, in the case of the Overdraft Facility, directly to Security Agent on behalf of the Overdraft Provider), for application on a pro rata basis towards the discharge of all sums due and payable by any Group Obligor under any of the Guaranteed Documents (to be applied) in accordance with Clause 33.5 (*Payment Mechanics, Partial Payments*) of the Facility Agreement and the Overdraft Letter to the extent that it constitutes Permitted Financial Indebtedness.

(d) Investment of Proceeds. Prior to the application of the proceeds of the Guaranty Payments in accordance with subsection (c) above, the Facility Agent or (as applicable) the Security Agent may, in its discretion, hold all or part of those proceeds in an interest-bearing suspense or impersonal account(s) in the name of the Facility Agent or (as applicable) the Security Agent with such financial institution (including itself) and for so long as the Facility Agent shall think fit (the interest being credited to the relevant account) pending the application from time to time of those monies in the Facility Agent's or (as applicable) the Security Agent's discretion in accordance with the provisions of this Section 2.03.

(e) Currency Conversion.

(i) For the purpose of, or pending the discharge of, any of the Guaranteed Obligations, the Facility Agent or (as applicable) the Security Agent may convert any moneys received or recovered by the Facility Agent from one currency to another, at the Facility Agent's spot rate of exchange.

(ii) The obligations of the Guarantor to pay in the due currency shall only be satisfied to the extent of the amount of the due currency purchased after deducting the costs of conversion.

(f) Permitted Deductions. The Facility Agent or (as applicable) the Security Agent shall be entitled, in its discretion, (i) to set aside by way of reserve amounts required to meet and (ii) to make and pay, any deductions and withholdings (on account of taxes or otherwise) which it is or may be required by any applicable law to make from any distribution or payment made by it under this Agreement, or as a consequence of performing its duties, or by virtue of its capacity as Facility Agent or (as applicable) the Security Agent under any of the Guaranteed Documents or otherwise (other than in connection with its remuneration for performing its duties under the Guaranteed Documents).

**Section 2.04 Discharge; Reinstatement in Certain Circumstances.** The Guarantor's obligations hereunder shall remain in full force and effect until the latest to occur of:

(i) payment in full in cash of all Debt outstanding, together with all interest (including interest accruing on or after the commencement of any proceeding under any Debtor Relief Law, whether or not a claim for such interest is, or would be, allowed or allowable in such proceeding under any Debtor Relief Law) and premium thereon, under the Guaranteed Documents and the termination of all Commitments;

(ii) payment in full in cash of all other Guaranteed Obligations that are due and payable or otherwise accrued and owing under the Guaranteed Documents (including legal fees and other expenses, costs or charges in each case payable thereunder and accruing on or after the commencement of any proceeding under any Debtor Relief Law, whether or not a claim for such fees, expenses, costs or charges is, or would be, allowed or allowable in such proceeding under any Debtor Relief Law); and

(iii) termination, cancellation or cash collateralization (in an amount reasonably satisfactory to the Facility Agent) of, all Letters of Credit issued or deemed issued under the Guaranteed Documents.

(the occurrence of all of the foregoing being referred to herein as "**Discharge of Finance Obligations**").

No payment or payments made by any other Group Obligor or any other Person or received or collected by any Guaranteed Finance Party from any other Group Obligor or any other Person by virtue of any action or proceeding or any set-off or appropriation or application at any time or from time to time in reduction of or in payment of the Guaranteed Obligations shall be deemed to modify, reduce, release or otherwise affect the liability of the Guarantor hereunder, it being understood that the Guarantor shall, notwithstanding any such payment or payments, remain liable for the Guaranteed Obligations until the Discharge of Finance Obligations. If at any time any payment by any other Group Obligor or any other Person of any Guaranteed Obligation is rescinded or must otherwise be restored or returned upon the insolvency, bankruptcy, dissolution, liquidation or reorganization of any other Group Obligor or other Person or upon or as a result of the appointment of a receiver, intervener or conservator of, or trustee or similar officer for, such other Group Obligor or other Person or any substantial part of its respective property or otherwise, the Guarantor's obligations hereunder with respect to such payment shall be reinstated as though such payment had been due but not made at such time. The Guarantor party hereto agrees that payment or performance of any of the Guaranteed Obligations or other acts which toll any statute of limitations applicable to the Guaranteed Obligations shall also toll the statute of limitations applicable to the Guarantor's liability hereunder.

**Section 2.05 Waiver by the Guarantor.** The Guarantor hereby waives presentment to, demand of payment from and protest to the Group Obligors of any of the Guaranteed Obligations, and also waives promptness, diligence, notice of acceptance of its guarantee, any other notice with respect to any of the Guaranteed Obligations and this Agreement and any requirement that any Guaranteed Finance Party protect, secure, perfect or insure any Lien or any property subject thereto. The Guarantor further waives any right to require that resort be had by any Guaranteed Finance Party to any security held for payment of the Guaranteed Obligations or to any balance of any deposit, account or credit on the books of the Guaranteed Finance Party in favor of any Group Obligor or any other Person. The Guarantor hereby consents and agrees to each of the following to the fullest extent permitted by Law, and agrees that the Guarantor's obligations under this Agreement shall not be released, diminished, impaired, reduced or adversely affected by any of the following (other than, in each case, in connection with the full and final payment and satisfaction of the Guaranteed Obligations, in cash), and waives any rights (including rights to notice) which the Guarantor might otherwise have as a result of or in connection with any of the following:

(i) any renewal, extension, modification, increase, decrease, alteration or rearrangement of all or any part of the Guaranteed Obligations or any instrument executed in connection therewith, or any contract or understanding with any Group Obligor, any Guaranteed Finance Party, or any of them, or any other Person, pertaining to the Guaranteed Obligations;

(ii) any adjustment, indulgence, forbearance or compromise that might be granted or given by any Guaranteed Finance Party to any Group Obligor or any other Person liable on the Guaranteed Obligations; or the failure of any Guaranteed Finance Party to assert any claim or demand or to exercise any right or remedy against any Group Obligor under the provisions of any Guaranteed Document or otherwise; or any rescission, waiver, amendment

or modification of, or any release from any of the terms or provisions of, any Guaranteed Document or any other agreement, including with respect to any Group Obligor under this Agreement;

(iii) the insolvency, bankruptcy, arrangement, adjustment, composition, liquidation, disability, dissolution or lack of power of any Group Obligor or any other Person at any time liable for the payment of all or part of the Guaranteed Obligations; or any dissolution of any Group Obligor, or any change, restructuring or termination of the corporate structure or existence of any Group Obligor, or any sale, lease or transfer of any or all of the assets of any Group Obligor, or any change in the shareholders, partners, or members of any Group Obligor; or any default, failure or delay, willful or otherwise, in the performance of the Guaranteed Obligations;

(iv) the invalidity, illegality or unenforceability of all or any part of the Guaranteed Obligations, or any document or agreement executed in connection with the Guaranteed Obligations, for any reason whatsoever, including the fact that the Guaranteed Obligations, or any part thereof, exceed the amount permitted by Law, the act of creating the Guaranteed Obligations or any part thereof is *ultravires*, the officers or representatives executing the documents or otherwise creating the Guaranteed Obligations acted in excess of their authority, the Guaranteed Obligations violate applicable usury laws, any Group Obligor has valid defenses, claims or offsets (whether at Law, in equity or by agreement) which render the Guaranteed Obligations wholly or partially uncollectible from such Group Obligor (other than Discharge of Finance Obligations), the creation, performance or repayment of the Guaranteed Obligations (or the execution, delivery and performance of any document or instrument representing part of the Guaranteed Obligations or executed in connection with the Guaranteed Obligations or given to secure the repayment of the Guaranteed Obligations) is illegal, uncollectible, legally impossible or unenforceable, or the documents or instruments pertaining to the Guaranteed Obligations have been forged or otherwise are irregular or not genuine or authentic;

(v) any full or partial release of the liability of any other Group Obligor or of any other Person now or hereafter liable, whether directly or indirectly, jointly, severally, or jointly and severally, to pay, perform, guarantee or assure the payment of the Guaranteed Obligations or any part thereof, it being recognized, acknowledged and agreed by the Guarantor that it may be required to pay the Guaranteed Obligations in full without assistance or support of any other Person, and the Guarantor has not been induced to enter into this Agreement on the basis of a contemplation, belief, understanding or agreement that any party other than the Borrower will be liable to perform the Guaranteed Obligations, or that the Guaranteed Finance Parties will look to any other party to perform the Guaranteed Obligations;

(vi) the taking or accepting of any other security, collateral or guarantee, or other assurance of payment, for all or any part of the Guaranteed Obligations (including the Security);

(vii) any release, surrender, exchange, subordination, deterioration, waste, loss or impairment (including negligent impairment) of any Letter of Credit, collateral, property or security, at any time existing in connection with, or assuring or securing payment of, all or any part of the Guaranteed Obligations;

(viii) [reserved];

(ix) the failure of the Guaranteed Finance Party or any other Person to exercise diligence or reasonable care in the preservation, protection, enforcement, sale or other handling or treatment of all or any part of such collateral, property or security (including the Security);

(x) the fact that any collateral, security, security interest or lien (including the Security) contemplated or intended to be given, created or granted as security for the repayment of the Guaranteed Obligations shall not be properly perfected or created, or shall prove to be unenforceable or subordinate to any other security interest or lien, it being recognized and agreed by the Guarantor that the Guarantor is not entering into this Agreement in reliance on, or in contemplation of the benefits of, the validity, enforceability, collectibility or value of any collateral;

(xi) [reserved];

(xii) any other action taken or omitted to be taken with respect to the Guaranteed Obligations, or the security and collateral therefor, whether or not such action or omission prejudices the Guarantor or increases the likelihood that the Guarantor will be required to pay the Guaranteed Obligations pursuant to the terms hereof, it being the unambiguous and unequivocal intention of the Guarantor that the Guarantor shall be obligated to pay the Guaranteed Obligations when due, notwithstanding any occurrence, circumstance, event, action or omission whatsoever, whether or not contemplated, and whether or not otherwise or particularly described herein, except for the full and final payment and satisfaction of the Guaranteed Obligations in cash;

(xiii) [reserved];

(xiv) the existence of any claim, set-off or other right which the Guarantor may have at any time against any other Group Obligor, any Guaranteed Finance Party or any other Person, whether in connection herewith or any unrelated transactions; provided that nothing herein shall prevent the assertion of any such claim by separate suit or compulsory counterclaim; or

(xv) any other circumstance that might in any manner or to any extent otherwise constitute a defense available to, vary the risk of, or operate as a discharge of, the Guarantor as a matter of Law or equity.

All waivers herein contained shall be without prejudice to the right of the Facility Agent or (as applicable) the Security Agent at its option to proceed against any Group Obligor or any other Person, whether by separate action or by joinder.

**Section 2.06 Agreement to Pay; Subordination of Subrogation Claims.** In furtherance of the foregoing and not in limitation of any other right that any Guaranteed Finance Party has at Law or in equity against the Guarantor by virtue hereof, upon the failure of any Group Obligor to pay any Guaranteed Obligation when and as the same shall become due, whether at maturity, by acceleration, after notice of prepayment or otherwise, the Guarantor hereby promises to and will forthwith pay, or cause to be paid, or such Guaranteed Finance Party as designated thereby in cash the amount of such unpaid Guaranteed Obligations. Upon payment by the Guarantor of any sums to the Facility Agent or any Guaranteed Finance Party as provided above, all rights of the Guarantor against any other Group Obligor arising as a result thereof by way of right of subrogation, contribution, reimbursement, indemnity or otherwise shall in all respects be subordinate and junior in right of payment to the prior indefeasible payment in full in cash of all the Guaranteed Obligations and Discharge of Finance Obligations. No failure on the part of any other Group Obligor or any other Person to make any payments in respect of any subrogation, contribution, reimbursement, indemnity or similar right (or any other payments required under applicable Law or otherwise) shall in any respect limit the obligations and liabilities of the Guarantor with respect to its obligations hereunder. If any amount shall erroneously be paid to the Guarantor on account of such subrogation, contribution, reimbursement, indemnity or similar right, such amount shall be held in trust for the benefit of the Guaranteed Finance Parties and shall forthwith be turned over to the Facility Agent in the exact form received by the Guarantor (duly endorsed by the Guarantor to the Facility Agent, if required) to be credited against the payment of the Guaranteed Obligations, whether matured or unmatured, in accordance with the terms of the Guaranteed Documents.

**Section 2.07 Stay of Acceleration.** If acceleration of the time for payment of any amount payable by any other Group Obligor under or with respect to the Guaranteed Obligations is stayed upon the insolvency or bankruptcy of such other Group Obligor, all such amounts otherwise subject to acceleration under the terms of the Facility any Guaranteed Document or any other agreement or instrument evidencing or securing the Guaranteed Obligations shall nonetheless be payable by the Guarantor hereunder forthwith on demand by the Facility Agent or (as applicable) the Security Agent or, following payment in full of the Guaranteed Obligations, the applicable Guaranteed Finance Parties under the applicable Guaranteed Documents, in the manner provided in Section 2.01.

**Section 2.08 No Set-Off.** No act or omission of any kind or at any time on the part of any Guaranteed Finance Party in respect of any matter whatsoever shall in any way affect or impair the rights of any Guaranteed Finance Party to enforce any right, power or benefit under this Agreement, and no set-off, claim, reduction or diminution of any Guaranteed Obligation or any defense of any kind or nature which the Guarantor has or may have against any other Group Obligor or any Guaranteed Finance Party shall be available against any Guaranteed Finance Party in any suit or action brought by any Guaranteed Finance Party to enforce any right, power or benefit provided for by this Agreement; provided that nothing herein shall prevent the assertion by the Guarantor of any such claim by separate suit or compulsory counterclaim. Nothing in this Agreement shall be construed as a waiver by the Guarantor of any rights or claims which it may have against any Guaranteed Finance Party hereunder or otherwise, but any recovery upon such rights and claims shall be had from such Guaranteed Finance Party separately, it being the intent of this Agreement that the Guarantor shall be unconditionally, absolutely and jointly and severally obligated to perform fully all its obligations, covenants and agreements hereunder for the benefit of each Guaranteed Finance Party.

### **ARTICLE III INDEMNIFICATION, SUBROGATION AND CONTRIBUTION**

**Section 3.01 Indemnity and Subrogation.** In addition to all such rights of indemnity and subrogation as the Guarantor may have under applicable Law (but subject to Section 2.06 above), the Borrower agrees that if a payment shall be made by the Guarantor under this Agreement, the Borrower shall indemnify the Guarantor for the full amount of such payment and the Guarantor shall be subrogated to the rights of the Person to whom such payment shall have been made to the extent of such payment.

**Section 3.02 Contribution and Subrogation.** The Guarantor agrees (subject to Section 2.06 above) that, if a payment shall be made by any other Group Obligor (other than the

Borrower) under the Guaranteed Documents or assets of any other Group Obligor (other than the Borrower) shall be sold pursuant to any Security Document to satisfy a claim of any Guaranteed Finance Party and such other Group Obligor (the "**Claiming Guarantor**") shall not have been fully indemnified by the Borrower, the Guarantor shall indemnify the Claiming Guarantor in an amount equal to the amount of such payment or the greater of the book value or the fair market value of such assets, as the case may be, in each case multiplied by a fraction the numerator of which shall be the net worth of the Guarantor on the date that the obligation(s) supporting such claim were incurred under the Guaranteed Documents and the denominator of which shall be the aggregate net worth of all the Group Obligors (other than the Borrower) on such date. Any such payment by the Guarantor pursuant to this Section 3.02 shall be subrogated to the rights of such Claiming Guarantor under Section 3.01 to the extent of such payment, in each case subject to the provisions of Section 2.06.

#### **ARTICLE IV REPRESENTATIONS, WARRANTIES AND COVENANTS**

##### **Section 4.01 Representations and Warranties.**

(a) On the date of this Agreement, the Guarantor represents and warrants as follows:

(i) The Guarantor has heretofore furnished to each of the Lenders (including by furnishing the Form 10-K of the Guarantor filed with the SEC) its audited Consolidated balance sheet and Consolidated statements of income and cash flows as at and for the fiscal year ended December 31, 2016, and such financial statements fairly present, in all material respects, the Consolidated financial condition and results of operations of the Guarantor and its Subsidiaries as at the date thereof and for such fiscal year, all in accordance with GAAP;

(ii) The Guarantor has heretofore furnished (including by furnishing the Form 10-Q of the Guarantor filed with the SEC) to each of the Lenders its unaudited Consolidated balance sheet and Consolidated statements of income and cash flows as at and for the six-month period ended June 30, 2017, and such financial statements fairly present, in all material respects, the Consolidated financial position and results of operations of the Guarantor and its Subsidiaries as at the date thereof and for such six-month period, all in accordance with GAAP (subject to normal year end audit adjustments and the absence of footnotes);

(iii) The Guarantor has heretofore furnished to each of the Lenders the annual Statutory Statement of each Material Insurance Subsidiary and an equivalent financial statement for each Lloyd's syndicate in which a Subsidiary of the Guarantor has a membership interest, in each case for the fiscal year ended December 31, 2016, as filed with the applicable Insurance Regulatory Authority, and each such annual Statutory Statement (or, with respect to any Lloyd's syndicate in which a Subsidiary of the Guarantor has membership interest, such equivalent financial statement filing) presents fairly, in all material respects, the financial position and the results of operations of such Material Insurance Subsidiary or Lloyd's syndicate, as applicable, as at and for the fiscal year ended December 31, 2016, in accordance with SAP;

(iv) Since December 31, 2016, there has been no Material Adverse Change;

(v) There is no action, proceeding or investigation pending, or to the knowledge of the Guarantor, overtly threatened in writing against the Guarantor or any of its Subsidiaries before any court, governmental agency or arbitrator which (A) is reasonably likely to have a Material Adverse Effect or (B) purports to affect the Guaranteed Documents or the transactions contemplated thereby;

(vi) The Guarantor and each of its Subsidiaries (A) is duly organized, validly existing and (to the extent applicable in respect of the relevant jurisdiction) in good standing under the laws of its jurisdiction of organization, (B) is duly qualified and (to the extent applicable in respect of the relevant jurisdiction) in good standing as a foreign corporation in each other jurisdiction in which it owns or leases Property or in which the conduct of its business requires it to so qualify or be licensed and where, in each case, failure to qualify and be in good standing would reasonably be expected to have a Material Adverse Effect and (C) has all requisite corporate power and authority to own or lease and operate its Properties and to carry on its business as now conducted and as proposed to be conducted except as could not reasonably be expected to have a Material Adverse Effect;

(vii) The Guarantor and each of its Subsidiaries is in compliance with all federal, state and local laws and regulations (including, without limitation, all applicable environmental laws and ERISA) applicable to the Guarantor, its Subsidiaries and their respective Properties, except to the extent failure to so comply would not (either individually or in the aggregate) reasonably be expected to have a Material Adverse Effect;

(viii) All material consents, licenses, permits and governmental and third-party consents and approvals required for the due making and performance by the Guarantor of each of the Guaranteed Documents to which the Guarantor is a party have been obtained and remain in full force and effect;

(ix) Each of the Guaranteed Documents to which the Guarantor is a party is a legal, valid and binding obligation of the Guarantor, enforceable against the Guarantor in accordance with its terms except as such enforceability may be limited by applicable bankruptcy, insolvency, reorganization or other similar laws affecting enforcement of creditors' rights generally or general principles of equity;

(x) The making and performance by the Guarantor of each of the Guaranteed Documents to which it is a party are within the Guarantor's corporate powers, have been duly authorized by all necessary corporate action, and (A) do not contravene the Guarantor's certificate of incorporation or by-laws or (B) contravene, violate or breach any material contractual restriction binding on the Guarantor or its Subsidiaries or any material law, rule or regulation (including Regulations T, U or X), or any material order, writ, judgment, injunction, decree, determination or award, except for any such contravention, violation or breach referred to in clause (B) which could not reasonably be expected to have a Material Adverse Effect;

(xi) Each of the Guarantor and its Subsidiaries has good and marketable title to, valid leasehold interests in, or valid licenses to use, all Properties material to its business and on and after the date of the US Pledge Agreement, all Collateral (as defined therein), and all such Properties are in good working order and condition, ordinary wear and tear excepted, in each case except as would not reasonably be expected to have a Material Adverse Effect;

(xii) The Guarantor and each of its Subsidiaries have paid and discharged all taxes, assessments, claims and governmental charges or levies imposed upon it or upon its Property, except (A) any such tax, assessment, claim or charge that is being contested in good faith and by proper proceedings and as to which appropriate reserves are being maintained in accordance with Section 4.02(b) or (B) to the extent that any failure to do so could not reasonably be expected to have a Material Adverse Effect;

(xiii) The Guarantor is not engaged principally, or as one of its important activities, in the business of extending credit for the purpose of buying or carrying Margin Stock;

(xiv) No ERISA Event has occurred or is reasonably expected to occur with respect to any Plan that, when taken together with all other such ERISA Events for which

liability is reasonably expected to occur, has resulted or would reasonably be expected to result in a liability to the Guarantor or its ERISA Affiliates in excess of \$10,000,000;

(xv) The Guarantor is not an "investment company" as defined in the Investment Company Act of 1940, as amended;

(xvi) (A) Schedule 4.01 hereto is a complete list of the Subsidiaries of the Guarantor, (B) each such Subsidiary is duly organized and validly existing under the jurisdiction of its organization shown in said Schedule 4.01, and (C) the percentage ownership by the Guarantor of each such Subsidiary is as shown in said Schedule 4.01;

(xvii) (A) The Guarantor is Solvent and (B) the Guarantor and its Subsidiaries, on a consolidated basis are Solvent;

(xviii) All written information (other than information of a general economic or industry specific nature) that has been made available by the Guarantor or any of its representatives to any Guaranteed Finance Party in connection with the negotiation of the Guaranteed Documents (including, for the avoidance of doubt, any such information in any confidential information memorandum or related materials provided in connection with the syndication of the Commitments), when taken as a whole, on or as of the dates on which such information was made available, did not contain any untrue statement of a material fact or omit to state a fact necessary to make the statements contained therein not misleading in light of the time and circumstances under which such statements were made (after giving effect to all supplements and updates thereto); and

(xix) The Guarantor has implemented and maintains in effect policies and procedures designed to ensure compliance in all material respects by the Guarantor, its Subsidiaries and, when acting on its or their behalf, their respective directors, officers, employees and agents with Anti-Corruption Laws and applicable Sanctions, and the Guarantor, its Subsidiaries and their respective officers and employees and, to the knowledge of the Guarantor, its directors, are in compliance with Anti-Corruption Laws and applicable Sanctions in all material respects. None of the Guarantor, any Subsidiary or to the knowledge of the Guarantor or such Subsidiary any of their respective directors, officers or employees is a Sanctioned Person.

(xx) Subject to the execution and delivery of each of the US Pledge Agreement and the Account Control Agreement by all of the parties thereto and the filing of a financing statement in appropriate form in the office of the Secretary of State of Delaware, the Security Agent will have a first priority perfected Lien over the Collateral (as defined in the US Pledge Agreement), subject to any Permitted Liens.

(xxi) Subject to the Legal Reservations, on and after the date thereof, the US Pledge Agreement creates a legal, valid and enforceable Lien over the Collateral (as defined therein) in favour of the Security Agent for the benefit of the Secured Parties.

(xxii) Save for Permitted Liens, no Lien exists over all or any of the present or future revenues or assets of the Guarantor.

(b) The representations set out in Section 4.01(a)(i), (ii), (iii), (iv), (v), (vi), (ix), (x), (xx) and (xxi) are also deemed to be made by the Guarantor by reference to the facts and circumstances then existing on:

(i) the date of each Utilisation Request; and

(ii) the Commencement Date of each Letter of Credit and every six months after that date until the Expiry Date of that Letter of Credit.

**Section 4.02 Affirmative Covenants.** So long as any amount is outstanding under the Guaranteed Documents or any Commitment is in force, the Guarantor covenants and agrees that:

(a) Reporting Requirements. The Guarantor will furnish to the Facility Agent on behalf of the Lenders:

(i) as soon as available and in any event within 60 days after the end of each of the first three quarters of each fiscal year of the Guarantor, the Consolidated balance sheet of the Guarantor and its Subsidiaries as of the last day of such quarter and the related Consolidated statements of income and cash flows for such quarter, in each case setting forth in comparative form the corresponding figures from the corresponding quarter in the previous fiscal year, all prepared in conformity with GAAP and accompanied by a certificate of a Responsible Officer of the Guarantor, which certificate shall state that such financial statements present fairly, in all material respects, the Consolidated financial position of the Guarantor and its Subsidiaries as of the date thereof and the Consolidated results of their operations for the period covered thereby in conformity with GAAP, consistently applied (subject to normal year-end audit adjustments and the absence of footnotes);

(ii) as soon as available and in any event within 90 days after the end of each fiscal year of the Guarantor, the Consolidated balance sheet of the Guarantor and its Subsidiaries as of the last day of such fiscal year and the related Consolidated statements of income and cash flows for such fiscal year, setting forth in comparative form the corresponding figures from the previous fiscal year, all prepared in conformity with GAAP and accompanied by an unqualified report and opinion of independent certified public accountants of national standing and reputation, which shall state that such financial statements, in the opinion of such accountants, present fairly, in all material respects, the Consolidated financial position of the Guarantor and its Subsidiaries as of the date thereof and the Consolidated results of their operations for such year in conformity with GAAP, consistently applied;

(iii) as soon as possible and in any event within five Business Days after the Guarantor obtains knowledge of the occurrence of (i) a "Default" or an "Event of Default" (as such terms are defined in the Hanover Credit Agreement) continuing on the date of such statement or (ii) any Event of Default or Default continuing on the date of such statement, a statement of a Responsible Officer setting forth details of such event and the action which the Guarantor has taken and proposes to take with respect thereto;

(iv) within a reasonable time after filing thereof, copies of all registration statements (without exhibits) and all annual, quarterly and monthly reports (if any) filed by the Guarantor with the SEC and promptly upon the mailing thereof to the shareholders of the Guarantor generally, copies of all financial statements, reports and proxy statements so mailed;

(v) promptly after the Guarantor or any ERISA Affiliate knows or should reasonably know that any ERISA Event has occurred with respect to which the liability or potential liability of the Guarantor or any of its ERISA Affiliates has had or would reasonably be expected to have a Material Adverse Effect, a statement of a Responsible Officer describing such ERISA Event and the action, if any, which the Guarantor or such ERISA Affiliate proposes to take with respect thereto;

(vi) promptly after receipt thereof by the Guarantor or any ERISA Affiliate, copies of each notice from the PBGC stating its intention to terminate any Plan or to have a trustee appointed to administer any Plan where such action would have a Material Adverse Effect;

(vii) promptly after filing with the applicable Insurance Regulatory Authority and in any event within 60 days after the end of each of the first three quarterly fiscal periods of each fiscal year of each Material Insurance Subsidiary and each Lloyd's syndicate in which a Subsidiary of the Guarantor has a membership interest, the quarterly Statutory Statement of

such Material Insurance Subsidiary for such quarterly fiscal period (or, with respect to each Lloyd's syndicate in which the Guarantor has a membership interest, an equivalent financial statement of such Lloyd's syndicate for such quarterly fiscal period);

(viii) promptly after filing with the applicable Insurance Regulatory Authority and in any event within 90 days after the end of each fiscal year of each Material Insurance Subsidiary and each Lloyd's syndicate in which a Subsidiary of the Guarantor has a membership interest, the annual Statutory Statement of such Material Insurance Subsidiary, including, without limitation, management's discussion and analysis for such year (or, with respect to any Lloyd's syndicate in which the Guarantor has a membership interest, an equivalent financial statement of such Lloyd's syndicate for such year);

(ix) promptly upon the occurrence of any change in the Moody's Rating or the S&P's Rating of the Index Debt, or any change in the A.M. Best Financial Strength Rating with respect to any Insurance Subsidiary, notice thereof (for the avoidance of doubt, a change in outlook shall not constitute a change in rating);

(x) promptly upon the commencement of, or any material adverse development in, any litigation, investigation or proceeding against the Guarantor or any of its Subsidiaries that could reasonably be expected to have a Material Adverse Effect, notice thereof with a description thereof in reasonable detail; and

(xi) promptly after request therefor, such other business and financial information respecting the condition or operations, financial or otherwise, of the Guarantor or any of its Material Insurance Subsidiaries as the Facility Agent or any Lender may from time to time reasonably request.

Notwithstanding the foregoing, the obligations in paragraphs (i), (ii) and (iv) of this Section 4.02(a) shall be deemed satisfied with respect to financial information of the Guarantor and its Subsidiaries by the furnishing the Form 10-K or 10-Q or any other document of the Guarantor filed with the SEC, as applicable, on the date (i) on which the Guarantor posts such documents, or provides a link thereto on the Guarantor's website on the Internet at the website address provided to the Lenders; or (ii) on which such documents are posted on the Guarantor's behalf on an Internet or intranet website, if any, to which each Lender and the Facility Agent have access (whether a commercial, third-party website or whether sponsored by the Facility Agent); provided that (A) the Guarantor shall deliver paper copies of such documents to the Facility Agent or any Lender that requests in writing (including by electronic mail) the Guarantor to deliver such paper copies and (B) the Guarantor shall notify the Facility Agent (by telecopier or electronic mail) of the posting of any such documents satisfying the obligations in paragraphs (i), (ii) and (iv) of this Section 4.02(a).

The Guarantor will furnish to the Lenders at the time it furnishes its financial statements pursuant to paragraphs (i) and (ii) above, a certificate of a Responsible Officer, in the form of Exhibit A, setting forth reasonably detailed calculations demonstrating that the Guarantor is in compliance with the covenants in Section 4.03. The Guarantor and each Lender acknowledge that certain of the Lenders may be Public Lenders and, if documents or notices required to be delivered pursuant to this Section 4.02(a) or otherwise are being distributed on an Electronic System, any document or notice that the Guarantor has indicated contains Non-Public Information shall not be posted on that portion of the Electronic System designated for such Public Lenders. The Guarantor agrees to clearly designate all information provided to the Facility Agent by or on behalf the Guarantor which is suitable to make available to Public Lenders. If the Guarantor has not indicated whether a document or notice delivered pursuant to this Section 4.02(a) contains Non-Public Information, the Facility Agent reserves the right to post such document or notice solely on that portion of the Electronic System designated for Lenders who wish to receive material nonpublic information with respect to the Guarantor, its Subsidiaries and their securities.

(b) Payment of Taxes, Etc. The Guarantor will pay and discharge, and cause each of its Subsidiaries to pay and discharge, before the same shall become delinquent, all taxes, assessments, claims and governmental charges or levies imposed upon it or upon its Property, except

to the extent that any failure to do so would not reasonably be expected to have a Material Adverse Effect; provided that neither the Guarantor nor any of its Subsidiaries shall be required to pay or discharge any such tax, assessment, claim or charge that is being contested in good faith and by proper proceedings and as to which appropriate reserves are being maintained.

(c) Corporate Existence, Compliance with Laws, Etc. The Guarantor will, and will cause each of its Material Subsidiaries to, (i) preserve and maintain all of its material rights, privileges, licenses and franchises, including all tradenames, patents and other intellectual property necessary for its business, except to the extent the failure to preserve and maintain the same would not reasonably be expected to have a Material Adverse Effect, and (ii) preserve and maintain its legal existence, provided that nothing in this sentence shall prohibit any transaction not otherwise prohibited under Section 4.04(c). The Guarantor will comply, and will cause each of its Subsidiaries to comply, with all applicable laws, statutes, rules, regulations and orders, including, without limitation, ERISA, the PATRIOT Act, Anti-Corruption Laws and applicable Sanctions and all applicable environmental laws, except for any non-compliance which would not (either individually or in the aggregate) reasonably be expected to have a Material Adverse Effect. The Guarantor will maintain in effect and enforce policies and procedures designed to ensure compliance in all material respects by the Guarantor, its Subsidiaries and, when acting on its or their behalf, their respective directors, officers, employees and agents with Anti-Corruption Laws and applicable Sanctions.

(d) Maintenance of Properties, Etc. The Guarantor will maintain and preserve, and will cause each of its Subsidiaries to maintain and preserve, all of its Properties that are used or useful in the conduct of its business in good working order and condition, ordinary wear and tear excepted, except where failure to do so would not reasonably be expected to have a Material Adverse Effect. The Guarantor will maintain, and cause each of its Subsidiaries to maintain, appropriate and adequate insurance with responsible and reputable insurance companies or associations or with self-insurance programs to the extent consistent with prudent practices of the Guarantor and its Subsidiaries or otherwise customary in their respective industries in such amounts and covering such risks as is customary in the industries in which the Guarantor or such Subsidiary operates.

(e) Keeping of Books. The Guarantor will, and will cause each of its Subsidiaries to, keep proper books of record and account as are necessary to prepare Consolidated financial statements in accordance with GAAP, UKGAAP or SAP, as applicable, in which full and correct entries in all material respects shall be made of all financial transactions and the assets and business of the Guarantor and each such Subsidiary in accordance with GAAP, UKGAAP or SAP, as applicable.

(f) Visitation Rights. The Guarantor will, at any reasonable time during normal business hours and upon reasonable prior notice and from time to time, permit the Facility Agent or any of the Lenders or any agents or representatives thereof (in each case at their own expense (except as described below) and subject to Clause 41 (*Confidentiality*) of the Facility Agreement) to examine and make copies of and abstracts from the records and books of account of, and visit the Properties of, the Guarantor and any of its Subsidiaries, and to discuss the affairs, finances and accounts of the Guarantor and any of its Subsidiaries with any of their officers or directors; provided that, excluding any such examination or visit during the continuance of an Event of Default, the Facility Agent and the Lenders shall not, collectively, exercise such rights more than once during any calendar year. In addition, subject to customary access agreements, at any time when an Event of Default has occurred and is continuing, the Guarantor will, and will cause its Subsidiaries to, permit the Facility Agent or any of the Lenders or any agents or representatives thereof to discuss the affairs, finances and accounts of the Guarantor and its Subsidiaries with their independent certified public accountants, and the Guarantor will be responsible for the reasonable costs and expenses of the Facility Agent and the Lenders and the agents and representatives thereof incurred in connection with this clause (f).

(g) Borrowing Base Certificates. The Guarantor will promptly provide the Borrower requisite balance information and access with respect to the Custody Account for the Borrower to comply with its obligations under Clause 23.2 (*Borrowing Base Certificates*) of the Facility Agreement.

**Section 4.03 Financial Covenants.** So long as any amount is outstanding under the Guaranteed Documents or any Commitment is in force, the Guarantor covenants and agrees that:

(a) Minimum Net Worth. The Guarantor will not permit Net Worth as of the last day of any fiscal quarter of the Guarantor to be less than the sum of (i) \$2,080,750,000 plus (ii) an amount equal to 50% of the aggregate Net Equity Proceeds of any Equity Issuances made after the Effective Date plus (iii) an amount equal to 50% of the Guarantor's Consolidated net income (if positive) for such fiscal quarter and for each prior fiscal quarter of the Guarantor ending after the Effective Date.

(b) Leverage Ratio. The Guarantor will not permit the Leverage Ratio as of the last day of any fiscal quarter of the Guarantor to be greater than 35%.

**Section 4.04 Negative Covenants.** So long as any amount is outstanding under the Guaranteed Documents or any Commitment is in force, the Guarantor covenants and agrees that:

(a) Financial Debt. The Guarantor will not, and will not permit any Subsidiary to, create, incur, assume or permit to exist any Financial Debt, except:

(i) Financial Debt created under the Guaranteed Documents;

(ii) Financial Debt and commitments to provide Financial Debt existing on the date hereof and set forth on Schedule 4.04(a);

(iii) Financial Debt of the Guarantor to any Subsidiary and of any Subsidiary to the Guarantor or any other Subsidiary;

(iv) Financial Debt incurred by Securitization Subsidiaries pursuant to Securitization Transactions;

(v) Financial Debt in respect of capitalized lease obligations, synthetic lease obligations or secured by purchase money security interests, provided that the aggregate principal amount of Financial Debt permitted by this clause (v) shall not exceed \$100,000,000 at any time outstanding;

(vi) Guaranties by the Guarantor of Financial Debt incurred by its Subsidiaries otherwise permitted under this Section 4.04(a);

(vii) Financial Debt in respect of Hybrid Securities, Disqualified Equity Interests and Preferred Securities issued by the Guarantor or any trust or other special purpose entity formed by the Guarantor as to which no Subsidiary (other than any such trust or other special purpose entity) of the Guarantor has any obligation;

(viii) Financial Debt in respect of subordinated securities of the Guarantor so long as (a) the obligations of the Guarantor thereunder are unsecured and fully subordinated as to payment and performance in all respects to all of the Obligations of the Guarantor under the Guaranteed Documents, (b) no Subsidiary of the Guarantor has any obligations thereunder and (c) such subordinated securities do not have any required amortization, maturity, mandatory put, redemption, repayment, or other similar provision or requirement, or any cash interest thereon, and in any event is not payable, falling due or capable of falling due, prior to at least 91 days after the Final Maturity Date, provided that the Guarantor shall be permitted to make cash interest payments pursuant to the terms of such other subordinated securities so long as (x) no payment Default or Event of Default under the Hanover Credit Agreement so long as the Hanover Credit Agreement is in full force and effect and, otherwise, under the Facility Agreement has occurred and is continuing and (y) the interest rate in respect thereof shall be based on prevailing market rates at the time of issuance of such other subordinated securities;

(ix) Financial Debt in respect of borrowings from a Federal Home Loan Bank in the ordinary course of business and on ordinary business terms pursuant to a membership in such Federal Home Loan Bank;

(x) [reserved];

(xi) Financial Debt assumed in connection with any Acquisition, provided that such Financial Debt is not incurred in contemplation of such Acquisition and no other Subsidiary (other than the Subsidiary being acquired, if applicable) has any liability or obligations in respect of such Financial Debt;

(xii) Financial Debt incurred by the Guarantor in addition to the foregoing;

(xiii) Financial Debt incurred by the Subsidiaries of the Guarantor, provided that the aggregate principal amount of Financial Debt permitted by this clause shall not exceed \$75,000,000 at any time outstanding;

(xiv) Financial Debt in respect of letters of credit issued for the benefit of Insurance Regulatory Authorities and letters of credit issued in support of funds at the Society and Corporation of Lloyd's requirements (including any such Financial Debt set forth on Schedule 4.04(a));

(xv) Financial Debt incurred in connection with the Hanover Credit Agreement; provided, that the aggregate principal amount of Financial Debt permitted by this clause shall not exceed \$300,000,000; and

(xvi) any extension, renewal or replacement of any of the foregoing Financial Debt that (A) does not include Financial Debt of an obligor that was not an obligor with respect to the Financial Debt being extended, renewed or replaced, (B) does not increase the outstanding principal amount of the Financial Debt being extended, renewed or replaced except by an amount equal to unpaid accrued interest thereon, prepayment premiums not exceeding 5% of the outstanding principal amount of such Financial Debt, and fees and expenses incurred in connection with such extension, renewal or replacement, and by an amount equal to any existing commitments unutilized thereunder and (C) in the case of Financial Debt that is subordinated in right of payment under the Facility, is subordinated to at least the same extent as, and has a maturity not earlier than, and weighted average life to maturity not shorter than, the Financial Debt being renewed or replaced.

For purposes of determining compliance with this Section 4.04(a), the Guarantor will be entitled to divide an item of Financial Debt that meets the criteria of one of the categories of Financial Debt described in clauses (i) through (xv) above between such applicable clause and any other applicable clause.

(b) Liens. The Guarantor will not, nor will it permit any of its Subsidiaries to, create, incur, assume or suffer to exist any Lien upon any of its Property, whether now owned or hereafter acquired, except Permitted Liens.

(c) Mergers, Etc. The Guarantor will not, and will not permit any of its Material Subsidiaries to, merge or consolidate with or into, or convey, transfer, lease or otherwise dispose of, whether in one transaction or in a series of transactions, all or substantially all of the Property (whether now owned or hereafter acquired) of the Guarantor or such Material Subsidiary to, any Person, or liquidate or dissolve, except that, if at the time thereof and immediately after giving effect thereto no Default under the Hanover Credit Agreement so long as the Hanover Credit Agreement is in full force and effect and, otherwise, under the Facility Agreement, shall have occurred and be continuing, (i) any Material Subsidiary may merge into (1) the Guarantor in a transaction in which the Guarantor is the surviving corporation or (2) any other Subsidiary, (ii) any Material Subsidiary may sell, transfer, lease or otherwise dispose of its assets to the Guarantor or to another Subsidiary, (iii)

any Material Subsidiary may liquidate or dissolve if the Guarantor determines in good faith that such liquidation or dissolution is in the best interests of the Guarantor and is not materially disadvantageous to the Lenders, (d) any Subsidiary may merge into the Guarantor in a transaction in which the Guarantor is the surviving corporation and (iv) the Guarantor and any Material Subsidiary may engage in a disposition permitted by Section 4.04(d).

(d) Disposition of Assets. The Guarantor will not, and will not permit any of its Material Subsidiaries to, sell, lease, transfer or otherwise dispose of any substantial part of its Property (including any Property subject to Liens arising under the Security Documents), or grant any option or other right to purchase, lease or otherwise acquire any such Property, except (i) sales of inventory and investments in the ordinary course of its business, (ii) sales of assets which are not material to the operation of the Guarantor or such Material Subsidiaries or are no longer used or useful in connection with the operation of the Guarantor or such Material Subsidiaries, (iii) transfers of Property by the Guarantor or any Material Subsidiary to the Guarantor or any other Subsidiary (but to the extent that the Guarantor transfers a substantial portion of its property to any Subsidiaries, such Subsidiaries must enter into a guaranty substantially similar to this Agreement or as otherwise acceptable to the Facility Agent and Security Agent), (iv) dispositions pursuant to Securitization Transactions, (v) dispositions in connection with the CitySquare Project, (vi) dispositions for fair market value of assets acquired after the Effective Date in connection with Acquisitions, to the extent that, at the time that the relevant Acquisition was consummated, the Guarantor or such Material Subsidiary planned to sell, lease, transfer or otherwise dispose of such assets and (vii) other dispositions, the net cash proceeds of which, when aggregated with the net cash proceeds of any other such dispositions consummated after the Effective Date pursuant to this clause (vii) shall not exceed in the aggregate 5% of the total assets of the Guarantor and its Subsidiaries (determined on a Consolidated basis as of the end of the most recent fiscal quarter for which financial statements are available); provided that, for the avoidance of doubt, the Guarantor shall be permitted to release Property from the Liens arising under the Security Documents to the extent permitted thereunder or under the Facility Agreement.

(e) Transactions with Affiliates. The Guarantor will not, and will not permit any of its Subsidiaries to, sell, lease or otherwise transfer any Property to, or purchase, lease or otherwise acquire any assets from, or otherwise engage in any transactions with, any of its Affiliates, except (a) at prices and on terms and conditions not less favorable to the Guarantor or such Subsidiary than could be obtained on an arm's-length basis from unrelated third parties and (b) transactions between or among the Guarantor and its Subsidiaries not involving any other Affiliate.

(f) Line of Business. The Guarantor will not, and will not permit any of its Material Subsidiaries to, make any material change in the nature or conduct of the business of the Guarantor or such Material Subsidiary as conducted on the date hereof.

(g) Anti-dividend-block. Except to the extent required by applicable law, statute, rule, regulation, order or agreement with regulators, the Guarantor will not permit any of its Subsidiaries to agree to or have in effect any contractual restriction on the payment of dividends or the making of other distributions to the Guarantor (each, a "Burdensome Agreement") other than:

(i) Burdensome Agreements (A) in existence on the date hereof (to the extent not otherwise permitted by this Section 4.04(g)) that are listed on Schedule 4.04(g) hereto and (B) to the extent Burdensome Agreements permitted by clause (A) are contained in an agreement evidencing Financial Debt, any agreement evidencing any permitted modification, replacement, renewal, extension or refinancing of such Financial Debt so long as such modification, replacement, renewal, extension or refinancing does not expand the scope of such Burdensome Agreement or include any other Subsidiaries as parties thereto;

(ii) Burdensome Agreements that are binding on a Subsidiary of the Guarantor at the time such Person first becomes a Subsidiary of the Guarantor, so long as such Burdensome Agreements were not entered into in contemplation of such Person becoming a Subsidiary of the Guarantor;

(iii) Burdensome Agreements that are customary restrictions on leases, subleases, licenses or asset sale agreements otherwise permitted hereby so long as such restrictions relate to the assets subject thereto;

(iv) Burdensome Agreements that are customary provisions restricting subletting or assignment of any lease governing a leasehold interest of any Subsidiary of the Guarantor;

(v) Burdensome Agreements that are customary provisions restricting assignment of any agreement entered into in the ordinary course of business;

(vi) Burdensome Agreements that are restrictions on cash or other deposits imposed by customers under contracts entered into in the ordinary course of business; and

(vii) Burdensome Agreements to the extent set forth in an agreement evidencing Financial Debt of the Guarantor permitted under Section 4.04(a).

(viii) Burdensome Agreements entered into by a Securitization Subsidiary in respect of assets financed by such Securitization Subsidiary, or Burdensome Agreements restricting a Securitization Subsidiary in connection with the incurrence of Financial Debt by such Securitization Subsidiary, in each case pursuant to a Securitization Transaction.

(h) Restricted Payments. At any time after the occurrence and during the continuance of any Restricted Payment Event of Default, the Guarantor shall not, directly or indirectly declare or make, or agree to make, directly or indirectly, any Restricted Payment other than Restricted Payments for the repurchase, retirement or other acquisition or retirement for value of Equity Interests of the Guarantor by any future, present or former employee, director, officer, manager or consultant (or any Immediate Family Member thereof) of the Guarantor or any of its Subsidiaries upon the death, disability, retirement or termination of employment of any such Person or otherwise pursuant to any employee or director equity plan, employee or director stock option plan or any other employee or director benefit plan or any agreement (including any stock subscription or shareholder agreement) with any future, present or former employee, director, officer, manager or consultant of the Guarantor or any of its Subsidiaries (including, for the avoidance of doubt, any principal and interest payable on any notes issued by the Guarantor (or of any direct or indirect parent of the Guarantor) in connection with any such repurchase, retirement or other acquisition or retirement). Notwithstanding the foregoing, the restrictions contained in this Section 4.04(h) shall not prohibit the Guarantor from directly or indirectly declaring or making, or agreeing to make, directly or indirectly, and Restricted Payment at any time when (A) (i) there are no Loans outstanding under the Hanover Credit Agreement and (ii) the Guarantor has delivered to the Administrative Agent (and the Administrative Agent is in possession of) cash collateral in an amount equal to 103% of the aggregate Stated Amount (as defined under the Hanover Credit Agreement) of all Letters of Credit Outstanding thereunder as contemplated by Section 2.06(i) of the Hanover Credit Agreement and (B) the Borrower has delivered to the Facility Agent (and the Facility Agent is in possession of) cash collateral in an amount equal to 100% of any Outstandings under the Facility Agreement.

(i) Amendment to Hanover Credit Agreement. The Guarantor shall not consent to any amendment of the Hanover Credit Agreement that could reasonably be expected to adversely affect the interest of any Guaranteed Finance Party, without the consent of the Facility Agent and the Security Agent.

**Section 4.05 Relation to Facility Agreement.** For the avoidance of doubt, none of the provisions of this Agreement (including, but not limited to, Section 4.04) shall be deemed to alter or modify in any way the representations, covenants or obligations of the Obligor under the Facility Agreement (including, but not limited to Clause 25 (*General Undertakings*) of the Facility Agreement).

**Section 4.06 Certain Agreements.** The Guarantor hereby additionally represents, warrants and covenants as follows:

(a) (i) The Guarantor agrees to comply with each of the covenants contained in the Facility Agreement that impose or purport to impose, through agreements with the Borrower, restrictions or obligations on the Guarantor and (ii) the Guarantor hereby agrees that Clause 33.11 (*Payment Mechanics, Impaired Agent*) of the Facility Agreement shall be applicable to this Agreement, and references therein to "Obligor" shall be deemed to be references to the Guarantor for the purposes of this Section 4.06(a);

(b) The Guarantor acknowledges that any default in the due observance or performance by the Guarantor of any representation and warranty, covenant, condition or agreement contained herein may constitute an Event of Default under Clause 26 (*Events of Default*) of the Facility Agreement;

(c) The Guarantor has, independently and without reliance upon any Guaranteed Finance Party and based on such documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this Agreement. The Guarantor has investigated fully the benefits and advantages which will be derived by it from execution of this Agreement, and the Board of Directors (or persons performing similar functions in case of the Guarantor which is not a corporation) of the Guarantor has decided that a direct or an indirect benefit will accrue to the Guarantor by reason of the execution of this Agreement;

(d) (i) This Agreement is not given with actual intent to hinder, delay or defraud any Person to which the Guarantor is or will become, on or after the date hereof, indebted; and (ii) the Guarantor has received at least a reasonably equivalent value in exchange for the giving of this Agreement;

(e) The Guarantor agrees and acknowledges that the Facility Agent is acting as an agent on behalf of itself and the other Guaranteed Finance Parties pursuant to Clause 29 (*Role of the Facility Agent, the Arrangers and the Reference Banks*) of the Facility Agreement, and the Security Agent is acting as an agent on behalf of the Guaranteed Finance Parties pursuant to Clause 30 (*Role of the Security Agent*) of the Facility Agreement; and

(f) If the Guarantor agrees after the date hereof to any covenants in the Hanover Credit Agreement that are more stringent or restrictive as to the Guarantor than such limitations or covenants in this Agreement, then this Agreement will be deemed amended automatically, without any further action by the Guarantor, the Facility Agent or any other Person, to benefit from such covenants that are more stringent or restrictive, as the case may be, such that a breach thereof shall constitute a breach of this Agreement, regardless of any waiver or forbearance granted by the creditors under the Hanover Credit Agreement; provided that such limitations and financial covenants shall be deemed included in this Agreement for only so long as the same shall be in effect in the Hanover Credit Agreement. The Guarantor agrees to inform the Facility Agent promptly of any such amendments to the Hanover Credit Agreement and to furnish a copy of the documentation containing such covenants. The Guarantor and the Facility Agent further agree to enter into such amendments to this Agreement as reasonably requested by the Facility Agent or the Guarantor so as to conform this Agreement to the changes contemplated by the first sentence of this Section 4.06(f) (including its proviso), it being understood that the failure to effect any such amendment shall not limit the effectiveness of the first sentence of this Section 4.06(f) (including its proviso).

**Section 4.07 Information.** The Guarantor assumes all responsibility for being and keeping itself informed of the financial condition and assets of the other Group Obligors and of all

other circumstances bearing upon the risk of nonpayment of the Guaranteed Obligations and the nature, scope and extent of the risks that the Guarantor assumes and incurs hereunder, and agrees that no Guaranteed Finance Party will have any duty to advise the Guarantor of information known to it or any of them regarding such circumstances or risks.

**Section 4.08 Subordination by Guarantor.** In addition to the terms of subordination provided for under Section 2.07, the Guarantor hereby subordinates in right of payment all indebtedness of the other Group Obligors owing to it, whether originally contracted with the Guarantor or acquired by the Guarantor by assignment, transfer or otherwise, whether now owed or hereafter arising, whether for principal, interest, fees, expenses or otherwise, together with all renewals, extensions, increases or rearrangements thereof, to the prior indefeasible payment in full in cash of the Guaranteed Obligations, whether now owed or hereafter arising, whether for principal, interest (including interest accruing during the pendency of any proceeding under any Debtor Relief Law, regardless of whether allowed or allowable in such proceeding), fees, expenses or otherwise, together with all renewals, extensions, increases or rearrangements thereof.

## **ARTICLE V SET-OFF**

**Section 5.01 Right of Set-Off.** In addition to any rights now or hereafter granted under applicable Law or otherwise, and not by way of limitation of any such rights, upon the occurrence of any Event of Default under the Facility Agreement, each Guaranteed Finance Party (and each of its Affiliates) is authorized at any time and from time to time, without presentment, demand, protest or other notice of any kind (all of such rights being hereby expressly waived), to set off and to appropriate and apply any and all deposits (general or special, time or demand, provisional or final) and any other indebtedness at any time held or owing by such Guaranteed Finance Party (including, without limitation, branches, agencies or Affiliates of such Guaranteed Finance Party wherever located) to or for the credit or account of the Guarantor against obligations and liabilities of the Guarantor then due to the Guaranteed Finance Parties hereunder, under the other Guaranteed Documents or otherwise, and any such set-off shall be deemed to have been made immediately upon the occurrence of an Event of Default even though such charge is made or entered on the books of such Guaranteed Finance Party subsequent thereto. The Guarantor hereby agrees that to the extent permitted by Law any Person purchasing a participation in the Facility, whether or not acquired pursuant to the arrangements provided for in Clause 27 (*Changes to the Lenders*) of the Facility Agreement, may exercise all rights of set-off with respect to its participation interest as fully as if such Person were a Guaranteed Finance Party.

## **ARTICLE VI TAX GROSS-UP AND INDEMNITIES**

### **Section 6.01 Tax Gross-Up.**

(a) The Guarantor shall make all payments to be made by it without any Tax Deduction, unless a Tax Deduction is required by law.

(b) If a Tax Deduction is required by law to be made by the Guarantor, the amount of the payment due from the Guarantor shall be increased to an amount which (after making any Tax Deduction) leaves an amount equal to the payment which would have been due if no Tax Deduction had been required; provided, however, in no event shall a Guaranteed Finance Party be entitled to receive a payment from the Guarantor under this Section 6.01(b) in respect of amounts that would not have been entitled to be increased by an Obligor under Clause 13.2 (*Tax Gross-Up and Indemnities, Tax Gross-Up*) of the Facility Agreement.

(c) A payment shall not be increased under paragraph (b) above by reason of a Tax Deduction on account of Tax imposed by the United Kingdom if on the date on which the payment falls due:

(i) the payment could have been made to the relevant Lender without a Tax Deduction if the Lender had been a Qualifying Lender, but on that date that Lender is not or has ceased to be a Qualifying Lender other than as a result of any change after the date it became a Lender under the Facility Agreement in (or in the interpretation, administration, or application of) any law or Treaty, or any published practice or published concession of any relevant taxing authority provided, however, this clause (i) shall not apply to the extent (x) the relevant Lender is a New Lender that would have been a Qualifying Lender on the date of the Facility Agreement and (y) the corresponding Existing Lender would have received, in respect of a payment, at the time of transfer or assignment to that New Lender, additional amounts with respect to such Tax Deduction pursuant to paragraph (b) above; or

(ii) the relevant Lender is a Treaty Lender and the Guarantor is able to demonstrate that the payment could have been made to the Lender without the Tax Deduction had that Lender complied with its obligations under Clause 13.2(g) (*Tax Gross-Up and Indemnities, Tax Gross-Up*) of the Facility Agreement.

(d) A payment shall not be increased under paragraph (b) above by reason of a Tax Deduction on account of Tax imposed by the United States if it relates to:

(i) any Tax that is in effect at such time that a payment is first required to be made by the Guarantor under this Agreement and would apply (even if the proper certificates and documentation were given to the Guarantor) to amounts payable hereunder at such time a Lender becomes a party to the Facility Agreement, or designates a new Facility Office, except to the extent such Lender (or its assignor, if any) was entitled at the time of designation of a new Facility Office (or assignment) to receive additional amounts with respect to such withholding tax pursuant to Section 6.01(b); and

(ii) Taxes imposed as a result of Section 6.01(e)(iii).

(e) In order to establish the amount of Tax Deductions, if any, required by law to be made by the Guarantor on account of Tax imposed by the United States:

(i) Each Lender that is not a "U.S. person" as defined in section 7701(a)(30) of the Code, from time to time as requested in writing by the Guarantor, shall (but only so long as such Lender remains lawfully able to do so) provide the Guarantor with an applicable Internal Revenue Service ("IRS") Form W-8, as appropriate, or any successor form prescribed by the IRS, (x) certifying that such Lender is entitled to benefits under an income tax treaty to which the United States is a party which reduces the rate of withholding Tax on payments of interest certifying that the income receivable pursuant to this Agreement is effectively connected with the conduct of a trade or business in the United States or certifying that Lender is entitled to the "portfolio interest exemption" (together with supporting documentation establishing the entitlement to this exemption), or (y) if a Lender is not the beneficial owner of any obligation of the Guarantor (for example, where the Lender is a partnership or participating Lender granting a typical participation), duly completed copies of IRS Form W-8IMY and the applicable IRS Form W-8 or W-9 from each beneficial owner.

(ii) Each Lender that is a "U.S. person" under section 7701(a)(30) of the Code, from time to time as requested in writing by the Guarantor (but only so long as such Lender remains lawfully able to do so), shall provide the Guarantor with an IRS Form W-9 or any successor form certifying that such Lender is exempt from U.S. federal backup withholding Tax.

(iii) For any period with respect to which a Lender has failed to provide the Guarantor with the appropriate form described in Section 6.01(e)(i) or (ii) (other than if such failure is due to a change in law occurring subsequent to the date on which a form originally was required to be provided, or if such form otherwise is not required under the first sentence of Section 6.01(e)(i) or (ii) above), such Lender shall not be entitled to increase under Section 6.01(b) with respect to Tax Deductions imposed by the United States.

(f) If the Guarantor is required to make a Tax Deduction, it shall make that Tax Deduction and any payment required in connection with that Tax Deduction within the time allowed and in the minimum amount required by law.

(g) Within 30 days of making either a Tax Deduction or any payment required in connection with that Tax Deduction, the Guarantor shall deliver to the Facility Agent for the Finance Party entitled to the payment a statement under section 975 of the ITA or other evidence reasonably satisfactory to that Finance Party that the Tax Deduction has been made or (as applicable) any appropriate payment paid to the relevant taxing authority.

(h) Each Party may make any FATCA Deduction it is required to make by FATCA, and any payment required in connection with that FATCA Deduction, and no Party shall be required to increase any payment in respect of which it makes such a FATCA Deduction or otherwise compensate the recipient of the payment for that FATCA Deduction. Each Party shall promptly, upon becoming aware that it must make a FATCA Deduction (or that there is any change in the rate or the basis of such FATCA Deduction) notify the Party to whom it is making the payment and, in addition, shall notify the Borrower, the Facility Agent and the other Finance Parties.

(i) Each party to this Agreement shall, at the time or times prescribed by law and within ten Business Days of a reasonable request by another party supply to that other party such forms, documentation and other information relating to its status under FATCA as that other party reasonably requests for the purposes of that other party's compliance with FATCA and for that other party to determine that the party has complied with such party's obligations under FATCA, including in respect of any related withholding obligations thereunder.

#### **Section 6.02 Currency Indemnity.**

(a) If any sum due from the Guarantor under the Guaranteed Documents (a "**Sum**"), or any order, judgment or award given or made in relation to a Sum, has to be converted from the currency (the "**First Currency**") in which that Sum is payable into another currency (the "**Second Currency**") for the purpose of:

(i) making or filing a claim or proof against the Guarantor;

(ii) obtaining or enforcing an order, judgment or award in relation to any litigation or arbitration proceedings,

the Guarantor shall as an independent obligation, within three Business Days of demand, indemnify each Finance Party to whom that Sum is due against any cost, loss or liability arising out of or as a result of the conversion including any discrepancy between (A) the rate of exchange used to convert that Sum from the First Currency into the Second Currency and (B) the rate or rates of exchange available to that person at the time of its receipt of that Sum.

(b) The Guarantor waives any right it may have in any jurisdiction to pay any amount under the Guaranteed Documents in a currency or currency unit other than that in which it is expressed to be payable.

**Section 6.03 Other Indemnities.** The Guarantor shall, within three Business Days of demand, indemnify each Finance Party against any cost, loss or liability incurred by that Finance Party as a result of:

(a) the occurrence of any Event of Default;

(b) a failure by any Group Obligor to pay any amount due under a Guaranteed Document on its due date, including without limitation, any cost, loss or liability arising as a result of Clause 32 (*Sharing Among the Finance Parties*) of the Facility Agreement;

(c) issuing or making arrangements to issue a Letter of Credit requested by the Borrower in a Utilisation Request but not issued by reason of the operation of any one or more of the provisions of the Facility Agreement (other than by reason of default or negligence by that Finance Party alone).

**Section 6.04 Indemnity to the Facility Agent and the Security Agent**The Guarantor shall promptly indemnify the Facility Agent and Security Agent against any cost, loss or liability incurred by any of them:

(a) as a result of enforcement of this Agreement;

(b) (acting reasonably at any time other than when a Default is continuing) as a result of the exercise of any of the rights, powers, discretions and remedies vested in the Facility Agent and the Security Agent by the Guaranteed Documents (as applicable) or by law; or

(c) any default by any Group Obligor in the performance of any of the obligations expressed to be assumed by it in the Guaranteed Documents.

**ARTICLE VII  
MISCELLANEOUS**

**Section 7.01 Notices.** Unless otherwise expressly provided herein, all notices and other communications provided for hereunder shall be provided in the manner specified in Clause 36 (*Notices*) of the Facility Agreement, except that in the case of the Guarantor, such notices and communications shall be mailed faxed or delivered to the address or facsimile number as set forth on the signature pages hereto.

**Section 7.02 Know Your Customer.**

If:

(a) the introduction of or any change in (or in the interpretation, administration or application of) any law or regulation made after the date of the Facility Agreement;

(b) any change in the status of the Guarantor or the composition of the shareholders of a Guarantor after the date of this Agreement; or

(c) a proposed assignment or transfer by a Lender of any of its rights and obligations under the Facility Agreement to a party that is not a Lender prior to such assignment or transfer, obliges the Facility Agent or any Lender (or, in the case of paragraph (c) above, any prospective new Lender) to comply with "know your customer" or similar identification procedures in circumstances where the necessary information is not already available to it, the Guarantor shall promptly upon the request of the Facility Agent or any Lender supply, or procure the supply of, such documentation and other evidence as is reasonably requested by the Facility Agent (for itself or on behalf of any Lender) or any Lender (for itself or, in the case of the event described in paragraph (c) above, on behalf of any prospective new Lender) in order for the Facility Agent, such Lender or, in the case of the event described in paragraph (c) above, any prospective new Lender to carry out and be satisfied it has complied with all necessary "know your customer" or other similar checks under all applicable laws and regulations pursuant to the transactions contemplated in the Guaranteed Documents.

**Section 7.03 Benefit of Agreement.** This Agreement shall be binding upon and inure to the benefit of and be enforceable by the respective successors and assigns of the parties hereto; provided the Guarantor may not assign or transfer any of its interests and obligations without prior written consent of the Facility Agent and Security Agent (and any such purported assignment or transfer without such consent shall be void); provided further that the rights of each Lender to transfer, assign or grant participations in its rights and/or obligations hereunder shall be limited as set forth in Clause 27 (*Changes to the Lenders*) of the Facility Agreement. Upon the assignment by any Finance Party of all or any portion of its rights and obligations under the Facility Agreement (including all or any portion of its Commitments) or any other Guaranteed Document to any other Person or by any other Guaranteed Finance Party of all or any portion of its rights and obligations under the applicable Guaranteed Document to any other Person, such other Person shall thereupon become vested with all the benefits in respect thereof granted to such transferor or assignor herein or otherwise.

**Section 7.04 No Waivers; Non-Exclusive Remedies.** No failure or delay on the part of any Guaranteed Finance Party to exercise, no course of dealing with respect to, and no delay in exercising any right, power or privilege under this Agreement or any other Guaranteed Document, or other document or agreement contemplated hereby or thereby shall operate as a waiver thereof nor shall any single or partial exercise of any such right, power or privilege preclude any other or further exercise thereof or the exercise of any other right, power or privilege. The rights and remedies provided herein and in the other Guaranteed Documents are cumulative and are not exclusive of any other rights or remedies provided by Law.

**Section 7.05 Amendments and Waivers.** Any provision of this Agreement may be amended or waived if, but only if such amendment or waiver is in writing and is signed by the

Guarantor, the Facility Agent and the Security Agent (acting in accordance with the requirements of the Facility Agreement).

**Section 7.06 Governing Law; Submission to Jurisdiction.** THIS AGREEMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER SHALL BE GOVERNED BY AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK. Any legal action or proceeding with respect to this Agreement may be brought in the courts of the State of New York in New York County, or of the United States for the Southern District of New York, and, by execution and delivery of this Agreement, each party hereto hereby irrevocably accepts for itself and in respect of its property, generally and unconditional, the nonexclusive jurisdiction of such courts. Each party hereto irrevocably waives, to the fullest extent permitted by Law, any objection which it may now or hereafter have to the laying of the venue of any such proceeding brought in such court and any claim that any such proceeding brought in any such court has been brought in an inconvenient forum. Each party hereto hereby irrevocably consents to process being served in any such suit, action or proceeding by the mailing of a copy thereof by registered or certified mail, postage prepaid, return receipt requested, to such party's address referred to in Section 7.01. Each party hereto agrees that such service (i) shall be deemed in every respect effective service of process upon it in any such suit, action or proceeding and (ii) shall, to the fullest extent permitted by Law, be taken and held to be valid personal service upon and personal delivery to it. Nothing in this Section 7.06 shall affect the right of any party to serve process in any manner permitted by Law or limit the right of any party to bring proceedings against any other party in the courts of any jurisdiction in connection with the enforcement of and judgment.

**Section 7.07 Limitation of Law; Severability.**

(a) All rights, remedies and powers provided in this may be exercised only to the extent that the exercise thereof does not violate any applicable provision of Law, and all of the provisions of this Agreement are intended to be subject to all applicable mandatory provisions of Law which may be controlling and be limited to the extent necessary so that they will not render this Agreement invalid, unenforceable in whole or in part, or not entitled to be recorded, registered or filed under the provisions of any applicable Law.

(b) If any provision hereof is invalid or unenforceable in any jurisdiction, then, to the fullest extent permitted by Law: (i) the other provisions hereof shall remain in full force and effect in such jurisdiction and shall be liberally construed in favor of the Facility Agent, the Security Agent and the other Guaranteed Finance Parties in order to carry out the intentions of the parties hereto as nearly as may be possible; and (ii) the invalidity or unenforceability of any provision hereof in any jurisdiction shall not affect the validity or enforceability of such provisions in any other jurisdiction.

**Section 7.08 Counterparts; Integration; Effectiveness.** This Agreement may be signed in any number of counterparts, each of which shall be an original, with the same effect as if the signatures thereto and hereto were upon the same instrument. This Agreement constitutes the entire agreement and understanding among the parties hereto and supersedes any and all prior agreements and understandings, oral or written, relating to the subject matter hereof and thereof. This Agreement shall become effective with respect to the Guarantor when the Facility Agent shall have received counterparts hereof signed by itself and the Guarantor.

**Section 7.09 WAIVER OF JURY TRIAL.** EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.

**Section 7.10 Termination.** Upon the Discharge of Finance Obligations, this Agreement shall terminate and have no further force or effect.

**Section 7.11 Amendment and Restatement.** This Agreement amends and restates the Original Guaranty. All rights, benefits, indebtedness, interests, liabilities and obligations of the parties to the Original Guaranty are hereby renewed, amended, restated and superseded in their entirety according to the terms and provisions set forth herein. This Agreement does not constitute,

nor shall it result in, a waiver of or release, discharge or forgiveness of any amount payable pursuant to the Original Guaranty or any indebtedness, liabilities or obligations of the Guarantor thereunder, all of which are renewed and continued and are hereafter payable and to be performed in accordance with this Agreement and the other Finance Documents. This Agreement does not extinguish the obligations of the Guarantor in connection with the Original Guaranty, nor does it constitute a novation with respect thereto.

[Signature Pages Follow]

IN WITNESS WHEREOF, the Guarantor has executed this Agreement as of the day and year first above written.

GUARANTOR:

HANOVER INSURANCE GROUP, INC.

By: /s/ Jeffrey Farber

Name: Jeffrey Farber

Title: Executive Vice President, Chief Financial Officer and Principal Accounting Officer

The Hanover Insurance Group, Inc.,

Attention: Jeffrey Farber

Telecopy No.

Email:

with a copy to

The Hanover Insurance Group, Inc.

Attention J. Kendall Huber

Telecopy No.

Email:

Acknowledged and Agreed with Respect to Section 3.01:

CHAUCER HOLDINGS LIMITED

By: /s/ Robert J Callan

Name: Robert J Callan

Title: Director

Agreed to and Accepted:

LLOYDS BANK PLC, as Facility Agent

By: /s/ Iain Brown

Name: Iain Brown

Title: Associate Director

Agreed to and Accepted:

LLOYDS BANK PLC, as Security Agent

By: /s/ Iain Brown

Name: Iain Brown

Title: Associate Director

**Schedule 1.01**  
**Liens**

Liens on computer hardware (mainframe) equipment and office safety equipment incurred in connection with capital leases.

**Schedule 4.01**  
**Subsidiaries**

Each of the subsidiaries of The Hanover Insurance Group, Inc. is 100%-owned by its parent company unless otherwise noted.

I. The Hanover Insurance Group, Inc. (Delaware)

- A. Opus Investment Management, Inc. (Massachusetts)
  - a. The Hanover Insurance Company (New Hampshire)
    - 1. Citizens Insurance Company of America (Michigan)
    - 2. Allmerica Financial Benefit Insurance Company (Michigan)
    - 3. Allmerica Plus Insurance Agency, Inc. (Massachusetts)
    - 4. The Hanover American Insurance Company (New Hampshire)
    - 5. Hanover Texas Insurance Management Company, Inc. (Texas)
    - 6. Citizens Insurance Company of Ohio (Ohio)
    - 7. Citizens Insurance Company of The Midwest (Indiana)
    - 8. The Hanover New Jersey Insurance Company (New Hampshire)
    - 9. Massachusetts Bay Insurance Company (New Hampshire)
    - 10. Allmerica Financial Alliance Insurance Company (New Hampshire)
    - 11. Professionals Direct, Inc. (Michigan)
      - (i) Professionals Direct Insurance Services, Inc. (Michigan)
    - 12. Verlan Fire Insurance Company (New Hampshire)
    - 13. The Hanover National Insurance Company (New Hampshire)
    - 14. AIX Holdings, Inc. (Delaware)
      - (i) Nova American Group, Inc. (New York)
        - 1. NOVA Casualty Company (New York)
          - a. AIX Specialty Insurance Company (Delaware)
      - (ii) AIX, Inc. (Delaware)
        - 1. AIX Insurance Services of California, Inc. (California)
    - 15. 440 Lincoln Street Holding Company LLC (Massachusetts)
    - 16. Campmed Casualty & Indemnity Company, Inc. (New Hampshire)
    - 17. CitySquare II Investment Company LLC (Massachusetts)
      - (i) Front Street Financing LLC (Massachusetts)
    - 18. The Hanover Atlantic Insurance Company Ltd. (Bermuda)
    - 19. Chaucer Insurance Company Designated Activity Company (Ireland)
  - b. Citizens Insurance Company of Illinois (Illinois)
  - c. CitySquare II Development Co. LLC (Massachusetts)
- B. VeraVest Investments, Inc. (Massachusetts)
- C. Verlan Holdings, Inc. (Maryland)
  - a. Hanover Specialty Insurance Brokers, Inc. (Virginia)

- D. Campania Holding Company, Inc. (Virginia)
- E. Educators Insurance Agency, Inc. (Massachusetts)
- F. The Hanover (Barbados) Capital SRL (Barbados)
- G. The Hanover Insurance International Holdings Limited (f/k/a 440 Tessera Limited) (United Kingdom)
  - a. Chaucer Holdings Limited (United Kingdom)
    - 1. ALIT Insurance Holdings Limited (United Kingdom)
      - (i) Aberdeen Underwriting Advisers Limited (United Kingdom)
      - (ii) ALIT Underwriting Limited (United Kingdom)
        - 1. ALIT (No. 1) Limited (United Kingdom)
        - 2. ALIT (No. 2) Limited (United Kingdom)
        - 3. ALIT (No. 3) Limited (United Kingdom)
        - 4. ALIT (No. 4) Limited (United Kingdom)
        - 5. ALIT (No. 5) Limited (United Kingdom)
    - 2. Chaucer Corporate Capital (No. 2) Limited (United Kingdom)
    - 3. Chaucer Corporate Capital (No. 3) Limited (United Kingdom)
    - 4. Chaucer Corporate Capital Limited (United Kingdom)
    - 5. Chaucer Insurance Group PLC (United Kingdom)
    - 6. Chaucer Capital Investments Limited (United Kingdom)
      - (i) CH 1997 Limited (United Kingdom)
        - 1. Chaucer Consortium Underwriting Limited (United Kingdom)
        - 2. Chaucer Dedicated Limited (United Kingdom)
        - 3. Chaucer Underwriting A/S (Denmark)
        - 4. INSURANCE4CARGOSERVICES Limited (United Kingdom)
      - (ii) Chaucer Syndicates Limited (United Kingdom)
        - 1. Lonham Limited (United Kingdom)
          - a. Lonham Group Limited (United Kingdom)
        - 2. Chaucer Labuan Limited (Malaysia)
        - 3. Chaucer GmbH (Germany)
        - 4. Chaucer Latin America SA (Argentina)
        - 5. Chaucer Singapore Pte. Limited (Singapore)
        - 6. Chaucer Syndicate Services Limited (United Kingdom)
        - 7. Chaucer Oslo AS (Norway)
        - 8. Chaucer Underwriting Services Limited (United Kingdom)

- H. Hanover Australia HoldCo Pty Ltd (Australia)
  - a. Hanover Australia BidCo Pty Ltd (Australia)
    - 1. SLE Holdings Pty Ltd (Australia)
      - (i) SLE Worldwide Australia Pty Ltd (Australia)
      - (ii) Pacific Underwriting Corporation Pty Ltd (Australia)
- I. Hanover Lloyd's Insurance Company (Texas)<sup>1</sup>
- J. Allmerica Securities Trust (Massachusetts)<sup>2</sup>

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<sup>1</sup> Hanover Lloyd's Insurance Company is an affiliated Lloyd's plan company 100%-owned by underwriters for the benefit of The Hanover Insurance Company. The controlling underwriters are all employees of The Hanover Insurance Company.

<sup>2</sup> Affiliated investment trust, the trustees of which are officers of The Hanover Insurance Group, Inc.

**Schedule 4.04(a)**  
**Financial Debt**

<u>Type</u>	<u>Company</u>	<u>Maturity Date</u>	<u>Outstanding</u>
1. 4.500% Senior Note	The Hanover Insurance Group, Inc.	4/15/2026	\$375,000,000
2. 7.625% Senior Debt	The Hanover Insurance Group, Inc.	10/15/2025	\$62,647,000
3. Subordinated Debt	The Hanover Insurance Group, Inc.	2/3/2027	\$59,713,000
4. Subordinated Debt	The Hanover Insurance Group, Inc..	12/15/2053	\$175,000,000
5. Secured Debt – FHLB Borrowings	The Hanover Insurance Company	9/25/2029	\$125,000,000
6. Capitalized Lease*	The Hanover Insurance Company	August 2018	\$278,819
7. Capitalized Lease*	The Hanover Insurance Company	February 2019	\$272,574
8. Capitalized Lease*	The Hanover Insurance Company	November 2019	\$109,613
9. Standby Letter of Credit	Chaucer Holdings Limited	12/31/2020	Issued: £170,000,000 Drawn: £0  £170,000,000 (aggregate commitment amount)
10. Capitalized Lease**	The Hanover Insurance Company	December 2019	\$67,472
11. Capitalized Lease*	The Hanover Insurance Company	January 2021	\$1,777,155

\* Capitalized lease obligation relating to computer hardware (mainframe) equipment. The lessor is ComSource, Inc.

\*\* Capitalized lease obligation relating to office safety equipment.

**Schedule 4.04(g)**  
**Existing Burdensome Agreements**

1. The Standby Letter of Credit Facility, dated as of October 15, 2015, among Chaucer Holdings Limited, ING Bank N.V., London Branch and Lloyds Bank plc, as mandated lead arrangers, as it may be amended from time to time.

EXHIBIT A

**COMPLIANCE CERTIFICATE**

**THIS CERTIFICATE** is delivered pursuant to the Amended and Restated Guaranty, dated as of [\_\_\_\_], 2017 (the "Agreement"), among The Hanover Insurance Group, Inc., a Delaware corporation (the "Guarantor") and Lloyds Bank plc, as Facility Agent and Security Agent. Capitalized terms used herein without definition shall have the meanings given to such terms in the Agreement.

The undersigned hereby certifies that:

1. The undersigned is a Responsible Officer of the Guarantor.
2. Enclosed with this Certificate are copies of the financial statements of the Guarantor and its Subsidiaries as of \_\_\_\_\_, and for the [\_\_\_\_\_-month period] [year] then ended, required to be delivered under **Section [4.02(a)(i)][4.02(a)(ii)]** of the Agreement. Such financial statements have been prepared in accordance with GAAP [(subject to normal year-end audit adjustments and the absence of footnotes)]<sup>11</sup> and present fairly, in all material respects, the Consolidated financial position of the Guarantor and its Subsidiaries as of the date indicated and the Consolidated results of operations of the Guarantor and its Subsidiaries for the period covered thereby.
3. The undersigned has no knowledge of the existence of (i) any Default or Event of Default (as such terms are defined in the Hanover Credit Agreement) continuing as of the date of this Certificate or (ii) any Default or Event of Default continuing as of the date of this Certificate. [, except as set forth below.

Describe here or in a separate attachment any exceptions to paragraph 3 above by listing, in reasonable detail, the nature of the Default or Event of Default and the action that the Guarantor has taken or proposes to take with respect thereto.]

4. Attached to this Certificate as Attachment A is a covenant compliance worksheet reflecting the computation of the financial covenants set forth in **Section 4.03** of the Agreement as of the last day of and for the period covered by the financial statements enclosed herewith.

**IN WITNESS WHEREOF**, the undersigned has executed and delivered this Certificate as of the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

**THE HANOVER INSURANCE GROUP, INC.**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

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<sup>11</sup> Insert in the case of quarterly financial statements.

**ATTACHMENT A**

**COVENANT COMPLIANCE WORKSHEET**

**A. Minimum Net Worth<sup>12</sup> (Section 4.03(a) of the Agreement)**

(1)	Base for calculating Minimum Net Worth:		\$2,080,750,000
(2)	(a) Consolidated net income for each fiscal quarter (if positive) ending after the Effective Date	\$_____	
	(b) Net income adjustment: Multiply Line 2(a) by 50%		\$_____
(3)	(a) Net Equity Proceeds of any Equity Issuances made after the Effective Date	\$_____	
	(b) Net Equity Proceeds adjustment: Multiply Line 3(a) by 50%		\$_____
(4)	Required Net Worth: Add Lines 1, 2(b) and 3(b)		\$_____
(5)	Actual Net Worth (total shareholders' equity of the Guarantor determined in accordance with GAAP; <u>provided</u> that the net unrealized appreciation and depreciation of securities that are classified as available for sale and are subject to ASC 320 shall be excluded) as of measurement date:		\$_____

**B.**

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<sup>12</sup> The calculation of Net Worth shall exclude the financial results of any Securitization Subsidiaries of the Guarantor.

**C. Leverage Ratio (Section 4.03(c) of the Agreement)**

(1)	Modified Total Debt as of the date of determination:	
	<p>(a) Aggregate outstanding principal amount of Debt of the Guarantor and its Subsidiaries (other than any Securitization Subsidiaries) of the following types, in each case determined on a Consolidated basis without duplication in accordance with GAAP (but without giving effect to any election under the Statement of Financial Accounting Standards No. 159 (ASC 825) or any similar accounting principle permitting a Person to value its financial liabilities or indebtedness at the fair value thereof):<sup>13</sup></p> <p>(i) indebtedness of each such Person for borrowed money</p> <p>(ii) obligations of each such Person evidenced by bonds, debentures, notes or other similar instruments</p> <p>(iii) obligations of each such Person to pay the deferred purchase price of Property or services (other than trade payables and accrued expenses incurred in the ordinary course of business and not overdue by more than 90 days)</p> <p>(iv) obligations of each such Person as lessee under leases which shall have been or should be, in accordance with GAAP, recorded as capital leases</p> <p>(v) Debt of others secured by a Lien on the Property of any such Person, whether or not the Debt so secured has been assumed by such Person</p> <p>(vi) obligations of any such Person under Guaranties in respect of Debt of others (including any obligations constituting Limited Originator Recourse in respect of Debt of a Securitization Subsidiary)</p> <p>(vii) without duplication, obligations of any such Person in respect of Hybrid Securities (disregarding clause (ii) of the definition of Hybrid Securities in the Agreement), Disqualified Equity Interests (disregarding clause (ii) of the definition of Disqualified Equity Interests in the Credit Agreement) and Preferred Securities (disregarding clause (ii) of the definition of Preferred Securities in the Credit Agreement), in each case requiring repayments, prepayments, mandatory redemptions or repurchases prior to 91 days after the Maturity Date, with the amount of Debt represented by any such Disqualified Equity Interest or Preferred Security being equal to the greater of its voluntary or involuntary liquidation amount and its maximum fixed repurchase price or redemption amount</p>	<p>\$ _____</p>
	(b) Without duplication of clauses 1(c), 1(d) and 1(e), the portion of all outstanding Hybrid Securities that is deemed to constitute indebtedness, as determined in accordance with S&P's	\$ _____

<sup>13</sup> Not including Hybrid Securities, Disqualified Equity Interests, Preferred Securities and Specified Convertible Debt Securities included in clauses 1(b), 1(c), 1(d) and 1(e) below.

	methodology:	
(c)	Without duplication of clauses 1(b), 1(d) and 1(e), the portion of all outstanding Disqualified Equity Interests that is deemed to constitute indebtedness, as determined in accordance with S&P's methodology:	\$ _____
(d)	Without duplication of clauses 1(b), 1(c) and 1(e), the portion of all outstanding Preferred Securities that is deemed to constitute indebtedness, as determined in accordance with S&P's methodology:	\$ _____
(e)	Without duplication of clauses 1(b), 1(c) and 1(d), the portion of all outstanding Specified Convertible Debt Securities that is deemed to constitute indebtedness, as determined in accordance with S&P's methodology:	
(f)	The amount (if any) by which Line 2(b) below <u>plus</u> the portion of all Preferred Securities issued by the Guarantor or any Subsidiary (other than any Securitization Subsidiary) that is deemed to constitute equity, as determined in accordance with S&P's methodology <u>plus</u> the portion of all Disqualified Equity Interests issued by the Guarantor or any Subsidiary (other than any Securitization Subsidiary) that is deemed to constitute equity, as determined in accordance with S&P's methodology, plus the portion of all Specified Convertible Debt Securities issued by the Guarantor or any Subsidiary (other than any Securitization Subsidiary) that is deemed to constitute equity, as determined in accordance with S&P's methodology, exceeds 15% of Line 3 below:	\$ _____
(g)	Modified Total Debt: Add Lines 1(a)(i) through 1(a)(vii), Line 1(b), Line 1(c), Line 1(d), Line 1(e) and Line 1(f)	\$ _____
(2)	Net Worth:	
(a)	Total shareholders' equity of the Guarantor determined in accordance with GAAP <sup>14</sup> ; <u>provided</u> that the net unrealized appreciation and depreciation of securities that are classified as available for sale and are subject to ASC 320 shall be excluded:	\$ _____
(b)	Without duplication of clauses 2(c) and 2(d), the portion of all outstanding Hybrid Securities issued by the Guarantor or any Subsidiary (other than a Securitization Subsidiary) that is deemed to constitute equity, as determined in accordance with S&P's methodology:	\$ _____
(c)	Without duplication of clauses 2(b) and 2(d), the portion of all outstanding Preferred Securities issued by the Guarantor or any Subsidiary (other than a Securitization Subsidiary) that is deemed to constitute indebtedness, as determined in accordance with S&P's methodology:	\$ _____

<sup>14</sup> Excluding the financial results of any Securitization Subsidiary of the Guarantor.

	(d) Without duplication of clauses 2(b) and 2(c), the portion of all outstanding Disqualified Equity Interests issued by the Guarantor or any Subsidiary (other than a Securitization Subsidiary) that is deemed to constitute indebtedness, as determined in accordance with S&P's methodology:	\$ _____
	(e) Net Worth: Add Lines 2(a) and 2(b) and subtract Lines 2(c), and 2(d)	\$ _____
(3)	Total Capitalization: Add Lines 1(a)(i) through 1(a)(vii), Line 1(b), Line 1(c), Line 1(d) and Line 2(e)	\$ _____
(4)	Leverage Ratio: Divide Line 1(f) by Line 3	_____
(5)	Maximum Leverage Ratio permitted under the Agreement as of the date of determination:	35%

**CERTIFICATION AS ADOPTED PURSUANT TO SECTION 302  
OF THE SARBANES-OXLEY ACT OF 2002**

I, Joseph M. Zubretsky, certify that:

1. I have reviewed this quarterly report on Form 10-Q of The Hanover Insurance Group, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
  - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
  - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: November 2, 2017

/s/ Joseph M. Zubretsky  
Joseph M. Zubretsky  
President, Chief Executive Officer and Director

**CERTIFICATION AS ADOPTED PURSUANT TO SECTION 302  
OF THE SARBANES-OXLEY ACT OF 2002**

I, Jeffrey M. Farber, certify that:

1. I have reviewed this quarterly report on Form 10-Q of The Hanover Insurance Group, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
  - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
  - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: November 2, 2017

/s/ Jeffrey M. Farber

Jeffrey M. Farber

Executive Vice President and Chief Financial Officer

**CERTIFICATION PURSUANT TO  
SECTION 1350, CHAPTER 63 OF TITLE 18, UNITED STATES CODE,  
AS ADOPTED PURSUANT TO  
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

Pursuant to Section 1350, Chapter 63 of Title 18, United States Code, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, the undersigned, as President, Chief Executive Officer and Director of The Hanover Insurance Group, Inc. (the “Company”), does hereby certify that to the undersigned’s knowledge:

- 1) the Company’s Quarterly Report on Form 10-Q for the period ended September 30, 2017 (the “Report”) fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and
- 2) the information contained in the Company’s Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

/s/ Joseph M. Zubretsky  
Joseph M. Zubretsky  
President, Chief Executive Officer  
and Director

Dated: November 2, 2017

**CERTIFICATION PURSUANT TO  
SECTION 1350, CHAPTER 63 OF TITLE 18, UNITED STATES CODE,  
AS ADOPTED PURSUANT TO  
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

Pursuant to Section 1350, Chapter 63 of Title 18, United States Code, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, the undersigned, as Executive Vice President and Chief Financial Officer of The Hanover Insurance Group, Inc. (the “Company”), does hereby certify that to the undersigned’s knowledge:

- 1) the Company’s Quarterly Report on Form 10-Q for the period ended September 30, 2017 (the “Report”) fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and
- 2) the information contained in the Company’s Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

/s/ Jeffrey M. Farber  
Jeffrey M. Farber  
Executive Vice President and  
Chief Financial Officer

Dated: November 2, 2017