



Case No. CR-2024-002460

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

CR-2024-002460

**19 March 2025**

**IN THE MATTER OF RELIANCE NATIONAL INSURANCE COMPANY  
(EUROPE) LIMITED**

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

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**SANCTION ORDER**

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**UPON THE APPLICATION** by Part 8 Claim Form dated 30 April 2024 (the "**Claim Form**")  
of Reliance National Insurance Company (Europe) Limited (the "**Company**");

**AND UPON HEARING** Mr Adam Al-Attar KC for the Company;

**AND UPON READING** the Claim Form and the written evidence filed in these proceedings;

**AND UPON READING** the letters dated 4 March 2025, 7 March 2025, 11 March 2025 and  
18 March 2025, setting out certain observations, issues and requests, by Avvocato Francesco  
Mortelliti of Studio Legale Mortelliti, writing on behalf of Grande Ospedale Metropolitano  
"Bianchi Melacrino Morelli" of Reggio Calabriai ("**Calabria**") and ASL Lanciano Vasto; and

**AND UPON READING** the grounds of opposition to the proposed scheme of arrangement  
filed by Glaisyers Solicitors LLP as English solicitors on behalf of Calabria dated 7 March  
2025.

**IT IS ORDERED AND DIRECTED THAT:**

1. The Court hereby sanctions the Scheme as set out in the Schedule hereto.
2. The Company or its solicitors shall deliver, as soon as reasonably practicable, an office copy of this Order to the Registrar of Companies for England and Wales.

**Service of this order**

The Court has provided a sealed copy of this Order to the serving party: Clifford Chance LLP at 10 Upper Bank Street, London E14 5JJ

Tel: 020 7006 1666 – Fax 020 7006 5555 – DX: 149120 Canary Wharf 3

**SCHEDULE  
SCHEME OF ARRANGEMENT  
(PART 26 OF THE COMPANIES ACT 2006)**

**between**

**RELIANCE NATIONAL INSURANCE COMPANY (EUROPE) LIMITED**

**and its**

**POLICYHOLDERS**

**(as defined herein)**

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## 1. PART 1 - PRELIMINARY

### 1.1 Definitions

In this Scheme, unless the context otherwise requires or otherwise expressly provides, the following expressions have the following meanings:

<b>"Administration Event"</b>	means the appointment of one or more administrators to the Company pursuant to the Insolvency Act;
<b>"Affiliate"</b>	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;
<b>"Agent"</b>	means any person other than a broker who is expressly authorised in writing to act as an agent, attorney or representative for a Policyholder;
<b>"Agreed Determination Notice"</b>	has the meaning given to that term in Clause 4.4.8;
<b>"Ascertained Scheme Claim"</b>	means a Liability of the Company to pay an ascertained sum of money in respect of a Scheme Claim as set out in a First Determination Notice (where the Policyholder has expressly agreed to that determination or otherwise not objected to it in accordance with Clause 4.4.7), Agreed Determination Notice or Second Determination Notice (where the Policyholder has expressly agreed to that determination or otherwise not objected to it in accordance with Clause 4.6.1) or as determined by the Scheme Adjudicator;
<b>"Board"</b>	means Mr Mark Batten, Mr Andrew Thompson, Mr James Bolton and Mr Sean McDermott or such other persons as are appointed Directors of the Company in accordance with the Companies Act and the Constitutional Documents, from time to time;
<b>"Business Day"</b>	means any day (other than Saturday, Sunday or any other day on which banks in London are not open for business);
<b>"Claimant"</b>	means any person that has brought a Third Party Claim against a Policyholder;
<b>"Claim Form"</b>	means the form set out in Section V of the Scheme Document;
<b>"Claims Deadline"</b>	Six (6) months from the Effective Date;
<b>"Claims Handling Costs"</b>	means the costs of providing the Claims Handling Services;

<b>"Claims Services"</b>	<b>Handling</b>	means the services of the Company that are provided to a Policyholder in order to support the handling of Third Party Claims made by a Claimant against a Policyholder;
<b>"Claims Methodology"</b>		means the methodology for determining Ascertained Scheme Claims, as set out in Schedule 1;
<b>"Companies Act"</b>		means the Companies Act 2006;
<b>"Company"</b>		means Reliance National Insurance Company (Europe) Limited, a company incorporated and registered in England and Wales on 29 August 1979 as a limited liability company with registration number 01445992 and with its registered office at 2 Minster Court, Mincing Lane, London, England, EC3R 7BB;
<b>"Compensation Rules"</b>		means the rules set out in the Solvency II Firms, Policyholder Protection section the PRA Rulebook;
<b>"Completion"</b>		has the meaning given to that term in Clause 10.1.1(a);
<b>"Constitutional Documents"</b>		means, in relation to the Company, its "constitutional documents", as defined in section 17 of the Companies Act;
<b>"Court"</b>		means the High Court of Justice of England and Wales;
<b>"Deductible"</b>		means an amount due to the Company by a Policyholder for any deductible payable in respect of a Third Party Claim and any outstanding amounts payable as a deductible in respect of any claims previously paid by the Company under an Insurance Policy;
<b>"Delegate"</b>		has the meaning given to that term in 8.2.1(b);
<b>"Directors"</b>		means the directors of the Company from time to time and <b>"Director"</b> shall be construed accordingly;
<b>"Disputed Claim"</b>	<b>Scheme</b>	has the meaning given to that term in Clause 4.4.7;
<b>"Effective Date"</b>		means the date on which an office copy of the Court order sanctioning the Scheme is delivered for registration to the Registrar of Companies;
<b>"Employee"</b>		means any partner or director in the same firm as a Scheme Adviser, or any individual employed, whether under a contract of service or a contract for services, by that firm or by any company owned by that firm, who is employed

by the Scheme Advisers in connection with the conduct of their functions and powers under the Scheme;

**"Excluded Assets"**

means:

- (a) the amount determined from time to time, by the Company in consultation with the Scheme Advisers, to be required to fully discharge all liabilities or costs in relation to the Excluded Claims;
- (b) the amount required to discharge or reserve for Scheme Costs;
- (c) any claims in respect of the costs in relation to any steps taken with the PRA to de-authorise the Company;
- (d) the consideration of £1,000,000 payable by the Company to EIFlow Insurance Limited under the terms of the agreement between the Company and EIFlow in respect of the UK Employers' Liability Claims;
- (e) to the extent that the Company is required to maintain reserves by any relevant authority, the amount to be held by the Company as a cash reserve. For the avoidance of doubt such amount shall not include the capital reserved by the Company for its Minimum Capital Requirement.

**"Excluded Claims"**

means any claims against the Company under an Insurance Policy (other than a Scheme Claim) as follows:

- (a) any claims in relation to an Insurance Policy where a claim has been agreed in writing between the Company and the Policyholder before 15 April 2024;
- (b) any claims in relation to an Insurance Policy which are the subject of a binding and non-appealable judgment before 15 April 2024;

**"Explanatory Statement"**

means the explanatory statement required to be provided to Policyholders in connection with this Scheme pursuant to section 897 of the Companies Act explaining the effect of the Scheme, as set out in Section I of the Scheme Document;

<b>"Final Judgment"</b>	means the final unappealable decision from a court in relation to a Third Party Claim;
<b>"Final Payment Percentage"</b>	means the last Payment Percentage set by the Company, prior to Completion or Other Termination of the Scheme provided that, where the relevant Payment Percentage is to be less than 100%, such Payment Percentage shall be determined, in conjunction with the Scheme Advisers, at a percentage that applies all Scheme Assets in payment of Ascertained Scheme Claims;
<b>"First Determination Notice"</b>	has the meaning given to that term in Clause 4.4.3;
<b>"FSMA"</b>	means the Financial Services and Markets Act 2000;
<b>"Holding Company"</b>	means a person in respect of which a Subsidiary is a Subsidiary of that person;
<b>"Independent Vote Assessor"</b>	means Derek Newton, the independent person appointed by the Company for the purposes of independently assessing the value of the votes cast at the Scheme Meeting;
<b>"Individual Termination Event"</b>	<p>in relation to an individual Office Holder means that Office Holder:</p> <ul style="list-style-type: none"> <li>(a) dies;</li> <li>(b) becomes bankrupt or subject to an individual voluntary arrangement or takes or becomes subject to any similar or analogous step or procedure in any jurisdiction;</li> <li>(c) is admitted to hospital because of mental disorder or is the subject of an order in matters concerning his mental disorder made by a court having jurisdiction in England or elsewhere in such matters;</li> <li>(d) is disqualified from acting as a director under the Company Directors Disqualification Act 1986 or any equivalent legislation in Italy (in respect of the Italian Scheme Adjudicators) or Spain (in respect of the Spanish Scheme Adjudicator);</li> <li>(e) becomes unable to perform his duties by reason of illness or any other reason; or</li> <li>(f) is convicted of an indictable offence;</li> </ul>



<b>"Insolvency Act"</b>	means the Insolvency Act 1986;
<b>"Insolvency Event"</b>	means, in relation to the Company, the occurrence of an Administration Event or a Liquidation Event;
<b>"Insolvency Rules"</b>	means the Insolvency Rules (England and Wales) 2016;
<b>"Insurance Policy"</b>	means a contract of insurance issued to public and private hospitals and other healthcare institutions in Italy and Spain that was originally written by QBE and transferred to the Company pursuant to the Part VII Transfer;
<b>"Italian Scheme Adjudicator"</b>	means each Named Italian Scheme Adjudicator and/or such other independent person as is appointed in accordance with Clause 7.5.2 to determine the value of a Disputed Scheme Claim under an Insurance Policy governed by the laws of Italy;
<b>"Liability"</b>	means any debt or liability (being a liability to pay money or money's worth) of a person whether it is present or future, certain or contingent, whether its amount is fixed or liquidated or is capable of being ascertained by fixed rules or as a matter of opinion, including any liability under any enactment (in England and Wales or in any other jurisdiction) and any liability in contract, tort or bailment or arising out of an obligation to make restitution or in any other manner whatsoever <b>provided that</b> such expression does not include any debt or liability which is barred by statute under English law or the law of any other jurisdiction which applies to that liability or is otherwise unenforceable. For the avoidance of doubt, where any contract or policy is void or, being voidable, has been duly avoided, no obligation or liability shall arise in respect of such contract or policy;
<b>"Liquidation Event"</b>	means the appointment of one or more liquidators in accordance with the Insolvency Act;
<b>"Named Italian Scheme Adjudicator"</b>	means Gianluca Brancadoro, Michael Jonathan Fargion and/or Luigi Farenga
<b>"Office Holder"</b>	means a Scheme Adjudicator and/or a Scheme Adviser;
<b>"Other Termination"</b>	has the meaning given to that term in Clause 10.1.1(b);
<b>"Part VII Transfer"</b>	means the transfer of the portfolio of Italian and Spanish medical malpractice insurance policies originally written by QBE pursuant to Part VII of FSMA and by order of the Court on 15 November 2018;

<b>"Parties"</b>	means the Company and the Policyholders;
<b>"Payment Percentage"</b>	means the percentage of each Ascertained Scheme Claim to be paid, as determined in accordance with Part 5;
<b>"Policyholder"</b>	means any person who is pursuing, or would like to pursue, a Scheme Claim;
<b>"Post"</b>	means delivered by a generally recognised commercial courier service, pre-paid first or second class post, or airmail;
<b>"Practice Statement Letter"</b>	means the letter dated 15 April 2024 and sent in accordance with the English Practice Statement (Companies: Schemes of Arrangement under Part 26 and Part 26A of the Companies Act 2006) dated 26 June 2020
<b>"PRA"</b>	means the Bank of England, acting in its capacity as the "Prudential Regulation Authority" (as defined in section 2 of FSMA);
<b>"PRA Rulebook"</b>	means the rulebook issued by the PRA, pursuant to section 137G of FSMA;
<b>"Proceeding"</b>	means any form of proceeding in any jurisdiction or forum including, without limitation, any legal proceedings, demand, arbitration, alternative dispute resolution procedure, judicial review, adjudication, mediation, execution, seizure, distraint, forfeiture, re-entry, enforcement of judgment or enforcement of any security or any step taken for the purpose of creating or enforcing a lien;
<b>"Property"</b>	means all forms of property (including money, goods, things in action, land and every description of property wherever situated) and of obligations and every description of interest, whether present, future, vested or contingent arising out of or incidental to, property and including, for the avoidance of doubt, all contributions to the assets of the Company not falling within the meaning of the Company's property under the Insolvency Act;
<b>"QBE"</b>	means QBE Insurance (Europe) Limited;
<b>"Registrar of Companies"</b>	means the registrar or other officer performing under the Companies Act the duty of registration of companies in England and Wales;
<b>"Related Parties"</b>	means the Affiliates, directors, partners, members, officers or employees of any party.

<b>"Released Parties"</b>	has the meaning to that term in Part 9;
<b>"Scheme"</b>	means the scheme of arrangement in respect of the Company under Part 26 of the Companies Act in the form set out in this document with or subject to any modification, addition or condition approved or imposed by the Court and that is consented to by the Company in accordance with Clause 11.1;
<b>"Scheme Adjudicator"</b>	means each of the Italian Scheme Adjudicators and the Spanish Scheme Adjudicator;
<b>"Scheme Adjudicator Determination Notice"</b>	means a notice issued in accordance with Clause 4.7.6;
<b>"Scheme Adviser"</b>	means a person appointed from time to time as a Scheme Adviser in accordance with Clause 8;
<b>"Scheme Assets"</b>	means all assets of the Company whether actual, prospective or contingent but excluding at all times the Excluded Assets;
<b>"Scheme Claim"</b>	means any claim against the Company under or arising out of any Insurance Policy, except Excluded Claims;
<b>"Scheme Costs"</b>	means: <ul style="list-style-type: none"> <li>(a) all costs, charges, expenses, disbursements and other debts incurred by the Company in the course of implementing and carrying out the Scheme, including, for the avoidance of doubt, any cost permitted to be paid by the Company in accordance with the Scheme or any cost incurred by the Company in exercising any right or obligation of the Company in the Scheme;</li> <li>(b) all costs, charges, expenses, disbursements and other debts incurred by the Company in the course of complying with the provisions of the Companies Act or Insolvency Act or any other statutory or regulatory obligations;</li> <li>(c) insofar as they do not fall within (a), all costs, charges, expenses and disbursements incurred by, and the remuneration of the Office Holders as well as any advisers or medical experts engaged by the Company; and</li> <li>(d) the Claims Handling Costs.</li> </ul>

<b>"Scheme Document"</b>	means the document dated 13 May 2024 and available at the Website;
<b>"Scheme Meeting"</b>	means the meeting of the Policyholders to vote on the Scheme which took place on 28 June 2024;
<b>"Scheme Period"</b>	means the period beginning on the Effective Date and ending on the Termination Date;
<b>"Scheme Trust"</b>	means the trust of the Scheme Assets created by Clause 3.1.1;
<b>"Second Determination Notice"</b>	has the meaning given to that term in Clause 4.4.9;
<b>"Spanish Scheme Adjudicator"</b>	means Alberto Perez Cedillo and/or such other independent person as is appointed in accordance with this Scheme to determine the value of a Disputed Scheme Claim under an Insurance Policy governed by the laws of Spain;
<b>"Subsidiary"</b>	means a subsidiary within the meaning of section 1159 of the Companies Act;
<b>"Termination Date"</b>	means the date that notice of Completion or Other Termination is given in accordance with Part 10 of the Scheme;
<b>"Third Party Claim"</b>	means a claim that is made by a third party against a Policyholder for physical or material damages that have occurred as a result of activities under the Policyholder's responsibility;
<b>"UK Employers' Liability Claims"</b>	means any claim made against the Company in respect of a contract of insurance against risks of the persons insured incurring liabilities to their employees under the Employers Liability (Compulsory Insurance) Act 1969;
<b>"Voting Deadline"</b>	means 5.00 p.m. on 25 June 2024;
<b>"Voting Form"</b>	means the form provided at Section IV of the Scheme Document submitted by a Policyholder by the Voting Deadline for the purpose of voting at the Scheme Meeting; and
<b>"Website"</b>	means <a href="https://reliance-national-insurance-company-europe.co.uk">https://reliance-national-insurance-company-europe.co.uk</a>

## 1.2 Interpretation

In this Scheme, unless the context otherwise requires or the Scheme expressly provides otherwise:

- 1.2.1 references to Parts, Clauses, sub-Clauses and Appendices are references to the parts, clauses, sub-clauses and appendices respectively of the Scheme;
- 1.2.2 references to a "person" include an individual, firm, partnership, limited liability partnership, company, corporation, unincorporated body of persons or any state or state agency;
- 1.2.3 references to a statute or a statutory provision or to a statutory instrument or provision of a statutory instrument include the same as subsequently modified, amended or re-enacted from time to time;
- 1.2.4 references to a time on a particular day is a reference to that time on that day in London, England;
- 1.2.5 the singular includes the plural and *vice versa* and words importing one gender shall include all genders; and
- 1.2.6 headings to Parts, Clauses, sub-Clauses and Appendices are for ease of reference only and shall not affect the interpretation of the Scheme.

## 1.3 Participation in the Scheme

- 1.3.1 Each of the Scheme Advisers has consented to act in relation to, and agreed to be bound by, the Scheme from the Effective Date.
- 1.3.2 Each of the Scheme Adjudicators has consented to act in relation to, and agreed to be bound by, the Scheme from the Effective Date.

## **2. PART 2 – INTRODUCTORY PROVISIONS**

### **2.1 Application of the Scheme**

The Scheme applies to all Policyholders with Scheme Claims. The Scheme does not apply to any person in respect of their Excluded Claim.

### **2.2 Proceedings by Policyholders**

2.2.1 Policyholders are not permitted to start, continue or enforce any Proceeding or take any other action whatsoever against the Company in any jurisdiction to establish the existence of, or amount of, or enforce, in any way whatsoever, a Scheme Claim other than with the consent of the Company or to the extent that such restriction is prohibited by law.

2.2.2 Except where the Company has failed to pay a Policyholder in accordance with the terms of the Scheme, no Policyholder is permitted to start or continue any Proceedings whatsoever against the Company or its Property in any jurisdiction whatsoever to enforce payment in whole or in part of any Scheme Claim.

2.2.3 The Company is permitted to start and continue Proceedings against a Policyholder including, but not limited to, in circumstances where:

- (a) the Company is appealing a judgment in relation to a Third Party Claim;
- (b) the Company has any claim against a Policyholder in respect of any Deductible;
- (c) a claim for registration tax (where that registration tax has been paid by the Company to the Policyholder, but such payment has not been passed on to the relevant authority);
- (d) the Company has any claim against a Policyholder in respect of a breach by that Policyholder of the terms of this Scheme; or
- (e) the Policyholder has started or continued Proceedings against the Company.

For the avoidance of doubt, the relevant Policyholder in any Proceedings commenced or continued by the Company under Clauses 2.2.3 shall be entitled to assert and prosecute its Scheme Claim against the Company in such Proceedings.

2.2.4 For the purposes of Clause 2.2.3, the Company shall be deemed not to be continuing any Proceedings which commenced before the Effective Date and in which the Company is not actively prosecuting its claims against such Policyholder.

2.2.5 For limitation purposes, time shall stand still in respect of Scheme Claims from the Effective Date. If the Scheme ends as described in Clause 10.1.1(b), the Company shall not be entitled to reject a claim on the basis that any limitation

period, whether contractual or statutory, has expired since the Effective Date and time will begin to run again from the date of termination.

## **2.3 Effect of Acts Prohibited by Clause 2.2**

- 2.3.1 If, and to the extent that, a Policyholder obtains an order, judgment, decision or award of a court or tribunal against the Company in relation to a Scheme Claim contrary to Clauses 2.2.1 and/or 2.2.2, such order, judgment, decision or award shall not be treated as an Ascertained Scheme Claim and shall be disregarded when determining the Liability of the Company in respect of the relevant Scheme Claim or any Liability of the Policyholder to the Company.
- 2.3.2 If any Policyholder takes any action after the Effective Date which is prohibited by Clauses 2.2.1 and/or 2.2.2, it shall, without prejudice to any other rights of the Company, be treated as having received an advance distribution on account of its Scheme Claim equal to the amount or gross value of any money, Property, benefit or advantage obtained by it at the expense of the Company as the result of such action, and the extent to which it is entitled to participate in any distribution under the Scheme shall be determined accordingly.
- 2.3.3 For the purpose of Clause 2.3.1, the gross value of any money, Property, benefit or advantage obtained by a Policyholder shall be conclusively determined by the Company in accordance with this Scheme and, without limitation, may include such amount as the Company may consider to be appropriate by way of interest, costs, charges or expenses incurred by the Company as a consequence of the relevant Policyholder acting in a manner prohibited by Clause 2.2.
- 2.3.4 If the amount of advance distribution which a Policyholder is treated as having received pursuant to Clause 2.3.1 and 2.3.3 is more than the total amount that Policyholder would otherwise be entitled to receive from the Company in the Scheme, then without prejudice to any other rights of the Company, the Policyholder shall immediately repay the excess to the Company, failing which interest shall accrue on such excess for the period from and including the date upon which the Policyholder's Liability to the Company is established under the Scheme to the date of repayment of such excess, at a rate of 3% over the base rate set by the Bank of England from time to time. Interest shall be calculated on the basis of a 360 day year and shall be payable immediately. Such excess and any interest shall be held on trust for the Company by the relevant Policyholder until paid.

3. **PART 3 – THE SCHEME ASSETS**

- 3.1.1 On and from the Effective Date, the Company hereby declares that it shall hold the Scheme Assets on trust for those persons entitled to payment from the Scheme Assets in this Scheme.
- 3.1.2 The Scheme Assets shall be applied in payment of Ascertained Scheme Claims in accordance with the provisions of the Scheme.
- 3.1.3 The trust referred to in Clause 3.1.1 shall continue notwithstanding the occurrence of an Insolvency Event.
- 3.1.4 The trust referred to in Clause 3.1.1 shall terminate if the Scheme terminates in accordance with Clause 10.1.1.



#### **4. PART 4 – SUBMISSION AND DETERMINATION OF SCHEME CLAIMS**

##### **4.1 Notice of the Effective Date and invitation to submit details of Scheme Claim**

4.1.1 As soon as reasonably practicable after the Effective Date, and in any event within 21 days, the Company shall give notice of the Effective Date to Policyholders and the Company shall invite Policyholders to submit their Scheme Claims by the Claims Deadline on a Claim Form in the following ways:

- (a) by email to each person whom the Company believes may be a Policyholder and for whom it has an email address;
- (b) where the Company does not have an email address for such Policyholder, by Post to each person whom the Company believes may be a Policyholder and for whom it has a postal address; and
- (c) by notice on the Website.

4.1.2 In or around one month before the Claims Deadline, the Company shall, in accordance with Clause 4.1.1, remind Policyholders who have not yet done so to submit their Scheme Claims by the Claims Deadline.

4.1.3 All Scheme Claims shall be valued as at the Effective Date.

##### **4.2 Submission of Scheme Claims**

4.2.1 Except where Clause 4.2.2 below applies, Policyholders must submit their Scheme Claims on a Claim Form and provide all supporting information by no later than the Claims Deadline in order to be eligible to receive a payment in accordance with the Scheme.

4.2.2 For the avoidance of doubt, and subject always to Clause 4.3.3, Policyholders who:

- (a) submit a Voting Form by the Voting Deadline and elect in that Voting Form to have it treated as a Claim Form; or
- (b) submitted a claim after 15 April, 2024, being the date of the Practice Statement Letter,

shall be deemed to have submitted a Scheme Claim on a Claim Form which has been received by the Company on the Effective Date, but only in respect of the claim and amount previously specified.

4.2.3 Policyholders may submit a revised Claim Form, or revised or further information, in respect of a Scheme Claim to the Company at any time up to the Claims Deadline.

4.2.4 No revisions to the quantum of any Scheme Claim will be accepted after the Claims Deadline unless sent in response to a request by the Company pursuant to Clause 4.4.4 or the Scheme Adjudicator pursuant to Clause 4.7.3. No

revisions to the quantum of any Scheme Claim will be accepted after the date on which the relevant Ascertained Scheme Claim is established.

#### 4.3 The requirement to submit a Scheme Claim

- 4.3.1 A Policyholder must submit details of their Scheme Claim on a Claim Form, in accordance with the instructions on that Claim Form, by the Claims Deadline. A Scheme Claim which is not received by the Company on a Claim Form in accordance with the relevant instructions on that form by the Claims Deadline (or which is not deemed to have been received in accordance with Clause 4.2.2) shall be valued at zero and deemed to have been satisfied in full.
- 4.3.2 A Scheme Claim which is not received by the Company on a Claim Form in accordance with the relevant instructions on that form by the Claims Deadline (or which is not deemed to have been received in accordance with Clause 4.2.2) shall be fully and finally released and the Policyholder shall have no further rights in respect of that Scheme Claim.
- 4.3.3 The amount in respect of which a Policyholder is admitted to vote at the Scheme Meeting shall not be binding on anyone other than for the purposes of voting at the Scheme Meeting (and, for the avoidance of doubt, shall not be considered to be an Ascertained Scheme Claim, unless agreed or otherwise determined in accordance with Clause 4.4 below).

#### 4.4 Determination of Scheme Claims

- 4.4.1 Within 30 days after the Company receives (or is deemed to receive) a Scheme Claim on a Claim Form, the Company shall notify the Policyholder in writing of receipt of its Scheme Claim.
- 4.4.2 The Company shall examine each Scheme Claim received by it in accordance with Clauses 4.2.1 or 4.2.2 and shall consider and determine, acting fairly and reasonably, whether or not the Scheme Claim is valid in whole or in part in accordance with the Claims Methodology.
- 4.4.3 Except where Clause 4.4.4 below applies, as soon as practicable following the outcome of the Company's determination of a Policyholder's Scheme Claim, and in any event within 90 calendar days of receipt of a Scheme Claim, the Company shall give a notice to such Policyholder (the "**First Determination Notice**") setting out:
  - (a) the total amount of their Scheme Claim;
  - (b) the amount of any Deductible; and
  - (c) the anticipated amount of the Policyholder's Ascertained Scheme Claim, if any.
- 4.4.4 If the Company requires more information before it can reach a determination of a Policyholder's Scheme Claim in accordance with Clause 4.4.3, the Company shall send a notice to the relevant Policyholder within 60 days of

receipt of that Policyholder's Scheme Claim describing what further documents, data or information is required from the Policyholder. If the Policyholder fails to provide the further documents, data or information requested by the Company within 30 days or such other longer period as specified in the notice, the Company shall be entitled to make its determination and issue a First Determination Notice in accordance with Clause 4.4.3 on the basis of the information currently in its possession. A First Determination Notice given in accordance with this Clause 4.4.4 shall be given as soon as practicable following the outcome of Company's determination of a Policyholder's Scheme Claim, and in any event within 150 days of receipt of a Scheme Claim.

- 4.4.5 In the event that a Policyholder confirms in writing that it agrees with the anticipated Ascertained Scheme Claim (if any) specified in a First Determination Notice, the anticipated Ascertained Scheme Claim so specified in the First Determination Notice shall be the Policyholder's Ascertained Scheme Claim and shall be fully and finally binding upon the Company and Policyholder to the fullest extent permitted by law and the Policyholder shall have no further claims against the Company in respect of the claims subject to the First Determination Notice.
- 4.4.6 Save where Clause 4.4.7 applies, the anticipated Ascertained Scheme Claim as set out in the First Determination Notice shall, to the fullest extent permitted by law, be fully and finally binding on the Company and the Policyholder at 5.00 p.m. 30 days after that First Determination Notice is deemed received and the amount of the anticipated Ascertained Scheme Claim specified in it, if any, shall be that Policyholder's Ascertained Scheme Claim, and the Policyholder shall have no further claims against the Company in respect of the claims subject to the First Determination Notice.
- 4.4.7 Where a Policyholder gives notice, within the period set out in Clause 4.4.6, that it does not agree with the Company's determination of its Scheme Claim, and explains the reasons for that disagreement, that Policyholder's Scheme Claim shall become a "**Disputed Scheme Claim**".
- 4.4.8 After a Scheme Claim becomes a Disputed Scheme Claim under Clause 4.4.7, the Company shall seek to reach agreement with the Policyholder in respect of such Disputed Scheme Claim. Once the Company and the Policyholder have agreed the Scheme Claim, the Company shall issue an updated notice (a "**Agreed Determination Notice**") setting out the agreed determinations made in respect of each of the matters set out in Clause 4.4.3. The Ascertained Scheme Claim, if any, set out in that Agreed Determination Notice shall be the Policyholder's Ascertained Scheme Claim and shall be fully and finally binding upon the Company and Policyholder to the fullest extent permitted by law and the Policyholder shall have no further claims against the Company in respect of the claims subject to the Agreed Determination Notice.
- 4.4.9 Where the Company and the Policyholder do not reach agreement on the Disputed Scheme Claim within 90 days of the Scheme Claim becoming a Disputed Scheme Claim, the Company shall issue an updated notice (the

**"Second Determination Notice")** to the Policyholder setting out its determination in respect of each of the matters set out in Clause 4.4.3.

- 4.4.10 In the event that a Policyholder confirms in writing that it agrees with the anticipated Ascertained Scheme Claim (if any) specified in a Second Determination Notice, if any, the anticipated Ascertained Scheme Claim so specified shall be the Policyholder's Ascertained Scheme Claim and shall be fully and finally binding upon the Company and Policyholder to the fullest extent permitted by law and the Policyholder shall have no further claims against the Company in respect of the claims subject to the Second Determination Notice.
- 4.4.11 Save where Clause 4.6.1 applies, the anticipated Ascertained Scheme Claim as set out in the Second Determination Notice shall, to the fullest extent permitted by law, be fully and finally binding on the Company and the Policyholder at 5.00 p.m. 30 days after that Second Determination Notice is deemed received and the amount of the anticipated Ascertained Scheme Claim specified in it, if any, shall be that Policyholder's Ascertained Scheme Claim, and the Policyholder shall have no further claims against the Company in respect of the claims subject to the Second Determination Notice.

#### 4.5 **Release and discharge**

Once a Policyholder's Ascertained Scheme Claim has been determined in accordance with the Scheme, such Policyholder releases and discharges, and is to be treated as having agreed to fully and finally release and discharge, all claims (whether existing, alleged, prospective or contingent) against the Company under or arising out of any Insurance Policy, save for its Ascertained Scheme Claim which can only be paid in accordance with the terms of the Scheme.

#### 4.6 **Appointment of a Scheme Adjudicator**

- 4.6.1 If the Policyholder does challenge the Company's determination in the Second Determination Notice and gives reasons for that challenge within 30 days of receipt of the Second Determination Notice:
- (a) where that Policyholder's Insurance Policy is governed by Italian law:
    - (i) the Company shall nominate a Named Italian Scheme Adjudicator that is willing to act in respect of the Disputed Scheme Claim (the **"first Italian Scheme Adjudicator"**) and notify the Policyholder of that nomination.
    - (ii) if the Policyholder agrees with the appointment of the first Italian Scheme Adjudicator in writing, or does not challenge that nomination and request the appointment of an alternative Named Italian Scheme Adjudicator in writing within 14 days of the notification (or deemed notification) to the Policyholder of the appointment of the first Italian Scheme Adjudicator, the first Italian Scheme Adjudicator shall be the Scheme Adjudicator in respect of that Disputed Scheme Claim.

- (iii) if the Policyholder does not agree with the appointment of the first Italian Scheme Adjudicator and requests the appointment of an alternative Named Italian Scheme Adjudicator within 14 days of the notification (or deemed notification) to the Policyholder of the appointment of the first Italian Scheme Adjudicator (the "**first alternative Italian Scheme Adjudicator**"), the Company shall determine if the first alternative Italian Scheme Adjudicator is willing to act. If the first alternative Italian Scheme Adjudicator is willing to act, they shall become the Scheme Adjudicator in respect of the relevant Disputed Scheme Claim.
  - (iv) if the first alternative Italian Scheme Adjudicator is not willing to act, the Policyholder shall be entitled to request the appointment of the remaining Named Italian Scheme Adjudicator within 14 days of the notification (or deemed notification) to the Policyholder that the first alternative Italian Scheme Adjudicator is not willing to act (the "**second alternative Italian Scheme Adjudicator**") and the Company shall determine if the second alternative Italian Scheme Adjudicator is willing to act. If the second alternative Italian Scheme Adjudicator is willing to act, they shall become the Scheme Adjudicator in respect of the relevant Disputed Scheme Claim. If the second alternative Scheme Adjudicator is not willing to act, the Company and the Policyholder shall use reasonable endeavours to agree the appointment of an alternative person to act as Scheme Adjudicator and, once appointed, that person shall be deemed to be a Scheme Adjudicator for the sole purpose of that specific Disputed Scheme Claim; or
- (b) where that Policyholder's Insurance Policy is governed by the laws of Spain, the Company shall appoint the Spanish Scheme Adjudicator.

4.6.2 Where a Disputed Scheme Claim is referred to a Scheme Adjudicator in accordance with Clauses 4.6.1, the dispute between the Company and the Policyholder will be determined by the Scheme Adjudicator in accordance with Clause 4.7.

4.6.3 Neither the Company nor a Scheme Adjudicator will be bound by, or prepared to follow, any settlement made between the Policyholder and another insurer.

#### 4.7 The Scheme Adjudication Procedure

4.7.1 In referring the Disputed Scheme Claim to the Scheme Adjudicator, the Company shall provide to the Scheme Adjudicator a copy of any Claim Form, evidence, notice, statement or correspondence, under this Part 4, sent to or received by the Company in connection with the Scheme Claim and details of any Deductible or set-off.

4.7.2 Each Scheme Adjudicator shall have access to all of the Company's relevant records and information in the possession or under the control of the Company

that the Scheme Adjudicator considers they need to determine the Disputed Scheme Claim.

- 4.7.3 The relevant Scheme Adjudicator shall send a notice to the Company and/or the relevant Policyholder if they require:
- (a) further documents, data or information from the Policyholder and/or the Company; and/or
  - (b) the Policyholder and/or the Company to address them on any matter in respect of such Disputed Scheme Claim.
- 4.7.4 If the Company or Policyholder fails to comply with a notice under Clause 4.7.3 within 30 days or such other period as specified in the notice, or fails to address the Scheme Adjudicator on the terms prescribed by the Scheme Adjudicator, the Scheme Adjudicator shall be entitled to:
- (a) notify the Company and Policyholder of their determination in respect of the relevant Disputed Scheme Claim; and
  - (b) make their determination of the Disputed Scheme Claim solely on the basis of the information made available to them.
- 4.7.5 The Company and the Policyholder shall each be entitled to request a meeting or meetings with the Scheme Adjudicator for the purposes of discussing the Disputed Scheme Claim at any time prior to the Scheme Adjudicator's determination. For the avoidance of doubt, a Scheme Adjudicator may determine in their absolute discretion whether to accept or decline the request.
- 4.7.6 The Scheme Adjudicator shall give notice (the "**Scheme Adjudicator Determination Notice**") to the Company and Policyholder of their determination in respect of the relevant Disputed Scheme Claim within 30 days of the later of:
- (a) the Scheme Adjudicator's appointment in accordance with Clause 4.5;
  - (b) the date of the provision of any additional documents or information requested in accordance with Clause 4.7.3;
  - (c) the conclusion of the last of any meetings requested by the Scheme Adjudicator, Company or Policyholder; or
  - (d) the failure of any party to provide the additional documents and/or information requested in accordance with Clause 4.7.4.
- 4.7.7 For the avoidance of doubt, any value that is determined by a Scheme Adjudicator in relation to any Scheme Claim shall not exceed the amount that is submitted by the Scheme Creditor on the Claim Form as the value of the Scheme Claim.
- 4.7.8 The amount of an Ascertained Scheme Claim specified in a Scheme Adjudicator Determination Notice shall be the amount of the relevant Policyholder's

Ascertained Scheme Claim (including any Deductible) for the purposes of the Scheme, and the Policyholder and the Company shall have no right of appeal or review, or any right to commence any Proceedings, in respect of either the Scheme Adjudicator's determination or the procedure they employed (in each case in accordance with the Scheme), save in respect of their negligence, wilful default, wilful breach of duty or trust, fraud or dishonesty.

- 4.7.9 Any remuneration (including Scheme Adjudicator's own remuneration calculated on a time cost basis), costs, charges and expenses incurred by the Scheme Adjudicator in respect of a Disputed Scheme Claim including the fees and expenses of any adviser or expert consulted by them, shall be paid by the Company as a Scheme Cost. However, the Scheme Adjudicator may determine, in their absolute discretion, that the relevant Policyholder should reimburse the Company in respect of some or all of those costs on the basis that such Policyholder's challenge of the Company's determination of its Scheme Claim was unreasonable. In such circumstances, the costs shall be paid by the Policyholder in accordance with Clause 4.7.10. The Company shall give notice to the Policyholder if it intends to request that the Scheme Adjudicator exercises such discretion.
- 4.7.10 Any costs, charges and expenses incurred by the relevant Policyholder with respect to a Disputed Scheme Claim shall be borne by the Policyholder. The amount of the relevant Policyholder's share of any remuneration, costs, charges and expenses of the Scheme Adjudicator, as determined by the Scheme Adjudicator, shall be a Liability immediately due and payable from that Policyholder to the Company and may be deducted from any payment to be made to the Policyholder in accordance with Part 5.

#### **4.8 Extension of Time Limits**

- 4.8.1 Subject to Clause 4.8.2, the Company may, in consultation with the Scheme Advisers but at its sole discretion, extend any time period referred to in this Part 4 or in Part 5, other than the Claims Deadline, whether for any one or more or all Policyholders.
- 4.8.2 A Scheme Adjudicator may in their absolute discretion extend any of the time periods referred to in Clause 4.7 whether for any one or more or all Policyholders.

#### **4.9 Policyholders to Provide Assistance**

- 4.9.1 During the Scheme Period, Policyholders shall provide to the Company, Scheme Advisers and Scheme Adjudicator all reasonable assistance required by any of them in connection with the Scheme and shall provide such assistance as any of them may reasonably require in connection with the recovery of any Property (including Deductibles).
- 4.9.2 The Company shall provide the Scheme Advisers and Scheme Adjudicator with all reasonable assistance required by any of them in connection with the Scheme.

- 4.9.3 On and from the Effective Date, Policyholders hereby agree that the Company shall be entitled to take, as agent of, and in the name of, the Policyholders, such steps as the Company may reasonably require to remove the Company and QBE from any Proceedings brought by a Policyholder against the Company or QBE or brought by a Claimant against the Policyholder or against the Policyholder and the Company and/or QBE in respect of any claim that is, or could be, the subject of a Scheme Claim.

#### **4.10 Set-Off**

- 4.10.1 Where there have been mutual credits, mutual debts or other mutual dealings between the Company and any Policyholder (including, but not limited to, Liabilities arising under or in respect of any Deductibles), an account shall be taken of:

- (a) the aggregate Scheme Claim of the Policyholder (prior to any deductions) against the Company; and
- (b) all Liabilities of the Policyholder to the Company, including, but not limited to:
  - (i) any amount payable in respect of a Deductible; and
  - (ii) any Liability arising under this Scheme;

and the sums due from the Policyholder to the Company under Clause (b) shall be set-off against the sums due from the Company to the Policyholder.

#### **4.11 Treatment of Agents**

In any of a Policyholder's dealings with the Company, the Scheme Advisers or the Scheme Adjudicator under the Scheme, the Policyholder may appoint an Agent to act on its behalf. The Company may, at its absolute discretion, require the Agent or the Policyholder to provide evidence of the Agent's authority and its scope, before dealing or continuing to deal with the Agent under the Scheme.



## **5. PART 5 - PAYMENT OF ASCERTAINED SCHEME CLAIMS**

### **5.1 Setting or Revising the Payment Percentage**

- 5.1.1 As soon as reasonably practicable following the Claims Deadline, and in any event within 90 days from the Claims Deadline, the Company, in consultation with the Scheme Advisers and for the purposes of making payment in accordance with Clause 5.2 below, shall set an initial Payment Percentage in accordance with Clause 5.1.3. If the Company determines (in consultation with the Scheme Advisers) and based on Clause 5.1.3 that the Ascertained Scheme Claims can be paid in full by the Company from Scheme Assets, the Payment Percentage shall be set at 100%.
- 5.1.2 After setting the initial Payment Percentage in accordance with Clause 5.1.1, the Company shall review the Payment Percentage at such times as it considers appropriate but at least once every six months, and consider, in the light of Clause 5.1.3 whether it should be revised or left unchanged.
- 5.1.3 In setting or revising a Payment Percentage, the Company shall use reasonable endeavours to ensure that sufficient reserves have been created by the Company as it considers to be prudent to enable the Company to:
- (a) pay the same Payment Percentage in respect of all Ascertained Scheme Claims; and
  - (b) pay all Excluded Claims in full,
- and the Company shall not be required to reserve for any other amounts.
- 5.1.4 In considering whether sufficient reserves have been created in accordance with Clause 5.1.3, the Company shall be entitled to take into account the Company's Scheme Assets.
- 5.1.5 For the purpose of setting or revising a Payment Percentage, the Company shall be entitled to obtain and consider such financial and/or actuarial information and advice as the Company shall consider appropriate.
- 5.1.6 If on considering or revising a Payment Percentage previously set in accordance with Clause 5.1.1 or Clause 5.1.3 the Company considers that, taking into consideration those matters referred to in Clauses 5.1.3 to 5.1.4 there are insufficient Scheme Assets for the then current Payment Percentage to be maintained at that level, the Company shall reduce the Payment Percentage to such level as it considers appropriate in the light of those provisions. Any such reduction in the Payment Percentage shall not give rise to any obligation on the part of any Policyholder to repay the difference between the amount which would have been payable in respect of such reduced Payment Percentage and the amount actually paid to such Policyholder in respect of any previous Payment Percentage.
- 5.1.7 The Company shall be entitled to suspend payments to all Policyholders for such period it considers appropriate up to a maximum of 180 days if information

becomes available to it concerning the financial position of the Company which results in a need to consider whether or not the current Payment Percentage should be maintained or reduced. As soon as practicable during, and in any event at the end of such period, the Company shall set a reduced Payment Percentage or resume payments in respect of any previously set Payment Percentage.

## **5.2 Timing of Payment of Ascertained Scheme Claims**

5.2.1 As soon as reasonably practicable after, and in any event within 30 days of, the later of:

- (a) the setting of a Payment Percentage; and
- (b) a Scheme Claim becoming an Ascertained Scheme Claim,

the Company shall pay the relevant Payment Percentage of such Ascertained Scheme Claim to the Policyholder in accordance with Clause 5.4.

5.2.2 In the event that the Company sets an increased Payment Percentage in accordance with Clause 5.1.3, the Company shall pay:

- (a) the increased Payment Percentage in respect of all Scheme Claims which become Ascertained Scheme Claims after the setting of the increased Payment Percentage; and
- (b) to each Policyholder who has previously received payment in respect of an Ascertained Scheme Claim at a lower Payment Percentage, an amount equal to the difference between the lower Payment Percentage previously paid to the Policyholder in respect of their Ascertained Scheme Claim and the increased Payment Percentage on their Ascertained Scheme Claim, as soon as reasonably practicable afterwards, and in any event within 30 days.

5.2.3 In the event that the Company sets a reduced Payment Percentage, the Company shall pay the reduced Payment Percentage in respect of all Scheme Claims which become Ascertained Scheme Claims after the setting of such reduced Payment Percentage in accordance with Clause 5.4, as soon as reasonably practicable afterwards, and in any event within 30 days of the Scheme Claim becoming an Ascertained Scheme Claim.

## **5.3 Effect of Payment of Ascertained Scheme Claims**

5.3.1 The amount of a Policyholder's Ascertained Scheme Claim under the Scheme as determined in accordance with Part 4 shall constitute the Company's entire liability to the relevant Policyholder in respect of its Scheme Claim and payment of the Final Payment Percentage of that Ascertained Scheme Claim in accordance with Clause 5.4 shall be in full and final settlement of all and any Scheme Claims of that Policyholder against the Company.

#### **5.4 Method of Payment**

- 5.4.1 All payments to a Policyholder pursuant to this Scheme shall be made in accordance with this Clause 5.4.
- 5.4.2 Where a Policyholder provides the Company with full details of a valid bank account into which payment should be made on a Claim Form, payments may be made by bank transfer. Such payment shall be at the Policyholder's own risk, cost, and expense. Where a Policyholder does not provide the Company with full details of a valid bank account into which payment should be made on a Claim Form, within 30 days of a third and final request from the Company to provide such information, such Policyholder's Ascertained Scheme Claim shall be deemed to have been fully paid and the Policyholder shall have no further claim in respect thereof.
- 5.4.3 All payments to Policyholders under the Scheme shall be made by way of bank transfer in favour of the Policyholder concerned or in favour of such other person as the Policyholder may notify the Company in writing.
- 5.4.4 Payment under the Scheme in respect of an Ascertained Scheme Claim shall be deemed to have been made on the day that the bank transfer instructions were given to the relevant bank pursuant to Clause 5.4.2 and such deemed payment shall be a good discharge and satisfaction of the Company's liability to pay the relevant amount to the Policyholder.
- 5.4.5 The Company will not be required to make any payments to Policyholders until the Company is satisfied that making of such payment is not prohibited by an applicable law or regulation.

#### **5.5 Policyholder Entitlement**

No Policyholder shall be entitled to receive any payment in respect of a Scheme Claim except in accordance with Clause 5.2.

#### **5.6 Currency of Payments**

Each Ascertained Scheme Claim shall be paid in the currency as specified in the Insurance Policy giving rise to the Ascertained Scheme Claim.

#### **5.7 Excluded Claims**

The Company shall pay Excluded Claims from the Excluded Assets only.

## **6. PART 6 – THE BOARD**

### **6.1 The Board Generally**

- 6.1.1 The Board shall consist of such Directors as have been, and remain, duly appointed from time to time under the Company's Constitutional Documents.
- 6.1.2 The Company (acting by the Board) shall ensure that the composition of the Board complies with the Companies Act and its Constitutional Documents and shall ensure insofar as they are able that there are sufficient numbers of Directors in office at all times.
- 6.1.3 Without prejudice to the Constitutional Documents, a Director may be a creditor of the Company or a director or shareholder of, or otherwise interested in, a person which is a creditor of the Company, but in carrying out his duties as a Director of the Company he shall not be entitled to any confidential information in the Company's possession relating to any matter where that creditor has an interest in conflict with the Company.

### **6.2 The Board During the Scheme Period**

- 6.2.1 The implementation of the Scheme shall be carried out by the Company acting by its Directors and the powers of the Board shall continue, subject to the terms of the Scheme.
- 6.2.2 The Board may, at its absolute discretion, consult with, the Scheme Advisers.
- 6.2.3 Nothing in the Scheme shall relieve the Board from its duty to act in accordance with the Companies Act, Insolvency Act or prevent the Board from carrying out its statutory or other duties.

### **6.3 The Board - Responsibility and Indemnity**

- 6.3.1 No Policyholder shall be entitled to challenge the validity of any act done or omitted to be done in good faith and with due care by any Director or any member of the Board in accordance with and to implement the provisions of the Scheme (including, for the avoidance of doubt, any act done or omitted to be done in good faith and with due care in respect of the Excluded Assets and Excluded Claims) or the exercise by any such person in good faith and with due care of any power conferred upon them for the purposes of the Scheme if exercised in accordance with and to implement those provisions and no such person shall be liable for any loss unless such loss is attributable to their gross negligence, default, breach of duty or breach of trust.
- 6.3.2 Subject to the restrictions set out in the Companies Act, the Company shall indemnify each Director (in their capacity as such) against:
  - (a) all actions, claims, proceedings and demands brought or made against them in respect of any act or omission to act, which they took in good faith without negligence, default, breach of duty, breach of trust, fraud

or dishonesty in the course of implementing the Scheme in accordance with its terms; and

- (b) the expenses and liabilities reasonably incurred by Directors in the course of implementing the Scheme in accordance with its terms.

6.3.3 Without prejudice to the generality of Clause 6.3.2, the Company shall further indemnify each Director (in their capacity as such):

- (a) against any liability incurred by the Directors in defending any proceedings, whether civil or criminal, in respect of any negligence, default, breach of duty, breach of trust, fraud or dishonesty allegation in relation to this Scheme, in which judgment is given in the relevant Director's favour or in which the relevant Director is acquitted; or
- (b) in connection with any application in any such proceedings in which relief is granted to the Director by a court from liability for negligence, default, breach of duty, breach of trust, fraud or dishonesty in relation to the affairs of the Company.

6.3.4 The Company may:

- (a) purchase and maintain for any Director, insurance against any liability in respect of which the Company has provided an indemnity under Clauses 6.3.2 or 6.3.3; and
- (b) pay costs incurred by a Director in defending proceedings of the nature described in Clauses 6.3.2 or 6.3.3 which relate to the Company **provided that** the Company obtains from the Director an obligation to reimburse the Company (with interest) in respect of any sum which would not, in the event, have been payable by the Company under Clause 6.3.3.

## **7. PART 7 – THE SCHEME ADJUDICATORS**

### **7.1 The Scheme Adjudicators**

- 7.1.1 The Company has appointed each of the Named Italian Scheme Adjudicators to be Scheme Adjudicators in the Scheme in respect of Insurance Policies governed by Italian law.
- 7.1.2 The Company has appointed the Spanish Scheme Adjudicator to be the Scheme Adjudicator in the Scheme in respect of Insurance Policies governed by Spanish law.
- 7.1.3 Each Scheme Adjudicator shall have the powers, rights and duties conferred upon them in the Scheme and shall discharge the duties and responsibilities imposed upon them in the Scheme.
- 7.1.4 Each Scheme Adjudicator shall be paid on a time cost basis for the exercise and performance of their powers, rights, duties and functions under the Scheme, such remuneration to be paid in accordance Clause 4.7.9.

### **7.2 Powers, role and duties of the Scheme Adjudicators**

- 7.2.1 Each Scheme Adjudicator shall be responsible for the adjudication and the final determination of each Disputed Scheme Claim referred to them.
- 7.2.2 Each Scheme Adjudicator shall be entitled to consult with such advisers, including legal advisers and experts, as they may deem appropriate in determining any Disputed Scheme Claim, and any costs so incurred will be treated as Scheme Costs.

### **7.3 Responsibility of the Scheme Adjudicators**

Each Scheme Adjudicator shall act in good faith with reasonable skill and care and shall exercise their powers, duties and functions under the Scheme with a view to ensuring that Disputed Scheme Claims are adjudicated as fairly and cost-effectively as possible, in the interests of all Policyholders and in accordance with the Scheme.

### **7.4 Liability of the Scheme Adjudicators**

- 7.4.1 Policyholders shall not be entitled to challenge the validity of any act done or omitted to be done in good faith and with due care by a Scheme Adjudicator in pursuance of the provisions of the Scheme or the exercise or performance by them in good faith and with reasonable skill and care of any power, duty or function conferred upon them for the purpose of the Scheme.
- 7.4.2 The Scheme Adjudicators shall not be liable for any loss resulting from any act they do or omit to do in or pursuant to the Scheme, unless any such loss is attributable to their own wilful neglect, breach of statutory duty, breach of trust, fraud or dishonesty.
- 7.4.3 Nothing in this Clause 7.4 shall prevent the liability of a Scheme Adjudicator for negligence.

## **7.5 Vacation of office**

7.5.1 A Scheme Adjudicator shall vacate office, if they:

- (a) are subject to an Individual Termination Event;
- (b) resign by giving 30 days' notice in writing to the Company or such shorter period of time as may be agreed by the Company; or
- (c) are removed by the Company because, in the opinion of the Company (acting reasonably) and the Scheme Advisers, they are unable or have failed to carry out their duties under the Scheme.

7.5.2 Where a vacancy arises in the office of a Scheme Adjudicator, the Company shall as soon as reasonably practicable thereafter fill the vacancy with an independent person who is duly qualified, in the opinion of the Company (acting reasonably and in consultation with the Scheme Advisers), to discharge the functions of a Scheme Adjudicator under the Scheme.

## 8. PART 8 – THE SCHEME ADVISERS

### 8.1 Qualification, appointment resignation and removal

- 8.1.1 A Scheme Adviser shall be a chartered accountant and/or an individual with full authorisation to act as an insolvency practitioner pursuant to section 390A of the Insolvency Act. With effect from the Effective Date, the initial Scheme Advisers shall be Kevin Gill and Richard Barker both of Ernst & Young LLP.
- 8.1.2 A Scheme Adviser may resign their appointment at any time by giving not less than 3 months' notice in writing to the Company. A Scheme Adviser's appointment shall be vacated if they are subject to an Individual Termination Event.
- 8.1.3 The functions, and powers and duties of the Scheme Advisers under the Scheme may be performed and exercised individually, jointly or severally and any act required to be done by a Scheme Adviser or the Scheme Advisers pursuant to the Scheme may be done by one, some or all of them.
- 8.1.4 Where a vacancy arises in the office of the Scheme Adviser, the Company shall use reasonable endeavours to forthwith fill the vacancy with a person having the requisite qualifications, in the opinion of the Company (acting reasonably), to discharge the functions of the Scheme Adviser under the Scheme.

### 8.2 Functions, powers and duties of the Scheme Advisers during the Scheme Period

- 8.2.1 With immediate effect from the Effective Date, the Scheme Advisers shall:
  - (a) have the:
    - (i) right to be consulted in respect of the matters described in the definitions of Excluded Assets and Final Payment Percentage and at Clauses 4.8.1, 5.1.1, 6.2.2 and 7.5.2; and
    - (ii) rights given to them in Clause 10.1.1(b);
  - (b) be entitled to delegate to any individual who is employed or is a partner or director in the same firm as one of the Scheme Advisers and either has full authorisation to act as an insolvency practitioner pursuant to section 390A of the Insolvency Act or is a chartered accountant (a "**Delegate**"), all or any of the functions, powers, rights, authorities and discretions conferred upon the Scheme Advisers under the Scheme and from time to time to revoke any such delegation, **provided that** the Scheme Advisers shall be personally responsible for any act or omission of any such Delegate to the same extent as if they had expressly authorised it;
  - (c) be entitled to be remunerated, on terms approved by the Company acting by its Directors for the carrying out of their functions and powers under the Scheme and for all expenses reasonably and properly incurred by them in connection therewith; and



- (d) employ and remunerate (at the cost of the Company) accountants, actuaries, lawyers and other professional advisers or agents whether in England and Wales or in other jurisdictions provided such employment is necessary or desirable for the purpose of performing their functions and powers under the Scheme.
- 8.2.2 Without prejudice to the generality of Clause 8.2.1, in carrying out their functions and powers under the Scheme, the Scheme Advisers shall:
  - (a) have full access at all times to all books, papers and other documents of the Company, to receive all such information as they may require in relation to its affairs;
  - (b) be remunerated for the carrying out their functions and powers and to be reimbursed for all expenses properly incurred by them in connection therewith; and
  - (c) be entitled to do all other things incidental to the exercise of the functions and powers referred to in this Clause 8.2.2 and in Clause 8.2.1.

### 8.3 Responsibility and Indemnity

- 8.3.1 In carrying out their functions and exercising their powers and duties under the Scheme, the Scheme Advisers shall act *bona fide* and with due care and diligence in the interests of Policyholders as a whole and shall use their powers under the Scheme for the purpose of ensuring that the Scheme is operated in accordance with its terms.
- 8.3.2 No Policyholder shall be entitled to challenge the validity of any act done or omitted to be done in good faith and with due care by the Scheme Advisers in accordance with, and to implement the provisions of, the Scheme or the exercise by the Scheme Advisers in good faith and with due care of any power conferred upon them for the purposes of the Scheme if exercised in accordance with, and to implement the provisions of, the Scheme and the Scheme Advisers shall not be liable for any loss unless such loss is attributable to their own (or their Employee's or Delegate's) negligence, default, breach of duty, breach of trust, fraud or dishonesty.
- 8.3.3 No Policyholder shall be entitled to challenge the validity of any act done or omitted to be done in good faith and with due care by any Employee in accordance with, and to implement the provisions of, the Scheme if exercised in accordance with and to implement the provisions of the Scheme and no Employee shall be liable for any loss unless such loss is attributable to their own negligence, default, breach of duty, breach of trust, fraud or dishonesty.
- 8.3.4 Without prejudice to Clause 8.3.2 or the proviso in Clause 8.2.1(b), no Policyholder shall be entitled to challenge the validity of any act done or omitted to be done in good faith and with due care by any Delegate in accordance with and to implement the provisions of the Scheme or the exercise by such Delegate in good faith and with due care of any power conferred upon the Scheme Advisers for the purposes of the Scheme if exercised in accordance with and to

implement the provisions of the Scheme and no Delegate shall be liable for any loss unless such loss is attributable to their own negligence, default, breach of duty, breach of trust, fraud or dishonesty (or to that of any Employee).

8.3.5 Subject to the Companies Act, the Company shall indemnify each Scheme Adviser (in their capacity as such) and their Employees and Delegates against:

- (a) all actions, claims, proceedings and demands brought or made against such Scheme Adviser, Employee or Delegate in respect of any act done or omitted to be done by such Scheme Adviser, Employee or Delegate in good faith without negligence, default, breach of duty, breach of trust, fraud or dishonesty in the course of implementing the Scheme in accordance with its terms; and
- (b) all expenses and liabilities properly incurred by such Scheme Adviser, Employee or Delegate in carrying out their functions and powers (or the functions for which such Employee is employed by the Scheme Adviser or any Delegate) in the course of implementing the Scheme in accordance with its terms.

8.3.6 Without prejudice to the generality of Clause 8.3.5, the Company shall further indemnify each Scheme Adviser, Employee or Delegate:

- (a) against any liability incurred by the Scheme Adviser, Employee or Delegate in defending any proceedings, whether civil or criminal, in respect of any negligence, default, breach of duty, breach of trust, fraud or dishonesty in which judgment is given in the Scheme Adviser's, Employee's or Delegate's favour or in which the Scheme Adviser, Employee or Delegate is acquitted; or
- (b) in connection with any application in any such proceedings in which relief is granted to the Scheme Adviser, Employee or Delegate by a court from liability for negligence, default, breach of duty, breach of trust, fraud or dishonesty,

in each case, in relation to the affairs of the Company or the administration of the Scheme.

8.3.7 The Company may:

- (a) purchase and maintain for any such person referred to in Clause 8.3.5, insurance against any liability in respect of which the Company would be obliged to indemnify that person in accordance with Clauses 8.3.5 and 8.3.6; and
- (b) pay the costs incurred by any person referred to in Clause 8.3.6 in defending proceedings of the nature described in Clause 8.3.6 provided that the Company obtains from a Scheme Adviser an obligation to reimburse the Company (with interest) in respect of any sum which would not, in the event, have been payable by the Company under Clause 8.3.6.

## 9. **PART 9 – RELEASES**

### 9.1 **Policyholders in relation to the Scheme**

9.1.1 With effect from the Effective Date, and subject to Clause 9.1.2, each Policyholder shall, irrevocably and unconditionally, fully and finally waive and release and forever discharge to the fullest extent permitted by applicable law any and all claims in each case that it ever had, may have or hereafter can, shall or may have, against:

- (a) the Company;
- (b) each Scheme Adviser;
- (c) each Scheme Adjudicator; and
- (d) each of their Related Parties, representatives and advisers,

whatsoever and howsoever arising (each a "**Released Party**" and, together the "**Released Parties**"), in connection with or by reason of, or resulting directly or indirectly from their participation in the formulation, negotiation, entry into and implementation of the Scheme or any documents entered into in connection with the Scheme.

9.1.2 Clause 9.1.1 shall not have the effect of waiving, releasing or discharging any rights of any Policyholder arising in connection with or by reason of, or resulting directly or indirectly from the Scheme, a Policyholder's Scheme Claim or any fraud, wilful misconduct, gross negligence, or dishonesty by any party.

### 9.2 **Third Parties**

A Released Party shall be entitled to enforce and enjoy the benefit of and rely upon this Part 9, whether or not it is a party to the Scheme. The Parties shall not be entitled to rescind or vary any term of this Part 9 in a manner prejudicial to a Released Party without the consent of the relevant Released Party.

## 10. PART 10 – DURATION OF THE SCHEME

### 10.1 Termination of the Scheme

10.1.1 Subject to Clauses 10.2 and 10.3 (which shall survive such termination), the Scheme shall:

- (a) complete upon the Company giving notice to Policyholders that:
  - (i) all Scheme Claims having been finally determined in accordance with Part 4; and
  - (ii) the payment of the Final Payment Percentage in respect of all Ascertained Scheme Claims having been paid (or provided for);

**"Completion"** and
- (b) otherwise terminate upon the Scheme Advisers (after consultation with Company) giving notice to the Policyholders that they have determined that, after due enquiry, the Scheme is no longer in the interests of the Policyholders as a whole (**"Other Termination"**).

### 10.2 Effect of Completion or Other Termination

10.2.1 In the event of a Completion:

- (a) any remaining Scheme Assets shall be released from the Scheme Trust to the Company;
- (b) termination of the Scheme shall be without prejudice to any right or obligation which shall have arisen under the Scheme as a result of any act or omission which took place prior to the Completion including, without limitation any right to an indemnity out of the assets of the Company as a result of an act or omission which took place, or as a result of liabilities or expenses which were incurred, prior to the termination of the Scheme; and
- (c) the provisions of this Clause 10.2 and Clauses 5.3, 6.3, 7.4, 8.3 and 9, shall continue in full force.

10.2.2 In the event of an Other Termination:

- (a) any remaining Scheme Assets shall be released from the Scheme Trust to the Company;
- (b) termination of the Scheme shall be without prejudice to any right or obligation which shall have arisen under the Scheme as a result of any act or omission which took place prior to the Other Termination including, without limitation any right to an indemnity out of the assets of the Company as a result of an act or omission which took place, or as a result of liabilities or expenses which were incurred, prior to the termination of the Scheme; and

- (c) the provisions of this Clause 10.2 and Clauses 6.3, 7.4, 8.3 and 9 shall continue in full force; and
- (d) any determination made in accordance with Clauses 4.4.5, 4.4.8, 4.4.9, 4.4.10 and 4.7.8 shall continue to be binding in accordance with those provisions.

### **10.3 Effect of Insolvency Event**

- 10.3.1 If the Company becomes subject to an Insolvency Event and the Scheme has not completed or otherwise terminated before then in accordance with Clause 10.1.1, the Scheme shall not terminate and shall continue in full force and effect.
- 10.3.2 In the event of a conflict or inconsistency between the provisions of the Scheme, FSMA, the Insolvency Act, the Insolvency Rules, the Financial Services and Markets Act 2000 (Administration Orders Relating to Insurers) Order 2010, the Insurers (Reorganisation and Winding up) Regulations 2004/353, the Insurers (Winding Up) Rules 2001, and/or the Compensation Rules as they apply to the Company following the Insolvency Event, for the purposes of the Scheme, the provisions of the Scheme shall prevail.

## **11. PART 11 – GENERAL SCHEME PROVISIONS**

### **11.1 Application of Scheme Assets**

The Scheme Assets available for distribution under the Scheme shall be applied by the Company in payment of, or provision for, the Ascertained Scheme Claims in accordance with Parts 4 and 5.

### **11.2 Claims Handling Services**

On and from the Effective Date, the Company may, but is not obliged to, continue to provide Claims Handling Services to any Policyholders.

### **11.3 Power of Attorney**

With effect on and from the Effective Date to and including the Termination Date, in consideration of the rights provided to the Policyholders under this Scheme, each Policyholder irrevocably appoints, and shall for all purposes be treated as having irrevocably appointed, the Company as its attorney and agent and irrevocably authorises, directs, instructs and empowers the Company (represented by any duly authorised representative) to take all steps and do all such further things, as may be reasonably necessary or desirable to give effect to this Scheme.

### **11.4 Modification of the Scheme**

The Company may at any hearing by the Court to sanction the Scheme consent on behalf of Policyholders to any amendment of, or addition to, the Scheme or any terms or conditions which the Court may think fit to approve or impose and which would not directly or indirectly have a materially adverse effect on the rights of any Policyholder under the Scheme (in its capacity as a Policyholder).

### **11.5 Precedence of the Scheme**

In the event of an inconsistency between the terms of any Insurance Policy and this Scheme, the terms of this Scheme shall prevail.

### **11.6 Notices**

11.6.1 Without prejudice to Clause 11.7, any notice to be given in the Scheme shall be in writing and shall be deemed to have been duly given if it is delivered by hand or sent by Post or email to:

(a) in the case of the Company, to:

Reliance National Insurance Company (Europe) Limited  
c/o Premia UK Services Company Ltd  
2 Minster Court  
Mincing Lane  
London, EC3R 7BB  
England

Contact: Barry Toolan

Telephone: +44 20 4566 5673  
Email: [RNICEScheme@Premiare.uk](mailto:RNICEScheme@Premiare.uk)

- (b) in the case of a Policyholder, in respect of their specific Scheme Claim, to that Policyholder's last known email address or last known postal address of which the Company is aware;
- (c) in the case of Policyholders generally, in respect of any notices applicable to the Scheme or Scheme Claims generally, by notice posted to the Website;
- (d) in the case of the Scheme Advisers, to:

Kevin Gill and Richard Barker  
Ernst & Young LLP  
1 More London  
London SE1 2AF  
United Kingdom

Email: [kgill@parthenon.ey.com](mailto:kgill@parthenon.ey.com); [rbarker@parthenon.ey.com](mailto:rbarker@parthenon.ey.com)

or such other address as the Scheme Advisers may notify to Policyholders for the purposes of this Clause 11.6; and

- (e) in the case of the Scheme Adjudicators, to such contact details as shall be notified to the Company and the Policyholder by the Scheme Adjudicator for that purpose;

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

- (a) if delivered by hand, on the first Business Day following delivery;
- (b) if sent by Post, on the second Business Day after posting if the recipient is in the country of dispatch and otherwise on the seventh Business Day after posting; and
- (c) if sent by email, in accordance with Clause 11.7.4.

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

11.6.4 For the avoidance of doubt, but save where deemed submitted in accordance with Clause 4.2.2, Claim Forms must be submitted in accordance with the requirements set out in the Claims Methodology. Clause 11.6.2 shall not apply to the filing of a Claim Form with the Company, which shall only be deemed to have been received when actually received.

## 11.7 Electronic Communications

11.7.1 Subject to the anything to the contrary in the Claims Methodology, information concerning Scheme Claims, (including Claim Forms and copies of any relevant

supporting documentation) and any other communications required to be or capable of being given or sent hereunder may be given or sent by the Company, the Scheme Advisers, the Scheme Adjudicators or the Policyholder concerned in electronic form to the address specified for that purpose by, respectively, the Company, Scheme Advisers, the Scheme Adjudicators or the Policyholder, (all of whom hereby consent to the use of electronic communications).

11.7.2 Where any communication is sent to the Company in electronic form:

- (a) the complete electronic mail including any attachments must be less than 35 megabytes in size;
- (b) a hard copy of any electronic mail must be sent to the Company if so requested;
- (c) receipt by the Policyholder of an automated acknowledgement shall constitute conclusive proof that the electronic mail was sent in accordance with Clause 11.7.1 and received; and
- (d) the electronic mail shall not be deemed to have been received unless it is received in the Company's mail box and the Company is able to open and print it and any attachments and, if requested, unless a hard copy is received in accordance with sub Clause (b).

11.7.3 Where any communication to the Company, Scheme Advisers, Scheme Adjudicators or a Policyholder in electronic form exceeds 35 megabytes in size, the electronic mail should be split into multiple electronic mails each of which must be less than 35 megabytes in size, including any attachments. Alternatively, the communication should be sent to the Company, Scheme Advisers, Scheme Adjudicators or a Policyholder by Post.

11.7.4 Subject to Clause 11.7.2, notice given, or information provided, in electronic form shall be deemed to have been received on the first Business Day following the expiration of 48 hours after the time it was sent by the sender.

## **11.8 Calculation of Time Periods**

11.8.1 A period of six months shall run from the day of the month on which the period commences to the numerically corresponding day in the sixth month thereafter (as applicable) less one day. Where there is no numerically corresponding day in that six month the period shall end on the last Business Day of that month.

11.8.2 A reference to a number of days other than Business Days shall be deemed to be a reference to that number of calendar days, including Saturdays, Sundays and public holidays.

## **11.9 Governing Law and Jurisdiction**

11.9.1 The Scheme shall be governed by, and construed in accordance with, the laws of England and Wales, and the Policyholders hereby agree that the Court shall have exclusive jurisdiction to hear and determine any Proceedings and to settle



any dispute which may arise out of the Explanatory Statement or the Scheme, including this Clause 11.9, or out of any action taken or omitted to be taken under the Scheme or in connection with the administration of the Scheme, and for such purposes the Policyholders irrevocably submit to the jurisdiction of the Court provided, however, that nothing in this Clause 11.9 shall affect:

- (a) the validity of any other provisions determining governing law as between the Company and a Policyholder whether contained in any Insurance Policy or otherwise; or
- (b) the governing law applied by a court in any decision applicable to the Company and any Policyholder.

11.9.2 Notwithstanding the provisions of Clause 11.9.1, the Company shall retain the right to bring Proceedings in the courts of any other country having jurisdiction under its own laws to hear such Proceedings.

Dated 13 May 2024

## **SCHEDULE 1 CLAIMS METHODOLOGY**

### **PART A**

#### **ITALIAN CLAIMS METHODOLOGY**

##### **Submission, Assessment and Valuation of Scheme Claims**

###### **Submission of Scheme Claims**

Italian Policyholders must submit their Scheme Claims on the Claim Form provided, via an Italian certified e-mail - Posta Elettronica Certificata (PEC) - to the Company. The email address is [reliancescheme@legalmail.it](mailto:reliancescheme@legalmail.it). This mailbox is limited to 100MB per submission.

E-mail and PEC is the preferred method for submitting Claim Forms but if for any reason a Policyholder cannot submit the Claim Form by email, these can be submitted by post to the following address: Reliance National Insurance Company (Europe) Limited, c/o Premia UK Services Company Ltd, 2 Minster Court, Mincing Lane, London, EC3R 7BB, England.

Claim Forms must be received by the Claims Deadline.

###### **Supporting Documentation**

The Company anticipates that it has the majority of supporting documentation required to assess and value Scheme Claims. Once Policyholders have submitted their Scheme Claims, the Company will assess the information it holds and will confirm to the Policyholder whether and what further information it requires. Supporting documentation may include but is not limited to:

- Pleadings;
- Court medical reports;
- Verdicts, and any other Court decision;
- Correspondence
- Clinical records;
- Legal opinions;
- Internal medical opinions;
- Internal calculations; and
- Additional insurance policies.

All supporting documentation requested should be sent by email to [RNICEScheme@Premiare.uk](mailto:RNICEScheme@Premiare.uk).

If Supporting Documentation cannot be sent by email, it must be sent by post to the following address: Reliance National Insurance Company (Europe) Limited, c/o Premia UK Services Company Ltd, 2 Minster Court, Mincing Lane, London, EC3R 7BB, England.

## Assessment of Scheme Claims

The Company will initially assess each Scheme Claim against the following criteria:

- a) Coverage: The Company will consider whether the Scheme Claim falls within the policy terms;
- b) In time: The Company will assess whether the Scheme Claim was originally submitted within the time permitted in accordance with local legal requirements and relevant insurance policy terms;
- c) Policy limits, deductibles, and/or self-insured retention: Each Scheme Claim will be assessed in relation to the limits, deductibles and/or self-insured retention for the relevant individual policy;
- d) Liability: The Company will consider whether the Scheme Claim falls within the terms of the policy from documentary evidence (e.g. external medical expert report, internal Company appointed medical expert report and/or a legal opinion received)

All underlying requests for damages will be assessed against the relevant local law.

Scheme Claims that are in a Court process will take into consideration the stage/outcome of the trial available at the time that the Scheme Effective Date based on information available to the Company including but not limited to internal medical reports, legal opinions, contributions, and the documents lodged during the trials (writ of summons, pleadings, court medical reports, and verdicts).

Scheme Claims that are not in a Court process will be assessed based on the information available including but not limited to the last request made, internal medical reports, legal opinions, coverage and timing.

## Valuation of Scheme Claims

Once the validity of a Scheme Claim has been determined it will be valued.

- For Italian claims, losses claimed by the Policyholder will be valued in accordance with Appendix A “Valuation of Italian Claims”.

## Costs included in valuing Scheme Claims

Where judicial proceedings have commenced or are pending, it is anticipated that the following parties will be appointed and therefore incur costs:

- Lawyer
- Legal Medical Adviser (“LMA”)
- Expert

The costs of a Court Appointed Expert (“CTU”) will only be included when such expert is appointed by a Judge.

Proceedings costs (e.g. court taxes “*contributo unificato*” for counterclaims, appeal, mediation costs, etc) and verdict registration tax (all specific to Italian Scheme Claims) will

be calculated and paid only when or where a Court decision has been issued charging the insured hospital or the Company with such costs.

Interest, indexation and funeral costs in death claims will only be calculated and included in a Scheme Claim when the CTU report is favorable to the claimant and no agreement has been reached in relation to these costs separately with the Policyholder before a Court verdict is issued.

Registration tax will be included in a Scheme Claim where it has been documented by the Court and the Court has reached an unfavorable verdict against the Company. The tax is approximately 3% of the value of the verdict.

### **Costs that will not be included in valuing Scheme Claims**

#### *Third Party Administrator (“TPA”) costs*

The TPA fee will be paid by the Company as a Scheme Cost and will not be included in valuing a Scheme Claim.

#### *Legal Fees*

Legal fees will be paid by the Company as a Scheme Cost to the extent that they are in line with the agreed legal contract entered into by the Company or Premia or per D.M. 55/2014 as updated by D.M. 147/2022, if there is no contract in place.

#### *Expert Fees (LMA, accountant etc.)*

Expert fees will be paid by the Company as a Scheme Cost to the extent that they are in line with the agreed legal contract entered into by the Company or Premia or in accordance with D.M. 55/2014<sup>1</sup> as updated by D.M. 147/2022<sup>2</sup>, if there is no contract in place

### **Claims with no liability**

If the Company concludes based on a LMA’s opinion that no damage was caused to the claimant as a consequence of the insured’s malpractice then no costs will be included in a Scheme Claim.

### **Deductions**

Once the valuation of a Scheme Claim has been established the Company will make a deduction of any applicable policy deductibles and amounts due from the Policyholder to the Company.

These may include:

- deductible applicable to each individual claim;
- annual aggregate deductible;
- self insured retention;

<sup>1</sup> D.M. 55/2014 is Decree No. 55 of 10 March 2014 Regulation on the determination of parameters for the payment of fees for the legal profession, pursuant to Article 13(6) of Law No 247 of 31 December 2012.

<sup>2</sup> D.M. 147/2022 is Decree No. 147 of 13 August 2022 Regulation containing amendments to Decree No 55 of 10 March 2014, concerning the determination of parameters for the settlement of fees for the legal profession, pursuant to Article 13(6) of Law No 247 of 31 December 2012.

- amounts due to the Company from the Policyholder, including but not limited to unpaid deductibles and any indemnity, legal fees and interest that are recoverable from the policyholder.

These deductions may be applied at an individual Scheme Claim level or at a Policyholder level and will be communicated to the claimant in the First Determination Notice.

### **Recovery/Subrogation/Contribution**

The Company retains its contractual rights of recovery against third parties included but not limited to the following

- Policyholder, other liable hospital / clinic, Insurer, doctor, doctors insurer and claimant/s.

### **Appendix A – Valuation of Italian claims**

The Milan Tables will be used to assess the value of Italian Scheme Claims unless there is a verdict specifying the use of another specific set of Tables.

The reason the Milan Tables have been selected is to ensure consistency for all Scheme Claims and it is understood by the Company that this is a fair approach given that these tables are applied to Medical Malpractice insurance claims in Italy.

Links to the relevant Tables are provided below:

- Milan Tables ([P- 11185\\_22.pdf \(ordineavvocatimilano.it\)](#))
- Micro-permanent Tables (article 139 Code of Private Insurance, [www.gazzettaufficiale.it/eli/id/2005/10/13/005G0233/sg](http://www.gazzettaufficiale.it/eli/id/2005/10/13/005G0233/sg))

### **Valuation of annuities in Scheme**

If a verdict contains an annuity, it will be evaluated in line with the tables and with the support of an accountant where required.

### **Patrimonial damages**

#### *Person previously working*

The Scheme Claim will be calculated based on a comparison between actual earnings 3 years before the event and 3 years after the event. Earnings will be considered after-tax. Other general economic circumstances will also be considered (e.g. recession, redundancies, bankruptcies, business closures, etc.).

#### *Person not working*

The Scheme Claim will be calculated on a case-by-case basis, but generally the value will be 3 times the social/state pension (pensione sociale).

#### *Consequential damage for relatives (usually after the patient has died)*

The Scheme Claim will be calculated as per the relative's own loss of earnings reduced by the "quota sibi" (the portion of the earnings appropriated to the deceased).

#### *Counterparty Costs*

- A Scheme Claim for medical, treatment and nursing costs will be calculated based on what has been approved by the LMA or CTU as linked to malpractice. If there is no LMA or CTU, The Company will assess on case-by-case basis. The calculation will be reduced by any payments made to the claimant by the servizio sanitario nazionale (SSN).
- A Scheme Claim for home and car adaptation costs will only be accepted in very high % Permanent Disability ("PD") cases and with supporting evidence. The calculation will be based on the supporting evidence provided.
- A Scheme Claim for assistance/help costs will only be accepted in very high % PD cases, and the calculation will be discounted for any assistance provided by family members and any SSN paid assistance.
- A Scheme Claim for funeral costs will not be agreed unless there is evidence of a verdict from a Court based on a CTU finding liability.
- A Scheme Claim for the underlying claimant's legal costs will be reviewed by the Company and a value agreed based on the supporting documentation provided any Court verdict

#### *INAIL (National Institute for Insurance against Accidents at Work) /INPS (National Institute for Social Security) recovery claim*

A Scheme Claim for INAIL/INPS recovery claims will only be accepted when one of these parties have officially claimed reimbursement from the Policyholder and liability engaged (a letter advising that either party is issuing benefits is not sufficient).

### **Non-patrimonial damages**

#### *Permanent disability*

The Scheme Claim value will be set considering the % of PD as assessed by a LMA or CTU and the monetary value provided by the applicable table.

If no % of PD valuation is available in the applicable table, then the Company will quantify the % of PD based on the loss description submitted by the claimant and use the % of PD to calculate the value of the Scheme Claim.

#### *Special cases*

Differential damage (when the malpractice caused damage in addition to damages already existing, unavoidable or not a consequence of any malpractice).

The Scheme Claim value will be calculated based on the value of the total PD, less the value of existing/unavoidable damage (i.e. differential damage).

Failure to diagnose foetus malformation (malformation not caused by malpractice) also known as non-patrimonial damage to foetus will not be calculated or form part of the Scheme Claim, only costs of care and or medical treatment.

#### *Temporary Disability*

The Scheme Claim value will be set considering the % of Temporary Disability (“TD”) and its duration as assessed by the LMA expert or CTU report.

*Damage of the deceased having died*

This will not form part of the Scheme Claim value as it falls outside of the scope of the policies.

*Damage of the deceased realising they are about to die*

The Scheme Claim value calculated if the deceased survived more than 24 hours between malpractice and death.

The calculation will be the number of survival days x TD € amount provided by the applicable table multiplied by 7.

Survivals greater than 90 days will be calculated on a case-by-case basis.

*Non-patrimonial consequential damages to relatives (iure proprio)*

The Scheme Claim value will be calculated only for close relatives or close equivalents (Parents, children, siblings, grandparents, grandchildren, co-habitant partners).

*Consequential damage to relatives arising from death*

The Scheme Claim value will be an amount between the minimum and the maximum range provided by the Milan tables. Calculated considering closeness of actual relationship, co-habitation, existence of other surviving relatives, and especially the age of deceased and age of surviving relative(s) if confirmed by LMA or CTU.

*Loss of chance*

If loss of chance results from the damage occurring, or if not (the damage could have occurred even without malpractice), then for the purposes of valuing the Scheme Claim, the loss of chance will be quantified in % by the LMA or CTU and the relevant % applied to relevant amount from the Milan tables for the damage caused.

If loss of chance is connected to a person’s right to survival (i.e., because of malpractice the patient will die/has died earlier than they would otherwise have/ could have died earlier anyway even without malpractice), then such loss of chance will be quantified in % by the LMA or CTU together with the duration of the survival for the purpose of valuing the Scheme Claim. The duration will be compared to the average ISTAT (The Italian National Institute of Statistics) or actual life expectancy at the time of malpractice for a person of the age of the patient and a factor calculated (either TD x balance of life expectancy, or 100% PD, or equivalent of 1st class relative death table depending on outcome).

## **PART B**

### **SPANISH CLAIMS METHODOLOGY**

#### **Submission, Assessment and Valuation of Scheme Claims**

##### **Submission of Scheme Claims**

Spanish Policyholders must submit their Scheme Claims on the Claim Form provided, via email to the following email address [RNICEScheme@Premiare.uk](mailto:RNICEScheme@Premiare.uk). This mailbox is limited to 35MB.

E-mail is the preferred method for submitting Claim Forms but if for any reason a Policyholder cannot submit the Claim Form by email, these can be submitted by post to the following address: Reliance National Insurance Company (Europe) Limited, c/o Premia UK Services Company Ltd, 2 Minster Court, Mincing Lane, London, EC3R 7BB, England.

Claim Forms must be received by the Claims Deadline.

##### **Supporting Documentation**

The Company anticipates that it has the majority of supporting documentation required to assess and value Scheme Claims. Once Policyholders have submitted their Scheme Claims the Company will assess the information it holds and will confirm to the Policyholder whether and what further information it requires. Supporting documentation may include but is not limited to:

- Pleadings;
- Court medical reports;
- Verdicts, and any other Court decision;
- Correspondence
- Clinical records;
- Legal opinions;
- Internal medical opinions;
- Internal calculations; and
- Additional insurance policies.

All supporting documentation requested should be sent by email to [RNICEScheme@Premiare.uk](mailto:RNICEScheme@Premiare.uk).

If Supporting Documentation cannot be sent by email, it must be sent by post to the following address: Reliance National Insurance Company (Europe) Limited, c/o Premia UK Services Company Ltd, 2 Minster Court, Mincing Lane, London, EC3R 7BB, England.



## **Assessment of Scheme Claims**

The Company will initially assess each Scheme Claim against the following criteria:

- e) Coverage: The Company will consider whether the Scheme Claim falls within the policy terms;
- f) In time: The Company will assess whether the Scheme Claim was originally submitted within the time permitted in accordance with local legal requirements and relevant insurance policy terms;
- g) Policy limits, deductibles, and/or self-insured retention: Each Scheme Claim will be assessed in relation to the limits, deductibles and/or self-insured retention for the relevant individual policy;
- h) Liability: The Company will consider whether the Scheme Claim falls within the terms of the policy from documentary evidence (e.g. external medical expert report, internal Company appointed medical expert report and/or a legal opinion received).

All underlying requests for damages will be assessed against the relevant local law.

Scheme Claims that are in a Court process will take into consideration the stage/outcome of the trial available at the time that the Scheme Effective Date based on information available to the Company including but not limited to internal medical reports, legal opinions, contributions, and the documents lodged during the trials (writ of summons, pleadings, court medical reports, and verdicts).

Scheme Claims that are not in a Court process will be assessed based on the information available including but not limited to the last request made, internal medical reports, legal opinions, coverage and timing.

## **Valuation of Scheme Claims**

Once the validity of a Scheme Claim has been determined it will be valued.

- For Spanish claims, losses claimed by the Policyholder will be valued in accordance with Appendix A “Valuation of Spanish Claims”.

## **Costs included in valuing Scheme Claims**

Where judicial proceedings have commenced or are pending, it is anticipated that the following parties will be appointed and therefore incur costs:

- Lawyer
- Legal Medical Adviser (“LMA”)
- Expert

The costs of a Court Appointed Expert (“CTU”) will only be included when such an expert is appointed by a Judge.

Proceedings costs (e.g. counterclaims, appeal, court taxes, mediation costs, court agent fees and publication fee if applicable) will be calculated and paid only when or where a Court decision has been issued charging the insured hospital or the Company with such costs.

Interest, indexation and funeral costs in death claims will only be calculated and included in a Scheme Claim when the Court Medical report is favorable to the claimant and no agreement has been reached in relation to these costs separately with the Policyholder before a Court verdict is issued.

### **Costs that will not be included in valuing Scheme Claims**

#### *Third Party Administrator (“TPA”) costs*

The TPA fee will be paid by the Company as a Scheme cost and will not be included in valuing a Scheme Claim.

#### *Legal Fees*

Legal fees will be paid by the Company as a Scheme Cost to the extent that they are in line with the agreed legal contract entered into by the Company or Premia or per the relevant Bar Association of Madrid, Valencia, Alicante and Castellón as, if there is no contract in place.

#### *Expert Fees (LMA, accountant etc.)*

Expert fees will be paid by the Company as a Scheme Cost to the extent that they are in line with the agreed legal contract entered into by the Company or Premia or per the Promede and Peripromedic fee agreements.

### **Claims with no liability**

If the Company concludes based on a LMA’s opinion that no damage was caused to the claimant as a consequence of the insured’s malpractice, then no costs will be included in a Scheme Claim.

### **Deductions**

Once the valuation of a Scheme Claim has been established the Company will make a deduction of any applicable policy deductibles and amounts due from the Policyholder to the Company.

These may include:

- deductible applicable to each individual claim;
- annual aggregate deductible;
- self-insured retention; and
- amounts due to the Company from the Policyholder, including but not limited to unpaid deductibles and any indemnity, legal fees and interest that are recoverable from the policyholder.

These deductions may be applied at an individual Scheme Claim level or at a Policyholder level and will be communicated to the claimant in the First Determination Notice.

## **Recovery/Subrogation/Contribution**

The Company retains its contractual rights of recovery against third parties included but not limited to the following

- Policyholder, other liable hospital / clinic, Insurer, doctor, doctors insurer and claimant/s.

## **Section 20 of the Spanish Insurance Contract Act (“SICA”)**

Interest under Section 20 SICA cannot be paid to the insured. This is only payable to the prejudiced party when the verdict sentences to its payment.

## **Appendix A – Valuation of Spanish claims**

The Baremo Rate System 2015 will be used to assess the value of Spanish Scheme Claims unless there is a verdict specifying the use of another specific set of baremo.

The reason the Baremo 2015 has been selected is to ensure consistency for all Scheme Claims and it is understood by the Company that this is a fair approach given that these tables are applied in general practice to all Medical Malpractice insurance claims in Spain.

A link to the relevant Tables is provided below:

Baremo Rate System 2015 (<https://www.boe.es/boe/dias/2015/09/23/pdfs/BOE-A-2015-10197.pdf>)

## **Valuation of Annuities in Scheme**

If a verdict contains an annuity, it will be evaluated in line with the tables and with the support of an accountant where required.

## **Excluded from Valuation**

Moral damage that is not covered under the policies:

- 1) SERMAS Policy 050081686: it does not cover the moral damage that does not result from bodily injury. (The clause 5.3 states that it covers the moral damage that arises out of bodily injury).
- 2) SERMAS Policy GL000106: it does not cover the moral damage that does not result from bodily injury. (The clause 5.3 states that it covers the moral damage that arises out of bodily injury).
- 3) SERVASA Policy: it is not covered the moral damage that does not derive from or it is not connected with a bodily injury.