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FORM 10-K
(Annual Report)

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UNITED STATES SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

Form 10-K

FOR ANNUAL AND TRANSITION REPORTS
PURSUANT TO SECTION 13 OR 15(d)
OF THE SECURITIES EXCHANGE ACT OF 1934

☑ **ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**
For the fiscal year ended December 31, 2008

or

☐ **TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**
For the transition period from to

Commission File Number 001-33289

ENSTAR GROUP LIMITED

(Exact name of registrant as specified in its charter)

BERMUDA	**N/A**
(State or other jurisdiction of incorporation or organization)	*(I.R.S. Employer Identification No.)*

P.O. Box HM 2267
Windsor Place, 3rd Floor, 18 Queen Street
Hamilton HM JX
Bermuda
(Address of principal executive offices, including zip code)

Registrant's telephone number, including area code: (441) 292-3645

Securities registered pursuant to Section 12(b) of the Act:

Title of Each Class	Name of Each Exchange on Which Registered
Ordinary shares, par value $1.00 per share	The NASDAQ Stock Market LLC

Securities registered pursuant to Section 12(g) of the Act:
None

Indicate by check mark if the registrant is a well known seasoned issuer, as defined in Rule 405 of the Securities Act. Yes ☐ No ☑

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Act. Yes ☐ No ☑

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

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K is not contained herein, and will not be contained, to the best of registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K. ☑

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

Large accelerated filer ☐ Accelerated filer ☑ Non-accelerated filer ☐ Smaller reporting Company ☐

(Do not check if a smaller reporting company)

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

The aggregate market value of the voting and non-voting common equity held by non-affiliates, computed by reference to the closing price as of the last business day of the registrant's most recently completed second fiscal quarter, June 30, 2008, was approximately $481,913,775.

As of March 4, 2009, the registrant had outstanding 13,319,012 ordinary shares, $1.00 par value per share.

DOCUMENTS INCORPORATED BY REFERENCE

Portions of the registrant's definitive proxy statement to be filed with the Securities and Exchange Commission pursuant to Regulation 14A relating to its 2009 annual general meeting of shareholders are incorporated by reference in Part III of this Form 10-K.

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PART I

ITEM 1. *BUSINESS*

Company Overview

We were formed in August 2001 under the laws of Bermuda to acquire and manage insurance and reinsurance companies in run-off, and to provide management, consulting and other services to the insurance and reinsurance industry. Since our formation, we, through our subsidiaries, have completed 22 acquisitions of insurance and reinsurance companies and are now administering those businesses in run-off. Insurance and reinsurance companies we acquire that are in run-off no longer underwrite new policies. In addition, we provide management and consultancy services, claims inspection services and reinsurance collection services to our affiliates and third-party clients for both fixed and success-based fees.

Our primary corporate objective is to grow our tangible net book value. We believe growth in our tangible net book value is driven primarily by growth in our net earnings, which is in turn partially driven by successfully completing new acquisitions.

We evaluate each opportunity presented by carefully reviewing the portfolio's risk exposures, claim practices, reserve requirements and outstanding claims, and seek an appropriate discount and/or seller indemnification to reflect the uncertainty contained in the portfolio's reserves. Based on this initial analysis, we can determine if a company or portfolio of business would add value to our current portfolio of run-off business. If we determine to pursue the purchase of a company in run-off, we then proceed to price the acquisition in a manner we believe will result in positive operating results based on certain assumptions including, without limitation, our ability to favorably resolve claims, negotiate with direct insureds and reinsurers, and otherwise manage the nature of the risks posed by the business.

Initially, at the time we acquire a company in run-off, we estimate the fair value of liabilities acquired based on external actuarial advice, as well as our own views of the exposures assumed. While we earn a larger share of our total return on an acquisition from commuting the liabilities that we have assumed, we also try to maximize reinsurance recoveries on the assumed portfolio.

In the primary (or direct) insurance business, the insurer assumes risk of loss from persons or organizations that are directly subject to the given risks. Such risks may relate to property, casualty, life, accident, health, financial or other perils that may arise from an insurable event. In the reinsurance business, the reinsurer agrees to indemnify an insurance or reinsurance company, referred to as the ceding company, against all or a portion of the insurance risks arising under the policies the ceding company has written or reinsured. When an insurer or reinsurer stops writing new insurance business, either entirely or with respect to a particular line of business, the insurer, reinsurer, or the line of discontinued business is in run-off.

In recent years, the insurance industry has experienced significant consolidation. As a result of this consolidation and other factors, the remaining participants in the industry often have portfolios of business that are either inconsistent with their core competency or provide excessive exposure to a particular risk or segment of the market (i.e., property/casualty, asbestos, environmental, director and officer liability, etc.). These non-core and/or discontinued portfolios are often associated with potentially large exposures and lengthy time periods before resolution of the last remaining insured claims resulting in significant uncertainty to the insurer or reinsurer covering those risks. These factors can distract management, drive up the cost of capital and surplus for the insurer or reinsurer, and negatively impact the insurer's or reinsurer's credit rating, which makes the disposal of the unwanted company or portfolio an attractive option. Alternatively, the insurer may wish to maintain the business on its balance sheet, yet not divert significant management attention to the run-off of the portfolio. The insurer or reinsurer, in either case, is likely to engage a third party, such as us, that specializes in run-off management to purchase the company or portfolio, or to manage the company or portfolio in run-off.

In the sale of a run-off company, a purchaser, such as us, typically pays a discount to the book value of the company based on the risks assumed and the relative value to the seller of no longer having to manage the company in run-off. Such a transaction can be beneficial to the seller because it receives an up-front payment for the company, eliminates the need for its management to devote any attention to the disposed company and removes the risk that

the established reserves related to the run-off business may prove to be inadequate. The seller is also able to redeploy its management and financial resources to its core businesses.

Alternatively, if the insurer or reinsurer hires a third party, such as us, to manage its run-off business, the insurer or reinsurer will, unlike in a sale of the business, receive little or no cash up front. Instead, the management arrangement may provide that the insurer or reinsurer will retain the profits, if any, derived from the run-off with certain incentive payments allocated to the run-off manager. By hiring a run-off manager, the insurer or reinsurer can outsource the management of the run-off business to experienced and capable individuals, while allowing its own management team to focus on the insurer's or reinsurer's core businesses. Our desired approach to managing run-off business is to align our interests with the interests of the owners through both fixed management fees and certain incentive payments. Under certain management arrangements to which we are a party, however, we receive only a fixed management fee and do not receive any incentive payments.

Following the purchase of a run-off company or the engagement to manage a run-off company or portfolio of business, it is incumbent on the new owner or manager to conduct the run-off in a disciplined and professional manner in order to efficiently discharge the liabilities associated with the business while preserving and maximizing its assets. Our approach to managing our acquired companies in run-off, as well as run-off companies or portfolios of businesses on behalf of third-party clients, includes negotiating with third-party insureds and reinsureds to commute their insurance or reinsurance agreement for an agreed upon up-front payment by us, or the third-party client, and to more efficiently manage payment of insurance and reinsurance claims. We attempt to commute policies with direct insureds or reinsureds in order to eliminate uncertainty over the amount of future claims. Commutations and policy buy-backs provide an opportunity for the company to exit exposures to certain policies and insureds generally at a discount to the ultimate liability and provide the ability to eliminate exposure to further losses. Such a strategy also contributes to the reduction in the length of time and future cost of the run-off.

Following the acquisition of a company in run-off, or new consulting engagement, we will spend time analyzing the acquired exposures and reinsurance receivables on a policyholder-by-policyholder basis. This analysis enables us to identify those policyholders and reinsurers we wish to approach to discuss commutation or policy buy-back. Furthermore, following the acquisition of a company in run-off, or new consulting engagement, we will often be approached by policyholders or reinsurers requesting commutation or policy buy-back. In these instances we will also carry out a full analysis of the underlying exposures in order to determine the viability of a proposed commutation or policy buy-back. From the initial analysis of the underlying exposures it may take several months, or even years, before a commutation or policy buy-back is completed. In a number of cases, if we and the policyholder or reinsurer are unable to reach a commercially acceptable settlement, the commutation or policy buy-back may not be achievable, in which case we will continue to settle valid claims from the policyholder, or collect reinsurance receivables from the reinsurer, as they become due.

Insureds and reinsureds are often willing to commute with us, subject to receiving an acceptable settlement, as this provides certainty of recovery of what otherwise may be claims that are disputed in the future, and often provides a meaningful up-front cash receipt that, with the associated investment income, can provide funds to meet future claim payments or even commutation of their underlying exposure. Therefore, subject to negotiating an acceptable settlement, all of our insurance and reinsurance liabilities and reinsurance receivables are able to be either commuted or settled by way of policy buy-back over time. Many sellers of companies that we acquire have secure claims paying ratings and ongoing underwriting relationships with insureds and reinsureds, which often hinders their ability to commute the underlying insurance or reinsurance policies. Our lack of claims paying rating and our lack of potential conflicts with insureds and reinsureds of companies we acquire provides a greater ability to commute the newly acquired policies than that of the sellers.

We also attempt, where appropriate, to negotiate favorable commutations with reinsurers by securing the receipt of a lump-sum settlement from the reinsurer in complete satisfaction of the reinsurer's liability in respect of any future claims. We, or the third-party client, are then fully responsible for any claims in the future. We typically invest proceeds from reinsurance commutations with the expectation that such investments will produce income, which, together with the principal, will be sufficient to satisfy future obligations with respect to the acquired company or portfolio.

Strategy

We intend to maximize our growth in tangible net book value by using the following strategies:

- *Solidify Our Leadership Position in the Run-Off Market by Leveraging Management's Experience and Relationships.* We intend to continue to utilize the extensive experience and significant relationships of our senior management team to solidify our position as a leader in the run-off segment of the insurance and reinsurance market. The experience and reputation of our management team is expected to generate opportunities for us to acquire or manage companies and portfolios in run-off, and to price effectively the acquisition or management of such businesses. Most importantly, we believe the experience of our management team will continue to allow us to manage the run-off of such businesses efficiently and profitably.
- *Professionally Manage Claims.* We are professional and disciplined in managing claims against companies and portfolios we own or manage. Our management understands the need to dispose of certain risks expeditiously and cost-effectively by constantly analyzing changes in the market and efficiently settling claims with the assistance of our experienced claims adjusters and in-house and external legal counsel. When we acquire or begin managing a company or portfolio, we initially determine which claims are valid through the use of experienced in-house adjusters and claims experts. We pay valid claims on a timely basis, while relying on well-documented policy terms and exclusions where applicable and litigation when necessary to defend against paying invalid claims under existing policies and reinsurance agreements.
- *Commute Assumed Liabilities and Ceded Reinsurance Assets.* Using detailed analysis and actuarial projections, we negotiate with the policyholders of the insurance and reinsurance companies or portfolios we own or manage with a goal of commuting insurance and reinsurance liabilities for one or more agreed upon payments at a discount to the ultimate liability. Such commutations can take the form of policy buy-backs and structured settlements over fixed periods of time. By acquiring companies that are direct insurers, reinsurers or both, we are able to negotiate favorable entity-wide commutations with reinsurers that would not be possible if our subsidiaries had remained independent entities. We also negotiate with reinsurers to commute their reinsurance agreements providing coverage to our subsidiaries on terms that we believe to be favorable based on then-current market knowledge. We invest the proceeds from reinsurance commutations with the expectation that such investments will produce income, which, together with the principal, will be sufficient to satisfy future obligations with respect to the acquired company or portfolio.
- *Continue to Commit to Highly Disciplined Acquisition, Management and Reinsurance Practices.* We utilize a disciplined approach to minimize risk and increase the probability of positive operating results from companies and portfolios we acquire or manage. We carefully review acquisition candidates and management engagements for consistency with accomplishing our long-term objective of producing positive operating results. We focus our investigation on risk exposures, claims practices and reserve requirements. In particular, we carefully review all outstanding claims and case reserves, and follow a highly disciplined approach to managing allocated loss adjustment expenses, such as the cost of defense counsel, expert witnesses and related fees and expenses.
- *Manage Capital Prudently.* We pursue prudent capital management relative to our risk exposure and liquidity requirements to maximize profitability and long-term growth in shareholder value. Our capital management strategy is to deploy capital efficiently to acquisitions and to establish, and re-establish when necessary, adequate loss reserves to protect against future adverse developments.

Recent Transactions

Unionamerica

On December 30, 2008, our indirect subsidiary Royston Run-Off Limited, or Royston, completed the acquisition of Unionamerica Holdings Limited, or Unionamerica, from St. Paul Fire and Marine Insurance Company, an affiliate of The Travelers Companies, Inc., or Travelers. Unionamerica is comprised of the discontinued operations of Travelers' U.K.-based London Market business, which were placed into run-off between 1992 and 2003. The purchase price of $343.4 million was financed by $184.6 million of bank financing provided to

Royston through a term facilities agreement; approximately $49.8 million from J.C. Flowers II, L.P., or the Flowers Fund, by way of its non-voting equity interest in Royston Holdings Ltd., the direct parent company of Royston; and the remainder from available cash on hand.

The Flowers Fund is a private investment fund advised by J.C. Flowers & Co. LLC. J. Christopher Flowers, a member of our board of directors and one of our largest shareholders, is the founder and Managing Member of J.C. Flowers & Co. LLC. John J. Oros, our Executive Chairman and a member of our board of directors, is a Managing Director of J.C. Flowers & Co. LLC. Mr. Oros splits his time between J.C. Flowers & Co. LLC and us.

Hillcot Re

On October 27, 2008, our wholly-owned subsidiary Kenmare Holdings Ltd., purchased the entire issued share capital of Hillcot Re Ltd., or Hillcot Re, the wholly-owned subsidiary of Hillcot Holdings Limited, or Hillcot, for consideration of $54.4 million. Prior to the completion of the transaction, we owned 50.1% of the outstanding share capital of Hillcot and Shinsei Bank, Ltd., or Shinsei, owned the remaining 49.9%. Upon completion of the transaction, Hillcot paid a distribution to Shinsei of approximately $27.1 million representing its 49.9% share of the consideration. J. Christopher Flowers, a member of our board of directors and one of our largest shareholders, is a director and the largest shareholder of Shinsei. The purchase price of $54.4 million was funded from approximately 50% available cash on hand and the remaining from inter-company advances. Hillcot Re is a U.K.-based reinsurer that is in run-off.

Capital Assurance

On August 18, 2008, we completed the acquisition of all of the outstanding capital stock of Capital Assurance Company Inc. and Capital Assurance Services, Inc. for a total purchase price of approximately $5.3 million. Capital Assurance Company, Inc. is a Florida-domiciled insurer that is in run-off. The acquisition was funded from available cash on hand.

EPIC

On August 14, 2008, we completed the acquisition of all of the outstanding capital stock of Electricity Producers Insurance Company (Bermuda) Limited, or EPIC, from its parent British Nuclear Fuels plc. The purchase price, including acquisition expenses, of £36.7 million (approximately $68.8 million) was financed by approximately $32.8 million from a credit facility provided by a London-based bank; approximately $10.2 million from the Flowers Fund by way of non-voting equity participation, and the remainder from available cash on hand. The interest on the bank loan is LIBOR plus 2.25%. The facility was repayable within four years and is secured by a first charge over our shares in EPIC. In October 2008, we fully repaid the outstanding principal and accrued interest on the credit facility.

Goshawk

On June 20, 2008 we, through our wholly-owned subsidiary Enstar Acquisitions Limited, or EAL, announced a cash offer to all of the shareholders of Goshawk Insurance Holdings Plc, or Goshawk, at 5.2 pence (approximately $0.103) for each share, or the Offer, conditioned, among other things, on receiving acceptance from shareholders owning 90% of the shares of Goshawk. Goshawk owns Rosemont Reinsurance Limited, a Bermuda-based reinsurer that wrote primarily property and marine business, which was placed into run-off in October 2005. The Offer valued Goshawk at approximately £45.7 million in the aggregate.

On July 17, 2008, after acquiring more than 30% of the shares of Goshawk through market purchases, EAL was obligated to remove all of the conditions of the Offer except for the receipt of acceptances from shareholders owning 50% of the shares of Goshawk. On July 25, 2008, the acceptance condition was met and the Offer became unconditional. On August 19, 2008, the Offer closed with shareholders representing approximately 89.44% of Goshawk accepting the Offer for total consideration of £40.9 million (approximately $80.9 million).

The total purchase price, including acquisition costs, of approximately $82.0 million was financed by a drawdown of $36.1 million from a credit facility provided by a London-based bank, a contribution of $11.7 million

of the acquisition price from the Flowers Fund, by way of non-voting equity participation, and the remainder from available cash on hand. The interest rate on the credit facility is LIBOR plus 2.25% and the facility is repayable within three years and is secured by a first charge over our shares in Goshawk.

In connection with the acquisition, Goshawk's bank loan of $16.3 million was refinanced by the drawdown of $12.2 million (net of fees) from a credit facility provided by a London-based bank and $4.1 million from the Flowers Fund.

Seaton and Stonewall

On June 13, 2008, our indirect subsidiary Virginia Holdings Ltd., or Virginia, completed the acquisition of 44.4% of the outstanding capital stock of Stonewall Acquisition Corporation from Dukes Place Holdings, L.P., a portfolio company of GSC European Mezzanine Fund II, L.P. Stonewall Acquisition Corporation is the parent of two Rhode Island-domiciled insurers, Stonewall Insurance Company and Seaton Insurance Company, both of which are in run-off. The purchase price was $20.4 million and was funded from available cash on hand.

Gordian

On March 5, 2008, we completed the acquisition of AMP Limited's, or AMP's, Australian-based closed reinsurance and insurance operations, or Gordian. The purchase price, including acquisition expenses, of AU$436.9 million (approximately $405.4 million) was financed by approximately AU$301.0 million (approximately $276.5 million), including an arrangement fee of AU$4.5 million (approximately $4.2 million), from bank financing provided jointly by a London-based bank and a German bank (in which the Flowers Fund is a significant shareholder of the German bank); approximately AU$41.6 million (approximately $39.5 million) from the Flowers Fund, by way of non-voting equity participation; and approximately AU$98.7 million (approximately $93.6 million) from available cash on hand.

Guildhall

On February 29, 2008, we completed the acquisition of Guildhall Insurance Company Limited, or Guildhall, a U.K.-based reinsurance company that has been in run-off since 1986. The purchase price, including acquisition expenses, of approximately £33.4 million (approximately $65.9 million) was financed by the drawdown of approximately £16.5 million (approximately $32.5 million) from a U.S. dollar facility loan agreement with a London-based bank; approximately £5.0 million (approximately $10.0 million) from the Flowers Fund, by way of non-voting equity participation; and approximately £11.9 million (approximately $23.5 million) from available cash on hand.

Shelbourne

In December 2007, we, in conjunction with JCF FPK I L.P., or JCF FPK, and a newly-hired executive management team, formed Shelbourne Group Limited, or Shelbourne, to invest in Reinsurance to Close or "RITC" transactions (the transferring of liabilities from one Lloyd's Syndicate to another) with Lloyd's of London insurance and reinsurance syndicates in run-off. JCF FPK is a joint investment program between Fox-Pitt Kelton Cochran Caronia Waller (USA) LLC, or FPK and the Flowers Fund. Shelbourne is a holding company of a Lloyd's Managing Agency, Shelbourne Syndicate Services Limited. We own 50.1% of Shelbourne, which in turn owns 100% of Shelbourne Syndicate Services Limited, the Managing Agency for Lloyd's Syndicate 2008, a syndicate approved by Lloyd's of London on December 16, 2007 to undertake RITC transactions with Lloyd's syndicates in run-off. In February 2008, Lloyd's Syndicate 2008 entered into RITC agreements with four Lloyd's syndicates with total gross insurance reserves of approximately $471.2 million.

Since January 1, 2008, we have committed capital of approximately £36.0 million (approximately $72.0 million) by way of a letter of credit issued by a London-based bank to Lloyd's Syndicate 2008. The letter of credit was secured by a parental guarantee from us in the amount of £12.0 million (approximately $24.0 million); approximately £11.0 million (approximately $22.0 million) from the Flowers Fund (acting in its own capacity and not

through JCF FPK), by way of a non-voting equity participation; and approximately £13.0 million (approximately $26.0 million) from available cash on hand. JCF FPK's capital commitment to Lloyd's Syndicate 2008 is approximately £14.0 million (approximately $28.0 million).

Marlon

On August 28, 2007, we completed the acquisition of Marlon Insurance Company Limited, a reinsurance company in run-off, and Marlon Management Services Limited for total consideration of approximately $31.2 million, which was funded by $15.3 million borrowed under a facility loan agreement with a London-based bank and available cash on hand. Marlon Insurance Company Limited and Marlon Management Services Limited, together referred to herein as Marlon, are both U.K.-based companies. In February 2008, the facility loan was repaid in full.

Tate & Lyle

On June 12, 2007, we completed the acquisition of Tate & Lyle Reinsurance Ltd., or Tate & Lyle, for total consideration of approximately $5.9 million. Tate & Lyle is a Bermuda-based reinsurance company in run-off.

Inter-Ocean

On February 23, 2007, we, through our wholly-owned subsidiary Oceania Holdings Ltd, or Oceania, completed the acquisition of Inter-Ocean Holdings Ltd., or Inter-Ocean. The total purchase price was approximately $57.5 million, which was funded by $26.8 million borrowed under a facility loan agreement with a London-based bank and available cash on hand. Inter-Ocean owns two reinsurers, one based in Bermuda and one based in Ireland. Both of these companies wrote international reinsurance and had in place retrocessional policies providing for the full reinsurance of all of the risks they assumed. In October 2007, Oceania repaid its bank debt in full.

The Enstar Group, Inc.

On January 31, 2007, we completed the merger, or the Merger, of CWMS Subsidiary Corp. with and into The Enstar Group, Inc., or EGI, and, as a result, EGI, renamed Enstar USA, Inc., is now our wholly-owned subsidiary. Prior to the Merger, EGI owned approximately 32% economic and 50% voting interests in us. As a result of the completion of the Merger, B.H. Acquisition Ltd. is now our wholly-owned subsidiary.

Unione

In November 2006, we, through our indirect subsidiary Virginia, purchased Unione Italiana (U.K.) Reinsurance Company Limited, or Unione, a U.K. company, for approximately $17.4 million. Unione underwrote business from the 1940's though to 1995. Prior to acquisition, Unione closed the majority of its portfolio by way of a solvent scheme of arrangement in the U.K. Unione's remaining business is a portfolio of international insurance and reinsurance which has been in run-off since 1971.

Cavell

In October 2006, we, through our subsidiary Virginia, purchased Cavell Holdings Limited (U.K.), or Cavell, for approximately £31.8 million (approximately $60.9 million). Cavell owns a U.K. reinsurance company and a Norwegian reinsurer, both of which wrote portfolios of international reinsurance business and went into run-off in 1993 and 1992, respectively. The purchase price was funded by $24.5 million borrowed under a facility loan agreement with a London-based bank and available cash on hand. In February 2008, Virginia repaid its bank debt in full.

Aioi Europe

In March 2006, we and Shinsei, through Hillcot, completed the acquisition of Aioi Insurance Company of Europe Limited, or Aioi Europe, a London-based subsidiary of Aioi Insurance Company, Limited. Aioi Europe underwrote general insurance and reinsurance business in Europe for its own account from 1982 until 2002 when it

generally ceased underwriting and placed its general insurance and reinsurance business into run-off. The aggregate purchase price paid for Aioi Europe was £62.0 million (approximately $108.9 million), with £50.0 million in cash paid upon the closing of the transaction and £12.0 million in the form of a promissory note, payable twelve months from the date of the closing. Upon completion of the transaction, Aioi Europe changed its name to Brampton Insurance Company Limited. In April 2006, Hillcot borrowed approximately $44.0 million from a London-based bank to partially assist with the financing of the Aioi Europe acquisition. Following a repurchase by Aioi Europe of its shares valued at £40.0 million in May 2006, Hillcot repaid the promissory note and reduced the bank borrowing to $19.2 million, which was repaid in May 2008.

Fieldmill

In May 2005, we, through one of our subsidiaries, purchased Fieldmill Insurance Company Limited (formerly known as Harleysville Insurance Company (UK) Limited) for approximately $1.4 million.

Mercantile, Harper and Longmynd

During 2004, we, through one of our subsidiaries, completed the acquisition of Mercantile Indemnity Company Ltd., Harper Insurance Limited (formerly Turegum Insurance Company), and Longmynd Insurance Company Ltd. (formerly Security Insurance Company (UK) Ltd.), all of which were in run-off, for a total purchase price of approximately $4.5 million.

Share Offering

In July 2008, we completed the sale to the public of 1,372,028 newly-issued ordinary shares, inclusive of the underwriters' over-allotment, or the Offering. The shares were priced at $87.50 per share and we received net proceeds of approximately $116.8 million, after underwriting fees and other expenses of approximately $3.3 million. FPK served as lead managing underwriter in the Offering. The Flowers Fund and certain of its affiliated investment partnerships purchased 285,714 ordinary shares with a value of approximately $25.0 million in the Offering at the public offering price. An affiliate of the Flowers Fund controls approximately 41% of FPK.

Management of Run-Off Portfolios

We are a party to several management engagements pursuant to which we have agreed to manage the run-off portfolios of third parties. Such arrangements are advantageous for third-party insurers because they allow a third-party insurer to focus their management efforts on their core competency while allowing them to maintain the portfolio of business on their balance sheet. In addition, our expertise in managing portfolios in run-off allows the third-party insurer the opportunity to potentially realize positive operating results if we achieve our objectives in management of the run-off portfolio. We specialize in the collection of reinsurance receivables through our subsidiary Kinsale Brokers Limited. Through our subsidiaries, Enstar (US) Inc. and Cranmore Adjusters Limited, we also specialize in providing claims inspection services whereby we are engaged by third-party insurance and reinsurance providers to review certain of their existing insurance and reinsurance exposures, relationships, policies and/or claims history.

Our primary objective in structuring our management arrangements is to align the third-party insurer's interests with our interests. Consequently, management agreements typically are structured so that we receive fixed fees in connection with the management of the run-off portfolio and also typically receive certain incentive payments based on a portfolio's positive operating results.

Management Agreements

We have nine management agreements with third-party clients to manage certain run-off portfolios with gross loss reserves, as of December 31, 2008, of approximately $1.4 billion. The fees generated by these engagements include both fixed and incentive-based remuneration based on our success in achieving certain objectives. These

agreements do not include the recurring engagements managed by our claims inspection and reinsurance collection subsidiaries, Cranmore Adjusters Limited and Kinsale Brokers Limited, respectively.

Claims Management and Administration

An integral factor to our success is our ability to analyze, administer, manage and settle claims and related expenses, such as loss adjustment expenses. Our claims teams are located in different offices within our organization and provide global claims support. We have implemented effective claims handling guidelines along with claims reporting and control procedures in all of our claims units. To ensure that claims are appropriately handled and reported in accordance with these guidelines, all claims matters are reviewed regularly, with all material claims matters being circulated to and authorized by management prior to any action being taken.

When we receive notice of a claim, regardless of size and regardless of whether it is a paid claim request or a reserve advice, it is reviewed and recorded within the claims system, reserving our rights where appropriate. Claims reserve movements and payments are reviewed daily, with any material movements being reported to management for review. This enables "flash reporting" of significant events and potential insurance or reinsurance losses to be communicated to senior management worldwide on a timely basis irrespective from which geographical location or business unit location the exposure arises.

We are also able to efficiently manage claims and obtain savings through our extensive relationships with defense counsel (both in-house and external), third-party claims administrators and other professional advisors and experts. We have developed relationships and protocols to reduce the number of outside counsel by consolidating claims of similar types and complexity with experienced law firms specializing in the particular type of claim. This approach has enabled us to more efficiently manage outside counsel and other third parties, thereby reducing expenses, and to establish closer relationships with ceding companies.

When appropriate, we negotiate with direct insureds to buy back policies either on favorable terms or to mitigate against existing and/or potential future indemnity exposures and legal costs in an uncertain and constantly evolving legal environment. We also pursue commutations on favorable terms with ceding companies of reinsurance business in order to realize savings or to mitigate against potential future indemnity exposures and legal costs. Such buy-backs and commutations typically eliminate all past, present and future liability to direct insureds and reinsureds in return for a lump sum payment.

With regard to reinsurance receivables, we manage cash flow by working with reinsurers, brokers and professional advisors to achieve fair and prompt payment of reinsured claims, taking appropriate legal action to secure receivables where necessary. We also attempt where appropriate to negotiate favorable commutations with our reinsurers by securing a lump sum settlement from reinsurers in complete satisfaction of the reinsurer's past, present and future liability in respect of such claims. Properly priced commutations reduce the expense of adjusting direct claims and pursuing collection of reinsurance receivables (both of which may often involve extensive legal expense), realize savings, remove the potential future volatility of claims and reduce required regulatory capital.

Reserves for Unpaid Losses and Loss Adjustment Expense

Applicable insurance laws and generally accepted accounting practices require us to maintain reserves to cover our estimated losses under insurance policies that we have assumed and for loss adjustment expense, or LAE, relating to the investigation, administration and settlement of policy claims. Our LAE reserves consist of both reserves for allocated loss adjustment expenses, or ALAE, and for unallocated loss adjustment expenses, or ULAE. ALAE are linked to the settlement of an individual claim or loss, whereas ULAE reserve is based on our estimates of future costs to administer the claims.

We and our subsidiaries establish losses and LAE reserves for individual claims by evaluating reported claims on the basis of:

- our knowledge of the circumstances surrounding the claim;
- the severity of the injury or damage;
- the jurisdiction of the occurrence;

- the potential for ultimate exposure;
- the type of loss; and
- our experience with the line of business and policy provisions relating to the particular type of claim.

Because a significant amount of time can lapse between the assumption of risk, the occurrence of a loss event, the reporting of the event to an insurance or reinsurance company and the ultimate payment of the claim on the loss event, the liability for unpaid losses and LAE is based largely upon estimates. Our management must use considerable judgment in the process of developing these estimates. The liability for unpaid losses and LAE for property and casualty business includes amounts determined from loss reports on individual cases and amounts for losses incurred but not reported, or IBNR. Such reserves, including IBNR reserves, are estimated by management based upon loss reports received from ceding companies, supplemented by our own estimates of losses for which no ceding company loss reports have yet been received.

In establishing reserves, management also considers actuarial estimates of ultimate losses. Our actuaries employ generally accepted actuarial methodologies and procedures to estimate ultimate losses and loss expenses. Our loss reserves are largely related to casualty exposures including latent exposures primarily relating to asbestos and environmental, or A&E, as discussed below. In establishing the reserves for unpaid claims, management considers facts currently known and the current state of the law and coverage litigation. Liabilities are recognized for known claims (including the cost of related litigation) when sufficient information has been developed to indicate the involvement of a specific insurance policy, and management can reasonably estimate its liability. In addition, reserves are established to cover loss development related to both known and unasserted claims.

The estimation of unpaid claim liabilities is subject to a high degree of uncertainty for a number of reasons. Unpaid claim liabilities for property and casualty exposures in general are impacted by changes in the legal environment, jury awards, medical cost trends and general inflation. Moreover, for latent exposures in particular, developed case law and adequate claims history do not exist. There is significant coverage litigation involved with these exposures which creates further uncertainty in the estimation of the liabilities. Therefore, for these types of exposures, it is especially unclear whether past claim experience will be representative of future claim experience. Ultimate values for such claims cannot be estimated using reserving techniques that extrapolate losses to an ultimate basis using loss development factors, and the uncertainties surrounding the estimation of unpaid claim liabilities are not likely to be resolved in the near future. There can be no assurance that the reserves established by us will be adequate or will not be adversely affected by the development of other latent exposures. The actuarial methods used to estimate ultimate loss and ALAE for our latent exposures are discussed below.

For the non-latent loss exposures, a range of traditional loss development extrapolation techniques is applied. Incremental paid and incurred loss development methodologies are the most commonly used methods. Traditional cumulative paid and incurred loss development methods are used where inception-to-date, cumulative paid and reported incurred loss development history is available. These methods assume that groups of losses from similar exposures will increase over time in a predictable manner. Historical paid and incurred loss development experience is examined for earlier underwriting years to make inferences about how later underwriting years' losses will develop. Where company-specific loss information is not available or not reliable, industry loss development information published by reliable industry sources such as the Reinsurance Association of America is considered.

The reserving process is intended to reflect the impact of inflation and other factors affecting loss payments by taking into account changes in historical payment patterns and perceived trends. However, there is no precise method for the subsequent evaluation of the adequacy of the consideration given to inflation, or to any other specific factor, or to the way one factor may affect another.

The loss development tables below show changes in our gross and net loss reserves in subsequent years from the prior loss estimates based on experience as of the end of each succeeding year. The estimate is increased or decreased as more information becomes known about the frequency and severity of losses for individual years. A redundancy means the original estimate was higher than the current estimate; a deficiency means that the current

estimate is higher than the original estimate. The “Reserve redundancy/(deficiency)” line represents, as of the date indicated, the difference between the latest re-estimated liability and the reserves as originally estimated.

Gross Loss and Loss Adjustment Expense Reserves	Year Ended December 31,							
	2001	2002	2003	2004	2005	2006	2007	2008
	(in thousands of U.S. dollars)							
Reserves assumed	$419,717	$284,409	$381,531	$1,047,313	$806,559	$1,214,419	$1,591,449	$2,798,287
1 year later	348,279	302,986	365,913	900,274	909,984	1,227,427	1,436,051	
2 years later	360,558	299,281	284,583	1,002,773	916,480	1,084,852		
3 years later	359,771	278,020	272,537	1,012,483	853,139			
4 years later	332,904	264,040	243,692	953,834				
5 years later	316,257	242,278	216,875					
6 years later	294,945	238,315						
7 years later	290,926							

Gross Paid Losses	Year Ended December 31,							
	2001	2002	2003	2004	2005	2006	2007	2008
	(in thousands of U.S. dollars)							
1 year later	$ 97,036	$ 43,721	$ 19,260	$ 110,193	$117,666	$ 90,185	$ 407,692	
2 years later	123,844	64,900	43,082	226,225	198,407	197,751		
3 years later	142,282	84,895	61,715	305,913	268,541			
4 years later	160,193	101,414	75,609	375,762				
5 years later	174,476	110,155	87,274					
6 years later	181,800	121,000						
7 years later	189,023							
Reserve redundancy/ (deficiency)	$128,791	$ 46,094	$164,656	$ 93,479	$ (46,580)	$ 129,567	$ 155,398	

Net Loss and Loss Adjustment Expense Reserves	Year Ended December 31,							
	2001	2002	2003	2004	2005	2006	2007	2008
	(in thousands of U.S. dollars)							
Reserves assumed	$224,507	$184,518	$230,155	$ 736,660	$593,160	$ 872,259	$1,163,485	$2,403,712
1 year later	190,768	176,444	220,712	653,039	590,153	875,636	1,034,588	
2 years later	176,118	178,088	164,319	652,195	586,059	753,551		
3 years later	180,635	138,251	149,980	649,355	532,804			
4 years later	135,219	129,923	136,611	600,939				
5 years later	124,221	119,521	108,666					
6 years later	114,375	112,100						
7 years later	106,920							

Net Paid Losses	Year Ended December 31,							
	2001	2002	2003	2004	2005	2006	2007	2008
	(in thousands of U.S. dollars)							
1 year later	$ 38,634	$10,557	$ 11,354	$ 78,488	$ 79,398	$ 43,896	$ 112,321	
2 years later	32,291	24,978	6,312	161,178	125,272	(70,430)		
3 years later	44,153	17,304	9,161	206,351	(14,150)			
4 years later	34,483	24,287	(1,803)	67,191				
5 years later	39,232	9,686	2,515					
6 years later	23,309	14,141						
7 years later	24,176							
Reserve redundancy/ (deficiency)	$117,587	$72,418	$121,489	$ 135,721	$ 60,356	$ 118,708	$ 128,897	

The following table provides a reconciliation of the liability for losses and LAE, net of reinsurance ceded:

	Year Ended December 31,				
	2008	2007	2006	2005	2004
	(in thousands of U.S. dollars)				
Net reserves for losses and loss adjustment expenses, beginning of period	$ 1,163,485	$ 872,259	$593,160	$736,660	$230,155
Incurred related to prior years	(242,104)	(24,482)	(31,927)	(96,007)	(13,706)
Paids related to prior years	(174,013)	(20,422)	(75,293)	(69,007)	(19,019)
Effect of exchange rate movement	(124,989)	18,625	24,856	3,652	4,124
Retroactive reinsurance contracts assumed	373,287	—	—	—	—
Acquired on acquisition of subsidiaries	1,408,046	317,505	361,463	17,862	535,106
Net reserves for losses and loss adjustment expenses, end of period	$ 2,403,712	$ 1,163,485	$872,259	$593,160	$736,660

In the table above, incurred losses and loss adjustment expenses related to prior years represents changes in estimates of prior period net loss and loss adjustment expense liabilities comprising net incurred loss movements during a period and changes in estimates of net IBNR liabilities. Net incurred loss movements during a period comprise increases or reductions in specific case reserves advised during the period to us by our policyholders and attorneys, or by us to our reinsurers, less claims settlements made during the period by us to our policyholders, plus claim receipts made to us by our reinsurers. Prior period estimates of net IBNR liabilities may change as our management considers the combined impact of commutations, policy buy-backs, settlement of losses on carried reserves and the trend of incurred loss development compared to prior forecasts. The trend of incurred loss development in any period comprises the movement in net case reserves less net claims settled during the period. See "— Management's Discussion and Analysis of Financial Condition and Results of Operations — Critical Accounting Policies — Loss and Loss Adjustment Expenses" on page 66 for an explanation of how the loss reserving methodologies are applied to the movement, or development, of net incurred losses during a period to estimate IBNR liabilities.

Commutations provide an opportunity for us to exit exposures to entire policies with insureds and reinsureds at a discount to the previously estimated ultimate liability. Our internal and external actuaries eliminate all prior historical loss development that relates to commuted exposures and apply their actuarial methodologies to the remaining aggregate exposures and revised historical loss development information to reassess estimates of ultimate liabilities.

Policy buy-backs provide an opportunity for us to settle individual policies and losses usually at a discount to carried advised loss reserves. As part of our routine claims settlement operations, claims will settle at either below or above the carried advised loss reserve. The impact of policy buy-backs and the routine settlement of claims updates historical loss development information to which actuarial methodologies are applied often resulting in revised estimates of ultimate liabilities. Our actuarial methodologies include industry benchmarking which, under certain methodologies (discussed further under "— Management's Discussion and Analysis of Financial Condition and Results of Operations — Critical Accounting Policies" on page 65), compares the trend of our loss development to that of the industry. To the extent that the trend of our loss development compared to the industry changes in any period, it is likely to have an impact on the estimate of ultimate liabilities.

Year Ended December 31, 2008

Net reduction in loss and loss adjustment expense liabilities for the year ended December 31, 2008 was $242.1 million, excluding the impacts of favorable foreign exchange rate movements of $36.1 million (relating to companies acquired in 2007 and earlier) and including both net reduction in loss and loss adjustment expense liabilities of $149.4 million relating to companies acquired during the year and premium and commission adjustments triggered by incurred losses of $0.1 million.

The net reduction in loss and loss adjustment expense liabilities for 2008 of $242.1 million was attributable to a reduction in estimates of net ultimate losses of $161.4 million, a reduction in aggregate provisions for bad debt of $36.1 million (excluding $3.1 million relating to one of our entities that benefited from substantial stop loss

reinsurance protection discussed below) and a reduction in estimates of loss adjustment expense liabilities of $69.1 million, relating to 2008 run-off activity, partially offset by the amortization, over the estimated payout period, of fair value adjustments relating to companies acquired amounting to $24.5 million.

The reduction in estimates of net ultimate losses of $161.4 million comprised the following:

(i) A reduction in estimates of net ultimate losses of $21.7 million in one of our insurance entities that benefited from substantial stop loss reinsurance protection. Net adverse incurred loss development relating to this entity of $21.6 million was offset by reductions in IBNR reserves of $94.8 million and reductions in provisions for bad debt of $3.1 million resulting in a net reduction in estimates of ultimate losses of $76.3 million. This entity benefited, until December 18, 2008, from substantial stop loss reinsurance protection whereby $54.6 million of the net reduction in ultimate losses of $76.3 million was ceded to a single AA- rated reinsurer such that we retained a reduction in estimates of net ultimate losses relating to this entity of $21.7 million. On December 18, 2008, we commuted the stop loss reinsurance protection with the reinsurer for the receipt $190.0 million payable by the reinsurer to us over four years together with interest compounded at 3.5% per annum. The commutation resulted in no significant financial impact to us. The net adverse incurred loss development relating to this entity of $21.6 million, whereby advised net case reserves of $25.0 million were settled for net paid losses of $46.6 million, primarily related to six commutations of assumed and ceded liabilities completed during 2008. Actuarial analysis of the remaining unsettled loss liabilities resulted in a decrease in the estimate of IBNR loss reserves of $94.8 million after consideration of the $21.6 million adverse incurred loss development during the year, and the application of the actuarial methodologies to loss data pertaining to the remaining non-commuted exposures. Of the six commutations completed for this entity, of which the three largest were completed during the three months ended December 31, 2008, one was among its top ten cedant exposures. The remaining five were of a smaller size, consistent with our approach of targeting significant numbers of cedant and reinsurer relationships as well as targeting significant individual cedant and reinsurer relationships.

(ii) A reduction in estimates of net ultimate losses of $139.7 million in our remaining insurance and reinsurance entities which comprised net favorable incurred loss development of $24.1 million and reductions in IBNR reserves of $115.6 million. The net favorable incurred loss development in our remaining insurance and reinsurance entities of $24.1 million, whereby net advised case and LAE reserves of $123.5 million were settled for net paid loss recoveries of $99.4 million, arose from the settlement of non-commuted losses in the year below carried reserves and approximately 59 commutations of assumed and ceded exposures at less than case and LAE reserves. Approximately 82% of savings generated from commutations related to commutations completed during the three months ended December 31, 2008. We adopt a disciplined approach to the review and settlement of non-commuted claims through claims adjusting and the inspection of underlying policyholder records such that settlements of assumed exposures may often be achieved below the level of the originally advised loss, and settlements of ceded receivables may often be achieved at levels above carried balances. The net reduction in the estimate of IBNR loss and loss adjustment expense liabilities relating to our remaining insurance and reinsurance companies amounted to $115.6 million and results from the application of our reserving methodologies to (a) the reduced historical incurred loss development information relating to remaining exposures after the 59 commutations, and (b) reduced case and LAE reserves in the aggregate. Of the 59 commutations completed during 2008 for our remaining reinsurance and insurance companies, two (both of which were completed during the three months ended December 31, 2008), were among our top ten cedant and/or reinsurance exposures. The remaining 57 were of a smaller size, consistent with our approach of targeting significant numbers of cedant and reinsurer relationships, as well as targeting significant individual cedant and reinsurer relationships.

Another of our reinsurance companies has retrocessional arrangements providing for full reinsurance of all risks assumed. During the year, this entity commuted its largest assumed liability and related retrocessional protection whereby the subsidiary paid net losses of $222.0 million and reduced net IBNR by the same amount resulting in no gain or loss to us.

The reduction in aggregate provisions for bad debt of $36.1 million (excluding $3.1 million relating to one of our entities that benefited from substantial stop loss reinsurance protection discussed above) resulted from the collection, primarily during the three months ended December 31, 2008, of certain reinsurance receivables against

which bad debt provisions had been provided in earlier periods together with revised estimations of bad debt provisions based on additional information obtained during the three months ended December 31, 2008.

Year Ended December 31, 2007

Net reduction in loss and loss adjustment expense liabilities for the year ended December 31, 2007 was $24.5 million, excluding the impacts of adverse foreign exchange rate movements of $18.6 million and including both net reduction in loss and loss adjustment expense liabilities of $9.0 million relating to companies acquired during the year and premium and commission adjustments triggered by incurred losses of $0.3 million.

The net reduction in loss and loss adjustment expense liabilities for 2007 of $24.5 million was attributable to a reduction in estimates of net ultimate losses of $30.7 million and a reduction in estimates of loss adjustment expense liabilities of $22.0 million, relating to 2007 run-off activity, partially offset by an increase in aggregate provisions for bad debt of $1.7 million, primarily relating to companies acquired in 2006, and the amortization, over the estimated payout period, of fair value adjustments relating to companies acquired amounting to $26.5 million.

The reduction in estimates of net ultimate losses of $30.7 million comprised net adverse incurred loss development of $1.0 million offset by reductions in estimates of IBNR reserves of $31.7 million. An increase in estimates of net ultimate losses of $2.1 million relating to one of our insurance entities was offset by reductions in estimates of net ultimate losses of $32.8 million in our remaining insurance and reinsurance entities.

The net adverse incurred loss development of $1.0 million and reductions in IBNR reserves of $31.7 million, respectively, comprised the following:

(i) Net adverse incurred loss development in one of our reinsurance entities of $36.6 million, whereby advised case reserves of $16.9 million were settled for net paid losses of $53.5 million. This net adverse incurred loss development resulted from the settlement of case and LAE reserves above carried levels and from new loss advices, partially offset by approximately 12 commutations of assumed and ceded exposures below carried reserve levels. Actuarial analysis of the remaining unsettled loss liabilities resulted in a decrease in the estimate of IBNR loss reserves of $13.1 million after consideration of the $36.6 million adverse incurred loss development during the year, and the application of the actuarial methodologies to loss data pertaining to the remaining non-commuted exposures. Of the 12 commutations completed for this entity, three were among our top ten cedant exposures. The remaining 9 were of a smaller size, consistent with our approach of targeting significant numbers of cedant and reinsurer relationships as well as targeting significant individual cedant and reinsurer relationships. The entity in question also benefits from substantial stop loss reinsurance protection whereby the ultimate adverse loss development of $23.4 million was largely offset by a recoverable from a single AA- rated reinsurer such that a net ultimate loss of $2.1 million was retained by us.

(ii) Net favorable incurred loss development of $29.0 million, comprising net paid loss recoveries, relating to another one of our reinsurance companies, offset by increases in net IBNR loss reserves of $29.0 million, resulting in no ultimate gain or loss. This reinsurance company has retrocessional arrangements providing for full reinsurance of all risks assumed.

(iii) Net favorable incurred loss development of $6.5 million in our remaining insurance and reinsurance entities together with reductions in IBNR reserves of $26.3 million. The net favorable incurred loss development in our remaining insurance and reinsurance entities of $6.6 million, whereby net advised case and LAE reserves of $2.5 million were settled for net paid loss recoveries of $4.0 million, arose from the settlement of non-commuted losses in the year below carried reserves and approximately 57 commutations of assumed and ceded exposures at less than case and LAE reserves. We adopt a disciplined approach to the review and settlement of non-commuted claims through claims adjusting and the inspection of underlying policyholder records such that settlements of assumed exposures may often be achieved below the level of the originally advised loss, and settlements of ceded receivables may often be achieved at levels above carried balances. The net reduction in the estimate of IBNR loss and loss adjustment expense liabilities relating to our remaining insurance and reinsurance companies amounted to $26.3 million and resulted from the application of our reserving methodologies to (a) the reduced historical incurred loss development information relating to remaining exposures after the 57 commutations, and (b) reduced case and LAE reserves in the aggregate. Of

the 57 commutations completed during 2007 for our remaining reinsurance and insurance companies, five were among our top ten cedant and/or reinsurance exposures. The remaining 52 were of a smaller size, consistent with our approach of targeting significant numbers of cedant and reinsurer relationships, as well as targeting significant individual cedant and reinsurer relationships.

Year Ended December 31, 2006

Net reduction in loss and loss adjustment expense liabilities for the year ended December 31, 2006 was $31.9 million, excluding the impacts of adverse foreign exchange rate movements of $24.9 million and including both net reduction in loss and loss adjustment expense liabilities of $2.7 million relating to companies acquired during the year and premium and commission adjustments triggered by incurred losses of $1.3 million.

The net reduction in loss and loss adjustment expense liabilities for 2006 of $31.9 million was attributable to a reduction in estimates of net ultimate losses of $21.4 million, a reduction in estimates of loss adjustment expense liabilities of $15.1 million relating to 2006 run-off activity, a reduction in aggregate provisions for bad debt of $6.3 million, resulting from the collection of certain reinsurance receivables against which bad debt provisions had been provided in earlier periods, partially offset by the amortization, over the estimated payout period, of fair value adjustments relating to companies acquired amounting to $10.9 million.

The reduction in estimates of net ultimate losses of $21.4 million comprised net adverse incurred loss development of $37.9 million offset by reductions in estimates of IBNR reserves of $59.3 million. An increase in estimates of ultimate losses of $3.4 million relating to one of our insurance entities was offset by reductions in estimates of net ultimate losses of $24.8 million in our remaining insurance and reinsurance entities.

The adverse incurred loss development of $37.9 million, whereby advised case and LAE reserves of $37.4 million were settled for net paid losses of $75.3 million, comprised adverse incurred loss development of $59.2 million relating to one of our insurance companies partially offset by favorable incurred loss development of $21.3 million relating to our remaining insurance and reinsurance companies.

The adverse incurred loss development of $59.2 million relating to one of our insurance companies was comprised of net paid loss settlements of $81.3 million less reductions in case and LAE reserves of $22.1 million and resulted from the settlement of case and LAE reserves above carried levels and from new loss advices, partially offset by approximately ten commutations of assumed and ceded exposures below carried reserves levels. Actuarial analysis of the remaining unsettled loss liabilities resulted in an increase in the estimate of IBNR loss reserves of $35.0 million after consideration of the $59.2 million adverse incurred loss development during the year, and the application of the actuarial methodologies to loss data pertaining to the remaining non-commuted exposures. Factors contributing to the increase include the establishment of a reserve to cover potential exposure to lead paint claims, a significant increase in asbestos reserves related to the entity’s single largest cedant (following a detailed review of the underlying exposures), and a change in the assumed A&E loss reporting time-lag as discussed further below. Of the ten commutations completed for this entity, two were among our top ten cedant and/or reinsurance exposures. The remaining eight were of a smaller size, consistent with our approach of targeting significant numbers of cedant and reinsurer relationships as well as targeting significant individual cedant and reinsurer relationships. The entity in question also benefits from substantial stop loss reinsurance protection whereby the adverse loss development of $59.2 million was largely offset by a recoverable from a single AA- rated reinsurer. The increase in estimated net ultimate losses of $3.4 million was retained by us.

The net favorable incurred loss development of $21.3 million, relating to our remaining insurance and reinsurance companies, whereby net advised case reserves of $15.3 million were settled for net paid loss recoveries of $6.0 million, arose from approximately 35 commutations of assumed and ceded exposures at less than case and LAE reserves, where receipts from ceded commutations exceeded settlements of assumed exposures, and the settlement of non-commuted losses in the year below carried reserves. We adopt a disciplined approach to the review and settlement of non-commuted claims through claims adjusting and the inspection of underlying policyholder records such that settlements may often be achieved below the level of the originally advised loss.

The net reduction in the estimate of IBNR loss and loss adjustment expense liabilities relating to our remaining insurance and reinsurance companies (i.e., excluding the net $55.8 million reduction in IBNR reserves relating to

the entity referred to above) amounted to $3.5 million. This net reduction was comprised of an increase of $19.8 million resulting from (i) a change in assumptions as to the appropriate loss reporting time lag for asbestos related exposures from two to three years and for environmental exposures from two to two and one-half years, which resulted in an increase in net IBNR reserves of $6.4 million, and (ii) a reduction in ceded IBNR recoverables of $13.4 million resulting from the commutation of ceded reinsurance protections. The increase in IBNR of $19.8 million is offset by a reduction of $23.3 million resulting from the application of our reserving methodologies to (i) the reduced historical incurred loss development information relating to remaining exposures after the 35 commutations, and (ii) reduced case and LAE reserves in the aggregate. Of the 35 commutations completed during 2006 for the remaining of our reinsurance and insurance companies, ten were among our top ten cedant and/or reinsurance exposures. The remaining 25 were of a smaller size, consistent with our approach of targeting significant numbers of cedant and reinsurer relationships as well as targeting significant individual cedant and reinsurer relationships.

Year Ended December 31, 2005

Net reduction in loss and loss adjustment expense liabilities for the year ended December 31, 2005 was $96.0 million, excluding the impacts of adverse foreign exchange rate movements of $3.7 million and including both net reduction in loss and loss adjustment expense liabilities of $7.4 million relating to companies acquired during the year and premium and commission adjustments triggered by incurred losses of $1.3 million.

The net reduction in loss and loss adjustment expense liabilities for 2005 of $96.0 million was attributable to a reduction in estimates of net ultimate losses of $73.2 million, a reduction in estimates of loss adjustment expense liabilities of $10.5 million, relating to 2005 run-off activity, and a reduction in aggregate provisions for bad debt of $20.2 million, resulting from the collection of certain reinsurance receivables against which bad debt provisions had been provided in earlier periods, partially offset by the amortization, over the estimated payout period, of fair value adjustments relating to companies acquired amounting to $7.9 million.

The reduction in estimates of net ultimate losses of $73.2 million was comprised of favorable incurred loss development during the year of $5.9 million and reductions in estimates of IBNR reserves of $67.3 million. The favorable incurred loss development, whereby advised case and LAE reserves of $74.9 million were settled for net paid losses of $69.0 million, arose from approximately 68 commutations of assumed and ceded exposures at less than case and LAE reserves and the settlement of noncommuted losses in the year below carried reserves. We adopt a disciplined approach, through claims adjusting and the inspection of underlying policyholder records, to the review and settlement of non-commuted claims such that settlements may often be achieved below the level of the originally advised loss.

The $67.3 million reduction in the estimate of IBNR loss and loss adjustment expense liabilities resulted from the application of our reserving methodologies to (i) the reduced historical incurred loss development information relating to remaining exposures after the 68 commutations, and (ii) reduced case and LAE reserves in the aggregate. The application of our reserving methodologies to the reduced historical incurred loss development information relating to our remaining exposures after elimination of the historical loss development relating to the 68 commuted exposures had the following effects (with the methodologies that weighed most heavily in the analysis for this period listed first):

- Under the Ultimate-to-Incurred Method, the application of the ratio of estimated industry ultimate losses to industry incurred-to-date losses to our reduced incurred-to-date losses resulted in reduced estimates of loss reserves.
- Application of the Paid Survival Ratio Method to the reduced historical loss development information resulted in lower expected average annual payment amounts compared to the previous year, which, when multiplied by the expected industry benchmark for future number of payment years, led to reductions in our estimated loss reserves.
- Under the Paid Market Share Method, our reduced historical calendar year payments resulted in a reduction of our indicated market share of industry paid losses and thus our market share of estimated industry loss reserves.

- Under the Reserve-to-Paid Method, the application of the ratio of industry reserves to industry paid-to-date losses to our reduced paid-to-date losses resulted in reduced estimates of loss reserves.
- Under the IBNR:Case Ratio Method, the application of ratios of industry IBNR reserves to industry case reserves to our case reserves resulted in reduced estimates of IBNR loss reserves as a result of the aggregate reduction, combining the impact of commutations and settlement of non-commuted losses, in our case and LAE reserves of $74.9 million during the year. As such case and LAE reserves were settled for less than $74.9 million, the IBNR reserves determined under the IBNR:Case Ratio Method associated with such case reserves were eliminated. See "— Management's Discussion and Analysis of Financial Condition and Results of Operations — Critical Accounting Policies — Loss and Loss Adjustment Expenses" on page 66 for a further explanation of how the loss reserving methodologies are applied to the movement, or development, of net incurred losses during a period to estimate IBNR liabilities. Of the 68 commutations completed during 2005, ten were among the top ten cedant and/or reinsurance exposures of our individual reinsurance subsidiaries involved. The remaining 58 were of smaller size, consistent with our approach of targeting significant numbers of cedant and reinsurer relationships as well as targeting significant individual cedant and reinsurer relationships.

Year Ended December 31, 2004

Net reduction in loss and loss adjustment expense for the year ended 2004 amounted to $13.7 million, excluding the impacts of adverse foreign exchange rate movements of $4.1 million and including premium and commission adjustments triggered by incurred losses of $0.1 million.

Total favorable net incurred loss development during 2004 of $14.7 million, whereby advised case and LAE reserves of $33.7 million were settled for net paid losses of $19.0 million, included adverse incurred development of A&E exposures the combination of which resulted in a net increase in IBNR loss reserves of $15.7 million. The increase in IBNR of $15.7 million offset by the favorable incurred development of $14.7 million resulted in an increase in net ultimate losses of $1.0 million. The favorable incurred loss development arose from approximately 36 commutations of assumed and ceded exposures at less than case and LAE reserves and the settlement of losses in the year below carried reserves. Of the 36 commutations completed during 2004, three were among the top ten cedant and/or reinsurance exposures of our individual reinsurance subsidiaries involved. The remaining 33 were of smaller size, consistent with our approach of targeting significant numbers of cedant and reinsurer relationships as well as targeting significant individual cedant and reinsurer relationships. There was no change to the provisions for bad debts in 2004. In 2004, we reduced our estimate of loss adjustment expense liabilities by $14.7 million relating to 2004 run-off activity.

Asbestos and Environmental (A&E) Exposure

General A&E Exposures

A number of our subsidiaries wrote general liability policies and reinsurance prior to our acquisition of them under which policyholders continue to present asbestos-related injury claims and claims alleging injury, damage or clean-up costs arising from environmental pollution. These policies, and the associated claims, are referred to as A&E exposures. The vast majority of these claims are presented under policies written many years ago.

There is a great deal of uncertainty surrounding A&E claims. This uncertainty impacts the ability of insurers and reinsurers to estimate the ultimate amount of unpaid claims and related LAE. The majority of these claims differ from any other type of claim because there is inadequate loss development and there is significant uncertainty regarding what, if any, coverage exists, to which, if any, policy years claims are attributable and which, if any, insurers/reinsurers may be liable. These uncertainties are exacerbated by lack of clear judicial precedent and legislative interpretations of coverage that may be inconsistent with the intent of the parties to the insurance contracts and expand theories of liability. The insurance and reinsurance industry as a whole is engaged in extensive litigation over these coverage and liability issues and is, thus, confronted with continuing uncertainty in its efforts to quantify A&E exposures.

Our A&E exposure is administered out of our offices in the United Kingdom and Rhode Island and centrally administered from the United Kingdom. In light of the intensive claim settlement process for these claims, which involves comprehensive fact gathering and subject matter expertise, our management believes that it is prudent to have a centrally administered claim facility to handle A&E claims on behalf of all of our subsidiaries. Our A&E claims staff, working in conjunction with two U.S.-qualified attorneys experienced in A&E liabilities, proactively administers, on a cost-effective basis, the A&E claims submitted to our insurance and reinsurance subsidiaries.

We use industry benchmarking methodologies to estimate appropriate IBNR reserves for our A&E exposures. These methods are based on comparisons of our loss experience on A&E exposures relative to industry loss experience on A&E exposures. Estimates of IBNR are derived separately for each relevant subsidiary of ours and, for some subsidiaries, separately for distinct portfolios of exposure. The discussion that follows describes, in greater detail, the primary actuarial methodologies used by our independent actuaries to estimate IBNR for A&E exposures.

In addition to the specific considerations for each method described below, many general factors are considered in the application of the methods and the interpretation of results for each portfolio of exposures. These factors include the mix of product types (e.g. primary insurance versus reinsurance of primary versus reinsurance of reinsurance), the average attachment point of coverages (e.g. first-dollar primary versus umbrella over primary versus high-excess), payment and reporting lags related to the international domicile of our subsidiaries, payment and reporting pattern acceleration due to large “wholesale” settlements (e.g. policy buy-backs and commutations) pursued by us, lists of individual risks remaining and general trends within the legal and tort environments.

1. *Paid Survival Ratio Method.* In this method, our expected annual average payment amount is multiplied by an expected future number of payment years to get an indicated reserve. Our historical calendar year payments are examined to determine an expected future annual average payment amount. This amount is multiplied by an expected number of future payment years to estimate a reserve. Trends in calendar year payment activity are considered when selecting an expected future annual average payment amount. Accepted industry benchmarks are used in determining an expected number of future payment years. Each year, annual payments data is updated, trends in payments are re-evaluated and changes to benchmark future payment years are reviewed. This method has advantages of ease of application and simplicity of assumptions. A potential disadvantage of the method is that results could be misleading for portfolios of high excess exposures where significant payment activity has not yet begun.

2. *Paid Market Share Method.* In this method, our estimated market share is applied to the industry estimated unpaid losses. The ratio of our historical calendar year payments to industry historical calendar year payments is examined to estimate our market share. This ratio is then applied to the estimate of industry unpaid losses. Each year, calendar year payment data is updated (for both us and industry), estimates of industry unpaid losses are reviewed and the selection of our estimated market share is revisited. This method has the advantage that trends in calendar-year market share can be incorporated into the selection of company share of remaining market payments. A potential disadvantage of this method is that it is particularly sensitive to assumptions regarding the time-lag between industry payments and our payments.

3. *Reserve-to-Paid Method.* In this method, the ratio of estimated industry reserves to industry paid-to-date losses is multiplied by our paid-to-date losses to estimate our reserves. Specific considerations in the application of this method include the completeness of our paid-to-date loss information, the potential acceleration or deceleration in our payments (relative to the industry) due to our claims handling practices, and the impact of large individual settlements. Each year, paid-to-date loss information is updated (for both us and the industry) and updates to industry estimated reserves are reviewed. This method has the advantage of relying purely on paid loss data and so is not influenced by subjectivity of case reserve loss estimates. A potential disadvantage is that the application to our portfolios which do not have complete inception-to-date paid loss history could produce misleading results. To address this potential disadvantage, a variation of the method is also considered, which multiplies the ratio of estimated industry reserves to industry losses paid during a recent period of time (e.g. 5 years) times our paid losses during that period.

4. *IBNR:Case Ratio Method.* In this method, the ratio of estimated industry IBNR reserves to industry case reserves is multiplied by our case reserves to estimate our IBNR reserves. Specific considerations in the application of this method include the presence of policies reserved at policy limits, changes in overall industry case reserve adequacy and recent loss reporting history for us. Each year, our case reserves are updated, industry reserves are updated and the applicability of the industry IBNR:case ratio is reviewed. This method has the advantage that it incorporates the most recent estimates of amounts needed to settle open cases included in current case reserves. A potential disadvantage is that results could be misleading where our case reserve adequacy differs significantly from overall industry case reserve adequacy.

5. *Ultimate-to-Incurred Method.* In this method, the ratio of estimated industry ultimate losses to industry incurred-to-date losses is applied to our incurred-to-date losses to estimate our IBNR reserves. Specific considerations in the application of this method include the completeness of our incurred-to-date loss information, the potential acceleration or deceleration in our incurred losses (relative to the industry) due to our claims handling practices and the impact of large individual settlements. Each year incurred-to-date loss information is updated (for both us and the industry) and updates to industry estimated ultimate losses are reviewed. This method has the advantage that it incorporates both paid and case reserve information in projecting ultimate losses. A potential disadvantage is that results could be misleading where cumulative paid loss data is incomplete or where our case reserve adequacy differs significantly from overall industry case reserve adequacy.

Under the Paid Survival Ratio Method, the Paid Market Share Method and the Reserve-to-Paid Method, we first determine the estimated total reserve and then deduct the reported outstanding case reserves to arrive at an estimated IBNR reserve. The IBNR:Case Ratio Method first determines an estimated IBNR reserve which is then added to the advised outstanding case reserves to arrive at an estimated total loss reserve. The Ultimate-to-Incurred Method first determines an estimate of the ultimate losses to be paid and then deducts paid-to-date losses to arrive at an estimated total loss reserve and then deducts outstanding case reserves to arrive at the estimated IBNR reserve.

Within the annual loss reserve studies produced by our external actuaries, exposures for each subsidiary are separated into homogeneous reserving categories for the purpose of estimating IBNR. Each reserving category contains either direct insurance or assumed reinsurance reserves and groups relatively similar types of risks and exposures (e.g. asbestos, environmental, casualty and property) and lines of business written (e.g. marine, aviation and non-marine). Based on the exposure characteristics and the nature of available data for each individual reserving category, a number of methodologies are applied. Recorded reserves for each category are selected from the indications produced by the various methodologies after consideration of exposure characteristics, data limitations and strengths and weaknesses of each method applied. This approach to estimating IBNR has been consistently adopted in the annual loss reserve studies for each period presented.

As of December 31, 2008, we had 24 separate insurance and/or reinsurance subsidiaries whose reserves are categorized into approximately 195 reserve categories in total, including 26 distinct asbestos reserving categories and 19 distinct environmental reserving categories.

The five methodologies described above are applied for each of the 26 asbestos reserving categories and each of the 19 environmental reserving categories. As is common in actuarial practice, no one methodology is exclusively or consistently relied upon when selecting a recorded reserve. Consistent reliance on a single methodology to select a recorded reserve would be inappropriate in light of the dynamic nature of both the A&E liabilities in general, and our actual exposure portfolios in particular.

In selecting a recorded reserve, our management considers the range of results produced by the methods, and the strengths and weaknesses of the methods in relation to the data available and the specific characteristics of the portfolio under consideration. Trends in both our data and industry data are also considered in the reserve selection process. Recent trends or changes in the relevant tort and legal environments are also considered when assessing methodology results and selecting an appropriate recorded reserve amount for each portfolio.

The liability for unpaid losses and LAE, inclusive of A&E reserves, reflects our best estimate for future amounts needed to pay losses and related LAE as of each of the balance sheet dates reflected in the financial statements herein in accordance with GAAP. As of December 31, 2008, we had net loss reserves of $748.5 million for asbestos-related claims and $97.9 million for environmental pollution-related claims. The following table

provides an analysis of our gross and net loss and ALAE reserves from A&E exposures at year-end 2008, 2007 and 2006 and the movement in gross and net reserves for those years:

	2008		2007		2006	
	Gross	Net	Gross	Net	Gross	Net
	(in thousands of U.S. dollars)					
Provisions for A&E claims and ALAE at January 1	$677,610	$419,977	$666,075	$389,086	$578,079	$385,021
A&E losses and ALAE incurred during the year	(54,337)	(14,448)	22,728	23,294	90,482	43,617
A&E losses and ALAE paid during the year	(58,916)	108,583	(57,184)	(25,457)	(80,333)	(60,635)
Provision for A&E claims and ALAE acquired during the year	379,613	332,309	45,991	33,054	77,847	21,083
Provision for A&E claims and ALAE at December 31	$943,970	$846,421	$677,610	$419,977	$666,075	$389,086

During 2008, excluding the impact of loss reserves acquired during the year, our reserves for A&E liabilities decreased by $113.3 million on a gross basis and increased by $94.1 million on a net basis. The reduction in gross reserves arose from paid claims, successful commutations, policy buy-backs, generally favorable claim settlements during the year and a reduction in IBNR resulting from actuarial analysis of remaining liabilities. The increase in net reserves arose as a result of (i) the commutation of a substantial stop loss protection in one of our reinsurance entities which had the effect of reducing ceded A&E IBNR recoverable by $163.4 million; partially offset by (ii) a reduction in net reserves of $69.3 million which arose from successful commutations, policy buy-backs, generally favorable claims settlements and a reduction in IBNR resulting from actuarial analysis of remaining net liabilities. This commutation, which settled for a total amount receivable of $190.0 million (including $163.4 million related to A&E IBNR recoverable), resulted in net A&E losses and ALAE recovered during the year of $108.6 million.

During 2007, excluding the impact of loss reserves acquired during the year, our reserves for A&E liabilities decreased by $34.5 million on a gross basis and by $2.2 million on a net basis. The reduction arose from paid claims, successful commutations, policy buy-backs, generally favorable claim settlements and a reduction in IBNR resulting from actuarial analysis of remaining liabilities during the year.

During 2006, excluding the impact of loss reserves acquired during the year, our reserves for A&E liabilities increased by $10.1 million on a gross basis and decreased by $17.0 million on a net basis. The increase in gross reserves arose from adverse incurred development and actuarial analysis of remaining liabilities from one particular insurance subsidiary of ours amounting to $104.7 million less claim settlements of $73.2 million. As the entity in question benefits from substantial reinsurance protection, the gross incurred loss of $104.7 million is reduced to $10.1 million on a net basis.

Asbestos continues to be the most significant and difficult mass tort for the insurance industry in terms of claims volume and expense. We believe that the insurance industry has been adversely affected by judicial interpretations that have had the effect of maximizing insurance recoveries for asbestos claims, from both a coverage and liability perspective. Generally, only policies underwritten prior to 1986 have potential asbestos exposure, since most policies underwritten after this date contain an absolute asbestos exclusion.

In recent years, especially from 2001 through 2003, the industry has experienced increasing numbers of asbestos claims, including claims from individuals who do not appear to be impaired by asbestos exposure. Since 2003, however, new claim filings have been fairly stable. It is possible that the increases observed in the early part of the decade were triggered by various state tort reforms (discussed immediately below). At this point, we cannot predict whether claim filings will return to pre-2004 levels, remain stable, or begin to decrease.

Since 2001, several U.S. states have proposed, and in many cases enacted, tort reform statutes that impact asbestos litigation by, for example, making it more difficult for a diverse group of plaintiffs to jointly file a single case, reducing "forum-shopping" by requiring that a potential plaintiff must have been exposed to asbestos in the state in which he/she files a lawsuit, or permitting consolidation of discovery. These statutes typically apply to suits filed after a stated date. When a statute is proposed or enacted, asbestos defendants often experience a marked increase in new lawsuits, as plaintiffs' attorneys seek to file suit before the effective date of the legislation. Some of this increased claim volume likely represents an acceleration of valid claims that would have been brought in the future, while some claims will likely prove to have little or no merit. As many of these claims are still pending, we cannot predict what portion of the increased number of claims represent valid claims. Also, the acceleration of claims increases the uncertainty surrounding projections of future claims in the affected jurisdictions.

During the same timeframe as tort reform, the U.S. federal and various U.S. state governments sought comprehensive asbestos reform to manage the growing court docket and costs surrounding asbestos litigation, in addition to the increasing number of corporate bankruptcies resulting from overwhelming asbestos liabilities. Whereas the federal government has failed to establish a national asbestos trust fund to address the asbestos problem, several states, including Texas and Florida, have implemented a medical criteria reform approach that only permits litigation to proceed when a plaintiff can establish and demonstrate actual physical impairment.

Much like tort reform, asbestos litigation reform has also spurred a significant increase in the number of lawsuits filed in advance of the law's enactment. We cannot predict whether the drop off in the number of filed claims is due to the accelerated number of filings or an actual trend decline in alleged asbestos injuries.

Environmental Pollution Exposures

Environmental pollution claims represent another significant exposure for us. However, environmental pollution claims have been developing as expected over the past few years as a result of stable claim trends. Claims against Fortune 500 companies are generally declining, and while insureds with single-site exposures are still active, in many cases claims are being settled for less than initially anticipated due to improved site remediation technology and effective policy buy-backs.

Despite the stability of recent trends, there remains significant uncertainty involved in estimating liabilities related to these exposures. Unlike asbestos claims which are generated primarily from allegedly injured private individuals, environmental claims generally result from governmentally initiated activities. First, the number of waste sites subject to cleanup is unknown. Approximately 1,255 sites are included on the National Priorities List (NPL) of the United States Environmental Protection Agency. State authorities have separately identified many additional sites and, at times, aggressively implement site cleanups. Second, the liabilities of the insureds themselves are difficult to estimate. At any given site, the allocation of remediation cost among the potentially responsible parties varies greatly depending upon a variety of factors. Third, as with asbestos liability and coverage issues, judicial precedent regarding liability and coverage issues regarding pollution claims does not provide clear guidance. There is also uncertainty as to the U.S. federal "Superfund" law itself and, at this time, we cannot predict what, if any, reforms to this law might be enacted by the U.S. federal government, or the effect of any such changes on the insurance industry.

Other Latent Exposures

While we do not view health hazard exposures such as silica and tobacco as becoming a material concern, recent developments in lead litigation have caused us to watch these matters closely. Recently, municipal and state governments have had success, using a public nuisance theory, pursuing the former makers of lead pigment for the abatement of lead paint in certain home dwellings. As lead paint was used almost exclusively into the early 1970's, large numbers of old housing stock contain lead paint that can prove hazardous to people and, particularly, children. Although governmental success has been limited thus far, we continue to monitor developments carefully due to the size of the potential awards sought by plaintiffs. See "Management's Discussion and Analysis of Financial Condition and Results of Operations — Critical Accounting Policies — Latent Claims" on page 67 for a further discussion of recent lead paint developments.

Investments

Investment Strategy and Guidelines

We derive a significant portion of our income from our invested assets. As a result, our operating results depend in part on the performance of our investment portfolio. Because of the unpredictable nature of losses that may arise under our insurance and reinsurance subsidiaries' insurance or reinsurance policies and as a result of our opportunistic commutation strategy, our liquidity needs can be substantial and may arise at any time. Except for that portion of our portfolio that is invested in non-investment grade securities, we generally follow a conservative investment strategy designed to emphasize the preservation of our invested assets and provide sufficient liquidity for the prompt payment of claims and settlement of commutation payments.

As of December 31, 2008, we had cash and cash equivalents of $2.21 billion. Our cash and cash equivalent portfolio is comprised mainly of high-grade fixed deposits, commercial paper with maturities of less than three months and liquid reserve funds.

Our investment portfolio consists primarily of investment grade-rated, liquid, fixed-maturity securities of short-to-medium term duration, and mutual funds — 95.1% of our total investment portfolio as of December 31, 2008 consisted of investment grade securities. In addition, we have other investments, which are non-investment grade securities — these investments accounted for 4.9% of our total investment portfolio as of December 31, 2008. Assuming the commitments to the other investments were fully funded as of December 31, 2008 out of cash balances on hand at that time, the percentage of investments held in other than investment grade securities would increase to 12.2%.

We strive to structure our investments in a manner that recognizes our liquidity needs for future liabilities. In that regard, we attempt to correlate the maturity and duration of our investment portfolio to our general liability profile. If our liquidity needs or general liability profile unexpectedly change, we may not continue to structure our investment portfolio in its current manner and would adjust as necessary to meet new business needs.

Our investment performance is subject to a variety of risks, including risks related to general economic conditions, market volatility, interest rate fluctuations, foreign exchange risk, liquidity risk and credit and default risk. Interest rates are highly sensitive to many factors, including governmental monetary policies, domestic and international economic and political conditions and other factors beyond our control. A significant increase in interest rates could result in significant losses, realized or unrealized, in the value of our investment portfolio. A significant portion of our non-investment grade securities consists of alternative investments that subject us to restrictions on redemption, which may limit our ability to withdraw funds for some period of time after the initial investment. The values of, and returns on, such investments may also be more volatile.

Investment Committee and Investment Manager

The investment committee of our board of directors supervises our investment activity. The investment committee regularly monitors our overall investment results which it ultimately reports to the board of directors.

We have engaged Goldman Sachs & Co, UBS, MEAG New York Corporation, AMP Capital and National Australia Bank to provide investment management services. On a fair value basis 87.9% of our fixed income portfolio is managed by these companies. We have agreed to pay investment management fees to the managers. These fees, which vary depending on the amount of assets under management, are included in net investment income.

Investment Portfolio

Accounting Treatment

Our investments primarily consist of fixed income securities. Our fixed income investments are comprised of available-for-sale, held to maturity and trading investments as defined in FAS 115, "Accounting for Certain Investments in Debt and Equity Securities." Held to maturity investments are carried at their amortized cost and both the available-for-sale and trading investments are carried at their fair value on the balance sheet date. Unrealized holdings gains and losses on trading investments, which represent the difference between the amortized

cost and the fair market value of securities, are recognized in realized gains and losses. Unrealized gains and losses on available-for-sale securities are recognized as part of other comprehensive income.

Composition as of December 31, 2008

As of December 31, 2008, our aggregate invested assets totaled approximately $3.5 billion. Aggregate invested assets include cash and cash equivalents, restricted cash and cash equivalents, fixed-maturity securities, equities, short-term investments and other investments.

The following table shows the types of securities in our portfolio, including cash equivalents, and their fair market values and amortized costs as of December 31, 2008:

	December 31, 2008			
	Amortized Cost	Unrealized Gains	Unrealized Losses	Fair Market Value
	(in thousands of U.S. dollars)			
Cash and cash equivalents(1)	$2,209,873	$ —	$ —	$2,209,873
U.S. government & agencies	437,181	12,404	(193)	449,392
Non-U.S. government securities	182,066	9,498	—	191,564
Corporate securities	588,086	3,869	(6,870)	585,085
Fixed income	1,207,333	25,771	(7,063)	1,226,041
Other investments	147,652	—	(87,415)	60,237
Equities	5,087	—	(1,340)	3,747
Total investments	1,360,072	25,771	(95,818)	1,290,025
Total cash & investments	$3,569,945	$ 25,771	$ (95,818)	$3,499,898

(1) Includes restricted cash and cash equivalents of $343.3 million

U.S. Government and Agencies

U.S. government and agency securities are comprised primarily of bonds issued by the U.S. Treasury, the Federal Home Loan Bank, the Federal Home Loan Mortgage Corporation and the Federal National Mortgage Association.

Non-U.S. Government Securities

Non-U.S. government securities represent the fixed income obligations of non-U.S. governmental entities. These are comprised primarily of bonds issued by the Australian, United Kingdom, French, Canadian and German governments.

Corporate Securities

Corporate securities are comprised of bonds issued by corporations that are diversified across a wide range of issuers and industries. The largest single issuer of corporate securities in our portfolio was Goldman Sachs Group, which represented 4.3% of the aggregate amount of corporate securities on an amortized cost basis and had a credit rating of A by Standard & Poor’s, as of December 31, 2008.

Other Investments

In December 2005, we invested in New NIB, a Province of Alberta limited partnership, in exchange for an approximately 1.6% limited partnership interest. New NIB was formed for the purpose of purchasing, together with certain affiliated entities, 100% of the outstanding share capital of NIBC. J. Christopher Flowers, a member of our board of directors and one of our largest shareholders, is a director of New NIB and is on the supervisory board of NIBC. Certain affiliates of J.C. Flowers I L.P., which is managed by J.C. Flowers & Co. LLC, of which Mr. Flowers

and John J. Oros, our Executive Chairman, are managing directors, also participated in the acquisition of NIBC. Certain of our officers and directors made personal investments in New NIB.

We own a non-voting 7.0% membership interest in Affirmative Investment LLC, or Affirmative. J.C. Flowers I LP, a private investment fund formed by J.C. Flowers & Co. LLC, of which Mr. Flowers and Mr. Oros are managing directors, owns the remaining 93.0% interest in Affirmative. Affirmative owns approximately 51.2% of the outstanding stock of Affirmative Insurance Holdings, a publicly traded company.

We have a capital commitment of up to $10.0 million in the GSC European Mezzanine Fund II, LP, or GSC. GSC invests in mezzanine securities of middle and large market companies throughout Western Europe. As of December 31, 2008, the capital contributed to GSC was $5.9 million, with the remaining commitment being $4.1 million. The $10.0 million represents 8.5% of the total commitments made to GSC.

In 2006 we committed to invest up to $100.0 million in the Flowers Fund. As of December 31, 2008, the capital contributed to the Flowers Fund was $96.0 million, with the remaining commitment being approximately $4.0 million. During 2008, we received $0.9 million in advisory service fees from the Flowers Fund.

During 2008 we committed to invest up to $100.0 million in the J.C. Flowers III L.P., or Fund III. As of December 31, 2008, the capital contributed to Fund III was $0.1 million, with the remaining commitment being $99.9 million. Fund III is a private investment fund advised by J.C. Flowers & Co. LLC, of which Messrs. Flowers and Oros are managing directors.

On January 16, 2009, we committed to invest approximately $8.7 million in JCF III Co-invest I L.P., in connection with its investment in certain of the operations, assets and liabilities of IndyMac Bank, F.S.B.

Unrealized losses in our other investments of $87.4 million include writedowns during 2008 of $84.1 million in the fair value of our private equity investments. The writedowns were primarily related to mark-to-market adjustments in the fair value of their underlying assets, which are primarily investments in financial institutions, arising as a result of the current global credit and liquidity crises.

Equities

During 2007 we purchased two equity portfolios that invest in both small and large market capitalization publicly traded U.S. companies. The equity portfolios are actively managed by a third-party manager.

Ratings as of December 31, 2008

The investment ratings (provided by major rating agencies) for our fixed income investments held as of December 31, 2008 and the percentage of investments they represented on that date were as follows:

	December 31, 2008		
	Amortized Cost	Fair Market Value	Percentage of Total Fair Market Value
	(in thousands of U.S. dollars)		
U.S. government & agencies	$ 439,447	$ 451,658	36.8%
AAA or equivalent	405,780	415,245	33.9%
AA	187,092	187,771	15.3%
A or equivalent	150,387	148,383	12.1%
BBB and lower	24,627	22,984	1.9%
Total	$1,207,333	$1,226,041	100.0%

Maturity Distribution as of December 31, 2008

The maturity distribution for our fixed income investments held as of December 31, 2008 was as follows:

	December 31, 2008			
	Amortized Cost	Unrealized Gains	Unrealized Losses	Fair Market Value
	(in thousands of U.S. dollars)			
Due within one year	$ 510,081	$ 1,205	$ (105)	$ 511,181
Due after one year through five years	535,430	10,673	(3,735)	542,368
Due after five years through ten years	128,741	11,988	(2,050)	138,679
Due after ten years	33,081	1,905	(1,173)	33,813
Total	$1,207,333	$ 25,771	$ (7,063)	$1,226,041

Investment Returns for the Years ended December 31, 2008 and 2007

Our investment returns for the years ended December 31, 2008 and 2007 were as follows:

	Year Ended December 31, 2008	Year Ended December 31, 2007
	(in thousands of U.S. dollars)	
Net investment income	$ 26,601	$ 64,087
Net realized (losses) gains	(1,655)	249
Net investment income and net realized (losses) gains	$ 24,946	$ 64,336
Effective annualized yield (1)	4.62%	4.57%

(1) Effective annualized yield is calculated by dividing net investment income, excluding writedowns on other investments, by the average balance of aggregate cash and cash equivalents, equities and fixed income securities on a carrying value basis. Trading securities where the investment return is for the benefit of insureds and reinsurers are excluded from the calculation.

Regulation

General

The business of insurance and reinsurance is regulated in most countries, although the degree and type of regulation varies significantly from one jurisdiction to another. We have a significant presence in Bermuda, the United Kingdom, Australia and, to a lesser extent, the United States and are subject to extensive regulation under the applicable statutes in these countries. A summary of the regulations governing us in these countries is set forth below.

Bermuda

As a holding company, we are not subject to Bermuda insurance regulations. However, the Insurance Act 1978 of Bermuda and related regulations, as amended, or, together, the Insurance Act, regulate the insurance business of our operating subsidiaries in Bermuda and provide that no person may carry on any insurance business in or from within Bermuda unless registered as an insurer by the Bermuda Monetary Authority, or BMA, under the Insurance Act. Insurance as well as reinsurance is regulated under the Insurance Act.

The Insurance Act also imposes on Bermuda insurance companies certain solvency and liquidity standards and auditing and reporting requirements and grants the BMA powers to supervise, investigate, require information and the production of documents and intervene in the affairs of insurance companies. Certain significant aspects of the Bermuda insurance regulatory framework are set forth below.

Classification of Insurers. The Insurance Act distinguishes between insurers carrying on long-term business and insurers carrying on general business. There are six classifications of insurers carrying on general business, with Class 4 insurers subject to the strictest regulation. Our regulated Bermuda subsidiaries, which are incorporated to

carry on general insurance and reinsurance business, are registered as Class 2, 3A, or 4 insurers in Bermuda and are regulated as such under the Insurance Act. These regulated Bermuda subsidiaries are not licensed to carry on long-term business. Long-term business broadly includes life insurance and disability insurance with terms in excess of five years. General business broadly includes all types of insurance that are not long-term business.

Principal Representative. An insurer is required to maintain a principal office in Bermuda and to appoint and maintain a principal representative in Bermuda. For the purpose of the Insurance Act, each of our regulated Bermuda subsidiaries' principal offices is at P.O. Box HM 2267, Windsor Place, 3rd Floor, 18 Queen Street, in Hamilton, Bermuda, and each of their principal representatives is Enstar Limited. Without a reason acceptable to the BMA, an insurer may not terminate the appointment of its principal representative, and the principal representative may not cease to act in that capacity, unless 30 days' notice in writing is given to the BMA. It is the duty of the principal representative, forthwith on reaching the view that there is a likelihood that the insurer will become insolvent or that a reportable "event" has, to the principal representative's knowledge, occurred or is believed to have occurred, to notify the BMA and, within 14 days of such notification, to make a report in writing to the BMA setting forth all the particulars of the case that are available to the principal representative. For example, any failure by the insurer to comply substantially with a condition imposed upon the insurer by the BMA relating to a solvency margin or a liquidity or other ratio would be a reportable "event."

Independent Approved Auditor. Every registered insurer must appoint an independent auditor who will audit and report annually on the statutory financial statements and the statutory financial return of the insurer, both of which, in the case of our regulated Bermuda subsidiaries, are required to be filed annually with the BMA. In addition, the independent auditor of a Class 4 insurer is required to audit and report on the insurer's financial statement, prepared under generally accepted accounting principles or international financial reporting standards, or GAAP financial standards. The independent auditor must be approved by the BMA and may be the same person or firm that audits our consolidated financial statements and reports for presentation to our shareholders. Our regulated Bermuda subsidiaries' independent auditor is Deloitte & Touche, who also audits our consolidated financial statements.

Loss Reserve Specialist. As a registered Class 2, 3A, or 4 insurer, each of our regulated Bermuda insurance and reinsurance subsidiaries is required, every year, to submit an opinion of its approved loss reserve specialist with its statutory financial return in respect of its losses and loss expenses provisions. The loss reserve specialist, who will normally be a qualified casualty actuary, must be approved by the BMA.

Statutory Financial Statements. Each of our regulated Bermuda subsidiaries must prepare annual statutory financial statements, and the Class 4 insurer is required to prepare GAAP financial statements. The Insurance Act prescribes rules for the preparation and substance of the statutory financial statements, which include, in statutory form, a balance sheet, an income statement, a statement of capital and surplus and notes thereto. Each of our regulated Bermuda subsidiaries is required to give detailed information and analyses regarding premiums, claims, reinsurance and investments. The statutory financial statements are not prepared in accordance with U.S. GAAP and are distinct from the financial statements prepared for presentation to an insurer's shareholders under the Companies Act. As a general business insurer, each of our regulated Bermuda subsidiaries is required to submit to the BMA the annual statutory financial statements as part of the annual statutory financial return, and the Class 4 insurer is also required to submit GAAP financial statements. The statutory financial statements and the statutory financial return do not form part of the public records maintained by the BMA, but the GAAP financial statements are available for public inspection.

Annual Statutory Financial Return. Each of our regulated insurance and reinsurance subsidiaries is required to file with the BMA a statutory financial return no later than six months, in the case of a Class 2, or four months in the case of a Class 3A or 4, after its fiscal year end unless specifically extended upon application to the BMA. The statutory financial return for an insurer includes, among other matters, a report of the approved independent auditor on the statutory financial statements of the insurer, solvency certificates, the statutory financial statements, and the opinion of the loss reserve specialist. The solvency certificates must be signed by the principal representative and at least two directors of the insurer certifying that the minimum solvency margin has been met and whether the insurer has complied with the conditions attached to its certificate of registration. The independent approved auditor is required to state whether, in its opinion, it was reasonable for the directors to make these certifications. If an

insurer's accounts have been audited for any purpose other than compliance with the Insurance Act, a statement to that effect must be filed with the statutory financial return.

Minimum Liquidity Ratio. The Insurance Act provides a minimum liquidity ratio for general business insurers, like our regulated Bermuda insurance and reinsurance subsidiaries. An insurer engaged in general business is required to maintain the value of its relevant assets at not less than 75% of the amount of its relevant liabilities. Relevant assets include, but are not limited to, cash and time deposits, quoted investments, unquoted bonds and debentures, first liens on real estate, investment income due and accrued, accounts and premiums receivable and reinsurance balances receivable. There are some categories of assets that unless specifically permitted by the BMA, do not automatically qualify as relevant assets, such as unquoted equity securities, investments in and advances to affiliates and real estate and collateral loans. Relevant liabilities are total general business insurance reserves and total other liabilities less deferred income tax and sundry liabilities (i.e., liabilities that are not otherwise specifically defined).

Minimum Solvency Margin, Enhanced Capital Requirement and Restrictions on Dividends and Distributions. Under the Insurance Act, the value of the general business assets of a Class 2, 3A, or 4 insurer, such as our regulated Bermuda subsidiaries, must exceed the amount of its general business liabilities by an amount greater than the prescribed minimum solvency margin. Each of our regulated Bermuda subsidiaries is required, with respect to its general business, to maintain a minimum solvency margin equal to the greatest of:

For Class 2 insurers:

- $250,000;
- 20% of net premiums written (being gross premiums written less any premiums ceded by the insurer) if net premiums do not exceed $6,000,000 or $1,200,000 plus 10% of net premiums written in excess of $6,000,000; and
- 10% of net losses and loss expense reserves.

For Class 3A insurers:

- $1,000,000;
- 20% of net premiums written (being gross premiums written less any premiums ceded by the insurer) if net premiums do not exceed $6,000,000 or $1,200,000 plus 15% of net premiums written in excess of $6,000,000; and
- 15% of net losses and loss expense reserves.

For Class 4 insurers:

- $100,000,000;
- 50% of net premiums written (with credit for reinsurance ceded not exceeding 25% of gross premiums); and
- 15% of net discounted aggregate losses and loss expense reserves.

In addition, a Class 4 insurer must also meet an Enhanced Capital Requirement. Each year a Class 4 insurer is also required to file with the BMA a capital and solvency return within four months of its relevant fiscal year end (unless specifically extended). The prescribed form of capital and solvency return comprises the insurer's Bermuda Solvency Capital Requirement model, a schedule of fixed income investments by rating categories, a schedule of net loss and loss expense provisions by line of business, a schedule of premiums written by line of business, a schedule of risk management and a schedule of fixed income securities.

Each of our regulated Bermuda insurance and reinsurance subsidiaries is prohibited from declaring or paying any dividends during any fiscal year if it is in breach of its minimum solvency margin or minimum liquidity ratio or if the declaration or payment of such dividends would cause it to fail to meet such margin or ratio. In addition, if it has failed to meet its minimum solvency margin or minimum liquidity ratio on the last day of any fiscal year, each of our regulated Bermuda subsidiaries will be prohibited, without the approval of the BMA, from declaring or paying any dividends during the next fiscal year.

Each of our regulated Bermuda insurance and reinsurance subsidiaries is prohibited, without the approval of the BMA, from reducing by 15% or more its total statutory capital as set out in its previous year's financial statements.

Additionally, under the Companies Act, we and each of our regulated Bermuda subsidiaries may declare or pay a dividend, or make a distribution from contributed surplus, only if we have no reasonable grounds for believing that the subsidiary is, or will be after the payment, unable to pay its liabilities as they become due, or that the realizable value of its assets will thereby be less than the aggregate of its liabilities and its issued share capital and share premium accounts.

Supervision, Investigation and Intervention. The BMA may appoint an inspector with extensive powers to investigate the affairs of our regulated Bermuda insurance and reinsurance subsidiaries if the BMA believes that such an investigation is in the best interests of its policyholders or persons who may become policyholders. In order to verify or supplement information otherwise provided to the BMA, the BMA may direct our regulated Bermuda insurance and reinsurance subsidiaries to produce documents or information relating to matters connected with its business. In addition, the BMA has the power to require the production of documents from any person who appears to be in possession of those documents. Further, the BMA has the power, in respect of a person registered under the Insurance Act, to appoint a professional person to prepare a report on any aspect of any matter about which the BMA has required or could require information. If it appears to the BMA to be desirable in the interests of the clients of a person registered under the Insurance Act, the BMA may also exercise the foregoing powers in relation to any company that is, or has at any relevant time been, (1) a parent company, subsidiary company or related company of that registered person, (2) a subsidiary company of a parent company of that registered person, (3) a parent company of a subsidiary company of that registered person or (4) a controlling shareholder of that registered person, which is a person who either alone or with any associate or associates, holds 50% or more of the shares of that registered person or is entitled to exercise, or control the exercise of, more than 50% of the voting power at a general meeting of shareholders of that registered person. If it appears to the BMA that there is a risk of a regulated Bermuda insurance and reinsurance subsidiary becoming insolvent, or that a regulated Bermuda insurance and reinsurance subsidiary is in breach of the Insurance Act or any conditions imposed upon its registration, the BMA may, among other things, direct such subsidiary (1) not to take on any new insurance business, (2) not to vary any insurance contract if the effect would be to increase its liabilities, (3) not to make certain investments, (4) to liquidate certain investments, (5) to maintain in, or transfer to the custody of a specified bank, certain assets, (6) not to declare or pay any dividends or other distributions or to restrict the making of such payments and/or (7) to limit such subsidiary's premium income.

Disclosure of Information. In addition to powers under the Insurance Act to investigate the affairs of an insurer, the BMA may require insurers and other persons to furnish information to the BMA. Further, the BMA has been given powers to assist other regulatory authorities, including foreign insurance regulatory authorities, with their investigations involving insurance and reinsurance companies in Bermuda. Such powers are subject to restrictions. For example, the BMA must be satisfied that the assistance being requested is in connection with the discharge of regulatory responsibilities of the foreign regulatory authority. Further, the BMA must consider whether cooperation is in the public interest. The grounds for disclosure are limited and the Insurance Act provides sanctions for breach of the statutory duty of confidentiality. Under the Companies Act, the Minister of Finance has been given powers to assist a foreign regulatory authority that has requested assistance in connection with inquiries being carried out by it in the performance of its regulatory functions. The Minister's powers include requiring a person to furnish him or her with information, to produce documents to him or her, to attend and answer questions and to give assistance in connection with inquiries. The Minister must be satisfied that the assistance requested by the foreign regulatory authority is for the purpose of its regulatory functions and that the request is in relation to information in Bermuda that a person has in his possession or under his control. The Minister must consider, among other things, whether it is in the public interest to give the information sought.

Notification by Shareholder Controller of New or Increased Control. Any person who, directly or indirectly, becomes a holder of at least 10%, 20%, 33% or 50% of our ordinary shares must notify the BMA in writing within 45 days of becoming such a holder or 30 days from the date the person has knowledge of having such a holding, whichever is later. The BMA may, by written notice, object to such a person if it appears to the BMA that the person is not fit and proper to be such a holder. The BMA may require the holder to reduce their holding of ordinary shares

and direct, among other things, that voting rights attaching to the ordinary shares shall not be exercisable. A person that does not comply with such a notice or direction from the BMA will be guilty of an offense.

Objection to Existing Shareholder Controller. For so long as we have as a subsidiary an insurer registered under the Insurance Act, the BMA may at any time, by written notice, object to a person holding 10% or more of the ordinary shares if it appears to the BMA that the person is not, or is no longer fit and proper to be, such a holder. In such a case, the BMA may require the shareholder to reduce its holding of ordinary shares and direct, among other things, that such shareholder's voting rights attaching to ordinary shares shall not be exercisable. A person who does not comply with such a notice or direction from the BMA will be guilty of an offense.

Certain Other Bermuda Law Considerations. Although we are incorporated in Bermuda, we are classified as a non-resident of Bermuda for exchange control purposes by the BMA. Pursuant to our non-resident status, we may engage in transactions in currencies other than Bermuda dollars and there are no restrictions on our ability to transfer funds (other than funds denominated in Bermuda dollars) in and out of Bermuda or to pay dividends to U.S. residents who are holders of our ordinary shares.

Under Bermuda law, exempted companies are companies formed for the purpose of conducting business outside Bermuda from a principal place of business in Bermuda. As "exempted" companies, neither we nor any of our regulated Bermuda subsidiaries may, without the express authorization of the Bermuda legislature or under a license or consent granted by the Minister of Finance, participate in certain business transactions, including: (1) the acquisition or holding of land in Bermuda (except that held by way of lease or tenancy agreement that is required for our business and held for a term not exceeding 50 years, or that is used to provide accommodation or recreational facilities for our officers and employees and held with the consent of the Bermuda Minister of Finance, for a term not exceeding 21 years), (2) the taking of mortgages on land in Bermuda to secure an amount in excess of $50,000, or (3) the carrying on of business of any kind for which we are not licensed in Bermuda, except in limited circumstances such as doing business with another exempted undertaking in furtherance of our business carried on outside Bermuda. Each of our regulated Bermuda subsidiaries is a licensed insurer in Bermuda, and, as such, may carry on activities from Bermuda that are related to and in support of its insurance business.

Ordinary shares may be offered or sold in Bermuda only in compliance with the provisions of the Investment Business Act 2003 of Bermuda, which regulates the sale of securities in Bermuda. In addition, the BMA must approve all issues and transfers of securities of a Bermuda exempted company. Where any equity securities (meaning shares that entitle the holder to vote for or appoint one or more directors or securities that by their terms are convertible into shares that entitle the holder to vote for or appoint one or more directors) of a Bermuda company are listed on an appointed stock exchange (which includes Nasdaq), the BMA has given general permission for the issue and subsequent transfer of any securities of the company from and/or to a non-resident for so long as any such equity securities of the company remain so listed.

The Bermuda government actively encourages foreign investment in "exempted" entities like us and our regulated Bermuda subsidiaries that are based in Bermuda, but which do not operate in competition with local businesses. We and our regulated Bermuda subsidiaries are not currently subject to taxes computed on profits or income or computed on any capital asset, gain or appreciation, or any tax in the nature of estate duty or inheritance tax or to any foreign exchange controls in Bermuda.

Under Bermuda law, non-Bermudians (other than spouses of Bermudians, holders of a permanent resident's certificate or holders of a working resident's certificate) may not engage in any gainful occupation in Bermuda without an appropriate governmental work permit. Work permits may be granted or extended by the Bermuda government upon showing that, after proper public advertisement in most cases, no Bermudian (or spouse of a Bermudian, holder of a permanent resident's certificate or holder of a working resident's certificate) is available who meets the minimum standard requirements for the advertised position. In 2004, the Bermuda government announced a new immigration policy limiting the duration of work permits to six years, with specified exemptions for "key" employees. The categories of "key" employees include senior executives (chief executive officers, presidents through vice presidents), managers with global responsibility, senior financial posts (treasurers, chief financial officers through controllers, specialized qualified accountants, quantitative modeling analysts), certain legal professionals (general counsels, specialist attorneys, qualified legal librarians and knowledge managers), senior insurance professionals (senior underwriters, senior claims adjusters), experienced/specialized brokers,

actuaries, specialist investment traders/analysts and senior information technology engineers/managers. All of our executive officers who work in our Bermuda office have obtained work permits.

United Kingdom

General. On December 1, 2001, the U.K. Financial Services Authority, or the FSA, assumed its full powers and responsibilities as the single statutory regulator responsible for regulating the financial services industry in respect of the carrying on of "regulated activities" (including deposit taking, insurance, investment management and most other financial services business by way of business in the U.K.), with the purpose of maintaining confidence in the U.K. financial system, providing public understanding of the system, securing the proper degree of protection for consumers and helping to reduce financial crime. It is a criminal offense for any person to carry on a regulated activity in the U.K. unless that person is authorized by the FSA and has been granted permission to carry on that regulated activity or falls under an exemption.

Insurance business (which includes reinsurance business) is authorized and supervised by the FSA. Insurance business in the United Kingdom is divided between two main categories: long-term insurance (which is primarily investment-related) and general insurance. It is not possible for an insurance company to be authorized in both long-term and general insurance business. These two categories are both divided into "classes" (for example: permanent health and pension fund management are two classes of long-term insurance; damage to property and motor vehicle liability are two classes of general insurance). Under the Financial, Services and Markets Act 2000, or the FSMA, effecting or carrying out contracts of insurance, within a class of general or long-term insurance, by way of business in the United Kingdom, constitutes a regulated activity requiring individual authorization. An authorized insurance company must have permission for each class of insurance business it intends to write.

Certain of our regulated U.K. subsidiaries, as authorized insurers, would be able to operate throughout the European Union, subject to certain regulatory requirements of the FSA and in some cases, certain local regulatory requirements. An insurance company with FSA authorization to write insurance business in the United Kingdom can seek consent from the FSA to allow it to provide cross-border services in other member states of the E.U. As an alternative, FSA consent may be obtained to establish a branch office within another member state. Although in run-off, our regulated U.K. subsidiaries remain regulated by the FSA, but may not underwrite new business.

As FSA authorized insurers, the insurance and reinsurance businesses of our regulated U.K. subsidiaries are subject to close supervision by the FSA. The FSA has implemented specific requirements for senior management arrangements, systems and controls of insurance and reinsurance companies under its jurisdiction, which place a strong emphasis on risk identification and management in relation to the prudential regulation of insurance and reinsurance business in the United Kingdom.

Supervision. The FSA carries out the prudential supervision of insurance companies through a variety of methods, including the collection of information from statistical returns, review of accountants' reports, visits to insurance companies and regular formal interviews.

The FSA has adopted a risk-based approach to the supervision of insurance companies. Under this approach the FSA performs a formal risk assessment of insurance companies or groups carrying on business in the U.K. periodically. The periods between U.K. assessments vary in length according to the risk profile of the insurer. The FSA performs the risk assessment by analyzing information which it receives during the normal course of its supervision, such as regular prudential returns on the financial position of the insurance company, or which it acquires through a series of meetings with senior management of the insurance company. After each risk assessment, the FSA will inform the insurer of its views on the insurer's risk profile. This will include details of any remedial action that the FSA requires and the likely consequences if this action is not taken.

Solvency Requirements. The Integrated Prudential Sourcebook requires that insurance companies maintain a required solvency margin at all times in respect of any general insurance undertaken by the insurance company. The calculation of the required margin in any particular case depends on the type and amount of insurance business a company writes. The method of calculation of the required solvency margin is set out in the Integrated Prudential Sourcebook, and for these purposes, all insurer's assets and liabilities are subject to specific valuation rules which are set out in the Integrated Prudential Sourcebook. Failure to maintain the required solvency margin is one of the

grounds on which wide powers of intervention conferred upon the FSA may be exercised. For fiscal years ending on or after January 1, 2004, the calculation of the required solvency margin has been amended as a result of the implementation of the EU Solvency I Directives. In respect of liability business accepted, 150% of the actual premiums written and claims incurred must be included in the calculation, which has had the effect of increasing the required solvency margin of our regulated U.K. subsidiaries. We continuously monitor the solvency capital position of the U.K. subsidiaries and maintains capital in excess of the required solvency margin.

Insurers are required to calculate an Enhanced Capital Requirement, or ECR, in addition to their required solvency margin. This represents a more risk-sensitive calculation than the previous required solvency margin requirements and is used by the FSA as its benchmark in assessing its Individual Capital Adequacy Standards. Insurers must maintain financial resources which are adequate, both as to amount and quality, to ensure that there is no significant risk that its liabilities cannot be met as they come due. In order to carry out the assessment as to the necessary financial resources that are required, insurers are required to identify the major sources of risk to its ability to meet its liabilities as they come due, and to carry out stress and scenario tests to identify an appropriate range of realistic adverse scenarios in which the risk crystallizes and to estimate the financial resources needed in each of the circumstances and events identified. In addition, the FSA gives Individual Capital Guidance, or ICG, regularly to insurers and reinsurers following receipt of individual capital assessments, prepared by firms themselves. The FSA's guidance may be that a company should hold more or less than its then current level of regulatory capital, or that the company's regulatory capital should remain unaltered. We calculated the ECR for our regulated U.K. subsidiaries for the period ended December 31, 2007 and submitted those calculations in March 2008 to the FSA as part of their statutory filings. The ECR calculations for its regulated U.K. subsidiaries for the year ended December 31, 2008 will be submitted by no later than March 31, 2009.

In addition, an insurer (other than a pure reinsurer) that is part of a group is required to perform and submit to the FSA an audited Group Capital Adequacy Return (GCAR). The GCAR is a solvency margin calculation return in respect of its ultimate parent undertaking, in accordance with the FSA's rules. This return is not part of an insurer's own solvency return and hence will not be publicly available. Although there is no requirement for the parent undertaking solvency calculation to show a positive result, the FSA may take action where it considers that the solvency of the insurance company is or may be jeopardized due to the group solvency position. Further, an insurer is required to report in its annual returns to the FSA all material related party transactions (e.g., intra-group reinsurance, whose value is more than 5% of the insurer's general insurance business amount).

Restrictions on Dividend Payments. U.K. company law prohibits our regulated U.K. subsidiaries from declaring a dividend to their shareholders unless they have "profits available for distribution." The determination of whether a company has profits available for distribution is based on its accumulated realized profits less its accumulated realized losses. While the United Kingdom insurance regulatory laws impose no statutory restrictions on a general insurer's ability to declare a dividend, the FSA strictly controls the maintenance of each insurance company's required solvency margin within its jurisdiction. The FSA's rules require our regulated U.K. subsidiaries to obtain FSA approval for any proposed or actual payment of a dividend.

Reporting Requirements. U.K. insurance companies must prepare their financial statements under the Companies Act of 1985 (as amended), which requires the filing with Companies House of audited financial statements and related reports. In addition, U.K. insurance companies are required to file with the FSA regulatory returns, which include a revenue account, a profit and loss account and a balance sheet in prescribed forms. Under the Interim Prudential Sourcebook for Insurers, audited regulatory returns must be filed with the FSA within two months and 15 days (or three months where the delivery of the return is made electronically) of the company's year end. Our regulated U.K. insurance subsidiaries are also required to submit abridged quarterly information to the FSA.

Supervision of Management. The FSA closely supervises the management of insurance companies through the approved persons regime, by which any appointment of persons to perform certain specified "controlled functions" within a regulated entity, must be approved by the FSA.

Change of Control. FSMA regulates the acquisition of "control" of any U.K. insurance company authorized under FSMA. Any company or individual that (together with its or his associates) directly or indirectly acquires 10% or more of the shares in a U.K. authorized insurance company or its parent company, or is entitled to exercise or control the exercise of 10% or more of the voting power in such authorized insurance company or its parent

company, would be considered to have acquired "control" for the purposes of the relevant legislation, as would a person who had significant influence over the management of such authorized insurance company or its parent company by virtue of his shareholding or voting power in either. A purchaser of 10% or more of our ordinary shares would therefore be considered to have acquired "control" of our regulated U.K. subsidiaries.

Under FSMA, any person proposing to acquire "control" over a U.K. authorized insurance company must give prior notification to the FSA of his intention to do so. The FSA would then have three months to consider that person's application to acquire "control." In considering whether to approve such application, the FSA must be satisfied that both the acquirer is a fit and proper person to have such "control" and that the interests of consumers would not be threatened by such acquisition of "control." Failure to make the relevant prior application could result in action being taken against us by the FSA.

Intervention and Enforcement. The FSA has extensive powers to intervene in the affairs of an authorized person, culminating in the ultimate sanction of the removal of authorization to carry on a regulated activity. FSMA imposes on the FSA statutory obligations to monitor compliance with the requirements imposed by FSMA, and to enforce the provisions of FSMA-related rules made by the FSA. The FSA has power, among other things, to enforce and take disciplinary measures in respect of breaches of both the Interim Prudential Sourcebook for Insurers and breaches of the conduct of business rules generally applicable to authorized persons.

The FSA also has the power to prosecute criminal offenses arising under FSMA, and to prosecute insider dealing under Part V of the Criminal Justice Act of 1993, and breaches of money laundering regulations. The FSA's stated policy is to pursue criminal prosecution in all appropriate cases.

Passporting. European Union directives allow our regulated U.K. subsidiaries to conduct business in European Union states other than the United Kingdom in compliance with the scope of permission granted these companies by the FSA without the necessity of additional licensing or authorization in other European Union jurisdictions. This ability to operate in other jurisdictions of the European Union on the basis of home state authorization and supervision is sometimes referred to as "passporting." Insurers may operate outside their home member state either on a "services" basis or on an "establishment" basis. Operating on a "services" basis means that the company conducts permitted businesses in the host state without having a physical presence there, while operating on an "establishment" basis means the company has a branch or physical presence in the host state. In both cases, a company remains subject to regulation by its home regulator, and not by local regulatory authorities, although the company nonetheless may have to comply with certain local rules. In addition to European Union member states, Norway, Iceland and Liechtenstein (members of the broader European Economic Area) are jurisdictions in which this passporting framework applies.

Australia

In Australia, four of our subsidiaries are companies with Insurance Act 1973 authorizations. Three of these companies are insurance companies authorized to conduct run-off business and one is a non-operating holding company. In addition, we have four Australian registered companies not authorized to conduct insurance business, but which provide services to the authorized entities.

Regulators. The non-operating holding company and the authorized insurers are regulated and are subject to prudential supervision by the Australian Prudential Regulation Authority, or APRA. APRA is the primary regulatory body responsible for regulating compliance with the Insurance Act 1973, or the 1973 Act. In addition, all companies, including the non-authorized entities, must comply with the Corporations Act 2001 and its primary regulator the Australian Securities and Investments Commission, or ASIC.

APRA was established in 1998 as an independent body to supervise banks, credit unions, building societies, general insurance and reinsurance companies, life insurance, friendly societies, and most members of the superannuation industry. APRA's supervisory role over these institutions includes licensing, conducting on-site operational reviews, assessing risk, responding to queries and collecting data. In addition, APRA enforces and administers the 1973 Act and promulgates Prudential Standards to regulate the industries it supervises.

ASIC is Australia's corporate, markets and financial services regulator. In 2001, the Financial Services Reform Act 2001 amended Chapter 7 of the Corporations Act 2001 and the reforms came into force, after a transitional

period, in March 2004. These reforms, as they relate to insurance and insurers, are intended to promote: confident and informed decision making by consumers of insurance products and services while facilitating efficiency, flexibility and innovation in the provision of those products and services; fairness, honesty and professionalism by those who provide insurance services; and fair, orderly and transparent markets for insurance products.

APRA and ASIC entered into a Memorandum of Understanding in June 2004. The objective of the Memorandum was to set out the framework for co-operation between the two agencies in areas of common interest and to set out the responsibilities of each entity. The Memorandum outlined APRA's responsibilities as the prudential supervisor of the financial services industry and ASIC's responsibilities as the body that would be monitoring, regulating and enforcing the Corporations Act and the Financial Services Reform Act and promoting market integrity.

APRA's powers. The 1973 Act prescribes APRA's powers in respect of the authorization and prudential supervision of general insurers. The 1973 Act aims to protect the interests of policy holders and prospective policy holders under insurance policies in ways that are consistent with the continued development of a viable, competitive and innovative insurance industry.

APRA's enforcement and disciplinary powers under the 1973 Act include powers to: (a) revoke the authorization of a general insurer or authorized non-operating holding company; (b) remove a director or senior manager of a general insurer, authorized non-operating holding company or corporate agent; (c) determine prudential standards; (d) monitor prudential matters; (e) collect information from auditors and actuaries; (f) remove auditors and actuaries; (g) investigate general insurers and unauthorized insurance matters; (h) apply to have a general insurer wound up; (i) determine insolvent insurer's liabilities in respect of early claims; (j) direct Lloyd's underwriters to not issue or renew policies; and (k) make directions in certain circumstances.

Conducting Insurance Business in Australia. The 1973 Act only permits APRA authorized bodies corporate and Lloyd's underwriters to carry on general insurance business in Australia. Those entities authorized to conduct insurance business in Australia are classified into the following categories:

- *Category A insurer* — an insurer incorporated in Australia that does not fall within any of the other categories of insurer;
- *Category B insurer* — an insurer incorporated in Australia that is also a subsidiary of a local or foreign insurance group;
- *Category C insurer* — "a foreign general insurer," which is a foreign insurer operating as a foreign branch in Australia;
- *Category D insurer* — an insurer incorporated in Australia that is owned by an industry or a professional association, or by the members of the industry or professional association or a combination of both; and only underwrites business risk of the members of the association or those who are eligible to become members. Medical indemnity insurers are not included in this definition; or
- *Category E insurer* — an insurer incorporated in Australia that is a corporate captive or a partnership captive. Category E insurers are often referred to as "sole parent captives."

Foreign-owned subsidiaries and foreign general insurers must be authorized by APRA to conduct business in Australia and are subject to similar legislative and prudential requirements as Australian owned and incorporated insurers.

Ownership and control. The Financial Sector (Shareholdings) Act 1998 governs the ownership of insurers in Australia. The interest of an individual shareholder or a group of associated shareholders in an insurer is generally limited to 15% of the insurer's voting shares. A higher percentage limit may be approved by the Treasurer of the Commonwealth of Australia on national interest grounds.

The Insurance Acquisitions and Takeovers Act 1991 governs the control of and compulsory notification of proposals relating to both the acquisition and lease of Australian-registered insurance companies. All acquisition or lease proposals must be notified to the Minister for Revenue, with authority delegated to APRA, who has the discretion to make a "permanent restraining order" or "go ahead decision" regarding the proposal.

Compliance and Governance. Section 32 of the 1973 Act authorizes APRA to determine, vary and revoke prudential standards that impose different requirements to be complied with by different classes of general insurers, authorized non-operating holding companies and their respective subsidiaries. Presently APRA has issued prudential standards that apply to general insurers in relation to capital adequacy, the holding of assets in Australia, risk management, business continuity management, reinsurance management, outsourcing, audit and actuarial reporting and valuation, the transfer and amalgamation of insurance businesses, governance, and the fit and proper assessment of the insurer's responsible persons.

Capital Adequacy. APRA's prudential standards require that all insurers maintain and meet prescribed capital adequacy requirements to enable its insurance obligations to be met under a wide range of circumstances. This requires authorized insurers to hold eligible capital in excess of the minimum capital requirement. This amount may be determined using the prescribed method or an internal model based method. APRA has determined that two tiers of capital may be deemed eligible capital and may be used to determine an insurer's capital base. Tier 1 capital comprises the highest quality capital components and Tier 2 capital includes other components that fall short of the quality of Tier 1 capital but still contribute to the overall strength of the insurer. As part of the determination of the proper capital adequacy using the prescribed method, insurers must determine and consider whether or not they must apply prudentially required investment risk charges, insurance risk capital charges and concentration risk capital charges to their capital amount for the purposes of determining the applicable minimum capital requirements.

Capital Releases. An insurer must obtain APRA's written consent prior to making any planned reductions in its capital.

A reduction in an insurer's capital includes, but is not limited to:

- a share buyback;
- the redemption, repurchase or early repayment of any qualifying Tier 1 and Tier 2 capital instruments issued by the insurer or a special purpose vehicle;
- trading in the insurer's own shares or capital instruments outside of any arrangement agreed upon with APRA;
- payment of dividends on ordinary shares that exceeds an insurer's after-tax earnings, after including payments on more senior capital instruments, in the financial year to which they relate; and
- dividend or interest payments (whether whole or partial) on specific types of Tier 2 and Tier 1 capital that exceed an insurer's after-tax earnings, including any payments made on more senior capital instruments, calculated before any such payments are applied in the financial year to which they relate.

An Australian insurer in run-off must provide APRA a valuation prepared by the appointed actuary that demonstrates that the tangible assets of the insurer, after the proposed capital reduction, are sufficient to cover its insurance liabilities to a 99.5% level of sufficiency of capital before APRA will consent to a capital release.

Assets in Australia. The 1973 Act and APRA require that all insurers are required to maintain assets in Australia at least equal to their liabilities in Australia and foreign insurers are required to maintain assets in Australia that exceed their liabilities in Australia by an amount that is greater than their minimum capital requirements.

Audit and Actuarial Reporting Requirements. APRA requires insurers to submit data in accordance with the reporting standards under the Financial Sector (Collection of Data) Act 1988. Insurers must provide quarterly returns and annual audited returns to APRA. Insurers in run-off must provide a run-off plan annually. Insurance contract transactions are accounted for on a "prospective accounting basis," which results in all premium revenue, acquisition costs and reinsurance expenses being recorded directly into profit and loss.

APRA requires all insurers, except for small insurers (those insurers with less than $20 million of gross insurance liabilities and no material long-tail insurance liabilities) to appoint an actuary. These insurers must obtain an annual insurance liability valuation report, or ILVR, and financial condition report from the appointed actuary. Although an appointed actuary for an insurer in run-off need not provide a financial condition report, he or she must provide a report setting out his or her review of the insurer's required run-off plan.

The ILVR must be peer reviewed by another actuary. Insurance liabilities are to be determined as central estimates on a discounted basis plus a risk margin assessed at a 75% level of sufficiency.

APRA requires all insurers to appoint an auditor. The auditor must prepare a certificate in relation to the insurer's annual APRA reporting requirements and prepare a report annually about the systems, procedures and controls within the insurer.

Section 334 of the Corporations Act 2001 provides that the Australian Accounting Standards Board may make accounting standards for the purposes of the Corporations Act. The relevant standards are Accounting Standards AASB 4 (Insurance) and AASB 1023 (General Insurance Contracts).

Outsourcing. APRA requires that all outsourcing arrangements of material business activities must be documented in the form of written contracts except for some intra-group arrangements. An insurer must consult with APRA prior to entering into outsourcing arrangements where the service and the entity providing the service are located outside of Australia. Insurers are also required to maintain a policy relating to outsourcing that ensures there is sufficient monitoring of the outsourced activities.

SOARS and PAIRS. APRA maintains two risk assessment, supervisory and response tools to assist APRA with its risk-based approach to supervision. The Probability and Impact Ratings System, or PAIRS, is APRA's risk assessment model and is divided into two dimensions, the probability and impact of the failure of an APRA regulated insurer. The PAIRS risk assessment involves an assessment of the following categories: board, management, risk governance, strategy and planning; liquidity risk; operational risk; credit risk; market and investment risk; insurance risk; capital coverage/surplus risk; earnings; and access to additional capital. The assessment of these categories involves consideration of four key factors: inherent risk, management and control, net risk and capital support. APRA does not publish insurer's PAIRS ratings, but does make them available to the insurer.

The Supervisory Oversight and Response System, or SOARS, is used to determine the regulatory response based on the PAIRS risk assessment. An insurer may have a SOARS supervision stance of normal, oversight, mandated improvement or restructure. APRA does not publish insurer's SOARS ratings, but does make them available to the insurer.

Australian Prudential Framework and Australian Accounting Standards Board. APRA maintains a prudential framework that requires the maintenance and collection of certain financial information. In certain circumstances the collection of this information is categorized differently that the manner prescribed by the Australian Accounting Standards Board, or AASB, in the Accounting Standards. AASB's standards are based on the matching concept whereas the APRA prudential framework is based on perspective accounting. While there are differences between the two methods, those differences do not apply to our Australian subsidiaries for a variety of reasons, such as going concern issues and the current assets held by those entities.

United States

As of December 31, 2008, we own or control three property and casualty insurance companies domiciled in the U.S., our U.S. Insurers, all of which are in run off.

General. In common with other insurers, our U.S. Insurers are subject to extensive governmental regulation and supervision in the various states and jurisdictions in which they are domiciled and licensed and/or approved to conduct business. The laws and regulations of the state of domicile have the most significant impact on operations. This regulation and supervision is designed to protect policyholders rather than investors. Generally, regulatory authorities have broad regulatory powers over such matters as licenses, standards of solvency, premium rates, policy forms, marketing practices, claims practices, investments, security deposits, methods of accounting, form and content of financial statements, reserves and provisions for unearned premiums, unpaid losses and loss adjustment expenses, reinsurance, minimum capital and surplus requirements, dividends and other distributions to shareholders, periodic examinations and annual and other report filings. In addition, transactions among affiliates, including reinsurance agreements or arrangements, as well as certain third-party transactions, require prior regulatory approval from, or prior notice to, the applicable regulator under certain circumstances. Regulatory authorities also conduct periodic financial, claims and market conduct examinations. Finally, our U.S. Insurers are also subject to

the general laws of the jurisdictions in which they do business. Certain insurance regulatory requirements are highlighted below.

Insurance Holding Company Systems Acts. State insurance holding company system statutes and related regulations provide a regulatory apparatus that is designed to protect the financial condition of domestic insurers operating within a holding company system. All insurance holding company statutes and regulations require disclosure and, in some instances, prior approval or non-disapproval of material transactions involving the domestic insurer and an affiliate. These transactions typically include sales, purchases, exchanges, loans and extensions of credit, reinsurance agreements, service agreements, guarantees and investments between an insurance company and its affiliates, involving in the aggregate specified percentages of an insurance company's admitted assets or policyholders surplus, or dividends that exceed specified percentages of an insurance company's surplus or income.

The state insurance holding company system statutes and regulations may discourage potential acquisition proposals and may delay, deter or prevent a change of control of us, any of the other direct or indirect parents of any of our U.S. Insurers, or any of our U.S. Insurers, including through transactions, and in particular unsolicited transactions, that we or our shareholders might consider to be desirable.

Before a person can acquire control of a domestic insurer or reinsurer or any person controlling such insurer or reinsurer, prior written approval must be obtained from the insurance commissioner of the state in which the domestic insurer is domiciled. Prior to granting approval of an application to acquire control of a domestic insurer or person controlling the domestic insurer, the state insurance commissioner of the jurisdiction in which the insurer is domiciled will consider such factors as the financial strength of the applicant, the integrity and management of the applicant's board of directors and executive officers, the acquiror's plans for the future operations of the domestic insurer and any anti-competitive results that may arise from the closing of the acquisition of control. Generally, state statutes and regulations provide that "control" over a domestic insurer or person controlling a domestic insurer is presumed to exist if any person, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing, 10% or more of the voting securities or securities convertible into voting securities of the domestic insurer or of a person who controls a domestic insurer. Florida statutes create a presumption of control when any person, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing, 5% or more of the voting securities or securities convertible into voting securities of the domestic insurer or person controlling a domestic insurer.

Because a person acquiring 5% or more of our ordinary shares would be presumed to acquire control of Capital Assurance, which is domiciled in Florida, and because a person acquiring 10% or more of our ordinary shares would be presumed to acquire control of the other U.S. Insurers, the U.S. insurance change of control laws will likely apply to such transactions.

Typically, the holding company statutes and regulations will also require each of our U.S. Insurers periodically to file information with state insurance regulatory authorities, including information concerning capital structure, ownership, financial condition and general business operations.

Regulation of Dividends and other Payments from Insurance Subsidiaries. The ability of a U.S. insurer to pay dividends or make other distributions is subject to insurance regulatory limitations of the insurance company's state of domicile. Generally, these laws require prior regulatory approval before an insurer may pay a dividend or make a distribution above a specified level. In many U.S. jurisdictions, dividends may only be paid out of earned surplus and may not exceed specified levels. In addition, the laws of many U.S. jurisdictions require an insurer to report for informational purposes to the insurance commissioner of its state of domicile all declarations and proposed payments of dividends and other distributions to security holders. Any return of capital from a U.S. insurance company would require prior approval of the domestic regulators.

The dividend limitations imposed by state insurance laws are based on statutory financial results, determined by using statutory accounting practices that differ in certain respects from accounting principles used in financial statements prepared in conformity with U.S. GAAP. The significant differences relate to treatment of deferred acquisition costs, deferred income taxes, required investment reserves, reserve calculation assumptions and surplus notes. In connection with the acquisition of a U.S. insurer, insurance regulators in the United States often impose, as

a condition to the approval of the acquisition, additional restrictions on the ability of the U.S. insurer to pay dividends or make other distributions for specified periods of time.

Accreditation. The National Association of Insurance Commissioners, or the NAIC, has instituted its Financial Regulatory Standards and Accreditation Program, or FRSAP, in response to federal initiatives to regulate the business of insurance. FRSAP provides a set of standards designed to establish effective state regulation of the financial condition of insurance companies. Under FRSAP, a state must adopt certain laws and regulations, institute required regulatory practices and procedures, and have adequate personnel to enforce these laws and regulations in order to become an "accredited" state. Accredited states are not able to accept certain financial examination reports of insurers prepared solely by the regulatory agency in an unaccredited state. The respective states in which our U.S. Insurers are domiciled, except New York, are accredited states. Because the New York Insurance Department is not accredited, no other state should be required to accept its examinations, although states have generally agreed to accept the New York Insurance Department's examinations. Still, there can be no assurance they will do so in the future if the New York Insurance Department remains unaccredited.

Insurance Regulatory Information System Ratios. The NAIC Insurance Regulatory Information System, or IRIS, was developed by a committee of state insurance regulators and is intended primarily to assist state insurance departments in executing their statutory mandates to oversee the financial condition of insurance companies operating in their respective states. IRIS identifies 11 industry ratios and specifies "usual values" for each ratio. Departure from the usual values of the ratios can lead to inquiries from individual state insurance commissioners regarding different aspects of an insurer's business. Insurers that report four or more unusual values are generally targeted for regulatory review. For 2008, certain of our U.S. Insurers generated IRIS ratios that were outside of the usual ranges. Only Stonewall and Seaton have been subject to any increased regulatory review, but there is no assurance that our other U.S. Insurer will not be subject to increased scrutiny in the future.

Risk-Based Capital Requirements. In order to enhance the regulation of insurer solvency, the NAIC adopted in December 1993 a formula and model law to implement risk-based capital requirements for property and casualty insurance companies. These risk-based capital requirements change from time to time and are designed to assess capital adequacy and to raise the level of protection that statutory surplus provides for policyholder obligations. The risk-based capital model for property and casualty insurance companies measures three major areas of risk facing property and casualty insurers:

- underwriting, which encompasses the risk of adverse loss developments and inadequate pricing;
- declines in asset values arising from credit risk; and
- declines in asset values arising from investment risks.

Insurers having less statutory surplus than required by the risk-based capital calculation will be subject to varying degrees of regulatory action, depending on the level of capital inadequacy.

Under the approved formula, an insurer's statutory surplus is compared to its risk-based capital requirement. If this ratio is above a minimum threshold, no company or regulatory action is necessary. Below this threshold are four distinct action levels at which a regulator can intervene with increasing degrees of authority over an insurer as the ratio of surplus to risk-based capital requirement decreases. The four action levels include:

- insurer is required to submit a plan for corrective action;
- insurer is subject to examination, analysis and specific corrective action;
- regulators may place insurer under regulatory control; and
- regulators are required to place insurer under regulatory control.

Some of our U.S. Insurers have risk-based capital levels that are below required levels and are subject to increased regulatory scrutiny and control by their domestic insurance regulator.

Guaranty Funds and Assigned Risk Plans. Most states require all admitted insurance companies to participate in their respective guaranty funds that cover various claims against insolvent insurers. Solvent insurers licensed in these states are required to cover the losses paid on behalf of insolvent insurers by the guaranty funds and

are generally subject to annual assessments in the state by its guaranty fund to cover these losses. Some states also require admitted insurance companies to participate in assigned risk plans, which provide coverage for automobile insurance and other lines for insureds that, for various reasons, cannot otherwise obtain insurance in the open market. This participation may take the form of reinsuring a portion of a pool of policies or the direct issuance of policies to insureds. The calculation of an insurer's participation in these plans is usually based on the amount of premium for that type of coverage that was written by the insurer on a voluntary basis in a prior year. Participation in assigned risk pools tends to produce losses which result in assessments to insurers writing the same lines on a voluntary basis. Our U.S. Insurers may be subject to guaranty fund assessments and may participate in assigned risk plans.

Credit for Reinsurance. Licensed reinsurers in the United States are subject to insurance regulation and supervision that is similar to the regulation of licensed primary insurers. However, the terms and conditions of reinsurance agreements generally are not subject to regulation by any governmental authority with respect to rates or policy terms. This contrasts with primary insurance policies and agreements, the rates and terms of which generally are regulated by state insurance regulators. As a practical matter, however, the rates charged by primary insurers do have an effect on the rates that can be charged by reinsurers. A primary insurer ordinarily will enter into a reinsurance agreement only if it can obtain credit for the reinsurance ceded on its statutory financial statements. In general, credit for reinsurance is allowed in the following circumstances:

- if the reinsurer is licensed in the state in which the primary insurer is domiciled or, in some instances, in certain states in which the primary insurer is licensed;
- if the reinsurer is an "accredited" or otherwise approved reinsurer in the state in which the primary insurer is domiciled or, in some instances, in certain states in which the primary insurer is licensed;
- in some instances, if the reinsurer (1) is domiciled in a state that is deemed to have substantially similar credit for reinsurance standards as the state in which the primary insurer is domiciled and (2) meets financial requirements; or
- if none of the above apply, to the extent that the reinsurance obligations of the reinsurer are secured appropriately, typically through the posting of a letter of credit for the benefit of the primary insurer or the deposit of assets into a trust fund established for the benefit of the primary insurer.

As a result of the requirements relating to the provision of credit for reinsurance, our U.S. Insurers and our insurers domiciled outside the U.S., when reinsuring risks from cedents domiciled or licensed in U.S. jurisdictions in which our reinsurers are not domiciled or admitted, may be indirectly subject to some regulatory requirements imposed by jurisdictions in which ceding companies are licensed. Because our non-U.S. insurers are not licensed, accredited or otherwise approved by or domiciled in any state in the U.S., and because our U.S. Insurers are not admitted in all U.S. jurisdictions, primary insurers are only willing to cede business to such insurers if we provide adequate security to allow the primary insurer to take credit on its balance sheet for the reinsurance it purchased. Such security may be provided by various means, including the posting of a letter of credit or deposit of assets into a trust fund for the benefit of the primary insurer.

Statutory Accounting Principles. Statutory accounting principles, or SAP, are a basis of accounting developed to assist insurance regulators in monitoring and regulating the solvency of insurance companies. It is primarily concerned with measuring an insurer's surplus to policyholders. Accordingly, statutory accounting focuses on valuing assets and liabilities of insurers at financial reporting dates in accordance with appropriate insurance law and regulatory provisions applicable in each insurer's domiciliary state.

U.S. GAAP is concerned with a company's solvency, but it is also concerned with other financial measurements, such as income and cash flows. Accordingly, U.S. GAAP gives more consideration to appropriate matching of revenue and expenses and accounting for management's stewardship of assets than does SAP. As a result, different assets and liabilities and different amounts of assets and liabilities will be reflected in financial statements prepared in accordance with U.S. GAAP as opposed to SAP.

Statutory accounting practices established by the NAIC and adopted, in part, by state insurance departments, will determine, among other things, the amount of statutory surplus and statutory net income of our U.S. Insurers, which will affect, in part, the amount of funds they have available to pay dividends to us.

Federal Regulation. We are subject to numerous federal regulations, including the Securities Act of 1933, the Securities Exchange Act of 1934, or the Exchange Act, and other federal securities laws. As we continue with our business, including the run-off of our insurance companies, we must monitor our compliance with these laws, including our maintenance of any available exemptions from registration as an investment company under the Investment Company Act of 1940. Any failure to comply with these laws or maintain our exemption could have a material adverse effect on our operations and on the market price of our ordinary shares.

Although state regulation is the dominant form of U.S. regulation for insurance and reinsurance business, from time to time Congress has shown concern over the adequacy and efficiency of the state regulation. It is not possible to predict the future impact of any potential federal regulations or other possible laws or regulations on our U.S. subsidiaries' capital and operations, and such laws or regulations could materially adversely affect their business.

Other

In addition to Bermuda, the United Kingdom, Australia and the United States, we have subsidiaries in various other countries, including Belgium and Switzerland, and in the future could acquire new subsidiaries in other countries. Our subsidiaries in these other jurisdictions are also regulated. Typically, such regulation is for the protection of policyholders and ceding insurance companies rather than shareholders. While the degree and type of regulation to which we are subject in each country may differ, regulatory authorities generally have broad supervisory and administrative powers over such matters as licenses, standards of solvency, investments, reporting requirements relating to capital structure, ownership, financial condition and general business operations, special reporting and prior approval requirements with respect to certain transactions among affiliates, methods of accounting, form and content of the consolidated financial statements, reserves for unpaid loss and LAE, reinsurance, minimum capital and surplus requirements, dividends and other distributions to shareholders, periodic examinations and annual and other report filings.

Competition

We compete in international markets with domestic and international reinsurance companies to acquire and manage reinsurance companies in run-off. The acquisition and management of reinsurance companies in run-off is highly competitive. Some of these competitors have greater financial resources than we do, have been operating for longer than we have and have established long-term and continuing business relationships throughout the reinsurance industry, which can be a significant competitive advantage. As a result, we may not be able to compete successfully in the future for suitable acquisition candidates or run-off portfolio management engagements.

Employees

As of December 31, 2008, we had approximately 292 employees, 5 of whom were executive officers. All non-Bermudian employees who operate out of our Bermuda office are subject to approval of any required work permits. None of our employees are covered by collective bargaining agreements, and our management believes that our relationship with our employees is excellent.

Available Information

We maintain a website with the address http://www.enstargroup.com . The information contained on our website is not included as a part of, or incorporated by reference into, this filing. We make available free of charge (other than an investor's own Internet access charges) on or through our website our annual report on Form 10-K, quarterly reports on Form 10-Q, current reports on Form 8-K, and all amendments to these reports, as soon as

reasonably practicable after the material is electronically filed with or otherwise furnished to the SEC. Our annual reports on Form 10-K, quarterly reports on Form 10-Q, current reports on Form 8-K, and amendments to those reports are also available on the U.S. Securities and Exchange Commission's website at http://www.sec.gov . In addition, copies of our corporate governance guidelines, codes of business conduct and ethics and the governing charters for the audit and compensation committees of our Board of Directors are available free of charge on our website. The public may read and copy any materials we file with the SEC at the SEC's Public Reference Room at 100 F Street, NE, Washington, DC 20549. The public may obtain information on the operation of the Public Reference Room by calling the SEC at 1-800-SEC-0330.

ITEM 1A. *RISK FACTORS*

You should carefully consider these risks along with the other information included in this document, including the matters addressed under "Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations — Cautionary Note Regarding Forward-Looking Statements," as well as risks included elsewhere in our documents filed with the SEC, before investing in any of our securities. We may amend, supplement or add to the risk factors described below from time to time in future reports filed with the SEC.

Risks Relating to Our Business

Difficult conditions in the economy generally may materially adversely affect our business and results of operations, and these conditions may not improve in the near future.

Current market conditions and the instability in the global credit markets present additional risks and uncertainties for our business. In particular, continued deterioration in the public debt and equity markets could lead to additional investment losses. The severe downturn in the public debt and equity markets, reflecting uncertainties associated with the mortgage crisis, worsening economic conditions, widening of credit spreads, bankruptcies and government intervention in large financial institutions, has resulted in significant unrealized losses in our investment portfolio. Depending on market conditions going forward, we could incur substantial realized and additional unrealized losses in future periods, which could have an adverse impact on our results of operations and financial condition. The current market volatility may also make it more difficult to value certain of our securities if trading becomes less frequent. As a result, valuations may include assumptions or estimates that may have significant period-to-period changes that could have a material adverse effect on our results of operations or financial condition. Disruptions, uncertainty and volatility in the global credit markets may also impact our ability to obtain financing for future acquisitions. If financing is available, it may only be available at an unattractive cost of capital, which would decrease our profitability. There can be no assurance that current market conditions will improve in the near future.

If we are unable to implement our business strategies, our business and financial condition may be adversely affected.

Our future results of operations will depend in significant part on the extent to which we can implement our business strategies successfully, including our ability to realize the anticipated growth opportunities, expanded market visibility and increased access to capital. Our business strategies include continuing to operate our portfolio of run-off insurance and reinsurance companies and related management engagements, as well as pursuing additional acquisitions and management engagements in the run-off segment of the insurance and reinsurance market. We may not be able to implement our strategies fully or realize the anticipated results of our strategies as a result of significant business, economic and competitive uncertainties, many of which are beyond our control.

The effects of emerging claims and coverage issues may result in increased provisions for loss reserves and reduced profitability in our insurance and reinsurance subsidiaries. Such adverse business issues may also reduce the level of incentive-based fees generated by our consulting operations. Adverse global economic conditions, such as rising interest rates and volatile foreign exchange rates, may cause widespread failure of our insurance and reinsurance subsidiaries' reinsurers to satisfy their obligations, as well as failure of companies to meet their obligations under debt instruments held by our subsidiaries. If the run-off industry becomes more attractive to investors, competition for runoff acquisitions and management and consultancy engagements may increase and, therefore, reduce our ability to continue to make profitable acquisitions or expand our consultancy operations. If we are unable to successfully implement our business strategies, we may not be able to achieve future growth in our earnings and our financial condition may suffer and, as a result, holders of our ordinary shares may receive lower returns.

Our inability to successfully manage our portfolio of insurance and reinsurance companies in run-off may adversely impact our ability to grow our business and may result in losses.

We were founded to acquire and manage companies and portfolios of insurance and reinsurance in run-off. Our run-off business differs from the business of traditional insurance and reinsurance underwriting in that our insurance

and reinsurance companies in run-off no longer underwrite new policies and are subject to the risk that their stated provisions for losses and loss adjustment expense, or LAE, will not be sufficient to cover future losses and the cost of run-off. Because our companies in run-off no longer collect underwriting premiums, our sources of capital to cover losses are limited to our stated reserves, reinsurance coverage and retained earnings. As of December 31, 2008, our gross reserves for losses and loss adjustment expense totaled $2.80 billion, and our reinsurance receivables totaled $672.7 million.

In order for us to achieve positive operating results, we must first price acquisitions on favorable terms relative to the risks posed by the acquired businesses and then successfully manage the acquired businesses. Our inability to price acquisitions on favorable terms, efficiently manage claims, collect from reinsurers and control run-off expenses could result in us having to cover losses sustained under assumed policies with retained earnings, which would materially and adversely impact our ability to grow our business and may result in material losses.

If our insurance and reinsurance subsidiaries' loss reserves are inadequate to cover their actual losses, our insurance and reinsurance subsidiaries' net income and capital and surplus would be reduced.

Our insurance and reinsurance subsidiaries are required to maintain reserves to cover their estimated ultimate liability for losses and loss adjustment expenses for both reported and unreported incurred claims. These reserves are only estimates of what our subsidiaries think the settlement and administration of claims will cost based on facts and circumstances known to the subsidiaries. Our commutation activity and claims settlement and development in recent years has resulted in net reductions in provisions for loss and loss adjustment expenses of $242.1 million, $24.5 million and $31.9 million for the years ended December 31, 2008, December 31, 2007 and December 31, 2006, respectively. Although this recent experience indicates that our loss reserves have been more than adequate to meet our liabilities, because of the uncertainties that surround estimating loss reserves and loss adjustment expenses, our insurance and reinsurance subsidiaries cannot be certain that ultimate losses will not exceed these estimates of losses and loss adjustment expenses. If our subsidiaries' reserves are insufficient to cover their actual losses and loss adjustment expenses, our subsidiaries would have to augment their reserves and incur a charge to their earnings. These charges could be material and would reduce our net income and capital and surplus.

The difficulty in estimating the subsidiaries' reserves is increased because our subsidiaries' loss reserves include reserves for potential asbestos and environmental, or A&E, liabilities. At December 31, 2008, our insurance and reinsurance companies had recorded gross A&E loss reserves of $944.0 million, or 35.5% of the total gross loss reserves. Net A&E loss reserves at December 31, 2008 amounted to $846.4 million, or 35.2% of total net loss reserves. A&E liabilities are especially hard to estimate for many reasons, including the long waiting periods between exposure and manifestation of any bodily injury or property damage, the difficulty in identifying the source of the asbestos or environmental contamination, long reporting delays and the difficulty in properly allocating liability for the asbestos or environmental damage. Developed case law and adequate claim history do not always exist for such claims, especially because significant uncertainty exists about the outcome of coverage litigation and whether past claim experience will be representative of future claim experience. In view of the changes in the legal and tort environment that affect the development of such claims, the uncertainties inherent in valuing A&E claims are not likely to be resolved in the near future. Ultimate values for such claims cannot be estimated using traditional reserving techniques and there are significant uncertainties in estimating the amount of our subsidiaries' potential losses for these claims. Our subsidiaries have not made any changes in reserve estimates that might arise as a result of any proposed U.S. federal legislation related to asbestos. To further understand this risk, see "Business — Reserves for Unpaid Losses and Loss Adjustment Expense" on page 10.

Our insurance and reinsurance subsidiaries' reinsurers may not satisfy their obligations to our insurance and reinsurance subsidiaries.

Our insurance and reinsurance subsidiaries are subject to credit risk with respect to their reinsurers because the transfer of risk to a reinsurer does not relieve our subsidiaries of their liability to the insured. In addition, reinsurers may be unwilling to pay our subsidiaries even though they are able to do so. As of December 31, 2008, the balances receivable from reinsurers amounted to $672.7 million, of which $254.2 million was associated with two reinsurers with Standard & Poor's credit ratings of AA-. In addition, many reinsurance companies have been negatively impacted by the deteriorating financial and economic conditions, including unprecedented financial market

disruption. A number of these companies, including some of those with which we conduct business, have been downgraded and/or have been placed on negative outlook by various rating agencies. The failure of one or more of our subsidiaries' reinsurers to honor their obligations in a timely fashion may affect our cash flows, reduce our net income or cause us to incur a significant loss. Disputes with our reinsurers may also result in unforeseen expenses relating to litigation or arbitration proceedings.

The value of our insurance and reinsurance subsidiaries' investment portfolios and the investment income that our insurance and reinsurance subsidiaries receive from these portfolios may decline as a result of market fluctuations and economic conditions.

We derive a significant portion of our income from our invested assets. The net investment income that our subsidiaries realize from investments in fixed-income securities will generally increase or decrease with interest rates. The fair market value of our subsidiaries' fixed-income securities generally increases or decreases in an inverse relationship with fluctuations in interest rates and can also decrease as a result of any downturn in the business cycle that causes the credit quality of those securities to deteriorate. The fair market value of our subsidiaries' fixed-income securities classified as trading or available-for-sale in our subsidiaries' investment portfolios amounted to $627.4 million at December 31, 2008. The changes in the market value of our subsidiaries' securities that are classified as trading or available-for-sale are reflected in our financial statements. Permanent impairments in the value of our subsidiaries' fixed-income securities are also reflected in our financial statements. As a result, a decline in the value of the securities in our subsidiaries' investment portfolios may reduce our net income or cause us to incur a loss.

In addition to fixed-income securities, we have invested, and may from time to time continue to invest, in limited partnerships, limited liability companies and equity funds. These and other similar investments may be illiquid. As of December 31, 2008, we had an aggregate of $60.2 million of such investments. In 2008, we wrote down the fair value of our private equity investments by $84.1 million primarily due to mark-to-market adjustments in the fair value of their underlying assets, which are primarily investments in financial institutions, arising as a result of the current global credit and liquidity crisis. For more information, see "Business — Investment Portfolio" on page 23.

Fluctuations in currency exchange rates may cause us to experience losses.

We maintain a portion of our investments, insurance liabilities and insurance assets denominated in currencies other than U.S. dollars. Consequently, we and our subsidiaries may experience foreign exchange losses. We publish our consolidated financial statements in U.S. dollars. Therefore, fluctuations in exchange rates used to convert other currencies, particularly Australian dollars, Euros, British pounds and other European currencies, into U.S. dollars will impact our reported consolidated financial condition, results of operations and cash flows from year to year. For the year ended December 31, 2008, we recorded foreign exchange losses of $15.0 million due in part to our holding surplus British pounds relating to cash collateral required to support British pound denominated letters of credit. We also recorded cumulative translation adjustment losses of $51.0 million primarily due to the Gordian acquisition and the effect of the decrease in Australian to U.S. dollar foreign exchange rates upon conversion of Gordian's net Australian dollar assets to U.S. dollars. As of the date of the acquisition, we concluded that Gordian's functional currency was Australian dollars.

We have made, and expect to continue to make, strategic acquisitions of insurance and reinsurance companies in run-off, and these activities may not be financially beneficial to us or our shareholders.

We have pursued and, as part of our strategy, we will continue to pursue growth through acquisitions and/or strategic investments in insurance and reinsurance companies in run-off. We have made several acquisitions and investments and we expect to continue to make such acquisitions and investments. We cannot be certain that any of these acquisitions or investments will be financially advantageous for us or our shareholders.

The negotiation of potential acquisitions or strategic investments, as well as the integration of an acquired business or portfolio, could result in a substantial diversion of management resources. Acquisitions could involve numerous additional risks such as potential losses from unanticipated litigation or levels of claims, an inability to

generate sufficient revenue to offset acquisition costs and financial exposures in the event that the sellers of the entities we acquire are unable or unwilling to meet their indemnification, reinsurance and other obligations to us.

Our ability to manage our growth through acquisitions or strategic investments will depend, in part, on our success in addressing these risks. Any failure by us to effectively implement our acquisition or strategic investment strategies could have a material adverse effect on our business, financial condition or results of operations.

Our past and future acquisitions may expose us to operational risks such as cash flow shortages, challenges to recruit appropriate levels of personnel, financial exposures to foreign currencies, additional integration costs and management time and effort.

We have made several acquisitions and may in the future make additional strategic acquisitions, either of other companies or selected portfolios of insurance or reinsurance in run-off. These acquisitions may expose us to operational challenges and risks, including:

- funding cash flow shortages that may occur if anticipated revenues are not realized or are delayed, whether by general economic or market conditions or unforeseen internal difficulties;
- funding cash flow shortages that may occur if expenses are greater than anticipated;
- the value of assets being lower than expected or diminishing because of credit defaults or changes in interest rates, or liabilities assumed being greater than expected;
- integrating financial and operational reporting systems, including assurance of compliance with Section 404 of the Sarbanes-Oxley Act of 2002 and our Exchange Act reporting requirements;
- establishing satisfactory budgetary and other financial controls;
- funding increased capital needs and overhead expenses;
- obtaining management personnel required for expanded operations; and
- the assets and liabilities we may acquire may be subject to foreign currency exchange rate fluctuation.

Our failure to manage successfully these operational challenges and risks could have a material adverse effect on our business, financial condition or results of operations.

Fluctuations in the reinsurance industry may cause our operating results to fluctuate.

The reinsurance industry historically has been subject to significant fluctuations and uncertainties. Factors that affect the industry in general may also cause our operating results to fluctuate. The industry's profitability may be affected significantly by:

- fluctuations in interest rates, inflationary pressures and other changes in the investment environment, which affect returns on invested capital and may affect the ultimate payout of loss amounts and the costs of administering books of reinsurance business;
- volatile and unpredictable developments, such as those that have occurred recently in the world-wide financial and credit markets, which may adversely affect the recoverability of reinsurance from our reinsurers;
- changes in reserves resulting from different types of claims that may arise and the development of judicial interpretations relating to the scope of insurers' liability; and
- the overall level of economic activity and the competitive environment in the industry.

The effects of emerging claim and coverage issues on our business are uncertain.

As industry practices and legal, judicial, social and other environmental conditions change, unexpected and unintended issues related to claims and coverage may emerge. These issues may adversely affect the adequacy of our provision for losses and loss adjustment expenses by either extending coverage beyond the intent of insurance

policies and reinsurance contracts envisioned at the time they were written, or by increasing the number or size of claims. In some instances, these changes may not become apparent until some time after we have acquired companies or portfolios of insurance or reinsurance contracts that are affected by the changes. As a result, the full extent of liability under these insurance or reinsurance contracts may not be known for many years after a contract has been issued. To further understand this risk, see "Business — Reserves for Unpaid Losses and Loss Adjustment Expense" on page 10.

Insurance laws and regulations restrict our ability to operate, and any failure to comply with these laws and regulations, or any investigations by government authorities, may have a material adverse effect on our business.

We are subject to extensive regulation under insurance laws of a number of jurisdictions, and compliance with legal and regulatory requirements is expensive. These laws limit the amount of dividends that can be paid to us by our insurance and reinsurance subsidiaries, prescribe solvency standards that they must meet and maintain, impose restrictions on the amount and type of investments that they can hold to meet solvency requirements and require them to maintain reserves. Failure to comply with these laws may subject our subsidiaries to fines and penalties and restrict them from conducting business. The application of these laws may affect our liquidity and ability to pay dividends on our ordinary shares and may restrict our ability to expand our business operations through acquisitions. At December 31, 2008, the required statutory capital and surplus of our insurance and reinsurance companies amounted to $411.7 million compared to the actual statutory capital and surplus of $985.4 million. As of December 31, 2008, $357.2 million of our total investments of $1.28 billion were not admissible for statutory solvency purposes. Of the $357.2 million of investments not admissible for statutory solvency purposes, $122.6 million was attributable to Unionamerica related proceeds on settlement of a commutation prior to our acquisition of Unionamerica, which were deposited in a trust account that had counter-party lawsuits. Subsequent to year-end, those funds were moved and are now fully admissible for statutory solvency purposes.

The insurance industry has experienced substantial volatility as a result of current investigations, litigation and regulatory activity by various insurance, governmental and enforcement authorities, including the U.S. Securities and Exchange Commission, or the SEC, concerning certain practices within the insurance industry. These practices include the sale and purchase of finite reinsurance or other non-traditional or loss mitigation insurance products and the accounting treatment for those products. Insurance and reinsurance companies that we have acquired, or may acquire in the future, may have been or may become involved in these investigations and have lawsuits filed against them. Our involvement in any investigations and related lawsuits would cause us to incur legal costs and, if we were found to have violated any laws, we could be required to pay fines and damages, perhaps in material amounts.

If we fail to comply with applicable insurance laws and regulations, we may be subject to disciplinary action, damages, penalties or restrictions that may have a material adverse effect on our business.

Our subsidiaries may not have maintained or be able to maintain all required licenses and approvals or that their businesses fully comply with the laws and regulations to which they are subject, or the relevant insurance regulatory authority's interpretation of those laws and regulations. In addition, some regulatory authorities have relatively broad discretion to grant, renew or revoke licenses and approvals. If our subsidiaries do not have the requisite licenses and approvals or do not comply with applicable regulatory requirements, the insurance regulatory authorities may preclude or suspend our subsidiaries from carrying on some or all of their activities, place one of more of them into rehabilitation or liquidation proceedings, or impose monetary penalties on them. These types of actions may have a material adverse effect on our business and may preclude us from making future acquisitions or obtaining future engagements to manage companies and portfolios in run-off.

Exit and finality opportunities provided by solvent schemes of arrangement may not continue to be available, which may result in the diversion of our resources to settle policyholder claims for a substantially longer run-off period and increase the associated costs of run-off of our insurance and reinsurance subsidiaries.

With respect to our U.K., Bermudian and Australian insurance and reinsurance subsidiaries, we are able to pursue strategies to achieve complete finality and conclude the run-off of a company by promoting solvent schemes

of arrangement. Solvent schemes of arrangement have been a popular means of achieving financial certainty and finality for insurance and reinsurance companies incorporated or managed in the U.K., Bermuda and Australia, by making a one-time full and final settlement of an insurance and reinsurance company's liabilities to policyholders. A solvent scheme of arrangement is an arrangement between a company and its creditors or any class of them. For a solvent scheme of arrangement to become binding on the creditors, a meeting of each class of creditors must be called, with the permission of the local court, to consider and, if thought fit, approve the solvent scheme arrangement. The requisite statutory majority of creditors of not less than 75% in value and 50% in number of those creditors actually attending the meeting, either in person or by proxy, must vote in favor of a solvent scheme of arrangement. Once the solvent scheme of arrangement has been approved by the statutory majority of voting creditors of the company it requires the sanction of the local court at a hearing at which creditors may appear. The court must be satisfied that the scheme is fair.

In July 2005, the case of British Aviation Insurance Company, or BAIC, was the first solvent scheme of arrangement to fail to be sanctioned by the English High Court, following opposition by certain creditors. The primary reason for the failure of the BAIC arrangement was the failure to adequately provide for different classes of creditors to vote separately on the arrangement. It was thought at the time that the BAIC judgment might signal the decline of solvent schemes of arrangement. However, since BAIC, approximately 30 solvent schemes of arrangement have been sanctioned, such that the prevailing view is that the BAIC judgment was very fact-specific to the case in question, and solvent schemes generally should continue to be promoted and sanctioned as a viable means for achieving finality for our insurance and reinsurance subsidiaries. Following the BAIC judgment, insurance and reinsurance companies must now take more care in drafting a solvent scheme of arrangement to fit the circumstances of the company including the determination of the appropriate classes of creditors. Should a solvent scheme of arrangement promoted by any of our insurance or reinsurance subsidiaries fail to receive the requisite approval by creditors or sanction by the court, we will have to run off these liabilities until expiry, which may result in the diversion of our resources to settle policyholder claims for a substantially longer run-off period and increase the associated costs of run-off, resulting potentially in a material adverse effect on our financial condition and results of operations.

We are dependent on our executive officers, directors and other key personnel and the loss of any of these individuals could adversely affect our business.

Our success substantially depends on our ability to attract and retain qualified employees and upon the ability of our senior management and other key employees to implement our business strategy. We believe that there are only a limited number of available qualified personnel in the business in which we compete. We rely substantially upon the services of Dominic F. Silvester, our Chief Executive Officer, Paul J. O'Shea and Nicholas A. Packer, our Executive Vice Presidents and Joint Chief Operating Officers, Richard J. Harris, our Chief Financial Officer, John J. Oros, our Executive Chairman, and our subsidiaries' executive officers and directors to identify and consummate the acquisition of insurance and reinsurance companies and portfolios in run-off on favorable terms and to implement our run-off strategy. Each of Messrs. Silvester, O'Shea, Packer, Oros and Harris has an employment agreement with us. In addition to serving as our Executive Chairman, Mr. Oros is a managing director of J.C. Flowers & Co. LLC, an investment firm specializing in privately negotiated equity and equity related investments in the financial services industry. Mr. Oros splits his time commitment between us and J.C. Flowers & Co. LLC, with the expectation that Mr. Oros will spend approximately 50% of his working time with us; however, there is no minimum work commitment set forth in our employment agreement with Mr. Oros. J. Christopher Flowers, one of our directors and one of our largest shareholders, is a Managing Director of J.C. Flowers & Co. LLC. We believe that our relationships with Mr. Oros and Mr. Flowers and their affiliates provide us with access to additional acquisition and investment opportunities, as well as sources of co-investment for acquisition opportunities that we do not have the resources to consummate on our own. The loss of the services of any of our management or other key personnel, or the loss of the services of or our relationships with any of our directors, including in particular Mr. Oros and Mr. Flowers, or their affiliates, could have a material adverse effect on our business.

Further, if we were to lose any of our key employees in Bermuda, we would likely hire non-Bermudians to replace them. Under Bermuda law, non-Bermudians (other than spouses of Bermudians, holders of permanent

resident's certificates or holders of a working resident's certificate) may not engage in any gainful occupation in Bermuda without an appropriate governmental work permit. Work permits may be granted or extended by the Bermuda government upon showing that, after proper public advertisement in most cases, no Bermudian (or spouse of a Bermudian, holder of a permanent resident's certificate or holders of a working resident's certificate) is available who meets the minimum standard requirements for the advertised position. The Bermuda government's policy limits the duration of work permits to six years, with certain exemptions for key employees and job categories where there is a worldwide shortage of qualified employees.

Conflicts of interest might prevent us from pursuing desirable investment and business opportunities.

Our directors and executive officers may have ownership interests or other involvement with entities that could compete against us, either in the pursuit of acquisition targets or in general business operations. On occasion, we have also participated in transactions in which one or more of our directors or executive officers had an interest. In particular, we have invested, and expect to continue to invest, in or with entities that are affiliates of or otherwise related to Mr. Oros and/or Mr. Flowers. The interests of our directors and executive officers in such transactions or such entities may result in a conflict of interest for those directors and officers. The independent members of our board of directors review any material transactions involving a conflict of interest, and the board of directors will take other actions as may be deemed appropriate by them in particular circumstances, such as forming a special committee of independent directors or engaging third-party financial advisers to evaluate such transactions. We may not be able to pursue all advantageous transactions that we would otherwise pursue in the absence of a conflict should our board of directors be unable to determine that any such transaction is on terms as favorable as we could otherwise obtain in the absence of a conflict.

Our inability to successfully manage the companies and portfolios for which we have been engaged as a third-party manager may adversely impact our financial results and our ability to win future management engagements.

In addition to acquiring insurance and reinsurance companies in run-off, we have entered into several management agreements with third parties to manage their companies or portfolios of business in run-off. The terms of these management engagements typically include incentive payments to us based on our ability to successfully manage the run-off of these companies or portfolios. We may not be able to accomplish our objectives for these engagements as a result of unforeseen circumstances such as the length of time for claims to develop, the extent to which losses may exceed reserves, changes in the law that may require coverage of additional claims and losses, our ability to commute reinsurance policies on favorable terms and our ability to manage run-off expenses. If we are not successful in meeting our objectives for these management engagements, we may not receive incentive payments under our management agreements, which could adversely impact our financial results, and we may not win future engagements to provide these management services, which could slow the growth of our business. Consulting fees generated from management agreements amounted to $25.2 million, $31.9 million and $33.9 million for the years ended December 31, 2008, December 31, 2007 and December 31, 2006, respectively.

Our consulting business generates a significant amount of our total income, and the failure to develop new consulting relationships could materially adversely affect our results of operations and financial condition.

A significant amount of our existing consulting business is dependent on a relatively small number of our clients. While our senior management team has industry relationships that we believe will allow us to successfully identify and enter into agreements with new clients for our consulting business, we cannot assure you that we will be successful in entering into such agreements. A material reduction in consulting fees paid by one or more of our clients or the failure to identify new clients for our consulting services could have a material adverse effect on our business, financial condition and results of operations.

We may require additional capital in the future that may not be available or may only be available on unfavorable terms.

Our future capital requirements depend on many factors, including our ability to manage the run-off of our assumed policies and to establish reserves at levels sufficient to cover losses. We may need to raise additional funds through financings in the future. Any equity or debt financing, if available at all, may be on terms that are not favorable to us. In the case of equity financings, dilution to our shareholders could result, and, in any case, such securities may have rights, preferences and privileges that are senior to those of our already outstanding securities. If we cannot obtain adequate capital, our business, results of operations and financial condition could be adversely affected.

We are a holding company, and we are dependent on the ability of our subsidiaries to distribute funds to us.

We are a holding company and conduct substantially all of our operations through subsidiaries. Our only significant assets are the capital stock of our subsidiaries. As a holding company, we are dependent on distributions of funds from our subsidiaries to pay dividends, fund acquisitions or fulfill financial obligations in the normal course of our business. Our subsidiaries may not generate sufficient cash from operations to enable us to make dividend payments, acquire additional companies or insurance or reinsurance portfolios or fulfill other financial obligations. The ability of our insurance and reinsurance subsidiaries to make distributions to us is limited by applicable insurance laws and regulations, and the ability of all of our subsidiaries to make distributions to us may be restricted by, among other things, other applicable laws and regulations.

Risks Relating to Ownership of Our Ordinary Shares

Our stock price may experience volatility, thereby causing a potential loss of value to our investors.

The market price for our ordinary shares may fluctuate substantially due to, among other things, the following factors:

- announcements with respect to an acquisition or investment;
- changes in the value of our assets;
- our quarterly operating results;
- sales, or the possibility or perception of future sales, by our existing shareholders;
- changes in general conditions in the economy and the insurance industry;
- the financial markets; and
- adverse press or news announcements.

A few significant shareholders may influence or control the direction of our business. If the ownership of our ordinary shares continues to be highly concentrated, it may limit your ability and the ability of other shareholders to influence significant corporate decisions.

The interests of Messrs. Flowers, Silvester, Packer and O'Shea, Trident II, L.P. and its affiliates, or Trident, and Beck Mack & Oliver LLC, or Beck Mack, may not be fully aligned with your interests, and this may lead to a strategy that is not in your best interest. As of February 26, 2009, Messrs. Flowers, Silvester, Packer and O'Shea, Trident and Beck Mack beneficially owned approximately 11.36%, 16.83%, 5.36%, 5.47%, 9.99% and 7.58%, respectively, of our outstanding ordinary shares. Although they do not act as a group, Trident, Beck Mack and each of Messrs. Flowers, Silvester, Packer and O'Shea exercise significant influence over matters requiring shareholder approval, and their concentrated holdings may delay or deter possible changes in control of Enstar, which may reduce the market price of our ordinary shares. For further information on aspects of our bye-laws that may discourage changes of control of Enstar, see "— Some aspects of our corporate structure may discourage third-party takeovers and other transactions or prevent the removal of our board of directors and management" below.

Some aspects of our corporate structure may discourage third-party takeovers and other transactions or prevent the removal of our board of directors and management.

Some provisions of our bye-laws have the effect of making more difficult or discouraging unsolicited takeover bids from third parties or preventing the removal of our current board of directors and management. In particular, our bye-laws make it difficult for any U.S. shareholder or Direct Foreign Shareholder Group (a shareholder or group of commonly controlled shareholders of Enstar that are not U.S. persons) to own or control ordinary shares that constitute 9.5% or more of the voting power of all of our ordinary shares. The votes conferred by such shares will be reduced by whatever amount is necessary so that after any such reduction the votes conferred by such shares will constitute 9.5% of the total voting power of all ordinary shares entitled to vote generally. The primary purpose of this restriction is to reduce the likelihood that we will be deemed a "controlled foreign corporation" within the meaning of Internal Revenue Code of 1986, as amended, or the Code, for U.S. federal tax purposes. However, this limit may also have the effect of deterring purchases of large blocks of our ordinary shares or proposals to acquire us, even if some or a majority of our shareholders might deem these purchases or acquisition proposals to be in their best interests. In addition, our bye-laws provide for a classified board, whose members may be removed by our shareholders only for cause by a majority vote, and contain restrictions on the ability of shareholders to nominate persons to serve as directors, submit resolutions to a shareholder vote and request special general meetings.

These bye-law provisions make it more difficult to acquire control of us by means of a tender offer, open market purchase, proxy contest or otherwise. These provisions may encourage persons seeking to acquire control of us to negotiate with our directors, which we believe would generally best serve the interests of our shareholders. However, these provisions may have the effect of discouraging a prospective acquirer from making a tender offer or otherwise attempting to obtain control of us. In addition, these bye-law provisions may prevent the removal of our current board of directors and management. To the extent these provisions discourage takeover attempts, they may deprive shareholders of opportunities to realize takeover premiums for their shares or may depress the market price of the shares.

The market value of our ordinary shares may decline if large numbers of shares are sold, including pursuant to existing registration rights.

We have entered into a registration rights agreement with Trident, Mr. Flowers and Mr. Silvester and certain other of our shareholders. This agreement provides that Trident, Mr. Flowers and Mr. Silvester may request that we effect a registration statement under the Securities Act of certain of their ordinary shares. In addition, they and the other shareholders party to the agreement have "piggyback" registration rights, which may result in their participation in an offering initiated by us. As of the date of this filing, an aggregate of 4,793,873 ordinary shares held by Trident, Mr. Flowers and Mr. Silvester are subject to the agreement. By exercising their registration rights, these holders could cause a large number of ordinary shares to be registered and generally become freely tradable without restrictions under the Securities Act immediately upon the effectiveness of the registration. Our ordinary shares have in the past been, and may from time to time continue to be, thinly traded, and significant sales, pursuant to the existing registration rights or otherwise, could adversely affect the market price for our ordinary shares and impair our ability to raise capital through offerings of our equity securities.

Because we are incorporated in Bermuda, it may be difficult for shareholders to serve process or enforce judgments against us or our directors and officers.

We are a Bermuda company. In addition, certain of our officers and directors reside in countries outside the United States. All or a substantial portion of our assets and the assets of these officers and directors are or may be located outside the United States. Investors may have difficulty effecting service of process within the United States on our directors and officers who reside outside the United States or recovering against us or these directors and officers on judgments of U.S. courts based on civil liabilities provisions of the U.S. federal securities laws even though we have appointed an agent in the United States to receive service of process.

Further, no claim may be brought in Bermuda against us or our directors and officers for violation of U.S. federal securities laws, as such laws do not have force of law in Bermuda. A Bermuda court may, however,

impose civil liability, including the possibility of monetary damages, on us or our directors and officers if the facts alleged in a complaint constitute or give rise to a cause of action under Bermuda law.

We believe that there is doubt as to whether the courts of Bermuda would enforce judgments of U.S. courts obtained in actions against us or our directors and officers, as well as our independent auditors, predicated upon the civil liability provisions of the U.S. federal securities laws or original actions brought in Bermuda against us or these persons predicated solely upon U.S. federal securities laws. Further, there is no treaty in effect between the United States and Bermuda providing for the enforcement of judgments of U.S. courts, and there are grounds upon which Bermuda courts may not enforce judgments of U.S. courts.

Some remedies available under the laws of U.S. jurisdictions, including some remedies available under the U.S. federal securities laws, may not be allowed in Bermuda courts as contrary to that jurisdiction's public policy. Because judgments of U.S. courts are not automatically enforceable in Bermuda, it may be difficult for you to recover against us based upon such judgments.

Shareholders who own our ordinary shares may have more difficulty in protecting their interests than shareholders of a U.S. corporation.

The Bermuda Companies Act, or the Companies Act, which applies to us, differs in certain material respects from laws generally applicable to U.S. corporations and their shareholders. As a result of these differences, shareholders who own our shares may have more difficulty protecting their interests than shareholders who own shares of a U.S. corporation. For example, class actions and derivative actions are generally not available to shareholders under Bermuda law. Under Bermuda law, only shareholders holding 5% or more of our outstanding ordinary shares or numbering 100 or more are entitled to propose a resolution at our general meeting.

We do not intend to pay cash dividends on our ordinary shares.

We do not intend to pay a cash dividend on our ordinary shares. Rather, we intend to use any retained earnings to fund the development and growth of our business. From time to time, our board of directors will review our alternatives with respect to our earnings and seek to maximize value for our shareholders. In the future, we may decide to commence a dividend program for the benefit of our shareholders. Any future determination to pay dividends will be at the discretion of our board of directors and will be limited by our position as a holding company that lacks direct operations, the results of operations of our subsidiaries, our financial condition, cash requirements and prospects and other factors that our board of directors deems relevant. In addition, there are significant regulatory and other constraints that could prevent us from paying dividends in any event. As a result, capital appreciation, if any, on our ordinary shares may be your sole source of gain for the foreseeable future.

Our board of directors may decline to register a transfer of our ordinary shares under certain circumstances.

Our board of directors may decline to register a transfer of ordinary shares under certain circumstances, including if it has reason to believe that any non-de minimis adverse tax, regulatory or legal consequences to us, any of our subsidiaries or any of our shareholders may occur as a result of such transfer. Further, our bye-laws provide us with the option to repurchase, or to assign to a third party the right to purchase, the minimum number of shares necessary to eliminate any such non-de minimis adverse tax, regulatory or legal consequence. In addition, our board of directors may decline to approve or register a transfer of shares unless all applicable consents, authorizations, permissions or approvals of any governmental body or agency in Bermuda, the United States or any other applicable jurisdiction required to be obtained prior to such transfer shall have been obtained. The proposed transferor of any shares will be deemed to own those shares for dividend, voting and reporting purposes until a transfer of such shares has been registered on our shareholders register.

It is our understanding that while the precise form of the restrictions on transfer contained in our bye-laws is untested, as a matter of general principle, restrictions on transfers are enforceable under Bermuda law and are not uncommon. These restrictions on transfer may also have the effect of delaying, deferring or preventing a change in control.

Risks Relating to Taxation

We might incur unexpected U.S., U.K. or Australia tax liabilities if companies in our group that are incorporated outside of those jurisdictions are determined to be carrying on a trade or business there.

We and a number of our subsidiaries are companies formed under the laws of Bermuda or other jurisdictions that do not impose income taxes; it is our contemplation that these companies will not incur substantial income tax liabilities from their operations. Because the operations of these companies generally involve, or relate to, the insurance or reinsurance of risks that arise in higher tax jurisdictions, such as the United States, United Kingdom and Australia, it is possible that the taxing authorities in those jurisdictions may assert that the activities of one or more of these companies creates a sufficient nexus in that jurisdiction to subject the company to income tax there. There are uncertainties in how the relevant rules apply to insurance businesses, and in our eligibility for favorable treatment under applicable tax treaties. Accordingly, it is possible that we could incur substantial unexpected tax liabilities.

U.S. persons who own our ordinary shares might become subject to adverse U.S. tax consequences as a result of "related person insurance income," or RPII, if any, of our non-U.S. insurance company subsidiaries.

If the RPII rules of the Code were to apply to us, a U.S. person who owns our ordinary shares directly or indirectly through foreign entities on the last day of the taxable year would be required to include in income for U.S. federal income tax purposes the shareholder's pro rata share of our non-U.S. subsidiaries' RPII for the entire taxable year, determined as if that RPII were distributed proportionately to the U.S. shareholders at that date regardless whether any actual distribution is made. In addition, any RPII that is includible in the income of a U.S. tax-exempt organization would generally be treated as unrelated business taxable income. Although we and our subsidiaries intend to generally operate in a manner so as to qualify for certain exceptions to the RPII rules, there can be no assurance that these exceptions will be available. Accordingly, there can be no assurance that U.S. Persons who own our ordinary shares will not be required to recognize gross income inclusions attributable to RPII.

In addition, the RPII rules provide that if a shareholder who is a U.S. person disposes of shares in a foreign insurance company that has RPII and in which U.S. persons collectively own 25% or more of the shares, any gain from the disposition will generally be treated as dividend income to the extent of the shareholder's share of the corporation's undistributed earnings and profits that were accumulated during the period that the shareholder owned the shares (whether or not those earnings and profits are attributable to RPII). Such a shareholder would also be required to comply with certain reporting requirements, regardless of the amount of shares owned by the shareholder. These rules should not apply to dispositions of our ordinary shares because we will not be directly engaged in the insurance business. The RPII rules, however, have not been interpreted by the courts or the U.S. Internal Revenue Service, or the IRS, and regulations interpreting the RPII rules exist only in proposed form. Accordingly, there is no assurance that our views as to the inapplicability of these rules to a disposition of our ordinary shares will be accepted by the IRS or a court.

U.S. persons who own our ordinary shares would be subject to adverse tax consequences if we or one or more of our non-U.S. subsidiaries were considered a "passive foreign investment company," or PFIC, for U.S. federal income tax purposes.

We believe that we and our non-U.S. subsidiaries will not be PFICs for U.S. federal income purposes for the current year. Moreover, we do not expect to conduct our activities in a manner that will cause us or any of our non-U.S. subsidiaries to become a PFIC in the future. However, there can be no assurance that the IRS will not challenge this position or that a court will not sustain such challenge. Accordingly, it is possible that we or one or more of our non-U.S. subsidiaries might be deemed a PFIC by the IRS or a court for the current year or any future year. If we or one or more of our non-U.S. subsidiaries were a PFIC, it could have material adverse tax consequences for an investor that is subject to U.S. federal income taxation, including subjecting the investor to a substantial acceleration and/or increase in tax liability. There are currently no regulations regarding the application of the PFIC provisions of the Code to an insurance company, so the application of those provisions to insurance companies remains unclear in certain respects.

We may become subject to taxes in Bermuda after March 28, 2016.

The Bermuda Minister of Finance, under the Exempted Undertakings Tax Protection Act 1966, as amended, of Bermuda, has given us and each of our Bermuda subsidiaries an assurance that if any legislation is enacted in Bermuda that would impose tax computed on profits or income, or computed on any capital asset, gain or appreciation, or any tax in the nature of estate duty or inheritance tax, then the imposition of any such tax will not be applicable to us or our Bermuda subsidiaries or any of our or their respective operations, shares, debentures or other obligations until March 28, 2016. Given the limited duration of the Minister of Finance's assurance, we cannot be certain that we will not be subject to any Bermuda tax after March 28, 2016. In the event that we become subject to any Bermuda tax after such date, it could have a material adverse effect on our financial condition and results of operations.

Changes in U.S. federal income tax law could materially affect us.

Legislation has been introduced in the U.S. Congress intended to eliminate some perceived tax advantages of companies (including insurance companies) that have legal domiciles outside the United States but have certain U.S. connections. For example, legislation has been introduced in Congress to limit the deductibility of reinsurance premiums paid by U.S. companies to non-U.S. affiliates. It is possible that this or similar legislation could be introduced in and enacted by the current Congress or future Congresses and could have an adverse impact on us.

ITEM 1B. *UNRESOLVED STAFF COMMENTS*

Not applicable

ITEM 2. *PROPERTIES*

We lease office space in the locations set forth below. We believe that this office space is sufficient for us to conduct our operations for the foreseeable future.

Entity	Location	Square Feet	Lease Expiration
Enstar Limited	Hamilton, Bermuda	8,250	August 7, 2009
Enstar (EU) Limited	Guildford, England	22,712	August 21, 2011
Enstar (EU) Limited	London, England	3,391	March 24, 2015
River Thames Insurance Company	London, England	6,329	March 24, 2015
Enstar Australia Limited	Sydney, Australia	8,094	April 30, 2013
Shelbourne Group Limited	London, England	600	March 31, 2009
Marlon Management Services Limited	London, England	2,192	March 24, 2011
Enstar (US) Inc.	Tampa, FL	8,859	October 31, 2011
Enstar (US) Inc.	Warwick, RI	3,000	May 31, 2011
Enstar USA, Inc.	Montgomery, AL	2,500	December 31, 2012

We also own, through various of our subsidiaries, the following properties: 1) two apartments in Guildford, England; 2) a building in Norwich, U.K. and 3) an apartment in New York, NY.

See Note 18 to our consolidated financial statements for further discussion of our lease commitments for real property.

ITEM 3. *LEGAL PROCEEDINGS*

We are, from time to time, involved in various legal proceedings in the ordinary course of business, including litigation regarding claims. We do not believe that the resolution of any currently pending legal proceedings, either individually or taken as a whole, will have a material adverse effect on our business, results of operations or financial condition. Nevertheless, we cannot assure you that lawsuits, arbitrations or other litigation will not have a material adverse effect on our business, financial condition or results of operations. We anticipate that, similar to the rest of the insurance and reinsurance industry, we will continue to be subject to litigation and arbitration proceedings in the ordinary course of business, including litigation generally related to the scope of coverage with respect to asbestos and environmental claims. There can be no assurance that any such future litigation will not have a material adverse effect on our business, financial condition or results of operations.

In April 2008, we, Enstar US, Inc., or Enstar US, Dukes Place Limited and certain affiliates of Dukes Place, or, collectively, Dukes Place, were named as defendants in a lawsuit filed in the United States District Court for the Southern District of New York by National Indemnity Company, or NICO, an indirect subsidiary of Berkshire Hathaway. The complaint alleges, among other things, that Dukes Place, we and Enstar US: (i) interfered with the rights of NICO as reinsurer under reinsurance agreements entered into between NICO and each of Stonewall and Seaton, two Rhode Island domiciled insurers that are indirect subsidiaries of Dukes Place, and (ii) breached certain duties owed to NICO under management agreements between Enstar US and each of Stonewall and Seaton. The suit was filed shortly after Virginia Holdings Ltd., our indirect subsidiary, or Virginia, completed a hearing before the Rhode Island Department of Business Regulation as part of Virginia's application to buy a 44.4% interest in the insurers from Dukes Place. Virginia completed that acquisition on June 13, 2008. The suit does not seek a stated amount of damages. Our management and our U.S. legal counsel believe the claims in the suit are without merit and will not have a material impact on us or our subsidiaries. On July 23, 2008, we and Enstar US filed a motion to dismiss Count I (relating to breach of fiduciary duty), Count III (relating to breach of contract) and Count V (relating to inducing breach of contract), in each case for failure to state a claim upon which relief can be granted. Subsequently, the parties entered into a Stipulation and Order filed with the Court on October 7, 2008, by which (i) NICO agreed to dismiss Count V of its Complaint with prejudice, (ii) the defendants agreed to withdraw their motion to dismiss Counts I and III without prejudice, reserving all of their rights and defenses to challenge these claims on the merits, and (iii) NICO agreed to extend the defendants' time to file an answer and counterclaim. On November 5, 2008, we, Enstar US and Dukes Place filed an answer to NICO's complaint and Dukes Place asserted certain counterclaims against NICO. On January 12, 2009, NICO filed a motion to dismiss certain of the counterclaims, along with a motion for summary judgment addressed to the counterclaims. We, Enstar US and Dukes Place filed papers in opposition to NICO's motion on February 23, 2009. The Court has advised that it will decide these motions on submission without hearing any oral arguments. Our management intends to vigorously defend both us and Enstar US against the claims.

ITEM 4. *SUBMISSION OF MATTERS TO A VOTE OF SECURITY HOLDERS*

Not applicable

PART II

ITEM 5. *MARKET FOR THE REGISTRANT'S COMMON EQUITY, RELATED STOCKHOLDER MATTERS AND ISSUER PURCHASES OF EQUITY SECURITIES*

On January 31, 2007, we completed the merger, or the Merger, of CWMS Subsidiary Corp., a Georgia corporation and our wholly-owned subsidiary, with and into The Enstar Group Inc., a Georgia corporation, or EGI. As a result of the Merger, EGI, renamed Enstar USA, Inc., is now our wholly-owned subsidiary.

Our ordinary shares trade on the Nasdaq Global Select Market under the ticker symbol ESGR. Prior to the completion of the Merger, EGI's common stock traded on the Nasdaq Global Select Market under the ticker symbol ESGR.

Because our ordinary shares did not commence trading until after the Merger, the following table reflects the range of high and low selling prices by quarter of Enstar's shares for the period February 1, 2007 to December 31, 2008 and of EGI's shares for the month of January 2007, as reported on NASDAQ:

	2008		2007	
	High	Low	High	Low
First Quarter	$121.98	$90.00	$110.00	$ 95.00
Second Quarter	$123.17	$82.95	$123.99	$ 97.60
Third Quarter	$135.02	$87.50	$134.28	$101.05
Fourth Quarter	$101.50	$41.20	$146.81	$103.25

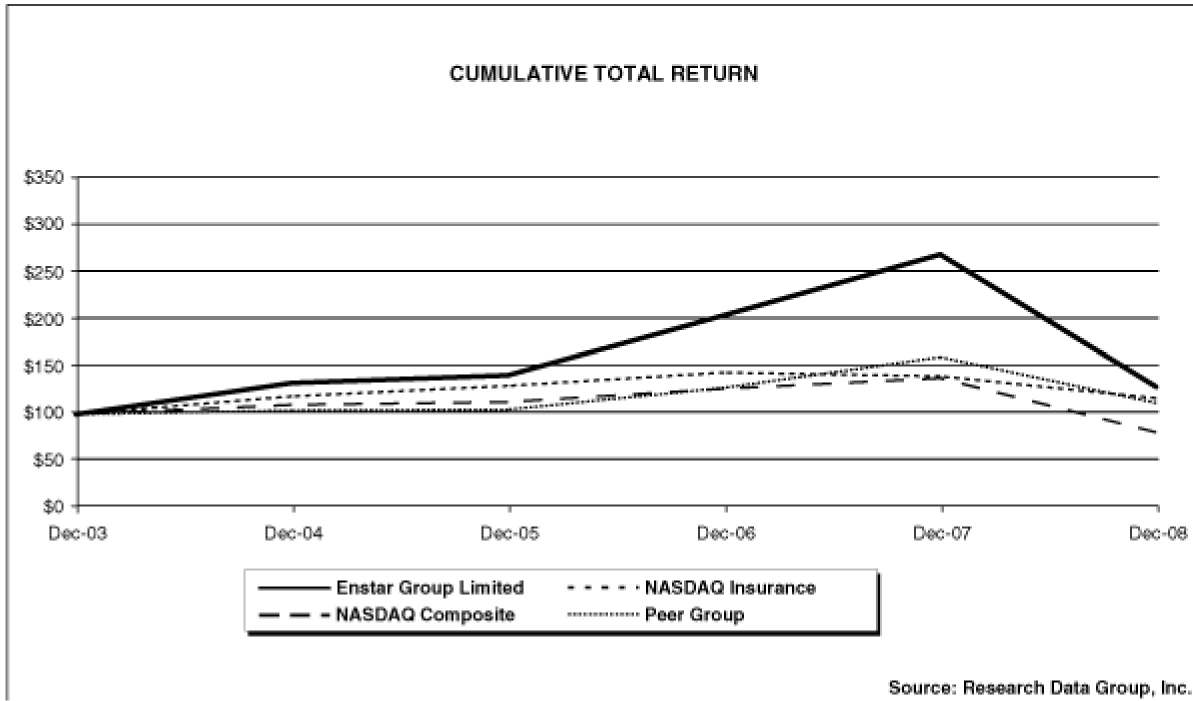
On March 4, 2009 the number of holders of record of our ordinary shares was 2,397. This figure does not represent the actual number of beneficial owners of our ordinary shares because shares are frequently held in "street name" by securities dealers and others for the benefit of beneficial owners who may vote the shares.

We are a holding company and have no direct operations. Our ability to pay dividends or distributions depends almost exclusively on the ability of our subsidiaries to pay dividends to us. Under applicable law, our subsidiaries may not declare or pay a dividend if there are reasonable grounds for believing that they are, or would after the payment be, unable to pay their liabilities as they become due, or the realizable value of their assets would thereby be less than the aggregate of their liabilities and their issued share capital and share premium accounts. Additional restrictions apply to our insurance and reinsurance subsidiaries. We do not intend to pay a dividend on our ordinary shares. Rather, we intend to reinvest any earnings back into the company. For a further description of the restrictions on the ability of our subsidiaries to pay dividends, see "Risk Factors — Risks Relating to Ownership of Our Ordinary Shares — We do not intend to pay cash dividends on our ordinary shares" and "Business — Regulation" beginning on pages 51 and 26, respectively.

On January 30, 2007, EGI paid a one-time $3.00 per share cash dividend to the holders of its common stock.

Because our ordinary shares did not commence trading until after the Merger, the graph below reflects the cumulative shareholder return on the common stock of EGI, our predecessor, compared to the cumulative shareholder return of the NASDAQ Composite Index (the Nasdaq index for U.S. companies used in prior years was discontinued in 2006), the Nasdaq Insurance Index, and a peer group index historically used by EGI, or the Peer Group Index, through January 31, 2007. Thereafter, the graph below reflects the same comparison for Enstar. The graph reflects the investment of $100 on December 31, 2003 (assuming the reinvestment of dividends) in EGI common stock, the NASDAQ Composite Index, the Nasdaq Insurance Index, and the Peer Group Index.

The Peer Group Index used in the graph below consists of Annuity and Life Re Holdings, Berkshire Hathaway Inc. (Class A), ESG Re Ltd., Everest Re Group Ltd., IPC Holdings Ltd., Max Capital Group Ltd., Odyssey Re Holdings Corp., Argo Group International Holdings Ltd. (fka PXRE Group Ltd.), RenaissanceRe Holdings Ltd. and Transatlantic Holdings, Inc. We have decided to move away from the Peer Group Index because we believe that a broader-based index of exchange-traded companies within our industry is a more appropriate basis for comparison. Therefore, going forward, we have selected the Nasdaq Insurance Index, which is a published industry index, to replace the Peer Group Index, as we believe it provides a better reference point for investors when evaluating our stock performance. We are one of 52 companies currently included in the Nasdaq Insurance Index.



	Dec-03	Dec-04	Dec-05	Dec-06	Dec-07	Dec-08
The Enstar Group, Inc./Enstar Group Limited	$100	$133	$141	$204	$268	$129
NASDAQ Composite	$100	$110	$113	$127	$138	$ 81
NASDAQ Insurance	$100	$119	$130	$144	$140	$117
Old Peer Group Index (10 stocks)	$100	$104	$105	$128	$160	$112

ITEM 6. *SELECTED FINANCIAL DATA*

The following selected historical financial information for each of the past five fiscal years has been derived from our audited historical financial statements. This information is only a summary and should be read in conjunction with "Management's Discussion and Analysis of Financial Condition and Results of Operations" and our audited consolidated financial statements and notes thereto included elsewhere in this annual report. The results of operations for past accounting periods are not necessarily indicative of the results to be expected for any future accounting period.

Since our inception, we have made several acquisitions which impact the comparability between periods of the information reflected below. See "Business — Recent Transactions," beginning on page 5 for information about our acquisitions.

	Years Ended December 31,				
	2008	2007	2006	2005	2004
	(in thousands of U.S. dollars)				
Summary Consolidated Statements of Earnings Data:					
Consulting fees	$ 25,151	$ 31,918	$ 33,908	$ 22,006	$ 23,703
Net investment income and net realized losses/gains	24,946	64,336	48,001	29,504	10,502
Net reduction in loss and loss adjustment expenses liabilities	242,104	24,482	31,927	96,007	13,706
Total other expenses	(194,837)	(67,904)	(49,838)	(57,299)	(35,160)
Minority interest	(50,808)	(6,730)	(13,208)	(9,700)	(3,097)
Share of income of partly-owned companies	(201)	—	518	192	6,881
Net earnings from continuing operations	46,355	46,102	51,308	80,710	16,535
Extraordinary gain - Negative goodwill (net of minority interest)	35,196	15,683	31,038	0	21,759
Net earnings	$ 81,551	$ 61,785	$ 82,346	$ 80,710	$ 38,294
Per Share Data(1)(2):					
Earnings per share before extraordinary gain — basic	$ 3.67	$ 3.93	$ 5.21	$ 8.29	$ 1.72
Extraordinary gain per share — basic	2.78	1.34	3.15	—	2.26
Earnings per share — basic	$ 6.45	$ 5.27	$ 8.36	$ 8.29	$ 3.98
Earnings per share before extraordinary gain — diluted	$ 3.59	$ 3.84	$ 5.15	$ 8.14	$ 1.71
Extraordinary gain per share — diluted	2.72	1.31	3.11	—	2.24
Earnings per share — diluted	$ 6.31	$ 5.15	$ 8.26	$ 8.14	$ 3.95
Weighted average shares outstanding — basic	12,638,333	11,731,908	9,857,914	9,739,560	9,618,905
Weighted average shares outstanding — diluted	12,921,475	12,009,683	9,966,960	9,918,823	9,694,528
Cash dividends paid per share	—	—	$ 2.92	—	$ 0.81

	Years Ended December 31,				
	2008	2007	2006	2005	2004
	(in thousands of U.S. dollars)				
Summary Balance Sheet Data:					
Total investments	$1,278,055	$ 637,196	$ 747,529	$ 539,568	$ 591,635
Cash and cash equivalents	2,209,873	1,163,333	513,563	345,329	350,456
Reinsurance balances receivable	672,696	465,277	408,142	250,229	341,627
Total assets	4,358,151	2,417,143	1,774,252	1,199,963	1,347,853
Loss and loss adjustment expense liabilities	2,798,287	1,591,449	1,214,419	806,559	1,047,313
Loans payable	391,534	60,227	62,148	—	—
Total shareholders' equity	615,209	450,599	318,610	260,906	177,338
Book Value per Share(3):					
Basic	$ 46.14	$ 37.80	$ 32.15	$ 26.79	$ 18.44
Diluted	$ 45.18	$ 36.92	$ 31.85	$ 26.30	$ 18.29

(1) Earnings per share is a measure based on net earnings divided by weighted average ordinary shares outstanding. Basic earnings per share is defined as net earnings available to ordinary shareholders divided by the weighted average number of ordinary shares outstanding for the period, giving no effect to dilutive securities. Diluted earnings per share is defined as net earnings available to ordinary shareholders divided by the weighted average number of shares and share equivalents outstanding calculated using the treasury stock method for all potentially dilutive securities. When the effect of dilutive securities would be anti-dilutive, these securities are excluded from the calculation of diluted earnings per share.

(2) The weighted average ordinary shares outstanding shown for the years ended December 31, 2007, 2006, 2005 and 2004 reflect the conversion of Class A, B, C and D shares to ordinary shares on January 31, 2007, as part of the recapitalization completed in connection with the Merger, as if the conversion occurred on January 1, 2007, 2006, 2005 and 2004. As a result, both the book value per share and the earnings per share calculations for 2004, 2005 and 2006, previously reported, have been amended to reflect this change.

(3) Basic book value per share is defined as total shareholders' equity available to ordinary shareholders divided by the number of ordinary shares outstanding as at the end of the period, giving no effect to dilutive securities. Diluted book value per share is defined as total shareholders' equity available to ordinary shareholders divided by the number of ordinary shares and ordinary share equivalents outstanding at the end of the period, calculated using the treasury stock method for all potentially dilutive securities. When the effect of dilutive securities would be anti-dilutive, these securities are excluded from the calculation of diluted book value per share.

ITEM 7. *MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS*

Cautionary Statement Regarding Forward-Looking Statements

This annual report and the documents incorporated by reference contain statements that constitute "forward-looking statements" within the meaning of Section 21E of the Securities Exchange Act of 1934, as amended, or the Exchange Act, with respect to our financial condition, results of operations, business strategies, operating efficiencies, competitive positions, growth opportunities, plans and objectives of our management, as well as the markets for our ordinary shares and the insurance and reinsurance sectors in general. Statements that include words such as "estimate," "project," "plan," "intend," "expect," "anticipate," "believe," "would," "should," "could," "seek," and similar statements of a future or forward-looking nature identify forward-looking statements for purposes of the federal securities laws or otherwise. All forward-looking statements are necessarily estimates or expectations, and not statements of historical fact, reflecting the best judgment of our management and involve a number of risks and uncertainties that could cause actual results to differ materially from those suggested by the forward-looking statements. These forward-looking statements should, therefore, be considered in light of various important factors, including those set forth in and incorporated by reference in this annual report.

Factors that could cause actual results to differ materially from those suggested by the forward-looking statements include:

- risks associated with implementing our business strategies and initiatives;
- the adequacy of our loss reserves and the need to adjust such reserves as claims develop over time;
- risks relating to the availability and collectability of our reinsurance;
- changes in economic conditions, including interest rates, inflation, currency exchange rates, equity markets and credit conditions including current market conditions and the instability in the global credit markets, which could affect our investment portfolio, our ability to finance future acquisitions and our profitability;
- losses due to foreign currency exchange rate fluctuations;
- tax, regulatory or legal restrictions or limitations applicable to us or the insurance and reinsurance business generally;
- increased competitive pressures, including the consolidation and increased globalization of reinsurance providers;
- emerging claim and coverage issues;
- lengthy and unpredictable litigation affecting assessment of losses and/or coverage issues;
- loss of key personnel;
- changes in our plans, strategies, objectives, expectations or intentions, which may happen at any time at management's discretion;
- operational risks, including system or human failures;
- risks that we may require additional capital in the future which may not be available or may be available only on unfavorable terms;
- the risk that ongoing or future industry regulatory developments will disrupt our business, or mandate changes in industry practices in ways that increase our costs, decrease our revenues or require us to alter aspects of the way we do business;
- changes in Bermuda law or regulation or the political stability of Bermuda;

- changes in tax laws or regulations applicable to us or our subsidiaries, or the risk that we or one of our non-U.S. subsidiaries become subject to significant, or significantly increased, income taxes in the United States or elsewhere; and
- changes in accounting policies or practices.

The factors listed above should not be construed as exhaustive. Certain of these factors are described in more detail in "Item 1A. Risk Factors" above. We undertake no obligation to release publicly the results of any future revisions we may make to forward-looking statements to reflect events or circumstances after the date hereof or to reflect the occurrence of unanticipated events.

The following discussion and analysis of our financial condition and results of operations should be read in conjunction with our consolidated financial statements and the related notes included elsewhere in this annual report. Some of the information contained in this discussion and analysis or included elsewhere in this annual report, including information with respect to our plans and strategy for its business, includes forward-looking statements that involve risks, uncertainties and assumptions. Our actual results and the timing of events could differ materially from those anticipated by these forward-looking statements as a result of many factors, including those discussed under "Risk Factors," "Forward-Looking Statements" and elsewhere in this annual report.

Business Overview

We were formed in August 2001 under the laws of Bermuda to acquire and manage insurance and reinsurance companies in run-off, and to provide management, consulting and other services to the insurance and reinsurance industry.

On January 31, 2007, we completed the merger, or the Merger, of CWMS Subsidiary Corp, a Georgia corporation and our wholly-owned subsidiary, with and into The Enstar Group, Inc., a Georgia corporation. As a result of the Merger, The Enstar Group, Inc., renamed Enstar USA, Inc., is now our wholly-owned subsidiary. The Enstar Group, Inc. owned an approximate 32% economic and a 50% voting interest in us prior to the Merger.

Since our formation, we, through our subsidiaries, have completed several acquisitions of insurance and reinsurance companies and are now administering those businesses in run-off. In 2006, we completed 3 acquisitions of companies having combined total net assets of $222.9 million. In 2007, we completed 5 acquisitions of companies having combined total net assets of $625.3 million. In 2008, we completed 6 acquisitions of companies having combined total net assets of $1.02 billion. In addition we completed the following during 2008: 1) on June 13, 2008 we completed the acquisition of 44.4% of the outstanding capital stock of Stonewall Acquisition Corporation, the parent of two Rhode Island-domiciled insurers, Stonewall and Seaton; and 2) on October 27, 2008 we acquired the 49.9% of the shares of Hillcot Re Ltd. that we did not previously own. We derive our net earnings from the ownership and management of these companies primarily by settling insurance and reinsurance claims below the recorded loss reserves and from returns on the portfolio of investments retained to pay future claims. In addition, we provide management and consultancy services, claims inspection services and reinsurance collection services to our affiliates and third-party clients for both fixed and success-based fees.

In the primary (or direct) insurance business, the insurer assumes risk of loss from persons or organizations that are directly subject to the given risks. Such risks may relate to property, casualty, life, accident, health, financial or other perils that may arise from an insurable event. In the reinsurance business, the reinsurer agrees to indemnify an insurance or reinsurance company, referred to as the ceding company, against all or a portion of the insurance risks arising under the policies the ceding company has written or reinsured. When an insurer or reinsurer stops writing new insurance business, either entirely or with respect to a particular line of business, the insurer, reinsurer, or the line of discontinued business is in run-off.

In recent years, the insurance industry has experienced significant consolidation. As a result of this consolidation and other factors, the remaining participants in the industry often have portfolios of business that are either inconsistent with their core competency or provide excessive exposure to a particular risk or segment of the market (i.e., property/casualty, asbestos, environmental, director and officer liability, etc.). These non-core and/or discontinued portfolios are often associated with potentially large exposures and lengthy time periods before resolution of the last remaining insured claims resulting in significant uncertainty to the insurer or reinsurer

covering those risks. These factors can distract management, drive up the cost of capital and surplus for the insurer or reinsurer, and negatively impact the insurer's or reinsurer's credit rating, which makes the disposal of the unwanted company or portfolio an attractive option. Alternatively, the insurer may wish to maintain the business on its balance sheet, yet not divert significant management attention to the run-off of the portfolio. The insurer or reinsurer, in either case, is likely to engage a third party, such as us, that specializes in run-off management to purchase the company or portfolio of the company, or to manage the company or portfolio in run-off.

In the sale of a run-off company, a purchaser, such as us, typically pays a discount to the book value of the company based on the risks assumed and the relative value to the seller of no longer having to manage the company in run-off. Such a transaction can be beneficial to the seller because it receives an up-front payment for the company, eliminates the need for its management to devote any attention to the disposed company and removes the risk that the established reserves related to the run-off business may prove to be inadequate. The seller is also able to redeploy its management and financial resources to its core businesses.

Alternatively, if the insurer or reinsurer hires a third party, such as us, to manage its run-off business, the insurer or reinsurer will, unlike in a sale of the business, receive little or no cash up front. Instead, the management arrangement may provide that the insurer or reinsurer will retain the profits, if any, derived from the run-off with certain incentive payments allocated to the run-off manager. By hiring a run-off manager, the insurer or reinsurer can outsource the management of the run-off business to experienced and capable individuals, while allowing its own management team to focus on the insurer's or reinsurer's core businesses. Our desired approach to managing run-off business is to align our interests with the interests of the owners through both fixed management fees and certain incentive payments. Under certain management arrangements to which we are a party, however, we receive only a fixed management fee and do not receive any incentive payments.

Following the purchase of a run-off company or the engagement to manage a run-off company or portfolio of business, it is incumbent on the new owner or manager to conduct the run-off in a disciplined and professional manner in order to efficiently discharge liabilities associated with the business while preserving and maximizing its assets. Our approach to managing our acquired companies in run-off as well as run-off companies or portfolios of businesses on behalf of third-party clients includes negotiating with third-party insureds and reinsureds to commute their insurance or reinsurance agreement (sometimes called policy buy-backs) for an agreed upon up-front payment by us, or the third-party client, and to more efficiently manage payment of insurance and reinsurance claims. We attempt to commute policies with direct insureds or reinsureds in order to eliminate uncertainty over the amount of future claims. We also attempt, where appropriate, to negotiate favorable commutations with reinsurers by securing the receipt of a lump-sum settlement from the reinsurer in complete satisfaction of the reinsurer's liability in respect of any future claims. We, or our third-party client, are then fully responsible for any claims in the future. We typically invest proceeds from reinsurance commutations with the expectation that such investments will produce income, which, together with the principal, will be sufficient to satisfy future obligations with respect to the acquired company or portfolio.

With respect to our U.K., Bermuda and Australian insurance and reinsurance subsidiaries, we are able to pursue strategies to achieve complete finality and conclude the run-off of a company by promoting solvent schemes of arrangement. Solvent schemes of arrangement, or a Solvent Scheme, have been a popular means of achieving financial certainty and finality, for insurance and reinsurance companies incorporated or managed in the U.K. and Bermuda by making a one-time full and final settlement of an insurance and reinsurance company's liabilities to policyholders. Such a Solvent Scheme is an arrangement between a company and its creditors or any class of them. For a Solvent Scheme to become binding on the creditors, a meeting of each class of creditors must be called, with the permission of the local court, to consider and, if thought fit, approve the Solvent Scheme. The requisite statutory majority of creditors of not less than 75% in value and 50% in number of those creditors actually attending the meeting, either in person or by proxy, must vote in favor of a Solvent Scheme. Once a Solvent Scheme has been approved by the statutory majority of voting creditors of the company it requires the sanction of the local court. While a Solvent Scheme provides an alternative exit strategy for run-off companies it is not our strategy to make such acquisitions with this strategy solely in mind. Our preferred approach is to generate earnings from the disciplined and professional management of acquired run-off companies and then consider exit strategies, including a Solvent Scheme, when the majority of the run-off is complete. To understand risks associated with this strategy, see "Risk Factors — Risks Relating to Our Business— Exit and finality opportunities provided by solvent schemes

of arrangement may not continue to be available, which may result in the diversion of our resources to settle policyholder claims for a substantially longer run-off period and increase the associated costs of run-off of our insurance and reinsurance subsidiaries."

We manage our business through two operating segments: reinsurance and consulting.

Our reinsurance segment comprises the operations and financial results of our insurance and reinsurance subsidiaries. The financial results of this segment primarily consist of investment income less net reductions in loss and loss adjustment expense liabilities, direct expenses (including certain premises costs and professional fees) and management fees paid to our consulting segment.

Our consulting segment comprises the operations and financial results of those subsidiaries that provide management and consulting services, forensic claims inspections services and reinsurance collection services to third-party clients. This segment also provides management services to the reinsurance segment in return for management fees. The financial results of this segment primarily consist of fee income less overhead expenses comprised of staff costs, information technology costs, certain premises costs, travel costs and certain professional fees.

For a further discussion of our segments, see Note 19 to our consolidated financial statements for the year ended December 31, 2008 included in Item 8 of this annual report.

As of December 31, 2008 we had $4.36 billion of total assets and $615.2 million of shareholders' equity. We operate our business internationally through our insurance and reinsurance subsidiaries and our consulting subsidiaries in Bermuda, the United Kingdom, the United States, Europe and Australia.

Financial Statement Overview

Consulting Fee Income

We generate consulting fees based on a combination of fixed and success-based fee arrangements. Consulting income will vary from period to period depending on the timing of completion of success-based fee arrangements. Success-based fees are recorded when targets related to overall project completion or profitability goals are achieved. Our consulting segment, in addition to providing services to third parties, also provides management services to the reinsurance segment based on agreed terms set out in management agreements between the parties. The fees charged by the consulting segment to the reinsurance segment are eliminated against the cost incurred by the reinsurance segment on consolidation.

Net Investment Income and Net Realized Gains/(Losses)

Our net investment income is principally derived from interest earned primarily on cash and investments offset by investment management fees paid. Our investment portfolio currently consists of the following: (1) bond portfolios that are classified as both available-for-sale and held-to-maturity and carried at fair value and amortized cost, respectively; (2) cash and cash equivalents; (3) other investments that are accounted for on the equity basis; and (4) fixed and short-term investments that are classified as trading and are carried at fair value.

Our current investment strategy seeks to preserve principal and maintain liquidity while trying to maximize investment return through a high-quality, diversified portfolio. The volatility of claims and the effect they have on the amount of cash and investment balances, as well as the level of interest rates and other market factors, affect the return we are able to generate on our investment portfolio. Investments held as available-for-sale, excluding short-term investments with an original maturity of three months or less, primarily relate to the restructuring of newly acquired investment portfolios whereby those acquired securities with either a maturity date beyond the anticipated expiration of the run-off or with credit quality concerns are designated available-for-sale. Trading securities relate to one of our reinsurance entities which has retrocessional arrangements providing for full reinsurance of all risks assumed. The investment portfolio supporting such liabilities is required by the retrocessionaire to be a trading portfolio whereby any related gains or losses are credited or debited to the retrocessionaire. When we make a new acquisition we will often restructure the acquired investment portfolio, which may generate one-time realized gains or losses.

The majority of cash and investment balances are held within our reinsurance segment.

Net Reduction in Loss and Loss Adjustment Expense Liabilities

Our insurance-related earnings are primarily comprised of reductions, or potential increases, of net loss and loss adjustment expense liabilities. These liabilities are comprised of:

- outstanding loss or case reserves, or OLR, which represent management's best estimate of the likely settlement amount for known claims, less the portion that can be recovered from reinsurers;
- reserves for losses incurred but not reported, or IBNR reserves, which are reserves established by us for claims that are not yet reported but can reasonably be expected to have occurred based on industry information, management's experience and actuarial evaluation, less the portion that can be recovered from reinsurers; and
- reserves for future loss adjustment expense liabilities which represent management's best estimate of the future costs of managing the run-off of claims liabilities.

Net loss and loss adjustment expense liabilities are reviewed by our management each quarter and by independent actuaries annually as of year end. Reserves reflect management's best estimate of the remaining unpaid portion of these liabilities. Prior period estimates of net loss and loss adjustment expense liabilities may change as our management considers the combined impact of commutations, policy buy-backs, settlement of losses on carried reserves and the trend of incurred loss development compared to prior forecasts.

Commutations provide an opportunity for us to exit exposures to entire policies with insureds and reinsureds at a discount to the previously estimated ultimate liability. Our internal and external actuaries eliminate all prior historical loss development that relates to commuted exposures and apply their actuarial methodologies to the remaining aggregate exposures and revised historical loss development information to reassess estimates of ultimate liabilities.

Policy buy-backs provide an opportunity for us to settle individual policies and losses usually at a discount to carried advised loss reserves. As part of our routine claims settlement operations, claims will settle at either below or above the carried advised loss reserve. The impact of policy buy-backs and the routine settlement of claims updates historical loss development information to which actuarial methodologies are applied, often resulting in revised estimates of ultimate liabilities. Our actuarial methodologies include industry benchmarking which, under certain methodologies (discussed further under "— Critical Accounting Policies" below), compares the trend of our loss development to that of the industry. To the extent that the trend of our loss development compared to the industry changes in any period, it is likely to have an impact on the estimate of ultimate liabilities. Additionally, consolidated net reductions, or potential increases, in loss and loss adjustment expense liabilities include reductions, or potential increases, in the provisions for future losses and loss adjustment expenses related to the current period's run-off activity. Net reductions in net loss and loss adjustment expense liabilities are reported as negative expenses by us in our reinsurance segment. The unallocated loss adjustment expenses paid by the reinsurance segment comprise management fees paid to the consulting segment and are eliminated on consolidation. The consulting segment costs in providing run-off services are classified as salaries and general and administrative expenses. For more information on how the reserves are calculated, see "— Critical Accounting Policies — Loss and Loss Adjustment Expenses" below.

As our reinsurance subsidiaries are in run-off, our premium income is insignificant, consisting primarily of adjustment premiums triggered by loss payments.

Salaries and Benefits

We are a service-based company and, as such, employee salaries and benefits are our largest expense. We have experienced significant increases in our salaries and benefits expenses as we have grown our operations, and we expect that trend to continue if we are able to successfully expand our operations.

On September 15, 2006, our board of directors and shareholders adopted the Enstar Group Limited 2006 Equity Incentive Plan, or the Equity Incentive Plan, and the Enstar Group Limited 2006-2010 Annual Incentive Compensation Plan, or the Annual Incentive Plan, which are administered by the Compensation Committee of our board of directors.

The Annual Incentive Plan provides for the annual grant of bonus compensation to our officers and employees, including our senior executive officers. Bonus awards for each calendar year from 2006 through 2008 were determined, and for each calendar year from 2009 through 2010 will be determined, based on our consolidated net after-tax profits. The Compensation Committee determines the amount of bonus awards in any calendar year, based on a percentage of our consolidated net after-tax profits. The percentage is 15% unless the Compensation Committee exercises its discretion to change the percentage no later than 30 days after our year-end. For the years ended December 31, 2008, 2007 and 2006 the percentage was left unchanged by the Compensation Committee. The Compensation Committee determines, in its sole discretion, the amount of bonus awards payable to each participant.

Bonus awards are payable in cash, ordinary shares or a combination of both. Ordinary shares issued in connection with a bonus award will be issued pursuant to the terms and subject to the conditions of the Equity Incentive Plan.

For information on the awards made under both the Annual and Equity Incentive plans for the years ended December 31, 2008, 2007 and December 31, 2006, see Note 12 to our consolidated financial statements for the year ended December 31, 2008, included in Item 8 to this annual report.

General and Administrative Expenses

General and administrative expenses include rent and rent-related costs, professional fees (legal, investment, audit and actuarial) and travel expenses. We have operations in multiple jurisdictions and our employees travel frequently in connection with the search for acquisition opportunities and in the general management of the business. While certain general and administrative expenses, such as rent and related costs and professional fees, are incurred directly by the reinsurance segment, the remaining general and administrative expenses are incurred by the consulting segment. To the extent that such costs incurred by the consulting segment relate to the management of the reinsurance segment, they are recovered by the consulting segment through the management fees charged to the reinsurance segment.

Foreign Exchange Gain/(Loss)

Our reporting currency is U.S. dollars. Our functional currency is U.S. dollars for all of our subsidiaries with the exception of Gordian and EPIC, whose functional currencies are Australian dollars and British pounds, respectively. Through our subsidiaries whose functional currency is the U.S. dollar, we hold a variety of foreign (non-U.S.) currency assets and liabilities, the principal exposures being Euros and British pounds. At each balance sheet date, recorded balances that are denominated in a currency other than U.S. dollars are adjusted to reflect the current exchange rate. Revenue and expense items are translated into U.S. dollars at average rates of exchange for the period. The resulting exchange gains or losses are included in our net income.

For Gordian and EPIC, whose functional currencies are non-U.S. dollars, at each reporting period the balance sheet and income statement are translated at period end and average rates of exchange, respectively, with any foreign exchange gains or losses on translation recorded as a component of our accumulated other comprehensive income in the shareholders' equity section of our balance sheet.

We seek to manage our exposure to foreign currency exchange, where possible, by broadly matching our foreign currency assets against our foreign currency liabilities. Subject to regulatory constraints, the net assets of our subsidiaries are maintained in U.S. dollars.

Income Tax/(Recovery)

Under current Bermuda law, we and our Bermuda-based subsidiaries are not required to pay taxes in Bermuda on either income or capital gains. These companies have received an undertaking from the Bermuda government that, in the event of income or capital gains taxes being imposed, they will be exempted from such taxes until the year 2016. Our non-Bermuda subsidiaries record income taxes based on their graduated statutory rates, net of tax benefits arising from tax loss carryforwards. On January 1, 2007 we adopted the provisions of the U.S. Financial Accounting Standards Board, or the FASB, Interpretation No. 48. "Accounting for Uncertainty in Income Taxes," or

FIN 48. As a result of the implementation of FIN 48, we recognized a $4.9 million increase to the January 1, 2007 balance of retained earnings.

Minority Interest

The acquisitions of Hillcot Re Limited (formerly Toa-Re Insurance Company (UK) Limited) in March 2003 and of Brampton Insurance Company Limited (formerly Aioi Insurance Company of Europe Limited) in March 2006 were effected through Hillcot Holdings Limited, or Hillcot, a Bermuda-based company in which we have had a 50.1% economic interest. The results of operations of Hillcot have been included in our consolidated statements of operations with the remaining 49.9% economic interest in the results of Hillcot reflected as a minority interest. On October 27, 2008 we acquired the 49.9% interest in Hillcot Re Limited that we previously did not own. As a result, the minority interest in the earnings of Hillcot Re Limited has been recorded to September 30, 2008 only.

During 2008, we completed the following acquisitions having a minority interest: 1) Guildhall, a U.K.-based insurance and reinsurance company in run-off; 2) Gordian, AMP Limited's Australian-based closed reinsurance and insurance operations; 3) EPIC, a Bermuda-based reinsurance company; 4) Goshawk, which owns Rosemont Reinsurance Limited, a Bermuda-based reinsurer in run-off; and 5) Unionamerica, a U.K.-based insurance and reinsurance company in run-off. We have a 70% economic interest in all of the above listed acquired subsidiaries with the exception of Goshawk in which we have a 75% economic interest. The results of the operations of the acquired subsidiaries are included in our consolidated statements of earnings with the remaining minority interests percent share of the economic interest of the respective subsidiaries reflected as a minority interest.

We own 50.1% of Shelbourne, which in turn owns 100% of Shelbourne Syndicate Services Limited, the Managing Agency for Lloyd's Syndicate 2008, a syndicate approved by Lloyd's of London on December 16, 2007. We have committed to provide approximately 65% of the capital required by Lloyd's Syndicate 2008, which is authorized to undertake Reinsurance to Close Transactions, or RITC transactions (the transferring of the liabilities from one Lloyd's Syndicate to another), of Lloyd's Syndicates in Run-off.

Negative Goodwill

Negative goodwill represents the excess of the fair value of businesses acquired by us over the cost of such businesses. In accordance with the Statements of Financial Standards issued by FASB No. 141 "Business Combinations," or FAS 141, this amount is recognized upon the acquisition of the businesses as an extraordinary gain. The fair values of the reinsurance assets and liabilities acquired are derived from probability-weighted ranges of the associated projected cash flows, based on actuarially prepared information and our management's run-off strategy. Any amendment to the fair values resulting from changes in such information or strategy will be recognized when they occur. For more information on how the goodwill is determined, see "— Critical Accounting Policies — Goodwill" below.

Critical Accounting Policies

Certain amounts in our consolidated financial statements require the use of best estimates and assumptions to determine reported values. These amounts could ultimately be materially different than what has been provided for in our consolidated financial statements. We consider the assessment of loss reserves and reinsurance recoverable to be the values requiring the most inherently subjective and complex estimates. In addition, the fair value measurement of our investments and the assessment of the possible impairment of goodwill involves certain estimates and assumptions. As such, the accounting policies for these amounts are of critical importance to our consolidated financial statements.

Loss and Loss Adjustment Expenses

The following table provides a breakdown of gross loss and loss adjustment expense reserves by type of exposure as of December 31, 2008 and 2007:

	2008			2007		
	OLR	IBNR	Total	OLR	IBNR	Total
			(in thousands of U.S. dollars)			
Asbestos	$ 249,000	$ 582,783	$ 831,783	$180,068	$402,289	$ 582,357
Environmental	52,028	60,159	112,187	39,708	55,544	95,252
All other	1,051,927	663,738	1,715,665	382,040	464,789	846,829
Total	$1,352,955	$1,306,680	$2,659,635	$601,816	$922,622	$1,524,438
Unallocated loss adjustment expenses			138,652			67,011
Total			$2,798,287			$1,591,449

The following table provides a breakdown of loss and loss adjustment expense reserves (net of reinsurance balances recoverable) by type of exposure as of December 31, 2008 and 2007:

	2008		2007	
	Total	% of Total	Total	% of Total
		(in thousands of U.S. dollars)		
Asbestos	$ 748,496	31.1%	$ 355,213	30.5%
Environmental	97,925	4.1	64,764	5.6
All other	1,418,639	59.0	676,497	58.1
Unallocated loss adjustment expenses	138,652	5.8	67,011	5.8
Total	$2,403,712	100%	$1,163,485	100%

Our “All other” exposure category consists of a mix of general casualty (approximately 45% of “All other” net reserves), professional liability (approximately 15% of “All other” net reserves), workers compensation/personal accident (approximately 10% of “All other” net reserves) and other miscellaneous exposures, which are generally long-tailed in nature.

As of December 31, 2008, the IBNR reserves (net of reinsurance balances receivable) accounted for $1,207.4 million, or 50.2%, of our total net loss reserves. The reserve for IBNR (net of reinsurance balance receivable) accounted for $570.7 million, or 49.1%, of our total net loss reserves at December 31, 2007.

Annual Loss and Loss Adjustment Reviews

Because a significant amount of time can lapse between the assumption of risk, the occurrence of a loss event, the reporting of the event to an insurance or reinsurance company and the ultimate payment of the claim on the loss event, the liability for unpaid losses and loss adjustment expenses is based largely upon estimates. Our management must use considerable judgment in the process of developing these estimates. The liability for unpaid losses and loss adjustment expenses for property and casualty business includes amounts determined from loss reports on individual cases and amounts for IBNR reserves. Such reserves are estimated by management based upon loss reports received from ceding companies, supplemented by our own estimates of losses for which no ceding company loss reports have yet been received.

In establishing reserves, management also considers independent actuarial estimates of ultimate losses. Our independent actuaries employ generally accepted actuarial methodologies to estimate ultimate losses and loss adjustment expenses. A loss reserve study prepared by an independent actuary provides the basis of our reserves for losses and loss adjustment expenses.

As of December 31, 2008, 2007 was the most recent year in which policies were underwritten by any of our insurance and reinsurance subsidiaries. As a result, all of our unpaid claims liabilities are considered to have a longtail claims payout. Gross loss reserves relate primarily to casualty exposures, including latent claims, of which approximately 35.5% relate to A&E exposures.

Within the annual loss reserve studies produced by our external actuaries, exposures for each subsidiary are separated into homogeneous reserving categories for the purpose of estimating IBNR. Each reserving category contains either direct insurance or assumed reinsurance reserves and groups relatively similar types of risks and exposures (for example, asbestos, environmental, casualty, property) and lines of business written (for example, marine, aviation, non-marine). Based on the exposure characteristics and the nature of available data for each individual reserving category, a number of methodologies are applied. Recorded reserves for each category are selected from the indications produced by the various methodologies after consideration of exposure characteristics, data limitations and strengths and weaknesses of each method applied. This approach to estimating IBNR has been consistently adopted in the annual loss reserve studies for each period presented.

The ranges of gross loss and loss adjustment expense reserves implied by the various methodologies used by each of our insurance subsidiaries as of December 31, 2008 were:

	Low	Selected	High
Asbestos	$ 735,981	$ 831,783	$ 860,733
Environmental	100,296	112,187	118,075
All other	1,425,740	1,715,665	1,741,217
Unallocated loss adjustment expenses	138,652	138,652	138,652
Total	$2,400,669	$2,798,287	$2,858,677

Latent Claims

Our loss reserves are related largely to casualty exposures including latent exposures relating primarily to A&E. In establishing the reserves for unpaid claims, management considers facts currently known and the current state of the law and coverage litigation. Liabilities are recognized for known claims (including the cost of related litigation) when sufficient information has been developed to indicate the involvement of a specific insurance policy, and management can reasonably estimate its liability. In addition, reserves are established to cover loss development related to both known and unasserted claims.

The estimation of unpaid claim liabilities is subject to a high degree of uncertainty for a number of reasons. First, unpaid claim liabilities for property and casualty exposures in general are impacted by changes in the legal environment, jury awards, medical cost trends and general inflation. Moreover, for latent exposures in particular, developed case law and adequate claim history do not exist. There is significant coverage litigation related to these exposures, which creates further uncertainty in the estimation of the liabilities. As a result, for these types of exposures, it is especially unclear whether past claim experience will be representative of future claim experience. Ultimate values for such claims cannot be estimated using reserving techniques that extrapolate losses to an ultimate basis using loss development factors, and the uncertainties surrounding the estimation of unpaid claim liabilities are not likely to be resolved in the near future. There can be no assurance that the reserves established by us will be adequate or will not be adversely affected by the development of other latent exposures.

Our asbestos claims are primarily products liability claims submitted by a variety of insureds who operated in different parts of the asbestos distribution chain. While most such claims arise from asbestos mining and primary asbestos manufacturers, we have also been receiving claims from tertiary defendants such as smaller manufacturers, and the industry has seen an emerging trend of non-products claims arising from premises exposures. Unlike products claims, primary policies generally do not contain aggregate policy limits for premises claims, which, accordingly, remain at the primary layer and, thus, rarely impact excess insurance policies. As the vast majority of our policies are excess policies, this trend has had only a marginal effect on our asbestos exposures thus far.

Asbestos reform efforts have been underway at both the federal and state level to address the cost and scope of asbestos claims to the American economy. While congressional efforts to create a federal trust fund that would

replace the tort system for asbestos claims failed, several states, including Texas and Florida, have passed reforms based on "medical criteria" requiring certain levels of medically documented injury before a lawsuit can be filed, resulting in a drop of year-on-year case filings in those states adopting this reform measure.

Asbestos claims primarily fall into two general categories: impaired and unimpaired bodily injury claims. Property damage claims represent only a small fraction of asbestos claims. Impaired claims primarily include individuals suffering from mesothelioma or a cancer such as lung cancer. Unimpaired claims include asbestosis and those whose lung regions contain pleural plaques.

Unlike traditional property and casualty insurers that either have large numbers of individual claims arising from personal lines such as auto, or small numbers of high value claims as in medical malpractice insurance lines, our primary exposures arise from A&E claims that do not follow a consistent pattern. For instance, we may encounter a small insured with one large environmental claim due to significant groundwater contamination, while a Fortune 500 company may submit numerous claims for relatively small values. Moreover, there is no set pattern for the life of an environmental or asbestos claim. Some of these claims may resolve within two years whereas others have remained unresolved for nearly two decades. Therefore, our open and closed claims data do not follow any identifiable or discernible pattern.

Furthermore, because of the reinsurance nature of the claims we manage, we focus on the activities at the (re) insured level rather than at the individual claims level. The counterparties with whom we typically interact are generally insurers or large industrial concerns and not individual claimants. Claims do not follow any consistent pattern. They arise from many insureds or locations and in a broad range of circumstances. An insured may present one large claim or hundreds or thousands of small claims. Plaintiffs' counsel frequently aggregate thousands of claims within one lawsuit. The deductibles to which claims are subject vary from policy to policy and year to year. Often claims data is only available to reinsurers, such as us, on an aggregated basis. Accordingly, we have not found claim count information or average reserve amounts to be reliable indicators of exposure for our reserve estimation process or for management of our liabilities. We have found data accumulation and claims management more effective and meaningful at the (re)insured level rather than at the underlying claim level. As a result, we have designed our reserving methodologies to be independent of claim count information. As the level of exposures to a (re)insured can vary substantially, we focus on the aggregate exposures and pursue commutations and policy buy-backs with the larger (re)insureds.

We employ approximately 31 full time equivalent employees, including a U.S. attorney, actuaries, and experienced claims-handlers to directly administer our A&E liabilities. We have established a provision for future expenses of $49.2 million, which reflects the total anticipated costs to administer these claims to expiration.

Our future asbestos loss development may be influenced by many factors including:

- Onset of future asbestos-related illness in individuals exposed to asbestos over the past 50 or more years.
- Future viability of the practice of resolving asbestos liability for defendant companies through bankruptcy.
- Enactment of tort reforms establishing stricter medical criteria for asbestos awards.
- Attempts to resolve all U.S.-related asbestos litigation through federal legislation.

The influence of each of these factors is not easily quantifiable and our historical asbestos loss development is of limited value in determining future asbestos loss development using traditional actuarial reserving techniques.

Significant trends affecting insurer liabilities and reserves in recent years had little effect on environmental claims, except for claims arising out of damages to natural resources. New Jersey has pioneered the use of natural resources damages to advance further pursuit of funds from potentially responsible parties, or PRPs who may have been contributors to the source contamination. A successful action in 2006 against Exxon Mobil has increased the likelihood that the use of natural resource damages will expand within New Jersey and perhaps other states. These actions target primary policies and will likely have less effect on excess carriers because damages, when awarded, are typically spread across many PRPs and across many policy years. As a result, claims do not generally reach excess insurance layers.

Our future environmental loss development may also be influenced by other factors including:

- Existence of currently undiscovered polluted sites eligible for clean-up under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) and related legislation.
- Costs imposed due to joint and several liability if not all PRPs are capable of paying their share.
- Success of legal challenges to certain policy terms such as the “absolute” pollution exclusion.
- Potential future reforms and amendments to CERCLA, particularly as the resources of Superfund— the funding vehicle, established as part of CERCLA, to provide financing for cleanup of polluted sites where no PRP can be identified — become exhausted.

The influence of each of these factors is not easily quantifiable and, as with asbestos-related exposures, our historical environmental loss development is of limited value in determining future environmental loss development using traditional actuarial reserving techniques.

There have recently been developments concerning lead paint liability, which had previously been viewed as an emerging trend in latent claim activity with the potential to adversely affect reserves. After a series of successful defense efforts by defendant lead pigment manufacturers in lead paint litigation, in 2005, a Rhode Island court ruled in favor of the government in a nuisance claim against the defendant manufacturers. Since the Rhode Island decision, other government entities have employed the same theory for recovery against these manufacturers. In 2008, the Rhode Island Supreme Court reversed the sole legal liability loss experienced by lead pigment manufacturers in lead paint litigation. The court rejected public nuisance as a viable theory of liability for use by the government against the defendants and thus invalidated the entire claim against the lead pigment manufacturers. Subsequent to the Rhode Island Supreme Court decision at least one other government entity, an Ohio municipality, voluntarily dropped its lead paint suit.

We believe that lead paint claims now pose a lower risk to adverse reserve adjustment than previously thought, as the only trial court decision against lead pigment manufacturers to date was reversed on the basis that public nuisance is an improper liability theory by which a plaintiff may seek recovery against the lead pigment manufacturers. Even if adverse rulings under alternative theories succeed or if other states ultimately permit recovery under a public nuisance theory, it is questionable whether insureds have coverage under their policies under which they seek indemnity. Insureds have yet to meet policy terms and conditions to establish coverage for lead paint public nuisance claims, as opposed to traditional bodily injury and property damage claims. Still, there is the potential for significant impact to excess insurers should plaintiffs prevail in successive nuisance claims pending in other jurisdictions and coverage is established.

Our independent, external actuaries use industry benchmarking methodologies to estimate appropriate IBNR reserves for our A&E exposures. These methods are based on comparisons of our loss experience on A&E exposures relative to industry loss experience on A&E exposures. Estimates of IBNR are derived separately for each of our relevant subsidiaries and, for some subsidiaries, separately for distinct portfolios of exposure. The discussion that follows describes, in greater detail, the primary actuarial methodologies used by our independent actuaries to estimate IBNR for A&E exposures.

In addition to the specific considerations for each method described below, many general factors are considered in the application of the methods and the interpretation of results for each portfolio of exposures. These factors include the mix of product types (e.g., primary insurance versus reinsurance of primary versus reinsurance of reinsurance), the average attachment point of coverages (e.g., first-dollar primary versus umbrella over primary versus high-excess), payment and reporting lags related to our international domicile subsidiaries, payment and reporting pattern acceleration due to large “wholesale” settlements (e.g., policy buy-backs and commutations) pursued by us, lists of individual risks remaining and general trends within the legal and tort environments.

1. *Paid Survival Ratio Method.* In this method, our expected annual average payment amount is multiplied by an expected future number of payment years to get an indicated reserve. Our historical calendar year payments are examined to determine an expected future annual average payment amount. This amount is multiplied by an expected number of future payment years to estimate a reserve. Trends in calendar year payment activity are

considered when selecting an expected future annual average payment amount. Accepted industry benchmarks are used in determining an expected number of future payment years. Each year, annual payments data is updated, trends in payments are re-evaluated and changes to benchmark future payment years are reviewed. This method has advantages of ease of application and simplicity of assumptions. A potential disadvantage of the method is that results could be misleading for portfolios of high excess exposures where significant payment activity has not yet begun.

2. *Paid Market Share Method.* In this method, our estimated market share is applied to the industry estimated unpaid losses. The ratio of our historical calendar year payments to industry historical calendar year payments is examined to estimate our market share. This ratio is then applied to the estimate of industry unpaid losses. Each year, calendar year payment data is updated (for both us and industry), estimates of industry unpaid losses are reviewed and the selection of our estimated market share is revisited. This method has the advantage that trends in calendar year market share can be incorporated into the selection of company share of remaining market payments. A potential disadvantage of this method is that it is particularly sensitive to assumptions regarding the time-lag between industry payments and our payments.

3. *Reserve-to-Paid Method.* In this method, the ratio of estimated industry reserves to industry paid-to-date losses is multiplied by our paid-to-date losses to estimate our reserves. Specific considerations in the application of this method include the completeness of our paid-to-date loss information, the potential acceleration or deceleration in our payments (relative to the industry) due to our claims handling practices, and the impact of large individual settlements. Each year, paid-to-date loss information is updated (for both us and the industry) and updates to industry estimated reserves are reviewed. This method has the advantage of relying purely on paid loss data and so is not influenced by subjectivity of case reserve loss estimates. A potential disadvantage is that the application to our portfolios which do not have complete inception-to-date paid loss history could produce misleading results. To address this potential disadvantage, a variation of the method is also considered by multiplying the ratio of estimated industry reserves to industry losses paid during a recent period of time (e.g., 5 years) times our paid losses during that period.

4. *IBNR:Case Ratio Method.* In this method, the ratio of estimated industry IBNR reserves to industry case reserves is multiplied by our case reserves to estimate our IBNR reserves. Specific considerations in the application of this method include the presence of policies reserved at policy limits, changes in overall industry case reserve adequacy and recent loss reporting history for us. Each year, our case reserves are updated, industry reserves are updated and the applicability of the industry IBNR:case ratio is reviewed. This method has the advantage that it incorporates the most recent estimates of amounts needed to settle open cases included in current case reserves. A potential disadvantage is that results could be misleading where our case reserve adequacy differs significantly from overall industry case reserve adequacy.

5. *Ultimate-to-Incurred Method.* In this method, the ratio of estimated industry ultimate losses to industry incurred-to-date losses is applied to our incurred-to-date losses to estimate our IBNR reserves. Specific considerations in the application of this method include the completeness of our incurred-to-date loss information, the potential acceleration or deceleration in our incurred losses (relative to the industry) due to our claims handling practices and the impact of large individual settlements. Each year incurred-to-date loss information is updated (for both us and the industry) and updates to industry estimated ultimate losses are reviewed. This method has the advantage that it incorporates both paid and case reserve information in projecting ultimate losses. A potential disadvantage is that results could be misleading where cumulative paid loss data is incomplete or where our case reserve adequacy differs significantly from overall industry case reserve adequacy.

Under the Paid Survival Ratio Method, the Paid Market Share Method and the Reserve-to-Paid Method, we first determine the estimated total reserve and then deduct the reported outstanding case reserves to arrive at an estimated IBNR reserve. The IBNR:Case Ratio Method first determines an estimated IBNR reserve which is then added to the advised outstanding case reserves to arrive at an estimated total loss reserve. The Ultimate-to-Incurred Method first determines an estimate of the ultimate losses to be paid and then deducts paid-to-date losses to arrive at an estimated total loss reserve and then deducts outstanding case reserves to arrive at the estimated IBNR reserve.

Within the annual loss reserve studies produced by our external actuaries, exposures for each subsidiary are separated into homogeneous reserving categories for the purpose of estimating IBNR. Each reserving category

contains either direct insurance or assumed reinsurance reserves and groups relatively similar types of risks and exposures (e.g., asbestos, environmental, casualty and property) and lines of business written (e.g., marine, aviation and non-marine). Based on the exposure characteristics and the nature of available data for each individual reserving category, a number of methodologies are applied. Recorded reserves for each category are selected from the indications produced by the various methodologies after consideration of exposure characteristics, data limitations, and strengths and weaknesses of each method applied. This approach to estimating IBNR has been consistently adopted in the annual loss reserve studies for each period presented.

As of December 31, 2008, we had 24 separate insurance and/or reinsurance subsidiaries whose reserves are categorized into approximately 195 reserve categories in total, including 26 distinct asbestos reserving categories and 19 distinct environmental reserving categories.

The five methodologies described above are applied for each of the 26 asbestos reserving categories and each of the 19 environmental reserving categories. As is common in actuarial practice, no one methodology is exclusively or consistently relied upon when selecting a recorded reserve. Consistent reliance on a single methodology to select a recorded reserve would be inappropriate in light of the dynamic nature of both the A&E liabilities in general, and our actual exposure portfolios in particular.

In selecting a recorded reserve, management considers the range of results produced by the methods, and the strengths and weaknesses of the methods in relation to the data available and the specific characteristics of the portfolio under consideration. Trends in both our data and industry data are also considered in the reserve selection process. Recent trends or changes in the relevant tort and legal environments are also considered when assessing methodology results and selecting an appropriate recorded reserve amount for each portfolio.

The following key assumptions were used to estimate A&E reserves at December 31, 2008:

1. *$65 Billion Ultimate Industry Asbestos Losses* — This level of industry-wide losses and its comparison to industry-wide paid, incurred and outstanding case reserves is the base benchmarking assumption applied to Paid Market Share, Reserve-to-Paid, IBNR:Case Ratio and the Ultimate-to-Incurred asbestos reserving methodologies.

2. *$35 Billion Ultimate Industry Environmental Losses* — This level of industry-wide losses and its comparison to industry-wide paid, incurred and outstanding case reserves is the base benchmarking assumption applied to Paid Market Share, Reserve-to-Paid, IBNR:Case Ratio and the Ultimate-to-Incurred environmental reserving methodologies.

3. *Loss Reporting Lag* — Our subsidiaries assumed a mix of insurance and reinsurance exposures generally through the London market. As the available industry benchmark loss information, as supplied by our independent consulting actuaries, is compiled largely from U.S. direct insurance company experience, our loss reporting is expected to lag relative to available industry benchmark information. This time-lag used by each of our insurance subsidiaries varies from 2 to 5 years depending on the relative mix of domicile, percentages of product mix of insurance, reinsurance and retrocessional reinsurance, primary insurance, excess insurance, reinsurance of direct, and reinsurance of reinsurance within any given exposure category. Exposure portfolios written from a non-U.S. domicile are assumed to have a greater time-lag than portfolios written from a U.S. domicile. Portfolios with a larger proportion of reinsurance exposures are assumed to have a greater time-lag than portfolios with a larger proportion of insurance exposures.

The assumptions above as to Ultimate Industry Asbestos and Environmental losses have not changed from the immediately preceding period. For our company as a whole, the average selected lag for asbestos has increased slightly from 2.8 years to 2.9 years and the average selected lag for environmental has remained unchanged at 2.6 years. The changes to the asbestos selected lag arose largely as a result of the acquisition of new portfolios of A&E exposures.

The following tables provide a summary of the impact of changes in industry ultimate losses, from the selected $65 billion for asbestos and $35 billion for environmental, and changes in the time-lag, from the selected averages of 2.9 years for asbestos and 2.6 years for environmental, for us behind industry development that it is assumed relates to our insurance and reinsurance companies. Please note that the table below demonstrates sensitivity to

changes to key assumptions using methodologies selected for determining loss and allocated loss adjustment expenses, or ALAE, at December 31, 2008 and differs from the table on page 67, which demonstrates the range of outcomes produced by the various methodologies.

Sensitivity to Industry Asbestos Ultimate Loss Assumption	Asbestos Loss Reserves
Asbestos — $65 billion (selected)	$ 831,783
Asbestos — $60 billion	719,289

Sensitivity to Industry Environmental Ultimate Loss Assumption	Environmental Loss Reserves
Environmental — $35 billion (selected)	$ 112,187
Environmental — $40 billion	158,317
Environmental — $30 billion	66,058

Sensitivity to Time-Lag Assumption*	Asbestos Loss Reserves	Environmental Loss Reserves
Selected average of 2.9 years asbestos, 2.6 years environmental	$ 831,783	$ 112,187
Increase all portfolio lags by six months	917,607	115,920
Decrease all portfolio lags by six months	731,366	108,436

* using $65 billion/$35 billion Asbestos/Environmental Industry Ultimate Loss assumptions

Industry publications indicate that the range of ultimate industry asbestos losses is estimated to be between $55 billion and $65 billion. Based on management's experience of substantial loss development on our asbestos exposure portfolios, we have selected the upper end of the range as the basis for our asbestos loss reserving. Although the industry publications suggest a low end of the range of industry ultimate losses of $55 billion, we consider that unlikely and believe that it is more reasonable to assume that the lower end of this range of ultimate losses could be $60 billion.

Guidance from industry publications is more varied in respect of estimates of ultimate industry environmental losses. Consistent with an industry published estimate, we believe the reasonable range for ultimate industry environmental losses is between $30 billion and $40 billion. We have selected the midpoint of this range as the basis for our environmental loss reserving based on advice supplied by our independent consulting actuaries. Another industry publication, released prior to the one relied upon by us, indicates that ultimate industry environmental losses could be $56 billion. However, based on our own loss experience, including successful settlement activity by us, the decline in new claims notified in recent years and improvements in environmental clean-up technology, we do not believe that the $56 billion estimate is a reasonable basis for our reserving for environmental losses.

Management's current estimate of the time lag that relates to our insurance and reinsurance subsidiaries compared to the industry is considered reasonable given the analysis performed by our internal and external actuaries to date.

Over time, additional information regarding such exposure characteristics may be developed for any given portfolio. This additional information could cause a shift in the lag assumed.

Non-Latent Claims

Non-latent claims are less significant to us, both in terms of reserves held and in terms of risk of significant reserve deficiency. For non-latent loss exposure, a range of traditional loss development extrapolation techniques is applied. Incremental paid and incurred loss development methodologies are the most commonly used methods. Traditional cumulative paid and incurred loss development methods are used where inception-to-date, cumulative paid and reported incurred loss development history is available.

These methods assume that cohorts, or groups, of losses from similar exposures will increase over time in a predictable manner. Historical paid and incurred loss development experience is examined for earlier accident years to make inferences about how later accident years' losses will develop. Where company-specific loss information is

not available or not reliable, industry loss development information published by industry sources such as the Reinsurance Association of America is considered. These methods calculate an estimate of ultimate losses and then deduct paid-to-date losses to arrive at an estimated total loss reserve. Outstanding losses are then deducted from estimated total loss reserves to calculate the estimated IBNR reserve. Management does not expect changes in underlying reserving assumptions to have a material impact on net loss and loss adjustment expense reserves as they are primarily sensitive to changes due to loss development.

Quarterly Reserve Reviews

In addition to an in-depth annual review, we also perform quarterly reserve reviews. This is done by examining quarterly paid and incurred loss development to determine whether it is consistent with reserves established during the preceding annual reserve review and with expected development. Loss development is reviewed separately for each major exposure type (e.g., asbestos, environmental, etc.), for each of our relevant subsidiaries, and for large "wholesale" commutation settlements versus "routine" paid and advised losses. This process is undertaken to determine whether loss development experience during a quarter warrants any change to held reserves.

Loss development is examined separately by exposure type because different exposures develop differently over time. For example, the expected reporting and payout of losses for a given amount of asbestos reserves can be expected to take place over a different time frame and in a different quarterly pattern from the same amount of environmental reserves.

In addition, loss development is examined separately for each of our relevant subsidiaries. Companies can differ in their exposure profile due to the mix of insurance versus reinsurance, the mix of primary versus excess insurance, the underwriting years of participation and other criteria. These differing profiles lead to different expectations for quarterly and annual loss development by company.

Our quarterly paid and incurred loss development is often driven by large, "wholesale" settlements — such as commutations and policy buy-backs — which settle many individual claims in a single transaction. This allows for monitoring of the potential profitability of large settlements which, in turn, can provide information about the adequacy of reserves on remaining exposures which have not yet been settled. For example, if it were found that large settlements were consistently leading to large negative, or favorable, incurred losses upon settlement, it might be an indication that reserves on remaining exposures are redundant. Conversely, if it were found that large settlements were consistently leading to large positive, or adverse, incurred losses upon settlement, it might be an indication — particularly if the size of the losses were increasing — that certain loss reserves on remaining exposures are deficient. Moreover, removing the loss development resulting from large settlements allows for a review of loss development related only to those contracts which remain exposed to losses. Were this not done, it is possible that savings on large wholesale settlements could mask significant underlying development on remaining exposures.

Once the data has been analyzed as described above, an in-depth review is performed on classes of exposure with significant loss development. Discussions are held with appropriate personnel, including individual company managers, claims handlers and attorneys, to better understand the causes. If it were determined that development differs significantly from expectations, reserves would be adjusted.

Quarterly loss development is expected to be fairly erratic for the types of exposure insured and reinsured by us. Several quarters of low incurred loss development can be followed by spikes of relatively large incurred losses. This is characteristic of latent claims and other insurance losses which are reported and settled many years after the inception of the policy. Given the high degree of statistical uncertainty, and potential volatility, it would be unusual to adjust reserves on the basis of one, or even several, quarters of loss development activity. As a result, unless the incurred loss activity in any one quarter is of such significance that management is able to quantify the impact on the ultimate liability for loss and loss adjustment expenses, reductions or increases in loss and loss adjustment expense liabilities are carried out in the fourth quarter based on the annual reserve review described above.

As described above, our management regularly reviews and updates reserve estimates using the most current information available and employing various actuarial methods. Adjustments resulting from changes in our estimates are recorded in the period when such adjustments are determined. The ultimate liability for loss and loss

adjustment expenses is likely to differ from the original estimate due to a number of factors, primarily consisting of the overall claims activity occurring during any period, including the completion of commutations of assumed liabilities and ceded reinsurance receivables, policy buy-backs and general incurred claims activity.

Reinsurance Balances Receivable

Our acquired reinsurance subsidiaries, prior to acquisition by us, used retrocessional agreements to reduce their exposure to the risk of insurance and reinsurance they assumed. Loss reserves represent total gross losses, and reinsurance receivables represent anticipated recoveries of a portion of those unpaid losses as well as amounts receivable from reinsurers with respect to claims that have already been paid. While reinsurance arrangements are designed to limit losses and to permit recovery of a portion of direct unpaid losses, reinsurance does not relieve us of our liabilities to our insureds or reinsureds. Therefore, we evaluate and monitor concentration of credit risk among our reinsurers, including companies that are insolvent, in run-off or facing financial difficulties. Provisions are made for amounts considered potentially uncollectible.

Fair Value Measurements

On January 1, 2008, we adopted FAS 157, “Fair Value Measurements,” or FAS 157, which defines fair value as the price that would be received to sell an asset or paid to transfer a liability (i.e. the “exit price”) in an orderly transaction between market participants at the measurement date. See Note 2 of our consolidated financial statements for a further discussion of this new standard.

The following is a summary of valuation techniques or models we use to measure fair value by asset and liability classes, which have not changed significantly since December 31, 2007.

Fixed Maturity Investments

Our fixed maturity portfolio is managed by our outside investment advisors. Through these third parties, we use nationally recognized pricing services, including pricing vendors, index providers and broker-dealers to estimate fair value measurements for all of our fixed maturity investments. These pricing services include Barclays Capital Aggregate Index (formerly Lehman Index), Reuters Pricing Service, FT Interactive Data and others.

The pricing service uses market quotations for securities (e.g., public common and preferred securities) that have quoted prices in active markets. When quoted market prices are unavailable, the pricing service prepares estimates of fair value measurements for these securities using its proprietary pricing applications which include available relevant market information, benchmark curves, benchmarking of like securities, sector groupings, and matrix pricing.

With the exception of one security held within our trading portfolio, the fair value estimates of our fixed maturity investments are based on observable market data. We have therefore included these as Level 2 investments within the fair value hierarchy. The one security in our trading portfolio that does not have observable inputs has been included as a Level 3 investment within the fair value hierarchy.

To validate the techniques or models used by the pricing services, we compare the fair value estimates to our knowledge of the current market and will challenge any prices deemed not to be representative of fair value.

As of December 31, 2008 there were no material differences between the prices obtained from the pricing services and the fair value estimates developed by us.

Further, on a quarterly basis, we evaluate whether the fair value of a fixed maturity security is other-than-temporarily impaired when its fair value is below amortized cost. To make this assessment we consider several factors including (i) the time period during which there has been a decline below cost, (ii) the extent of the decline below cost, (iii) our intent and ability to hold the security, (iv) the potential for the security to recover in value, (v) an analysis of the financial condition of the issuer, and (vi) an analysis of the collateral structure and credit support of the security, if applicable. If we conclude a security is other-than-temporarily impaired, we write down the amortized cost of the security to fair value, with a charge to net realized investment gains (losses) in the consolidated

statement of earnings. During the year ended December 31, 2008, we did not consider any fixed maturity investments to be other-than-temporarily impaired.

Equity Securities

Our equity securities are managed by an external advisor. Through this third party, we use nationally recognized pricing services, including pricing vendors, index providers and broker-dealers to estimate fair value measurements for all of our equity securities. These pricing services include FT Interactive Data and others.

We have categorized all of our equity securities as Level 1 investments as they are based on quoted prices in active markets for identical assets or liabilities.

Other Investments

For our investments in limited partnerships, limited liability companies and equity funds, we measure fair value by obtaining the most recently published net asset value as advised by the external fund manager or third-party administrator. The financial statements of each fund generally are audited annually, using fair value measurement for the underlying investments. For all public companies within the funds we have valued the investments based on the latest share price. The value of Affirmative Investment LLC (in which we own a non-voting 7% membership interest) is based on the market value of the shares of Affirmative Insurance Holdings, Inc.

All of our investments in limited partnerships and limited liability companies are subject to restrictions on redemptions and sales which are determined by the governing documents and limit our ability to liquidate those investments in the short term. We have classified our other investments as Level 3 investments as they reflect our own judgment about assumptions that market participants might use.

For the year ended December 31, 2008, we incurred a $84.1 million loss in fair value on our other investments. Any unrealized losses or gains on our other investments are included as part of our net investment income.

The following table summarizes all of our financial assets and liabilities measured at fair value at December 31, 2008, by FAS 157 hierarchy:

	Quoted Prices in Active Markets for Identical Assets (Level 1)	Significant Other Observable Inputs (Level 2)	Significant Unobservable Inputs (Level 3)	Total Fair Value
Assets				
Fixed maturity investments	$ —	$ 627,003	$ 352	$627,355
Equity securities	3,747	—	—	3,747
Other investments	—	—	60,237	60,237
Total	$ 3,747	$ 627,003	$ 60,589	$691,339
As a percentage of total assets	0.1%	14.4%	1.4%	15.9%

Goodwill

We follow FAS No. 142 “Goodwill and Other Intangible Assets” which requires that recorded goodwill be assessed for impairment on at least an annual basis. In determining goodwill, we must determine the fair value of the assets of an acquired company. The determination of fair value necessarily involves many assumptions. Fair values of reinsurance assets and liabilities acquired are derived from probability-weighted ranges of the associated projected cash flows, based on actuarially prepared information and our management run-off strategy. Fair value adjustments are based on the estimated timing of loss and loss adjustment expense payments and an assumed interest rate, and are amortized over the estimated payout period, as adjusted for accelerations on commutation settlements, using the constant yield method option. Interest rates used to determine the fair value of gross loss reserves are based upon risk free rates applicable to the average duration of the loss reserves. Interest rates used to determine the fair value of reinsurance receivables are increased to reflect the credit risk associated with the reinsurers from who the receivables are, or will become, due. If the assumptions made in initially valuing the assets

change significantly in the future, we may be required to record impairment charges which could have a material impact on our financial condition and results of operations.

FAS No. 141 “Business Combinations” also requires that negative goodwill be recorded in earnings. During 2004, 2006, 2007 and 2008, we took negative goodwill into earnings upon the completion of the acquisition of certain companies and presented it as an extraordinary gain.

In December 2007, the FASB issued FAS No. 141(R) “Business Combinations” (“FAS 141(R)”). FAS 141(R) replaces FAS No. 141 “Business Combinations” (“FAS 141”) but retains the fundamental requirements in FAS No. 141 that the acquisition method of accounting be used for all business combinations and for an acquirer to be identified for each business combination. FAS 141(R) requires an acquirer to recognize the assets acquired, the liabilities assumed, and any noncontrolling interest in the acquiree at the acquisition date, measured at their fair values as of that date. FAS 141(R) also requires acquisition-related costs to be recognized separately from the acquisition, recognize assets acquired and liabilities assumed arising from contractual contingencies at their acquisition-date fair values and recognize goodwill as the excess of the consideration transferred plus the fair value of any noncontrolling interest in the acquiree at the acquisition date over the fair values of the identifiable net assets acquired. FAS 141(R) applies prospectively to business combinations for which the acquisition date is on or after the beginning of the first annual reporting period beginning on or after December 15, 2008 (January 1, 2009 for calendar year-end companies).

New Accounting Pronouncements

In March 2008, the FASB issued FAS No. 161, “Disclosures about Derivative Instruments and Hedging Activities — an amendment of FASB Statement No. 133,” or FAS 161. FAS 161 expands the disclosure requirements of FAS 133 and requires the reporting entity to provide enhanced disclosures about the objectives and strategies for using derivative instruments, quantitative disclosures about fair values and amounts of gains and losses on derivative contracts, and credit-risk related contingent features in derivative agreements. FAS 161 will be effective for fiscal years beginning after November 15, 2008 (January 1, 2009, for calendar year-end companies), and interim periods within those fiscal years. We are currently evaluating the provisions of FAS 161 and its potential impact on future financial statements.

In May 2008, the FASB issued FAS No. 163, “Accounting for Financial Guarantee Insurance Contracts,” or FAS 163. This new standard clarifies how FAS No. 60, “Accounting and Reporting by Insurance Enterprises,” applies to financial guarantee insurance contracts issued by insurance enterprises, including the recognition and measurement of premium revenue and claim liabilities. It also requires expanded disclosures about financial guarantee insurance contracts. FAS 163 is effective for fiscal years beginning after December 15, 2008, and all interim periods within those fiscal years, except for disclosures about the insurance enterprise’s risk-management activities, which are effective the first period (including interim periods) beginning after the date of issuance. Except for the required disclosures, earlier application is not permitted. We have determined that the adoption of FAS 163 has no impact on our total shareholders’ equity or net earnings as of December 31, 2008 and no additional disclosures are required as of December 31, 2008.

Results of Operations

Results of Operations

The following table sets forth our selected consolidated statements of earnings data for each of the periods indicated.

	Years Ended December 31,		
	2008	2007	2006
INCOME			
Consulting fees	$ 25,151	$ 31,918	$ 33,908
Net investment income	26,601	64,087	48,099
Net realized (losses) gains	(1,655)	249	(98)
	50,097	96,254	81,909
EXPENSES			
Net reduction in loss and loss adjustment expense liabilities	(242,104)	(24,482)	(31,927)
Salaries and benefits	56,270	46,977	40,121
General and administrative expenses	53,357	31,413	18,878
Interest expense	23,370	4,876	1,989
Net foreign exchange loss (gain)	14,986	(7,921)	(10,832)
	(94,121)	50,863	18,229
Earnings before income taxes, minority interest and share of net (loss)/earnings of partly owned companies	144,218	45,391	63,680
Income taxes	(46,854)	7,441	318
Minority interest	(50,808)	(6,730)	(13,208)
Share of net (loss) earnings of partly owned company	(201)	—	518
Earnings before extraordinary gain	46,355	46,102	51,308
Extraordinary gain — Negative goodwill (net of minority interest of $15,084, $nil, and $4,329, respectively)	35,196	15,683	31,038
NET EARNINGS	$ 81,551	$ 61,785	$ 82,346

Comparison of Year Ended December 31, 2008 and 2007

We reported consolidated net earnings of approximately $81.6 million for the year ended December 31, 2008 compared to consolidated net earnings of approximately $61.8 million for 2007. The increase in earnings of approximately $19.8 million was primarily a result of the following:

(i) increased reduction in loss and loss adjustment expense liabilities of $217.6 million primarily as a result of favorable loss development and larger commutations of assumed liabilities; and

(ii) an increase in negative goodwill of $19.5 million (net of minority interest of $15.1 million in 2008) relating to the acquisition of Gordian in March 2008; partially offset by

(iii) a decrease in investment income (net of realized (losses)/gains) of $39.4 million, primarily due to writedowns of approximately $84.1 million in the fair values of our private equity investments classified as other investments, partially offset by additional investment income earned in the year as a result of increased cash and investments balances relating to acquisitions completed in 2008;

(iv) movement in foreign exchange from a gain of $7.9 million for the year ended December 31, 2007 to a loss of $15.0 million for the year ended 2008 — a total reduction of $22.9 million — which arose as a result of holding surplus net foreign currency assets, primarily British pounds, at a time when the U.S. dollar was appreciating against the majority of currencies;

(v) an increase in income tax expense of $54.3 million relating primarily to the increased tax liability on the results of our Australian subsidiary;

(vi) an increase in general and administrative expenses of $21.9 million due primarily to the additional directs costs incurred by the companies acquired during 2008;

(vii) an increase in minority interests' share of net earnings of $44.1 million as a result of higher earnings in those subsidiaries with minority shareholders; and

(viii) increased interest expense of $18.5 million attributable to an increase in bank borrowings used in the funding of the acquisitions completed in 2008.

Consulting Fees:

	Year Ended December 31,		
	2008	2007	Variance
	(in thousands of U.S. dollars)		
Consulting	$ 54,158	$ 59,465	$(5,307)
Reinsurance	(29,007)	(27,547)	(1,460)
Total	$ 25,151	$ 31,918	$(6,767)

We earned consulting fees of approximately $25.2 million and $31.9 million for the years ended December 31, 2008 and 2007, respectively. The decrease in consulting fees was due primarily to a reduction in 2008 in incentive-based fees earned by our Bermuda management company.

Internal management fees of $29.0 million and $27.5 million were paid in the year ended December 31, 2008 and 2007, respectively, by our reinsurance companies to our consulting companies. The increase in fees paid by the reinsurance segment was due primarily to the fees paid by reinsurance companies that were acquired in 2008.

Net Investment Income and Net Realized (Losses) Gains:

	Year Ended December 31,					
	Net Investment Income			Net Realized (Losses) Gains		
	2008	2007	Variance	2008	2007	Variance
	(in thousands of U.S. dollars)					
Consulting	$(20,248)	$ 228	$(20,476)	$ 0	$ 0	$ 0
Reinsurance	46,849	63,859	(17,010)	(1,655)	249	(1,904)
Total	$ 26,601	$64,087	$(37,486)	$(1,655)	$249	$(1,904)

Net investment income for the year ended December 31, 2008 decreased by $37.5 million to $26.6 million, as compared to $64.1 million for the year ended December 31, 2007. The decrease in net investment income was primarily attributable to cumulative writedowns of approximately $84.1 million in the fair value of our private equity investments held by us as other investments. The writedowns in our private equity investments were primarily related to mark-to-market adjustments in the fair value of their underlying assets, which are primarily investments in financial institutions, arising as a result of the current global credit and liquidity crises. The writedowns were partially offset by the increased net investment income earned by the companies we acquired during 2008.

The average return on the cash and fixed maturities investments (excluding writedowns related to our other investments) for the year ended December 31, 2008 was 4.62%, as compared to the average return of 4.57% for the year ended December 31, 2007. The slight increase in yield was the result of increased returns on fixed income investments from subsidiaries acquired in 2008, substantially offset by reduced yields on cash balances as a result of decreasing U.S. interest rates — the U.S. Federal Funds Rate decreased from an average of 5.05% in 2007 to 2.09% in 2008. The average Standard & Poor's credit rating of our fixed income investments at December 31, 2008 was AAA.

Net realized (losses) gains for the year ended December 31, 2008 and 2007 were $(1.7) million and $0.2 million, respectively. The increase in net realized losses arose primarily as a result of mark-to-market adjustments in our equity portfolio held as trading. Based on our current investment strategy, we do not expect net realized gains and losses to be significant in the foreseeable future.

Net Reduction in Loss and Loss Adjustment Expense Liabilities:

The following table shows the components of the movement in net reduction in loss and loss adjustment expense liabilities for the years ended December 31, 2008 and 2007.

	Year Ended December 31,	
	2008	2007
	(in thousands of U.S. dollars)	
Net Losses Paid	$(174,013)	$(20,422)
Net Change in Case and LAE Reserves	183,712	17,660
Net Change in IBNR	232,405	27,244
Net Reduction in Loss and Loss Adjustment Expense Liabilities	$ 242,104	$ 24,482

Net reduction in case and LAE reserves comprises the movement during the year in specific case reserve liabilities as a result of claims settlements or changes advised to us by our policyholders and attorneys, less changes in case reserves recoverable advised by us to our reinsurers as a result of the settlement or movement of assumed claims. Net reduction in IBNR represents the change in our actuarial estimates of losses incurred but not reported.

The net reduction in loss and loss adjustment expense liabilities for 2008 of $242.1 million was attributable to a reduction in estimates of net ultimate losses of $161.4 million, a reduction in aggregate provisions for bad debt of $36.1 million (excluding $3.1 million relating to one of our entities that benefited from substantial stop loss reinsurance protection discussed below) and a reduction in estimates of loss adjustment expense liabilities of $69.1 million, relating to 2008 run-off activity, partially offset by the amortization, over the estimated payout period, of fair value adjustments relating to companies acquired amounting to $24.5 million.

The reduction in estimates of net ultimate losses of $161.4 million comprised the following:

(i) A reduction in estimates of net ultimate losses of $21.7 million in one of our insurance entities that benefited from substantial stop loss reinsurance protection. Net adverse incurred loss development relating to this entity of $21.6 million was offset by reductions in IBNR reserves of $94.8 million and reductions in provisions for bad debt of $3.1 million, resulting in a net reduction in estimates of ultimate losses of $76.3 million. The entity in question benefited, until December 18, 2008, from substantial stop loss reinsurance protection whereby $54.6 million of the net reduction in ultimate losses of $76.3 million was ceded to a single AA- rated reinsurer such that we retained a reduction in estimates of net ultimate losses relating to this entity of $21.7 million. On December 18, 2008, we commuted the stop loss reinsurance protection with the reinsurer for the receipt of $190.0 million payable by the reinsurer to us over four years together with interest compounded at 3.5% per annum. The commutation resulted in no significant financial impact to us. The net adverse incurred loss development relating to this entity of $21.6 million, whereby advised net case reserves of $25.0 million were settled for net paid losses of $46.6 million, primarily related to six commutations of assumed and ceded liabilities completed during 2008. Actuarial analysis of the remaining unsettled loss liabilities resulted in a decrease in the estimate of IBNR loss reserves of $94.8 million after consideration of the $21.6 million adverse incurred loss development during the year, and the application of the actuarial methodologies to loss data pertaining to the remaining non-commuted exposures. Of the six commutations completed for this entity, of which the three largest were completed during the three months ended December 31, 2008, one was among its top ten cedant exposures. The remaining five were of a smaller size, consistent with our approach of targeting significant numbers of cedant and reinsurer relationships as well as targeting significant individual cedant and reinsurer relationships.

(ii) A reduction in estimates of net ultimate losses of $139.7 million in our remaining insurance and reinsurance entities comprised net favorable incurred loss development of $24.1 million and reductions in IBNR

reserves of $115.6 million. The net favorable incurred loss development in our remaining insurance and reinsurance entities of $24.1 million, whereby net advised case and LAE reserves of $123.5 million were settled for net paid loss recoveries of $99.4 million, arose from the settlement of non-commuted losses in the year below carried reserves and approximately 59 commutations of assumed and ceded exposures at less than case and LAE reserves. Approximately 82% of savings generated from commutations related to commutations completed during the three months ended December 31, 2008. We adopt a disciplined approach to the review and settlement of non-commuted claims through claims adjusting and the inspection of underlying policyholder records such that settlements of assumed exposures may often be achieved below the level of the originally advised loss, and settlements of ceded receivables may often be achieved at levels above carried balances. The net reduction in the estimate of IBNR loss and loss adjustment expense liabilities relating to our remaining insurance and reinsurance companies amounted to $115.6 million and results from the application of our reserving methodologies to (a) the reduced historical incurred loss development information relating to remaining exposures after the 59 commutations, and (b) reduced case and LAE reserves in the aggregate. Of the 59 commutations completed during 2008 for our remaining reinsurance and insurance companies, two (both of which were completed during the three months ended December 31, 2008), were among our top ten cedant and/or reinsurance exposures. The remaining 57 were of a smaller size, consistent with our approach of targeting significant numbers of cedant and reinsurer relationships, as well as targeting significant individual cedant and reinsurer relationships.

Another of our reinsurance companies has retrocessional arrangements providing for full reinsurance of all risks assumed. During the year, this entity commuted its largest assumed liability and related retrocessional protection whereby the subsidiary paid net losses of $222.0 million and reduced net IBNR by the same amount, resulting in no gain or loss to us.

The reduction in aggregate provisions for bad debt of $36.1 million (excluding $3.1 million relating to one of our entities that benefited from substantial stop loss reinsurance protection discussed above) resulted from the collection, primarily during the three months ended December 31, 2008, of certain reinsurance receivables against which bad debt provisions had been provided in earlier periods, together with revised estimations of bad debt provisions based on additional information obtained during the three months ended December 31, 2008.

The table below provides a reconciliation of the beginning and ending reserves for losses and loss adjustment expenses for the years ended December 31, 2008 and 2007. Losses incurred and paid are reflected net of reinsurance recoverables.

	Year Ended December 31,	
	2008	2007
	(in thousands of U.S. dollars)	
Balance as of January 1	$1,591,449	$1,214,419
Less: Reinsurance Recoverables	427,964	342,160
	1,163,485	872,259
Incurred Related to Prior Years	(242,104)	(24,482)
Paids Related to Prior Years	(174,013)	(20,422)
Effect of Exchange Rate Movement	(124,989)	18,625
Retroactive Reinsurance Contracts Assumed	373,287	—
Acquired on Acquisition of Subsidiaries	1,408,046	317,505
Net Balance as of December 31	$2,403,712	$1,163,485
Plus: Reinsurance Recoverables	394,575	427,964
Balance as of December 31	$2,798,287	$1,591,449

Salaries and Benefits:

	Year Ended December 31,		
	2008	2007	Variance
	(in thousands of U.S. dollars)		
Consulting	$33,196	$36,222	$ 3,026
Reinsurance	23,074	10,755	(12,319)
Total	$56,270	$46,977	$ (9,293)

Salaries and benefits, which include expenses relating to our incentive bonus and employee share plans, were $56.3 million and $47.0 million for the years ended December 31, 2008 and 2007, respectively. The increase of $12.3 million relating to the reinsurance segment, for the year ended December 31, 2008, was primarily attributable to an increase of $3.6 million in the accrual related to our incentive bonus plan as well as $8.5 million of additional salary costs of staff directly employed by reinsurance companies that were newly acquired in 2008. In total, we have 292 staff members as of December 31, 2008 as compared to 221 as of December 31, 2007.

We expect that staff costs will increase in 2009 due primarily to the approximately 37 new employees that were retained or hired on December 30, 2008 as a result of the completion of the Unionamerica acquisition. Bonus accrual expenses related to our discretionary bonus plan will be variable and dependent on our overall profitability.

General and Administrative Expenses:

	Year Ended December 31,		
	2008	2007	Variance
	(in thousands of U.S. dollars)		
Consulting	$17,289	$21,844	$ 4,555
Reinsurance	36,068	9,569	(26,499)
Total	$53,357	$31,413	$(21,944)

General and administrative expenses attributable to the consulting segment decreased by $4.6 million during the year ended December 31, 2008, as compared to the year ended December 31, 2007. The decrease was due primarily to the following: 1) decrease in professional fees of $3.1 million relating to lower legal and accounting

costs incurred by the consulting segment; 2) decrease of $1.4 million in respect of reduced value added tax liabilities; and 3) reduction in cumulative net other general and administrative expenses of $0.1 million.

General and administrative expenses attributable to the reinsurance segment increased by $26.5 million during the year ended December 31, 2008 as compared to the year ended December 31, 2007. The increased costs for the year primarily related to additional general and administrative expenses of $28.1 million incurred in relation to companies that we acquired during 2008 partially offset by reductions in general and administrative expenses of $1.6 million for companies that were acquired prior to 2008 relating primarily to reduced third-party management fees and computer related costs.

Interest Expense:

	Year Ended December 31,		
	2008	2007	Variance
	(in thousands of U.S. dollars)		
Consulting	$ —	$ —	$ —
Reinsurance	23,370	4,876	(18,494)
Total	$23,370	$4,876	$(18,494)

Interest expense of $23.4 million and $4.9 million was recorded for the years ended December 31, 2008 and 2007, respectively. The increase in interest expense was attributable to an increase in bank borrowings used in the funding of the acquisitions in 2008, primarily in relation to the Gordian, EPIC, Goshawk and Guildhall acquisitions.

Foreign Exchange (Loss)/Gain:

	Year Ended December 31,		
	2008	2007	Variance
	(in thousands of U.S. dollars)		
Consulting	$ (1,167)	$ (192)	$ (975)
Reinsurance	(13,819)	8,113	(21,932)
Total	$(14,986)	$7,921	$(22,907)

We recorded a foreign exchange loss of $15.0 million for the year ended December 31, 2008, as compared to a foreign exchange gain of $7.9 million for the same period in 2007. For the year ended December 31, 2008, the foreign exchange loss arose primarily as a result of the following: 1) approximately $36.6 million, before minority interest, of foreign exchange gains due to Gordian's holding of surplus U.S. dollar denominated assets at a time when the U.S. dollar has strengthened significantly against the Australian dollar in the period from the date of acquisition, March 5, 2008, to December 31, 2008 (as at December 31, 2008, Gordian continued to hold surplus U.S. dollar denominated assets, whereas the functional currency of Gordian is Australian dollars) offset by 2) approximately $51.6 million of other foreign exchange losses within the company which were primarily the result of our holding surplus British pounds relating to cash collateral required to support British pound denominated letters of credit required by U.K. regulators at a time when the British pound exchange rate to the U.S. dollar had decreased from approximately £1 = 1.993 as at January 1, 2008 to £1 = 1.4593 as at December 31, 2008. Since letters of credit are in excess of the British pound liabilities held by our subsidiaries, the subsidiary companies were unable to match the surplus assets against liabilities during the year, resulting in the foreign exchange loss. As at December 31, 2008, we continue to hold surplus British pounds relating to cash collateral required to support our British pound denominated letters of credit.

In addition to the foreign exchange losses recorded in our consolidated statement of earnings for the year ended December 31, 2008, we recorded in our consolidated statement of comprehensive income cumulative translation adjustment losses for the year ended December 31, 2008 of $51.0 million, as compared to gains of $1.5 million for the year ended December 31, 2007.

For the year ended December 31, 2008, these losses arose primarily as a result of cumulative translation adjustments of $42.8 million, net of minority interest of $18.4 million, relating to Gordian. We have concluded that

under FAS No. 52, “Foreign Currency Translation” (“FAS 52”), the functional currency of Gordian is Australian dollars. As a result, upon conversion of the net Australian dollar assets of Gordian to U.S. dollars, we recorded $42.8 million, net of minority interest of $18.4 million, of U.S. dollar cumulative translation adjustment losses through accumulated other comprehensive income. This loss was due primarily to the decrease in the Australian to U.S. dollar foreign exchange rate from AU$1 = 0.9185 at the acquisition date, March 5, 2008, to AU$1 = 0.7026 at December 31, 2008.

As our functional currency is the U.S. dollar, we seek to manage our exposure to foreign currency exchange by broadly matching foreign currency assets against foreign currency liabilities, subject to regulatory constraints.

The net impact on shareholders’ equity of foreign exchange losses relating to Gordian in 2008 is summarized in the table below:

	Year Ended December 31, 2008 (in thousands of U.S. dollars)
Foreign exchange gains recorded through earnings (related primarily to the holding of surplus U.S. dollar denominated short-term investments) (net of minority interest of $11.0 million)	$ 25,598
Foreign exchange losses recorded through accumulated other comprehensive income (net of minority interest of $18.4 million)	(42,793)
Combined decrease in shareholders’ equity	$ (17,195)

Income Tax (Expense)/Recovery:

	Year Ended December 31,		
	2008	2007	Variance
	(in thousands of U.S. dollars)		
Consulting	$ 511	$ (597)	$ 1,108
Reinsurance	(47,365)	8,038	(55,403)
Total	$(46,854)	$7,441	$(54,295)

We recorded an income tax (expense)/recovery of $(46.9) million and $7.4 million for the years ended December 31, 2008 and 2007, respectively.

The increase in income tax expense of $54.3 million was related primarily to cumulative tax expense on pre-tax earnings of $105.6 million recorded by Gordian and Guildhall, which we acquired in 2008.

Minority Interest:

	Year Ended December 31,		
	2008	2007	Variance
	(in thousands of U.S. dollars)		
Consulting	$ —	$ —	$ —
Reinsurance	(50,808)	(6,730)	(44,078)
Total	$(50,808)	$(6,730)	$(44,078)

We recorded a minority interest in earnings of $50.8 million and $6.7 million for the years ended December 31, 2008 and 2007, respectively. The total for the year ended December 31, 2008 relates to the minority economic interest held by third parties in the earnings of: 1) Gordian, Guildhall, Shelbourne, Goshawk, Royston and EPIC — all 2008 acquisitions; and 2) Hillcot. For the same period in 2007, the minority interest related was in respect of Hillcot and Shelbourne only.

Negative Goodwill:

	Year Ended December 31,		
	2008	2007	Variance
	(in thousands of U.S. dollars)		
Consulting	$ —	$ —	$ —
Reinsurance	35,196	15,683	19,513
Total	$35,196	$15,683	$19,513

Negative goodwill of $35.2 million (net of minority interest of $15.1 million) and $15.7 million, was recorded for the years ended December 31, 2008 and 2007, respectively. For the year ended December 31, 2008, the negative goodwill of $35.2 million was earned in connection with our acquisition of Gordian and represents the excess of the cumulative fair value of net assets acquired of $455.7 million over the cost of $405.4 million. This excess has, in accordance with SFAS 141 "Business Combinations," been recognized as an extraordinary gain in 2008. The negative goodwill arose primarily as a result of the income earned by Gordian between the date of the balance sheet on which the agreed purchase price was based, September 30, 2007, and the date the acquisition closed, March 5, 2008.

For the year ended December 31, 2007 the negative goodwill of $15.7 million was earned in connection with our acquisition of Inter-Ocean and represents the excess of the cumulative fair value of net assets acquired of $73.2 million over the cost of $57.5 million. The negative goodwill arose primarily as a result of the strategic desire of the vendors to achieve an exit from such operations and therefore to dispose of the companies at a discount to fair value.

Comparison of Year Ended December 31, 2007 and 2006

We reported consolidated net earnings of approximately $61.8 million for the year ended December 31, 2007 compared to approximately $82.3 million in 2006. Included as part of net earnings for 2007 and 2006 are extraordinary gains of $15.7 million and $31.0 million, respectively, relating to negative goodwill, net of minority interest. Net earnings before extraordinary gain for 2007 were approximately $46.1 compared to $51.3 million in 2006. The decrease was primarily a result of a lower net reduction in loss and loss adjustment expense liabilities, higher general and administrative expenses and lower consulting fee income, offset by higher investment income and income tax recoveries along with a lower charge in respect of minority interest.

Consulting Fees:

	Year Ended December 31,		
	2007	2006	Variance
	(In thousands of U.S. dollars)		
Consulting	$ 59,465	$ 54,546	$ 4,919
Reinsurance	(27,547)	(20,638)	(6,909)
Total	$ 31,918	$ 33,908	$(1,990)

We earned consulting fees of approximately $31.9 million and $33.9 million for the years ended December 31, 2007 and 2006, respectively. The decrease in consulting fees was due primarily to the acquisition of B.H. Acquisition Ltd., or B.H. Acquisition, which now forms part of the reinsurance segment and whose fee income is now eliminated. In 2006, we had recorded $1.3 million of fee income in respect of B.H. Acquisition.

Internal management fees of $27.5 million and $20.6 million were paid in 2007 and 2006, respectively, by our reinsurance companies to our consulting companies. The increase in fees paid by the reinsurance segment was due primarily to the fees paid by reinsurance companies that were acquired in 2007 along with those companies acquired during 2006.

Net Investment Income and Net Realized Gains (Losses):

	Year Ended December 31,					
	Net Investment Income			Net Realized Gains (Losses)		
	2007	2006	Variance	2007	2006	Variance
	(In thousands of U.S. dollars)					
Consulting	$ 228	$ 1,225	$ (997)	$ —	$ —	$ —
Reinsurance	63,859	46,874	16,985	249	(98)	347
Total	$64,087	$48,099	$15,988	$249	$(98)	$ 347

Net investment income for the year ended December 31, 2007 increased by $16.0 million to $64.1 million, compared to $48.1 million for the year ended December 31, 2006. The increase was primarily attributable to our increase in average cash and investment balances from $1,093.2 million to $1,401.2 million for the years ended December 31, 2006 and 2007, respectively, as a result of cash and investment portfolios of reinsurance companies acquired in the year.

The average return on the cash and investments for the year ended December 31, 2007 was 4.57%, as compared to the average return of 4.40% for the year ended December 31, 2006. The increase in yield was primarily the result of increasing U.S. interest rates — the average U.S. federal funds rate has increased from 4.96% in 2006 to 5.05% in 2007. The average Standard & Poor's credit rating of our fixed income investments at December 31, 2007 was AAA.

Net realized gains (losses) for the year ended December 31, 2007 and 2006 were $0.2 million and $(0.1) million, respectively.

Net Reduction in Loss and Loss Adjustment Expense Liabilities:

Net reduction in loss and loss adjustment expense liabilities for the year ended December 31, 2007 was $24.5 million, excluding the impacts of adverse foreign exchange rate movements of $18.6 million and including both net reduction in loss and loss adjustment expense liabilities of $9.0 million relating to companies acquired during the year and premium and commission adjustments triggered by incurred losses of $0.3 million.

The net reduction in loss and loss adjustment expense liabilities for 2007 of $24.5 million was attributable to a reduction in estimates of net ultimate losses of $30.7 million and a reduction in estimates of loss adjustment expense liabilities of $22.0 million, relating to 2007 run-off activity, partially offset by an increase in aggregate provisions for bad debt of $1.7 million, primarily relating to companies acquired in 2006, and the amortization, over the estimated payout period, of fair value adjustments relating to companies acquired amounting to $26.5 million.

The reduction in estimates of net ultimate losses of $30.7 million comprised net adverse incurred loss development of $1.0 million offset by reductions in estimates of IBNR reserves of $31.7 million. An increase in estimates of ultimate losses of $2.1 million relating to one of our insurance entities was offset by reductions in estimates of net ultimate losses of $32.8 million in our remaining insurance and reinsurance entities.

The net adverse incurred loss development of $1.0 million and reductions in IBNR reserves of $31.7 million, respectively, comprised the following:

(i) Net adverse incurred loss development in one of our reinsurance entities of $36.6 million, whereby advised case reserves of $16.9 million were settled for net paid losses of $53.5 million. This adverse incurred loss development resulted from the settlement of case and LAE reserves above carried levels and from new loss advices, partially offset by approximately 12 commutations of assumed and ceded exposures below carried reserve levels. Actuarial analysis of the remaining unsettled loss liabilities resulted in a decrease in the estimate of IBNR loss reserves of $13.1 million after consideration of the $36.6 million adverse incurred loss development during the year, and the application of the actuarial methodologies to loss data pertaining to the remaining non-commuted exposures. Of the 12 commutations completed for this entity, 3 were among its top 10 cedant exposures. The remaining 9 were of a smaller size, consistent with our approach of targeting significant numbers of cedant and reinsurer relationships as well as targeting significant individual cedant and reinsurer relationships. The entity in question also benefits from substantial stop loss reinsurance protection

whereby the ultimate adverse loss development of $23.4 million was largely offset by a recoverable from a single AA rated reinsurer such that a net ultimate loss of $2.1 million was retained by us.

(ii) Net favorable incurred loss development of $29.0 million, comprising net paid loss recoveries, relating to another one of our reinsurance companies, offset by increases in net IBNR loss reserves of $29.0 million, resulting in no ultimate gain or loss. This reinsurance company has retrocessional arrangements providing for full reinsurance of all risks assumed.

(iii) Net favorable incurred loss development of $6.6 million in our remaining insurance and reinsurance entities together with reductions in IBNR reserves of $26.3 million. The net favorable incurred loss development in our remaining insurance and reinsurance entities of $6.6 million, whereby net advised case and LAE reserves of $2.6 million were settled for net paid loss recoveries of $4.0 million, arose from the settlement of non-commuted losses in the year below carried reserves and approximately 57 commutations of assumed and ceded exposures at less than case and LAE reserves. We adopt a disciplined approach to the review and settlement of non-commuted claims through claims adjusting and the inspection of underlying policyholder records such that settlements of assumed exposures may often be achieved below the level of the originally advised loss and settlements of ceded receivables may often be achieved at levels above carried balances. The net reduction in the estimate of IBNR loss and loss adjustment expense liabilities relating to our remaining insurance and reinsurance companies amounted to $26.3 million and results from the application of our reserving methodologies to (i) the reduced historical incurred loss development information relating to remaining exposures after the 57 commutations, and (ii) reduced case and LAE reserves in the aggregate. Of the 57 commutations completed during 2007 for our remaining reinsurance and insurance companies, 5 were among their top 10 cedant and/or reinsurance exposures. The remaining 52 were of a smaller size, consistent with our approach of targeting significant numbers of cedant and reinsurer relationships, as well as targeting significant individual cedant and reinsurer relationships.

The following table shows the components of the movement in net reduction in loss and loss adjustment expense liabilities for the years ended December 31, 2007 and 2006.

	Year Ended December 31,	
	2007	2006
	(In thousands of U.S. dollars)	
Net Losses Paid	$(20,422)	$(75,293)
Net Reduction in Case and LAE Reserves	17,660	43,645
Net Reduction in IBNR	27,244	63,575
Net Reduction in Loss and Loss Adjustment Expenses	$ 24,482	$ 31,927

Net reduction in case and LAE reserves comprises the movement during the year in specific case reserve liabilities as a result of claims settlements or changes advised to us by our policyholders and attorneys, less changes in case reserves recoverable advised by us to our reinsurers as a result of the settlement or movement of assumed claims. Net reduction in IBNR represents the change in our actuarial estimates of losses incurred but not reported.

The table below provides a reconciliation of the beginning and ending reserves for losses and loss adjustment expenses for the years ended December 31, 2007 and 2006. Losses incurred and paid are reflected net of reinsurance recoverables.

	Year Ended December 31,	
	2007	2006
	(In thousands of U.S. dollars)	
Balance as of January 1	$1,214,419	$ 806,559
Less: Reinsurance recoverables	342,160	213,399
	872,259	593,160
Incurred related to prior years	(24,482)	(31,927)
Paids related to prior years	(20,422)	(75,293)
Effect of exchange rate movement	18,625	24,856
Acquired on acquisition of subsidiaries	317,505	361,463
Net balance as of December 31	$1,163,485	$ 872,259
Plus: Reinsurance recoverables	427,964	342,160
Balance as of December 31	$1,591,449	$1,214,419

Salaries and Benefits:

	Year Ended December 31,		
	2007	2006	Variance
	(In thousands of U.S. dollars)		
Consulting	$36,222	$28,255	$(7,967)
Reinsurance	10,755	11,866	1,111
Total	$46,977	$40,121	$(6,856)

Salaries and benefits, which include expenses relating to our incentive bonus and employee share plans, were $47.0 million and $40.1 million for the years ended December 31, 2007 and 2006, respectively. The increase in salaries and benefits for the consulting segment was due to the following factors: 1) The growth in staff numbers from 195, as of December 31, 2006, to 221, as of December 31, 2007; 2) On May 23, 2006 we entered into an agreement and plan of merger and a recapitalization agreement which resulted in the existing annual incentive compensation plan being cancelled and the modification of the accounting treatment for share-based awards from a book value plan to a fair value plan. The net effect of these changes was to reduce the total salaries and benefits by $2.0 million; and 3) In March 2007, payment of a special bonus to John J. Oros and Nimrod T. Frazer, totaling $2.0 million, in recognition of their contributions to the successful completion of the Merger.

General and Administrative Expenses:

	Year Ended December 31,		
	2007	2006	Variance
	(In thousands of U.S. dollars)		
Consulting	$21,844	$12,751	$ (9,093)
Reinsurance	9,569	6,127	(3,442)
Total	$31,413	$18,878	$(12,535)

General and administrative expenses attributable to the consulting segment increased by $9.1 million during the year ended December 31, 2007, as compared to the year ended December 31, 2006 due primarily to the following: 1) increased professional fees of $4.2 million relating to legal, accounting and filing costs associated with our reporting obligations as a public company; 2) a one-time expense of $1.6 million relating to the over-

recovery by us of current and prior years value added taxes; and 3) increased rent costs of $1.4 million as a result of one of our U.K. subsidiaries moving to new offices.

General and administrative expenses attributable to the reinsurance segment increased by $3.4 million during the year ended December 31, 2007, as compared to the year ended December 31, 2006. The increased costs for the period related primarily to the following: 1) additional general and administrative expenses of $2.5 million incurred in relation to companies that we acquired in 2007; and 2) a write-off of a receivable of $0.9 million in respect of value added tax recoveries.

Interest Expense:

	Year Ended December 31,		
	2007	2006	Variance
	(In thousands of U.S. dollars)		
Consulting	$ —	$ —	$ —
Reinsurance	4,876	1,989	2,887
Total	$4,876	$1,989	$ 2,887

Interest expense of $4.9 million and $2.0 million was recorded for the years ended December 31, 2007 and 2006, respectively.

For 2007, this amount related to the interest on new loans from a London-based bank to partially assist with the financing of the acquisitions of Inter-Ocean and Marlon Insurance Company Limited and Marlon Management Services Limited, or together referred to herein as Marlon, along with interest charges from prior years loans that were made to partially assist with the financing of the acquisitions of Brampton Insurance Company Limited, or Brampton, and Cavell Holdings Limited (UK), or Cavell.

For 2006, interest expense also included an amount relating to the interest on funds that were borrowed from B.H. Acquisition, which, for 2007, was a wholly-owned subsidiary, as well as interest on a vendor promissory note that formed part of the acquisition cost for Brampton. The vendor promissory note was repaid in May 2006. During 2007 the Inter-Ocean bank loan was repaid in full. In February 2008, the Cavell and Marlon bank loans were also repaid in full.

Foreign Exchange Gain/(Loss):

	Year Ended December 31,		
	2007	2006	Variance
	(In thousands of U.S. dollars)		
Consulting	$ (192)	$ (146)	$ (46)
Reinsurance	8,113	10,978	(2,865)
Total	$7,921	$10,832	$(2,911)

We recorded foreign exchange gains of $7.9 million and $10.8 million for the years ended December 31, 2007 and December 31, 2006, respectively.

The foreign exchange gain for the year ended December 31, 2007 arose primarily as a result of: 1) the holding of surplus British pounds; and 2) the holding by Cavell of surplus net Canadian and Australian dollars, as required by local regulatory obligations, at a time when these currencies have been appreciating against the U.S. dollar. The gain for the year ended December 31, 2006 arose primarily as a result of having surplus British pounds as a result of our acquisitions of Brampton, Cavell, and Unione Italiana (U.K.) Reinsurance Company, or Unione, at a time when the British pound had strengthened against the U.S. dollar.

Share of Income of Partly Owned Company:

	Year Ended December 31,		
	2007	2006	Variance
	(In thousands of U.S. dollars)		
Consulting	$ —	$ —	$ —
Reinsurance	—	518	(518)
Total	$ —	$518	$ (518)

Our share of equity in earnings of partly owned companies for the years ended December 31, 2007 and 2006 was $Nil and $0.5 million, respectively. These amounts represented our proportionate share of equity in the earnings of B.H. Acquisition.

On January 31, 2007, B.H. Acquisition became our wholly-owned subsidiary and, as a result, we now consolidate the results of B.H. Acquisition.

Income Tax Recovery (Expense):

	Year Ended December 31,		
	2007	2006	Variance
	(In thousands of U.S. dollars)		
Consulting	$ (597)	$ 490	$(1,087)
Reinsurance	8,038	(172)	8,210
Total	$7,441	$ 318	$ 7,123

We recorded an income tax recovery of $7.4 million and $0.3 million for the years ended December 31, 2007 and 2006, respectively.

Income tax (expense)/recovery of $(0.6) million and $0.5 million were recorded in the consulting segment for the years ended December 31, 2007 and 2006, respectively. The variance between the two periods arose because of: 1) the inclusion for 2007, as a result of the Merger, of the tax expense of Enstar USA, Inc.; and 2) in 2006, we applied available loss carryforwards from our U.K. insurance companies to relieve profits in our U.K. consulting companies.

During 2007, in the reinsurance segment, the statute of limitations expired on certain previously recorded liabilities related to uncertain tax positions. The benefit to us was $8.5 million.

Minority Interest:

	Year Ended December 31,		
	2007	2006	Variance
	(In thousands of U.S. dollars)		
Consulting	$ —	$ —	$ —
Reinsurance	(6,730)	(13,208)	6,478
Total	$(6,730)	$(13,208)	$ 6,478

We recorded a minority interest in earnings of $6.7 million for the year ended December 31, 2007 reflecting the 49.9% minority economic interest held by a third party in the earnings from Hillcot, Brampton and Shelbourne, and $13.2 million for the year ended December 31, 2006 reflecting the 49.9% minority economic interest held by a third party in the earnings from Hillcot and Brampton.

The decrease in minority interest was primarily a result of reduced foreign exchange gains in Brampton and a decrease in net reduction in loss and loss adjustment expense liabilities for Hillcot Re Limited and Brampton.

Negative Goodwill:

	Year Ended December 31,		
	2007	2006	Variance
	(In thousands of U.S. dollars)		
Consulting	$ —	$ —	$ —
Reinsurance	15,683	31,038	(15,355)
Total	$15,683	$31,038	$(15,355)

Negative goodwill of $15.7 million and $31.0 million, net of minority interest of $4.3 million, was recorded for the years ended December 31, 2007 and 2006, respectively. For 2007, the negative goodwill of $15.7 million was earned in connection with our acquisition of Inter-Ocean and represents the excess of the cumulative fair value of net assets acquired of $73.2 million over the cost of $57.5 million. This excess has, in accordance with SFAS 141 "Business Combinations," been recognized as an extraordinary gain in 2007. The negative goodwill arose primarily as a result of the strategic desire of the vendors to achieve an exit from such operations and therefore to dispose of the company at a discount to fair value.

Negative goodwill of $31.0 million, net of minority interest of $4.3 million, was recorded for the year ended December 31, 2006 in connection with our acquisitions of Brampton, Cavell and Unione during the year. This amount represents the excess of the cumulative fair value of net assets acquired of $222.9 million over the cost of $187.5 million. This excess has, in accordance with SFAS 141 "Business Combinations," been recognized as an extraordinary gain in 2006.

The negative goodwill of $4.3 million (net of minority interest) relating to Brampton arose as a result of the income earned by Brampton between the date of the balance sheet on which the agreed purchase price was based, December 31, 2004, and the date the acquisition closed, March 30, 2006. The negative goodwill of $26.7 million relating to the purchases of Cavell and Unione arose primarily as a result of the strategic desire of the vendors to achieve an exit from such operations and, therefore, to dispose of the companies at a discount to fair value.

Liquidity and Capital Resources

As we are a holding company and have no substantial operations of our own, our assets consist primarily of investments in subsidiaries. The potential sources of the cash flows to the holding company consist of dividends, advances and loans from our subsidiary companies.

Our future cash flows depend upon the availability of dividends or other statutorily permissible payments from our subsidiaries. The ability to pay dividends and make other distributions is limited by the applicable laws and regulations of the jurisdictions in which our insurance and reinsurance subsidiaries operate, including Bermuda, the United Kingdom, United States, Australia and Europe, which subject these subsidiaries to significant regulatory restrictions. These laws and regulations require, among other things, certain of our insurance and reinsurance subsidiaries to maintain minimum solvency requirements and limit the amount of dividends and other payments that these subsidiaries can pay to us, which in turn may limit our ability to pay dividends and make other payments. As of December 31, 2008 and 2007, our insurance and reinsurance subsidiaries' solvency and liquidity were in excess of the minimum levels required. Retained earnings of our insurance and reinsurance subsidiaries are not currently restricted as minimum capital solvency margins are covered by share capital and additional paid-in-capital.

Our capital management strategy is to preserve sufficient capital to enable us to make future acquisitions while maintaining a conservative investment strategy. We believe that restrictions on liquidity resulting from restrictions on the payments of dividends by our subsidiary companies will not have a material impact on our ability to meet our cash obligations.

Our sources of funds primarily consist of the cash and investment portfolios acquired on the completion of the acquisition of an insurance or reinsurance company in run-off. These acquired cash and investment balances are classified as cash provided by investing activities. We expect to use these funds acquired, together with collections from reinsurance debtors, consulting income, investment income and proceeds from sales and redemption of investments, to pay losses and loss expenses, salaries and benefits and general and administrative expenses, with the

remainder used for acquisitions, additional investments and, in the past, for dividend payments to shareholders. We expect that our reinsurance segment will have a net use of cash from operations as total net claim settlements and operating expenses will generally be in excess of investment income earned. We expect that our consulting segment operating cash flows will generally be breakeven. We expect our operating cash flows, together with our existing capital base and cash and investments acquired on the acquisition of our insurance and reinsurance subsidiaries, to be sufficient to meet cash requirements and to operate our business. We currently do not intend to pay cash dividends on our ordinary shares.

We maintain a short duration conservative investment strategy whereby, as of December 31, 2008, 78.0% of our cash and fixed income portfolio was held with a maturity of less than one year and 93.6% had maturities of less than five years. Excluding the impact of commutations and any schemes of arrangement, should they be completed, we expect approximately 13.2% of the gross reserves to be settled within one year and approximately 61.5% of the reserves to be settled within five years. However, our strategy of commuting our liabilities has the potential to accelerate the natural payout of losses to less than five years. Therefore, the relatively short-duration investment portfolio is maintained in order to provide liquidity for commutation opportunities and preclude us from having to liquidate longer dated securities. As a result, we do not anticipate having to sell longer dated investments in order to meet future policyholder liabilities. However, if we had to sell a portion of our held-to-maturity portfolio to meet policyholder liabilities we would, at that point, amend the classification of the held-to-maturity portfolio to an available-for-sale portfolio. This reclassification would require the investment portfolio to be recorded at market value as opposed to amortized cost. As of December 31, 2008, such a reclassification would result in an insignificant increase in the value of our cash and investments, reflecting the unrealized gain position of the held-to-maturity portfolio as of December 31, 2008.

At December 31, 2008, total cash and investments were $3.49 billion, compared to $1.80 billion at December 31, 2007. The increase of $1.69 billion was due primarily to cash and investments of $2.40 billion acquired upon the acquisition of subsidiaries offset by: 1) net paid losses relating to settled claims of $174.0 million; 2) purchase costs of acquisitions, net of external financing, of $371.6 million; and 3) foreign exchange losses on cash and investments of $155.5 million.

Source of Funds

We primarily generate our cash from the acquisitions we complete. These acquired cash and investment balances are classified as cash provided by investing activities.

We expect that for the reinsurance segment there will be a net use of cash from operations due to total claim settlements and operating expenses being in excess of investment income earned and that for the consulting segment operating cash flows will be breakeven. As a result, the net operating cash flows for us, to expiry, are expected to be negative as we pay out cash in claims settlements and expenses in excess of cash generated via investment income and consulting fees.

Operating

Net cash provided by our operating activities for the year ended December 31, 2008 was $157.2 million compared to $73.7 million for the year ended December 31, 2007. This increase in cash flows was attributable to net assets assumed on retro-active reinsurance contracts and purchases of trading security investments held by us, partially offset by higher general and administrative and interest expenses, for the year ended December 31, 2008 as compared to the year ended December 31, 2007.

Net cash provided by our operating activities for the year ended December 31, 2007 was $73.7 million compared to $4.2 million for the year ended December 31, 2006. This increase in cash flows was attributable mainly to reinsurance collections and the sales of trading securities, offset by higher general and administrative expenses and interest expense incurred for the year ended December 31, 2007 as compared to the same period in 2006.

Investing

Investing cash flows consist primarily of cash acquired net of acquisitions along with net proceeds on the sale and purchase of investments. Net cash provided by investing activities was $245.1 million during the year ended December 31, 2008 compared to $475.1 million during the year ended December 31, 2007. The decrease in the cash flows was due to the increase in restricted cash and available-for-sale securities acquired in relation to the acquisitions during the year ended December 31, 2008, the decrease in cash from the sale and maturities of investments and the increase in purchases of available-for-sale investments during the year ended December 31, 2008 as compared to the year ended December 31, 2007.

Net cash provided by investing activities was $475.1 million during the year ended December 31, 2007 compared to $179.3 million during the year ended December 31, 2006. The increase in the year was due mainly to the sale and maturity of investments held by us.

Financing

Net cash provided by (used in) financing activities was $624.6 million during the year ended December 31, 2008 compared to $(4.5) million during the year ended December 31, 2007. The increase in cash provided by financing activities was primarily attributable to the increase in net proceeds from loan financing; the increase in contributions to surplus of subsidiaries by minority interests in relation to the acquisitions; and proceeds from the issuance of ordinary shares during the year ended December 31, 2008 as compared to the year ended December 31, 2007.

Net cash used in financing activities was $4.5 million during the year ended December 31, 2007 compared to $13.6 million during the year ended December 31, 2006. The decrease in cash used in financing activities was primarily attributable to the combination of redemption of shares and dividends paid during 2006, which did not occur in 2007, and vendor loans offset by the repurchase of our shares during 2007.

Investments

At December 31, 2008, the maturity distribution of our fixed income investment portfolio was as follows:

	2008		2007	
	Amortized Cost	Fair Value	Amortized Cost	Fair Value
Due within 1 year	$ 510,081	$ 511,181	$102,469	$102,346
After 1 through 5 years	535,430	542,368	269,303	272,735
After 5 through 10 years	128,741	138,679	77,486	78,965
After 10 years	33,081	33,813	102,442	102,933
	$1,207,333	$1,226,041	$551,700	$556,979

For more information, see “Business— Investment Portfolio” on page 23.

Long-Term Debt

On February 18, 2008, we fully repaid the outstanding principal and accrued interest on the loans used to partially finance the acquisitions of Cavell and Marlon totaling $40.5 million.

In February 2008, our wholly-owned subsidiary, Cumberland Holdings Limited, or Cumberland, entered into a term facility agreement jointly with a London-based bank and a German bank, or the Cumberland Facility. On March 4, 2008, we drew down AU$215.0 million (approximately $197.5 million) from the Facility A commitment, or Cumberland Facility A, and AU$86.0 million (approximately $79.0 million) from the Facility B commitment, or Cumberland Facility B, to partially fund the Gordian acquisition.

The interest rate on Cumberland Facility A is LIBOR plus 2.00%. Cumberland Facility A is repayable in five years and is secured by a first charge over Cumberland’s shares in Gordian. Cumberland Facility A contains various financial and business covenants, including limitations on liens on the stock of restricted subsidiaries, restrictions as

to the disposition of the stock of restricted subsidiaries and limitations on mergers and consolidations. As of December 31, 2008, all of the financial covenants relating to Cumberland Facility A were met.

The interest rate on Cumberland Facility B is LIBOR plus 2.75%. Cumberland Facility B is repayable in six years and is secured by a first charge over Cumberland's shares in Gordian. Cumberland Facility B contains various financial and business covenants, including limitations on liens on the stock of restricted subsidiaries, restrictions as to the disposition of the stock of restricted subsidiaries and limitations on mergers and consolidations. As of December 31, 2008, all of the financial covenants relating to Cumberland Facility B were met.

In October 2008, we repaid AU$86.2 million of Cumberland Facility A. On October 3, 2008, we received permission from the Australian regulators to release AU$25.8 million, which will also be used to pay down Cumberland Facility A. As at December 31, 2008 this had not yet been released.

In February 2008, our wholly-owned subsidiary, Rombalds Limited, or Rombalds, entered into a term facility agreement, or the Rombalds Facility, with a London-based bank. On February 28, 2008, we drew down approximately $32.0 million from the Rombalds Facility to partially fund the acquisition of Guildhall. The interest rate on the Rombalds Facility was LIBOR plus 2.00%. On September 22, 2008, we fully repaid the outstanding principal and accrued interest on the Rombalds Facility totaling $32.0 million.

On May 8, 2008, we fully repaid outstanding principal and accrued interest on the loan used to partially finance the acquisition of Brampton Insurance Company Limited totaling $19.9 million.

On June 20, 2008, in connection with the proposed acquisition by EAL of Goshawk through the Offer, EAL entered into a Term Facilities Agreement, or the Goshawk Facilities Agreement, with a London-based bank. The Goshawk Facilities Agreement provided for a term loan facility of up to $60.0 million to partially finance the acquisition of Goshawk and refinance certain debt obligations of one of Goshawk's subsidiaries, or the Existing Debt.

On August 12, 2008, we and EAL entered into an amendment and restatement agreement under which the Goshawk Facilities Agreement was amended, or the First Amendment and Restatement Agreement. Under the First Amendment and Restatement Agreement, EAL was entitled to draw $47.5 million to fund the acquisition of Goshawk, or Goshawk Facility A, and we were entitled to draw $12.5 million to refinance the Existing Debt, or Goshawk Facility B. On August 14, 2008, we drew down $12.5 million from Goshawk Facility B to partially fund the refinancing of Existing Debt of $16.3 million; and on October 3, 2008, EAL drew down $36.1 million from Goshawk Facility A.

The interest rate on the Goshawk facilities is LIBOR plus 2.25%. The facilities are repayable within three years and Goshawk Facility A is secured by a first charge over EAL's shares in Goshawk and certain of its material subsidiaries. The First Amendment and Restatement Agreement contains various financial and business covenants, including limitations on liens on the stock of certain subsidiaries, restrictions as to the disposition of the stock of those subsidiaries and limitations on mergers and consolidations. As of December 31, 2008, all of the financial covenants relating to Goshawk Facility A and Goshawk Facility B were met.

On October 6, 2008, we fully repaid the outstanding principal and accrued interest on the loan used to partially finance the acquisition of EPIC totaling $33.1 million.

On December 30, 2008, in connection with the Unionamerica acquisition, Royston Run-off Limited, or Royston, borrowed the full amount of the $184.6 million available under a term facilities agreement, or the Unionamerica Facilities Agreement, with National Australia Bank Limited, or NABL. Of that amount, Royston borrowed $152.6 million under Facility A and $32.0 million under Facility B. We have provided a guarantee of all of the obligations of Royston under the Unionamerica Facilities Agreement, however, if NABL's participation in the facilities is reduced to or below 50% of overall commitments, then we will be released from all obligations as guarantor. Royston incurred $6.9 million in fees in connection with this financing.

The loans are secured by a lien covering all of the assets of Royston. The interest rate on the Facility A portion is LIBOR plus 3.50% and the interest rate on the Facility B portion is LIBOR plus 4.00%. The current blended rate on the full amount to be borrowed is LIBOR plus 3.59%. During the existence of a payment default, the interest rates will be increased by 1.00%. During the existence of any event of default (as specified in the Unionamerica

Facilities Agreement), the lenders may declare that all amounts outstanding under the Unionamerica Facilities Agreement are immediately due and payable, declare that all borrowed amounts be paid upon demand, or proceed against the security. Amounts outstanding under the Unionamerica Facilities Agreement are also subject to acceleration by the lenders in the event of a change of control of Royston, successful application by Royston or certain of its affiliates (other than us) for listing on a stock exchange, or total amounts outstanding under the facilities decreasing below $10.0 million.

The Facility A portion is repayable within three years from October 3, 2008, the date of the Unionamerica Facilities Agreement. The Facility B portion is repayable within four years from the date of the Unionamerica Facilities Agreement. The facilities contain various financial and business covenants, including limitations on dividends of restricted subsidiaries, restrictions as to the disposition of stock of restricted subsidiaries and limitations on mergers and consolidations by Royston. As at December 31, 2008, all of the covenants relating to the facilities were met.

Aggregate Contractual Obligations

The following table shows our aggregate contractual obligations by time period remaining to due date as at December 31, 2008.

Payments due by period:	Total	Less Than 1 Year	1-3 Years	3-5 Years	More Than 5 Years
	(In millions of U.S. dollars)				
Contractual Obligations					
Investment commitments	$ 108.0	$ 29.4	$ 41.6	$ 31.6	$ 5.4
Operating lease obligations	8.2	1.9	3.5	2.1	0.7
Loan repayments	389.6	—	201.2	122.5	65.9
Gross reserves for losses and loss adjustment expenses	2,798.3	370.6	831.6	519.9	1,076.2
	$3,304.1	$ 401.9	$1,077.9	$ 676.1	$ 1,148.2

The amounts included in gross reserves for losses and loss adjustment expenses reflect the estimated timing of expected loss payments on known claims and anticipated future claims. Both the amount and timing of cash flows are uncertain and do not have contractual payout terms. For a discussion of these uncertainties, see "— Critical Accounting Policies — Loss and Loss Adjustment Expenses" beginning on page 66.

We have an accrued liability of approximately $8.1 million for unrecognized tax benefits as of December 31, 2008. We are not able to make reasonably reliable estimates of the period in which any cash settlements that may arise with any of the respective tax authorities would be made. Therefore the liability for unrecognized tax benefits is not included in the table above.

Commitments and Contingencies

In 2006, we committed to invest up to $100.0 million in the Flowers Fund. As of December 31, 2008, the capital contributed to the Flowers Fund was $96.0 million, with the remaining commitment being approximately $4.0 million.

As at December 31, 2008, we guaranteed the obligations of two of our subsidiaries in respect of letters of credit issued on their behalf by London-based banks in the amount of £19.5 million (approximately $28.5 million) in respect of capital commitments to Lloyd's Syndicate 2008 and insurance contract requirements of one of the subsidiaries. The guarantees will be triggered should losses incurred by the subsidiaries exceed available cash on hand resulting in the letters of credit being drawn. As at December 31, 2008, we had not recorded any liabilities associated with the guarantees.

On September 10, 2008, we made a commitment to invest an aggregate of $100.0 million in J.C. Flowers Fund III L.P., or Fund III. Our commitment may be drawn down by Fund III over approximately the next six years. As of December 31, 2008, $0.1 million of the commitment had been drawn down. Fund III is a private investment

fund advised by J.C. Flowers & Co. LLC. J. Christopher Flowers, a member of our board of directors and one of our largest shareholders, is the founder and Managing Member of J.C. Flowers & Co. LLC. John J. Oros, our Executive Chairman and a member of our board of directors, is a Managing Director of J.C. Flowers & Co. LLC. Mr. Oros splits his time between J.C. Flowers & Co. LLC and us.

We have made a capital commitment of up to $10.0 million in the GSC European Mezzanine Fund II, LP, or GSC. GSC invests in mezzanine securities of middle and large market companies throughout Western Europe. As of December 31, 2008, the capital contributed to GSC was $5.9 million, with the remaining commitment being $4.1 million. The $10.0 million represents 8.5% of the total commitments made to GSC.

On January 16, 2009, we committed to invest approximately $8.7 million in JCF III Co-invest I L.P., in connection with its investment in certain of the operations, assets and liabilities of IndyMac Bank, F.S.B.

Off-Balance Sheet and Special Purpose Entity Arrangements

At December 31, 2008, we had not entered into any off-balance sheet arrangements, as defined by Item 303(a)(4) of Regulation S-K.

ITEM 7A. *QUANTITATIVE AND QUALITATIVE INFORMATION ABOUT MARKET RISK*

Interest Rate Risk

Our balance sheets include a substantial amount of assets and, to a lesser extent, liabilities whose fair values are subject to market risks. Market risk represents the potential for an economic loss due to adverse changes in the fair value of a financial instrument. Our most significant market risks are primarily associated with changes in interest rates and foreign currency exchange rates. The following provides an analysis of the potential effects that these market risk exposures could have on the future earnings.

We have calculated the effect that an immediate parallel shift in the U.S. interest rate yield curve would have on our cash and investments at December 31, 2008. The modeling of this effect was performed on our investments classified as trading and available-for-sale. A shift in the yield curve would not have an impact on our fixed income investments classified as held to maturity as they are carried at purchase cost adjusted for amortization of premiums and discounts. The results of this analysis are summarized in the table below.

Interest Rate Movement Analysis on Market Value of Investments Classified as Trading and Available-for-Sale

	Interest Rate Shift in Basis Points				
	–50	–25	0	+25	+50
	(in thousands of U.S. dollars)				
Total Market Value	$632,251	$629,793	$627,355	$624,971	$622,546
Market Value Change from Base	0.78%	0.39%	0.0%	(0.38)%	(0.77)%
Change in Unrealized Value	$ 4,896	$ 2,438	$ 0	$ (2,384)	$ (4,809)

As a holder of fixed income securities and mutual funds, we also have exposure to credit risk. In an effort to minimize this risk, our investment guidelines have been defined to ensure that the fixed income held to maturity portfolio is invested in high-quality securities. At December 31, 2008, approximately 70.7% of our investment portfolio was rated AAA or better by Standard & Poor’s.

At December 31, 2008, reinsurance receivables of $254.2 million were associated with two reinsurers and represented 37.8% of reinsurance balances receivable. These reinsurers are rated AA- by Standard & Poor’s. In the event that all or any of the reinsuring companies are unable to meet their obligations under existing reinsurance agreements, we will be liable for such defaulted amounts.

Effects of Inflation

We do not believe that inflation has had a material effect on our consolidated results of operations. Loss reserves are established to recognize likely loss settlements at the date payment is made. Those reserves inherently recognize the anticipated effects of inflation. The actual effects of inflation on our results cannot be accurately known, however, until claims are ultimately resolved.

Foreign Currency Risk

Through our subsidiaries located in various foreign countries, we conduct our insurance and reinsurance operations in a variety of non-U.S. currencies. As the functional currency for the majority of our subsidiaries is the U.S. dollar, fluctuations in foreign currency exchange rates related to these subsidiaries will have a direct impact on the valuation of our assets and liabilities denominated in local currencies. All changes in foreign exchange rates, with the exception of non-U.S. dollar denominated investments classified as available-for-sale, are recognized currently in foreign exchange gains (losses) in our consolidated statements of earnings.

Certain of our subsidiaries have non-U.S. dollar functional currencies — one being in Australian dollars and the other in British pounds. Fluctuations in foreign currency exchange rates related to these subsidiaries will have a direct impact on the valuation of their assets and liabilities denominated in local currencies. All changes in foreign exchange rates, with the exception of our U.S. dollar denominated investments classified as available-for-sale held by our Australian subsidiary, are recognized currently in foreign exchange gains (losses) in our consolidated statements of earnings.

We currently do not use foreign currency hedges to manage our foreign currency exchange risk. Our foreign currency policy is to broadly manage, where possible, our foreign currency risk by seeking to match our liabilities under insurance and reinsurance policies that are payable in foreign currencies with assets that are denominated in such currencies, subject to regulatory constraints. This matching process is carried out quarterly in arrears and therefore any mismatches occurring in the period may give rise to foreign exchange gains and losses, which could adversely affect our operating results. We are, however, required to maintain assets in non-U.S. dollars to meet certain local country branch and regulatory requirements, which restricts our ability to manage these exposures through the matching of our assets and liabilities. We currently have not matched our surplus British pounds relating to cash collateral required to support British pound denominated letters of credit required by U.K. regulators.

Regarding our investments, we are exposed to currency fluctuations through our investments in respect of:
1) non-U.S. dollar fixed maturities held by our subsidiaries whose functional currency is U.S. dollars;
2) non-Australian dollar fixed maturities held by our subsidiary whose functional currency is Australian dollars; and
3) non-British pound fixed maturities held by our subsidiaries whose functional currency is British pounds. The unrealized foreign exchange gains (losses) arising from non-Australian and non-British pound fixed maturities classified as available-for-sale are recorded in accumulated other comprehensive income in our shareholders' equity.

The table below summarizes our gross and net exposure as of December 31, 2008 to foreign currencies for our subsidiaries whose functional currency is U.S. dollars:

	GBP	Euro	AUD	CDN	Other	Total
	(in millions of U.S. dollars)					
Total Assets	$514.8	$221.6	$42.6	$55.5	$17.6	$852.1
Total Liabilities	393.1	166.8	31.2	41.4	17.4	649.9
Net Foreign Currency Exposure	$121.7	$ 54.8	$11.4	$14.1	$ 0.2	$202.2

Excluding any tax effects, as of December 31, 2008, a 10% change in the U.S. dollar relative to the other currencies held by us would have resulted in a $20.2 million change in shareholders' equity. As of December 31, 2007, a 10% change in the U.S. dollar relative to the other currencies held by us would have resulted in a $12.9 million change in shareholders' equity.

The table below summarizes our gross and net exposure as of December 31, 2008 to foreign currencies for our subsidiaries whose functional currency is Australian dollars:

	GBP	Euro	USD	CDN	Other	Total
			(in millions of U.S. dollars)			
Total Assets	$15.0	$ 8.8	$290.9	$ 0.1	$1.8	$316.6
Total Liabilities	15.6	9.4	136.5	4.5	0.2	166.2
Net Foreign Currency Exposure	$ (0.6)	$(0.6)	$154.4	$(4.4)	$1.6	$150.4

Excluding any tax effects, as of December 31, 2008, a 10% change in the Australian dollar relative to the other currencies held by us would have resulted in a $15.0 million change in shareholders' equity. As of December 31, 2007, we had no subsidiaries whose functional currency was Australian dollars.

The table below summarizes our gross and net exposure as of December 31, 2008 to foreign currencies for our subsidiaries whose functional currency is British pounds:

	USD	Euro	AUD	CDN	Other	Total
			(in millions of U.S. dollars)			
Total Assets	$100.0	$0.4	$ —	$ —	$ —	$100.4
Total Liabilities	37.2	—	—	—	—	37.2
Net Foreign Currency Exposure	$ 62.8	$0.4	$ —	$ —	$ —	$ 63.2

Excluding any tax effects, as of December 31, 2008, a 10% change in the British pound relative to the other currencies held by us would have resulted in a $6.3 million change in shareholders' equity. As of December 31, 2007, we had no subsidiaries whose functional currency was British pounds.

ITEM 8. ***FINANCIAL STATEMENTS AND SUPPLEMENTARY DATA***

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REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

To the Board of Directors and Shareholders of
Enstar Group Limited (formerly known as Castlewood Holdings Limited)

We have audited the accompanying consolidated balance sheets of Enstar Group Limited (formerly known as Castlewood Holdings Limited) and subsidiaries (the "Company") as of December 31, 2008 and 2007, and the related consolidated statements of earnings, comprehensive income, changes in shareholders' equity and cash flows for the years ended December 31, 2008, 2007 and 2006. These consolidated financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on these consolidated financial statements based on our audits.

We conducted our audits in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, such consolidated financial statements present fairly, in all material respects, the financial position of Enstar Group Limited and subsidiaries as of December 31, 2008 and 2007, and the results of their operations and their cash flows for the years ended December 31, 2008, 2007 and 2006 in conformity with accounting principles generally accepted in the United States of America.

We have also audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States), the Company's internal control over financial reporting as of December 31, 2008, based on Internal Control — Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission and our report dated March 4, 2009 expressed an unqualified opinion on the Company's internal control over financial reporting.

/s/ Deloitte & Touche

Hamilton, Bermuda
March 4, 2009

ENSTAR GROUP LIMITED

(FORMERLY KNOWN AS CASTLEWOOD HOLDINGS LIMITED)
CONSOLIDATED BALANCE SHEETS
As of December 31, 2008 and 2007

	2008	2007
	(expressed in thousands of U.S. dollars, except share data)	
ASSETS		
Short-term investments, available for sale, at fair value (amortized cost: 2008 — $406,712; 2007 — $15,480)	$ 406,712	$ 15,480
Fixed maturities, available for sale, at fair value (amortized cost: 2008 — $103,452; 2007 — $7,006)	104,797	6,878
Fixed maturities, held to maturity, at amortized cost (fair value: 2008 — $598,686; 2007 — $210,998)	586,716	211,015
Fixed maturities, trading, at fair value (amortized cost: 2008 — $110,453; 2007 — $318,199)	115,846	323,623
Equities, trading, at fair value (cost: 2008 — $5,087; 2007 — $5,087)	3,747	4,900
Other investments, at fair value (cost: 2008 — $147,652; 2007 — $60,971)	60,237	75,300
Total investments	1,278,055	637,196
Cash and cash equivalents	1,866,546	995,237
Restricted cash and cash equivalents	343,327	168,096
Accrued interest receivable	21,277	7,200
Accounts receivable, net	15,992	25,379
Income taxes recoverable	—	658
Reinsurance balances receivable	672,696	465,277
Investment in partly owned company	20,850	—
Goodwill	21,222	21,222
Other assets	118,186	96,878
TOTAL ASSETS	$4,358,151	$2,417,143
LIABILITIES		
Losses and loss adjustment expenses	$2,798,287	$1,591,449
Reinsurance balances payable	179,917	189,870
Accounts payable and accrued liabilities	39,340	21,383
Income taxes payable	19,034	—
Loans payable	391,534	60,227
Other liabilities	58,808	40,178
TOTAL LIABILITIES	3,486,920	1,903,107
MINORITY INTEREST	256,022	63,437
COMMITMENTS AND CONTINGENCIES		
SHAREHOLDERS' EQUITY		
Share capital		
Authorized issued and fully paid, par value $1 each (Authorized 2008:156,000,000; 2007: 156,000,000)		
Ordinary shares (Issued and outstanding 2008: 13,334,353; 2007: 11,920,377)	13,334	11,920
Non-voting convertible ordinary shares (Issued 2008: 2,972,892; 2007: 2,972,892)	2,973	2,973
Treasury shares at cost (non-voting convertible ordinary shares 2008: 2,972,892; 2007: 2,972,892)	(421,559)	(421,559)
Additional paid-in capital	709,485	590,934
Accumulated other comprehensive (loss) income	(30,871)	6,035
Retained earnings	341,847	260,296
TOTAL SHAREHOLDERS' EQUITY	615,209	450,599
TOTAL LIABILITIES AND SHAREHOLDERS' EQUITY	$4,358,151	$2,417,143

See accompanying notes to the consolidated financial statements

ENSTAR GROUP LIMITED

(FORMERLY KNOWN AS CASTLEWOOD HOLDINGS LIMITED)
CONSOLIDATED STATEMENTS OF EARNINGS
For the Years Ended December 31, 2008, 2007 and 2006

	2008	2007	2006
	(expressed in thousands of U.S. dollars, except share and per share data)		
INCOME			
Consulting fees	$ 25,151	$ 31,918	$ 33,908
Net investment income	26,601	64,087	48,099
Net realized gains (losses)	(1,655)	249	(98)
	50,097	96,254	81,909
EXPENSES			
Net reduction in loss and loss adjustment expense liabilities	(242,104)	(24,482)	(31,927)
Salaries and benefits	56,270	46,977	40,121
General and administrative expenses	53,357	31,413	18,878
Interest expense	23,370	4,876	1,989
Net foreign exchange loss (gain)	14,986	(7,921)	(10,832)
	(94,121)	50,863	18,229
EARNINGS BEFORE INCOME TAXES, MINORITY INTEREST AND SHARE OF NET EARNINGS OF PARTLY OWNED COMPANIES	144,218	45,391	63,680
INCOME TAXES	(46,854)	7,441	318
MINORITY INTEREST	(50,808)	(6,730)	(13,208)
SHARE OF NET (LOSS) EARNINGS OF PARTLY OWNED COMPANIES	(201)	—	518
EARNINGS BEFORE EXTRAORDINARY GAIN	46,355	46,102	51,308
Extraordinary gain — Negative goodwill (net of minority interest of $15,084, $nil and $4,329, respectively)	35,196	15,683	31,038
NET EARNINGS	$ 81,551	$ 61,785	$ 82,346
PER SHARE DATA:			
Earnings per share before extraordinary gain — basic	$ 3.67	$ 3.93	$ 5.21
Extraordinary gain per share — basic	2.78	1.34	3.15
Earnings per share — basic	$ 6.45	$ 5.27	$ 8.36
Earnings per share before extraordinary gain — diluted	$ 3.59	$ 3.84	$ 5.15
Extraordinary gain per share — diluted	2.72	1.31	3.11
Earnings per share — diluted	$ 6.31	$ 5.15	$ 8.26
Weighted average shares outstanding — basic	12,638,333	11,731,908	9,857,194
Weighted average shares outstanding — diluted	12,921,475	12,009,683	9,966,960

See accompanying notes to the consolidated financial statements

ENSTAR GROUP LIMITED

(FORMERLY KNOWN AS CASTLEWOOD HOLDINGS LIMITED)
CONSOLIDATED STATEMENTS OF COMPREHENSIVE INCOME
For the Years Ended December 31, 2008, 2007 and 2006

	2008	2007	2006
	(expressed in thousands of U.S. dollars)		
NET EARNINGS	$ 81,551	$61,785	$82,346
Other comprehensive income:			
Unrealized holding gains (losses) on investments arising during the period	12,429	249	(98)
Reclassification adjustment for net realized (gains) losses included in net earnings	1,655	(249)	98
Currency translation adjustment (losses) gains	(50,990)	1,470	3,555
Other comprehensive (loss) income	(36,906)	1,470	3,555
COMPREHENSIVE INCOME	$ 44,645	$63,255	$85,901

See accompanying notes to the consolidated financial statements

ENSTAR GROUP LIMITED

(FORMERLY KNOWN AS CASTLEWOOD HOLDINGS LIMITED)
CONSOLIDATED STATEMENTS OF CHANGES IN SHAREHOLDERS' EQUITY
For the Years Ended December 31, 2008 and 2007 and 2006

	2008	2007	2006
	(expressed in thousands of U.S. dollars)		
Share Capital — Ordinary Shares			
Balance, beginning of year	$ 11,920	$ 19	$ 22,661
Redemption of Class E shares	—	—	(22,642)
Conversion of shares	—	6,029	—
Issue of shares	1,375	5,775	—
Shares repurchased	—	(7)	—
Share awards granted/vested	39	104	—
Balance, end of year	$ 13,334	$ 11,920	$ 19
Share Capital — Non-Voting Convertible Ordinary Shares			
Balance, beginning of year	$ 2,973	$ —	$ —
Conversion of shares	—	2,973	—
Balance, end of year	$ 2,973	$ 2,973	$ —
Treasury Shares			
Balance, beginning of year	$(421,559)	$ —	$ —
Shares acquired, at cost	—	(421,559)	—
Balance, end of year	$(421,559)	$(421,559)	$ —
Additional Paid-in Capital			
Balance, beginning of year	$ 590,934	$ 111,371	$ 89,090
Reclassification of deferred compensation	—	—	(112)
Share awards granted/vested	2,551	3,665	112
Shares repurchased	—	(16,755)	—
Issue of shares	115,392	490,269	—
Amortization of share awards	608	2,384	22,281
Balance, end of year	$ 709,485	$ 590,934	$111,371
Deferred Compensation			
Balance, beginning of year	$ —	$ —	$ (112)
Reclassification of deferred compensation	—	—	112
Balance, end of year	$ —	$ —	$ —
Accumulated Other Comprehensive (Loss)/Income			
Balance, beginning of year	$ 6,035	$ 4,565	$ 1,010
Other comprehensive (loss)/income	(36,906)	1,470	3,555
Balance, end of year	$ (30,871)	$ 6,035	$ 4,565
Retained Earnings			
Balance, beginning of year	$ 260,296	$ 202,655	$148,257
Adjustment to initially apply FIN 48	—	4,858	—
Adjusted balance, beginning of period	260,296	207,513	148,257
Conversion of shares	—	(9,002)	—
Dividend paid	—	—	(27,948)
Net earnings	81,551	61,785	82,346
Balance, end of year	$ 341,847	$ 260,296	$202,655

See accompanying notes to the consolidated financial statements.

ENSTAR GROUP LIMITED

(FORMERLY KNOWN AS CASTLEWOOD HOLDINGS LIMITED)
CONSOLIDATED STATEMENTS OF CASH FLOWS
For the Years Ended December 31, 2008, 2007 and 2006

	2008	2007	2006
	(expressed in thousands of U.S. dollars)		
OPERATING ACTIVITIES:			
Net earnings	$ 81,551	$ 61,785	$ 82,346
Adjustments to reconcile net earnings to cash flows provided by operating activities:			
Minority interest	50,808	6,730	13,208
Negative goodwill (net of minority interest of $15,084; 2007: nil; 2006: $4,329)	(35,196)	(15,683)	(31,038)
Share of undistributed net loss (earnings) of partly owned companies	201	—	(518)
Share of net loss from other investments	85,157	—	—
Share-based compensation expense	608	2,384	22,393
Net realized and unrealized investment loss (gain)	1,655	(249)	453
Other items	7,656	5,374	(11,983)
Depreciation and amortization	808	951	503
Amortization of bond premiums and discounts	(1,278)	176	1,959
Net movement of trading securities	207,132	104,363	12,122
Changes in assets and liabilities:			
Reinsurance balances receivable	24,270	118,850	(52,453)
Other assets	45,301	(7,580)	—
Losses and loss adjustment expenses	(268,333)	(105,115)	(14,922)
Reinsurance balances payable	(74,042)	(74,472)	(17,904)
Accounts payable and accrued liabilities	(11,349)	(5,926)	—
Other liabilities	42,238	(17,914)	—
Net cash flows provided by operating activities	157,187	73,674	4,166
INVESTING ACTIVITIES:			
Acquisitions, net of cash acquired	$ 254,613	$ 5,653	$ 4,698
Purchase of available-for-sale securities	(212,342)	(74,827)	(100,644)
Sales and maturities of available-for-sale securities	263,299	411,573	305,387
Purchase of held-to-maturity securities	—	(29,512)	(171,250)
Maturity of held-to-maturity securities	136,305	229,818	143,298
Movement in restricted cash and cash equivalents	(141,475)	(53,358)	—
Funding of other investments	(33,488)	(11,824)	(11,009)
Purchase of investments in partly owned company	(21,387)	—	—
Other investing activities	(463)	(2,396)	8,816
Net cash flows provided by investing activities	245,062	475,127	179,296
FINANCING ACTIVITIES:			
Proceeds from issuance of ordinary shares	$ 115,392	$ —	$ —
Redemption of shares	—	—	(22,642)
Distribution of capital to minority shareholders	(27,146)	—	(11,765)
Contribution to surplus of subsidiary by minority interest	163,848	1,187	22,918
Dividend paid	—	—	(27,948)
Dividend paid to minority shareholders	—	—	(13,715)
Receipt of loans	572,791	42,125	86,356
Repayment of loans	(200,301)	(31,032)	(46,839)
Repurchase of shares	—	(16,762)	—
Net cash flows provided by (used in) financing activities	624,584	(4,482)	(13,635)
TRANSLATION ADJUSTMENT	(155,524)	101	778
NET INCREASE IN CASH AND CASH EQUIVALENTS	871,309	544,420	170,605
CASH AND CASH EQUIVALENTS, BEGINNING OF YEAR	995,237	450,817	280,212
CASH AND CASH EQUIVALENTS, END OF YEAR	$1,866,546	$ 995,237	$ 450,817

Supplement Cash Flow Information			
Net income taxes (paid) recovered	$ (6,195)	$ 5,241	$ 647
Interest paid	$ 14,853	$ 4,597	$ 1,041

See accompanying notes to the consolidated financial statements

ENSTAR GROUP LIMITED
(FORMERLY KNOWN AS CASTLEWOOD HOLDINGS LIMITED)

NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS
December 31, 2008, 2007 and 2006
(Tabular information expressed in thousands of U.S. dollars except share and per share data)

1. DESCRIPTION OF BUSINESS

Enstar Group Limited (formerly Castlewood Holdings Limited) ("Enstar" or the "Company") was formed in August 2001 under the laws of Bermuda to acquire and manage insurance and reinsurance companies in run-off, and to provide management, consulting and other services to the insurance and reinsurance industry. On January 31, 2007, Enstar completed the merger (the "Merger") of CWMS Subsidiary Corp., a Georgia corporation and wholly-owned subsidiary of Enstar, with and into The Enstar Group Inc. ("EGI"), a Georgia corporation. As a result of the Merger, EGI, renamed Enstar USA, Inc., is now a wholly-owned subsidiary of Enstar. Prior to the Merger, EGI owned an approximately 32% economic and 50% voting interest in Enstar.

2. SIGNIFICANT ACCOUNTING POLICIES

Basis of preparation — The consolidated financial statements have been prepared in conformity with accounting principles generally accepted in the United States of America. The preparation of financial statements in conformity with generally accepted accounting principles requires management to make estimates and assumptions that affect the reported amount of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates. The major estimates reflected in the Company's financial statements include, but are not limited to, the reserves for losses and loss adjustment expenses and reinsurance balances receivable.

The terms "FAS" used in these notes refer to Statements of Financial Standards issued by the United States Financial Accounting Standards Board ("FASB").

Basis of consolidation — The consolidated financial statements include the assets, liabilities and results of operations of the Company as of December 31, 2008 and 2007 and for the years ended December 31, 2008, 2007 and 2006. Results of operations for subsidiaries acquired are included from the dates of their acquisition by the Company. Intercompany transactions are eliminated on consolidation.

Cash and cash equivalents — The Company considers all highly liquid debt instruments purchased with an initial maturity of three months or less to be cash and cash equivalents.

Investments —

a) Short-Term Investments: Short-term investments comprise securities with a maturity greater than three months but less than one year from the date of purchase. Short-term investments classified as available-for-sale are carried at fair value, with unrealized gains and losses excluded from net earnings and reported as a separate component of accumulated other comprehensive income. Amortization expenses derive from the difference between the nominal value and purchase cost and they are spread over the time to maturity of the debt securities.

b) Fixed Maturities: Debt securities classified as held-to-maturity investments are carried at purchase cost adjusted for amortization of premiums and discounts. Debt investments classified as trading securities are carried at fair value, with realized and unrealized holding gains and losses recognized in realized gains and losses. Debt securities classified as available-for-sale are carried at fair value, with unrealized gains and losses excluded from net earnings and reported as a separate component of accumulated other comprehensive income. Amortization expenses derive from the difference between the nominal value and purchase cost and they are spread over the time to maturity of the debt securities.

c) Equity Securities: Equity investments are classified as trading securities and are carried at fair value with realized and unrealized holding gains and losses recognized in realized gains and losses.

d) Other Investments: Other investments include investments in limited partnerships and limited liability companies which value their investments at fair value. The Company has no significant influence and does not participate in the management of these investments. Other investments are accounted for at estimated fair values, determined by the Company's proportionate share of the net asset value of the investee reduced by any impairment charges. The Company records movement in the value of its other investments through earnings. Significant estimates are involved in the valuation of other investments. Because of the inherent uncertainty of valuation, the estimates of fair value may differ significantly from the values that would have been used had a ready market for the other investments existed. The differences could be significant.

Investments classified as held to maturity and available-for-sale are reviewed on a regular basis to determine if they have sustained an impairment of value that is considered to be other than temporary. There are several factors that are considered in the assessment of an investment, which include (i) the time period during which there has been a significant decline below cost, (ii) the extent of the decline below cost, (iii) the Company's intent and ability to hold the security, (iv) the potential for the security to recover in value, (v) an analysis of the financial condition of the issuer and (vi) an analysis of the collateral structure and credit support of the security, if applicable. The identification of potentially impaired investments involves significant management judgment. Any unrealized depreciation in value considered by management to be other than temporary is recognized in net earnings in the period that it is determined. Realized gains and losses on sales of investments classified as available-for-sale and trading securities are recognized in the consolidated statements of earnings. Investment purchases and sales are recorded on a trade-date basis.

Investment in partly owned company — An investment in a partly owned company, in which the Company has significant influence, is carried on the equity basis whereby the investment is initially recorded at cost and adjusted to reflect the Company's share of after-tax earnings or losses and unrealized investment gains and losses and reduced by dividends.

Loss and loss adjustment expenses — The liability for loss and loss adjustment expenses includes an amount determined from loss reports and individual cases and an amount, based on historical loss experience and industry statistics, for losses incurred but not reported. These estimates are continually reviewed and are necessarily subject to the impact of future changes in such factors as claim severity and frequency. While management believes that the amount is adequate, the ultimate liability may be significantly in excess of, or less than, the amounts provided. Adjustments will be reflected as part of net increase or reduction in loss and loss adjustment expense liabilities in the periods in which they become known. Premium and commission adjustments may be triggered by incurred losses and any amounts are reflected in net loss and loss adjustment expense liabilities at the same time the related incurred loss is recognized.

The Company's insurance and reinsurance subsidiaries establish provisions for loss adjustment expenses relating to run-off costs for the estimated duration of the run-off. These provisions are assessed at each reporting date and provisions relating to future periods adjusted to reflect any changes in estimates of the periodic run-off costs or the duration of the run-off. Provisions relating to the current period together with any adjustments to future run-off provisions are included in loss and loss adjustment expenses in the consolidated statements of earnings.

Reinsurance balances receivable — Amounts receivable from reinsurers are estimated in a manner consistent with the loss reserve associated with the underlying policy.

Retroactive reinsurance contracts — Premiums on ceded retroactive contracts are earned upon inception of the contract with corresponding reinsurance recoverable established for the amount of reserves ceded. The initial gain, if applicable, is deferred and amortized into income over an actuarially determined expected payout period.

Consulting fee income — Fixed fee income is recognized in accordance with the term of the agreements. Fees based on hourly charge rates are recognized as services are provided. Performance fees are recognized when all of the contractual requirements specified in the agreement are met.

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NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

Foreign currencies — At each balance sheet date, recorded balances that are denominated in a currency other than the functional currency of the Company are adjusted to reflect the current exchange rate. Revenue and expense items are translated into U.S. dollars at average rates of exchange for the years. The resulting exchange gains or losses are included in net earnings.

Assets and liabilities of subsidiaries are translated into U.S. dollars at the year-end rates of exchange. Revenues and expenses of subsidiaries are translated into U.S. dollars at the average rates of exchange for the year.

The resultant translation adjustment for self-sustaining subsidiaries is classified as a separate component of other comprehensive income and for integrated operations is included in net earnings.

Earnings per share — Basic earnings per share is defined as net earnings available to ordinary shareholders divided by the weighted average number of ordinary shares outstanding for the period, giving no effect to dilutive securities. Diluted earnings per share is defined as net earnings available to ordinary shareholders divided by the weighted average number of ordinary and ordinary share equivalents outstanding calculated using the treasury stock method for all potentially dilutive securities. When the effect of dilutive securities would be anti-dilutive, these securities are excluded from the calculation of diluted earnings per share.

Acquisitions — Goodwill represents the excess of the purchase price over the fair value of the net assets received related to the acquisition of Enstar Limited (formerly "Castlewood Limited") by Enstar in 2001. FAS No. 142, "Goodwill and Other Intangible Assets" requires that the Company perform an initial valuation of its goodwill assets and to update this analysis on an annual basis. If, as a result of the assessment, the Company determines the value of its goodwill asset is impaired, goodwill is written down in the period in which the determination is made. An annual impairment valuation has concluded that there is no impairment to the value of the Company's goodwill asset. Negative goodwill arises where the fair value of net assets acquired exceeds the purchase price of those acquired assets and, in accordance with FAS No. 141, "Business Combinations," has been recognized as an extraordinary gain.

Stock Based Compensation — Enstar adopted Statement of Financial Accounting Standards No. 123(R) "Share Based Payments" ("FAS 123(R)"), in accounting for its employee share awards effective January 1, 2006. FAS 123 (R) requires compensation costs related to share-based payment transactions to be recognized in the financial statements based on the grant date fair value of the award. The adoption of FAS 123(R) did not have a material impact on the consolidated financial statements. On May 23, 2006, Enstar entered into an agreement and plan of merger and a recapitalization agreement. As a result of the execution of these agreements, the accounting treatment for share-based awards issued under Enstar's employee share plan changed from book value to fair value.

New Accounting Pronouncements — The Company adopted FAS 157, "Fair Value Measurements" ("FAS 157"), effective January 1, 2008. Under this standard, fair value is defined as the price that would be received from the sale of an asset or paid to transfer a liability (i.e., the "exit price") in an orderly transaction between market participants at the measurement date. In determining fair value, we use various valuation approaches, including market and income approaches. FAS 157 establishes a hierarchy for inputs used in measuring fair value that maximizes the use of observable inputs and minimizes the use of unobservable inputs by requiring that the most observable inputs be used when available. The hierarchy is broken down into three levels based on the reliability of inputs as follows:

- Level 1— Valuations based on quoted prices in active markets for identical assets or liabilities that we have the ability to access. Valuation adjustments and block discounts are not applied to Level 1 instruments. Since valuations are based on quoted prices that are readily and regularly available in an active market, valuation of these products does not entail a significant degree of judgment.

  Assets and liabilities utilizing Level 1 inputs include exchange-listed equity securities that are actively traded.

ENSTAR GROUP LIMITED
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NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

- Level 2— Valuations based on quoted prices in markets that are not active or for which significant inputs are observable (e.g., interest rates, yield curves, prepayment speeds, default rates, loss severities, etc.) or can be corroborated by observable market data.

  Assets and liabilities utilizing Level 2 inputs include: exchange-listed equity securities that are not actively traded; U.S. government and agency securities; non-U.S. government obligations; corporate and municipal bonds; mortgage-backed securities ("MBS") and asset-backed securities ("ABS").

- Level 3— Valuations based on inputs that are unobservable and significant to the overall fair value measurement. The unobservable inputs reflect our own assumptions about assumptions that market participants might use.

  Assets and liabilities utilizing Level 3 inputs include: hedge funds with partial transparency; and credit funds and short duration high yield funds that are traded in less liquid markets.

The availability of observable inputs can vary from financial instrument to financial instrument and is affected by a wide variety of factors, including, for example, the type of financial instrument, whether the financial instrument is new and not yet established in the marketplace, and other characteristics particular to the transaction. To the extent that valuation is based on models or inputs that are less observable or unobservable in the market, the determination of fair value requires significantly more judgment. Accordingly, the degree of judgment exercised by management in determining fair value is greatest for instruments categorized in Level 3. We use prices and inputs that are current as of the measurement date, including during periods of market dislocation. In periods of market dislocation, the observability of prices and inputs may be reduced for many instruments. This condition could cause an instrument to be reclassified between levels.

The adoption of FAS 157 did not result in any cumulative-effect adjustment to our beginning retained earnings at January 1, 2008, or any material impact on our results of operations, financial position or liquidity. In February 2008, the FASB issued FSP FAS 157-2, "Effective Date of FASB Statement No. 157" ("FSP FAS 157-2"), which permits a one-year deferral of the application of FAS 157 for all non-financial assets and non-financial liabilities, except those that are recognized or disclosed at fair value in the financial statements on a recurring basis (at least annually). Accordingly, we have also adopted FSP FAS 157-2 effective January 1, 2008, and FAS 157 will not be applied to our goodwill and other intangible assets measured annually for impairment testing purposes only. We adopted FAS 157 for non-financial assets and non-financial liabilities on January 1, 2009. The Company is currently evaluating the related provisions of FAS 157 and their potential impact on future financial statements.

In October 2008, the FASB issued FSP 157-3, "Determining the Fair Value of a Financial Asset When the Market for That Asset is Not Active" ("FSP FAS 157-3"), which clarifies the application of FAS 157 in a market that is not active. The key considerations highlighted in FSP FAS 157-3 include the use of an entity's own assumptions about future cash flows and appropriate risk-adjusted discount rates, appropriate risk adjustments for non-performance and liquidity risks, and the reliance that an entity should place on quotes that do not reflect the result of market transactions. FSP FAS 157-3 was effective upon issuance.

In February 2007, the FASB issued FAS No. 159, "The Fair Value Option for Financial Assets and Financial Liabilities" ("FAS 159"). This standard permits an entity to irrevocably elect fair value on a contract-by-contract basis as the initial and subsequent measurement attribute for many financial instruments and certain other items including insurance contracts. An entity electing the fair value option would be required to recognize changes in fair value in earnings and provide disclosure that will assist investors and other users of financial information to more easily understand the effect of the company's choice to use fair value on its earnings. Further, the entity is required to display the fair value of those assets and liabilities for which the company has chosen to use fair value on the face of the balance sheet. This standard does not eliminate the disclosure requirements regarding fair value measurements included in FAS 157 and FAS No. 107, "Disclosures About Fair Value of Financial Instruments." The

adoption of FAS 159 did not impact retained earnings as of January 1, 2008 because the Company did not make any elections.

In December 2007, the FASB issued FAS No. 141(R), "Business Combinations" ("FAS 141(R)"). FAS 141(R) replaces FAS No. 141 but retains the fundamental requirements in FAS No. 141 that the acquisition method of accounting be used for all business combinations and for an acquirer to be identified for each business combination. FAS 141(R) requires an acquirer to recognize the assets acquired, the liabilities assumed, and any noncontrolling interest in the acquiree at the acquisition date, measured at their fair values as of that date. FAS 141(R) also requires acquisition-related costs to be recognized separately from the acquisition, recognize assets acquired and liabilities assumed arising from contractual contingencies at their acquisition-date fair values and recognize goodwill as the excess of the consideration transferred plus the fair value of any noncontrolling interest in the acquiree at the acquisition date over the fair values of the identifiable net assets acquired. FAS 141(R) applies prospectively to business combinations for which the acquisition date is on or after the beginning of the first annual reporting period beginning on or after December 15, 2008 (January 1, 2009 for calendar year-end companies). The Company is currently evaluating the provisions of FAS 141(R) and its potential impact on future financial statements.

In December 2007, the FASB issued FAS No. 160, "Noncontrolling Interests in Consolidated Financial Statements — an amendment of ARB No. 51" ("FAS 160"). FAS 160 amends ARB No. 51 to establish accounting and reporting standards for the noncontrolling interest in a subsidiary and for the reconsolidation of a subsidiary. FAS 160 clarifies that a noncontrolling interest in a subsidiary is an ownership interest that should be reported as equity in the consolidated financial statements. FAS 160 requires consolidated net income to be reported at the amounts that include the amounts attributable to both the parent and the noncontrolling interest. This statement also establishes a method of accounting for changes in a parent's ownership interest in a subsidiary that results in deconsolidation. FAS 160 is effective for fiscal years, and interim periods within those fiscal years, beginning on or after December 15, 2008 (January 1, 2009 for calendar year-end companies). The presentation and disclosure of FAS 160 shall be applied retrospectively for all periods presented. The Company is currently evaluating the provisions of FAS 160 and its potential impact on future financial statements.

In March 2008, the FASB issued FAS No. 161, "Disclosures about Derivative Instruments and Hedging Activities — an amendment of FASB Statement No. 133" ("FAS 161"). FAS 161 expands the disclosure requirements of FAS 133 and requires the reporting entity to provide enhanced disclosures about the objectives and strategies for using derivative instruments, quantitative disclosures about fair values and amounts of gains and losses on derivative contracts, and credit-risk related contingent features in derivative agreements. FAS 161 will be effective for fiscal years beginning after November 15, 2008 (January 1, 2009 for calendar year-end companies), and interim periods within those fiscal years. The Company is currently evaluating the provisions of FAS 161 and its potential impact on future financial statements.

In May 2008, the FASB issued FAS No. 163, "Accounting for Financial Guarantee Insurance Contracts" ("FAS 163"). This new standard clarifies how FAS No. 60, "Accounting and Reporting by Insurance Enterprises," applies to financial guarantee insurance contracts issued by insurance enterprises, including the recognition and measurement of premium revenue and claim liabilities. It also requires expanded disclosures about financial guarantee insurance contracts. FAS 163 is effective for fiscal years beginning after December 15, 2008, and all interim periods within those fiscal years, except for disclosures about the insurance enterprise's risk-management activities, which are effective the first period (including interim periods) beginning after the date of issuance. Except for the required disclosures, earlier application is not permitted. The Company is currently evaluating the provisions of FAS 163 and its potential impact on future financial statements.

3. ACQUISITIONS

The Company accounts for acquisitions using the purchase method of accounting, which requires that the acquirer record the assets and liabilities acquired at their estimated fair value. The fair values of reinsurance assets

and liabilities acquired are derived from probability weighted ranges of the associated projected cash flows, based on actuarially prepared information and management's run-off strategy. Any amendment to the fair values resulting from changes in such information or strategy will be recognized when they occur.

2006

Brampton, Cavell and Unione

On March 30, 2006, Hillcot Holdings Ltd. ("Hillcot Holdings"), at that date, a 50.1% owned subsidiary of Enstar, acquired Aioi Insurance Company of Europe Limited ("Aioi"), a reinsurance company based in the U.K., for total consideration of £62.0 million, of which £50.0 million was paid in cash and £12.0 million by way of vendor loan note. Upon completion of the transaction, Aioi's name was changed to Brampton Insurance Company Limited ("Brampton").

On October 4, 2006 and November 20, 2006, Enstar completed the acquisitions of Cavell Holdings Limited (U.K.) ("Cavell"), a U.K. Company, which owns a U.K. reinsurance company and a Norwegian reinsurer, for total consideration of $60.9 million and Unione Italiana (UK) Reinsurance Company ("Unione"), a reinsurance company based in the U.K., for total consideration of $17.4 million. The acquisitions were funded from available cash on hand and approximately $24.5 million in new debt.

The purchase price and fair value of the assets acquired in the Brampton, Cavell and Unione acquisitions were as follows:

Purchase price	$186,614
Direct costs of acquisitions	876
Total purchase price	$187,490
Net assets acquired at fair value	$222,857
Excess of net assets over purchase price (negative goodwill)	(35,367)
Less: Minority interest share of negative goodwill	4,329
	$ (31,038)

The negative goodwill of $31.0 million (net of minority interest) relating to the acquisitions completed in the year arose as a result of the following: (1) income earned by Brampton between the date of the balance sheet on which the agreed purchase price was based, December 31, 2004 and the date the acquisition closed, March 30, 2006; and (2) the strategic desire of the vendor of Cavell and Unione to achieve an exit from such operations and therefore to dispose of the companies at a discount to fair value.

The following summarizes the estimated fair values of the assets acquired and the liabilities assumed at the date of the acquisition:

Cash, investments and accrued interest	$ 576,250
Reinsurance balances receivable	55,433
Accounts receivable (net) and other assets	13,821
Losses and loss adjustment expenses	(422,647)
Net assets acquired at fair value	$ 222,857

Other assets acquired consisted of a building to be disposed of by sale and deferred tax assets.

ENSTAR GROUP LIMITED
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NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

2007

EGI and BH

On January 31, 2007, the Company completed the Merger of CWMS Subsidiary Corp., a Georgia corporation and its wholly-owned subsidiary, with and into EGI. As a result of the Merger, EGI, renamed Enstar USA, Inc., is now a direct wholly-owned subsidiary of the Company.

Following completion of the Merger, trading in EGI's common stock ceased and certificates for shares of EGI's common stock now represent the same number of Enstar ordinary shares. Commencing February 1, 2007, the ordinary shares of Enstar traded on the NASDAQ Global Select Market under the ticker symbol 'ESGRD' until March 1, 2007 and, thereafter, under the ticker symbol 'ESGR.'

In addition, immediately prior to the closing of the Merger, Enstar completed a recapitalization pursuant to which it: (1) exchanged all of its previous outstanding shares for new ordinary shares of Enstar, (2) designated its initial Board of Directors immediately following the Merger; (3) repurchased certain of its shares held by Trident II, L.P. and its affiliates; (4) made payments totaling $5.1 million to certain of its executive officers and employees, as an incentive to remain with Enstar following the Merger; and (5) purchased, through its wholly-owned subsidiary, Enstar Limited, the shares of B.H. Acquisition Ltd., a Bermuda company, held by an affiliate of Trident II, L.P.

On February 23, 2007, Enstar repurchased 7,180 Enstar ordinary shares from T. Whit Armstrong for total consideration of $0.7 million. This repurchase was done in accordance with the letter agreement dated May 23, 2006, between T. Whit Armstong, T. Wayne Davis and Enstar pursuant to which Enstar agreed to repurchase from Messrs. Armstrong and Davis, upon their request, during a 30-day period commencing January 15, 2007, at then prevailing market prices, such number of Enstar ordinary shares as provided an amount sufficient for Messrs. Armstrong and Davis to pay taxes on compensation income resulting from the exercise of options by them on May 23, 2006 for 50,000 shares of EGI common stock in the aggregate. Mr. Davis did not elect to sell shares under the agreement. Messrs. Armstrong and Davis are directors of the Company.

On January 31, 2007, the Company acquired the 55% of the shares of B.H. Acquisition Ltd. ("BH") that it previously did not own. The Company acquired 22% of BH from an affiliate of Trident II, L.P. for total cash consideration of approximately $10.2 million and acquired EGI's 33% interest in BH as part of the Merger. BH wholly owns two insurance companies in run-off, Brittany Insurance Company Ltd., incorporated in Bermuda, and Compagnie Européenne d'Assurances Industrielles S.A., incorporated in Belgium. After completion of the acquisition and the Merger, the Company owns all outstanding shares in BH.

The purchase price and fair value of the assets acquired for EGI and BH acquisitions were as follows:

Purchase price	$506,189
Direct costs of acquisition	3,149
Total purchase price	$509,338
Net assets acquired at fair value	$514,986
Excess of net assets over purchase price	$ (5,648)

ENSTAR GROUP LIMITED
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NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

The following summarizes the estimated fair values of the assets acquired and the liabilities assumed at the date of the acquisition:

	Net Assets Acquired at Fair Value	Allocation of Excess of Net Assets Over Purchase Price	Adjusted Net Assets Acquired at Fair Value
Cash	$ 83,111	$ —	$ 83,111
Other investments	18,139	(223)	17,916
Investment in Enstar	426,797	(5,238)	421,559
Investment in BH	15,246	(187)	15,059
Accounts receivable	4,931	—	4,931
Reinsurance balances payable (net)	(509)	—	(509)
Losses and loss adjustment expenses	(11,901)	—	(11,901)
Accounts payable	(20,828)	—	(20,828)
Net assets acquired at fair value	$ 514,986	$ (5,648)	$ 509,338

Inter-Ocean

On February 23, 2007, the Company, through a wholly-owned subsidiary, completed the acquisition of Inter-Ocean Holdings Ltd. ("Inter-Ocean") for total consideration of approximately $57.5 million. Inter-Ocean owns two reinsurance companies, one based in Bermuda and the other based in Ireland.

The purchase price and fair value of the assets acquired in the Inter-Ocean acquisition were as follows:

Purchase price	$ 57,201
Direct costs of acquisition	303
Total purchase price	$ 57,504
Net assets acquired at fair value	$ 73,187
Excess of net assets over purchase price (negative goodwill)	$(15,683)

The negative goodwill of approximately $15.7 million relating to the acquisition of Inter-Ocean arose primarily as a result of the strategic desire of the vendors to achieve an exit from such operations and therefore to dispose of Inter-Ocean at a discount to fair value.

The following summarizes the estimated fair values of the assets acquired and the liabilities assumed at the date of the acquisition:

Cash, restricted cash and investments	$ 479,760
Accounts receivable and accrued interest	5,620
Reinsurance balances receivable	149,043
Losses and loss adjustment expenses	(415,551)
Insurance and reinsurance balances payable	(145,317)
Accounts payable	(368)
Net assets acquired at fair value	$ 73,187

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NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

The following unaudited pro forma condensed combined income statement for the twelve months ended December 31, 2007 and 2006 combines the historical consolidated statements of income of the Company, EGI, BH and Inter-Ocean giving effect to the business combinations and related transactions as if they had occurred on January 1, 2007 and 2006, respectively.

Twelve Months Ended December 31, 2007:	Enstar Group Limited	BH	EGI	Pro forma Adjustment	Sub-Total	Inter-Ocean	Pro forma Adjustment	Enstar Group Limited Pro forma
Total income	$ 86,748	$ 4,789	$1,807	$ (3,310)	$ 90,034	$ 3,684	$ (563)	$ 93,155
Total expenses	(53,136)	(3,259)	344	2,890	(53,162)	(410)	(1,414)	(54,986)
Net earnings before extraordinary gain	33,612	1,530	2,151	(420)	36,872	3,274	(1,977)	38,169
Extraordinary gain	15,683	—	—	—	15,683	—	—	15,683
Net earnings	$ 49,295	$ 1,530	$2,151	$ (420)	$ 52,555	$ 3,274	$ (1,977)	$ 53,852
Net earnings per ordinary share before extraordinary gains — basic								$ 3.25
Extraordinary gain — basic								1.34
Net earnings per ordinary share — basic								$ 4.59
Net (loss) earnings per ordinary share before extraordinary gains — diluted								$ 3.18
Extraordinary gain — diluted								1.31
Net earnings per ordinary share — diluted								$ 4.49
Weighted average shares — basic								11,731,908
Weighted average shares — diluted								12,009,683

Twelve Months Ended December 31, 2006:	Enstar Group Limited	BH	EGI	Pro forma Adjustment	Sub-Total	Inter-Ocean	Pro forma Adjustment	Enstar Group Limited Pro forma
Total income	$ 81,909	$ 5,160	$ 22,705	$ (18,627)	$ 91,147	$ 26,509	$ (750)	$ 116,906
Total expenses	(30,601)	(4,009)	(11,985)	1,250	(45,345)	(27,682)	(959)	(73,986)
Net earnings (loss) before extraordinary gain	51,308	1,151	10,720	(17,377)	45,802	(1,173)	(1,709)	42,920
Extraordinary gain	31,038	—	6,149	(6,149)	31,038	—	—	31,038
Net earnings (loss)	$ 82,346	$ 1,151	$ 16,869	$ (23,526)	$ 76,840	$ (1,173)	$ (1,709)	$ 73,958
Net earnings per ordinary share before extraordinary gains — basic								$ 4.35
Extraordinary gain — basic								3.15
Net earnings per ordinary share — basic								$ 7.50
Net earnings per ordinary share before extraordinary gains — diluted								$ 4.31
Extraordinary gain — diluted								$ 3.11
Net earnings per ordinary share — diluted								$ 7.42
Weighted average shares — basic								9,857,194
Weighted average shares — diluted								9,966,960

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NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

Tate & Lyle

On June 12, 2007, the Company completed the acquisition of Tate & Lyle Reinsurance Ltd. ("Tate & Lyle") for total consideration of approximately $5.9 million. Tate & Lyle is a Bermuda-based reinsurance company in run-off.

The purchase price and fair value of the assets acquired in the Tate & Lyle acquisition were as follows:

Purchase price	$5,788
Direct costs of acquisition	85
Total purchase price	$5,873
Net assets acquired at fair value	$5,873

The following summarizes the estimated fair values of the assets acquired and the liabilities assumed at the date of the acquisition:

Cash, restricted cash and investments	$ 16,794
Reinsurance balances receivable	223
Losses and loss adjustment expenses	(11,144)
Net assets acquired at fair value	$ 5,873

Marlon

On August 28, 2007, the Company completed the acquisition of Marlon Insurance Company Limited, a reinsurance company in run-off, and Marlon Management Services Limited (together, "Marlon") for total consideration of approximately $31.2 million. Marlon are U.K.-based companies.

The purchase price and fair value of the assets acquired in the Marlon acquisition were as follows:

Purchase price	$30,845
Direct costs of acquisition	390
Total purchase price	$31,235
Net assets acquired at fair value	$31,235

The following summarizes the estimated fair values of the assets acquired and the liabilities assumed at the date of the acquisition:

Cash, restricted cash and investments	$ 57,942
Accounts receivable and accrued interest	658
Reinsurance balances receivable	24,912
Losses and loss adjustment expenses	(45,011)
Insurance and reinsurance balances payable	(5,621)
Accounts payable and accrued liabilities	(1,645)
Net assets acquired at fair value	$ 31,235

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NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

2008

Shelbourne

In December 2007, Enstar, in conjunction with JCF FPK I L.P., ("JCF FPK") and a newly-hired executive management team, formed U.K.-based Shelbourne Group Limited ("Shelbourne"), to invest in Reinsurance to Close or "RITC" transactions (the transferring of liabilities from one Lloyd's Syndicate to another) with Lloyd's of London insurance and reinsurance syndicates in run-off. JCF FPK is a joint investment program between Fox-Pitt, Kelton, Cochran, Caronia & Waller ("FPKCCW") and J.C. Flowers II, L.P. (the "Flowers Fund"). The Flowers Fund is a private investment fund advised by J.C. Flowers & Co. LLC. J. Christopher Flowers is the founder and Managing Member of J.C. Flowers & Co LLC. John J. Oros, Enstar's Executive Chairman and a member of Enstar's board of directors, is a Managing Director of J.C. Flowers & Co. LLC. Mr. Oros splits his time between J.C. Flowers & Co. LLC and Enstar. In addition, an affiliate of the Flowers Fund controls approximately 41% of FPKCCW. Shelbourne is a holding company of a Lloyd's Managing Agency, Shelbourne Syndicate Services Limited. Enstar owns 50.1% of Shelbourne, which in turn owns 100% of Shelbourne Syndicate Services Limited, the Managing Agency for Lloyd's Syndicate 2008, a syndicate approved by Lloyd's of London on December 16, 2007 to undertake RITC transactions with Lloyd's syndicates in run-off. In February 2008, Lloyd's Syndicate 2008 entered into RITC agreements with four Lloyd's Syndicates with total gross insurance reserves of approximately $471.2 million. During 2008, Enstar has committed capital of approximately £36.0 million (approximately $72.0 million) to Lloyd's Syndicate 2008. Enstar's capital commitment was financed by approximately £12.0 million (approximately $24.0 million) from a letter of credit issued by a London-based bank that has been secured by parental guarantee from Enstar; approximately £11.0 million (approximately $22.0 million) from the Flowers Fund (acting in its own capacity and not through JCF FPK), by way of a non-voting equity participation; and approximately £13.0 million (approximately $26.0 million) from available cash on hand. JCF FPK's capital commitment to Lloyd's Syndicate 2008 is approximately £14.0 million (approximately $28.0 million).

Guildhall

On February 29, 2008, the Company completed the acquisition of Guildhall Insurance Company Limited ("Guildhall"), a reinsurance company based in the U.K., for total consideration of £33.4 million (approximately $65.9 million). The purchase price was financed by the drawdown of approximately £16.5 million (approximately $32.5 million) from a facility loan agreement with a London-based bank; approximately £5.0 million (approximately $10.0 million) from the Flowers Fund, by way of non-voting equity participation; and the balance of approximately £11.9 million (approximately $23.5 million) from available cash on hand.

The purchase price and fair value of the assets acquired in the Guildhall acquisition were as follows:

Purchase price	$65,571
Direct costs of acquisition	303
Total purchase price	$65,874
Net assets acquired at fair value	$65,874

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The following summarizes the estimated fair values of the assets acquired and the liabilities assumed at the date of acquisition:

Cash, restricted cash and investments	$108,994
Reinsurance balances receivable	33,298
Accounts receivable	4,631
Losses and loss adjustment expenses	(79,107)
Accounts payable	(1,942)
Net assets acquired at fair value	$ 65,874

Gordian

On March 5, 2008, the Company completed the acquisition from AMP Limited (“AMP”) of AMP’s Australian-based closed reinsurance and insurance operations (“Gordian”). The purchase price, including acquisition expenses, was approximately AU$436.9 million (approximately $405.4 million) and was financed by AU$301.0 million (approximately $276.5 million), including an arrangement fee of AU$4.5 million (approximately $4.2 million), from bank financing provided jointly by a London-based bank and a German bank (in which the Flowers Fund is a significant shareholder of the German bank); approximately AU$41.6 million (approximately $39.5 million) from the Flowers Fund, by way of non-voting equity participation; and approximately AU$98.7 million (approximately $93.6 million) from available cash on hand.

The purchase price and fair value of the assets acquired in the Gordian acquisition were as follows:

Purchase price	$401,086
Direct costs of acquisition	4,326
Total purchase price	$405,412
Net assets acquired at fair value	$455,692
Excess of net assets over purchase price (negative goodwill)	$ 50,280
Less minority interest share of negative goodwill	(15,084)
	$ 35,196

The negative goodwill arose primarily as a result of income earned by Gordian between the date of the balance sheet on which the agreed purchase price was based, June 30, 2007, and the date the acquisition closed, March 5, 2008, and the desire of the vendors to achieve a substantial reduction in regulatory capital requirements and therefore to dispose of Gordian at a discount to fair value.

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The following summarizes the estimated fair values of the assets acquired and the liabilities assumed at the date of the acquisition:

Cash, restricted cash and investments	$ 872,755
Reinsurance balances receivable	99,645
Accounts receivable	31,253
Losses and loss adjustment expenses	(509,638)
Insurance and reinsurance balances payable	(22,660)
Accounts payable	(15,663)
Net assets acquired at fair value	$ 455,692

Seaton and Stonewall

On June 13, 2008, the Company's indirect subsidiary, Virginia Holdings Ltd., completed the acquisition of 44.4% of the outstanding capital stock of Stonewall Acquisition Corporation ("Stonewall") from Dukes Place Holdings, L.P., a portfolio company of GSC European Mezzanine Fund II, L.P. Stonewall Acquisition Corporation is the parent of two Rhode Island-domiciled insurers, Stonewall Insurance Company and Seaton Insurance Company, both of which are in run-off. The purchase price of $20.4 million was funded from available cash on hand.

The purchase price of the Company's 44.4% share of Stonewall and the fair value of the assets acquired were as follows:

Purchase price	$20,444
Direct costs of acquisition	987
Total purchase price	$21,431
Net assets acquired at fair value	$21,431

The following summarizes the Company's 44.4% share of the estimated fair values of the assets acquired and the liabilities assumed as of the date of acquisition:

Cash and investments	$ 58,121
Reinsurance balances receivable	187,964
Losses and loss adjustment expenses	(217,044)
Reinsurance balances payable	(3,049)
Accounts payable and accrued liabilities	(4,561)
Net assets acquired at fair value	$ 21,431

Goshawk

On June 20, 2008, the Company, through its wholly-owned subsidiary, Enstar Acquisitions Limited ("EAL"), announced a cash offer to all of the shareholders of Goshawk Insurance Holdings Plc ("Goshawk"), at 5.2 pence (approximately $0.103) for each share (the "Offer"), conditioned, among other things, on receiving acceptance from shareholders owning 90% of the shares of Goshawk. Goshawk owns Rosemont Reinsurance Limited, a

Bermuda-based reinsurer that wrote primarily property and marine business, which was placed into run-off in October 2005. The Offer valued Goshawk at approximately £45.7 million in the aggregate.

On July 17, 2008, after acquiring more than 30% of the shares of Goshawk through market purchases, EAL was obligated to remove all of the conditions of the Offer except for receipt of acceptances from shareholders owning 50% of the shares of Goshawk. On July 25, 2008, the acceptance condition was met and the Offer became unconditional. On August 19, 2008, the Offer closed with shareholders representing approximately 89.44% of Goshawk accepting the Offer for total consideration of £40.9 million (approximately $80.9 million).

The total purchase price, including acquisition costs, of approximately $82.0 million was financed by a drawdown of $36.1 million from a credit facility provided by a London-based bank, a contribution of $11.7 million of the acquisition price from the Flowers Fund, by way of non-voting equity participation, and the remainder from available cash on hand. The interest rate on the credit facility is LIBOR plus 2.25% and the facility is repayable within three years and is secured by a first charge over the Company's shares in Goshawk.

In connection with the acquisition, Goshawk's bank loan of $16.3 million was refinanced by the drawdown of $12.2 million (net of fees) from a credit facility provided by a London-based bank and $4.1 million from the Flowers Fund.

The purchase price of the Company's 89.44% share of Goshawk and the fair value of the assets acquired were as follows:

Purchase price	$80,861
Direct costs of acquisition	1,106
Total purchase price	$81,967
Net assets acquired at fair value	$81,967

The following summarizes the estimated fair values of the assets acquired and the liabilities assumed at the date of the acquisition:

Cash, restricted cash and investments	$159,301
Reinsurance balances receivable	32,532
Other assets	15,703
Losses and loss adjustment expenses	(80,051)
Insurance and reinsurance balances payable	(20,634)
Accounts payable	(24,884)
Net assets acquired at fair value	$ 81,967

EPIC

On August 14, 2008, the Company completed the purchase of all of the outstanding capital stock of Electricity Producers Insurance Company (Bermuda) Limited ("EPIC") for total consideration of approximately £36.7 million (approximately $68.8 million). The purchase price was financed by approximately $32.8 million from a credit facility provided by a London-based bank; approximately $10.2 million from the Flowers Fund, by way of non-voting equity participation, and the remainder from available cash on hand. The interest on the bank loan is LIBOR plus 2.25%. The facility is repayable within four years and is secured by a first charge over the Company's shares in EPIC.

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The purchase price and fair value of the assets acquired in the EPIC acquisition were as follows:

Purchase price	$68,792
Direct costs of acquisition	173
Total purchase price	$68,965
Net assets acquired at fair value	$68,965

The following summarizes the estimated fair values of the assets acquired and the liabilities assumed at the date of the acquisition:

Cash, restricted cash and investments	$ 186,101
Other assets	733
Losses and loss adjustment expenses	(108,616)
Insurance and reinsurance balances payable	(312)
Accounts payable	(8,941)
Net assets acquired at fair value	$ 68,965

Capital Assurance

On August 18, 2008, the Company completed the acquisition of all of the outstanding capital stock of Capital Assurance Company Inc. and Capital Assurance Services, Inc. for a total purchase price of approximately $5.3 million. Capital Assurance Company, Inc. is a Florida-domiciled insurer that is in run-off. The acquisition was funded from available cash on hand.

The purchase price and fair value of the assets acquired in the Capital Assurance acquisition were as follows:

Purchase price	$5,338
Direct costs of acquisition	282
Total purchase price	$5,620
Net assets acquired at fair value	$5,620

The following summarizes the estimated fair values of the assets acquired and the liabilities assumed at the date of the acquisition:

Cash, restricted cash and investments	$ 31,068
Reinsurance balances receivable	332
Other assets	1,244
Losses and loss adjustment expenses	(26,265)
Insurance and reinsurance balances payable	(30)
Accounts payable	(729)
Net assets acquired at fair value	$ 5,620

Unionamerica

On December 30, 2008, the Company completed the purchase of all of the outstanding capital stock of Unionamerica Holdings Limited (“Unionamerica”) for total consideration of approximately $343.4 million. Unionamerica is comprised of the discontinued operations of St. Paul Fire and Marine Insurance Company’s

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U.K. based London Market business, which were placed into run-off between 1992 and 2003. The purchase price was financed by approximately $184.6 million from a credit facility provided by a London-based bank (“Royston Facility”); approximately $49.8 million from the Flowers Fund, by way of non-voting equity participation, and the remainder from available cash on hand. Under the facilities agreement for the bank loan, the Company borrowed $152.6 million under Facility A and $32.0 million under Facility B. The loans are secured by a lien covering all of the assets of Royston Run-off Limited (“Royston”), the parent of Unionamerica. The interest rate on Facility A is LIBOR plus 3.50% and will be repayable within three years, and the interest rate on Facility B is LIBOR plus 4.00% and will be repayable within four years.

The purchase price and fair value of the assets acquired in the Unionamerica acquisition were as follows:

Purchase price	$341,266
Direct costs of acquisition	2,160
Total purchase price	$343,426
Net assets acquired at fair value	$343,426

The following summarizes the estimated fair values of the assets acquired and the liabilities assumed at the date of the acquisition:

Cash, restricted cash and investments	$1,031,649
Reinsurance balances receivable	128,615
Other assets	35,735
Losses and loss adjustment expenses	(828,338)
Insurance and reinsurance balances payable	(22,681)
Accounts payable	(1,554)
Net assets acquired at fair value	$ 343,426

The following pro forma condensed combined income statement for the twelve months ended December 31, 2008 combines the historical consolidated statements of earnings of the Company with those of Gordian and Unionamerica (listed in table below as “UAH”), which were acquired in the first and fourth quarters of 2008,

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respectively, giving effect to the business combinations and related transactions as if they had occurred on January 1, 2008.

Twelve Months Ended December 31, 2008	Enstar Group Limited	Gordian	UAH	Pro forma Adjustments	Enstar Group Limited Pro forma
Total income	$ 7,755	$ 48,913	$ 19,023	$ (5,194)(a)	$ 70,497
Total expenses	(43,799)	109,732	(110,781)	(39,534)(b)	(84,382)
Minority interest	(10,846)	(47,594)	27,527	13,418(c)	(17,495)
(Loss) earnings before extraordinary gain	(46,890)	111,051	(64,231)	(31,310)	(31,380)
Extraordinary gain	35,196	—	—	—	35,196
Net (loss) earnings	$(11,694)	$111,051	$ (64,231)	$ (31,310)	$ 3,816
Earnings per ordinary share before extraordinary gain — basic and diluted					$ (2.48)
Extraordinary gain — basic and diluted					2.78
Net earnings per ordinary share — basic and diluted					$ 0.30

Notes to the Twelve Months Ended December 31, 2008 Pro Forma Condensed Combined Income Statements:

Income:	
(a) Adjustment to conform the accounting policy for investments to that of the Company	$ (5,194)
Expenses:	
(b)(i) Adjustment to interest expense to reflect the financing costs of the acquisitions for the period	(17,374)
(ii) Adjustment to recognize amortization of fair value adjustments recorded at dates of acquisition	(27,540)
(iii) Adjustment to income taxes for pro forma adjustments	5,380
	(39,534)
(c) Reflect minority interest's share of net pro forma income statement adjustments	13,418

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NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

The following pro forma condensed combined statement of earnings for the twelve months ended December 31, 2007 combines the historical consolidated statement of earnings of the Company with those of The Enstar Group, Inc. ("EGI"), BH Acquisition Ltd. ("BH") and Inter-Ocean Holdings, Ltd. ("Inter-Ocean"), each of which was acquired in the first quarter of 2007, and Gordian and Unionamerica (listed in the table below as "UAH"), which were acquired in the first and fourth quarters of 2008, respectively, giving effect to the business combinations and related transactions as if they had occurred on January 1, 2007.

Twelve Months Ended December 31, 2007	Enstar Group Limited	BH	EGI	Inter-Ocean	Pro forma Adjustments	Sub-total	Gordian	UAH	Pro forma Adjustments	Enstar Group Limited Pro forma
Total income	$ 86,748	$ 4,789	$1,807	$ 3,684	$ (3,873)(b)	$ 93,155	$ 67,099	$ 47,417	$ (4,395)(a)	$ 203,276
Total expenses	(46,406)	(3,259)	344	(410)	1,476(d)	(48,255)	43,987	(311)	(86,967)(c)	(91,546)
Minority interest	(6,730)	—	—	—	—	(6,730)	(33,326)	(14,132)	$ 27,409(e)	(26,779)
Earnings before extraordinary gain	33,612	1,530	2,151	3,274	(2,397)	38,170	77,760	32,974	(63,953)	84,951
Extraordinary gain	15,683	—	—	—	—	15,683	—	—	—	15,683
Net earnings	$ 49,295	$ 1,530	$2,151	$ 3,274	$ (2,397)	$ 53,853	$ 77,760	$ 32,974	$ (63,953)	$ 100,634
Earnings per ordinary share before extraordinary gain — basic										$ 7.24
Extraordinary gain — basic										1.34
Net earnings per ordinary share — basic										$ 8.58
Earnings per ordinary share before extraordinary gain — diluted										$ 7.07
Extraordinary gain - diluted										1.31
Net earnings per ordinary share — diluted										$ 8.38

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NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

Notes to the Twelve Months Ended December 31, 2007 Pro Forma Condensed Combined Income Statements:

Income:	
(a) Adjustment to conform the accounting policy for investments to that of the Company	$ (4,395)
(b) Elimination of fees earned by Enstar prior to acquisition	(3,873)
Expenses:	
(c)(i) Adjustment to interest expense to reflect the financing costs of the acquisitions for the period	(45,147)
(ii) Adjustment to recognize amortization of fair value adjustments recorded at dates of acquisition	(45,507)
(iii) Adjustment to income taxes for pro forma adjustments	3,687
	(86,967)
(d)(i) Elimination of fees paid prior to acquisition	3,453
(ii) Adjustment to interest expense to reflect the financing costs of the acquisitions for the period	(1,977)
	1,476
(e) Reflect minority interest's share of net pro forma income statement adjustments	27,409

Hillcot Re

On October 27, 2008, Kenmare Holdings Ltd., a wholly-owned subsidiary of the Company, completed the purchase of the entire share capital of Hillcot Re Ltd. ("Hillcot Re") for consideration of $54.4 million. The Company owns 50.1% of the outstanding share capital of Hillcot with Shinsei Bank, Ltd. ("Shinsei") owning the remaining 49.9%. Upon completion of the transaction, Hillcot paid a distribution to Shinsei of approximately $27.1 million representing its 49.9% share of the consideration received by Hillcot. J. Christopher Flowers, a member of the Company's board of directors and one of its largest shareholders, is a director and the largest shareholder of Shinsei. The purchase price of $54.4 million was funded from approximately 50% available cash on hand and the remaining balance from intercompany advances.

The purchase price and the fair value of the assets acquired of Hillcot was as follows:

Purchase price	$54,400
Direct costs of acquisition	272
Total purchase price	$54,672
Net assets acquired at fair value	$54,672

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The following summarizes the estimated fair values of the assets acquired and the liabilities assumed at the date of the acquisition:

Cash, restricted cash and investments	$ 78,241
Reinsurance balances receivable	7,114
Other assets	1,336
Losses and loss adjustment expenses	(28,531)
Insurance and reinsurance balances payable	(630)
Accounts payable	(2,858)
Net assets acquired at fair value	$ 54,672

4. RESTRICTED CASH AND CASH EQUIVALENTS

Restricted cash and cash equivalents were $343.3 million and $168.1 million as of December 31, 2008 and 2007, respectively. The restricted cash and cash equivalents are used as collateral against letters of credit and as guarantee under trust agreements. Letters of credit are issued to ceding insurers as security for the obligations of insurance subsidiaries under reinsurance agreements with those ceding insurers.

5. INVESTMENTS

Available-for-sale

The amortized cost and estimated fair value of investments in debt securities and other short-term investments classified as available for sale are as follows:

	Amortized Cost	Gross Unrealized Holding Gains	Gross Unrealized Holding Losses	Fair Value
As at December 31, 2008				
U.S. Treasury and Agency securities	$ 25,089	$ 2,197	$ —	$ 27,286
Non-U.S. Government securities	917	32	—	949
Corporate debt securities	71,024	955	(1,839)	70,140
Other debt securities	6,422	—	—	6,422
Short-term investments	406,712	—	—	406,712
	$510,164	$ 3,184	$ (1,839)	$511,509
As at December 31, 2007				
Corporate debt securities	$ 757	$ 42	$ (170)	$ 629
Other debt securities	6,249	—	—	6,249
Short-term investments	15,480	—	—	15,480
	$ 22,486	$ 42	$ (170)	$ 22,358

The gross unrealized losses on available for sale debt securities were split as follows:

	2008	2007
Due within one year	$ (16)	$ —
After 1 through 5 years	(1,401)	—
After 5 through 10 years	(55)	—
After 10 years	(367)	(170)
	$(1,839)	$(170)

As at December 31, 2008 and 2007 the number of securities classified as available-for-sale in an unrealized loss position was 30 and 1, respectively, with a fair value of $21.7 million and $0.2 million, respectively. As at December 31, 2008 one of these securities with a fair value of $0.2 million had been in an unrealized loss position for 12 months or longer. As at December 31, 2007, no securities classified as available-for-sale had been in an unrealized loss position for 12 months or longer.

Held-to-maturity

The amortized cost and estimated fair value of investments in debt securities classified as held-to-maturity are as follows:

	Amortized Cost	Gross Unrealized Holding Gains	Gross Unrealized Holding Losses	Fair Value
As of December 31, 2008				
U.S. Treasury and Agency securities	$119,981	$ 3,200	$ (192)	$122,989
Non-U.S. Government securities	156,620	9,465	—	166,085
Corporate debt securities	310,115	2,750	(3,253)	309,612
	$586,716	$ 15,415	$ (3,445)	$598,686
As of December 31, 2007				
U.S. Treasury and Agency securities	$132,332	$ 816	$ (314)	$132,834
Non-U.S. Government securities	2,534	—	(12)	2,522
Corporate debt securities	76,149	159	(666)	75,642
	$211,015	$ 975	$ (992)	$210,998

The gross unrealized losses on held-to-maturity debt securities were split as follows:

	2008	2007
Due within one year	$ (77)	$(161)
After 1 through 5 years	(1,171)	(217)
After 5 through 10 years	(1,444)	(13)
After 10 years	(753)	(601)
	$(3,445)	$(992)

As of December 31, 2008 and 2007, the number of securities classified as held-to-maturity in an unrealized loss position was 38 and 48, respectively, with a fair value of $53.8 million and $122.3 million, respectively. Of these securities, the number of securities that had been in an unrealized loss position for 12 months or longer was 24

and 45, respectively, with a fair value of $32.4 million and $102.5 million, respectively. As of December 31, 2008, none of these securities were considered to be other than temporarily impaired. The Company has the intent and ability to hold these securities until their maturities. The unrealized losses from these securities were not a result of credit, collateral or structural issues.

The amortized cost and estimated fair values as of December 31, 2008 of debt securities classified as held-to-maturity by contractual maturity are shown below.

	Amortized Cost	Fair Value
Due within one year	$ 80,002	$ 80,491
After 1 through 5 years	428,989	437,333
After 5 through 10 years	67,128	70,721
After 10 years	10,597	10,141
	$586,716	$598,686

Actual maturities could differ from contractual maturities because borrowers may have the right to call or prepay obligations with or without call or prepayment penalties.

Trading

The estimated fair value of investments in debt securities, short-term investments classified as trading securities and equities as of December 31 was as follows:

	2008	2007
U.S. Treasury and Agency securities	$ 84,351	$237,943
Non-U.S. Government securities	—	3,244
Corporate debt securities	31,495	82,436
Equities	3,747	4,900
	$119,593	$328,523

Other Investments

As of December 31, 2008 and 2007, the Company had $60.2 million and $75.3 million, respectively, of other investments recorded in limited partnerships, limited liability companies and equity funds. These other investments represented 1.7% and 4.2% of total investments and cash and cash equivalents as of December 31, 2008 and 2007, respectively. All of the Company’s investments in limited partnerships and limited liability companies are subject to restrictions on redemptions and sales which are determined by the governing documents and limit the Company’s ability to liquidate these investments in the short term. Due to a lag in the valuations reported by the managers, the Company records changes in the investment value with up to a three-month lag. These investments are accounted for under the equity method. As of December 31, 2008 and 2007, the Company had unfunded capital commitments relating to its other investments of $108.0 million and $74.6 million, respectively. As of December 31, 2008 and 2007, 90.6% and 95.1%, respectively, of the other investments were with a related party.

Fair Value of Financial Instruments

In accordance with FAS 157, we have categorized our investments held as of December 31, 2008 among levels as follows:

	Level 1	Level 2	Level 3	Total Fair Value
Fixed maturities — available for sale	$ —	$511,509	$ —	$511,509
Fixed maturities — trading	—	115,494	352	115,846
Equity securities	3,747	—	—	3,747
Other investments	—	—	60,237	60,237
Total investments	$3,747	$627,003	$60,589	$691,339

The following table presents a reconciliation of the beginning and ending balances for all investments measured at fair value on a recurring basis using Level 3 inputs during the quarter ended December 31, 2008:

	Fixed Maturity Investments	Equity Securities	Other Investments	Total
Level 3 investments as of October 1, 2008	$ 846	$ —	$ 91,604	$ 92,450
Net purchases (sales and distributions)	—	—	6,212	6,212
Total realized and unrealized losses	(494)	—	(37,579)	(38,073)
Level 3 investments as of December 31, 2008	$ 352	$ —	$ 60,237	$ 60,589

The amount of total losses for the quarter ended December 31, 2008 included in earnings attributable to the fair value of changes in assets still held at the reporting date was $37.8 million. Of this amount, $0.5 million was included in net realized gains/(losses) and $37.3 million in net investment income.

The following table presents a reconciliation of the beginning and ending balances for all investments measured at fair value on a recurring basis using Level 3 inputs during the year ended December 31, 2008:

	Fixed Maturity Investments	Equity Securities	Other Investments	Total
Level 3 investments as of January 1, 2008	$ 1,051	$ —	$ 75,300	$ 76,351
Net purchases (sales and distributions)	—	—	77,681	77,681
Total realized and unrealized losses	(699)	—	(92,744)	(93,443)
Level 3 investments as of December 31, 2008	$ 352	$ —	$ 60,237	$ 60,589

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Major categories of net investment income are summarized as follows:

	2008	2007	2006
Interest from cash and cash equivalents and short-term investments	$ 71,342	$49,544	$36,228
Interest from fixed maturities	26,549	15,798	13,227
Other	13,217	17	(355)
Amortization of bond premiums and discounts	1,278	(767)	(1,959)
Other investments	(84,117)	(331)	2,259
Investment expenses	(1,668)	(174)	(1,301)
	$ 26,601	$64,087	$48,099

During the years ended December 31, 2008, 2007 and 2006, proceeds from sales and maturities of available-for-sale securities were $263.3 million, $411.6 million and $305.4 million, respectively. Gross realized gains on sale of available-for-sale securities were $0.3 million, $0.1 million and $0.1 million, respectively, and gross realized losses on sale of available-for-sale securities were $0.1 million, $0.1 million and $0.1 million, respectively.

Restricted Investments

The Company is required to maintain investments on deposit with various regulatory authorities to support its insurance and reinsurance operations. The investments on deposit are available to settle insurance and reinsurance liabilities. The Company also utilizes trust accounts to collateralize business with its insurance and reinsurance counterparties. These trust accounts generally take the place of letter of credit requirements. The investments in trust as collateral are primarily highly rated fixed maturity securities. The carrying value of our restricted investments as of December 31, 2008 and 2007 was as follows:

	2008	2007
Assets used for collateral in trust for third-party agreements	$297,491	$12,000
Deposits with U.S. regulatory authorities	11,751	12,000
	$309,242	$24,000

6. REINSURANCE BALANCES RECEIVABLE

	2008	2007
Recoverable from reinsurers on:		
Paid losses	$278,122	$ 37,313
Outstanding losses	346,097	85,439
Losses incurred but not reported	110,194	468,753
Fair value adjustment	(61,717)	(126,228)
	$672,696	$ 465,277

The fair value adjustment, determined on acquisition of reinsurance subsidiaries, was based on the estimated timing of loss and loss adjustment expense recoveries and an assumed interest rate equivalent to a risk free rate for securities with similar duration to the reinsurance receivables acquired plus a spread to reflect credit risk, and is amortized over the estimated recovery period, as adjusted for accelerations on commutation settlements, using the constant yield method.

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The Company's acquired reinsurance subsidiaries use retrocessional agreements to reduce their exposure to the risk of reinsurance assumed. The Company remains liable to the extent that retrocessionaires do not meet their obligations under these agreements, and therefore, the Company evaluates and monitors concentration of credit risk. Provisions are made for amounts considered potentially uncollectable. The allowance for uncollectable reinsurance recoverable was $397.5 million and $164.6 million at December 31, 2008 and 2007, respectively.

As of December 31, 2008 and 2007, reinsurance receivables with a carrying value of $254.2 million and $350.2 million, respectively, were associated with two reinsurers, which each represented 10% or more of total reinsurance balances receivable. In the event that all or any of the reinsuring companies are unable to meet their obligations under existing reinsurance agreements, the Company will be liable for such defaulted amounts.

7. INVESTMENT IN PARTLY OWNED COMPANIES

During the year ended December 31, 2008 the Company acquired 44.4% of the outstanding capital stock of Stonewall. Stonewall is the parent of two Rhode Island-domiciled insurers, Stonewall Insurance Company and Seaton Insurance Company, both of which are in run-off. The investment is carried on the equity basis whereby the investment is initially recorded at cost and adjusted to reflect the Company's share of after-tax earnings or losses and unrealized investment gains and losses and reduced by dividends. During the year ended December 31, 2008 the Company recorded a loss of $0.2 million representing the Company's share of after-tax losses.

On January 1, 2007 the Company held 45% of the ordinary shares of BH. On January 31, 2007, the Company acquired the 55% of the shares of BH it did not previously own. The Company has consolidated the results of operations of BH from the acquisition date.

The balance of the investment in partly owned company was $20.9 million and $nil at December 31, 2008 and 2007, respectively.

8. LOSSES AND LOSS ADJUSTMENT EXPENSES

	2008	2007
Outstanding	$1,605,445	$ 706,887
Incurred but not reported	1,542,498	1,169,578
Fair value adjustment	(349,656)	(285,016)
	$2,798,287	$1,591,449

The fair value adjustment, or FVA, represents the difference between the carrying value of reserves of acquired companies at the date of acquisition and the fair value of the reserves. The fair value of reserves is based on the estimated timing of reserve settlements discounted at a risk free rate and a risk margin determined by management. The FVA is amortized over the estimated payout period, as adjusted for accelerations on commutation settlements, using the constant yield method.

In establishing the liability for losses and loss adjustment expenses related to asbestos and environmental claims, management considers facts currently known and the current state of the law and coverage litigation. Liabilities are recognized for known claims (including the cost of related litigation) when sufficient information has been developed to indicate the involvement of a specific insurance policy, and management can reasonably estimate its liability. In addition, liabilities have been established to cover additional exposures on both known and unasserted claims. Estimates of the liabilities are reviewed and updated continually. Developed case law and adequate claim history do not exist for such claims, especially because significant uncertainty exists about the outcome of coverage litigation and whether past claim experience will be representative of future claim experience.

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In view of the changes in the legal and tort environment that affect the development of such claims, the uncertainties inherent in valuing asbestos and environmental claims are not likely to be resolved in the near future. Ultimate values for such claims cannot be estimated using traditional reserving techniques and there are significant uncertainties in estimating the amount of the Company's potential losses for these claims.

There can be no assurance that the reserves established by the Company will be adequate or will not be adversely affected by the development of other latent exposures. The Company's liability for unpaid losses and loss adjustment expenses as of December 31, 2008 and 2007 included $846.4 million and $420.0 million, respectively, that represented an estimate of its net ultimate liability for asbestos and environmental claims. The gross liability for such claims as at December 31, 2008 and 2007 was $944.0 million and $677.6 million, respectively.

Activity in the liability for unpaid losses and loss adjustment expenses is summarized as follows:

	2008	2007	2006
Balance as at January 1	$1,591,449	$1,214,419	$ 806,559
Less reinsurance recoverables	427,964	342,160	213,399
	1,163,485	872,259	593,160
Effect of exchange rate movement	(124,989)	18,625	24,856
Incurred related to prior years	(242,104)	(24,482)	(31,927)
Paid related to prior years	(174,013)	(20,422)	(75,293)
Acquired on purchase of subsidiaries	1,408,046	317,505	361,463
Retroactive reinsurance contracts assumed	373,287	—	—
Net balance as at December 31	2,403,712	1,163,485	872,259
Plus reinsurance recoverables	394,575	427,964	342,160
Balance as at December 31	$2,798,287	$1,591,449	$1,214,419

The net reduction in loss and loss adjustment expense liabilities for the years ended December 31, 2008, 2007 and 2006 was primarily due to the following:

	2008	2007	2006
Reduction in estimates of ultimate losses	$158,370	$ 30,745	$ 21,433
Reduction (increase) in provisions for bad debts	39,203	(1,746)	6,296
Amortization of fair value adjustments	(24,525)	(26,531)	(10,942)
Reduction in provisions for loss adjustment expenses	69,056	22,014	15,139
Net reduction in loss and loss adjustment expense liabilities	$242,104	$ 24,482	$ 31,927

The reduction in estimates of ultimate losses in 2008, 2007 and 2006 arose from commutations and policy buy-backs, the settlement of losses in the year below carried reserves, lower than expected incurred adverse loss development and the resulting reductions in actuarial estimates of losses incurred but not reported. Based on a review during 2008 of reinsurance balances receivables and as a result of the collection of certain reinsurance receivables, against which bad debt provisions had been provided in earlier periods, the Company reduced its aggregate provisions for bad debt in 2008.

9. LOANS PAYABLE

The Company incurred interest expense on its loan facilities of $23.4 million and $4.9 million for the years ended December 31, 2008 and 2007, respectively.

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On February 18, 2008, the Company fully repaid the outstanding principal and accrued interest on the loans used to partially finance the acquisitions of Cavell and Marlon totaling $40.5 million.

In February 2008, the Company's wholly-owned subsidiary, Cumberland Holdings Limited ("Cumberland"), entered into a term facility agreement jointly with a London-based bank and a German bank (the "Cumberland Facility"). On March 4, 2008, Cumberland drew down AU$215.0 million (approximately $197.5 million) from the Facility A commitment ("Cumberland Facility A") and AU$86.0 million (approximately $79.0 million) from the Facility B commitment ("Cumberland Facility B") to partially fund the Gordian acquisition. During the year, AU$7.8 million (approximately $6.6 million) of interest expense on the Cumberland Facility B was settled by adding the amount otherwise payable to the principal of the loan.

The interest rate on Cumberland Facility A is LIBOR plus 2.00%. Cumberland Facility A is repayable in five years and is secured by a first charge over Cumberland's shares in Gordian. Cumberland Facility A contains various financial and business covenants, restrictions on intragroup advances or loans, including limitations on liens on the stock of restricted subsidiaries, restrictions as to the disposition of the stock of restricted subsidiaries and limitations on mergers and consolidations involving Cumberland. As of December 31, 2008, all of the financial covenants relating to Cumberland Facility A were met.

The interest rate on Cumberland Facility B is LIBOR plus 2.75%. Cumberland Facility B is repayable in six years and is secured by a first charge over Cumberland's shares in Gordian. Cumberland Facility B contains various financial and business covenants, including limitations on liens on the stock of restricted subsidiaries, restrictions as to the disposition of the stock of restricted subsidiaries and limitations on mergers and consolidations. As of December 31, 2008, all of the financial covenants relating to Cumberland Facility B were met.

In October 2008, Cumberland repaid AU$86.2 million (approximately $60.6 million) of Cumberland Facility A. On October 3, 2008, the Company received permission from the Australian regulators to release AU$25.8 million (approximately $18.1 million), which will also be used to pay down Cumberland Facility A.

On June 20, 2008, in connection with the proposed acquisition by EAL of Goshawk through the Offer, EAL entered into a Term Facilities Agreement (the "Goshawk Facilities Agreement"), with a London-based bank. The Goshawk Facilities Agreement provided for a term loan facility of up to $60.0 million to partially finance the acquisition of Goshawk and refinance certain debt obligations of one of Goshawk's subsidiaries (the "Existing Debt").

On August 12, 2008, the Company and EAL entered into an amendment and restatement agreement under which the Goshawk Facilities Agreement was amended (the "First Amendment and Restatement Agreement"). Under the First Amendment and Restatement Agreement, EAL was entitled to draw $47.5 million to fund the acquisition of Goshawk ("Goshawk Facility A"), and we were entitled to draw $12.5 million to refinance the Existing Debt ("Goshawk Facility B"). On August 14, 2008, the Company drew down $12.5 million from Goshawk Facility B to partially fund the refinancing of Existing Debt of $16.3 million; and on October 3, 2008, EAL drew down $36.1 million from Goshawk Facility A.

The interest rate on the Goshawk facilities is LIBOR plus 2.25%. The facilities are repayable within three years and Goshawk Facility A is secured by a first charge over EAL's shares in Goshawk and certain of its material subsidiaries. The First Amendment and Restatement Agreement contains various financial and business covenants, including limitations on liens on the stock of certain subsidiaries, restrictions on intragroup advances or loans, restrictions as to the disposition of the stock of those subsidiaries and limitations on mergers and consolidations. As of December 31, 2008, all of the financial covenants relating to Goshawk Facility A and Goshawk Facility B were met.

On October 6, 2008, the Company fully repaid the outstanding principal and accrued interest on the loan used to partially finance the acquisition of EPIC totaling $33.1 million.

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On December 30, 2008, in connection with the Unionamerica acquisition, Royston borrowed the full amount of the $184.6 million available under a term facilities agreement (the "Unionamerica Facilities Agreement"), with National Australia Bank Limited ("NABL"). Of that amount, Royston borrowed $152.6 million under Facility A and $32.0 million under Facility B. The Company has provided a guarantee of all of the obligations of Royston under the Unionamerica Facilities Agreement, however, if NABL's participation in the facilities is reduced to or below 50% of overall commitments, then the Company will be released from all obligations as guarantor. Royston incurred $6.9 million in fees in connection with this financing.

The loans are secured by a lien covering all of the assets of Royston. The interest rate on the Facility A portion is LIBOR plus 3.50% and the interest rate on the Facility B portion is LIBOR plus 4.00%. The current blended rate on the full amount to be borrowed is LIBOR plus 3.59%. During the existence of a payment default, the interest rates will be increased by 1.00%. During the existence of any event of default (as specified in the Unionamerica Facilities Agreement), the lenders may declare that all amounts outstanding under the Unionamerica Facilities Agreement are immediately due and payable, declare that all borrowed amounts be paid upon demand, or proceed against the security. Amounts outstanding under the Unionamerica Facilities Agreement are also subject to acceleration by the lenders in the event of a change of control of Royston, successful application by Royston or certain of its affiliates (other than us) for listing on a stock exchange, or total amounts outstanding under the facilities decreasing below $10.0 million.

The Facility A portion is repayable within three years from October 3, 2008, the date of the Unionamerica Facilities Agreement. The Facility B portion is repayable within four years from the date of the Unionamerica Facilities Agreement. The Flowers Fund has a 30% non-voting equity interest in Royston Holdings Ltd., the direct parent company of Royston.

The facilities contain various financial and business covenants, including limitations on dividends of restricted subsidiaries, restrictions on intragroup advances or loans, restrictions as to the disposition of stock of restricted subsidiaries and limitations on mergers and consolidations by Royston. As at December 31, 2008, all of the covenants relating to the facilities were met.

The fair values of the Company's floating rate loans approximate their book value.

10. SHARE CAPITAL

As at December 31, 2008 and 2007, the authorized share capital was 156,000,000 ordinary shares, par value $1.00 per share. The following table is a summary of changes in ordinary shares issued and outstanding:

Issued and fully paid ordinary shares of par value $1.00 each —

	2008	2007
Balance, beginning of year	$11,920	$ 19
Conversion of shares	—	6,029
Issue of shares	1,375	5,775
Shares repurchased	—	(7)
Share awards vested	39	104
Balance, end of year	$13,334	$11,920

In July 2008, the Company completed the sale to the public of 1,372,028 newly-issued ordinary shares, inclusive of the underwriters' over-allotment. The shares were priced at $87.50 per share and the Company received net proceeds of approximately $116.8 million, after underwriting fees and other expenses of approximately $3.5 million.

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Issued and fully paid non-voting convertible ordinary shares of par value $1.00 each —

	2008	2007
Balance, beginning of year	$2,973	$ —
Conversion of shares	—	2,973
Balance, end of year	$2,973	$2,973

11. ACCUMULATED OTHER COMPREHENSIVE INCOME

Accumulated other comprehensive income as of December 31, 2008 and 2007 is comprised of cumulative translation adjustments and unrealized holding gains on investments arising during the year.

	2008	2007
Cumulative translation adjustments	$(44,827)	$6,163
Unrealized holding gains on investments	13,956	(128)
	$(30,871)	$6,035

12. EMPLOYEE BENEFITS

a) Summary

Components of salaries and benefits are summarized as follows:

	2008	2007	2006
Salaries and benefits	$38,675	$31,639	$ 22,882
Defined contribution pension plan expense	2,596	2,050	1,506
2004-2005 employee share plan	608	2,385	22,393
Annual incentive plan	14,391	10,903	14,533
Reversal of prior annual incentive plan accrual	—	—	(21,193)
Total salaries and benefits	$56,270	$46,977	$ 40,121

b) Defined contribution pension plan

The Company provides pension benefits to eligible employees through various plans sponsored by the Company. All pension plans are structured as defined contribution plans. Pension expense for the years ended December 31, 2008, 2007 and 2006 was $2.6 million, $2.1 million and $1.5 million, respectively.

c) Employee share plans

Employee stock awards for 2008 are summarized as follows:

	Number of Shares	Weighted Average Fair Value of the Award
Nonvested — January 1	25,862	$ 3,166
Granted	29,835	2,786
Vested	(41,948)	(4,171)
Nonvested — December 31	13,749	$ 813

On May 23, 2006, the Company entered into an agreement and plan of merger with EGI (the "Merger Agreement") and a recapitalization agreement. These agreements provided for the cancellation of the then current annual incentive compensation plan and replaced it with a new annual incentive compensation plan.

i) 2004-2005 employee share plan

As a result of the execution of these agreements, the accounting treatment for share-based awards under the Company's employee share plan changed from book value to fair value. The determination of the share-award expenses was based on the fair-market value per share of EGI common stock as of the grant date and is recognized over the vesting period.

Compensation costs of $0.6 million, $2.4 million and $22.4 million relating to the issuance of share-awards to employees of the Company in 2004 and 2005 have been recognized in the Company's statement of earnings for years ended December 31, 2008, 2007 and 2006, respectively. Included in the amount for the year ended December 31, 2006 is $15.6 million relating to the modification of the Company's employee share plan from a book value plan to a fair value plan.

As of December 31, 2008, the total unrecognized compensation costs related to the non-vested share awards was $nil.

ii) 2006-2010 Annual Incentive Plan and 2006 Equity Incentive Plan

For the years ended December 31, 2008 and 2007, 27,140 and 38,357 shares, respectively, were awarded to a director, officers and employees under the 2006 Equity Incentive Plan. The total values of the awards for the years ended December 31, 2008 and 2007 were $2.6 million and $3.8 million, respectively, and were charged against the 2006-2010 Annual Incentive Plan accrual established for the years ended December 31, 2007 and 2006.

As a result of the cancellation of the previous annual incentive compensation plan, $21.2 million of unpaid bonus accrual was reversed during the year ended December 31, 2006.

The accrued liability relating to the 2006-2010 Annual Incentive Plan for the years ended December 31, 2008 and 2007 was $14.4 million and $11.6 million, respectively.

iii) Enstar Group Limited Employee Share Purchase Plan

On February 26, 2008, the Company's board of directors approved the Amended and Restated Enstar Group Limited Employee Share Purchase Plan ("the Plan"), and subsequently, on June 11, 2008, the Company's shareholders approved the Plan at the Annual General Meeting.

Compensation costs of less than $0.1 million relating to the shares issued have been recognized in the Company's statement of earnings for the year ended December 31, 2008. As at December 31, 2008, 2,695 shares have been issued to employees under the Plan.

(d) Options

Prior to the Merger, the Company had no options outstanding to purchase any of its share capital. In accordance with the Merger Agreement, on January 31, 2007, fully vested options were granted by the Company to replace options previously issued by EGI with the same fair value as the EGI options.

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	Number of Shares	Weighted Average Exercise Price	Intrinsic Value of Shares
Outstanding — January 1, 2008	490,371	$ 25.40	$47,575
Granted	—	—	—
Exercised	—	—	—
Forfeited	—	—	—
Outstanding — December 31, 2008	490,371	$ 25.40	$16,545

Stock options outstanding and exercisable as of December 31, 2008 were as follows:

Ranges of Exercise Prices	Number of Options	Weighted Average Exercise Price	Weighted Average Remaining Contractual Life
$10 — $20	323,645	$17.20	2.1 years
$40 — $60	166,726	41.32	4.7 years

(c) Deferred Compensation and Stock Plan for Non-Employee Directors

EGI, prior to the Merger, had in place a Deferred Compensation and Stock Plan for Non-Employee Directors which permitted non-employee directors to receive all or a portion of their retainer and meeting fees in common stock and to defer all or a portion of their retainer and meeting fees in stock units. Upon completion of the Merger, each stock unit was converted from a right to receive a share of EGI common stock into a right to receive an Enstar Group Limited ordinary share. No additional amounts will be deferred under the plan.

On June 5, 2007, the Compensation Committee of the board of directors of the Company approved the Enstar Group Limited Deferred Compensation and Ordinary Share Plan for Non-Employee Directors (the “EGL Deferred Compensation Plan”). The EGL Deferred Compensation Plan became effective immediately. The EGL Deferred Compensation Plan provides each member of the Company’s board of directors who is not an officer or employee of the Company or any of its subsidiaries (each, a “Non-Employee Director”) with the opportunity to elect (i) to receive all or a portion of his or her compensation for services as a director in the form of the Company’s ordinary shares instead of cash and (ii) to defer receipt of all or a portion of such compensation until retirement or termination.

Non-Employee Directors electing to receive compensation in the form of ordinary shares will receive whole ordinary shares (with any fractional shares payable in cash) as of the date compensation would otherwise have been payable. Non-Employee Directors electing to defer compensation will have such compensation converted into share units payable as a lump sum distribution after the director’s “separation from service” as defined under Section 409A of the Internal Revenue Code of 1986, as amended. The lump sum share unit distribution will be made in the form of ordinary shares, with fractional shares paid in cash.

For the years ended December 31, 2008 and 2007, 4,631 and 1,147 restricted share units, respectively, were credited to the accounts of Non-Employee Directors under the EGL Deferred Compensation Plan.

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13. EARNINGS PER SHARE

The following table sets forth the comparison of basic and diluted earnings per share for the years ended December 31, 2008, 2007 and 2006:

	2008	2007	2006
Basic earnings per share			
Net earnings	$ 81,551	$ 61,785	$ 82,346
Weighted average shares outstanding — basic	12,638,333	11,731,908	9,857,194
Basic earnings per share	$ 6.45	$ 5.27	$ 8.36
Diluted earnings per share			
Net earnings	$ 81,551	$ 61,785	$ 82,346
Weighted average shares outstanding — basic	12,638,333	11,731,908	9,857,194
Share equivalents:			
Unvested shares	16,959	43,334	109,766
Restricted share units	3,889	378	—
Options	262,294	234,063	—
Weighted average shares outstanding — diluted	12,921,475	12,009,683	9,966,960
Diluted earnings per share	$ 6.31	$ 5.15	$ 8.26

The weighted average ordinary shares outstanding shown for the years ended December 31, 2007 and 2006 reflect the conversion of Class A, B, C and D shares to ordinary shares on January 31, 2007, as part of the recapitalization completed in connection with the Merger, as if the conversion occurred on January 1, 2007 and 2006. For the year ended December 31, 2007, the ordinary shares issued to acquire EGI are reflected in the calculation of the weighted average ordinary shares outstanding from January 31, 2007, the date of issue.

14. RELATED PARTY TRANSACTIONS

The Company has entered into certain transactions with companies and partnerships that are affiliated with J. Christopher Flowers and John J. Oros. Messrs. Flowers and Oros are members of the Company's board of directors and Mr. Flowers is one of the largest shareholders of Enstar.

- The Company received management fees for advisory services provided to the Flowers Fund, a private investment fund, for the years ended December 31, 2008, 2007 and 2006 of $0.9 million, $1.2 million, and $0.9 million, respectively. Of this amount $0.9 million, $0.8 million, and $0.5 million was earned for the years ended December 31, 2008, 2007 and 2006, respectively.
- The Company has, as of December 31, 2008, 2007 and 2006, investments in entities affiliated with Messers. Flowers and Oros with a total value of $54.5 million, $71.6 million, and $40.6 million, respectively, and outstanding commitments to entities managed by Messers. Flowers and Oros, for the same periods, of $104.0 million, $76.3 million, and $68.1 million, respectively. The Company's outstanding commitments may be drawn down over approximately the next six years.
- On January 16, 2009, the Company committed to invest approximately $8.7 million in JCF II Co-invest I L.P., in connection with its investment in certain of the operations, assets and liabilities of IndyMac Bank, F.S.B.
- In July 2008, FPK acted as lead managing underwriter in the Company's sale to the public of 1,372,028 ordinary shares, inclusive of the underwriters' over-allotment, at a public offering price of $87.50 per share

(the "Offering"). The underwriters purchased the shares at a 2% discount to the public offering price. The Company received net proceeds of approximately $116.8 million in the Offering. An affiliate of the Flowers Fund controls approximately 41% of FPK. In addition, the Flowers Fund and certain of its affiliated investment partnerships purchased 285,714 ordinary shares with a value of approximately $25.0 million in the Offering at the public offering price.

- In March 2006, Enstar and Shinsei Bank Limited ("Shinsei"), completed the acquisition of Aioi. The acquisition was effected through Hillcot, in which Enstar held at that date a 50.1% economic interest and Shinsei held at that date the remaining 49.9%. Enstar and Shinsei made capital contributions to Hillcot to fund the acquisition in proportion to their economic interests. Mr. Flowers is a director and the largest shareholder of Shinsei. On October 27, 2008, the company distributed to Shinsei $27.1 million representing its 49.9% share of the consideration received on the sale of Hillcot Re.
- During 2008, the Flowers Fund funded approximately $145.0 million for its share of the economic interest in the acquisitions of Gordian, Guildhall and Shelbourne, Goshawk, EPIC and Unionamerica.
- In February 2008, the Company entered into an AUS$301.0 million (approximately $285.0 million) joint loan facility with an Australian and German bank. The Flowers Fund is a significant shareholder of the German bank.

During the years ended December 31, 2008, 2007 and 2006, Enstar paid $0.1 million, $0.1 million, and $0.2 million, respectively, to Saracens Ltd. for corporate marketing and entertainment. Dominic Silvester, Chief Executive Officer of Enstar, is a director of Saracens Ltd.

In April 2005, Enstar (US) Inc. entered into a lease agreement for use of office space with one of its directors running through to 2008. For the twelve months ended December 31, 2008, 2007 and 2006, Enstar (US) Inc. incurred rent expense of $0.1 million, $0.2 million, and $0.1 million, respectively.

In 2006 and 2007 the Company granted loans to certain of its employees in relation to tax incurred on shares awarded as part of the incentive plans. On December 31, 2008 and 2007, the total amount due from employees for loans granted, including accrued interest charges at 5%, was $0.1 million and $1.3 million, respectively.

15. LITIGATION

The Company, in common with the insurance and reinsurance industry in general, is subject to litigation and arbitration in the normal course of its business operations. While the outcome of the litigation cannot be predicted with certainty, the Company is disputing and will continue to dispute all allegations that management believes are without merit. As of December 31, 2008, the Company was not a party to any material litigation or arbitration outside its normal course of business operations.

16. TAXATION

Under current Bermuda law, the Company and its Bermuda-based subsidiaries are not required to pay any taxes in Bermuda on their income or capital gains. The Company has received an undertaking from the Minister of Finance in Bermuda that, in the event of any taxes being imposed, the Company and its Bermuda-based subsidiaries will be exempt from taxation in Bermuda until March 2016.

The Company has operating subsidiaries and branch operations in the United Kingdom, Australia, United States and Europe and is subject to the relevant taxes in those jurisdictions. The weighted average expected tax provision for the foreign operations has been calculated using pre-tax accounting income in each jurisdiction multiplied by that jurisdictions applicable statutory tax rate.

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Deferred income taxes arise from the recognition of temporary differences between income determined for financial reporting purposes and income tax purposes. Such differences result from differing bases of depreciation, amortization, assets and liabilities, run-off costs and employee compensation for tax and book purposes.

As of December 31, 2008 and 2007, U.K. insurance subsidiaries and branch operations had tax loss carryforwards, which do not expire, and deductions available for tax purposes of approximately $260.2 million and $432.6 million, respectively. Certain of the Company's U.K. insurance and reinsurance subsidiaries have tax loss carryforwards that arose prior to acquisition. Under U.K. tax law, these tax loss carryforwards are available to offset future taxable income generated by the acquired company without time limit. In 2007, the U.K. taxing authorities partially repealed for the 2007 tax year, and fully repealed for all tax years including and after 2008, Finance Act 2000 Section 107. Section 107 allowed the Company's U.K. insurance and reinsurance entities to disclaim part or all of their loss reserves in any given tax year. The disclaimed reserves would then refresh as current year losses in the following year.

As of December 31, 2008, U.S. subsidiaries had deductible losses for tax purposes of approximately $25.1 million. Under U.S. tax law these tax losses can be carried forward and could be available to offset future taxable income of the companies that experienced the losses.

The Company has made estimates of future taxable income of foreign subsidiaries and has provided a valuation allowance in respect of those loss carryforwards where it does not expect to realize a benefit.

A valuation allowance has been provided for the tax benefit of the U.K. and U.S. losses as follows:

	2008	2007
Benefit of loss carryforward	$ 82,468	$ 129,251
Valuation allowance	(70,687)	(119,040)
	$ 11,781	$ 10,211

The actual income tax rate for the years ended December 31, 2008, 2007 and 2006, differed from the amount computed by applying the effective rate of 0% under the Bermuda law to earnings before income taxes as a result of the following:

	2008	2007	2006
Earnings before income tax	$128,405	$54,344	$82,028
Expected tax rate	0%	0%	0%
Foreign taxes at local expected rates	44.8%	(0.3)%	1.6%
Benefit of loss carryovers	(1.0)%	—	—
Change in uncertain tax positions	(2.6)%	(14.1)%	—
Valuation allowance	(4.7)%	—	—
Other	(0.0)%	0.7%	(2.0)%
Effective tax rate	36.5%	(13.7)%	(0.4)%

The Company adopted the provisions of FASB Interpretation No. 48, "Accounting for Uncertainty in Income Taxes" ("FIN 48"), on January 1, 2007. As a result of the implementation of FIN 48, the Company recognized a $4.9 million increase to the January 1, 2007 balance of retained earnings.

As a result of the Company's merger with EGI on January 31, 2007, the Company assumed approximately $15.3 million of liabilities for unrecognized tax benefits related to various U.S., state and local income tax matters,

and $2.4 million of accrued interest related to uncertain tax positions as a result of EGI's adoption of FIN 48 on January 1, 2007.

During the years ended December 31, 2008 and December 31, 2007, there were certain reductions to the unrecognized tax benefit due to the expiration of statutes of limitations of $3.5 million and $8.5 million, respectively, which are included in net earnings.

A reconciliation of the beginning and ending amount of unrecognized tax benefits is as follows:

	2008	2007
Balance, beginning of year	$13,115	$ 4,396
Balance assumed as a result of the merger with EGI on January 31, 2007	—	17,698
Gross increases — tax positions related to the current year	2,204	117
Gross increases — tax positions related to prior years	644	729
Gross decreases — tax positions related to the current year	(557)	—
Gross decreases — tax positions related to prior years	(3,297)	—
Lapse of statute of limitations	(4,053)	(9,825)
Balance, end of year	$ 8,056	$13,115

Included in the balances at December 31, 2008 and December 31, 2007 were $4.2 million and $3.2 million, respectively, of tax positions for which the ultimate deductibility is highly certain but for which there is uncertainty about the timing of such deductibility. Because of the impact of deferred tax accounting, other than interest and penalties, the disallowance of the shorter deductibility period would not affect the annual effective tax rate but would accelerate the payment of cash to the taxing authority to an earlier period.

Within specific countries, the subsidiaries may be subject to audit by various tax authorities and may be subject to different statutes of limitations expiration dates. With limited exceptions, the Company's major subsidiaries that operate in the United States, United Kingdom and Australia are no longer subject to audits for years before 2004, 2006, and 2002 respectively.

It is reasonably possible that the amount of the unrecognized tax benefit with respect to certain of the unrecognized tax positions could decrease by up to approximately $0.1 million within the next 12 months if the statute of limitations expires on certain tax periods.

The Company recognizes accrued interest and penalties related to unrecognized tax benefits as a part of income tax expense. During the years ended December 31, 2008, 2007, and 2006 the Company recognized a benefit for the reversal of interest and penalties related to unrecognized tax benefits due to the expiration of the statute of limitations in the amount of $0.8 million, $1.2 million, and $Nil, respectively. The Company had approximately $1.2 million and $2.0 million accrued for the payment of interest and penalties related to unrecognized tax benefits at December 31, 2008 and December 31, 2007, respectively.

17. STATUTORY REQUIREMENTS (Unaudited)

The Company's insurance and reinsurance operations are subject to insurance laws and regulations in the jurisdictions in which they operate, including Bermuda, Australia, the United States, Europe and the United Kingdom. Statutory capital and surplus as reported to the relevant regulatory authorities for the insurance and

reinsurance subsidiaries of the Company as of December 31, 2008 and 2007 was as follows (in the table below, the United States and Europe are among the jurisdictions included in "Other"):

	Bermuda		U.K.		Australia		Other	
	December 31, 2008	December 31, 2007	December 31, 2008	December 31, 2007	December 31, 2008	December 31, 2007	December 31, 2008	December 31, 2007
Required statutory capital and surplus	$ 144,658	$ 23,127	$ 40,420	$ 39,857	$ 223,791	$ —	$ 6,508	$ 25,055
Actual statutory capital and surplus	$ 336,042	$ 119,548	$ 352,122	$ 283,980	$ 459,288	$ —	$ 13,853	$ 80,292

	Bermuda		UK		Australia		Other	
	December 31, 2008	December 31, 2007	December 31, 2008	December 31, 2007	December 31, 2008	December 31, 2007	December 31, 2008	December 31, 2007
Statutory income	$ 20,319	$ 31,369	$ (76,662)	$ 32,581	$ 112,328	$ —	$ (1,193)	$ 6,851
Maximum available for dividends	$ 120,281	$ 76,422	$ 51,039	$ 18,046	$ 235,496	$ —	$ 15,343	$ 1,818

18. COMMITMENTS AND CONTINGENCIES

The Company leases office space under operating leases expiring in various years through 2015. The leases are renewable at the option of the lessee under certain circumstances. The following is a schedule of future minimum rental payments on non-cancelable leases as of December 31, 2008:

2009	$1,933
2010	1,808
2011	1,755
2012	1,357
2013	682
2014 through 2018	681
	$8,216

Rent expense for the years ended December 31, 2008, 2007 and 2006 was $2.5 million, $2.2 million and $1.6 million, respectively.

In 2006 the Company committed to invest up to $100.0 million in the Flowers Fund. As of December 31, 2008, the capital contributed to the Flowers Fund was $96.0 million, with the remaining unfunded commitment being approximately $4.0 million.

As at December 31, 2008, the Company has guaranteed the obligations of two of its subsidiaries in respect of letters of credit issued on their behalf by London-based banks in the aggregate amount of £19.5 million (approximately $28.5 million) in respect of capital commitments to Lloyds Syndicate 2008 and insurance contract requirements of one of the subsidiaries. The guarantees will be triggered should losses incurred by the subsidiaries exceed available cash on hand resulting in the letters of credit being drawn. As at December 31, 2008, the Company had not recorded any liabilities associated with the guarantees.

On September 10, 2008, the Company made a commitment to invest in aggregate $100.0 million in J.C. Flowers Fund III L.P. ("Fund III"). The Company's commitment may be drawn down by Fund III over approximately the next six years. As of December 31, 2008, the capital contributed to the fund was $0.1 million with the

remaining outstanding commitment being $99.9 million. Fund III is a private investment fund advised by J.C. Flowers & Co. LLC. J. Christopher Flowers, a member of the Company's board of directors and one of its largest shareholders, is the founder and Managing Director of J.C. Flowers & Co. LLC. John J. Oros, the Company's Executive Chairman and a member of its board of directors, is a Managing Director of J.C. Flowers & Co. LLC. Mr. Oros splits his time between J.C. Flowers & Co. LLC and the Company.

On January 16, 2009, the Company committed to invest approximately $8.7 million in JCF III Co-invest I L.P., in connection with its investment in certain of the operations, assets and liabilities of IndyMac Bank, F.S.B.

19. SEGMENT INFORMATION

The determination of reportable segments is based on how senior management monitors the Company's operations. The Company measures the results of its operations under two major business categories: consulting and reinsurance.

Consulting fees for the reinsurance segment are intercompany fees paid to the consulting segment.

	Consulting	Reinsurance	Total
2008			
Consulting fees	$ 54,158	$ (29,007)	$ 25,151
Net investment (loss) income	(20,248)	46,849	26,601
Net realized losses	—	(1,655)	(1,655)
	33,910	16,187	50,097
Net reduction in loss and loss adjustment expense liabilities	—	(242,104)	(242,104)
Salaries and benefits	33,196	23,074	56,270
General and administrative expenses	17,289	36,068	53,357
Interest expense	—	23,370	23,370
Net foreign exchange loss	1,167	13,819	14,986
	51,652	(145,773)	(94,121)
(Loss)/earnings before income taxes, minority interest and share of net (loss) of partly owned company	(17,742)	161,960	144,218
Income taxes	511	(47,365)	(46,854)
Minority interest	—	(50,808)	(50,808)
Share of net (loss) of partly owned company	—	(201)	(201)
(Loss)/earnings before extraordinary gain	(17,231)	63,586	46,355
Extraordinary gain	—	35,196	35,196
Net (loss) earnings	$ (17,231)	$ 98,782	$ 81,551

ENSTAR GROUP LIMITED
(FORMERLY KNOWN AS CASTLEWOOD HOLDINGS LIMITED)

NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

	Consulting	Reinsurance	Total
2007			
Consulting fees	$ 59,465	$ (27,547)	$ 31,918
Net investment income	228	63,859	64,087
Net realized gains	—	249	249
	59,693	36,561	96,254
Net reduction in loss and loss adjustment expense liabilities	—	(24,482)	(24,482)
Salaries and benefits	36,222	10,755	46,977
General and administrative expenses	21,844	9,569	31,413
Interest expense	—	4,876	4,876
Net foreign exchange loss (gain)	192	(8,113)	(7,921)
	58,258	(7,395)	50,863
Earnings before income taxes and minority interest	1,435	43,956	45,391
Income taxes	(597)	8,038	7,441
Minority interest	—	(6,730)	(6,730)
Earnings before extraordinary gain	838	45,264	46,102
Extraordinary gain	—	15,683	15,683
Net earnings	$ 838	$ 60,947	$ 61,785

Revenue from one client of the Company’s consulting segment was $12.4 million.

	Consulting	Reinsurance	Total
2006			
Consulting fees	$ 54,546	$ (20,638)	$ 33,908
Net investment income	1,225	46,874	48,099
Net realized losses	—	(98)	(98)
	55,771	26,138	81,909
Net reduction in loss and loss adjustment expense liabilities	—	(31,927)	(31,927)
Salaries and benefits	28,255	11,866	40,121
General and administrative expenses	12,751	6,127	18,878
Interest expense	—	1,989	1,989
Net foreign exchange loss (gain)	146	(10,978)	(10,832)
	41,152	(22,923)	18,229
Earnings before income taxes, minority interest and share of net earnings of partly owned companies	14,619	49,061	63,680
Income taxes	490	(172)	318
Minority interest	—	(13,208)	(13,208)
Share of net earnings of partly owned companies	—	518	518
Net earnings before extraordinary gain	15,109	36,199	51,308
Extraordinary gain	—	31,038	31,038
Net earnings	$ 15,109	$ 67,237	$ 82,346

Revenue from one client of the Company’s consulting segment was $9.3 million.

ENSTAR GROUP LIMITED
(FORMERLY KNOWN AS CASTLEWOOD HOLDINGS LIMITED)

NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

20. CONDENSED UNAUDITED QUARTERLY FINANCIAL DATA

	2008 Quarters Ended			
	December 31	September 30	June 30	March 31
Consulting fees	$ 8,108	$ 7,410	$ 3,578	$ 6,055
Net investment (loss) income and net realized (losses) gains	(3,450)	6,657	22,233	(494)
	4,658	14,067	25,811	5,561
Net (reduction) increase in loss and loss adjustment expense liabilities	(213,837)	(3,469)	(25,483)	685
Salaries and benefits	24,953	6,013	13,947	11,357
General and administrative expenses	17,353	10,121	13,972	11,911
Interest expense	4,493	7,919	7,643	3,315
Net foreign exchange (gain) loss	(3,800)	25,056	(4,935)	(1,335)
	(170,838)	45,640	5,144	25,933
Income taxes	(33,466)	(10,434)	(3,193)	239
Minority interest	(46,703)	5,572	(6,301)	(3,376)
Share of net (loss) of partly owned company	(201)	—	—	—
Extraordinary gain (net of minority interest)	—	—	—	35,196
NET EARNINGS	$ 95,126	$ (36,435)	$ 11,173	$ 11,687
Earnings (loss) per share before extraordinary item — Basic	$ 7.13	$ (2.74)	$ 0.93	$ (1.97)
Extraordinary item — Basic	—	—	—	2.95
Earnings per share — Basic	$ 7.13	$ (2.74)	$ 0.93	$ 0.98
Earnings (loss) per share before extraordinary item — Diluted	$ 7.13	$ (2.74)	$ 0.91	$ (1.97)
Extraordinary item — Diluted	—	—	—	2.95
Earnings per share — Diluted	$ 7.13	$ (2.74)	$ 0.91	$ 0.98
Weighted average shares outstanding — Basic	13,333,644	13,317,919	11,959,125	11,927,542
Weighted average shares outstanding — Diluted	13,334,944	13,317,919	12,238,356	11,927,542

ENSTAR GROUP LIMITED
(FORMERLY KNOWN AS CASTLEWOOD HOLDINGS LIMITED)

NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

	2007 Quarters Ended			
	December 31	September 30	June 30	March 31
Consulting fees	$ 17,193	$ 6,238	$ 3,826	$ 4,661
Net investment income and net realized gains	13,240	15,901	16,844	18,351
	30,433	22,139	20,670	23,012
Net reduction in loss and loss adjustment expense liabilities	(25,874)	(313)	(805)	2,510
Salaries and benefits	15,144	8,671	10,360	12,802
General and administrative expenses	6,935	10,890	7,915	5,673
Interest expense	1,109	1,442	1,307	1,018
Net foreign exchange (gain) loss	(255)	(4,651)	(3,069)	54
	(2,941)	16,039	15,708	22,057
Income taxes	1,281	(933)	8,109	(1,016)
Minority interest	284	(2,599)	(2,167)	(2,248)
Extraordinary gain	—	—	—	15,683
NET EARNINGS	$ 34,939	$ 2,568	$ 10,904	$ 13,374
Earnings per share before extraordinary item — Basic	$ 2.93	$ 0.22	$ 0.92	$ (0.21)
Extraordinary item — Basic	—	—	—	1.41
Earnings per share — Basic	$ 2.93	$ 0.22	$ 0.92	$ 1.20
Earnings per share before extraordinary item — Diluted	$ 2.86	$ 0.21	$ 0.89	$ (0.20)
Extraordinary item — Diluted	—	—	—	1.37
Earnings per share — Diluted	$ 2.86	$ 0.21	$ 0.89	$ 1.17
Weighted average shares outstanding — Basic	11,920,393	11,920,393	11,916,013	11,160,448
Weighted average shares outstanding — Diluted	12,197,074	12,200,514	12,204,562	11,425,716

ENSTAR GROUP LIMITED
(FORMERLY KNOWN AS CASTLEWOOD HOLDINGS LIMITED)

NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

	2006 Quarters Ended			
	December 31	September 30	June 30	March 31
Consulting fees	$ 12,958	$ 9,350	$ 5,251	$ 6,349
Net investment income and net realized gains	14,563	12,712	11,066	9,660
	27,521	22,062	16,317	16,009
Net reduction in loss and loss adjustment expense liabilities	(21,227)	(3,920)	(4,323)	(2,457)
Salaries and benefits	17,685	7,996	6,491	7,949
General and administrative expenses	6,591	4,154	4,995	3,138
Interest expense	1,095	362	532	—
Net foreign exchange gain	(1,918)	(947)	(7,497)	(470)
	2,226	7,645	198	8,160
Income taxes	557	(1,034)	581	214
Minority interest	(5,403)	(2,619)	(4,974)	(212)
Share of net earnings of partly owned companies	23	232	151	112
Extraordinary gain	26,691	—	—	4,347
NET EARNINGS	$ 47,163	$ 10,996	$ 11,877	$ 12,310
Earnings per share before extraordinary item — Basic	$ 2.07	$ 1.11	$ 1.21	$ 0.82
Extraordinary item — Basic	2.69	—	—	0.45
Earnings per share — Basic	$ 4.76	$ 1.11	$ 1.21	$ 1.27
Earnings per share before extraordinary item — Diluted	$ 2.05	$ 1.10	$ 1.19	$ 0.80
Extraordinary item — Diluted	2.67	—	—	0.44
Earnings per share — Diluted	$ 4.71	$ 1.10	$ 1.19	$ 1.24
Weighted average shares outstanding — Basic	9,910,670	9,910,670	9,849,321	9,755,826
Weighted average shares outstanding — Diluted	10,002,964	10,002,964	9,945,994	9,914,551

REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

To the Board of Directors and Shareholders of
Enstar Group Limited (formerly known as Castlewood Holdings Limited)

We have audited the consolidated financial statements of Enstar Group Limited and subsidiaries (the "Company") as of December 31, 2008 and 2007, and for the years ended December 31, 2008, 2007 and 2006, and the Company's internal control over financial reporting as of December 31, 2008, and have issued our reports thereon dated March 4, 2009; such consolidated financial statements and reports are included elsewhere in this annual report. Our audits also included the financial statement schedule of the Company listed in Item 15. This consolidated financial statement schedule is the responsibility of the Company's management. Our responsibility is to express an opinion based on our audits. In our opinion, the consolidated financial statement schedule, when considered in relation to the basic consolidated financial statements taken as a whole, presents fairly, in all material respects, the information set forth therein.

/s/ Deloitte & Touche

Hamilton, Bermuda
March 4, 2009

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SCHEDULE II

ENSTAR GROUP LIMITED

CONDENSED BALANCE SHEETS
As of December 31, 2008 and 2007

	2008	2007
	(in thousands of U.S. dollars, except share data)	
ASSETS		
Cash and cash equivalents	$ 2,486	$ 2,354
Balances due from subsidiaries	142,277	41,591
Investments in subsidiaries	1,030,968	548,399
Goodwill	21,222	21,222
Accounts receivable and other assets	10,534	10,844
TOTAL ASSETS	$1,207,487	$ 624,410
LIABILITIES		
Accounts payable and accrued liabilities	$ 2,582	1,075
Loans payable	12,741	—
Balances due to subsidiaries	320,933	109,299
TOTAL LIABILITIES	336,256	110,374
MINORITY INTEREST	256,022	63,437
SHAREHOLDERS’ EQUITY		
Share capital		
Authorized issued and fully paid, par value $1 each (Authorized 2008: 156,000,000; 2007: 156,000,000)		
Ordinary shares (Issued 2008: 13,334,353; 2007: 11,920,377)	13,334	11,920
Non-voting convertible ordinary shares (Issued 2008: 2,972,892; 2007: 2,972,892)	2,973	2,973
Treasury stock at cost (non-voting convertible ordinary shares 2008: 2,972,892; 2007: 2,972,892)	(421,559)	(421,559)
Additional paid-in capital	709,485	590,934
Accumulated other comprehensive (loss)/income	(30,871)	6,035
Retained earnings	341,847	260,296
TOTAL SHAREHOLDERS’ EQUITY	615,209	450,599
TOTAL LIABILITIES AND SHAREHOLDERS’ EQUITY	$1,207,487	$ 624,410

See accompanying notes to the condensed financial statements.

ENSTAR GROUP LIMITED

CONDENSED STATEMENTS OF EARNINGS
For the Years Ended December 31, 2008, 2007 and 2006

	2008	2007	2006
	(in thousands of U.S. dollars)		
INCOME			
Net investment income	$ 1,423	$ 557	$ 310
Dividend income from subsidiaries	22,454	—	70,254
	23,877	557	70,564
EXPENSES			
Salaries and benefits	642	4,414	20,893
General and administrative expenses	3,708	4,514	772
Interest expense	16,022	7,118	1,204
Foreign exchange losses (gains)	1,063	163	(220)
	21,435	16,209	22,649
EARNINGS (LOSS) BEFORE EQUITY IN UNDISTRIBUTED EARNINGS OF CONSOLIDATED SUBSIDIARIES	2,442	(15,652)	47,915
EQUITY IN UNDISTRIBUTED EARNINGS OF CONSOLIDATED SUBSIDIARIES	129,917	84,167	47,639
MINORITY INTEREST	(50,808)	(6,730)	(13,208)
NET EARNINGS	$ 81,551	$ 61,785	$ 82,346

See accompanying notes to the condensed financial statements.

ENSTAR GROUP LIMITED

CONDENSED STATEMENTS OF CASH FLOWS
For the Years Ended December 31, 2008, 2007 and 2006

	2008	2007	2006
	(in thousands of U.S. dollars)		
OPERATING ACTIVITIES:			
Net cash flows provided by operating activities	$ 118,158	$ 56,590	$116,805
INVESTING ACTIVITIES:			
Contribution of capital	(245,900)	(42,067)	(64,819)
FINANCING ACTIVITIES:			
Dividends paid	—	—	(27,948)
Receipt of loans	12,482	—	—
Repurchase of shares	—	(16,762)	—
Proceeds from issuance of ordinary shares	115,392	—	—
Redemption of shares	—	—	(22,642)
Net cash flows used in financing activities	127,874	(16,762)	(50,590)
NET INCREASE (DECREASE) IN CASH AND CASH EQUIVALENTS	132	(2,239)	1,396
CASH AND CASH EQUIVALENTS, BEGINNING OF YEAR	2,354	4,593	3,197
CASH AND CASH EQUIVALENTS, END OF YEAR	$ 2,486	$ 2,354	$ 4,593

See accompanying notes to the condensed financial statements.

ENSTAR GROUP LIMITED

NOTES TO THE CONDENSED FINANCIAL STATEMENTS
December 31, 2008, 2007, and 2006

1. DESCRIPTION OF BUSINESS

Enstar Group Limited ("Enstar"') (formerly Castlewood Holdings Limited) was incorporated under the laws of Bermuda on August 16, 2001 and with its subsidiaries (collectively the "Company") acquires and manages insurance and reinsurance companies in run-off, and provides management, consultancy and other services to the insurance and reinsurance industry.

2. SIGNIFICANT ACCOUNTING POLICIES

Basis of preparation — The condensed financial statements have been prepared in conformity with accounting principles generally accepted in the United States of America. The preparation of financial statements in conformity with generally accepted accounting principles requires management to make estimates and assumptions that affect the reported amount of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates.

The accompanying condensed financial statements have been prepared using the equity method to account for the investments in subsidiaries. Under the equity method, the investments in consolidated subsidiaries are stated at cost plus the equity in undistributed earnings of consolidated subsidiaries since the date of acquisition. These condensed financial statements should be read in conjunction with the Company's consolidated financial statements.

ITEM 9. *CHANGES IN AND DISAGREEMENTS WITH ACCOUNTANTS ON ACCOUNTING AND FINANCIAL DISCLOSURE*

Not applicable

ITEM 9A. *CONTROLS AND PROCEDURES*

Disclosure Controls and Procedures

Our management has performed an evaluation, with the participation of our Chief Executive Officer and Chief Financial Officer, of the effectiveness of our disclosure controls and procedures (as defined in Rules 13a-15(e) and 15d-15(e) of the Securities Exchange Act of 1934, as amended, or the Exchange Act) as of December 31, 2008. Based upon that evaluation, our Chief Executive Officer and Chief Financial Officer concluded that our disclosure controls and procedures are effective to ensure that information required to be disclosed by us in reports that we file or submit under the Exchange Act is recorded, processed, summarized and reported within the time periods specified in the rules and forms of the SEC and is accumulated and communicated to management, including its principal executive and principal financial officers, as appropriate to allow timely decisions regarding required disclosure.

Management's Annual Report on Internal Control Over Financial Reporting

Our management was responsible for establishing and maintaining adequate internal control over financial reporting (as defined in Rules 13a-15(f) and 15d-15(f) of the Exchange Act). Our management has performed an assessment, with the participation of our Chief Executive Officer and our Chief Financial Officer, of our internal control over financial reporting as of December 31, 2008. In making this assessment, our management used the criteria set forth by the Committee of Sponsoring Organizations of the Treadway Commission in Internal Control-Integrated Framework. As allowed by SEC guidance, management excluded from its assessment the 2008 acquisitions of Goshawk and Unionamerica, whose total assets, net assets, total revenues and net income on a combined basis constitute approximately 32.0%, 0.9%, 7.1% and (3.0)%, respectively, of the consolidated financial statement amounts as of and for the year ended December 31, 2008.

Based upon that assessment, our management believes that, as of December 31, 2008, our internal control over financial reporting is effective.

The effectiveness of our internal control over financial reporting as of December 31, 2008 has been audited by our independent registered public accounting firm as stated in its report. This report appears on page 152.

All internal control systems, no matter how well designed, have inherent limitations. As a result, even those internal control systems determined to be effective can provide only reasonable assurance with respect to financial reporting and the preparation of financial statements.

Changes in Internal Control Over Financial Reporting

Our management has performed an evaluation, with the participation of our Chief Executive Officer and our Chief Financial Officer, of changes in our internal control over financial reporting that occurred during the quarter ended December 31, 2008. Based upon that evaluation there were no changes in our internal control over financial reporting that occurred during the quarter ended December 31, 2008 that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

ITEM 9B. *OTHER INFORMATION*

Not applicable

REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

To the Board of Directors and Shareholders of
Enstar Group Limited (formerly known as Castlewood Holdings Limited)

We have audited the internal control over financial reporting of Enstar Group Limited (formerly known as Castlewood Holdings Limited) and subsidiaries (the "Company") as of December 31, 2008, based on criteria established in Internal Control — Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission. As described in Management's Report on Internal Controls over Financial Reporting, management excluded from its assessment the internal control over financial reporting at Goshawk Insurance Holdings Plc ("Goshawk") and Unionamerica Holdings Limited ("Unionamerica"), which were acquired on August 19, 2008 and December 30, 2008, respectively. On a combined basis, the financial statements of these entities constitute approximately 32.0%, 0.9%, 7.1% and (3.0%) of total assets, net assets, total revenues and net income respectively, of the consolidated financial statement amounts as of and for the year ended December 31, 2008. Accordingly, our audit did not include the internal control over financial reporting at Goshawk and Unionamerica. The Company's management is responsible for maintaining effective internal control over financial reporting and for its assessment of the effectiveness of internal control over financial reporting, included in the accompanying Management's Report on Internal Controls over Financial Reporting. Our responsibility is to express an opinion on the Company's internal control over financial reporting based on our audit.

We conducted our audit in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether effective internal control over financial reporting was maintained in all material respects. Our audit included obtaining an understanding of internal control over financial reporting, assessing the risk that a material weakness exists, testing and evaluating the design and operating effectiveness of internal control based on the assessed risk, and performing such other procedures as we considered necessary in the circumstances. We believe that our audit provides a reasonable basis for our opinion.

A company's internal control over financial reporting is a process designed by, or under the supervision of, the company's principal executive and principal financial officers, or persons performing similar functions, and effected by the company's board of directors, management, and other personnel to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles. A company's internal control over financial reporting includes those policies and procedures that (1) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the company; (2) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that receipts and expenditures of the company are being made only in accordance with authorizations of management and directors of the company; and (3) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use, or disposition of the company's assets that could have a material effect on the financial statements.

Because of the inherent limitations of internal control over financial reporting, including the possibility of collusion or improper management override of controls, material misstatements due to error or fraud may not be prevented or detected on a timely basis. Also, projections of any evaluation of the effectiveness of the internal control over financial reporting to future periods are subject to the risk that the controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

In our opinion, the Company maintained, in all material respects, effective internal control over financial reporting as of December 31, 2008, based on the criteria established in Internal Control — Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission.

We have also audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States), the consolidated financial statements as of and for the year ended December 31, 2008 of the Company and our report dated March 4, 2009 expressed an unqualified opinion on those financial statements.

/s/ Deloitte & Touche

Hamilton, Bermuda
March 4, 2009

PART III

ITEM 10. *DIRECTORS AND EXECUTIVE OFFICERS OF THE REGISTRANT*

The information required by this item is incorporated by reference from our definitive proxy statement for the 2009 Annual General Meeting of Shareholders under the headings "Proposal No. 1 — Election of Directors," "Executive Officers," and "Section 16(a) Beneficial Ownership Reporting Compliance." That proxy statement will be filed with the SEC not later than 120 days after the close of the fiscal year ended December 31, 2008 pursuant to Regulation 14A.

ITEM 11. *EXECUTIVE COMPENSATION*

The information required by this item is incorporated by reference from our definitive proxy statement for the 2009 Annual General Meeting of Shareholders under the headings "Executive Compensation," "Director Compensation" and "Proposal No. 1 — Election of Directors — Meetings of the Board of Directors and its Committees — Compensation Committee Interlocks and Insider Participation." That proxy statement will be filed with the SEC not later than 120 days after the close of the fiscal year ended December 31, 2008 pursuant to Regulation 14A.

ITEM 12. *SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT AND RELATED STOCKHOLDER MATTERS*

The information required by this item is incorporated by reference from our definitive proxy statement for the 2009 Annual General Meeting of Shareholders under the headings "Principal Shareholders and Management Ownership" and "Equity Compensation Plan Information." That proxy statement will be filed with the SEC not later than 120 days after the close of the fiscal year ended December 31, 2008 pursuant to Regulation 14A.

ITEM 13. *CERTAIN RELATIONSHIPS AND RELATED TRANSACTIONS*

The information required by this item is incorporated by reference from our definitive proxy statement for the 2009 Annual General Meeting of Shareholders under the headings "Certain Relationships and Related Transactions" and "Proposal No. 1 — Election of Directors — Independence of Directors." That proxy statement will be filed with the SEC not later than 120 days after the close of the fiscal year ended December 31, 2008 pursuant to Regulation 14A.

ITEM 14. *PRINCIPAL ACCOUNTANT FEES AND SERVICES*

The information required by this item is incorporated by reference from our definitive proxy statement under the heading "Proposal No. 2 — Appointment of Independent Auditors." That proxy statement will be filed with the SEC not later than 120 days after the close of the fiscal year ended December 31, 2008 pursuant to Regulation 14A.

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PART IV

ITEM 15. *EXHIBITS, FINANCIAL STATEMENT SCHEDULES*

(a) Financial Statements, Financial Statement Schedules and Exhibits.

1. *Financial Statements*

Included in Part II — See Item 8 of this report.

2. *Financial Statement Schedules*

Included in Part II — See Item 8 of this report.

3. *Exhibits*

The Exhibits listed below are filed as part of, or incorporated by reference into, this report.

Exhibit No.	Description
2.1	Agreement and Plan of Merger, dated as of May 23, 2006, as amended on November 21, 2006, by and among Castlewood Holdings Limited, CWMS Subsidiary Corp. and The Enstar Group, Inc. (incorporated by reference to Exhibit 2.1 to the proxy statement/prospectus that forms a part of the Company's Registration Statement on Form S-4, as filed with the Securities and Exchange Commission and declared effective December 15, 2006).
2.2	Recapitalization Agreement, dated as of May 23, 2006, among Castlewood Holdings Limited, The Enstar Group, Inc. and the other parties signatory thereto (incorporated by reference to Exhibit 2.2 to the proxy statement/prospectus that forms a part of the Company's Registration Statement on Form S-4, as filed with the Securities and Exchange Commission and declared effective December 15, 2006).
2.3	Agreement relating to the Sale and Purchase of the Entire Issued Share Capital of Inter-Ocean Holdings Ltd. dated December 29, 2006, as amended on January 29, 2007 (incorporated by reference to Exhibit 2.1 of the Company's Current Report on Form 8-K, as filed with the Securities and Exchange Commission March 1, 2007).
2.4 ◆	Share Sale Agreement, dated December 10, 2007, by and between Enstar Group Limited, Enstar Australia Holdings Pty Limited, AMP Insurance Investment Holdings Pty Limited, AMP Holdings Limited, AMP Group Services Limited, AMP Group Holdings Limited and AMP Services Limited (incorporated by reference to Exhibit 2.4 of the Company's Annual Report on Form 10-K, as filed with the Securities and Exchange Commission February 29, 2008).
2.5* ◆	Agreement for the Sale and Purchase of the Entire Issued Share Capital of Unionamerica Holdings Limited, dated October 7, 2008, by and between St. Paul Fire and Marine Insurance Company, Royston Run-off Limited and Kenmare Holdings Limited.
3.1	Memorandum of Association of Castlewood Holdings Limited (incorporated by reference to Exhibit 3.1 to the proxy statement/prospectus that forms a part of the Company's Registration Statement on Form S-4, as filed with the Securities and Exchange Commission and declared effective December 15, 2006).
3.2	Second Amended and Restated Bye-Laws of Enstar Group Limited (incorporated by reference to Exhibit 3.1 of the Company's Form 8-K12B, as filed with the Securities and Exchange Commission on January 31, 2007).
10.1	Registration Rights Agreement, dated as of January 31, 2007, by and among Castlewood Holdings Limited, Trident II, L.P., Marsh & McLennan Capital Professionals Fund, L.P., Marsh & McLennan Employees' Securities Company, L.P., J. Christopher Flowers, Dominic F. Silvester and other parties thereto set forth on the Schedule of Shareholders attached thereto (incorporated by reference to Exhibit 10.1 of the Company's Form 8-K12B, as filed with the Securities and Exchange Commission on January 31, 2007).
10.2+	Form of Director Indemnification Agreement (incorporated by reference to Exhibit 10.1 of the Company's Registration Statement on Form S-3 (No. 333-151461) initially filed with the Securities and Exchange Commission on June 5, 2008).

Exhibit No.	Description
10.3	Tax Indemnification Agreement, dated as of May 23, 2006, among Castlewood Holdings Limited, The Enstar Group, Inc. and J. Christopher Flowers (incorporated by reference to Exhibit 10.3 to the proxy statement/prospectus that forms a part of the Company's Registration Statement on Form S-4, as filed with the Securities and Exchange Commission and declared effective December 15, 2006).
10.4	Letter Agreement, dated as of May 23, 2006, between Castlewood Holdings Limited, T. Whit Armstrong and T. Wayne Davis (incorporated by reference to Exhibit 10.5 to the proxy statement/prospectus that forms a part of the Company's Registration Statement on Form S-4, as filed with the Securities and Exchange Commission and declared effective December 15, 2006).
10.5+	Amended and Restated Employment Agreement, effective May 1, 2007 and amended and restated June 4, 2007, by and among Enstar Group Limited and Dominic F. Silvester (incorporated by reference to Exhibit 10.2 of the Company's Quarterly Report on Form 10-Q, as filed with the Securities and Exchange Commission on August 9, 2007).
10.6+	Employment Agreement, effective May 1, 2007, by and among Enstar Group Limited, Castlewood (US) Inc., and John J. Oros (incorporated by reference to Exhibit 10.2 of the Company's Current Report on Form 8-K, as filed with the Securities and Exchange Commission on May 3, 2007).
10.7+	Employment Agreement, effective May 1, 2007, by and among the Company and Paul J. O'Shea (incorporated by reference to Exhibit 10.3 of the Company's Current Report on Form 8-K, as filed with the Securities and Exchange Commission on May 3, 2007).
10.8+	Employment Agreement, effective May 1, 2007, by and among Enstar Group Limited and Nicholas A. Packer (incorporated by reference to Exhibit 10.4 of the Company's Current Report on Form 8-K, as filed with the Securities and Exchange Commission on May 3, 2007).
10.9+	Employment Agreement, effective May 1, 2007, by and among Enstar Group Limited and Richard J. Harris (incorporated by reference to Exhibit 10.5 of the Company's Current Report on Form 8-K, as filed with the Securities and Exchange Commission on May 3, 2007).
10.10+	Castlewood Holdings Limited 2006 Equity Incentive Plan (incorporated by reference to Exhibit 10.11 to the proxy statement/prospectus that forms a part of the Company's Registration Statement on Form S-4, as filed with the Securities and Exchange Commission and declared effective December 15, 2006), as amended by the First Amendment to Castlewood Holdings Limited 2006 Equity Incentive Plan (incorporated by reference to Exhibit 10.2 of the Company's Current Report on Form 8-K, as filed with the Securities and Exchange Commission on April 6, 2007).
10.11+	Castlewood Holdings Limited 2006-2010 Annual Incentive Compensation Plan (incorporated by reference to Exhibit 10.12 to the proxy statement/prospectus that forms a part of the Company's Registration Statement on Form S-4, as filed with the Securities and Exchange Commission and declared effective December 15, 2006), as amended by the First Amendment to Castlewood Holdings Limited 2006-2010 Annual Incentive Compensation Plan (incorporated by reference to Exhibit 10.3 of the Company's Current Report on Form 8-K, as filed with the Securities and Exchange Commission on April 6, 2007).
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10.14+	Enstar Group Limited Amended and Restated Employee Share Purchase Plan (incorporated by reference to Appendix A to the Company's Definitive Proxy Statement, as filed with the Securities and Exchange Commission on April 29, 2008).
10.15+	Enstar Group Limited Deferred Compensation and Ordinary Share Plan for Non-Employee Directors, effective as of June 5, 2007 (incorporated by reference to Exhibit 10.1 of the Company's Current Report on Form 8-K, as filed with the Securities and Exchange Commission on June 11, 2007).

Exhibit No.	Description
10.16+	The Enstar Group, Inc. 1997 Amended Omnibus Incentive Plan (incorporated by reference to Exhibit 10.1 to The Enstar Group, Inc.'s Quarterly Report on Form 10-Q, as filed with the Securities and Exchange Commission on August 14, 2001), as amended by the Amendment to the 1997 Omnibus Inventive Plan (incorporated by reference to Annex A to the Proxy Statement for the Annual Meeting of Shareholders of The Enstar Group, Inc., as filed with the Securities and Exchange Commission on April 22, 2003).
10.17+	The Enstar Group, Inc. 2001 Outside Directors' Stock Option Plan (incorporated by reference to Annex B to the Proxy Statement for the Annual Meeting of Shareholders of The Enstar Group, Inc., as filed with the Securities and Exchange Commission on May 8, 2001).
10.18	License Agreement, dated October 27, 2005, between Castlewood (US) Inc. and J.C. Flowers & Co. LLC (incorporated by reference to Exhibit 10.10 to the proxy statement/prospectus that forms a part of the Registration Statement on Form S-4 of the Company, as filed with the Securities and Exchange Commission and declared effective December 15, 2006).
10.19*	Term Facilities Agreement, dated October 3, 2008, by and between Royston Run-off Limited and National Australia Bank Limited.
21.1*	List of Subsidiaries.
23.1*	Consent of Deloitte & Touche.
31.1*	Certification of Chief Executive Officer pursuant to Rule 13a-14(a) or Rule 15d-14(a) of the Securities and Exchange Act of 1934 as adopted under Section 302 of the Sarbanes-Oxley Act of 2002.
31.2*	Certification of Chief Financial Officer pursuant to Rule 13a-14(a) or Rule 15d-14(a) of the Securities and Exchange Act of 1934 as adopted under Section 302 of the Sarbanes-Oxley Act of 2002.
32.1**	Certification of Chief Executive Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.
32.2**	Certification of Chief Financial Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.

* filed herewith

** furnished herewith

+ denotes management contract or compensatory arrangement

◆ certain of the schedules and similar attachments are not filed but Enstar Group Limited undertakes to furnish a copy of the schedules or similar attachments to the Securities and Exchange Commission upon request

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SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized on March 4, 2009.

ENSTAR GROUP LIMITED

By: /s/ DOMINIC F. SILVESTER
Chief Executive Officer

Pursuant to the requirements of the Securities Exchange Act of 1934, this report has been signed below by the following persons on behalf of the registrant and in the capacities indicated on March 4, 2009.

Signature	Title
/s/ DOMINIC F. SILVESTER Dominic F. Silvester	Chief Executive Officer and Director
/s/ RICHARD J. HARRIS Richard J. Harris	Chief Financial Officer (signing in his capacity as both principal financial officer and principal accounting officer)
/s/ PAUL J. O'SHEA Paul J. O'Shea	Executive Vice President and Director
/s/ JOHN J. OROS John J. Oros	Executive Chairman and Director
/s/ J. CHRISTOPHER FLOWERS J. Christopher Flowers	Director
/s/ T. WHIT ARMSTRONG T. Whit Armstrong	Director
/s/ T. WAYNE DAVIS T. Wayne Davis	Director
/s/ PAUL J. COLLINS Paul J. Collins	Director
/s/ GREGORY L. CURL Gregory L. Curl	Director
/s/ ROBERT J. CAMPBELL Robert J. Campbell	Director

EXHIBIT INDEX

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32.1**	Certification of Chief Executive Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.
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* filed herewith

** furnished herewith

\+ denotes management contract or compensatory arrangement

◆ certain of the schedules and similar attachments are not filed but Enstar Group Limited undertakes to furnish a copy of the schedules or similar attachments to the Securities and Exchange Commission upon request

EXHIBIT 2.5

Dated 7 October 2008

ST. PAUL FIRE AND MARINE INSURANCE COMPANY (1)

and

ROYSTON RUN-OFF LIMITED (2)

and

KENMARE HOLDINGS LIMITED (3)

AGREEMENT
for the sale and purchase of the entire issued share capital of Unionamerica Holdings Limited

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Agreed form documents

Disclosure Letter

Group Relief Agreement

Effective Date Balance Sheet

Stop Loss Commutation documentation

Irrevocable Power of Attorney

THIS AGREEMENT is dated October 2008 and is made **BETWEEN** :

(1) **ST. PAUL FIRE AND MARINE INSURANCE COMPANY** whose registered office is at 385 Washington Street, St Paul, Minnesota 55102, United States (the **Seller**);

(2) **ROYSTON RUN-OFF LIMITED** (No. 06708757) whose registered office is at Avaya House, 2 Cathedral Hill, Guildford, GU2 7YL (the **Buyer**); and

(3) **KENMARE HOLDINGS LIMITED** whose registered office is at Sofia House, 45 Church Street, Hamilton, Bermuda (the **Guarantor**)

NOW IT IS HEREBY AGREED as follows:

1 Definitions and interpretation

1.1 In this Agreement, unless the context requires otherwise:

Accounting Standards means the Financial Reporting Standards and Statements of Standard Accounting Practice issued and/or adopted by the Accounting Standards Board and Abstracts issued by the Urgent Issues Task Force of the Accounting Standards Board;

Accounts means the annual accounts of each Group Company (as defined in section 262 CA 1985), including the cash flow statement, notes to those accounts and the associated directors' and auditors' reports, for the financial year ended on the Accounts Date;

Accounts Date means 31 December 2007;

Aggregate Cover Reallocation means the assignment entered into on 30 September 2008 by UIC of the benefit of certain third party aggregate excess of loss reinsurance agreements;

Announcement means any announcement, circular or communication referred to in clause 19.1;

Auditors means the auditors of the Company namely KPMG Audit Plc, Chartered Accountants, of 8 Salisbury Square, London, EC4Y 8BB;

Buyer's Group means the Buyer and each company which is for the time being a Related Company of the Buyer;

Buyer's Solicitors means Eversheds LLP of One Wood Street, London, EC2V 7WS;

Buyer's Warranties means the warranties set out in Part B of Schedule 2 to be given by the Buyer to the Seller on the date of this Agreement;

Business Day means a day other than a Saturday or Sunday or other public or bank holiday on which banks are ordinarily open for the transaction of normal banking business in London;

CA 1985 means the Companies Act 1985;

CA 2006 means the Companies Act 2006;

Capital Release means the distribution by UIC of an amount of $50,000,000, and the distribution or other payment (including the repayment of any amounts outstanding under the Revolving Loan Agreement) by each of UAQ and the Company of an amount equal to such distribution by UIC which took place on 26 September 2008;

Company means Unionamerica Holdings Limited (No. 02822469), further details of which are set out in Part A of Schedule 1;

Completion means completion of the sale and purchase of the Sale Shares by the performance by the parties of their respective obligations under clause 5.1;

Completion Date means such date as is no later than the fifth Business Day after the date on which the Conditions set out in clauses 3.1.1 and 3.1.2 are satisfied;

Condition means a condition precedent specified in clause 3.1 and **Conditions** shall be construed accordingly;

Confidentiality Agreement means the confidentiality agreement entered into between the Seller and the Buyer on 4 July 2008;

Data Room means all correspondence, documents and other information made available by the Seller for inspection by the Buyer and its advisers in the electronic data room hosted by Merill Datasite with the code name Tarsus **II**, an index of which is annexed to the Disclosure Letter;

Disclosure Letter means the letter of the same date as this Agreement from the Seller to the Buyer disclosing certain matters in relation to the Seller's Warranties, together with all documents attached to it or listed in any schedule to it;

Effective Date means 30 June 2008;

Effective Date Balance Sheet means the unaudited pro-forma balance sheet of the Group as at the Effective Date in the agreed form which, for the avoidance of doubt, shall reflect the Extraordinary Transactions;

Employee means an employee of TML who is wholly or mainly engaged in the business of UIC immediately prior to Completion and whose name is set out in Schedule 7 and **Employees** shall be construed accordingly;

Employment Contracts means the contracts or other terms and conditions of employment under which the Employees are for the time being employed by TML;

Encumbrance means any mortgage, charge, pledge, lien, option, restriction, right of first refusal, right of pre emption, claim, right, interest or preference granted to any third party, or any other

encumbrance or security interest of any kind (or an agreement or commitment to create any of the same);

Extraordinary Transactions means the Aggregate Cover Reallocation, the Capital Release, the Reorganisation and the Stop Loss Commutation;

FSA means the Financial Services Authority;

FSMA means the Financial Services and Markets Act 2000;

Group means the Company and the Subsidiaries, and **Group Company** means any of them and **Group Companies** shall be construed accordingly;

Group Personal Pension Scheme means the Travelers Group Personal Pension Plan, which is a personal pension scheme as defined in section 1 of the Pension Schemes Act 1993;

Group Relief Agreement means the agreement in the agreed form which provides for the Group Tax Relief by certain of the Group Companies;

Group Tax Relief means any surrender of group relief pursuant to sections 402-413 ICTA 1988;

Guarantee means any guarantee, indemnity, suretyship, letter of credit or comfort or other assurance, security or right of set off given or undertaken by a person to secure or support the obligations (actual or contingent) of any other person and whether given directly or by way of counter indemnity to any other person who has provided a Guarantee;

HMRC means HM Revenue and Customs;

holding company means a holding company (as defined by section 1159 CA 2006) or a parent undertaking (as defined by section 1162 CA 2006);

ICTA 1988 means the Income and Corporation Taxes Act 1988;

Intra-Group Payables means all amounts (principal and interest) owed by any Group Company to any member of the Seller’s Group as at the Completion Date;

Intra-Group Receivables means all amounts (principal and interest) owed by any member of the Seller’s Group to any Group Company as at the Completion Date;

IRC means the United States Internal Revenue Code of 1986 as amended;

ITA 2007 means the Income Tax Act 2007;

Leakage means any payment or transfer or loss of value by a Group Company which is or is in the nature of, or the entry by any Group Company into any agreement, arrangement or understanding relating to:

(a) a dividend (whether in cash or in specie) or other distribution or return of capital including (without limitation) a redemption, repurchase or reduction of any share capital;

(b) a payment to or for the benefit of a member of the Seller's Group;

(c) any payment of, or in respect of Taxation, which is payable as a result of any tax grouping or consolidation or under any group payment arrangement;

(d) any asset transfer, purchase or disposal between a Group Company and a member of the Seller's Group;

(e) the entry into or amendment or termination of a contract or arrangement for services between a Group Company and a member of the Seller's Group other than in the ordinary course of business on terms no less favourable to the Group Company than arm's length terms or as may be effected pursuant to the Reorganisation;

(f) lending or borrowing between a Group Company and a member of the Seller's Group (in an amount in excess of $25,000); or

(g) the waiver, forgiveness or discount of any amounts due to a Group Company by a member of the Seller's Group,

in each case other than Permitted Leakage;

Lending Conditions means:

(a) the Major Events of Default (as defined in the Loan Agreement) other than clause 23.18 of the Loan Agreement, save that clauses 23.6.1, 23.6.3 and 23.7 to 23.9 of the Loan Agreement shall only constitute Lending Conditions to the extent that they relate to persons other than the Group Companies;

(b) the Major Representations (as defined in the Loan Agreement), save that clauses 19.4 and 19.6 of the Loan Agreement shall only constitute Lending Conditions to the extent that they relate to persons other than the Group Companies;

(c) the provisions of Part 1A of Schedule 2 to the Loan Agreement; and

(d) the provisions of Part 1B of Schedule 2 to the Loan Agreement, save that (i) paragraphs 3, 15 and 16 of Part 1B of Schedule 2 to the Loan Agreement shall only constitute Lending Conditions to the extent that the Buyer fails to produce evidence that has been provided to it by any person, including by the Seller, any Group Company or any member of the Seller's Group and (ii) paragraph 19 of Part 1B of Schedule 2 to the Loan Agreement shall only constitute a Lending Condition to the extent that it relates to persons other than the Group Companies;

Loan Agreement means the term facility agreement between the Buyer and National Australia Bank Limited dated 3 October 2008;

Material means, unless otherwise expressed, material in the context of the business, assets, liabilities or financial condition of the Group taken as a whole and **Materially** shall be construed accordingly;

Notice means a notice or communication given under or in connection with this Agreement;

Notified Address means the notified address of the Seller and the Buyer each as set out in clause 22.3;

Pensions Regulator means the body corporate defined as such in section 1 of the Pensions Act 2004;

Pension Schemes means the Unionamerica (1993) Pension Scheme, the Travelers Pension Plan, the Travelers Life Assurance Scheme which provides a death in service lump sum insured by Norwich Union and a dependants' death in service pension insured by Legal & General and the SPRE Pension Arrangement but excludes the Group Personal Pension Scheme;

Permitted Leakage means:

(a) any payment by a Group Company which is in the ordinary course of business and consistent with prior practice, including but not limited to:

  (i) any interest becoming due on Intra-Group Payables after the Effective Date;

  (ii) any cross-charges (including demands for reimbursement for out of pocket expenses incurred on behalf of any Group Company) pursuant to any management agreements between one or more members of the Seller's Group and one or more of the Group Companies in place at the date of this Agreement provided such charges:

    (A) do not exceed £2,200,000 in aggregate in respect of the period from 1 July 2008 to 30 September 2008; and

    (B) do not exceed £2,700,000 in aggregate in respect of the period from 1 October 2008 to 31 December 2008, provided that if Completion occurs before 31 December 2008 the £2,700,000 limit shall be reduced pro rata on a time apportioned basis; and

  (iii) any payments in respect of valid claims, claim settlements or ceded premiums pursuant to any reinsurance in place as at the date of this Agreement between any Group Company and any member of the Seller's Group;

(b) any payment in respect of third party insurance cover procured for any Group Company by a member of the Seller's Group in an amount and on terms consistent with past practice

(c) any payment which is by way of a regular contribution to the Group Personal Pension Scheme or the Travelers Life Assurance Scheme (as described in the definition of 'Pension Schemes');

(d) any payment which has been accrued for in the Accounts or the Effective Date Balance Sheet;

(e) any payment in respect of VAT, corporation tax, PAYE or national insurance contributions which in the case of VAT is attributable to any supplies made by that Group Company (net of any input tax that would be recoverable by any such company, if it were not part of a VAT grouping) or which in the case of corporation tax is attributable to the profits made by that Group Company or which in the case of PAYE or national insurance contributions is attributable to any remuneration of any of the Employees or of any employee or officer of that Group Company;

(f) the amendment, disregard, withdrawal or disclaimer, on or before Completion, of any claim, election, surrender or disclaimer of Group Tax Relief made by or for the benefit of any Group Company on or before Completion;

(g) any costs, expenses, payments, transfers or losses of value made or reasonably incurred in connection with the Extraordinary Transactions or as otherwise contemplated under this Agreement;

(h) the repayment of all sums owing under the Revolving Loan Agreement;

(i) any surrender by any of the Group Companies of any Relief, and any payment by any of the Group Companies in respect of any surrender of any Relief, in each case pursuant to the Group Relief Agreement, or as set out in the Disclosure Letter, or pursuant to any arrangements referred to in the Disclosure Letter;

(j) anything done pursuant to the Group Relief Agreement; and

(k) subject to clause 21.3, any expense, payment or cost (properly and reasonably incurred) associated with the SPRE Liquidation;

For the avoidance of doubt, any payment by any Group Company to any member of the Seller's Group which is made by way of payment or repayment of an Intra-Group Payable shall not constitute Leakage for the purposes of this Agreement;

Permitted Method means the permitted method by which any Notice may be given, as set out in clause 22.2;

Pre-Completion Conduct and Undertakings means the pre-completion conduct and undertakings of the Seller, as set out in Schedule 4;

Pre-contractual Statement means any agreement, undertaking, representation, statement, warranty, promise, assurance or arrangement of any nature (whether express or implied and whether or not in written or draft form) made or given by any person prior to the execution of this Agreement in connection with any matters dealt with in any of the Share Purchase Documents;

Purchase Price means $343,375,000, as adjusted in accordance with Schedule 5 of this Agreement;

Recognised investment exchange shall bear the meaning set out in section 285(1) FSMA;

Related Company means, in relation to any company, any subsidiary or holding company of that company or any subsidiary of that holding company;

Related Parties means each Related Company of the Seller or the Buyer, as the case may be;

Relevant Authority means any stock exchange or any government regulatory or supervisory body or court of competent jurisdiction;

Relevant Claim means a claim by the Buyer in respect of or arising out of or in any way relating to:

(a) this Agreement including the Tax Covenant;

(b) the performance or non-performance of this Agreement; or

(c) any matters which are the subject matter of this Agreement;

Relevant Date has the meaning given in clause 3.2;

Relief means any loss, relief, allowance, exemption, set-off, deduction, credit or other relief relating to any Taxation or to the computation of income, profits or gains for the purposes of any Taxation;

Reorganisation means the transfer (by way of distributions in kind) effected on 25 September 2008 of the entire interest of any member of the Group in each of UA Combined Investment Company Limited, Jago Dedicated Limited, Jago Capital Limited, JMA Holdings Limited, JAGO Managing Agency Limited, Travelers Special Services Limited and MFCM Limited to a member of the Seller's Group;

Revolving Loan Agreement means:

(a) the revolving loan agreement dated 17 August 2000 between The St. Paul Companies, Inc. and UAQ for an aggregate amount of up to US$10,000,000;

(b) the amended and restated revolving loan agreement dated 18 October 2000 between The St. Paul Companies, Inc. and UAQ; and

(c) addenda No. 1 to No. 7 (inclusive) to the amended and restated revolving loan agreement between The St. Paul Companies, Inc. and UAQ, respectively;

Sale Shares means two issued ordinary shares of US$1 each in the capital of the Company;

Seller's Group means the Seller and each company which is for the time being a Related Company of the Seller, or any person connected with the Seller or any Related Company of the Seller as defined in section 839 ICTA, other than any Group Company;

Seller's Solicitors means Norton Rose LLP of 3 More London Riverside, London SE1 2AQ;

Seller's Warranties means the warranties set out in Part A of Schedule 2 to be given by the Seller to the Buyer on the date of this Agreement and **Seller's Warranty** means any of them;

Share Purchase Documents means this Agreement, the Confidentiality Agreement, the Transitional Services Memorandum of Understanding and all other documents to be entered into pursuant to this Agreement;

SPRE means SPRE Limited (No. 1460363), further details of which are set out in Part B of Schedule 1;

SPRE Liquidation means the voluntary liquidation of SPRE;

SPRE Pension Arrangement means the pension arrangement in respect of Mr Horst Beugel, a former employee of SPRE in Germany, the liabilities for which are to be secured with a suitable insurer when SPRE is placed into liquidation and for which a quotation for Euro 54,000 has been received for the cost of transferring liability for the SPRE Pension Arrangement from SPRE to Allianz Lebensversicherungs AG (with whom the arrangement is currently insured);

Stop Loss Commutation means the proposed commutation to be effected by documentation in the agreed form, at or before Completion, of certain stop loss reinsurance agreements and associated agreements, further details of which are set out in Schedule 6;

Subsidiaries mean the companies specified in Part B of Schedule 1 and **Subsidiary** means any of them;

subsidiary means a subsidiary (as defined by section 1159 CA 2006) or a subsidiary undertaking (as defined by section 1162 CA 2006);

Taxation or **Tax** means:

(a) all forms of tax, levy, duty, charge, impost, withholding or other amount whenever created or imposed and whether of the United Kingdom or elsewhere, payable to or imposed by any Taxation Authority; and

(b) all charges, interest, penalties and fines incidental or relating to any Taxation falling within paragraph (a) above or which arise as a result of the failure to pay any Taxation on the due date or to comply with any obligation relating to Tax;

Taxation Authority means HMRC or any other revenue, customs, fiscal, governmental, statutory, state or provincial authority, body or person, whether of the United Kingdom or elsewhere with responsibility for Taxation;

Taxation Warranties means the Seller's Warranties contained in paragraph 14 of Part A of Schedule 2;

Tax Covenant means the tax covenant contained in Schedule 8 to this Agreement;

TML means Travelers Management Limited (No. 00972175);

Transfer Regulations means the Transfer of Undertakings (Protection of Employment) Regulations 2006 as amended;

Transitional Services Memorandum of Understanding means the transitional services memorandum of understanding between the Seller and the Buyer;

Travelers Pension Plan means the occupational pension scheme established by an interim trust deed dated 6 January 1987 and currently governed by the deed of amendment and consolidation dated 8 March 1999 (as amended);

UAQ means Unionamerica Acquisition Company Limited (No. 02820274), further details of which are set out in Part B of Schedule 1;

UIC means Unionamerica Insurance Company Limited (No. 01022903), further details of which are set out in Part B of Schedule 1;

Unionamerica (1993) Pension Scheme means the occupational pension scheme established by an interim trust deed dated 10 September 1993 and currently governed by the second definitive trust deed and rules dated 20 December 2001(as amended);

VAT means valued added tax as provided for in the Value Added Tax Act 1994 and any other tax of a similar nature;

Warranties means the Seller's Warranties and the Buyer's Warranties and **Warranty** means any of them; and

$ means the lawful currency of the United States of America.

1.2 In this Agreement, unless the context requires otherwise:

1.2.1 a document expressed to be in the **agreed form** means a document in a form which has been agreed by the parties on or before the execution of this Agreement and signed or initialled by them or on their behalf for the purposes of identification, amended as agreed between the parties after the date of this Agreement (such agreement not to be unreasonably withheld or delayed);

1.2.2 references to a clause or Schedule are to a clause of, or a Schedule to, this Agreement, references to this Agreement include its Schedules, and references to a Part or paragraph are to a Part or paragraph of a Schedule to this Agreement;

1.2.3 references to this Agreement or any other document or to any specified provision of this Agreement or any other document are to this Agreement, that document or that provision as in force for the time

being and as amended from time to time in accordance with the terms of this Agreement or that document or, as the case may be, with the agreement of the relevant parties;

1.2.4 references to any English legal term for any action, remedy, method of judicial proceeding, legal document, legal status, court, official or any legal concept or thing shall in respect of any jurisdiction other than England be deemed to include what most nearly approximates in that jurisdiction to the English legal term;

1.2.5 references to time are to London time;

1.2.6 words importing the singular include the plural and vice versa, words importing a gender include every gender, and references to persons include corporations, partnerships and other unincorporated associations or bodies of persons;

1.2.7 the contents table and the headings to clauses, Schedules, Parts and paragraphs are inserted for convenience only and shall be ignored in interpreting this Agreement;

1.2.8 the words and phrases “other”, “including” and “in particular” shall not limit the generality of any preceding words or be construed as being limited to the same class as the preceding words where a wider construction is possible;

1.2.9 the word “disclosed” shall mean fairly disclosed which, for these purposes, means disclosed in such manner and in such detail as to enable a reasonable buyer to make an informed and accurate assessment of the matter concerned;

1.2.10 save where explicitly expressed otherwise, references to the **parties** or the **parties to this Agreement** shall be construed as references to the Seller and the Buyer; and

1.2.11 reference to a person having control of another person, or being controlled by another person, or being under common control with another person shall be construed as referring to control within the meaning of any of sections 416 and 767B ICTA 1988 and section 995 ITA 2007.

1.3 In this Agreement, unless the context requires otherwise, a reference to any statute or statutory provision (whether of the United Kingdom or elsewhere) includes:

1.3.1 any subordinate legislation (as defined by section 21(1) Interpretation Act 1978) made under it;

1.3.2 any provision which it has superseded or re-enacted (with or without modification), and any provision superseding it or re-enacting it (with or without modification), before or on the date of this Agreement, or after the date of this Agreement except to the extent that the liability of any party (including the Guarantor) is thereby increased or extended.

2 Agreement to sell the Sale Shares

2.1 The Seller shall sell to the Buyer and the Buyer shall buy the Sale Shares with full title guarantee and free from all Encumbrances.

2.2 Title to and beneficial ownership of the Sale Shares shall pass on Completion together with all associated rights and benefits attaching or accruing to them on or after Completion.

2.3 The Seller irrevocably waives any rights of pre-emption conferred on it by the Articles of Association of the Company or otherwise over any of the Sale Shares.

2.4 The Buyer shall not be obliged to complete the purchase of any of the Sale Shares unless the purchase of all the Sale Shares is completed simultaneously.

3 Conditions precedent

3.1 The sale and purchase of the Sale Shares is conditional upon:

3.1.1 the FSA giving notice in writing under section 184(1) of FSMA of its approval (or being treated as having given its approval by virtue of section 184(2) of FSMA) (without such approval imposing any condition or conditions which might in order to satisfy such condition or conditions result in aggregate expenditure by any Group Company, the Buyer and/or any member of the Buyer's Group equal to or exceeding $18,000,000 (as reduced by an amount equal to any adjustment to the Purchase Price pursuant to paragraph 1.1.1 of Schedule 5)) in respect of any acquisition of or increase in control over (as defined in section 179 of FSMA) any Group Company which is a UK authorised person (as defined in section 178(4) of FSMA), which in either case would result from the transaction contemplated by this Agreement;

3.1.2 the FSA having approved (without having imposed any condition or conditions which might in order to satisfy such condition or conditions result in aggregate expenditure by any Group Company, the Buyer and/or any member of the Buyer's Group equal to or exceeding $18,000,000 (as reduced by an amount equal to any adjustment to the Purchase Price pursuant to paragraph 1.1.1 of Schedule 5)) or not objected to the proposed terms of the Stop Loss Commutation within the time period specified in Appendix 2.13.1(l) of the Supervision handbook; and

3.1.3 National Australia Bank Limited and/or other funders making available to the Buyer at Completion a minimum aggregate amount of $184,616,000 substantially in accordance with the terms of the Loan Agreement provided that this Condition shall be deemed to be satisfied if such funds are not so available in whole or in part due to (a) a failure by the Buyer or any member of the Buyer's Group to satisfy the Lending Conditions or any of them or (b) a breach by the Buyer or any member of the Buyer's Group of the Lending Conditions or any of them and, for the avoidance of doubt, this Condition shall be deemed not to be satisfied if National Australia Bank Limited and/or other funders do not make any such amount so available for any reason other than the failure to satisfy the Lending Conditions, including a failure to comply with or satisfy any other term or condition in the Loan Agreement.

3.2 If the FSA gives its approval pursuant to either or both of clauses 3.1.1 and 3.1.2 where such approval or approvals imposes one or more conditions (the **FSA Conditions**) which might in order to satisfy

such condition or conditions result in aggregate expenditure by a Group Company, the Buyer or a member of the Buyer's Group (the **Buyer's Expenditure**) equal to or exceeding $18,000,000 (as reduced by an amount equal to any adjustment to the Purchase Price pursuant to paragraph 1.1.1 of Schedule 5) the Seller shall be entitled (but not required) to take such action or procure that such action is taken as it sees fit such that the FSA Conditions may be satisfied without the Buyer's Expenditure (including any additional cost or expense to any Group Company, the Buyer or any member of the Buyer's Group arising out of the action taken or procured to be taken by the Seller, net of any benefit accruing to any such person as a result of such action) exceeding such amount whereupon the Conditions set out in clauses 3.1.1 and 3.1.2 shall be deemed to be satisfied. No action taken or procured to be taken by the Seller pursuant to this clause 3.2 shall constitute a breach of this Agreement (including, without limitation, of clause 3.9 or Schedule 4).

3.3 The Buyer undertakes to use its reasonable endeavours to ensure that the Condition set out in clause 3.1.1 is satisfied as soon as possible after the date of this Agreement and in any event by no later than 22 December 2008 (the **Relevant Date**). Subject to clause 3.2, the Seller undertakes to use its reasonable endeavours to ensure that the Condition set out in clause 3.1.2 is satisfied as soon as possible after the date of this Agreement and in any event by no later than the Relevant Date. The Buyer and the Guarantor jointly and severally undertake (i) to satisfy or procure the satisfaction of those Lending Conditions set out in paragraphs (c) and (d) of the definition of Lending Conditions in clause 1; and (ii) that those Lending Conditions set out in paragraphs (a) and (b) of the definition of Lending Conditions in clause 1 shall not be breached on the Completion Date, provided always that the Buyer and the Guarantor shall not be in breach of this undertaking to the extent that information is required in order to satisfy such Lending Conditions from the Seller, any Group Company or any member of the Seller's Group and such information has not been provided following not less than five Business Days' notice.

3.4 The Buyer shall not, and the Guarantor shall procure that the Buyer shall not, prior to or at Completion without the prior written consent of the Seller (such consent not to be unreasonably withheld or delayed):

3.4.1 amend, vary, novate, supplement, replace, waive or terminate or agree any amendment, variation, novation, supplement, replacement, waiver or termination of any of the terms or conditions of the Loan Agreement (or any document to be entered into pursuant thereto prior to or contemporaneously with Completion); or

3.4.2 exercise or waive any right to terminate the Loan Agreement or to cancel the whole or any part of the Available Facility (as defined in the Loan Agreement) including, without limitation, pursuant to clause 7.2 of the Loan Agreement; or

3.4.3 waive any right under or condition of the Loan Agreement or grant any time for performance or give any other forbearance or grant any other indulgence (of any nature whatsoever) in respect of any obligation of any other party thereunder.

3.5 If at any time either party becomes aware of a fact or circumstance that might prevent or materially delay any of the Conditions set out in clause 3.1 being satisfied, it shall promptly notify the other.

3.6 Without prejudice to any other rights it may have under this Agreement, the Seller may waive (to the extent thought fit by the Seller acting reasonably and in good faith) the Condition set out in clause 3.1.2 (save that the Seller shall not waive the requirement in clause 3.1.2 for the FSA approval referred to therein not to impose any condition or conditions which might result in aggregate expenditure by any Group Company, the Buyer and/or any member of the Buyer's Group equal to or exceeding $18,000,000 (as reduced by an amount equal to any adjustment to the Purchase Price pursuant to paragraph 1.1.1 of Schedule 5) without the prior written consent of the Buyer, such consent not to be unreasonably withheld or delayed) and, upon such waiver by the Seller, Completion will proceed as though such Condition had been satisfied subject to the satisfaction of the Conditions set out in clauses 3.1.1 and 3.1.3.

3.7 Each party shall give notice to the other that a relevant Condition has been satisfied within two Business Days of becoming aware of that fact.

3.8 If any Condition is not satisfied or waived on or before the Relevant Date then this Agreement shall terminate (save for clause 1 (*Definitions and interpretation*), 14 (*Entire Agreement*), 19 (*Announcements and confidentiality*) to 22 (*Notices*) inclusive, clause 24 (*Governing law*) and clause 25 (*Jurisdiction and Service of Process*), all of which shall remain in full force and effect) and no party (including the Guarantor) shall have any claim against the other parties (including the Guarantor) other than for any prior breach of clause 3.3.

3.9 Pending Completion or the earlier termination of this Agreement in accordance with its terms, the Seller shall comply with the Pre-Completion Conduct and Undertakings provided always that nothing in this clause 3.9 or the Pre-Completion Conduct and Undertakings shall prevent the Seller or any Group Company from taking any steps considered by the Seller (acting reasonably) to be necessary in connection with the Aggregate Cover Reallocation, the Capital Release, the Reorganisation or the Stop Loss Commutation.

4 Consideration

The consideration for the sale of the Sale Shares shall be the payment by the Buyer to the Seller of the Purchase Price in cash.

5 Completion

5.1 Completion shall take place at the offices of Norton Rose LLP at 3 More London Riverside, London, SE1 2AQ or at such other place as the parties may agree on the Completion Date when all of the following business shall be transacted:

5.1.1 the Seller shall deliver to the Buyer (or, in the case of the items described in clause 5.1.1(b) make available at the Company's registered office):

(a) transfers in respect of the Sale Shares duly executed and completed in favour of the Buyer, together with the certificates for the Sale Shares and the duly executed powers of attorney or other authorities under which any of the transfers have been executed and certified copies of the minutes recording the resolution of the board of directors of the Seller authorising the sale of the Sale Shares and the execution of the transfers in respect of the Sale Shares;

(b) (as agents for each Group Company) each Group Company's statutory and minute books, common seal (if any), certificate of incorporation, any certificate or certificates of incorporation on change of name and other documents and records including copies of the memorandum and articles of association;

(c) share certificates in respect of all of the issued shares of each Group Company other than the Company or (in the case of any lost certificate) an indemnity satisfactory to the Buyer in relation to it;

(d) evidence in a form reasonably satisfactory to the Buyer that all Guarantees given by any Group Company in respect of liabilities of the Seller or any member of the Seller's Group or any director of any member of the Seller's Group have been released;

(e) a signed copy of the Group Relief Agreement, duly executed by Travelers Insurance Company Limited, the Company, UAQ, UIC, SPRE and the Seller;

(f) evidence in a form reasonably satisfactory to the Buyer of the Stop Loss Commutation (unless the Condition set out in clause 3.1.2 has been waived in accordance with the terms of this Agreement); and

(g) an irrevocable power of attorney in the agreed form by the Seller which enables the Buyer or its nominee to attend and vote at general meetings of the Company pending registration of the Sale Shares.

5.1.2 the Seller shall:

(a) cause the transfers mentioned in clause 5.1.1(a) to be resolved to be registered (subject only to their being stamped);

(b) cause Stephen David Aldous, Gareth Howard John Nokes and Alan John Turner to be validly appointed as additional directors and Siobhan Mary Hextall to be validly appointed as secretary of each Group Company provided that no such appointment shall be made if the prior consent of the FSA is required and such consent has not been obtained before Completion;

(c) on such appointments being made, cause Anthony Dilley, Stephen Timpone, Alistair Gunn and Paul Eddy to cease to be directors and Graham Jones, Michael Vernon and Rosalind Seagren to cease to be secretary of each Group Company of which they are an officer and deliver to the Buyer letters (executed as deeds) in the agreed form from all such persons so

resigning acknowledging that they have no claim outstanding against any Group Company for compensation for loss of office;

(d) procure that the Auditors resign their office as auditors of each Group Company by depositing their written notice of resignation at its registered office in accordance with section 516 CA 2006 along with a statement under section 519 of that Act that there are no circumstances connected with their ceasing to hold office which they consider should be brought to the attention of the members or creditors of that Group Company; and

(e) procure the repayment to the relevant Group Companies of the Intra Group Receivables;

5.1.3 the Buyer shall:

(a) deliver to the Seller certified copies of the minutes recording the resolution of the board of directors of the Buyer authorising the purchase of the Sale Shares and the other transactions contemplated by this Agreement;

(b) without prejudice to any requirement for subsequent adjustment of the Purchase Price pursuant to the provisions of Schedule 5 pay the Purchase Price by electronic funds transfer for value on the Completion Date to the client account of the Seller's Solicitors designated NORO — USDC at the Royal Bank of Scotland plc of 62/63 Threadneedle Street, PO Box 412, London, EC2R 8LA, sort code 15 10 00 (or such other account or accounts as the Seller's Solicitors shall specify) and the Seller authorises the payment of the Purchase Price into the specified account or accounts, which shall constitute a good discharge to the Buyer in respect of the Purchase Price, and the Buyer shall have no obligation as to the distribution or allocation of the Purchase Price to the Seller;

(c) deliver to the Seller a certified copy of the Loan Agreement; and

(d) deliver to the Seller a signed copy of the Group Relief Agreement, duly executed by the Buyer; and

5.1.4 the parties shall join in procuring that:

(a) Deloitte are appointed auditors of each Group Company in place of the Auditors;

(b) all bank mandates in force for each Group Company shall be altered (in the manner which the Buyer requires) to reflect the resignations and appointments referred to above;

(c) the registered office of each Group Company shall be changed to Avaya House, 2 Cathedral Hill, Guildford GU2 7YL; and

(d) the Intra-Group Payables are repaid by the relevant Group Companies.

5.2 If the Seller or the Buyer (the Affected Party) fails or is unable to comply with any of its obligations under the preceding provisions of clause 5.1 on the Completion Date then the other (the Unaffected Party) may:

5.2.1 defer Completion to a date not more than 28 days after that date (in which case the provisions of this clause 5.2 shall apply to Completion as so deferred save that this clause 5.2.1 shall not so apply); or

5.2.2 proceed to Completion so far as practicable but without prejudice to the Unaffected Party's rights where the Affected Party has not complied with its obligations under this Agreement; or

5.2.3 treat this Agreement as terminated for breach of condition.

6 No Leakage

6.1 The Seller undertakes to the Buyer that during the period from the date of this Agreement until Completion, neither the Seller nor any other member of the Seller's Group will receive or become entitled to receive any Leakage other than any Permitted Leakage. Notwithstanding the foregoing sentence, the Seller shall be deemed not to be in breach of this clause 6.1 to the extent that the Purchase Price is adjusted pursuant to Schedule 5 to reflect any such Leakage.

6.2 The Seller unconditionally and irrevocably agrees as a continuing obligation, and undertakes to indemnify, keep indemnified and hold harmless the Buyer from and against, and covenants to pay to the Buyer on demand an amount equal to any Leakage (other than Permitted Leakage) to which the Seller or another member of the Seller's Group has become entitled to receive in breach of the Seller's Warranty set out in paragraph 15 of Part A of Schedule 2. Notwithstanding the foregoing sentence, the Seller shall be deemed not to be in breach of this clause 6.2 to the extent that the Purchase Price is adjusted pursuant to Schedule 5 to reflect any such Leakage.

7 The Warranties

7.1 The Seller warrants to the Buyer that each of the Seller's Warranties is true and accurate as at the date of this Agreement. The Seller acknowledges that the Buyer is entering into this Agreement in reliance on the Seller's Warranties.

7.2 The Buyer warrants to the Seller that each of the Buyer's Warranties is true and accurate as at the date of this Agreement. The Buyer acknowledges that the Seller is entering into this Agreement in reliance on the Buyer's Warranties.

7.3 The Seller's Warranties are qualified by those matters disclosed in the Disclosure Letter. No warranty or representation is given as to the accuracy or completeness of any statements (including any statements of opinion) contained in the Disclosure Letter.

7.4 The Seller's Warranties are further qualified by, and the Buyer is deemed to have knowledge of, any information contained in the Data Room, an index of which is annexed to the Disclosure Letter.

7.5 In each Seller's Warranty, where any statement is qualified as being made "so far as the Seller is aware" or any similar expression, such statement shall be deemed to refer to the actual knowledge or awareness (having made due and careful enquiry) of Alasdair Bishop, Howard Eyre and David Bishop.

7.6 Each of the paragraphs in Schedule 2:

7.6.1 shall be construed as a separate and independent Warranty; and

7.6.2 unless expressly provided in this Agreement shall not be limited by reference to any other paragraph in Schedule 2 or by any other provision of this Agreement, and the Buyer or the Seller (as the case may be) shall have a separate claim and right of action in respect of every breach of a Warranty.

7.7 The Warranties shall not in any respect be extinguished or affected by Completion.

7.8 The Buyer shall not be entitled to make a Relevant Claim after Completion where the matter giving rise to the Relevant Claim was known to the Buyer and/or any of its advisers and/or any of its agents before the date of this Agreement.

7.9 Save for the Seller's Warranties contained in paragraph 14 of Part A of Schedule 2 none of the Seller's Warranties shall extend to, or be construed as a warranty or representation relating to, Taxation (such matters being the subject of the Seller's Warranties contained only in paragraph 14 of Part A of Schedule 2).

8 Employees

8.1 The Seller and the Buyer acknowledge and agree that the Transfer Regulations apply upon Completion and that the Employment Contracts will have effect after Completion as if originally made between the Buyer and the Employees (save in relation to any occupational pension scheme which relates to benefits for old age, invalidity or survivors to the extent excluded pursuant to Regulation 10 of the Transfer Regulations).

8.2 All obligations and liabilities in relation to salaries, wages, bonuses, commissions, expenses, PAYE, national insurance contributions, dues or monies payable to third parties, pension contributions and otherwise in respect of the Employees, shall be apportioned on a time basis so that such part of the relevant charges attributable to the period up to and including the Completion Date shall be borne by the Seller and such part of the relevant charges attributable to the period commencing after the Completion Date shall be borne by the Buyer.

8.3 The Seller shall indemnify the Buyer in respect of:

8.3.1 any claim or demand by or on behalf of any of the Employees or any other employee of the Group or the Seller's Group arising from or in connection with his or her Employment Contract or its termination

arising from any act or alleged act, fault or omission of the Seller or TML or any member of the Group or any member of the Seller's Group at or before Completion; and

8.3.2 subject to clause 8.4, any act or omission at or before Completion which, by virtue of the Transfer Regulations, is deemed to be an act or omission of the Buyer; and

8.3.3 any claim or demand by or on behalf of any of the Employees or any other employee of the Group or the Seller's Group arising from any failure by the Seller or TML or any member of the Group or any member of the Seller's Group to comply with its duties under Regulations 13 or 14 of the Transfer Regulations provided always that such failure does not result from a failure by the Buyer or any member of the Buyer's Group to comply with its duties under Regulation 13(4) of the Transfer Regulations.

8.4 The Buyer shall indemnify the Seller and each member of the Seller's Group in respect of:

8.4.1 any claim or demand by on or on behalf of any of the Employees arising from or in connection with his or her Employment Contract or its termination or otherwise arising from any act or alleged act, fault or omission of the Buyer or any member of the Buyer's Group before, on, or after Completion; and

8.4.2 any claim or demand by or on behalf of the Employees arising from any failure by the Buyer or any member of the Buyer's Group to comply with its duties under Regulation 13(4) of the Transfer Regulations.

8.5 If for any reason any Employment Contract is not (or is alleged not to be) automatically transferred to the Buyer pursuant to the Transfer Regulations:

8.5.1 the Buyer shall within 5 Business Days of discovering the non-transfer (or alleged non-transfer) offer to employ such Employee from Completion (or with immediate effect if the non-transfer or alleged non-transfer is discovered after Completion) on terms and conditions which are no less advantageous to the Employee than the terms on which he would have been employed had his Employment Contract been so transferred; and

8.5.2 the Buyer will immediately notify the Seller of such an offer in writing; and

8.5.3 the Seller or the relevant member of the Seller's Group, may dismiss such Employee after such offer is made or if the Buyer fails to make an offer within the period specified in clause 8.5.1 acting in accordance with the terms of the contract of employment and taking all reasonable steps to mitigate any damages or compensation that may be awarded to the person concerned, and in any event acting in consultation with the Buyer; and

8.5.4 the Buyer will indemnify the Seller and each member of the Seller's Group in relation to all costs, claims or demands by or on behalf of the Employee arising from such dismissal and in respect of any sum payable to or in respect of that Employee under his Employment Contract in relation to the period from Completion to dismissal.

8.6 If any contract of employment of any person employed by the Seller or a member of the Seller's Group or any Group Company or any other individual who is not an Employee is found or alleged to have effect after Completion as if originally made with the Buyer as a consequence of Completion or this Agreement or the termination or cessation of any transitional services provided by any member of the Seller's Group to the Group or the Buyer following Completion the Seller and the Buyer agree that:

8.6.1 the Seller or a member of the Seller's Group shall within 5 Business Days of being so requested by the Buyer (provided that the request is made no later than 10 Business Days after the Buyer becomes aware of such finding or allegation) make to that person an offer in writing to employ him under a new contract of employment to take effect upon the termination referred to below;

8.6.2 the offer to be made will be on terms and conditions which are no less advantageous to the person than the terms on which he was employed immediately prior to Completion;

8.6.3 once that offer has been made pursuant to clauses 8.6.1 and 8.6.2, or if no such offer is made within the 5 Business Day period, the Buyer shall immediately give notice to terminate the employment of the person concerned acting in accordance with the terms of the contract of employment and taking all reasonable steps to mitigate any damages or compensation that may be awarded to the person concerned, and in any event acting in consultation with the Seller; and

8.6.4 the Seller shall indemnify the Buyer against any claims arising out of or in connection with such termination, and against any sum payable to or in respect of that employee under his or her contract of employment, and any liability incurred by the Buyer in respect of that person by virtue of the application of the Transfer Regulations.

8.7 As soon as reasonably practicable following Completion the Seller and the Buyer shall deliver to each of the Employees a letter informing him or her of the transfer of his or her employment pursuant to the Transfer Regulations. Such letters shall be handed personally to those Employees who are present for work on the date selected for such delivery and shall be despatched on that date by first-class post to those Employees who are not so present.

9 Claims against the Seller

The provisions of Schedule 3 shall apply in relation to the liability of the Seller or any member of the Seller's Group in respect of any Relevant Claim, other than in respect of a Relevant Claim arising from the fraud, wilful concealment or dishonesty of the Seller or any member of the Seller's Group.

10 Non-solicit provisions

10.1 The Seller undertakes with the Buyer and each Group Company that it will not, and it will procure that no member of the Seller's Group will, directly, or indirectly, whether by itself, its directors, employees or agents, for a period of twelve months from the date of Completion:

10.1.1 solicit or entice away or endeavour to solicit or entice away from any Group Company any Employee, whether or not that person would commit any breach of his contract of employment by reason of his

leaving the service of any Group Company provided that this restriction shall not prevent the Seller from employing any such person who has responded to an advertisement available to the public generally or whose name shall (without solicitation by the Seller) have been put forward to the Seller by a recruitment agency; or

10.1.2 in the course of carrying on any trade or business in competition with any Group Company, claim, represent or otherwise indicate any present association with any Group Company.

10.2 The Seller undertakes with the Buyer and each Group Company at any time after Completion not to use as a trade or business name or mark, use as or include in a domain name for any web site, or carry on a business under a title containing the word(s) “Unionamerica” or any other word(s) colourably resembling such word.

10.3 While the restrictions contained in clauses 10.1 and 10.2 are considered by the parties (including the Guarantor) to be reasonable in all the circumstances, it is agreed that if any of those restrictions, by themselves or taken together, shall be adjudged to go beyond what is reasonable in all the circumstances for the protection of the legitimate interests of the Buyer, but would be adjudged reasonable if part or parts of the wording thereof were deleted or amended or qualified or the periods thereof were reduced or the range of services or area dealt with were thereby reduced in scope, then the relevant restriction or restrictions shall apply with such modification or modifications as may be necessary to make it or them valid and effective.

11 Release and indemnity for outstanding Guarantees

11.1 The Seller shall:

11.1.1 use all reasonable endeavours to secure as soon as practicable after Completion the release of the Group Companies, without cost to any Group Company, from any Guarantees and other contingent liabilities given or incurred by any Group Company for the benefit of any member of the Seller’s Group or their policyholders other than the indemnity given pursuant to the order of the High Court dated 13 December 2007 pursuant to Part VII of FSMA (including, if required, offering its own Guarantee or liability on the same terms as and in substitution for the existing Guarantee or other liability of each Group Company) in respect of any of the same which are not released at Completion pursuant to clause 5.1.1(d); and

11.1.2 indemnify and keep indemnified the Buyer (which takes the benefit of this indemnity for itself and as trustee for each Group Company) against all actions, proceedings, losses, costs, claims, damages, liabilities and expenses which it or any Group Company may suffer or incur in respect of any claim made under or in respect of such Guarantees or other contingent liabilities.

11.2 The Buyer shall:

11.2.1 use all reasonable endeavours to secure as soon as practicable after Completion the release of the Seller and all relevant members of the Seller’s Group, without cost to the Seller or any such member of the Seller’s Group, from any Guarantees and other contingent liabilities given or incurred by any

member of the Seller’s Group for the benefit of any Group Company or its policyholders (including, if required, offering its own Guarantee or liability on the same terms as and in substitution for the existing Guarantee or other liability of the Seller or member of the Seller’s Group); and

11.2.2 indemnify and keep indemnified the Seller (which takes the benefit of this indemnity for itself and as trustee for each member of the Seller’s Group) against all actions, proceedings, losses, costs, claims, damages, liabilities and expenses which it or any member of the Seller’s Group may suffer or incur in respect of any claim, made under or in respect of such Guarantees or other contingent liabilities.

12 Guarantee of the Buyer’s Guarantor

12.1 In consideration of the Seller entering into this Agreement, the Guarantor unconditionally and irrevocably guarantees to the Seller the due and punctual performance of all payment obligations of the Buyer in respect of the Purchase Price and undertakes to keep the Seller indemnified against such amount of the Purchase Price which the Buyer has failed to pay in breach of such obligations.

12.2 If any unconditional and outstanding obligation of the Buyer expressed to be the subject of the guarantee contained in this clause 12 (the **Buyer’s Guarantee**) is not or ceases to be valid or enforceable against the Buyer (in whole or in part) on any ground whatsoever (including, but not limited to, any defect in or want of powers of the Buyer or irregular exercise of such powers, or any lack of authority on the part of any person purporting to act on behalf of the Buyer, or any legal or other limitation, disability or incapacity, or any change in the constitution of, or any amalgamation or reconstruction of the Buyer, or the Buyer taking steps to enter into or entering into bankruptcy, liquidation, administration or insolvency, or any other step being taken by any person with a view to any of those things), the Guarantor shall nevertheless be liable to the Seller in respect of that purported obligation or liability as if the same were fully valid and enforceable and the Guarantor were the principal debtor in respect thereof.

12.3 The liability of the Guarantor under the Buyer’s Guarantee shall not be discharged or affected in any way by:

12.3.1 the Seller compounding or entering into any compromise, settlement or arrangement with the Buyer, any co-guarantor or any other person; or

12.3.2 any variation, extension, increase, renewal, determination, release or replacement of the Agreement, whether or not made with the consent or knowledge of the Guarantor; or

12.3.3 the Seller granting any time, indulgence, concession, relief, discharge or release to the Buyer, any co-guarantor or any other person or realising, giving up, agreeing to any variation, renewal or replacement of, releasing, abstaining from or delaying in taking advantage of or otherwise dealing with any securities from or other rights or remedies which it may have against the Buyer, any co-guarantor or any other person; or

12.3.4 any other matter or thing which, but for this provision, might exonerate or affect the liability of the Guarantor.

12.4 The Seller shall not be obliged to take any steps to enforce any rights or remedy against the Buyer or any other person before enforcing the Buyer's Guarantee.

12.5 The Buyer's Guarantee is in addition to any other security or right now or hereafter available to the Seller and is a continuing security notwithstanding any entering into liquidation, administration or insolvency by the Buyer or steps being taken by any person with a view to any of those things or other incapacity of the Buyer or the Guarantor or any change in the ownership of either of them.

12.6 Until the full and final discharge of all obligations and liabilities (both actual and contingent) which are the subject of the Buyer's Guarantee, the Guarantor:

12.6.1 waives all of its rights of subrogation, reimbursement and indemnity against the Buyer and all rights of contribution against any co-guarantor and agrees not to demand or accept any security from the Buyer or any co-guarantor in respect of any such rights and not to prove in competition with the Seller in the bankruptcy, liquidation or insolvency of the Buyer or any such co-guarantor; and

12.6.2 agrees that it will not claim or enforce payment (whether directly or by set-off, counterclaim or otherwise) of any amount which may be or has become due to the Guarantor by the Buyer, any co-guarantor or any other person liable to any of the Seller in respect of the obligations hereby guaranteed if and so long as the Buyer is in default under this Agreement.

12.7 Any moneys received by the Seller under the Buyer's Guarantee may be placed to the credit of a suspense account with a view to preserving the rights of the Seller to prove for the whole of its claims against the Buyer or any other person.

12.8 If the Buyer's Guarantee is discharged or released in consequence of any performance by the Buyer of the guaranteed obligations which is set aside for any reason, the Buyer's Guarantee shall be automatically reinstated in respect of the relevant obligations.

12.9 The Buyer and the Guarantor jointly and severally warrant and represent to the Seller as follows:

12.9.1 the Guarantor is a private limited company duly incorporated and validly existing under the laws of Bermuda;

12.9.2 the Guarantor has the requisite corporate power and authority under its Memorandum of Association to enter into, execute, deliver and perform its obligations under this Agreement, including the Buyer's Guarantee;

12.9.3 the execution and delivery of this Agreement and the performance of the obligations of the Guarantor under this Agreement, including the Buyer's Guarantee, have been duly authorised by all necessary corporate action on the part of the Guarantor;

12.9.4 the obligations of the Guarantor under this Agreement, including the Buyer's Guarantee, constitute legal, valid and binding obligations of the Guarantor in accordance with their respective terms;

12.9.5 the execution and delivery of this Agreement and the performance by the Guarantor of its obligations under, and compliance with the provisions of, this Agreement, including the Buyer's Guarantee, by the Guarantor will not result in:

(a) any breach or violation by the Guarantor of any provision of its Memorandum and Articles of Association; or

(b) any breach of, or constitute a default under, any instrument or agreement to which the Guarantor is a party or by which the Guarantor is bound; or

(c) any breach of any law or regulation in any jurisdiction having the force of law or of any order, judgment or decree of any court or governmental agency by which the Guarantor is bound; and

12.9.6 no consent, authorisation, licence or approval of the Guarantor's shareholders or of any governmental, administrative, judicial or regulatory body, authority or organisation is required to authorise the execution, delivery, validity, enforceability or admissibility in evidence of this Agreement, including the Buyer's Guarantee, or the performance by the Guarantor of its obligations under this Agreement, including the Buyer's Guarantee.

12.10 The Buyer and the Guarantor jointly and severally warrant and represent to the Seller that the Guarantor has the corporate power to execute and deliver this Agreement and perform its obligations under this Agreement, including the Buyer's Guarantee, that the execution and delivery of this Agreement and the performance of the obligations of the Guarantor under this Agreement, including the Buyer's Guarantee, have been duly authorised by all necessary corporate action on the part of the Guarantor and that the obligations of the Guarantor under this Agreement, including the Buyer's Guarantee, constitute legal, valid and binding obligations of the Guarantor.

13 Further Acknowledgement and Undertakings

13.1 The Buyer acknowledges that, as from the Completion Date, it shall have no actionable claim against any manager or director of any Group Company or employee of TML providing services to any Group Company who ceases to hold such position in, or provide such services to, that Group Company as a result of the transaction proposed by this Agreement, and should a cause of action arise against such person, the Buyer shall not seek and shall procure that no Group Company shall seek to enforce such claim against that manager, director or employee.

13.2 The Seller waives and may not enforce any right which the Seller may have against any Group Company, or any director or employee of any Group Company, on which or on whom the Seller may have relied in agreeing to any term of this Agreement or any statement in the Disclosure Letter, save in the case of such director's or employee's fraud, wilful concealment or dishonesty.

13.3 Pending and following Completion, the Buyer shall provide all reasonable assistance as the Seller may reasonably require in respect of the SPRE Liquidation, and following Completion the Buyer shall

not attempt to forestall, hinder or interfere with the SPRE Liquidation in any way, or attempt to procure a reversal of the SPRE Liquidation by any means.

13.4 The Seller undertakes to use its reasonable endeavours to discharge before Completion:

(i) the charge of deposit registered against UAQ created on 30 November 1998;

(ii) the memorandum of cash deposit registered against UAQ created on 23 December 1997; and

(iii) those charges registered against any Group Company in favour of the Royal Bank of Scotland where the secured obligation has been discharged in full,

and, if such charges have not been discharged by Completion, to indemnify and keep indemnified the Buyer (which takes the benefit of this indemnity for itself and as trustee for each Group Company) against all actions, proceedings, losses, costs, claims, damages, liabilities and expenses which it or any Group Company may suffer or incur in respect of any claim made under or in respect of such charges PROVIDED always that (a) such indemnity shall cease to apply from the time on which such charges are discharged and (b) the Buyer shall and shall procure that each Group Company shall, at the Seller's cost, provide all reasonable assistance in connection with procuring such discharge.

13.5 The Seller undertakes to indemnify and keep indemnified the Buyer (which takes the benefit of this indemnity for itself and as trustee for UAQ) against all actions, proceedings, losses, costs, claims, damages, liabilities and expenses which it or UAQ may suffer or incur in respect of any claim made as a result of UAQ's and the Seller's joint and several liability under (i) a shareholders' agreement relating to JMA Holdings Limited and/or (ii) as a result of a deed of adherence to be entered into by UAQ and the Seller.

14 Entire agreement

14.1 The Seller agrees for itself and the Buyer agrees for itself and as agent for each Group Company as from the Completion Date that:

14.1.1 the Share Purchase Documents supersede any prior discussions, understandings and agreements between the parties (including the Guarantor) concerning their subject matter and constitute the entire and only agreement between the parties (including the Guarantor) concerning their subject matter; and

14.1.2 none of the Share Purchase Documents has been entered into in reliance on any Pre-contractual Statement which is not expressly set out in a Share Purchase Document and each party (including the Guarantor) hereby unconditionally and irrevocably waives any claims, rights or remedies arising by virtue of any Pre-contractual Statement not set out in a Share Purchase Document.

15 Effect of Completion

15.1 All provisions of this Agreement shall so far as they are capable of being performed or observed continue in full force and effect notwithstanding Completion except in respect of those matters then already performed and Completion shall not constitute a waiver of any of the Buyer's rights in relation to this Agreement.

16 No right of termination

16.1 The sole remedy of the Buyer against the Seller under this Agreement shall be an action in damages. The Buyer shall not be entitled to terminate or rescind this Agreement by reason of any Relevant Claim or for any other reason.

17 Further assurances and Post Completion Taxes

17.1 The Buyer shall procure from Completion that each Group Company abides by the terms of any agreement, arrangement or other binding obligation entered into with or incurred to any member of the Seller's Group prior to Completion, including the Aggregate Cover Reallocation.

17.2 The Buyer shall afford the Seller such access to the books, accounts and records of each Group Company as the Seller reasonably requires for the purposes of (i) completing its reporting for the financial period ending 31 December 2008 and (if Completion occurs after 31 December 2008) the financial period ending 31 December 2009 and (ii) determining the liability to Taxation of the Seller, any Group Company or any member of the Seller's Group in respect of any period commencing before Completion, and the Buyer shall provide such assistance (or use its reasonable endeavours to procure the provision of such assistance) as is reasonable to assist the Seller at any time after Completion in respect of such matters. Any information or documents required by the Seller shall be provided by the Buyer within fifteen calendar days of request by the Seller.

17.3 Where permitted by law, the Buyer shall make such election (or elections) that the Seller may instruct the Buyer to make under Section 338 of the IRC with respect to any of the Group Companies. Any such elections shall be made in such form and by such time as the Seller shall direct. The Buyer shall not make any election under section 338 of the IRC with respect to the Group Companies except as directed by the Seller in accordance with this clause 17.3. The Buyer undertakes that it has not made, and will not make, any election to be classified as a partnership (or to be disregarded as a separate entity), for the purposes of any United States taxation, whether by filing form 8832 or otherwise.

17.4 If the Seller shall, acting reasonably, determine that the Buyer shall have failed (or be failing) to comply with its obligations under clause 17.2, the Seller shall be entitled to withhold (from any sums then, or in the future, owing or due to the Buyer or to any Group Companies (the **Amount Owing**)) such amount as the Seller shall, acting reasonably, determine to be the aggregate of:

17.4.1 any cost, expense or liability which it or any member of the Seller's Group may incur which it would not have incurred if the Buyer had complied with its obligations in clause 17.2; and

17.4.2 any cost, expense or liability which it or any member of the Seller's Group may incur in order to obtain the information or documents which the Buyer has failed to supply,

(the aggregate of such costs, expenses and liabilities as are referred to in clauses 17.4.1 and 17.4.2 being referred to as the **Additional Cost**). To the extent that the Additional Cost exceeds the Amount Owing, the Buyer shall pay to the Seller (as liquidated damages) an amount equal to the excess, such amount to be paid within three Business Days of receipt of any written request therefor.

17.5 The Buyer hereby represents, warrants and covenants (such representation, warranty and covenant being deemed to be repeated at Completion with reference to the facts and circumstances then prevailing) to the Seller that neither the Buyer nor any member of the Buyer's Group intends to permit the corporation tax liabilities of any Group Company, to the extent payable by any Group Company, to remain undischarged, and that neither the Buyer nor any member of the Buyer's Group is entering into this transaction on the assumption referred to in section 767AA(2) ICTA 1988. The Buyer shall, and shall procure that each member of the Buyer's Group shall, take no action (including action comprising, or including, failing to make any payment of Taxation) which results in the Seller, any member of the Seller's Group or any other person being liable for any Taxation as a result of any Group Company failing to discharge any liability to pay Taxation when due or payable.

17.6 Subject to the terms of the Group Relief Agreement, the Buyer shall procure that the Group Companies shall adopt in their corporation tax returns (and not do anything which is inconsistent with) such apportionment under section 403A of ICTA 1988 as the Seller shall reasonably require, including (without limitation) an apportionment (whether by virtue of section 403B(2) of ICTA 1988, or otherwise) of any losses (or other amounts eligible for group relief within Chapter IV of Part X of ICTA 1988) of the accounting period which begins before and ends after Completion (the **Straddle Period**) which apportions the maximum amount legally possible to that part of the Straddle Period which falls before Completion.

18 Pension Schemes

18.1 If the Pension Schemes do not fully provide any rights to enhanced benefits on redundancy or early retirement to which an Employee may be entitled, the Seller shall, provided the Buyer has substantially complied with its obligations under clause 18.5 below, meet the cost of any shortfall in such benefits.

18.2 The Seller shall indemnify the Buyer in relation to the cost of buying-out and transferring the liability for the SPRE Pension Arrangement to Allianz Lebensversicherungs AG or another suitable insurer. The Seller's total liability in respect of the SPRE Pension Arrangement shall be limited to an amount equal to Euro 74,000.

18.3 Subject as provided in clause 18.4, the Seller shall use reasonable endeavours to obtain a statement from the Pensions Regulator that it would not be reasonable for it to impose any liability or requirements on any Group Company under a contribution notice or a financial support direction (in terms of sections 38 to 51 of the Pensions Act 2004) in relation to both the Unionamerica (1993)

Pension Scheme and the Travelers Pension Plan in respect of the transaction anticipated by this Agreement (**Clearance**). The Seller will allow a period of five working days during which the Buyer may review (and suggest reasonable amendments to) the draft Clearance application(s) and during which the Seller will give due and proper consideration to such amendments before they are submitted to the Pensions Regulator (excluding for the avoidance of doubt the clearance application dated 22 August 2008 previously submitted to the Pensions Regulator). The same period of five working days (a **Review Period**) may apply for both applications. For the avoidance of doubt, the Buyer shall be allowed a separate Review Period for each of the said scheme and the said plan but if, and to the extent that, the two Review Periods overlap, neither shall be extended or deferred in consequence.

18.4

18.4.1 If the Seller does not obtain Clearance in accordance with clause 18.3 within 2 months of Completion (or any longer period that may be agreed by the Seller and the Buyer), the Seller shall, instead of obtaining such Clearance, either

(a) indemnify the Buyer if such a contribution notice or financial support direction is imposed during the period of six years following Completion in relation to the schemes mentioned in clause 18.3; or

(b) if Clearance is obtained in relation to one of the schemes mentioned in clause 18.3 then the Seller shall provide such an indemnity in relation to the other scheme.

18.4.2 Following Completion the Buyer will, if so requested by the Seller, give, and procure that the Buyer’s Group gives, at the Seller’s expense, all such assistance as the Seller may reasonably require in order to pursue Clearance. The Seller agrees to reimburse the Buyer promptly in respect of all such expenses.

18.4.3 Any indemnity given by the Seller will expire in relation to the Unionamerica (1993) Pension Scheme and the Travelers Pension Plan as the case may be if that scheme or plan (as appropriate) is wound-up and the benefits thereunder are fully secured in accordance with the relevant provisions of the scheme or plan (as appropriate) and the relevant legislation.

18.4.4 The Seller’s total liability under this indemnity (at clause 18.4) shall be limited to an amount equal to £25,000,000.

18.5

18.5.1 The Buyer shall not give its consent to the early retirement of any Employee under the rules of the Unionamerica (1993) Pension Scheme without the consent of the Seller. The Seller will, in good faith, give due and proper consideration to any such application for early retirement.

18.5.2 If an Employee is to be transferred by virtue of the Transfer Regulations to another employer outside of the Buyer’s Group, the Buyer shall use best endeavours to procure an undertaking (in respect of which the Contracts (Rights of Third Parties) Act 1999 shall be stated to apply) from the new employer

that (i) the new employer shall not give its consent to the early retirement of any Employee without the consent of the Seller and shall give the Seller full conduct of any claim and the Seller shall meet the appropriate costs (both on the basis set out in clause 18.5.3 as if the new employer was the Buyer) (ii) the new employer shall use best endeavours to procure that it shall obtain a similar undertaking (in respect of which the Contracts (Rights of Third Parties) Act 1999 shall be stated to apply) to give effect to the provisions of this clause 18.5 on any subsequent transfers up to and including the date in clause 18.6.

18.5.3 To the extent that a claim is made by or in respect of an Employee against the Buyer as a result of the Buyer not giving its consent to the early retirement of any Employee under the rules of the Unionamerica (1993) Pension Scheme in accordance with the provisions of clause 18.5.1, the Buyer shall give to the Seller full conduct of any correspondence or communications with the Employee and full legal, actuarial or other conduct of proceedings should matters proceed to mediation, arbitration or a dispute before a County Court, the High Court, the Pensions Ombudsman or otherwise and the Seller shall have the right to appeal at its sole discretion, such discretion to be exercised after proper and due consideration. The Seller shall bear the costs of conducting such a claim including any costs reasonably incurred by the Buyer with the Seller's consent (not to be unreasonably withheld) in connection with the conducting of any such claim unless the Buyer funds (in whole or in part) the costs of, or actively promotes, any such claim by an Employee.

18.6 With the exception of the earlier dates under clause 18.4.3 and 18.4.1, the final date on which either party to this Agreement may bring a claim or enforce an obligation under this clause 18 will be the date 6 months after every Employee who was previously an active member of the Unionamerica (1993) Pension Scheme has reached age 65 (or died, or otherwise ceased to be entitled to benefits under that scheme, if sooner). Any relevant limitation under the Limitation Act 1980 shall not apply in respect of this clause 18. Notwithstanding the provisions of this clause 18.6 any such claim or enforcement action shall be brought as soon as reasonably practicable.

19 Announcements and confidentiality

19.1 Subject to clause 19.2, no Announcement concerning the existence or content of this Agreement shall be made by either party (including the Guarantor) (or any member of its group) without the prior written approval of the other party (such approval not to be unreasonably withheld or delayed).

19.2 Clause 19.1 does not apply to any Announcement if, and to the extent that, it is required to be made by any Relevant Authority to which the party making the Announcement is subject, whether or not any of the same has the force of law, provided that any Announcement shall, so far as is practicable, be made after consultation with the other party and after taking into account its reasonable requirements regarding the content, timing and manner of despatch of the Announcement in question.

19.3 Subject to clauses 19.4 and 19.5,

19.3.1 each party (including the Guarantor) shall treat as strictly confidential all information received or obtained as a result of entering into or performing:

(a) this Agreement which relates to:

(i) the subject matter and provisions of this Agreement;

(ii) the negotiations relating to this Agreement; or

(iii) the other party; and

(b) the Confidentiality Agreement; and

19.3.2 the Seller and each member of the Seller's Group shall treat as strictly confidential from the date of Completion all information which is confidential in nature and which is used in or otherwise relates to any Group Company's business, customers, or financial or other affairs and which has come into its possession in its capacity as shareholder of any Group Company.

19.4 A party may disclose information which would otherwise be confidential if and to the extent:

19.4.1 required by the law of any relevant jurisdiction;

19.4.2 required by contractual obligations existing at the date on which that party first received that information or, (in the case only of the Buyer) if earlier, the date on which the Buyer first received a draft of this Agreement;

19.4.3 required by any Relevant Authority to which the party making the disclosure is subject, or any Taxation Authority, whether or not such requirement has the force of law;

19.4.4 deemed expedient to disclose to any Relevant Authority, or any Taxation Authority, for that party's legitimate commercial interests;

19.4.5 required to vest the full benefit of this Agreement in either party (including in relation to any disputes between the parties (including the Guarantor));

19.4.6 the information has come into the public domain through no fault of that party; or

19.4.7 the other party has given prior written approval to the disclosure;

provided that any disclosure shall, so far as is practicable, be made only after consultation with the other party.

19.5 A party (including the Guarantor) may disclose information which would otherwise be confidential to its professional advisers provided that such adviser is under a duty of confidentiality to such party in respect of such information.

20 Severability and set-off

20.1 Each provision of this Agreement is severable and distinct from the others and, if any provision is, or at any time becomes, to any extent or in any circumstances invalid, illegal or unenforceable for any

reason, that provision shall to that extent be deemed not to form part of this Agreement but the validity, legality and enforceability of the remaining parts of this Agreement shall not be affected or impaired, it being the parties' (including the Guarantor's) intention that every provision of this Agreement shall be and remain valid and enforceable to the fullest extent permitted by law.

20.2 Neither party shall be entitled to set off any sum due by it to the other party against any sum due to it by the other party under or in relation to this Agreement.

21 Miscellaneous

21.1 No purported alteration of this Agreement shall be effective unless it is in writing, refers to this Agreement and is duly executed by each party to this Agreement, provided that the Guarantor shall not be required to execute any such alteration unless its liability is thereby increased.

21.2 This Agreement may be executed in any number of counterparts, and each of the executed counterparts, when duly exchanged or delivered, shall be deemed to be an original, but, taken together, they shall constitute one instrument.

21.3 Each of the parties (including the Guarantor) shall be responsible for its respective legal and other costs incurred in relation to the negotiation, preparation and completion of this Agreement. The Seller shall be responsible for all legal and other professional fees and expenses incurred in relation to the negotiation, preparation and completion of the Extraordinary Transactions and the SPRE Liquidation.

21.4 This Agreement shall be binding on and shall enure for the benefit of the successors in title and personal representatives of each party.

21.5 A person (other than any member of the Seller's Group) who is not the Buyer, the Seller nor the Guarantor has no rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any of its terms, provided however that the Seller is entitled to enforce this Agreement on behalf of any member of the Seller's Group and any employee of any member of the Seller's Group who may have such rights pursuant to such Act.

21.6 Notwithstanding the provisions of clause 21.5, the Agreement may be amended in accordance with clause 21.1 without the prior consent of any member of the Seller's Group or any other third party other than the Seller.

22 **Notices**

22.1 A Notice shall be:

22.1.1 in writing;

22.1.2 in the English language; and

22.1.3 sent by the Permitted Method to the Notified Address.

22.2 The Permitted Method means any of the methods set out in the first column below, the second column setting out the date on which a Notice given by such Permitted Method shall be deemed to be given provided the Notice is properly addressed and sent in full to the Notified Address:

(1) Permitted Method	(2) Date on which Notice deemed given
Personal delivery	When left at the Notified Address
First class pre-paid post	Two Business Days after posting
Registered or International or prepaid air-mail	Six Business Days after posting
Fax transmission	On confirmed completion of transmission

22.3 The Notified Address of each of the parties is as set out below:

Name of party	Address	Fax number	Marked for the attention of:
Seller	385 Washington Street, St. Paul, Minnesota USA	+1 651 310 5853	General Counsel
Buyer	Avaya House, 2 Cathedral Hill, Guildford GU2 7YL	+44 (0)1483 452644	Gareth Noakes
Guarantor	Windsor Place, 18 Queen Street, Hamilton HM 11, Bermuda	+1 441 296 7319	Richard Harris

or such other Notified Address as any of the parties may, by written notice to the other parties, substitute for their Notified Address set out above.

22.4 In addition to the requirements of clause 22.2, any Notice under any of (a) paragraph 6.4 of Schedule 3, and (b) paragraph 7.2 of Schedule 8 shall also be sent, by e-mail to the Tax Address. In this clause 22.4, the **Tax Address** shall mean:

Name of Party	Address	Marked for the attention of:
Seller	srynda@travelers.com	Scott Rynda

or such other address as the Seller may, by written notice to the Buyer, substitute as the Tax Address set out above.

23 Assignment

23.1 The Buyer shall not be entitled to assign, transfer, charge or otherwise deal with all or any of its rights or obligations under this Agreement, nor shall the Buyer be entitled to grant, declare, create or dispose of any right or interest in this Agreement, without the prior written consent of the Seller. Any purported assignment, transfer or change in contravention of this clause 23.1 shall be void.

23.2 The Seller may assign, transfer, charge or otherwise deal with all or any of its rights or obligations under this Agreement, and may grant, declare, create or dispose of any right or interest in this Agreement without the prior written consent of the Buyer, and in the event of any such assignment, all references in this Agreement to the Seller shall be deemed to include its assigns.

24 Governing law

24.1 This Agreement shall be governed by and construed in accordance with English law.

24.2 The parties (including the Guarantor) irrevocably agree that all disputes arising under or in connection with this Agreement, or in connection with the negotiation, existence, legal validity, enforceability or termination of this Agreement, regardless of whether the same shall be regarded as contractual claims or not, shall be exclusively governed by and determined only in accordance with English law.

25 Jurisdiction and Service of Process

25.1 The parties (including the Guarantor) irrevocably agree that the courts of England and Wales are to have exclusive jurisdiction, and that no other court is to have jurisdiction to:

25.1.1 determine any claim, dispute or difference arising under or in connection with this Agreement or in connection with the negotiation, existence, legal validity, enforceability or termination of this Agreement, whether the alleged liability shall arise under the law of England and Wales or under the law of some other country and regardless of whether a particular cause of action may successfully be brought in the English courts (**Proceedings**); or

25.1.2 grant interim remedies, or other provisional or protective relief.

25.2 The parties (including the Guarantor) submit to the exclusive jurisdiction of such courts and accordingly any Proceedings may be brought against the parties (including the Guarantor) or any of their respective assets in such courts.

25.3 Nothing contained in clauses 25.1 and 25.2 shall limit the right of the parties (including the Guarantor) to commence any proceedings, suit or action seeking the enforcement of any judgment obtained in the courts of England (**Enforcement Proceedings**) in any other court of competent jurisdiction, nor shall the taking of Enforcement Proceedings in one or more jurisdictions preclude the taking of Enforcement Proceedings in any other jurisdiction, whether concurrently or not, to the extent permitted by the law of such other jurisdiction.

25.4 The Seller hereby appoints Travelers Management Limited of 60 Gracechurch Street, London EC3V 0XL (or such other person having an office or place of business in London as the Seller may at any time substitute by notice in writing to all other parties to this Agreement) to accept on its behalf service of all legal process arising out of or in connection with any proceedings in connection with the Share Purchase Documents.

25.5 The Guarantor hereby appoints Enstar (EU) Limited of Avaya House, 2 Cathedral Hill, Guildford GU2 7YL (or such other person having an office or place of business in London as the Guarantor may at any time substitute by notice in writing to all other parties to this Agreement) to accept on its behalf service of all legal process arising out of or in connection with any proceedings in connection with the Share Purchase Documents.

26 Deductions from payments

26.1 Except as required by law, all payments by either party (including the Guarantor) under this Agreement will be made free and clear of all deductions and withholdings (whether in respect of Taxation or otherwise).

26.2 If any deduction or withholding is required by law to be made from any payment by either party (including the Guarantor) in respect of a representation, warranty, covenant or indemnity under this Agreement, that party covenants with the other party to pay to that other party such additional amount as is necessary to ensure that the net amount received and retained by that other party (after taking account of such deduction or withholding) is equal to the amount which it would have received and retained had the payment in question not been subject to the deduction or withholding.

26.3 If, at any time after any increased payment is made by a party (including the Guarantor) to this Agreement (in this clause 26.3, the **payor**) as a consequence of the application of clause 26.2, another party (in this clause 26.3, the **payee**) receives or is granted a credit against or remission from any Taxation payable by it which it would not otherwise have received or been granted, the payee shall, to the extent that it can do so without prejudicing the retention of the amount of such credit or remission, reimburse the payor with such amount as shall leave the payee (after such reimbursement) in no worse a position than it would have been in had the circumstances giving rise to the increased payment not in fact arisen. Such reimbursement shall be made not later than ten Business Days after the payee receives or is granted such credit or remission.

27 Tax Covenant

The provisions of the Tax Covenant shall have effect from Completion.

28 No Double Recovery

No member of the Seller’s Group shall be entitled to recover, receive credit for or be paid any amount under this Agreement to the extent that any member of the Seller’s Group has already recovered,

received credit for or been paid an amount under this Agreement in respect of the same subject matter.

This Agreement has been executed and delivered as a deed on the date stated at the beginning of this Agreement.

Signed by: /s/ William P. Hannon

Name William P. Hannon
Authorised signatory

for and on behalf of ST. PAUL FIRE AND MARINE INSURANCE COMPANY

in the presence of /s/ Carey Daddona

Witness signature

Carey Daddona

485 Lexington Avenue

New York, NY 10017

Name and address

Signed by: /s/ Alan Turner

Name Alan Turner
Authorised signatory

for and on behalf of ROYSTON RUN-OFF LIMITED

in the presence of /s/ Gareth Nokes

Witness signature

Gareth Nokes

Gimbles, 1 Oak Grove

Loxwood,

West Sussex, RH14 0PN

Name and address

Signed by: /s/ Paul O'Shea

Name Paul O'Shea
Authorised signatory

for and on behalf of KENMARE HOLDINGS LIMITED

in the presence of /s/ Orla Gregory

Witness signature

Orla Gregory

4 Knapton Hill

Smiths FL06

Bermuda

Name and address

EXHIBIT 10.19

CLYDE&CO

Royston Run-off Limited
as Borrower

and

Royston Run-off Limited
as Original Obligor

and

National Australia Bank Limited
as Arranger

and

National Australia Bank Limited
as Agent and Security Agent

US Dollar $184,616,000 Term Facility Agreement

CONFORMED COPY

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Term Facilities Agreement

Dated 3 October 2008

Between:

(1) **Royston Run-off Limited** , a company incorporated under the laws of England and Wales whose registered office is at Avaya House, 2 Cathedral Hill, Guildford, Surrey, GU2 7YL with company number 06708757 (the **Borrower**);

(2) **The members of the Group** listed in Part 1 of Schedule 1 (*The Original Parties*) as Original Obligors (the **Original Obligors**);

(3) **National Australia Bank Limited** as mandated lead arranger (the **Arranger**);

(4) **The Financial Institutions** listed in Part 2 and Part 3 of Schedule 1 (*The Original Parties*) as lenders (the **Original Lenders**);

(5) **National Australia Bank Limited** as agent of the other Finance Parties (the **Agent**); and

(6) **National Australia Bank Limited** as Security Agent for the Secured Parties.

It is agreed:

1 **Definitions and Interpretation**

1.1 In this Agreement:

Acceptable Bank means a bank or financial institution which has a rating for its long-term unsecured and non-credit-enhanced debt obligations of A+ or higher by Standard & Poor’s Rating Services or Fitch Ratings Ltd or A1 or higher by Moody’s Investor Services Limited or a comparable rating from an internationally recognised credit rating agency or any other bank or financial institution approved by the Agent.

Accession Letter means a document substantially in the form set out in Schedule 7 (*Form of Accession Letter*).

Accounting Principles means generally accepted accounting principles in the United Kingdom.

Acquisition means the acquisition by the Borrower of the Target Shares on the terms of the Acquisition Documents.

Acquisition Agreement means the agreement relating to the sale and purchase of the Target Shares to be entered into and made between, among others, the Borrower and the Vendor in the form set out in the draft provided to the Agent prior to the date of this Agreement or in such other form as the Agent may agree.

Acquisition Costs means all fees, costs and expenses, stamp, registration and other Taxes incurred (or required to be paid) by the Borrower or any other member of the Group in connection with the Acquisition or the Transaction Documents.

Acquisition Documents means the Acquisition Agreement, the Disclosure Letter and any other document designated as an **Acquisition Document** by the Agent and the Borrower.

Additional Cost Rate has the meaning given to it in Schedule 4 (*Mandatory Cost Formula*).

Additional Obligor means a company which becomes an Obligor in accordance with Clause 25 (*Changes to the Obligors*).

Additional Security Agent has the meaning given to it in Schedule 12 (*Security Agent*).

Affiliate means, in relation to any person, a Subsidiary or a Holding Company of that person or any other Subsidiary of that Holding Company.

Agent's Spot Rate of Exchange means the Agent's spot rate of exchange for the purchase of the relevant currency with the Base Currency in the London foreign exchange market at or about 11:00 a.m. on a particular day.

Assignment Agreement means an agreement substantially in the form set out in Schedule 6 (*Form of Assignment Agreement*) or any other form agreed between the relevant assignor and assignee.

Auditors means one of PricewaterhouseCoopers, Ernst & Young, KPMG or Deloitte & Touche or such other firm approved in advance by the Majority Lenders (such approval not to be unreasonably withheld or delayed).

Authorisation means an authorisation, consent, approval, resolution, licence, exemption, filing, notarisation or registration.

Availability Period means the period from and including the date of this Agreement to and including the date falling four months after the date of this Agreement.

Available Commitment means, in relation to a Facility, a Lender's Commitment under that Facility minus:

(a) the amount of its participation in any outstanding Loans under that Facility; and

(b) in relation to any proposed Loan, the amount of its participation in any Loans that are due to be made under that Facility on or before the proposed Utilisation Date.

Available Facility means, in relation to a Facility, the aggregate for the time being of each Lender's Available Commitment in respect of that Facility.

Base Currency means US Dollars.

Base Currency Equivalent means, the amount of the relevant currency required to purchase the relevant amount of US Dollars at the Agent's Spot Rate of Exchange.

Break Costs means the amount (if any) by which:

(a) the interest, excluding the Margin, which a Lender should have received for the period from the date of receipt of all or any part of its participation in a Loan or Unpaid Sum to the last day of the current Interest Period in respect of that Loan or Unpaid Sum, had the principal amount or Unpaid Sum received been paid on the last day of that Interest Period;

exceeds:

(b) the amount which that Lender would be able to obtain by placing an amount equal to the principal amount or Unpaid Sum received by it on deposit with a leading bank in the London interbank market for a period starting on the

Business Day following receipt or recovery and ending on the last day of the current Interest Period.

Business Day means a day (other than a Saturday or Sunday) on which banks are open for general business in London, Hamilton, Bermuda, and New York.

Cash Equivalent Investments means at any time:

(a) certificates of deposit maturing within one year after the relevant date of calculation and issued by an Acceptable Bank;

(b) any investment in marketable debt obligations issued or guaranteed by the government of the United States of America, the United Kingdom, any member state of the European Economic Area or any Participating Member State or by an instrumentality or agency of any of them having an equivalent credit rating, maturing within one year after the relevant date of calculation and not convertible or exchangeable to any other security;

(c) commercial paper not convertible or exchangeable to any other security:

(i) for which a recognised trading market exists;

(ii) issued by an issuer incorporated in the United States of America, the United Kingdom, any member state of the European Economic Area or any Participating Member State;

(iii) which matures within one year after the relevant date of calculation; and

(iv) which has a credit rating of either A-1 or higher by Standard & Poor's Rating Services or F1 or higher by Fitch Ratings Ltd or P-1 or higher by Moody's Investor Services Limited, or, if no rating is available in respect of the commercial paper, the issuer of which has, in respect of its long-term unsecured and non-credit enhanced debt obligations, an equivalent rating;

(d) Sterling bills of exchange eligible for rediscount at the Bank of England and accepted by an Acceptable Bank (or their dematerialised equivalent);

(e) any investment accessible within 30 days in money market funds which have a credit rating of either A-1 or higher by Standard & Poor's Rating Services or F1 or higher by Fitch Rating Ltd or P-1 or higher by Moody's Investor Services Limited and which invest substantially all their assets in securities of the types described in sub-paragraphs (a) to (d) above; or

(f) any other debt security approved by the Majority Lenders,

in each case, to which any member of the Group is alone (or together with other members of the Group) beneficially entitled at that time and which is not issued or guaranteed by any member of the Group or subject to any Security (other than Security arising under the Transaction Security Documents).

Certain Funds Period means the period commencing on the date of this Agreement and ending on the earlier of (i) the day following the First Utilisation Date and (ii) the last day of the Availability Period.

Certain Funds Loan means a Loan made or to be made during the Certain Funds Period.

Change of Control means:

(a) the Investors cease to have the power (whether by way of ownership of shares, proxy, contract, agency or otherwise) to:

(i) cast, or control the casting of, 100% of the maximum number of votes that might be cast at a general meeting of the Borrower;

(ii) appoint or remove all of the directors or other equivalent officers of the Borrower; or

(iii) give directions with respect to the operating and financial policies of the Borrower with which the directors or other equivalent officers of the Borrower are obliged to comply;

(b) the cessation of full beneficial ownership by the Investors of all of the issued share capital of the Borrower;

(c) Enstar ceases to have Control of the Borrower;

(d) the cessation of full beneficial ownership by Enstar of all of more than 50% of the issued share capital of the Borrower;

(e) the cessation of full beneficial ownership by the Borrower of all of the issued share capital of the Target or a member of the Target Group.

Charged Property means the Target Shares and all of the assets of the Group which from time to time are, or are expressed to be, the subject of the Transaction Security.

Chief Financial Officer means the finance director of the relevant company or group from time to time (or any director of the relevant company or group acting as such officer's deputy in that capacity or performing those functions).

Closing Date means the date on which Completion occurs.

Commitment means a Facility A Commitment or Facility B Commitment.

Completion means the completion of the Acquisition in accordance with clause 5 of the Acquisition Agreement.

Compliance Certificate means a certificate substantially in the form set out in Schedule 8 (*Form of Compliance Certificate*).

Confidentiality Undertaking means a confidentiality undertaking substantially in a recommended form of the LMA as set out in Schedule 9 (*LMA Form of Confidentiality Undertaking*) or in any other form agreed between the Borrower and the Agent.

Consolidated Tangible Net Worth means as such term is defined in Clause 21.1 (*Financial definitions*).

Constitutional Documents means the memorandum of association and the articles of association.

Control means

(a) the power (whether by way of ownership of shares, proxy, contract, agency or otherwise) to:

(i) cast, or control the casting of, more than 50% of the maximum number of votes that might be cast at a general meeting of the Borrower;

(ii) appoint or remove all, or the majority, of the directors or other equivalent officers of the Borrower; or

(iii) give directions with respect to the operating and financial policies of the Borrower with which the directors or other equivalent officers of the Borrower are obliged to comply; or

(b) the holding beneficially of more than 50% of the issued share capital of the Borrower (excluding any part of that issued share capital that carries no right to participate beyond a specified amount in a distribution of either profits or capital).

Creditor means a Lender or a Hedge Counterparty.

Debentures means the debentures to be granted by each of the Borrower, the Target and Unionamerica Acquisition Company Limited over all of its assets.

Default means an Event of Default or any event or circumstance specified in Clause 23 (*Events of Default*) which would (with the expiry of a grace period, the giving of notice, the making of any determination under the Finance Documents or any combination of any of the foregoing) be an Event of Default.

Delegate means any delegate, agent, attorney or co-trustee appointed by the Security Agent.

Disclosure Letter has the meaning given to that term in the Acquisition Agreement.

Disruption Event means either or both of:

(a) a material disruption to those payment or communications systems or to those financial markets which are, in each case, required to operate in order for payments to be made in connection with the Facilities (or otherwise in order for the transactions contemplated by the Finance Documents to be carried out) which disruption is not caused by, and is beyond the control of, any of the Parties; or

(b) the occurrence of any other event which results in a disruption (of a technical or systems-related nature) to the treasury or payments operations of a Party preventing that, or any other Party:

(i) from performing its payment obligations under the Finance Documents; or

(ii) from communicating with other Parties in accordance with the terms of the Finance Documents,

and which (in either such case) is not caused by, and is beyond the control of, the Party whose operations are disrupted.

Dormant Subsidiaries means, from the Closing Date:

(a) SPRE Limited; and

(b) any member of the Group which does not trade (for itself or as agent for any person) and does not own, legally or beneficially, assets (including, without

limitation, Financial Indebtedness owed to it) which in aggregate have a value of US$50,000 or more or its equivalent in other currencies,

and **Dormant Subsidiary** means any of them.

Enstar means Enstar Group Limited, a company incorporated under the laws of Bermuda with registered number EC30916.

Enstar Guarantee means the guarantee in the agreed form entered into on or before the Closing Date by Enstar in favour of the Security Agent (as trustee for the Finance Parties) guaranteeing all of the Borrower's obligations under the Finance Documents.

Event of Default means any event or circumstance specified as such in Clause 23 (*Events of Default*).

Facility means Facility A or Facility B.

Facility A means the term loan facility made available under this Agreement as described in paragraph (a) of Clause 2.1 (*The Facilities*).

Facility A Commitment means:

(a) in relation to an Original Lender, the amount in the Base Currency set opposite its name under the heading "Facility A Commitment" in Part 2 or Part 3 of Schedule 1 (*The Original Parties*) subject to Clause 2.2 (*Facilities Adjustment*) and the amount of any other Facility A Commitment transferred to it under this Agreement; and

(b) in relation to any other Lender, the amount in the Base Currency of any Facility A Commitment transferred to it under this Agreement,

to the extent not cancelled, reduced or transferred by it under this Agreement.

Facility A Loan means a loan made or to be made under Facility A or the principal amount outstanding for the time being of that loan.

Facility B means the term loan facility made available under this Agreement as described in paragraph (b) of Clause 2.1 (*The Facilities*).

Facility B Commitment means:

(a) in relation to an Original Lender, the amount in the Base Currency set opposite its name under the heading "Facility B Commitment" in Part 2 or Part 3 of Schedule 1 (*The Original Parties*) subject to Clause 2.2 (*Facilities Adjustment*) and the amount of any other Facility B Commitment transferred to it under this Agreement; and

(b) in relation to any other Lender, the amount in the Base Currency of any Facility B Commitment transferred to it under this Agreement,

to the extent not cancelled, reduced or transferred by it under this Agreement.

Facility B Loan means a loan made or to be made under Facility B or the principal amount outstanding for the time being of that loan.

Facility Office means

(a) in respect of a Lender, the office or offices notified by that Lender to the Agent in writing on or before the date it becomes a Lender (or, following that

date, by not less than five Business Days' written notice) as the office or offices through which it will perform its obligations under this Agreement; or

(b) in respect of any other Finance Party, the office in the jurisdiction in which it is resident for tax purposes.

Fee Letter means

(a) any letter or letters dated on or about the date of this Agreement between the Arranger and the Borrower (or the Agent and the Borrower or the Security Agent and the Borrower) setting out any of the fees referred to in Clause 13 (*Fees*); and

(b) any agreement setting out fees payable to a Finance Party under any Finance Document.

Finance Document means this Agreement, the Enstar Guarantee, any Accession Letter, any Compliance Certificate, any Fee Letter, any Hedging Agreement, the Shareholder's Undertaking, any Selection Notice, any Transaction Security Document, any Utilisation Request and any other document designated as a **Finance Document** by the Agent and the Borrower.

Finance Party means the Agent, the Arranger, the Security Agent, a Hedge Counterparty or a Lender.

Financial Indebtedness means any indebtedness for or in respect of:

(a) moneys borrowed and debit balances at banks or other financial institutions;

(b) any amount raised by acceptance under any acceptance credit facility or dematerialised equivalent;

(c) any amount raised pursuant to any note purchase facility or the issue of bonds, notes, debentures, loan stock or any similar instrument;

(d) the amount of any liability in respect of any lease or hire purchase contract which would, in accordance with the Accounting Principles, be treated as a finance or capital lease;

(e) receivables sold or discounted (other than any receivables to the extent they are sold on a non-recourse basis);

(f) any Treasury Transaction (and, when calculating the value of that Treasury Transaction, only the marked to market value as at the relevant date on which Financial Indebtedness is calculated (or, if any actual amount is due as a result of the termination or close-out of that Treasury Transaction, that amount) shall be taken into account);

(g) any counter-indemnity obligation in respect of a guarantee, bond, standby or documentary letter of credit or any other instrument issued by a bank or financial institution;

(h) any amount of any liability under an advance or deferred purchase agreement if (1) one of the primary reasons behind entering into the agreement is to raise finance or (2) the agreement is in respect of the supply of assets or services and payment is due more than 90 days after the date of supply;

(i) any amount raised under any other transaction (including any forward sale or purchase, sale and sale back or sale and leaseback agreement) having the commercial effect of a borrowing; and

(j) the amount of any liability in respect of any guarantee for any of the items referred to in paragraphs (a) to (i) above.

Financial Quarter has the meaning given to that term in Clause 21.1 (*Financial definitions*).

Financial Year has the meaning given to that term in Clause 21.1 (*Financial definitions*).

First Utilisation Date means the first Utilisation Date.

Forecast Cash Flows means the forecast of cash flows in agreed form relating to the Acquisition prepared by Enstar showing total cash inflows to be US$541,080,000.

Free Net Worth has the meaning given to that term in Clause 21.1 (*Financial definitions*).

FSA means the Financial Services Authority.

Group means the Borrower and each of its Subsidiaries for the time being.

Group Structure Chart means the group structure chart in Schedule 11 (*Group Structure*).

Hedge Counterparty means any Lender which enters into any Hedging Agreement with the Borrower.

Hedging Agreement means any master agreement, confirmation, schedule or other agreement entered into or to be entered into by the Borrower and a Hedge Counterparty for the purpose of hedging interest rate liabilities in relation to the Facilities.

Hedging Commitments means on any date and in respect of a Hedge Counterparty, an amount equal to the amount (if any) which would be payable to such Hedge Counterparty under any Hedging Agreement to which it is a party if such date were deemed to be an Early Termination Date in respect of an Event of Default for which the Borrower was the Defaulting Party (and for this purpose **Early Termination Date** , **Event of Default** , **Settlement Amount** and **Defaulting Party** shall have the meanings given to them in the applicable ISDA Master Agreement), and such amount shall be certified by the relevant Hedge Counterparty in accordance with the applicable ISDA Master Agreement.

Holding Account means the account in the name of the Borrower held with the Agent at 88 Wood Street, London EC2V 7QQ, Sort Code: 16-55-90 and Account number: 3210 198935 501 (as the same may be redesignated, substituted or replaced from time to time).

Holding Company means, in relation to a company or corporation, any other company or corporation in respect of which it is a Subsidiary.

Information Memorandum means the document concerning the Original Obligors and the Target Group which, at the request of the Borrower and on its behalf, is to be prepared in relation to this transaction, approved by the Borrower and

distributed by the Arranger prior to the Syndication Date in connection with the syndication of the Facilities.

Information Package means the Forecast Cash Flows and the Report.

Insolvency Representative means any liquidator, administrator, receiver, receiver and manager, administrative receiver, custodian, trustee or similar officer in any jurisdiction.

Intellectual Property means

(a) any patents, trade marks, service marks, designs, business names, copyrights, design rights, moral rights, inventions, confidential information, knowhow and other intellectual property rights and interests, whether registered or unregistered; and

(b) the benefit of all applications and rights to use such assets of each member of the Group.

Interest Period means, in relation to a Loan, each period determined in accordance with Clause 11 (*Interest Periods*) and, in relation to an Unpaid Sum, each period determined in accordance with Clause 10.3 (*Default Interest*).

Investors means:

(a) Enstar and its or any subsequent successors or assigns or transferees; and

(b) JCF Investment Entity and its or any subsequent successors or assigns or transferees.

JCF Investment Entity means each JCF Shareholder, severally and not jointly, solely in its capacity as a shareholder of the Shareholder or the Borrower and to the extent of its investment therein.

JCF Shareholder means J.C. Flowers II L.P and its Affiliates, successors, assigns and transferees that may from time to time be a shareholder of the Shareholder or the Borrower.

Joint Venture means any joint venture entity, whether a company, unincorporated firm, undertaking, association, joint venture or partnership or any other similar entity.

Legal Opinion means any legal opinion delivered to the Agent under Clause 4.1 (*Initial conditions precedent*) or Clause 25 (*Changes to the Obligors*).

Legal Reservations means:

(a) the principle that equitable remedies may be granted or refused at the discretion of a court and the limitation of enforcement by laws relating to insolvency, reorganisation and other laws generally affecting the rights of creditors;

(b) the time barring of claims under the Limitation Acts, the possibility that an undertaking to assume liability for or indemnify a person against non-payment of UK stamp duty may be void and defences of set-off or counterclaim;

(c) similar principles, rights and defences under the laws of any Relevant Jurisdiction; and

(d) any other matters which are set out as qualifications or reservations as to matters of law of general application in the Legal Opinions.

Lender means

(a) any Original Lender; and

(b) any bank, financial institution, trust, fund or other entity which has become a Party in accordance with Clause 24 (*Changes to the Lenders*),

which in each case has not ceased to be a Party in accordance with the terms of this Agreement.

LIBOR means, in relation to any Loan:

(a) the applicable Screen Rate; or

(b) (if no Screen Rate is available for the currency or Interest Period of that Loan) the arithmetic mean of the rates (rounded upwards to four decimal places) as supplied to the Agent at its request quoted by the Reference Banks to leading banks in the London interbank market,

as of the Specified Time on the Quotation Day for the offering of deposits in US Dollars and for a period comparable to the Interest Period for that Loan.

LMA means the Loan Market Association.

Loan means a Facility A Loan or a Facility B Loan.

Major Event of Default means any circumstances constituting an Event of Default under any of:

(a) Clause 23.1 (*Non-Payment*);

(b) Clause 23.2.2 (*Financial Covenants and other Obligations*) insofar as it relates to a breach of Clauses 22.4 (*Merger*), 22.5 (*Change of business*), 22.6 (*Acquisitions*), 22.7 (*Joint ventures*), 22.8 (*Holding Companies*), 22.13 (*Negative Pledge*), 22.14 (*Disposals*), 22.16 (*Loans or credit*), 22.17 (*No Guarantees or Indemnities*), 22.18 (*No Dividends or Share Redemption*), 22.20 (*Share capital*) or 22.24 (*Amendments*);

(c) Clause 23.3 (*Other obligations*) in so far as it relates to Clause 22.19 (*Financial Indebtedness*);

(d) Clause 23.4 (*Misrepresentation*) insofar as it relates to a breach of any Major Representation;

(e) Clauses 23.6.1 and 23.6.3 (*Insolvency*);

(f) Clause 23.7 (*Insolvency Proceedings*);

(g) Clause 23.8 (*Creditors' Process*);

(h) Clause 23.9 (*Unlawfulness and Invalidity*) (but only in so far as it relates to this Agreement, the Shareholder's Undertaking, the Enstar Guarantee and/or any Transaction Security Document);

(i) Clause 23.10 (*Shareholder's Undertaking and Enstar Guarantee*);

(j) Clause 23.16 (*Repudiation and Rescission of Agreements*) (but only in so far as it relates to this Agreement, the Shareholder's Undertaking, the Enstar

Guarantee, any Acquisition Document and/or any Transaction Security Document)

(k) Clause 23.18 (*FSMA Sanctions*),

except that paragraphs (a) to (d) and (h) to (j) above inclusive shall only apply insofar as the relevant Event of Default relates to the Borrower or the Shareholder and not any other member of the Group, where relevant, and not taking into account any breach by the Borrower of any procuring obligations in respect of any member of the Target Group.

Major Representation means a representation or warranty with respect to the Borrower only under any of Clause 19.2 (*Status*) to Clause 19.6 (*Validity and Admissibility in Evidence*) inclusive.

Majority Creditors means:

(a) if there are no Loans then outstanding under this Agreement, a Creditor or Creditors the sum of whose Commitments and Hedging Commitments aggregate more than 66 $^{2}/_{3}$% of the sum of the Total Commitments and Hedging Commitments (or, if the Total Commitments and Hedging Commitments have been reduced to zero, aggregated more than 66 $^{2}/_{3}$% of the Total Commitments and Hedging Commitments immediately prior to the reduction); or

(b) at any other time, a Creditor or Creditors whose participations in the Loans and whose Hedging Commitments then outstanding aggregate more than 66 $^{2}/_{3}$% of the aggregate of all the Loans and Hedging Commitments then outstanding.

Majority Lenders means a Lender or Lenders whose Commitments aggregate more than 66 $^{2}/_{3}$ per cent of the Total Commitments (or, if the Total Commitments have been reduced to zero, aggregated more than 66 $^{2}/_{3}$ per cent. of the Total Commitments immediately prior to that reduction).

Mandatory Cost means the percentage rate per annum calculated by the Agent in accordance with Schedule 4 (*Mandatory Cost Formula*).

Mandatory Prepayment Account means the interest-bearing account in the name of the Borrower held with the Agent at 88 Wood Street, London EC2V 7QQ, Sort Code: 16-55-90 and Account number: 3210 198935 500 (as the same may be redesignated, substituted or replaced from time to time).

Margin means:

(a) in relation to Facility A, 3.50 (three point five) per cent. per annum; and

(b) in relation to Facility B, 4.00 (four) per cent. per annum.

Material Adverse Effect means a material adverse effect on:

(a) the business, operations, property, condition (financial or otherwise) or prospects of the Group taken as a whole; or

(b) the ability of an Obligor to perform its payment obligations under the Finance Documents and/or its obligations under Clause 21.2 (*Financial condition*); or

(c) the validity or enforceability of, or the effectiveness or ranking of any Security granted or purporting to be granted pursuant to any of, the Finance

Documents or the rights or remedies of any Finance Party under any of the Finance Documents.

Month means a period starting on one day in a calendar month and ending on the numerically corresponding day in the next calendar month, except that:

(a) (subject to paragraph (c) below) if the numerically corresponding day is not a Business Day, that period shall end on the next Business Day in that calendar month in which that period is to end if there is one, or if there is not, on the immediately preceding Business Day;

(b) if there is no numerically corresponding day in the calendar month in which that period is to end, that period shall end on the last Business Day in that calendar month; and

(c) if an Interest Period begins on the last Business Day of a calendar month, that Interest Period shall end on the last Business Day in the calendar month in which that Interest Period is to end.

The above rules will only apply to the last Month of any period. **Monthly** shall be construed accordingly.

Obligor means an Original Obligor or an Additional Obligor.

Obligors' Agent means the Borrower, appointed to act on behalf of each Obligor in relation to the Finance Documents pursuant to Clause 2.4 (*Obligors' Agent*).

Original Financial Statements means

(a) in relation to the Target, its consolidated audited financial statements for its Financial Year ended 31 December 2007;

(b) in relation to any other Obligor, its audited financial statements delivered to the Agent as required by Clause 25 (*Changes to the Obligors*); and

(c) in relation to any other member of the Group, its audited financial statements delivered to the Agent as required by Clause 20.2 (*Financial Statements*).

Participating Member State means any member state of the European Communities that adopts or has adopted the euro as its lawful currency in accordance with legislation of the European Community relating to Economic and Monetary Union.

Party means a party to this Agreement.

Permitted Disposal means any sale, lease, licence, transfer or other disposal permitted by Clause 22.28 (*Intra-Group transactions*) or which is not an intra-Group transaction and is on arm's length terms:

(a) of cash made by any member of the Group in the ordinary course of trading of the disposing entity;

(b) of Cash Equivalent Investments for cash or in exchange for other Cash Equivalent Investments; and

(c) arising as a result of any Permitted Security.

Permitted Distribution means

(a) a Target Distribution;

(b) the payment of a dividend, the making of a loan or the movement of cash by way of a share buyback by the Borrower, in each case, declared as a result of the receipt of a Target Distribution into the Holding Account provided the following conditions are satisfied:

(i) the Borrower's obligations under Clause 8.2 (*Disposal, Insurance, Acquisition Proceeds and Target Distributions*) have been complied with in full;

(ii) no Default is continuing at the time such dividend is to be paid or would occur if such dividend is paid;

(iii) at the time the relevant dividend is to be paid no circumstances exist such that (in the opinion of the Agent) on the publication of any accounts by reference to which Net Worth Cover in Clause 21.2 (*Financial condition*) is calculated, there would be a breach of that financial covenant on its next following test date if the dividend was paid;

(iv) the Borrower has given the Agent not less than 5 Business Days' written notice of the Borrower's intention to pay the proposed dividend and has at the same time delivered to the Agent a certificate signed by a director of the Borrower certifying that (1) he is not aware of any Default which is continuing or of any Default which is likely to occur on or prior to the anticipated date of payment and (2) containing calculations to show that the Net Worth Cover financial covenant in Clause 21.2 (*Financial condition*) will be complied with following the payment of the proposed dividend on the next following test date; and

(v) the Agent shall not have (1) objected to the payment of such dividend before the expiry of the 5 Business Day notice period referred to in paragraph (iv) above because any of the conditions for payment under this paragraph (b) has not been met or (2) requested reasonable further information to establish whether the conditions established by this Clause are met. If the Agent objects, it shall state which conditions of this paragraph (b) it does not consider to have been satisfied, in which case the Borrower shall not pay the proposed dividend unless (in the case of a breach of the Net Worth Cover financial covenant) it obtains a certificate from the Auditors confirming to the Agent that in their opinion the financial conditions necessary to allow the payment of the relevant dividend have been satisfied, or in the case of any other Default the Agent becomes satisfied that the conditions for payment under this paragraph (b) have been met; and

(c) the payment of a dividend to the Target or its wholly-owned Subsidiaries.

Permitted Financial Indebtedness means Financial Indebtedness arising under:

(a) a Permitted Loan;

(b) a Permitted Guarantee;

(c) any Finance Document; or

(d) any letters of credit secured on the assets of the Target Group that match liabilities held on the balance sheet of the Target Group in favour of the cedant (who is also the beneficiary of such letter of credit).

Permitted Guarantee means

(a) any guarantee of Permitted Financial Indebtedness which is referred to in the definition of, or otherwise constitutes, Permitted Financial Indebtedness provided that Clause 22.28 (*Intra-Group transactions*) is complied with; or

(b) any guarantee given in respect of the netting or set-off arrangements permitted pursuant to paragraph (a) of the definition of Permitted Security.

Permitted Loan means

(a) Financial Indebtedness which is referred to in the definition of, or otherwise constitutes, Permitted Financial Indebtedness provided Clause 22.28 (*Intra-Group transactions*) is complied with; or

(b) any loan permitted by Clause 22.28 (*Intra-Group transactions*); or

(c) any loan invested pursuant to Clause 21.4 (*Equity cure- Regulatory Cover*) or Clause 21.5 (*Equity cure- Net Worth Cover*).

Permitted Payment means a payment of fees on arms' length terms by any member of the Group to any Subsidiary of Enstar that is not a member of the Group for management services up to a maximum amount not exceeding:

(a) in 2009, US$6,000,000;

(b) in 2010, US$5,100,000;

(c) in 2011, US$4,335,000;

(d) in 2012, US$3,685,000;

(e) in 2013, US$5,632,000;

(f) in 2014, US$700,000;

(g) in 2015, US$600,000;

(h) in 2016, US$500,000;

(i) in 2017, US$400,000;

(j) in 2018, US$400,000.

Permitted Security means

(a) any netting or set-off arrangement entered into by any member of the Group in the ordinary course of its banking arrangements for the purpose of netting debit and credit balances of members of the Group but only so long as (1) such arrangement does not permit credit balances of Obligors to be netted or set-off against debit balances of members of the Group which are not Obligors and (2) such arrangement does not give rise to other Security over the assets of Obligors in support of liabilities of members of the Group which are not Obligors;

(b) any Quasi Security arising as a result of a disposal which is a Permitted Disposal;

(c) any Transaction Security;

(d) any security relating to letters of credit issued by any Citigroup entity required to be given by any regulation; or

(e) any security relating to any US trust funds required to be given by any regulation.

Permitted Share Issue means an issue of shares:

(a) by a member of the Group (other than the Borrower) which is a Subsidiary to its immediate Holding Company to the extent permitted by Clause 22.28 (*Intra-Group Transactions*) and where (if the existing shares of the Subsidiary are the subject of the Transaction Security) the newly-issued shares also become subject to the Transaction Security on the same terms; or

(b) by the Borrower to the Shareholder where the proceeds of such share issue are applied to remedy a breach of the Regulatory Cover or the Net Worth Cover financial covenant in Clause 21.2 (*Financial condition*) pursuant to Clause 21.4 (*Equity cure- Regulatory Cover*) or Clause 21.5 (*Equity cure- Net Worth Cover*).

Permitted Transaction means

(a) any disposal required, Financial Indebtedness incurred, guarantee, indemnity or Security or Quasi-Security given, or other transaction arising, under the Finance Documents; or

(b) transactions (other than (i) any sale, lease, licence, transfer or other disposal; and (ii) the granting or creation of Security, the incurring or permitting to subsist of Financial Indebtedness or the disposal of the shares of any member of the Group), conducted in the ordinary course of trading on arm's length terms.

Qualifying Lender has the meaning given to that term in Clause 14 (*Tax gross-up and indemnities*).

Quarter Date has the meaning given to that term in Clause 21.1 (*Financial definitions*).

Quarterly Financial Statement has the meaning given to that term in Clause 20 (*Information Undertakings*).

Quasi-Security has the meaning given to that term in Clause 22.13 (*Negative pledge*).

Quotation Day means, in relation to any period for which an interest rate is to be determined, two Business Days before the first day of that period, unless market practice differs in the London interbank market for a currency, in which case the Quotation Day for that currency will be determined by the Agent in accordance with market practice in the London interbank market (and if quotations would normally be given by leading banks in the London interbank market on more than one day, the Quotation Day will be the last of those days).

Receiver means a receiver or receiver and manager or administrative receiver of the whole or any part of the Charged Property.

Reference Banks means National Australia Bank Limited and such other banks as may be appointed by the Agent in consultation with the Borrower.

Related Fund in relation to a fund (**first fund**), means a fund which is managed or advised by the same investment manager or adviser as the first fund or, if it is managed by a different investment manager or adviser, a fund whose investment manager or adviser is an Affiliate of the investment manager or adviser of the first fund.

Relevant Jurisdiction means, in relation to an Obligor:

(a) its jurisdiction of incorporation;

(b) any jurisdiction where any asset subject to or intended to be subject to the Transaction Security to be created by it is situated;

(c) any jurisdiction where it conducts its business; and

(d) the jurisdiction whose laws govern the perfection of any of the Transaction Security Documents entered into by it.

Regulatory Cover has the meaning given to it in Clause 21.1 (*Financial definitions*).

Relevant Period has the meaning given to that term in Clause 21.1 (*Financial definitions*).

Repeating Representations means each of the representations set out in Clauses 19.2 (*Status*) to Clause 19.7 (*Governing law and enforcement*), Clause 19.11 (*No default*), paragraph 19.12.6 of Clause 19.12 (*No misleading information*), Clause 19.13 (*Original Financial Statements*) and Clause 19.18 (*Ranking*) to Clause 19.20 (*Legal and beneficial ownership*).

Report means the InsurMath report titled “Proposed Acquisition of Unionamerica” dated 1 October 2008, and capable of being relied upon by the Arranger and the other Secured Parties.

Requisite Rating means a short term rating of A-1 or higher and/or a long term rating of A- or higher by Standard & Poor’s Rating Services, a short term rating of F-1 or higher and/or a long term rating of A- or higher by Fitch Ratings Ltd or a short term rating of P-1 or higher and/or a long term rating of A3 or higher by Moody’s Investor Services Limited or a comparable rating from an internationally recognised credit rating agency approved by the Agent.

Restricted Subsidiaries means, from the Closing Date, Unionamerica Insurance Company Limited.

Screen Rate means the British Bankers’ Association Interest Settlement Rate for US Dollars and the relevant period displayed on the appropriate page of the Telerate screen. If the agreed page is replaced or service ceases to be available, the Agent may specify another page or service displaying the appropriate rate after consultation with the Borrower and the Lenders.

Secured Parties means each Finance Party from time to time party to this Agreement, any Receiver or Delegate.

Security means a mortgage, charge, pledge, lien or other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect.

Security Agent means National Australia Bank Limited in its capacity as security agent and trustee for the other Finance Parties under this Agreement and the

Transaction Security Documents and any Additional Security Agent or Delegate appointed by it in accordance with the terms of this Agreement.

Selection Notice means a notice substantially in the form set out in Part 2 of Schedule 3 (*Requests*) given in accordance with Clause 11 (*Interest periods*).

Shareholder means Royston Holdings Limited and its, or any subsequent successors, assigns or transferees.

Shareholder's Undertaking means the Shareholder's undertaking dated the same date as this Agreement from the Shareholder and the Borrower to the Finance Parties.

Specified Time means a time determined in accordance with Schedule 10 (*Timetables*).

Sterling and **£** means the lawful currency of the UK.

Subsidiary means an entity of which a person:

(a) has direct or indirect Control; or

(b) owns directly or indirectly more than fifty per cent. (50%) of the share capital or similar right of ownership; or

(c) is entitled to receive more than fifty per cent. (50%) of the dividends or distributions,

and any entity (whether or not so controlled) treated as a subsidiary in the latest financial statements of that person from time to time.

Syndication Date means any day on which the Arranger confirms that the primary syndication of the Facilities has been completed.

Target mean Unionamerica Holdings Limited, a company incorporated under the laws of England and Wales with registered number 02822469 and having its registered address at 60 Gracechurch Street, London EC3V 0HR.

Target Distribution means:

(a) the payment of a dividend, the making of a loan or the movement of cash by way of a share buyback by a member of the Target Group to the Target; and/or

(b) the payment (or subsequent payment) of a dividend, the making of a loan or the movement of cash by way of a share buyback by the Target to the Borrower,

where, in each case it is deposited in the Holding Account and the amount has been notified to the Agent in advance.

Target Group means the Target and its Subsidiaries.

Target Shares means all of the issued shares of the Target.

Tax means any tax, levy, impost, duty or other charge or withholding of a similar nature (including any penalty or interest payable in connection with any failure to pay or any delay in paying any of the same).

Taxes Act means the Income and Corporation Taxes Act 1988.

Termination Date means in relation to:

(a) Facility A, the date falling three years from the date of this Agreement; and

(b) Facility B, the date falling four years from the date of this Agreement.

Total Commitments means the aggregate of the Total Facility A Commitments and the Total Facility B Commitments, being US$184,616,000 at the date of this Agreement, subject to Clause 2.2 (*Facilities Adjustment*).

Total Facility A Commitments means the aggregate of the Facility A Commitments, being US$152,616,000 at the date of this Agreement, subject to Clause 2.2 (*Facilities Adjustment*).

Total Facility B Commitments means the aggregate of the Facility B Commitments, being US$32,000,000 at the date of this Agreement, subject to Clause 2.2 (*Facilities Adjustment*).

Transaction Documents means the Finance Documents, the Acquisition Documents and the Constitutional Documents of the Borrower.

Transaction Security means the Security created or expressed to be created in favour of the Security Agent pursuant to the Transaction Security Documents.

Transaction Security Documents means the Debentures and any originals of all share certificates and stock transfer forms (all stock transfer forms to be executed by two directors or a director and the secretary of the company that owns the relevant shares but with the sections relating to the consideration and the transferee left blank) or equivalent, duly executed by the relevant Obligor in relation to the assets subject to or expressed to be subject to the Transaction Security and other documents of title to be provided under the Transaction Security Documents and required to be delivered to the Agent under Schedule 2 (*Conditions Precedent*) together with any other document entered into by any Obligor creating or expressed to create any Security over all or any part of its assets in respect of the obligations of any of the Obligors under any of the Finance Documents including, but not limited to, each document listed in Schedule 2 Part 1C (*Conditions subsequent*).

Transfer Certificate means a certificate substantially in the form set out in Schedule 5 (*Form of Transfer Certificate*) or any other form agreed between the Agent and the Borrower.

Transfer Date means, in relation to an assignment or transfer, the later of:

(a) the proposed Transfer Date specified in the relevant Assignment Agreement or Transfer Certificate; and

(b) the date on which the Agent executes the relevant Assignment Agreement or Transfer Certificate.

Treasury Transactions means any derivative transaction entered into in connection with protection against or benefit from fluctuation in any rate or price.

UK means the United Kingdom of Great Britain and Northern Ireland.

Unpaid Sum means any sum due and payable but unpaid by an Obligor under the Finance Documents.

US Dollars or **USD** or **US$** means the lawful currency of the United States of America.

Utilisation Date means the date on which a Loan is made.

Utilisation Request means a notice substantially in the relevant form set out in Schedule 3 (*Requests*).

VAT means value added tax as provided for in the Value Added Tax Act 1994 and any other tax of a similar nature.

Vendor means the seller under the Acquisition Agreement.

1.2 **Construction**

1.2.1 Unless a contrary indication appears, a reference in this Agreement to:

(a) the **Agent** , the **Arranger** , any **Finance Party** , any **Lender** , any **Obligor** , any **Party** , any **Secured Party** , the **Security Agent** or any other person shall be construed so as to include its successors in title, permitted assigns and permitted transferees and, in the case of the Security Agent, any person for the time being appointed as Security Agent or Security Agents in accordance with this Agreement;

(b) a document in **agreed form** is a document which is previously agreed in writing by or on behalf of the Borrower and the Agent or, if not so agreed, is in the form specified by the Agent;

(c) **assets** includes present and future properties, revenues and rights of every description;

(d) a **Finance Document** or a **Transaction Document** or any other agreement or instrument is a reference to that Finance Document or Transaction Document or other agreement or instrument as amended, novated, supplemented, extended or restated (in any case, however fundamentally);

(e) **guarantee** means any guarantee, letter of credit, bond, indemnity or similar assurance against loss, or any obligation, direct or indirect, actual or contingent, to purchase or assume any indebtedness of any person or to make an investment in or loan to any person or to purchase assets of any person where, in each case, such obligation is assumed in order to maintain or assist the ability of such person to meet its indebtedness;

(f) **wholly owned subsidiary** means a company or corporation that has no members except for:

(i) another company or corporation and that other company's or corporation's wholly-owned subsidiaries; or

(ii) persons acting on behalf of that other company or corporation and that other company's or corporation's wholly-owned subsidiaries.

(g) **including** and **in particular** shall not be construed restrictively but shall mean **including without prejudice to the generality of the foregoing** and **in particular, but without limitation** ;

(h) **indebtedness** includes any obligation (whether incurred as principal or as surety) for the payment or repayment of money, whether present or future, actual or contingent;

(i) a **person** includes any individual, firm, company, corporation, government, state or agency of a state or any association, joint venture, trust or partnership (whether or not having separate legal personality) of two or more of the foregoing;

(j) a **regulation** includes any regulation, rule, official directive, request, or guideline (whether or not having the force of law) of any governmental, intergovernmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation;

(k) a provision of law is a reference to that provision as amended or re-enacted and any subordinate legislation made under it; and

(l) a time of day is a reference to London time.

1.3 Section, Clause and Schedule headings are for ease of reference only.

1.4 Unless a contrary indication appears, a term used in any other Finance Document or in any notice given under or in connection with any Finance Document has the same meaning in that Finance Document or notice as in this Agreement.

1.5 A Default (other than an Event of Default) is **continuing** if it has not been remedied or waived and an Event of Default is **continuing** if it has not been waived.

1.6 Any consent, waiver or approval required from a Finance Party under a Finance Document must be in writing and will be of no effect if not in writing.

1.7 Reference to a monetary sum specified in Sterling in Clause 19 (*Representations*), Clause 20 (*Information Undertakings*), Clause 21 (*Financial Covenants*), Clause 22 (*General Undertakings*) and/or Clause 23 (*Events of Default*) shall be deemed to include reference to the Base Currency Equivalent of such sum.

1.8 **Third Party Rights**

1.8.1 Unless expressly provided to the contrary in a Finance Document a person who is not a Party has no right under the Contracts (Rights of Third Parties) Act 1999 (**Third Parties Act**) to enforce or enjoy the benefit of any term of this Agreement.

1.8.2 Notwithstanding any term of any Finance Document, the consent of any person who is not a Party is not required to rescind or vary this Agreement at any time.

2 The Facilities

2.1 The Facilities

Subject to the terms of this Agreement and to Clause 2.2 (*Facilities Adjustment*), the Lenders make available to the Borrower:

(a) a term loan facility in an aggregate amount equal to the Total Facility A Commitments; and

(b) a term loan facility in an aggregate amount equal to the Total Facility B Commitments.

2.2 Facilities Adjustment

Where 60% of the Base Currency Equivalent of the purchase price of the Target Shares (excluding fees and other expenses but including interest accruing thereon in accordance with the Acquisition Agreement) is less than US$184,616,000, the Total Commitments shall be reduced to such amount. Any such reduction shall be

applied to the Total Facility A Commitments and the Total Facility B Commitments *pro rata* .

2.3 **Finance Parties' rights and obligations**

2.3.1 The obligations of each Finance Party under the Finance Documents are several. Failure by a Finance Party to perform its obligations under the Finance Documents does not affect the obligations of any other Party under the Finance Documents. No Finance Party is responsible for the obligations of any other Finance Party under the Finance Documents.

2.3.2 The rights of each Finance Party under or in connection with the Finance Documents are separate and independent rights and any debt arising under the Finance Documents to a Finance Party from an Obligor shall be a separate and independent debt.

2.3.3 A Finance Party may, except as otherwise stated in the Finance Documents, separately enforce its rights under the Finance Documents.

2.4 **Obligors' Agent**

2.4.1 Each Obligor (other than the Borrower) by its execution of this Agreement or an Accession Letter irrevocably appoints the Borrower to act on its behalf as its agent in relation to the Finance Documents and irrevocably authorises:

(a) the Borrower on its behalf to supply all information concerning itself contemplated by the Finance Documents to the Finance Parties and to give all notices and instructions, to execute on its behalf any Accession Letter, to make such agreements and to effect the relevant amendments, supplements and variations capable of being given, made or effected by any Obligor notwithstanding that they may affect the Obligor, without further reference to or the consent of that Obligor; and

(b) each Finance Party to give any notice, demand or other communication to that Obligor pursuant to the Finance Documents to the Borrower,

and in each case the Obligor shall be bound as though the Obligor itself had given the notices and instructions or executed or made the agreements or effected the amendments, supplements or variations, or received the relevant notice, demand or other communication.

2.4.2 Every act, omission, agreement, undertaking, settlement, waiver, amendment, supplement, variation, notice or other communication given or made by the Obligors' Agent or given to the Obligors' Agent under any Finance Document on behalf of another Obligor or in connection with any Finance Document (whether or not known to any other Obligor and whether occurring before or after such other Obligor became an Obligor under any Finance Document) shall be binding for all purposes on that Obligor as if that Obligor had expressly made, given or concurred with it. In the event of any conflict between any notices or other communications of the Obligors' Agent and any other Obligor, those of the Obligors' Agent shall prevail.

3 **Purpose**

3.1 **Purpose**

The Borrower shall apply all amounts borrowed by it under the Facilities towards:

3.1.1 paying to the Vendor an amount from the Facilities not exceeding US$184,616,000 to purchase the Target Shares under the Acquisition Agreement providing that such amount equates to no more than 60% of the purchase price of the Target Shares (excluding fees and other expenses); and

3.1.2 paying the following fees connected with this Agreement:

(a) the arrangement and participation fee payable to the Arranger pursuant to Clause 13.2 (*Arrangement fee*);

(b) the commitment fee payable to the Agent for the account of the Lenders pursuant to Clauses 13.1 (*Commitment fee*);

(c) the agency fee payable to the Agent pursuant to Clause 13.3 (*Agency fee*); and

(d) the legal fees of Clyde & Co LLP incurred in the drafting and negotiation of the Finance Documents amounting to no more than £60,000 plus VAT and disbursements.

3.2 **Monitoring**

No Finance Party is bound to monitor or verify the application of any amount borrowed pursuant to this Agreement.

4 **Conditions of Loans**

4.1 **Initial conditions precedent**

The Lenders will only be obliged to comply with Clause 5.4 (*Lenders' participation*) in relation to any Loan if:on or before the Utilisation Date for that Loan, the Agent has received all of the documents and other evidence listed in Part 1A and Part 1B of Schedule 2 (*Conditions Precedent*) in form and substance satisfactory to the Agent. The Agent shall notify the Obligors' Agent and the Lenders in writing promptly upon being so satisfied.

4.2 **Further conditions precedent**

Subject to Clause 4.1 (*Initial conditions precedent*), the Lenders will only be obliged to comply with Clause 5.4 (*Lenders' participation*) (other than in respect of a Certain Funds Loan to which Clause 4.4 (*Loans during the Certain Funds Period*) apply), if on the date of the Utilisation Request and on the proposed Utilisation Date:

(a) in relation to any Loan on the First Utilisation Date, all the representations and warranties in Clause 19 (*Representations*) (other than Clause 19.12 (*No misleading information*) which are made on the date of this Agreement only) and in the Enstar Guarantee and the Shareholder's Undertaking or, in relation to any other Loan, the Repeating Representations and the representations and warranties that are deemed to be repeated under clause 6.15 of the Enstar Guarantee, to be made by each Obligor or Enstar, as the case may be, are true; and

(b) none of the events described in Clause 12.2 (*Market disruption*) has occurred which has resulted in any Lender being unable to fund its participation in the proposed Loan.

4.3 **Maximum number of Loans**

4.3.1 The Borrower may not deliver a Utilisation Request if as a result of the proposed Loan more than two Loans would be outstanding.

4.3.2 The Borrower may not request that a Loan be divided.

4.4 **Loans during the Certain Funds Period**

4.4.1 Subject to Clause 4.1 (*Initial conditions precedent*), during the Certain Funds Period, the Lenders will only be obliged to comply with Clause 5.4 (*Lenders' Participation*) in relation to a Certain Funds Loan, if on the date of the Utilisation Request and on the proposed Utilisation Date:

(a) no Major Event of Default is continuing or would result from the proposed Loan; and

(b) all the Major Representations are true in all material respects.

4.4.2 During the Certain Funds Period (save in circumstances where, pursuant to Clause 4.4.1 above, a Lender is not obliged to comply with Clause 5.4 (*Lenders' Participation*) and subject as provided in Clause 7.1 (Illegality)), none of the Finance Parties shall be entitled to:

(a) cancel any of its Commitments;

(b) rescind, terminate or cancel this Agreement or any of the Facilities or exercise any similar right or remedy or make or enforce any claim under the Finance Documents it may have;

(c) refuse to participate in the making of a Certain Funds Loan;

(d) exercise any right of set-off or counterclaim in respect of a Certain Funds Loan to the extent to do so would prevent or limit the making of a Certain Funds Loan;

(e) cancel, accelerate or cause repayment or prepayment of any amounts owing under this Agreement or under any other Finance Document to the extent to do so would prevent or limit the making of a Certain Funds Loan; or

(f) enforce any Security under the Transaction Security Documents or take any proceeding which would constitute an Event of Default under Clause 23.7 (*Insolvency proceedings*) or Clause 23.8 (*Creditors' process*),

provided that immediately upon the expiry of the Certain Funds Period all such rights, remedies and entitlements shall be available to the Finance Parties notwithstanding that they may not have been used or been available for use during the Certain Funds Period.

4.5 **Enstar Guarantee**

The Finance Parties agree that if the Original Lender reduces its participation in the Facilities to or below 50% of the Total Commitments then the Enstar Guarantee shall immediately be released and all references to the Enstar Guarantee in this Agreement shall have no application.

5 Loans

5.1 Delivery of a Utilisation Request

The Borrower may utilise the Facilities by delivery to the Agent of a duly completed Utilisation Request not later than the Specified Time.

5.2 Completion of a Utilisation Request for Loans

5.2.1 Each Utilisation Request for a Loan is irrevocable and will not be regarded as having been duly completed unless:

(a) the proposed Utilisation Date is a Business Day within the Availability Period;

(b) the currency and amount of the Loan comply with Clause 5.3 (*Currency*); and

(c) the proposed Interest Period complies with Clause 11 (*Interest Periods*).

5.2.2 Only one Loan may be requested in each Utilisation Request.

5.3 **Currency** The currency specified in a Utilisation Request must be US Dollars.

5.4 Lenders' participation

5.4.1 If the conditions set out in this Agreement have been met, each Lender shall make its participation in each Loan available by the Utilisation Date through its Facility Office.

5.4.2 The amount of each Lender's participation in each Loan will be equal to the proportion borne by its Available Commitment to the Available Facility immediately prior to making the Loan.

5.5 Cancellation of Commitment

5.5.1 The Total Facility A Commitments which, at that time, are unutilised shall be immediately cancelled at the end of the Availability Period for Facility A.

5.5.2 The Total Facility B Commitments which, at that time, are unutilised shall be immediately cancelled at the end of the Availability Period for Facility B.

6 Repayment

6.1.1 The Borrower shall repay the Facility A Loan in full on the Termination Date for Facility A.

6.1.2 The Borrower shall repay the Facility B Loan in full on the Termination Date for Facility B.

6.1.3 The Borrower may not reborrow any part of the Facilities which is repaid.

7 Illegality, Voluntary Prepayment and Cancellation

7.1 Illegality

If it becomes unlawful in any applicable jurisdiction for a Lender to perform any of its obligations as contemplated by this Agreement or to fund, issue or maintain its participation in any Loan:

(a) that Lender, shall promptly notify the Agent upon becoming aware of that event;

(b) upon the Agent notifying the Obligors' Agent, the Commitment of that Lender will be immediately cancelled; and

(c) the Borrower shall repay that Lender's participation in the Loans made to the Borrower on the last day of the Interest Period for each Loan occurring after the Agent has notified the Obligors' Agent or, if earlier, the date specified by the Lender in the notice delivered to the Agent (being no earlier than the last day of any applicable grace period permitted by law).

7.2 **Voluntary cancellation**

7.2.1 Subject to Clause 7.3 (*Voluntary prepayment of Loans*) the Borrower may, if it gives the Agent not less than 10 Business Days' (or such shorter period as the Majority Lenders may agree) prior notice, cancel the whole or any part (being a minimum amount of US$500,000) of the Available Facility. Any cancellation under this Clause 7.2 shall reduce the Commitments under the Facilities pro rata.

7.2.2 The Borrower shall not cancel any part of the Available Commitment unless at the same time it cancels a pro rata amount of the Available Commitments for Facility A and Facility B.

7.3 **Voluntary prepayment of Loans**

7.3.1 The Borrower may, if it gives the Agent not less than 10 Business Days' (or such shorter period as the Majority Lenders may agree) prior notice, prepay the whole or any part of a Facility A Loan or Facility B Loan as specified in the relevant notice (but, if in part, being an amount that reduces the amount of the Loan by a minimum amount of US$500,000 or its equivalent).

7.3.2 A Loan may only be prepaid after the last day of the Availability Period (or, if earlier, the day on which the applicable Available Facility is zero).

7.4 **Right of cancellation and repayment in relation to a single Lender**

7.4.1 If:

(a) any sum payable to any Lender by an Obligor is required to be increased under Clause 14.2 (*Tax gross-up*); or

(b) any Lender claims indemnification from the Obligors' Agent or an Obligor under Clause 14.3 (*Tax indemnity*) or Clause 15.1 (*Increased costs*),

the Obligors' Agent may, whilst the circumstance giving rise to the requirement or indemnification continues, give the Agent notice of cancellation of the Commitment of that Lender and its intention to procure the repayment of that Lender's participation in the Loans.

7.4.2 On receipt of a notice referred to in Clause 7.4.1 above in relation to a Lender, the Commitment of that Lender shall immediately be reduced to zero.

7.4.3 On the last day of each Interest Period which ends after the Obligors' Agent has given notice under Clause 7.4.1 above in relation to a Lender (or, if earlier, the date specified by the Obligors' Agent in that notice), the Borrower shall repay that Lender's participation in that Loan together with all interest and other amounts accrued under the Finance Documents.

8 Mandatory Prepayment

8.1 Exit

8.1.1 For the purpose of this Clause 8.1:

Flotation : means

(a) a successful application being made for the admission of any part of the share capital of any member of the Group (or Holding Company of any member of the Group other than Enstar) to the Official List of the UK Listing Authority or any equivalent in another country and the admission of any part of the share capital of any member of the Group (or Holding Company of any member of the Group other than Enstar or any of its Holding Companies) to trading on the London Stock Exchange plc or any equivalent in another country; or

(b) the grant of permission to deal in any part of the issued share capital of any member of the Group (or Holding Company of any member of the Group other than Enstar or any of its Holding Companies) on the Alternative Investment Market or the European Acquisition of Securities Dealers Automated Quotation System or on any recognised investment exchange (as that term is used in the Financial Services and Markets Act 2000) or in or on any exchange or market replacing the same or any other exchange or market in any country.

8.1.2 Upon the occurrence of:

(a) any Flotation;

(b) a Change of Control; or

(c) the total of all outstanding Loans falling below US$10,000,000 or its equivalent after the First Utilisation Date,

the Facilities will be cancelled and all outstanding Loans, together with accrued interest, and all other amounts accrued under the Finance Documents, shall become immediately due and payable.

8.2 Disposal, Insurance, Acquisition Proceeds and Target Distributions

8.2.1 For the purposes of Clauses 8.3 (*Application of mandatory prepayments*) and Clause 8.4 (*Mandatory Prepayment Accounts and Holding Accounts*):

Acquisition Proceeds : means the proceeds of a claim against, or recovery or refund from (**Recovery Claim**) the Vendor or any of its Affiliates (or any employee, officer or adviser) in relation to the Acquisition Documents or against the provider of any Report (in its capacity as a provider of that Report) except for Excluded Acquisition Proceeds, and after deducting:

(a) any reasonable expenses which are incurred by any member of the Group to persons who are not members of the Group; and

(b) any Tax incurred and required to be paid by a member of the Group (as reasonably determined by the relevant member of the Group on the basis of existing rates and taking into account any available credit, deduction or allowance),

in each case in relation to that Recovery Claim.

Disposal : means a sale, lease, licence, transfer, loan or other disposal by a person of any asset, undertaking or business (whether by a voluntary or involuntary single transaction or series of transactions).

Disposal Proceeds : means the consideration receivable by any member of the Group (including any amount receivable in repayment of intercompany debt) for any Disposal made by any member of the Group except for Excluded Disposal Proceeds and after deducting:

(a) any reasonable expenses which are incurred by any member of the Group with respect to that Disposal to persons who are not members of the Group; and

(b) any Tax incurred and required to be paid by the seller in connection with that Disposal (as reasonably determined by the seller, on the basis of existing rates and taking account of any available credit, deduction or allowance).

Excluded Acquisition Proceeds : means any proceeds of a Recovery Claim which the Borrower notifies the Agent are, or are to be, applied:

(a) in payment of amounts payable to the Vendor pursuant to the Acquisition Agreement by way of adjustment to the purchase price in respect of the Acquisition (except to the extent relating to a working capital adjustment);

(b) to satisfy (or reimburse a member of the Group which has discharged) any liability, charge or claim upon a member of the Group by a person which is not a member of the Group; or

(c) in the replacement, reinstatement and/or repair of assets of members of the Group which have been lost, destroyed or damaged,

in each case as a result of the events or circumstances giving rise to that Recovery Claim, if those proceeds are so applied as soon as possible (but in any event within 180 days, or such longer period as the Majority Lenders may agree) after receipt.

Excluded Disposal Proceeds : means Disposal Proceeds which have been derived from a Disposal permitted by Clause 22.28 (*Intra-Group transactions*) or of a type described in paragraphs (a) or (b) or (c) (but only if and to the extent that such Disposal is in exchange for other Cash Equivalent Investments) of the definition of **Permitted Disposal** .

Excluded Insurance Proceeds : means any proceeds of an insurance claim which the Borrower notifies the Agent are, or are to be, applied:

(a) to meet a third party claim; or

(b) in amelioration of the loss in respect of which the relevant insurance claim was made,

in each case as soon as possible (but in any event within 180 days, or such longer period as the Majority Lenders may agree) after receipt.

Insurance Proceeds : means the proceeds of any insurance claim received by any member of the Group except for Excluded Insurance Proceeds and after deducting any reasonable expenses in relation to that claim which are incurred by any member of the Group to persons who are not members of the Group.

8.2.2 The Borrower shall prepay Loans in the following amounts at the times and in the order of application contemplated by Clause 8.3 (*Application of mandatory prepayments*):

(a) the amount of Acquisition Proceeds;

(b) the amount of Disposal Proceeds;

(c) the amount of Insurance Proceeds; and

(d) the amount equal to the percentage of Target Distribution as set out in the second column below when the Net Worth Cover ratio in Clause 21.2 (*Financial Condition*) is as specified in the first column below (as demonstrated in writing by the Borrower to the satisfaction of the Agent):

Net Worth Cover ratio	**Percentage of Target Distribution Proceeds to be applied in prepayment of the Facilities**
Less than or equal to 2.50:1	100%
Greater than 2.50:1 but less than or equal to 3.00:1	75%
Greater than 3.00:1	50%

8.3 **Application of mandatory prepayments**

8.3.1 A prepayment made under Clause 8.2 (*Disposal, Insurance, Acquisition Proceeds and Target Distributions*) shall:

(a) be applied in prepayment of Loans as contemplated in Clauses 8.3.1(b) to 8.3.3 inclusive below;

(b) unless the Obligors' Agent makes an election under Clause 8.3.2 below, be applied in prepayment of the Loans within 5 Business Days of receipt of such proceeds or Target Distribution; and

(c) be applied in prepayment of the Facility A Loans and, when all the Facility A Loans have been prepaid in full, prepayment of the Facility B Loans.

8.3.2 Subject to Clause 8.3.3 below, the Obligors' Agent may elect that any prepayment under Clause 8.2 (*Disposal, Insurance, Acquisition Proceeds and Target Distributions*) be applied in prepayment of a Loan on the last day of the Interest Period relating to that Loan. If the Obligors' Agent makes that election then a proportion of the Loan equal to the amount of the relevant prepayment will be due and payable on the last day of its Interest Period.

8.3.3 If the Obligors' Agent has made an election under Clause 8.3.2 above but a Default has occurred and is continuing, that election shall no longer apply and a proportion of the Loan in respect of which the election was made equal to the amount of the relevant prepayment shall be immediately due and payable (unless the Majority Lenders otherwise agree in writing).

8.4 **Mandatory Prepayment Accounts and Holding Accounts**

8.4.1 The Obligors' Agent shall ensure that:

(a) Disposal Proceeds, Insurance Proceeds, Acquisition Proceeds and any Target Distribution in respect of which the Obligors' Agent has made an election under Clause 8.3 (*Application of mandatory prepayments*) are paid into a Mandatory Prepayment Account as soon as reasonably practicable after receipt by a member of the Group; and

(b) Excluded Disposal Proceeds to be applied in replacement of assets, Excluded Insurance Proceeds and Excluded Acquisition Proceeds are paid into a Holding Account as soon as reasonably practicable after receipt by a member of the Group.

8.4.2 The Borrower irrevocably authorises the Agent to apply:

(a) amounts credited to the Mandatory Prepayment Account; and

(b) amounts credited to the Holding Account which have not been duly applied as contemplated within 180 days of receipt of the relevant proceeds (or such longer time period as the Majority Lenders may agree),

to pay amounts due and payable under Clause 8.3 (*Application of mandatory prepayments*) and otherwise under the Finance Documents. The Borrower further irrevocably authorises the Agent to so apply amounts credited to the Holding Account in respect of Excluded Disposal Proceeds to be applied in replacement of assets, Excluded Insurance Proceeds and Excluded Acquisition Proceeds whether or not 180 days have elapsed since receipt of those proceeds if a Default has occurred and is continuing. The Borrower also irrevocably authorises the Agent to transfer any amounts credited to the Holding Account referred to in this Clause 8.4.2 to the Mandatory Prepayment Account pending payment of amounts due and payable under the Finance Documents (but if all such amounts have been paid any such amounts remaining credited to the Mandatory Prepayment Account may (unless a Default has occurred) be transferred back to the Holding Account).

8.4.3 A Lender, Security Agent or Agent with which a Mandatory Prepayment Account or Holding Account is held acknowledges and agrees that (1) interest shall accrue at normal commercial rates offered by such Lender, Security Agent or Agent in Europe on amounts credited to those accounts and that the account holder shall be entitled to receive such interest (which shall be paid in accordance with the mandate relating to such account) unless a Default is continuing, and (2) each such account is subject to the Transaction Security.

8.5 Excluded proceeds

Where Excluded Acquisition Proceeds, Excluded Disposal Proceeds and Excluded Insurance Proceeds include amounts which are intended to be used for a specific purpose within a specified period (as set out in the relevant definition of Excluded Acquisition Proceeds, Excluded Disposal Proceeds or Excluded Insurance Proceeds), the Obligors' Agent shall ensure that those amounts are used for that purpose and shall promptly deliver a certificate to the Agent at the time of such application and at the end of such period confirming the amount (if any) which has been so applied within the requisite time periods provided for in the relevant definition.

9 Restrictions

9.1 Notices of Cancellation or Prepayment

Any notice of cancellation, prepayment, authorisation or other election given by any Party under Clause 7 (*Illegality, Voluntary Prepayment and Cancellation*), Clause

8.3 (*Application of mandatory prepayments*) or Clause 8.4 (*Mandatory Prepayment Accounts and Holding Accounts*) (subject to the terms of those Clauses) shall be irrevocable and, unless a contrary indication appears in this Agreement, any such notice shall specify the date or dates upon which the relevant cancellation or prepayment is to be made and the amount of that cancellation or prepayment.

9.2 **Interest and other amounts**

Any prepayment under this Agreement shall be made together with accrued interest on the amount prepaid and, subject to any Break Costs, without premium or penalty.

9.3 **No Reborrowing of Facility**

No Borrower may reborrow any part of the Facilities which is prepaid.

9.4 **Prepayment in accordance with Agreement**

No Borrower shall repay or prepay all or any part of the Loans or cancel all or any part of the Commitments except at the times and in the manner expressly provided for in this Agreement.

9.5 **No reinstatement of Commitments**

No amount of the Total Commitments cancelled under this Agreement may be subsequently reinstated.

9.6 **Agent's receipt of Notices**

If the Agent receives a notice under Clause 7 (*Illegality, Voluntary Prepayment and Cancellation*) or an election under Clause 8.3 (*Application of mandatory prepayments*), it shall promptly forward a copy of that notice or election to either the Obligors' Agent or the affected Lender, as appropriate.

10 **Interest**

10.1 **Calculation of Interest**

The rate of interest on each Loan for each Interest Period is the percentage rate per annum which is the aggregate of the applicable:

(a) Margin;

(b) LIBOR; and

(c) Mandatory Cost, if any,

(together the **Interest**).

10.2 **Payment of Interest**

The Borrower shall pay accrued interest on each Loan on the last day of each Interest Period (and, if the Interest Period is longer than six Months, on the dates falling at six Monthly intervals after the first day of the Interest Period).

10.3 **Default interest**

10.3.1 If an Obligor fails to pay any amount payable by it under a Finance Document on its due date, interest shall accrue on the Unpaid Sum from the due date up to the date of actual payment (both before and after judgment) at a rate which, subject to

Clause 10.3.2 below, is 1 per cent higher than the rate which would have been payable if the Unpaid Sum had, during the period of non-payment, constituted a Loan in the currency of the Unpaid Sum for successive Interest Periods, each of a duration selected by the Agent (acting reasonably). Any interest accruing under this Clause 10.3 shall be immediately payable by the Obligor on demand by the Agent.

10.3.2 If any overdue amount consists of all or part of a Loan which became due on a day which was not the last day of an Interest Period relating to that Loan:

(a) the first Interest Period for that overdue amount shall have a duration equal to the unexpired portion of the current Interest Period relating to that Loan; and

(b) the rate of interest applying to the overdue amount during that first Interest Period shall be 1 per cent higher than the rate which would have applied if the overdue amount had not become due.

10.3.3 Default interest (if unpaid) arising on an overdue amount will be compounded with the overdue amount at the end of each Interest Period applicable to that overdue amount but will remain immediately due and payable.

10.4 **Notification of rates of interest**

The Agent shall promptly notify the Lenders and the Borrower of the determination of a rate of interest under this Agreement.

11 **Interest Periods**

11.1 **Selection of Interest Periods and Terms**

11.1.1 The Borrower may select an Interest Period for a Loan in the Utilisation Request for that Loan or (if the Loan has already been borrowed) in a Selection Notice.

11.1.2 Each Selection Notice for a Loan is irrevocable and must be delivered to the Agent by the Borrower not later than the Specified Time.

11.1.3 If the Borrower fails to deliver a Selection Notice to the Agent in accordance with Clause 11.1.2 above, the relevant Interest Period will be three Months.

11.1.4 Subject to this Clause 11, the Borrower may select an Interest Period of three or six Months or any other period agreed between the Borrower and the Agent (acting on the instructions of all the Lenders).

11.1.5 An Interest Period for a Loan shall not extend beyond the Termination Date.

11.1.6 Each Interest Period for a Loan shall start on the Utilisation Date or (if already made) on the last day of its preceding Interest Period.

11.1.7 Prior to the Syndication Date, Interest Periods shall be one month or such other period as the Agent and the Borrower may agree and any Interest Period which would otherwise end during the month preceding or extend beyond the Syndication Date shall end on the Syndication Date.

11.2 **Non-Business Days**

If an Interest Period would otherwise end on a day which is not a Business Day, that Interest Period will instead end on the next Business Day in that calendar month (if there is one) or the preceding Business Day (if there is not).

12 Changes To The Calculation Of Interest

12.1 Absence of quotations

Subject to Clause 12.2 (*Market disruption*), if LIBOR is to be determined by reference to the Reference Banks but a Reference Bank does not supply a quotation by the Specified Time on the Quotation Day, the applicable LIBOR shall be determined on the basis of the quotations of the remaining Reference Banks.

12.2 Market disruption

12.2.1 If a Market Disruption Event occurs in relation to a Loan for any Interest Period, then the rate of interest on each Lender's share of that Loan for the Interest Period shall be the percentage rate per annum which is the sum of:

(a) the applicable Margin;

(b) the rate notified to the Agent by that Lender as soon as practicable and in any event before interest is due to be paid in respect of that Interest Period, to be that which expresses as a percentage rate per annum the cost to that Lender of funding its participation in that Loan from whatever source it may reasonably select; and

(c) the Mandatory Cost, if any, applicable to that Lender's participation in the Loan.

12.2.2 In this Agreement **Market Disruption Event** means:

(a) at or about noon on the Quotation Day for the relevant Interest Period the Screen Rate is not available and none or only one of the Reference Banks supplies a rate to the Agent to determine LIBOR for the relevant currency and Interest Period; or

(b) before close of business in London on the Quotation Day for the relevant Interest Period, the Agent receives notifications from a Lender or Lenders (whose participations in a Loan exceed 30 per cent of that Loan) that the cost to it of obtaining matching deposits in the London Interbank market would be in excess of LIBOR.

12.3 Alternative basis of interest or funding

12.3.1 If a Market Disruption Event occurs and the Agent or the Borrower so requires, the Agent and the Obligors' Agent shall enter into negotiations (for a period of not more than 30 days) with a view to agreeing a substitute basis for determining the rate of interest.

12.3.2 Any alternative basis agreed pursuant to Clause 12.3.1 above shall, with the prior consent of all the Lenders and the Obligors' Agent, be binding on all Parties.

12.4 Break Costs

12.4.1 The Borrower shall, within three Business Days of demand by a Finance Party, pay to that Finance Party its Break Costs attributable to all or any part of a Loan or Unpaid Sum being paid by the Borrower on a day other than the last day of an Interest Period for that Loan or Unpaid Sum.

12.4.2 Each Lender shall, as soon as reasonably practicable after a demand by the Agent, provide a certificate confirming the amount of its Break Costs for any Interest Period in which they accrue.

13 Fees

13.1 Commitment fee

13.1.1 The Borrower shall pay to the Agent (for the account of each Lender) a fee in the Base Currency computed at the rate of:

(a) one per cent. (1%) per annum on the daily undrawn and uncancelled amount of Facility A; and

(b) one per cent. (1%) per annum on the daily undrawn and uncancelled amount of Facility B.

13.1.2 The accrued commitment fee is payable on the last day of each successive period of three Months which ends during the relevant Availability Period, on the last day of the relevant Availability Period and on the cancelled amount of the relevant Lender's Commitment at the time the cancellation is effective.

13.2 Arrangement fee

The Borrower shall pay to the Arranger an arrangement fee and a participation fee in the amount, manner and at the times agreed in a Fee Letter.

13.3 Agency fee

The Borrower shall pay to the Agent (for its own account) an agency fee in the amount, manner and at the times agreed in a Fee Letter.

14 Tax Gross Up And Indemnities

14.1 Definitions

14.1.1 In this Agreement:

(a) **Protected Party** : means a Finance Party which is or will be subject to any liability or required to make any payment for or on account of Tax in relation to a sum received or receivable (or any sum deemed for the purposes of Tax to be received or receivable) under a Finance Document.

(b) **Qualifying Lender** : means

a Lender (other than a Lender within sub-paragraph (ii) below) which is beneficially entitled to interest payable to that Lender in respect of an advance under a Finance Document and is:

(A) a Lender:

(1) which is a bank (as defined for the purpose of section 879 of the Income Tax Act 2007 (**ITA 2007**)) making an advance under a Finance Document; or

(2) in respect of an advance made under a Finance Document by a person that was a bank (as defined for the purpose of section 879 of ITA 2007) at the time that that advance was made,

and which is within the charge to United Kingdom corporation tax as respects any payments of interest made in respect of that advance;

(B) a Lender which is:

(1) a company resident in the United Kingdom for United Kingdom tax purposes;

(2) a partnership each member of which is:

(a) a company so resident in the United Kingdom; or

(b) a company not so resident in the United Kingdom which carries on a trade in the United Kingdom through a permanent establishment and which is required to bring into account in computing its chargeable profits (within the meaning of section 11(2) of the Taxes Act) the whole of any share of interest payable in respect of that advance that falls to it by reason of sections 114 and 115 of the Taxes Act;

(3) a company not so resident in the United Kingdom which carries on a trade in the United Kingdom through a permanent establishment and which brings into account that interest payable in respect of that advance in computing the chargeable profits (for the purposes of section 11(2) of the Taxes Act) of that company; or

(4) a Treaty Lender; or

(5) a building society (as defined for the purposes of section 880 of ITA 2007).

(c) **Tax Confirmation** : means a confirmation by a Lender that the person beneficially entitled to interest payable to that Lender in respect of an advance under a Finance Document is either:

(i) a company resident in the United Kingdom for United Kingdom tax purposes;

(ii) a partnership each member of which is:

(A) a company so resident in the United Kingdom; or

(B) a company not so resident in the United Kingdom which carries on a trade in the United Kingdom through a permanent establishment and which brings into account in computing its chargeable profits (for the purposes of section 11(2) of the Taxes Act) the whole of any share of interest payable in respect of that advance that falls to it by reason of sections 114 and 115 of the Taxes Act; or

(iii) a company not so resident in the United Kingdom which carries on a trade in the United Kingdom through a permanent establishment and which brings into account interest payable in respect of that advance in computing the chargeable profits (within the meaning of section 11(2) of the Taxes Act) of that company.

(d) **Tax Credit** : means a credit against, relief or remission for, or repayment of, any Tax.

(e) **Tax Deduction** : means a deduction or withholding for or on account of Tax from a payment under a Finance Document.

(f) **Tax Payment** : means either the increase in a payment made by an Obligor to a Finance Party under Clause 14.2 (*Tax gross-up*) or a payment under Clause 14.3 (*Tax indemnity*).

(g) **Treaty Lender** : means a Lender which:

(i) is treated as a resident of a Treaty State for the purposes of the Treaty; and

(ii) does not carry on a business in the United Kingdom through a permanent establishment with which that Lender's participation in the Loan is effectively connected.

(h) **Treaty State** : means a jurisdiction having a double taxation agreement (**Treaty**) with the United Kingdom which makes provision for full exemption from tax imposed by the United Kingdom on interest; and

(i) **UK Non-Bank Lender** means

(i) where a Lender becomes a Party on the day on which this Agreement is entered into, a Lender listed in Part 3 of Schedule 1 (*The Original Parties*); and

(ii) where a Lender becomes a Party after the day on which this Agreement is entered into, a Lender which gives a Tax Confirmation in the Assignment Agreement or Transfer Certificate which it executes on becoming a Party.

14.1.2 Unless a contrary indication appears, in this Clause 14 a reference to **determines** or **determined** means a determination made in the absolute discretion of the person making the determination.

14.2 **Tax gross-up**

14.2.1 Each Obligor shall make all payments to be made by it under the Finance Documents without any Tax Deduction, unless a Tax Deduction is required by law.

14.2.2 The Borrower shall promptly upon becoming aware that an Obligor must make a Tax Deduction (or that there is any change in the rate or the basis of a Tax Deduction that is must make) notify the Agent accordingly. Similarly, a Lender shall notify the Agent on becoming so aware in respect of a payment payable to that Lender. If the Agent receives such notification from a Lender it shall notify the Borrower and that Obligor.

14.2.3 If a Tax Deduction is required by law to be made by an Obligor from any payment due from it under the Finance Documents, the amount of the payment due from that Obligor shall be increased to an amount which (after making any Tax Deduction) leaves an amount equal to the payment which would have been due if no Tax Deduction had been required.

14.2.4 An Obligor is not required to make an increased payment to a Lender under Clause 14.2.3 above for a Tax Deduction in respect of tax imposed by the jurisdiction in which that Obligor is incorporated from a payment of interest on a Loan, if on the date on which the payment falls due:

(a) the payment could have been made to the relevant Lender without a Tax Deduction if it was a Qualifying Lender, but on that date that Lender is not or has ceased to be a Qualifying Lender other than as a result of any change after the date it became a Lender under this Agreement in (or in the interpretation, administration or application of) any law or Treaty, or any published practice or concession of any relevant taxing authority; or

(b)

(i) the relevant Lender is a Qualifying Lender solely under paragraph (B) of the definition of Qualifying Lender;

(ii) the Board of the Commissioners for Her Majesty's Revenue and Customs has given (and not revoked) a direction (**Direction**) under section 931 of ITA 2007 (previously section 349C of the Taxes Act) (as that provision has effect on the date on which the relevant Lender became a Party) which relates to that payment and that Lender has received from that Obligor or the Borrower a certified copy of that Direction; and

(iii) the payment could have been made to the Lender without any Tax Deduction in the absence of that Direction; or

(c) the relevant Lender is a Qualifying Lender solely under paragraph (B) (1), (2) or (3) of the definition of Qualifying Lender and it has not, other than by reason of any change after the date of this Agreement in (or in the interpretation, administration or application of) any law, or any published practice or concession of any relevant taxing authority, given a Tax Confirmation to the Borrower; or

(d) the relevant Lender is a Treaty Lender and the Obligor making the payment is able to demonstrate that the payment could have been made to the Lender without the Tax Deduction had that Lender complied with its obligations under Clause 14.2.7 below.

14.2.5 If an Obligor is required to make a Tax Deduction, that Obligor shall make that Tax Deduction and any payment required in connection with that Tax Deduction within the time allowed and in the minimum amount required by law.

14.2.6 Within 30 days of making either a Tax Deduction or any payment required in connection with that Tax Deduction, the Obligor making that Tax Deduction shall deliver to the Agent for the Finance Party entitled to the payment evidence reasonably satisfactory to that Finance Party that the Tax Deduction has been made or (as applicable) any appropriate payment paid to the relevant taxing authority.

14.2.7 A Treaty Lender and each Obligor which makes a payment to which that Treaty Lender is entitled shall co-operate in completing any procedural formalities necessary for that Obligor to obtain authorisation to make that payment without a Tax Deduction.

14.2.8 A UK Non-Bank Lender which becomes a Party on the day on which this Agreement is entered into gives a Tax Confirmation to the Borrower by entering into this Agreement.

14.2.9 A UK Non-Bank Lender shall promptly notify the Borrower and the Agent if there is any change in the position from that set out in the Tax Confirmation.

14.3 **Tax indemnity**

14.3.1 The Borrower shall (within three Business Days of demand by the Agent) pay to a Protected Party an amount equal to the loss, liability or cost which that Protected Party determines will be or has been (directly or indirectly) suffered for or on account of Tax by that Protected Party in respect of a Finance Document.

14.3.2 Clause 14.3.1 above shall not apply:

(a) with respect to any Tax assessed on a Finance Party:

(i) under the law of the jurisdiction in which that Finance Party is incorporated or, if different, the jurisdiction (or jurisdictions) in which that Finance Party is treated as resident for tax purposes; or

(ii) under the law of the jurisdiction in which that Finance Party's Facility Office is located in respect of amounts received or receivable in that jurisdiction,

if that Tax is imposed on or calculated by reference to the net income received or receivable (but not any sum deemed to be received or receivable) by that Finance Party; or

(b) to the extent a loss, liability or cost:

(i) is compensated for by an increased payment under Clause 14.2 (*Tax gross-up*); or

(ii) would have been compensated for by an increased payment under Clauses 14.2 (*Tax gross-up*) but was not so compensated solely because one of the exclusions in Clause 14.2 (*Tax gross-up*) applied.

(iii) A Protected Party making, or intending to make a claim under Clause 14.3.1 above, shall promptly notify the Agent of the event which will give, or has given, rise to the claim, following which the Agent shall notify the Borrower.

(iv) A Protected Party shall, on receiving a payment from an Obligor under Clauses 14.3.1 to 14.3.2, notify the Agent.

14.4 **Tax Credit**

14.4.1 If an Obligor makes a Tax Payment and the relevant Finance Party determines that:

(a) a Tax Credit is attributable either to an increased payment of which that Tax Payment forms part or to that Tax Payment; and

(b) that Finance Party has obtained, utilised and retained that Tax Credit, the Finance Party shall pay an amount to the Obligor which that Finance Party determines will leave it (after that payment) in the same after-Tax position as it would have been in had the Tax Payment not been required to be made by the Obligor.

14.5 **Stamp taxes**

The Borrower shall pay and, within three Business Days of demand, indemnify each Secured Party and the Arranger against any cost, loss or liability such Secured Party or the Arranger incurs in relation to all stamp duty, registration and other similar Taxes payable in respect of any Finance Document.

14.6 **Value added tax**

14.6.1 All consideration expressed to be payable under a Finance Document by any Party to a Finance Party shall be deemed to be exclusive of any VAT. Subject to Clause 14.6.2 below, if VAT is chargeable on any supply made by any Finance Party to any Party in connection with a Finance Document, that Party shall pay to the Finance Party (in addition to and at the same time as paying the consideration) an amount equal to the amount of the VAT (and such Finance party shall promptly provide an appropriate VAT invoice to such Party).

14.6.2 If VAT is chargeable on any supply made by any Finance Party (**Supplier**) to any other Finance Party (**Recipient**) in connection with a Finance Document, and any Party is required by the terms of any Finance Document to pay an amount equal to the consideration for such supply to the Supplier, such Party shall also pay to the Supplier (in addition to and at the same time as paying such amount) an amount equal to the amount of such VAT.

14.6.3 Where a Finance Document requires any Party to reimburse a Finance Party for any costs or expenses, that Party shall also at the same time pay and indemnify the Finance Party against all VAT incurred by the Finance Party in respect of the costs or expenses to the extent that the Finance Party reasonably determines that it is not entitled to credit or repayment from the relevant tax authority in respect of the VAT.

15 **Increased Costs**

15.1 **Increased costs**

15.1.1 Subject to Clause 15.3 (*Exceptions*) the Borrower shall, within three Business Days of a demand by the Agent, pay for the account of a Finance Party the amount of any Increased Costs incurred by that Finance Party or any of its Affiliates as a result of (i) the introduction of or any change in (or in the interpretation, administration or application of) any law or regulation or (ii) compliance with any law or regulation made after the date of this Agreement.

15.1.2 In this Agreement **Increased Costs** : means

(a) a reduction in the rate of return from the Facilities or on a Finance Party’s (or its Affiliate’s) overall capital;

(b) an additional or increased cost; or

(c) a reduction of any amount due and payable under any Finance Document,

which is incurred or suffered by a Finance Party or any of its Affiliates to the extent that it is attributable to that Finance Party having entered into its Commitment or funding or performing its obligations under any Finance Document.

15.2 **Increased cost claims**

15.2.1 A Finance Party intending to make a claim pursuant to Clause 15.2 (*Increased costs*) shall notify the Agent of the event giving rise to the claim, following which the Agent shall promptly notify the Borrower.

15.2.2 Each Finance Party shall, as soon as practicable after a demand by the Agent, provide a certificate confirming the amount of its Increased Costs.

15.3 **Exceptions**

15.3.1 Clause 15.1 (*Increased costs*) does not apply to the extent any Increased Cost is:

(a) attributable to a Tax Deduction required by law to be made by an Obligor;

(b) compensated for by Clause 14.3 (*Tax indemnity*) (or would have been compensated for under Clause 14.3 (*Tax indemnity*) but was not so compensated solely because any of the exclusions in Clause 14.3 (*Tax indemnity*) applied);

(c) compensated for by the payment of the Mandatory Cost; or

(d) attributable to the wilful breach by the relevant Finance Party or its Affiliates of any law or regulation.

15.3.2 In this Clause 15 reference to a **Tax Deduction** has the same meaning given to the term in Clause 14.1 (*Definitions*).

16 **Indemnities**

16.1 **Currency indemnity**

16.1.1 If any sum due from an Obligor under the Finance Documents (**Sum**), or any order, judgment or award given or made in relation to a Sum, has to be converted from the currency (**First Currency**) in which that Sum is payable into another currency (**Second Currency**) for the purpose of:

(a) making or filing a claim or proof against that Obligor; or

(b) obtaining or enforcing an order, judgment or award in relation to any litigation or arbitration proceedings,

(c) that Obligor shall as an independent obligation, within three Business Days of demand, indemnify the Arranger and each other Secured Party to whom that Sum is due against any cost, loss or liability arising out of or as a result of the conversion including any discrepancy between (1) the rate of exchange used to convert that Sum from the First Currency into the Second Currency and (2) the rate or rates of exchange available to that person at the time of its receipt of that Sum.

16.1.2 Each Obligor waives any right it may have in any jurisdiction to pay any amount under the Finance Documents in a currency or currency unit other than that in which it is expressed to be payable.

16.2 **Other indemnities**

16.2.1 The Borrower shall (or shall procure that an Obligor will), within three Business Days of demand, indemnify the Arranger and each other Secured Party against any cost, loss or liability incurred by it as a result of:

(a) the occurrence or continuance of any Default;

(b) a failure by an Obligor to pay any amount due under a Finance Document on its due date, including without limitation, any cost, loss or liability arising as a result of Clause 28 (*Sharing among the Finance Parties*);

(c) funding, or making arrangements to fund, its participation in a Loan requested by the Borrower in a Utilisation Request but not made by reason of

the operation of any one or more of the provisions of this Agreement (other than by reason of default or negligence by that Finance Party alone); or

(d) a Loan (or part of a Loan) not being prepaid in accordance with a notice of prepayment given by the Borrower.

16.2.2 The Borrower shall promptly indemnify each Finance Party, each Affiliate of a Finance Party and each officer or employee of a Finance Party or its Affiliate, against any cost, loss or liability incurred by that Finance Party or its Affiliate (or officer or employee of that Finance Party or Affiliate) in connection with or arising out of the Acquisition (whether or not completed) or the funding of the Acquisition (including but not limited to those incurred in connection with any litigation, arbitration or administrative proceedings or regulatory enquiry concerning the Acquisition), unless such loss or liability is caused by the gross negligence or wilful misconduct of that Finance Party or its Affiliate (or employee or officer of that Finance Party or Affiliate). Any Affiliate or any officer or employee of a Finance Party or its Affiliate may rely on Clauses 16.2.1(c) to 16.2.1 (d) subject to Clause 1.8 (*Third party rights*) and the provisions of the Third Parties Act.

16.3 **Indemnity to the Agent**

16.3.1 The Borrower shall promptly indemnify the Agent against any cost, loss or liability incurred by the Agent (acting reasonably) as a result of:

(a) investigating any event which it reasonably believes is a Default; or

(b) acting or relying on any notice, request or instruction which it reasonably believes to be genuine, correct and appropriately authorised.

16.4 **Indemnity to the Security Agent**

16.4.1 Each Obligor shall promptly indemnify the Security Agent and every Receiver and Delegate against any cost, loss or liability incurred by any of them as a result of:

(a) the taking, holding, protection or enforcement of the Transaction Security;

(b) the exercise of any of the rights, powers, discretions and remedies vested in the Security Agent and each Receiver and Delegate by the Finance Documents or by law; and

(c) any default by any Obligor in the performance of any of the obligations expressed to be assumed by it in the Finance Documents.

16.4.2 The Security Agent may, in priority to any payment to the Secured Parties, indemnify itself out of the Charged Property in respect of, and pay and retain, all sums necessary to give effect to the indemnity in Clause 16.4.1 and shall have a lien on the Transaction Security and the proceeds of the enforcement of the Transaction Security for all moneys payable to it.

17 **Mitigation By The Lenders**

17.1 **Mitigation**

17.1.1 Each Finance Party shall, in consultation with the Borrower, take all reasonable steps to mitigate any circumstances which arise and which would result in any amount becoming payable under or pursuant to, or cancelled pursuant to, any of Clause 7.1 (*Illegality*), Clause 14 (*Tax gross-up and indemnities*) or Clause 15.1 (*Increased costs*) or paragraph 3 of Schedule 4 (*Mandatory cost formula*) including

(but not limited to) transferring its rights and obligations under the Finance Documents to another Affiliate or Facility Office.

17.1.2 Clause 17.1 above does not in any way limit the obligations of any Obligor under the Finance Documents.

17.2 **Limitation of liability**

17.2.1 The Borrower shall indemnify each Finance Party for all costs and expenses reasonably incurred by that Finance Party as a result of steps taken by it under Clause 17.1 (*Mitigation*).

17.2.2 A Finance Party is not obliged to take any steps under Clause 17.1 (*Mitigation*) if, in the opinion of that Finance Party (acting reasonably), to do so might be prejudicial to it.

18 **Costs And Expenses**

18.1 **Transaction expenses**

The Borrower shall promptly on demand pay the Agent, the Arranger and the Security Agent the amount of all costs and expenses (including legal fees and due diligence costs) reasonably incurred by any of them (and, in the case of the Security Agent, by any Receiver or Delegate) in connection with the negotiation, preparation, printing, execution, completion, syndication and perfection of:

(a) this Agreement and any other documents referred to in this Agreement and the Transaction Security; and

(b) any other Finance Documents executed after the date of this Agreement.

18.2 **Amendment costs**

If (a) an Obligor requests an amendment, waiver or consent or (b) an amendment is required pursuant to Clause 29.12 (*Change of currency*), the Borrower shall, within three Business Days of demand, reimburse each of the Agent and the Security Agent for the amount of all costs and expenses (including legal fees) reasonably incurred by the Agent and the Security Agent (and, in the case of the Security Agent, by any Receiver or Delegate) in responding to, evaluating, negotiating or complying with that request or requirement.

18.3 **Security Agent's ongoing costs**

18.3.1 In the event of (1) a Default; (2) the Security Agent considering it necessary or expedient or (3) the Security Agent being requested by an Obligor or the Majority Lenders to undertake duties which the Security Agent and the Borrower agree to be of an exceptional nature and/or outside the scope of the normal duties of the Security Agent under the Finance Documents, the Borrower shall pay to the Security Agent any additional remuneration that may be agreed between them.

18.3.2 If the Security Agent and the Borrower fail to agree upon the nature of the duties or upon any additional remuneration, that dispute shall be determined by an investment bank (acting as an expert and not as an arbitrator) selected by the Security Agent and approved by the Borrower or, failing approval, nominated (on the application of the Security Agent) by the President for the time being of the Law Society of England and Wales (the costs of the nomination and of the investment bank being payable by the Borrower) and the determination of any investment bank shall be final and binding upon the parties to this Agreement.

18.4 Enforcement and preservation costs

The Borrower shall, within three Business Days of demand, pay to the Arranger and each other Secured Party on a full indemnity basis the amount of all costs and expenses (including legal, valuation, accountancy and consulting fees and commission and out of pocket expenses) and any VAT thereon incurred by it in connection with the enforcement of or the preservation of or the release of any rights under any Finance Document or any of the documents referred to in such documents in any jurisdiction and any proceedings instituted by or against the Security Agent as a consequence of taking or holding the Transaction Security or enforcing these rights.

19 Representations

19.1 General

19.1.1 Each Obligor makes the representations and warranties set out in this Clause 19 to each Finance Party in accordance with Clause 19.34 (*Times when representations made*).

19.1.2 In relation to the representations and warranties made on the date of this Agreement and any other date on or before the Closing Date, it is assumed that Completion has occurred and the Borrower has the full knowledge of the senior management of the Target.

19.2 Status

19.2.1 It and each of its Subsidiaries is a limited liability company, duly incorporated and validly existing under the law of its jurisdiction of incorporation.

19.2.2 It and each of its Subsidiaries has the power to own its assets and carry on its business as it is being conducted.

19.3 Binding obligations

Subject to the Legal Reservations:

(a) the obligations expressed to be assumed by it in each Transaction Document to which it is a party are legal, valid, binding and enforceable obligations; and

(b) (without limiting the generality of paragraph (a) above), each Transaction Security Document to which it is a party creates the security interests which that Transaction Security Document purports to create and those security interests are valid and effective.

19.4 Non-conflict with other obligations

The entry into and performance by it of, and the transactions contemplated by, the Transaction Documents and the granting of the Transaction Security do not and will not conflict with:

(a) any law or regulation applicable to it;

(b) the constitutional documents of any member of the Group; or

(c) any agreement or instrument binding upon it or any member of the Group or any member of the Group’s assets or constitute a default or termination event (however described) under any such agreement or instrument or would result

in any liability on the part of a Finance Party to any third party or require the creation of any security interest over any asset in favour of a third party.

19.5 **Power and authority**

19.5.1 It has the power to enter into, perform and deliver, and has taken all necessary action to authorise its entry into, performance and delivery of, the Transaction Documents to which it is or will be a party and the transactions contemplated by those Transaction Documents.

19.5.2 No limit on its powers will be exceeded as a result of the borrowing, grant of security or giving of guarantees or indemnities contemplated by the Transaction Documents to which it is a party.

19.6 **Validity and admissibility in evidence**

19.6.1 All Authorisations required:

(a) to enable it lawfully to enter into, exercise its rights and comply with its obligations in the Transaction Documents to which it is a party; and

(b) to make the Transaction Documents to which it is a party admissible in evidence in its Relevant Jurisdictions,

have been obtained or effected and are in full force and effect except any Authorisation referred to in Clause 19.9 (*No filing or stamp taxes*), which Authorisations will be promptly obtained or effected as soon as practicable after the date of this Agreement.

19.6.2 All Authorisations necessary for the conduct of the business, trade and ordinary activities of members of the Group have been obtained or effected and are in full force and effect and are not likely to be revoked or materially adversely amended and no notice of an intention to terminate any such Authorisation has been received by any member of the Group.

19.7 **Governing law and enforcement**

19.7.1 The law expressed to be the governing law in each Finance Document will be recognised and enforced in the Relevant Jurisdictions of each Obligor executing that Finance Document.

19.7.2 Any judgment obtained in relation to a Finance Document in the jurisdiction of the governing law of that Finance Document will be recognised and enforced in its Relevant Jurisdictions.

19.8 **Insolvency**

No:

(a) corporate action, legal proceeding or other procedure or step described in Clause 23.7.1 (*Insolvency proceedings*); or

(b) creditors' process described in Clause 23.8 (*Creditors' process*),

has been taken or, to the knowledge of the Borrower, threatened in relation to a member of the Group; and none of the circumstances described in Clause 23.6 (*Insolvency*) applies to any member of the Group.

19.9 **No filing or stamp taxes**

Under the laws of its Relevant Jurisdiction it is not necessary that any Finance Document be filed, recorded or enrolled with any court or other authority in that jurisdiction or that any stamp, registration, notarial or similar Taxes or fees be paid on or in relation to the Finance Documents or the transactions contemplated by the Finance Documents except any filing, recording or enrolling or any tax or fee payable in relation to any Transaction Security Documents which are referred to in any Legal Opinion and which will be made or paid promptly after the date of the relevant Finance Document.

19.10 **Deduction of Tax**

It is not required to make any deduction for or on account of Tax from any payment it may make under any Finance Document.

19.11 **No default**

19.11.1 No Event of Default and, on the date of this Agreement and the First Utilisation Date, no Default is continuing or is reasonably likely to result from the making of any Loan or the entry into, the performance of, or any transaction contemplated by, any Transaction Document.

19.11.2 No other event or circumstance is outstanding which constitutes (or, with the expiry of a grace period, the giving of notice, the making of any determination or any combination of any of the foregoing would constitute) a default or termination event (however described) under any other agreement or instrument which is binding on it or any of its Subsidiaries or to which its (or any of its Subsidiaries') assets are subject which has or is reasonably likely to have a Material Adverse Effect.

19.12 **No misleading information**

19.12.1 Any factual information contained in the Information Memorandum or the Information Package was true and accurate in all material respects as at the date of the relevant report or document containing the information or (as the case may be) as at the date the information is expressed to be given.

19.12.2 The Forecast Cash Flows has been prepared in accordance with the Accounting Principles as applied to the Original Financial Statements and on the basis of recent historical information, is fair and based on reasonable assumptions and has been approved by the board of directors of the Borrower.

19.12.3 Any financial projection or forecast contained in the Information Memorandum or the Information Package has been prepared on the basis of recent historical information and on the basis of reasonable assumptions and was fair (as at the date of the relevant report or document containing the projection or forecast) and arrived at after careful consideration.

19.12.4 The expressions of opinion or intention provided by or on behalf of an Obligor for the purposes of the Information Memorandum or the Information Package were made after careful consideration and (as at the date of the relevant report or document containing the expression of opinion or intention) were fair and based on reasonable grounds.

19.12.5 No event or circumstance has occurred or arisen and no information has been omitted from the Information Memorandum or the Information Package and no information has been given or withheld that results in the information, opinions,

intentions, forecasts or projections contained in the Information Memorandum or the Information Package being untrue or misleading in any material respect.

19.12.6 All material information provided to a Finance Party by or on behalf of the Investors or the Borrower in connection with the Acquisition and/or the Target Group on or before the date of this Agreement and not superseded before that date (whether or not contained in the Information Package) is accurate and not misleading in any material respect and all projections provided to any Finance Party on or before the date of this Agreement have been prepared in good faith on the basis of assumptions which were reasonable at the time at which they were prepared and supplied.

19.12.7 All other written information provided by any Obligor or any member of the Group (including its advisers) to a Finance Party or the provider of any Report was true, complete and accurate in all material respects as at the date it was provided and is not misleading in any respect.

19.12.8 As at the date of this Agreement, there has been no insurance claim since the date of the most recent valuation of insurance liabilities report that would or, if adversely determined, is reasonably likely to, have a Material Adverse Effect.

19.12.9 As at the date of this Agreement, there are no negative marked-to-market outstandings under any existing Treasury Transactions entered into by or on behalf of any member of the Group that would have a Material Adverse Effect.

19.13 **Original Financial Statements**

19.13.1 Its Original Financial Statements were prepared in accordance with the Accounting Principles consistently applied unless expressly disclosed to the Agent in writing to the contrary.

19.13.2 Subject to the disclosures in the Disclosure Letter, its Original Financial Statements prior to them having been audited fairly represent its financial condition and results of operations (consolidated in the case of Target) for the relevant period unless expressly disclosed to the Agent in writing to the contrary prior to the date of this Agreement.

19.13.3 Subject to the disclosures in the Disclosure Letter, there has been no material adverse change in its assets, business or financial condition (or the assets, business or consolidated financial condition of the Group, in the case of the Borrower) since the date of the Original Financial Statements.

19.13.4 The Original Financial Statements of the Target and the Borrower do not consolidate the results, assets or liabilities of any person or business which does not form part of the Target Group.

19.13.5 Its most recent financial statements delivered pursuant to Clause 20.2 (*Financial statements*):

(a) have been prepared in accordance with the Accounting Principles as applied to the Original Financial Statements; and

(b) give a true and fair view of (if audited) or fairly present (if unaudited) its consolidated financial condition as at the end of, and consolidated results of operations for, the period to which they relate.

19.13.6 The budgets and forecasts supplied under this Agreement were arrived at after careful consideration and have been prepared in good faith on the basis of recent

historical information and on the basis of assumptions which were reasonable as at the date they were prepared.

19.13.7 Since the date of the most recent financial statements delivered pursuant to Clause 20.2 (*Financial statements*) there has been no material adverse change in the business, assets or financial condition of the Group.

19.14 **No proceedings pending or threatened**

No litigation, arbitration or administrative proceedings or investigations of, or before, any court, arbitral body or agency which, if adversely determined, are reasonably likely to have a Material Adverse Effect, have (to the best of its knowledge and belief (having made due and careful enquiry)) been started or threatened against it or any of its Subsidiaries.

19.15 **No breach of laws**

19.15.1 It has not (and none of its Subsidiaries has) has breached any law or regulation which breach has or is reasonably likely to have a Material Adverse Effect.

19.15.2 No labour disputes are current or, to the best of its knowledge and belief (having made due and careful enquiry), threatened against any member of the Group which have or are reasonably likely to have a Material Adverse Effect.

19.16 **Taxation**

19.16.1 It is not (and none of its Subsidiaries is) materially overdue in the filing of any Tax returns and it is not (and none of its Subsidiaries is) overdue in the payment of any amount in respect of Tax of £100,000 (or its equivalent in any other currency) or more.

19.16.2 No claims or investigations are being or are reasonably likely to be made or conducted against it (or any of its Subsidiaries) with respect to Taxes such that a liability of, or claim against, any member of the Group of £100,000 (or its equivalent in any other currency) or more is reasonably likely to arise.

19.16.3 It is resident for Tax purposes only in the jurisdiction of its incorporation.

19.17 **Security and Financial Indebtedness**

19.17.1 No Security or Quasi-Security exists over all or any of the present or future assets of any member of the Group other than as permitted by this Agreement.

19.17.2 No member of the Group has any Financial Indebtedness outstanding other than as permitted by this Agreement.

19.18 **Ranking**

The Transaction Security ranks or will rank prior to all other Security.

19.19 **Good title to assets**

It and each of its Subsidiaries has a good, valid and marketable title to, or valid leases or licences of, and all appropriate Authorisations to use, the assets necessary to carry on its business as presently conducted.

19.20 **Legal and beneficial ownership**

19.20.1 Subject to Clause 19.20.3 below and except as disclosed in the Disclosure Letter, it and each of its Subsidiaries is the sole legal and beneficial owner of the respective assets over which it purports to grant Security to the Security Agent.

19.20.2 Subject to Clause 19.20.3 below, all the Target Shares are legally and beneficially owned by the Borrower free from any claims, third party rights or competing interests.

19.20.3 The Target Shares are beneficially but not legally owned by the Borrower until those shares are registered in the register of shareholders of Target, and the Borrower will procure that registration will be made as soon as possible after the Closing Date and in any event within 7 days of the date of this Agreement.

19.21 **Ownership**

Each of the Obligors and their Subsidiaries is a direct or indirect wholly-owned subsidiary of Enstar.

19.22 **Shares**

The shares of any member of the Group which are subject to the Transaction Security are fully paid and not subject to any option to purchase or similar rights. The constitutional documents of companies whose shares are subject to the Transaction Security do not and could not restrict or inhibit any transfer of those shares on creation or enforcement of the Transaction Security. There are no agreements in force which provide for the issue or allotment of, or grant any person the right to call for the issue or allotment of, any share or loan capital of any member of the Group or member of the Target Group (including any option or right of pre-emption or conversion). There is no Security or other restrictions in existence that may attach to any dividends or other distributions that may be made in respect of any shares of any member of the Group.

19.23 **Intellectual Property**

It and each of its Subsidiaries:

(a) is the sole legal and beneficial owner of or has licensed to it on normal commercial terms all the Intellectual Property which is material in the context of its business and which is required by it in order to carry on its business as it is being conducted and as assumed in the Information Package;

(b) does not (nor does any of its Subsidiaries), in carrying on its businesses, infringe any Intellectual Property of any third party in any respect which has or is reasonably likely to have a Material Adverse Effect; and

(c) has taken all formal or procedural actions (including payment of fees) required to maintain any material Intellectual Property owned by it to the extent that failure to do so has or is reasonably likely to have a Material Adverse Effect.

19.24 **Group Structure Chart**

19.24.1 The Group Structure Chart is true, complete and accurate in all material respects and shows the following information:

(a) each member of the Group, including current name and (if applicable) company registration number, its jurisdiction of incorporation and/or

establishment, a list of shareholders and indicating whether a company is a Dormant Subsidiary or a company is not a company with limited liability;

(b) all minority interests in any member of the Group and any person in which any member of the Group holds shares in its issued share capital or equivalent ownership interest of such person; and

(c) all intra-Group loans of £1,000 or more.

19.24.2 All necessary intra-Group loans, transfers, share exchanges and other steps resulting in the final Group structure are set out in the Group Structure Chart and have been or will be taken in compliance with all relevant laws and regulations and all requirements of relevant regulatory authorities.

19.24.3 All necessary steps required to transfer or dispose of Travelers Special Services Limited, UA Combined Investment Company, Jago Dedicated Limited, Jago Capital Limited and MFCM Limited out of the Target Group have been taken in compliance with all relevant laws and regulations and all requirements of relevant authorities have been complied with including, without limitation, all conditions and consents to such transfers or disposals required or imposed by the FSA and Lloyd's, and no member of the Target Group has retained any liability in respect of any such company.

19.25 **Financial Year end**

The end of the Financial Year for each member of the Group is 31 December.

19.26 **Obligors**

Each member of the Group (other than a Dormant Subsidiary or a Restricted Subsidiary) is or will be an Obligor on the First Utilisation Date.

19.27 **Acquisition Documents, Disclosures and other Documents**

19.27.1 The Acquisition Documents contain all the terms of the Acquisition.

19.27.2 There is no disclosure made in the Disclosure Letter or any other disclosure to the Acquisition Documents which has or may have a material adverse effect on any of the information, opinions, intentions, forecasts and projections contained or referred to in the Information Package.

19.27.3 To the best of its knowledge no representation or warranty (as qualified by the Disclosure Letter) given by any party to the Acquisition Documents is untrue or misleading in any material respect.

19.27.4 As at the date of delivery, the documents delivered to the Agent under any Finance Document by or on behalf of any Obligor (including pursuant to Clause 4.1 (*Initial conditions precedent*)) are genuine (or, in the case of copy documents, are true, complete and accurate copies of originals which are genuine), are up-to-date and in full force and effect (or if a copy, the original is up-to-date and in full force and effect) and have not been amended.

19.28 **Insurance**

There has been no non-disclosure, misrepresentation or breach of any term of any material insurance policy which would entitle any insurer to repudiate, rescind or cancel it or to treat it as avoided in whole or in part or otherwise decline any valid claim under it by or on behalf of any member of the Group.

19.29 **Immunity**

19.29.1 The execution by it of each Finance Document constitutes, and the exercise by it of its rights and performance of its obligations under each Finance Document will constitute private and commercial acts performed for private and commercial purposes.

19.29.2 It will not be entitled to claim immunity from suit, execution, attachment or other legal process in any proceedings taken in its Relevant Jurisdictions in relation to any Finance Document.

19.30 **No adverse consequences**

19.30.1 It is not necessary under the laws of its Relevant Jurisdictions:

(a) in order to enable any Finance Party to enforce its rights under any Finance Document; or

(b) by reason of the execution of any Finance Document or the performance by it of its obligations under any Finance Document,

(c) that any Finance Party should be licensed, qualified or otherwise entitled to carry on business in any of its Relevant Jurisdictions.

19.30.2 No Finance Party is or will be deemed to be resident, domiciled or carrying on business in its Relevant Jurisdictions by reason only of the execution, performance and/or enforcement of any Finance Document.

19.31 **Holding Company**

Except as may arise under the Transaction Documents and for Acquisition Costs, before the date of this Agreement the Borrower has not traded or incurred any liabilities or commitments (actual or contingent, present or future).

19.32 **Pensions**

Each member of the Group is in compliance in all material respects with all applicable laws, regulations and contracts relating to the provision of pension schemes and any pension scheme(s) it operates or participates in. All contributions due to be paid to each such pension scheme have been paid.

19.33 **Net Worth**

On the date of this Agreement, the Consolidated Tangible Net Worth is not less than US$305,000,000.

19.34 **Times when representations made**

19.34.1 All the representations and warranties in this Clause 19 are made by each Original Obligor on the date of this Agreement except for the representations and warranties set out in (a) Clause 19.12 (*No misleading information*) which are deemed to be made by each Obligor (i) with respect to the Information Memorandum on the date the Information Memorandum is approved by the Borrower and (ii) with respect to the Information Package, on the date of this Agreement, on the First Utilisation Date and on any later date on which the Information Package (or part of it) is released to the Arranger for distribution in connection with syndication and (b) Clause 19.21 (*Ownership*) to the extent that it relates to ownership of any member of the Target Group.

19.34.2 All the representations and warranties in this Clause 19 are deemed to be made by each Obligor on the First Utilisation Date other than Clauses 19.12.8 to 19.12.9 (*No misleading information*).

19.34.3 The representations and warranties in Clauses 19.12.1 to 19.12.7 (*No misleading information*) are also deemed to be made by each Obligor on the Syndication Date.

19.34.4 The Repeating Representations are deemed to be made by each Obligor on the date of each Utilisation Request, on each Utilisation Date and on the first day of each Interest Period (except that those contained in Clauses 19.13.1 to 19.13.4 (*Original Financial Statements*) will cease to be so made once subsequent financial statements have been delivered under this Agreement).

19.34.5 All the representations and warranties in this Clause 19 except Clause 19.12 (*No misleading information*), Clause 19.24 (*Group Structure Chart*), Clause 19.27 (*Acquisition Documents, Disclosures and other Documents*) and Clause 19.31 (*Holding Company*) are deemed to be made by each Additional Obligor on the day on which it becomes (or it is proposed that it becomes) an Additional Obligor.

19.34.6 Each representation or warranty deemed to be made after the date of this Agreement shall be deemed to be made by reference to the facts and circumstances existing at the date the representation or warranty is deemed to be made.

20 Information Undertakings

20.1 General

The undertakings in this Clause 20 remain in force from the date of this Agreement for so long as any amount is outstanding under the Finance Documents or any Commitment is in force.

In this Clause 20:

(a) **Annual Financial Statements** : means the financial statements for a Financial Year delivered pursuant to Clause 20.2 (*Financial statements*).

(b) **Quarterly Financial Statements** : means the financial statements for a Financial Quarter delivered pursuant to Clause 20.2 (*Financial statements*).

20.2 Financial statements

20.2.1 The Borrower shall deliver to the Agent in sufficient copies for all the Lenders:

(a) as soon as they are available, but in any event within 120 days after the end of each of its Financial Years:

(i) its audited consolidated financial statements for that Financial Year;

(ii) the audited financial statements (consolidated if appropriate) of each Obligor for that Financial Year; and

(iii) the audited financial statements of any other member of the Group for that Financial Year if requested by the Agent;

(b) as soon as they are available, but in any event within 45 days after the end of each Financial Quarter of each of its Financial Years its consolidated financial statements for that Financial Quarter, to include:

(i) details of all Disposal Proceeds as defined in Clause 8.2 (*Disposal, Insurance, Acquisition Proceeds and Target Distributions*);

(ii) details of all surpluses in any fund or funds of each member of the Group which is an insurance company;

(iii) a summary of cash realisations of each of the Target Group;

(iv) details of the proceeds of the cash realisations of each of the Target Group;

(v) a discussion of major incurred claims movements with appropriate narrative; and

(c) as soon as it is available but in any event within 30 days after the start of each of its Financial Years, an updated forecast of cashflows for that Financial Year in the same form as the Forecast Cash Flows for each of the Target Group.

20.3 **Provision and contents of Compliance Certificate**

20.3.1 The Borrower shall supply a Compliance Certificate to the Agent with each set of its audited consolidated Annual Financial Statements and each set of its consolidated Quarterly Financial Statements.

20.3.2 The Compliance Certificate shall, amongst other things, set out (in reasonable detail) computations as to compliance with Clause 21 (*Financial Covenants*) including confirmation that 100% by value of all investments in the investment portfolio of the Group have the Requisite Rating individually or in investments advised by J.C.Flowers & Co. LLC and that no more than 10% of the total portfolio is held in investments advised by J.C.Flowers & Co. LLC.

20.3.3 Each Compliance Certificate shall be signed by two directors one of whom must be the Chief Financial Officer of the Group and, if required to be delivered with the consolidated Annual Financial Statements of the Borrower, shall be reported on by the Borrower's Auditors in the form agreed by the Borrower and the Majority Lenders.

20.4 **Requirements as to financial statements**

20.4.1 The Borrower shall procure that each set of Annual Financial Statements and Quarterly Financial Statements includes a balance sheet, profit and loss account and cashflow statement. In addition the Borrower shall procure that:

(a) each set of Annual Financial Statements shall be audited by the Auditors;

(b) each set of Quarterly Financial Statements includes:

(i) a cashflow forecast in respect of the Group relating to the twelve month period commencing at the end of the relevant Financial Quarter; and

(ii) a statement by the directors of the Borrower commenting on the performance of the Group for the quarter to which the financial statements relate and the Financial Year to date and any material developments or material proposals affecting the Group or its business.

20.4.2 Each set of financial statements delivered pursuant to Clause 20.2 (*Financial Statements*):

(a) shall be certified by the Chief Financial Officer of the Borrower as giving a true and fair view of (in the case of Annual Financial Statements for any Financial Year), or fairly representing (in other cases), its financial condition and operations as at the date as at which those financial statements were drawn up and, in the case of the Annual Financial Statements, shall be accompanied by any letter addressed to the management of the relevant company by the Auditors and accompanying those Annual Financial Statements;

(b) in the case of consolidated financial statements of the Group, shall be accompanied by a statement by the Chief Financial Officer of the Borrower comparing actual performance for the period to which the financial statements relate to the actual performance for the corresponding period in the preceding Financial Year of the Group; and

(c) shall be prepared using the Accounting Principles, accounting practices and financial reference periods consistent with those applied in the preparation of the Original Financial Statements of the Obligor or other member of the Group concerned, unless, in relation to any set of financial statements, the Borrower notifies the Agent that there has been a change in the Accounting Principles or the accounting practices and its Auditors (or, if appropriate, the Auditors of the Obligor) deliver to the Agent:

(i) a description of any change necessary for those financial statements to reflect the Accounting Principles or accounting practices upon which the Original Financial Statements of the Obligor or other member of the Group concerned were prepared; and

(ii) sufficient information, in form and substance as may be reasonably required by the Agent, to enable the Lenders to determine whether Clause 21 (*Financial Covenants*) has been complied with and to make an accurate comparison between the financial position indicated in those financial statements and the Original Financial Statements of the Obligor or other member of the Group concerned.

(d) Any reference in this Agreement to any financial statements shall be construed as a reference to those financial statements as adjusted to reflect the basis upon which the Original Financial Statements were prepared.

20.4.3 If the Agent receives a report from the Borrower’s Auditors pursuant to Clause 20.4.2(c) above, the Majority Lenders (in consultation with the Borrower and the Auditors) may require such changes to the covenants set out in Clause 21 (*Financial Covenants*) as are necessary solely to reflect the changes notified to them.

20.4.4 If the Agent wishes to discuss the financial position of any member of the Group with the Auditors, the Agent may notify the Borrower, stating the questions or issues which the Agent wishes to discuss with the Auditors. In this event, the Borrower must ensure that the Auditors are authorised (at the expense of the Borrower):

(a) to discuss the financial position of each member of the Group with the Agent on request from the Agent;

(b) to verify any financial information required by the Finance Documents to be provided to the Agent;

(c) to disclose to the Agent for the Finance Parties any information which the Agent may reasonably request; and

(d) to verify any figures required to calculate the financial covenants in Clause 21 (*Financial covenants*) or the Margin.

20.5 **Presentations**

Once in every Financial Year, or more frequently if requested to do so by the Agent if a Lender reasonably suspects a Default is continuing or may have occurred or may occur, at least two directors of the Borrower (one of whom shall be the Chief Financial Officer of the Borrower) must give a presentation to the Finance Parties in London about the on-going business and financial performance of the Group.

20.6 **Year-end**

20.6.1 The Borrower shall procure that the end of each Financial Year of each member of the Group falls on 31 December.

20.6.2 The Borrower shall procure that each quarterly accounting period and each Financial Quarter of each member of the Group ends on a Quarter Date.

20.7 **Information: miscellaneous**

20.7.1 The Borrower shall supply to the Agent (in sufficient copies for all the Lenders, if the Agent so requests):

(a) within 30 days after submission to the relevant governmental on regulatory authority, all returns required to be prepared by any member of the Group in accordance with any applicable law, rule, regulation or direction of the Bermuda Monetary Authority, the FSA or any other governmental or regulatory authority;

(b) at the same time as they are dispatched, copies of all documents dispatched by the Borrower to its shareholders generally (or any class of them) or dispatched by the Borrower or any Obligors to its creditors generally (or any class of them);

(c) promptly upon becoming aware of them, the details of any litigation, arbitration or administrative proceedings which are current, threatened or pending against any member of the Group, and which, if adversely determined would involve a liability, or a potential or alleged liability, exceeding £100,000 (or its equivalent in other currencies);

(d) promptly upon becoming aware of the relevant claim, the details of any claim which is current, threatened or pending against the Vendor or any other person in respect of the Acquisition Documents and details of any disposal or insurance claim which will require a prepayment under Clause 8.2 (*Disposal, Insurance, Acquisition Proceeds and Target Distributions*);

(e) promptly, such information as the Security Agent may reasonably require about the Charged Property and compliance of the Obligors with the terms of any Transaction Security Documents;

(f) promptly on request, such further information regarding the financial condition, assets and operations of the Group and/or any member of the Group (including any requested amplification or explanation of any item in the financial statements, budgets or other material provided by any Obligor under this Agreement and an up to date copy of its shareholders' register (or

equivalent in its jurisdiction of incorporation)) as any Finance Party through the Agent may reasonably request.

20.7.2 The Borrower shall give at least five Business Days' written notice to the Security Agent of any proposal by the Borrower or the directors of the Borrower to appoint an administrator. The notice shall comply with the requirements of paragraph 26(3) of Schedule B1 of the Insolvency Act 1986.

20.8 **Notification of default**

20.8.1 Each Obligor shall notify the Agent of any Default (and the steps, if any, being taken to remedy it) promptly upon becoming aware of its occurrence (unless that Obligor is aware that a notification has already been provided by another Obligor).

20.8.2 Promptly upon a request by the Agent, the Borrower shall supply to the Agent a certificate signed by two of its directors or senior officers on its behalf certifying that no Default is continuing (or if a Default is continuing, specifying the Default and the steps, if any, being taken to remedy it).

20.9 **"Know your customer" checks**

20.9.1 If:

(a) the introduction of or any change in (or in the interpretation, administration or application of) any law or regulation made after the date of this Agreement;

(b) any change in the status of an Obligor or the composition of the shareholders of an Obligor after the date of this Agreement; or

(c) a proposed assignment or transfer by a Lender of any of its rights and/or obligations under this Agreement to a party that is not a Lender prior to such assignment or transfer,

(d) obliges the Agent or any Lender (or, in the case of Clause 20.9.1(c) above, any prospective new Lender) to comply with "know your customer" or similar identification procedures in circumstances where the necessary information is not already available to it, each Obligor shall (and the Borrower shall ensure that each Obligor shall) promptly upon the request of the Agent or any Lender supply, or procure the supply of, such documentation and other evidence as is reasonably requested by the Agent (for itself or on behalf of any Lender) or any Lender (for itself or, in the case of the event described in Clause 20.9.1(c) above, on behalf of any prospective new Lender) in order for the Agent, such Lender or, in the case of the event described in Clause 20.9.1(c) above, any prospective new Lender to carry out and be satisfied with the results of all necessary "know your customer" or other checks in relation to any relevant person pursuant to the transactions contemplated in the Finance Documents.

20.9.2 Each Lender shall promptly upon the request of the Agent supply, or procure the supply of, such documentation and other evidence as is reasonably requested by the Agent (for itself) in order for the Agent to carry out and be satisfied with the results of all necessary "know your customer" or other checks on Lenders or prospective new Lenders pursuant to the transactions contemplated in the Finance Documents.

20.9.3 The Borrower shall, by not less than 10 Business Days' prior written notice to the Agent, notify the Agent (which shall promptly notify the Lenders) of its intention to

request that one of its Subsidiaries becomes an Additional Obligor pursuant to Clause 25 (*Changes to the Obligors*).

20.9.4 Following the giving of any notice pursuant to Clause 20.9.3 above, if the accession of such Additional Obligor obliges the Agent or any Lender to comply with “know your customer” or similar identification procedures in circumstances where the necessary information is not already available to it, the Borrower shall promptly upon the request of the Agent or any Lender supply, or procure the supply of, such documentation and other evidence as is reasonably requested by the Agent (for itself or on behalf of any Lender) or any Lender (for itself or on behalf of any prospective new Lender) in order for the Agent, or such Lender or any prospective new Lender to carry out and be satisfied it has complied with all necessary “know your customer” or other checks in relation to any relevant person pursuant to the accession of such Subsidiary to this Agreement as an Additional Obligor.

21 Financial Covenants

21.1 Financial definitions

In this Clause 21:

(a) **Consolidated Tangible Net Worth** : means at any time, the aggregate of the Equity Shareholders Funds of the Target on the last day of the Relevant Period minus (i) the aggregate of the Permitted Financial Indebtedness; (ii) any liabilities incurred by the Borrower in the ordinary course of its business but not paid on the last day of the Relevant Period; and (iii) any assets or monies that may be required to cover the cost of forecast redundancies within the Group.

(b) **Equity Shareholders Funds** : means the aggregate amount of paid up or credited as paid up on the issued share capital of a company (including on the share premium account) and of the amounts standing to the credit of revenue reserves of a company.

(c) **Facility Debt** : means on the last day of the Relevant Period, the aggregate of the Group’s consolidated Financial Indebtedness in respect of the Facilities.

(d) **Free Net Worth** means at any time, the aggregate amount of paid up, or credited as paid up, on the issued share capital of Enstar (including on the share premium account) and of the amounts standing to the credit of revenue reserves of Enstar on the last day of the Relevant Period minus the aggregate of the Financial Indebtedness incurred by Enstar and any of its Subsidiaries on a consolidated basis which is not paid on the last day of the Relevant Period

(e) **Financial Quarter** : means the period commencing on the day after one Quarter Date and ending on the next Quarter Date.

(f) **Financial Year** : means each period of twelve months ending on 31 December.

(g) **Net Worth Cover** : means the ratio of Consolidated Tangible Net Worth to Facility Debt.

(h) **Quarter Date** : means each of 31 March, 30 June, 30 September and 31 December.

(i) **Regulatory Cover** : means the ratio of the capital resources of the Target as determined in accordance with Section 2.2 of the Integrated Prudential Sourcebook for Insurers as amended from time to time (including as required to meet solvency requirements) to the capital resources requirement of the Target as determined in accordance with Section 2.1 of the Integrated Prudential Sourcebook for Insurers as amended from time to time (including as required to meet solvency requirements).

(j) **Relevant Period** : means each period of twelve months (or, if shorter, the period from the date of this Agreement) ending on each Quarter Date.

21.2 **Financial condition**

21.2.1 The Borrower shall ensure that:

(a) ***Regulatory Cover:*** Regulatory Cover shall not at any time be less than 1.1:1;

(b) ***Net Worth Cover:*** Net Worth Cover shall not at any time be less than 1.65:1;

(c) ***Free Net Worth:*** Free Net Worth shall not at any time be less than US$300,000,000; and

(d) ***Requisite Rating:*** 100% by value of all investments in the investment portfolio of the Group have the Requisite Rating individually or are in investments advised by J.C.Flowers & Co. LLC, provided that no more than 10% of the total portfolio is held in investments advised by J.C.Flowers & Co. LLC.

21.3 **Financial testing**

21.3.1 The financial covenants set out in Clauses 21.2.1(a) (*Regulatory cover*) and 21.2.1(b) (*Net Worth Cover*) shall be calculated in accordance with the Accounting Principles and tested first by reference to the Quarterly Financial Statements and where available, by reference to the Annual Financial Statements (each delivered in accordance with Clause 20.2 (*Financial Statements*) and each Compliance Certificate delivered pursuant to Clause 20.3 (*Provision and contents of Compliance Certificate*)).

21.3.2 When calculating the financial covenants in this Clause the effect of all transactions between members of the Group shall be eliminated to the extent not already netted out on consolidation.

21.3.3 No item shall be deducted or credited more than once in any calculation.

21.3.4 Where an amount in any financial statement or Compliance Certificate is not denominated in US Dollars, it shall be converted into US Dollars at the rate specified in the financial statements so long as such rate has been set in accordance with the Accounting Principles.

21.3.5 The financial covenants in Clauses 21.2.1(a) (*Regulatory Cover*) and 21.2.1(b) (*Net Worth Cover*) of Clause 21.2 (*Financial condition*) shall apply on a continuing basis but shall be tested on each Quarter Date commencing with the 31 March 2009 Quarter Date.

21.4 **Equity cure- Regulatory Cover**

21.4.1 No Event of Default under Clause 23.2 (*Financial Covenants and other obligations*) in relation to Clauses 21.2.1(a) (*Regulatory Cover*) will occur if:

(a) the proceeds of an additional contributed surplus or any Permitted Share Issue permitted by paragraph (b) of the definition of that term (which are designated in writing by the Borrower to the Agent as being provided for the purpose of this Clause 21.4 (*Equity cure- Regulatory Cover*)) and/or any debt (subordinated on terms approved by the Agent acting reasonably) (in each case the **New Regulatory Investment**) is invested in the Borrower within 5 Business Days of the date on which the Borrower becomes aware of a breach of Clause 21.2.1(a) (*Regulatory Cover*).

(b) promptly following receipt by the Borrower of the proceeds of such New Regulatory Investment (and in any event prior to the expiry of such 5 Business Day period), a certificate signed by the finance director of the Borrower is delivered to the Agent confirming that on recalculating the Regulatory Cover financial covenant set out in Clause 21.2.1(a) (*Regulatory Cover*) would be complied with and attaching reasonable details of such calculations. For these purposes the amount of the New Regulatory Investment shall be included in calculating the aggregate of the Equity Shareholders Funds of the Restricted Subsidiaries.

21.5 **Equity cure- Net Worth Cover**

No Event of Default under Clause 23.2 (*Financial Covenants and other obligations*) in relation to Clauses 21.2.1(b) (*Net Worth Cover*) will occur if:

(a) the proceeds of an additional contributed surplus or any Permitted Share Issue permitted by paragraph (b) of the definition of that term (which are designated in writing by the Borrower to the Agent as being provided for the purpose of this Clause 21.5) and/or any debt (subordinated on terms approved by the Agent acting reasonably) (in each case the **New Investment**) is invested in the Borrower within 5 Business Days of the date on which the Borrower becomes aware of a breach of Clause 21.2.1(b) (*Net Worth Cover*).

(b) promptly following receipt by the Borrower of the proceeds of such New Investment (and in any event prior to the expiry of such 5 Business Day period), a certificate signed by the finance director of the Borrower is delivered to the Agent confirming that on recalculating the Net Worth Cover financial covenant set out in Clause 21.2.1(b) (*Net Worth Cover*) for the period (and for these purposes the amount of the New Investment shall be included in calculating Consolidated Tangible Net Worth) in respect of which the breach arose, and on the basis that the New Investment is deemed to have been made immediately prior to the relevant Quarter Date, such financial covenant would be complied with (and such certificate shall attach reasonable details of such calculations).

No more than two New Investments may be made until the Termination Date and no two New Investments may be made in consecutive Financial Quarters.

22 **General Undertakings**

The undertakings in this Clause 22 remain in force from the date of this Agreement for so long as any amount is outstanding under the Finance Documents or any Commitment is in force.

22.1 Authorisations and compliance with laws

Each Obligor shall (and the Borrower shall ensure that each member of the Group will) promptly:

(a) obtain, comply with and do all that is necessary to maintain in full force and effect; and

(b) supply certified copies to the Agent of,

any Authorisation required under any law or regulation of a Relevant Jurisdiction to:

(a) enable it to perform its obligations under the Finance Documents and the Acquisition Documents;

(b) ensure the legality, validity, enforceability or admissibility in evidence of any Finance Document or Acquisition Document; and

(c) carry on its business where failure to do so has or is reasonably likely to have a Material Adverse Effect.

22.2 Compliance with laws

Each Obligor shall (and the Borrower shall ensure that each member of the Group will) comply in all respects with all laws to which it may be subject, if failure so to comply has or is reasonably likely to have a Material Adverse Effect.

22.3 Taxation

22.3.1 Each Obligor shall (and the Borrower shall ensure that each member of the Group will) pay and discharge all Taxes imposed upon it or its assets within the time period allowed without incurring penalties unless and only to the extent that:

(a) such payment is being contested in good faith;

(b) adequate reserves are being maintained for those Taxes and the costs required to contest them have been disclosed in its latest financial statements delivered to the Agent under Clause 20.2.1(a) (*Financial statements*); and

(c) such payment can be lawfully withheld and failure to pay those Taxes does not have or is not reasonably likely to have a Material Adverse Effect.

22.3.2 No member of the Group may change its residence for Tax purposes.

22.4 Merger

Other than in the case of a Permitted Transaction which is referred to in paragraph (a) of the definition of that term, no Obligor shall (and the Borrower shall ensure that no other member of the Group will) enter into (or agree to enter into) any amalgamation, demerger, merger, consolidation or corporate reconstruction other than any solvent liquidation or reorganisation.

22.5 Change of business

The Borrower shall procure that no substantial change is made to the general nature of the business of the Borrower or the Group taken as a whole from that carried on by the Target Group at the date of this Agreement.

22.6 **Acquisitions**

Other than in the case of a Permitted Transaction, which is referred to in paragraph (a) or (c) of the definition of that term, or the Acquisition no Obligor shall (and the Borrower shall ensure that no other member of the Group will):

(a) acquire a company or any shares or securities or a business or undertaking (or, in each case, any interest in any of them); or

(b) incorporate a company.

22.7 **Joint ventures**

No Obligor shall (and the Borrower shall ensure that no member of the Group will):

(a) enter into, invest in or acquire (or agree to acquire) any shares, stocks, securities or other interest in any Joint Venture; or

(b) transfer any assets or lend to or guarantee or give an indemnity for or give Security for the obligations of a Joint Venture or maintain the solvency of or provide working capital to any Joint Venture (or agree to do any of the foregoing).

22.8 **Holding Companies**

The Borrower shall not trade, carry on any business, own any assets or incur any liabilities except for:

(a) the provision of administrative services (excluding treasury services) to other members of the Group of a type customarily provided by a holding company to its Subsidiaries;

(b) ownership of shares in its Subsidiaries, intra-Group debit balances, intra-Group credit balances and other credit balances in bank accounts, cash and Cash Equivalent Investments but only if those shares, credit balances, cash and Cash Equivalent Investments are subject to the Transaction Security; or

(c) any liabilities under the Transaction Documents to which it is a party and professional fees and administration costs in the ordinary course of business as a holding company,

and this Clause shall prevail if but for this Clause a transaction would otherwise be a Permitted Disposal, Permitted Financial Indebtedness, a Permitted Guarantee, a Permitted Loan, Permitted Security or a Permitted Transaction or be permitted by Clause 22.28 (*Intra-Group Transactions*).

22.9 **Dormant Subsidiaries and Restricted Subsidiaries**

No Obligor shall (and the Borrower shall ensure no member of the Group will) cause or permit any member of the Group:

(a) which is a Dormant Subsidiary to (i) commence trading or (ii) cease to satisfy the criteria for a Dormant Subsidiary or (iii) have, or potentially have, latent liabilities in an aggregate amount of US$50,000 or more or its equivalent in other currencies; or

(b) which is a Restricted Subsidiary to cease to satisfy the criteria for a Restricted Subsidiary,

unless such Dormant Subsidiary or Restricted Subsidiary (as the case may be) becomes an Additional Obligor in accordance with Clauses 25.2 (*Additional Obligors*).

22.10 **Preservation of assets**

Each Obligor shall (and the Borrower shall ensure that each member of the Group will) maintain in good working order and condition (ordinary wear and tear excepted) all of its assets necessary or desirable in the conduct of its business if failure to do so has or is reasonably likely to have a Material Adverse Effect.

22.11 **Pari passu ranking**

Each Obligor shall ensure that at all times any unsecured and unsubordinated claims of a Finance Party or Hedge Counterparty against it under the Finance Documents rank at least pari passu with the claims of all its other unsecured and unsubordinated creditors except those creditors whose claims are mandatorily preferred by laws of general application to companies.

22.12 **Acquisition Documents**

22.12.1 The Borrower shall promptly pay all amounts payable to the Vendor under the Acquisition Documents as and when they become due (except to the extent that any such amounts are being contested in good faith by a member of the Group and where adequate reserves are set aside for any such payment).

22.12.2 The Borrower shall (and will procure that each relevant member of the Group will), take all reasonable and practical steps to preserve and enforce its rights (or the rights of any other member of the Group) and pursue any claims and remedies arising under any Acquisition Documents.

22.12.3 No Obligor shall (and the Borrower shall procure that no relevant member of the Group will) amend, vary, novate, supplement, supercede, waive or terminate any term of an Acquisition Document without the prior written consent of the Agent (such consent not to be unreasonably withheld or delayed)

22.13 **Negative pledge**

22.13.1 Except as permitted under Clause 22.13.2 below:

(a) No Obligor shall (and the Borrower shall ensure that no other member of the Group will) create or permit to subsist any Security over any of its assets.

(b) No Obligor shall (and the Borrower shall ensure that no other member of the Group will) sell, transfer or otherwise dispose of any of its receivables.

(c) No Obligor shall (and the Borrower shall ensure that no other member of the Group will):

(i) sell, transfer or otherwise dispose of any of its assets on terms whereby they are or may be leased to or re-acquired by any other member of the Group;

(ii) enter into any arrangement under which money or the benefit of a bank or other account may be applied, set-off or made subject to a combination of accounts; or

(iii) enter into any other preferential arrangement having a similar effect,

in circumstances where the arrangement or transaction is entered into primarily as a method of raising Financial Indebtedness or of financing the acquisition of an asset. A transaction referred to in this paragraph (c) is termed **Quasi-Security** .

22.13.2 Clause 22.13.1 above does not apply to any Security or (as the case may be) Quasi-Security, which is:

(i) Permitted Security; or

(ii) given under the Finance Documents

22.14 **Disposals**

22.14.1 Except as permitted under Clause 22.14.2 below, no Obligor shall (and the Borrower shall ensure that no member of the Group will) enter into a single transaction or a series of transactions (whether related or not) and whether voluntary or involuntary to sell, lease, transfer, licence or otherwise dispose of any asset.

22.14.2 Clause 22.14.1 above does not apply to any sale, lease, transfer or other disposal which is:

(a) a Permitted Disposal; or

(b) a Permitted Transaction which is referred to in paragraph (a) of the definition of that term.

22.15 **Arm's length basis**

22.15.1 Except as permitted by Clause 22.15.2 below, no Obligor shall (and the Borrower shall ensure no member of the Group will) enter into any transaction with any person except on arm's length terms and for full market value.

22.15.2 The following transactions shall not be a breach of Clause 22.15.1:

(a) intra-Group transactions permitted under Clause 22.28 (*Intra-Group transactions*); and

(b) fees, costs and expenses payable under the Transaction Documents in the amounts set out in the Transaction Documents delivered to the Agent under Clause 4.1 (*Initial conditions precedent*) or agreed by the Agent.

22.16 **Loans or credit**

22.16.1 Except as permitted under Clause 22.16.2 below, no Obligor shall (and the Borrower shall ensure that no member of the Group will) be a creditor in respect of any Financial Indebtedness.

22.16.2 Clause 22.16.1 above does not apply to:

(a) a Permitted Loan (which is consistent with Clause 22.8 (*Holding Companies*)); or

(b) a Permitted Transaction which is referred to in paragraph (a) of the definition of that term; or

(c) a Permitted Distribution.

22.17 No Guarantees or indemnities

22.17.1 Except as permitted under Clause 22.17.2 below, no Obligor shall (and the Borrower shall ensure that no member of the Group will) incur or allow to remain outstanding any guarantee, bond or indemnity in respect of any obligation of any person.

22.17.2 Clause 22.17.1 above does not apply to a guarantee which is:

(a) a Permitted Guarantee (which is consistent with Clause 22.8 (*Holding Companies*); or

(b) a Permitted Transaction which is referred to in paragraph (a) of the definition of that term.

22.18 Dividends and share redemption

22.18.1 Except as permitted under 22.18.2 below, the Borrower shall not (and will ensure that no other member of the Group will):

(a) declare, make or pay any dividend, charge, fee or other distribution (or interest on any unpaid dividend, charge, fee or other distribution) (whether in cash or in kind) on or in respect of its share capital (or any class of its share capital) or any additional paid in capital;

(b) repay or distribute any dividend or share premium reserve;

(c) pay or allow any member of the Group to pay any management, advisory or other fee to or to the order of any of the shareholders of the Borrower; or

(d) redeem, repurchase, defease, retire, reduce, cancel or repay any of its share capital or resolve to do so.

22.18.2 Clause 22.18.1 above does not apply to:

(a) a Permitted Distribution;

(b) a Permitted Payment; or

(c) a Permitted Transaction which is referred to in paragraph (a) of the definition of that term.

22.19 Financial Indebtedness

22.19.1 Except as permitted under Clause 22.19.2 below, no Obligor shall (and the Borrower shall ensure that no member of the Group will) incur or allow to remain outstanding any Financial Indebtedness.

22.19.2 Clause 22.19.1 above does not apply to Financial Indebtedness which is:

(a) Permitted Financial Indebtedness; or

(b) contemplated by paragraph (a) of the definition of Permitted Transaction.

22.20 Share capital

No Obligor shall (and the Borrower shall ensure no member of the Group will) issue any shares except pursuant to a Permitted Share Issue.

22.21 **Pensions**

22.21.1 The Borrower shall ensure that all pension schemes operated by or maintained for the benefit of members of the Group incorporated in the United Kingdom and/or any of their employees are funded in accordance with the requirements of the Pensions Act 1995 in relation to the minimum funding requirement (where the scheme is subject to the minimum funding requirement under that Act) and in accordance with the requirements of the Pensions Act 2004 in relation to the statutory funding objective (where the scheme is subject to the statutory funding objective under that Act) and that no action or omission is taken by any such member of the Group in relation to such a pension scheme which has or is reasonably likely to have a Material Adverse Effect (including the termination or commencement of winding-up proceedings of any such pension scheme or any member of the Group ceasing to employ any such member of such a pension scheme).

22.21.2 Except for the pension schemes (if any) for the time being operated by the Borrower or in which it participates, the Borrower shall ensure that no member of the Group incorporated in the United Kingdom is or has been at any time an employer (for the purposes of Sections 38 to 51 of the Pensions Act 2004) of an occupational pension scheme which is not a money purchase scheme (both terms as defined in the Pension Schemes Act 1993) or "connected" with or an "associate" of (as those terms are under in Sections 39 or 43 of the Pensions Act 2004) such an employer.

22.21.3 The Borrower shall deliver to the Agent at such times as those reports are prepared in order to comply with the then current statutory or auditing requirements (as applicable either to the trustees of any relevant schemes or to the Borrower), actuarial reports in relation to all pension schemes mentioned in Clause 22.21.1 above.

22.21.4 The Borrower shall promptly notify the Agent of any material change in the rate of contributions to any pension schemes mentioned in Clause 22.21.1 above paid or recommended to be paid (whether by the scheme actuary or otherwise) or required (by law or otherwise).

22.22 **Access**

Each Obligor shall, and the Borrower shall ensure that each member of the Group will (not more than once in every Financial Year unless the Agent reasonably suspects a Default is continuing or may occur), permit the Agent and/or the Security Agent and/or accountants or other professional advisers and contractors of the Agent or Security Agent free access at all reasonable times and on reasonable notice at the risk and cost of the Obligor to (a) the premises, assets, books, accounts and records of each member of the Group and (b) meet and discuss matters with Richard Harris and David Rocke.

22.23 **Intellectual Property**

22.23.1 Each Obligor shall and the Borrower shall procure that each member of the Group will:

(a) preserve and maintain the subsistence and validity of the Intellectual Property necessary for its business;

(b) use reasonable endeavours (including the institution of legal proceedings) to prevent any infringement in any material respect of the Intellectual Property;

(c) promptly notify the Agent if it becomes aware of any infringement or challenge to the validity, enforceability or ownership of any Intellectual Property and supply the Security Agent with all information relating to it which is reasonably requested by the Agent;

(d) make registrations and pay all registration fees and taxes necessary to maintain the Intellectual Property in full force and effect and record its interest in that Intellectual Property;

(e) not use or permit the Intellectual Property to be used in a way or take any step or omit to take any step in respect of that Intellectual Property which may materially and adversely affect the existence or value of that Intellectual Property or imperil the right of any member of the Group to use such property; and

(f) not discontinue the use of the Specified Intellectual Property (as defined in any Transaction Security Document),

where failure to do so in the case of Clause 22.23.1(a) and 22.23.1(b) above, or, in the case of Clauses 22.23.1(d) and 22.23.1(e) above, such use, permission to use, omission or discontinuation is reasonably likely to have a Material Adverse Effect – *wording to be discussed* .

22.23.2 Failure to comply with any part of Clause 22.23.1 above shall not be a breach of Clause 22.23.1 to the extent that any dealing with Intellectual Property which would otherwise be a breach of Clause 22.23.1 is contemplated by paragraph (a) of the definition of Permitted Transaction.

22.24 **Amendments**

No Obligor shall (and the Borrower shall ensure that no other Obligor or member of the Group will) amend, vary, novate, supplement, supersede, waive or terminate any term of a Transaction Document or any other document delivered to the Agent pursuant to Clause 4.1 (*Initial conditions precedent*) or Clause 25 (*Changes to the Obligors*) or enter into any agreement with any shareholders of the Borrower except in writing:

(a) in accordance with the provisions of Clause 35 (*Amendments and Waivers*), the Shareholder’s Undertaking or the Enstar Guarantee; or

(b) prior to the First Utilisation Date, with the prior written consent of the Original Lenders; or

(c) after the First Utilisation Date, in a way which:

(i) could not reasonably be expected to materially and adversely affect the interests of the Lenders or the ranking and/or subordination arrangements provided for in the Shareholder’s Undertaking; and

(ii) would not change the date, amount or method of payment of the dividends on the Borrower’s shares.

The Borrower shall promptly supply to the Agent a copy of any document relating to any of the matters referred to in paragraphs (a) to (c) above.

22.25 **Financial assistance**

Each Obligor shall (and the Borrower shall procure each member of the Group will) comply in all respects with any legislation governing the granting of financial

assistance in its jurisdiction of incorporation including in relation to the execution of the Transaction Security Documents and payment of amounts due under this Agreement.

22.26 **Treasury Transactions**

No Obligor shall (and the Borrower shall procure that no members of the Group will) enter into any Treasury Transaction other than the hedging transactions (if any) documented by the Hedging Agreements.

22.27 **Further assurance**

22.27.1 Each Obligor shall (and the Borrower shall procure that each member of the Group will) promptly do all such acts or execute all such documents (including assignments, transfers, mortgages, charges, notices and instructions) as the Security Agent may reasonably specify and in such form as the Security Agent may reasonably require (in favour of the Security Agent or its nominee(s)) in order to:

(a) perfect or protect the Security created or intended to be created under or evidenced by the Transaction Security Documents (which may include the execution of a mortgage, charge, assignment or other Security over all or any of the assets which are, or are intended to be, the subject of the Transaction Security) or for the exercise of any rights, powers and remedies of the Security Agent or the Finance Parties provided by or pursuant to the Finance Documents or by law;

(b) confer on the Security Agent or confer on the Finance Parties, Security over any property and assets of that Obligor located in any jurisdiction which is (to the extent permitted by local law) equivalent or similar to the Security intended to be conferred by or pursuant to the Transaction Security Documents; and/or

(c) facilitate the realisation of the assets which are, or are intended to be, the subject of the Transaction Security.

22.27.2 Each Obligor shall (and the Borrower shall procure that each member of the Group shall) take all such action as is available to it (including making all filings and registrations) as may be necessary for the purpose of the creation, perfection, protection or maintenance of any Security conferred or intended to be conferred on the Security Agent or the Finance Parties by or pursuant to the Finance Documents.

22.28 **Intra-Group transactions**

22.28.1 Without the consent of the Agent, no member of the Group may enter into any transaction (whether by way of disposal, investment, loan, borrowing, guarantee or otherwise) with, or in respect of the obligations of, any other member of the Group save and except where such transaction is a Permitted Transaction and is not unlawful under any law or regulation in any relevant jurisdiction including under any applicable financial assistance legislation.

22.28.2 Without the consent of the Agent, no member of the Group may enter into any transaction (whether by way of disposal, investment, loan, borrowing, guarantee or otherwise) with, or in respect of the obligations of, Enstar or any of its Subsidiaries (excluding other members of the Group) where the value of such transaction exceeds US$100,000 save and except where such transaction is conducted in the ordinary course of trading on arm’s length terms or is a Permitted Transaction.

22.28.3 If the relevant intra-Group transaction contemplated by Clause 22.28.1 above:

(a) is a disposal of assets from one Obligor to another and if Transaction Security had been granted by the Obligor disposing of such asset then the asset must be either transferred subject to such Security or the acquiring Obligor must grant equivalent Security over that asset in favour of the Security Agent; or

(b) results in Financial Indebtedness being owed by an Obligor to another Obligor then the creditor of such Financial Indebtedness shall grant Security over its rights in respect of such Financial Indebtedness in favour of the Lenders on terms acceptable to the Agent (acting on the instructions of the Majority Lenders).

22.29 **Cash Management**

22.29.1 Subject to Clause 22.29.2 below, no Obligor shall and each Obligor will procure that none of its Subsidiaries will, at any time hold cash or Cash Equivalent Investments greater than required for its projected cashflow requirements (the amount being the **Cash Balance**) and such Cash Balance shall only be lent by such member of the Group by way of a Permitted Distribution.

22.29.2 No Obligor shall be obliged at any time to procure that a Subsidiary transfer any Cash Balance under Clause 22.29.1 above:

(a) at a time when to do so would cause the Obligor or the Subsidiary (despite that person using all reasonable effects to avoid the relevant Tax liability) to incur a materially greater Tax liability in respect of the Cash Balance than it would otherwise incur if the transfer were made at a later date;

(b) if (despite using all reasonable efforts to avoid the breach or the result) to do so would breach any applicable law, FSA requirement or result in personal liability for the Obligor or the Subsidiary or any such person's directors or management; or

(c) which would leave an amount which is less than £200,000 in that Subsidiary.

22.30 **Obligors**

22.30.1 The Borrower shall ensure that at all times after the First Utilisation Date, each member of the Group that is not a Dormant Subsidiary or a Restricted Subsidiary is an Obligor.

22.30.2 The Borrower need only perform its obligations under Clause 22.30.1 above if it is not unlawful for the relevant person to become an Obligor and that person becoming an Obligor would not result in personal liability for that person's directors or other management. Each Obligor must use, and must procure that the relevant person uses, all reasonable endeavours lawfully available to avoid any such unlawfulness or personal liability. This includes agreeing to a limit on the amount guaranteed. The Agent may (but shall not be obliged to) agree to such a limit if, in its opinion, to do so would avoid the relevant unlawfulness or personal liability.]

22.31 **Syndication**

The Borrower shall provide reasonable assistance to the Arranger in the preparation of the Information Memorandum and the primary syndication of the Facilities (including, without limitation, by making senior management available for the purpose of making presentations to, or meeting, potential lending institutions)

and will comply with all reasonable requests for information from potential syndicate members prior to completion of syndication.

22.32 **Regulatory Compliance**

The Borrower shall observe and comply with all applicable acts, byelaws and regulations (including, without limitation, under the Financial Services and Markets Act 2000 (and related subordinate legislation) and the FSA Handbook (as amended from time to time) and any conditions or requirements prescribed under any applicable acts, byelaws and regulations), the failure to observe or comply with which would reasonably be expected to have a Material Adverse Effect

22.33 **Conditions subsequent**

The Borrower shall:

(a) within 7 days of the date of this Agreement, deliver to the Agent evidence that an additional repayment of principal in an amount of at least AUD36,000,000 (aggregate amount of AUD86,000,000) has been made under the Facilities Agreement dated 27 February 2008 between, inter alia, Cumberland Holdings Limited as borrower, National Australia Bank Limited and HSH Nordbank AG, London branch as Arrangers and Original Lenders, and National Australia Bank Limited as Agent and Security Agreement;

(b) within 7 days of the date of this Agreement, deliver to the Agent evidence that all amounts outstanding under the Facilities Agreement dated 24 July 2008 between, inter alia, Simcoe Holdings Limited as borrower and National Australia Bank Limited as Arranger, Original Lender, Agent and Security Agreement have been repaid in full;

(c) within 45 days of the First Utilisation Date, deliver to the Agent, in form and substance satisfactory to it, each document listed in Schedule 2 Part 1C (*Conditions Subsequent*);

(d) within 5 days of the First Utilisation Date, deliver to the Agent a copy of the register of members of the Target showing the Borrower as the sole shareholder.

23 **Events Of Default**

Each of the events or circumstances set out in this Clause 23 is an (*Event of Default*).

23.1 **Non-payment**

An Obligor does not pay on the due date any amount payable pursuant to a Finance Document in the manner in which it is expressed to be payable unless:

(a) its failure to pay is caused by:

(i) administrative or technical error by a bank in the transmission of funds; or

(ii) a Disruption Event; and

(b) payment is made within 5 Business Days of its due date.

23.2 **Financial covenants and other obligations**

23.2.1 Any requirement of Clause 21 (*Financial Covenants*) is not satisfied.

23.2.2 An Obligor does not comply with the provisions of Clauses 20 (*Information Undertakings*), Clause 22.4 (*Merger*) to 22.8 (*Holding Companies*) (inclusive), Clauses 22.13 (*Negative pledge*) to 22.21 (*Pensions*) (inclusive), Clause 22.24 (*Amendments*) or Clause 22.33 (*Conditions subsequent*).

23.2.3 An Obligor does not comply with any provision of any Transaction Security Document.

23.3 **Other obligations**

23.3.1 An Obligor does not comply with any provision of the Finance Documents (other than those referred to in Clause 23.1 (*Non-payment*) and Clause 23.2 (*Financial covenants and other obligations*)).

23.3.2 No Event of Default under Clause 23.3.1 above will occur if the failure to comply is capable of remedy and is remedied within 10 Business Days after the earlier of the Agent giving notice to the Borrower or relevant Obligor or the Borrower or an Obligor becoming aware of the failure to comply.

23.4 **Misrepresentation**

23.4.1 Any representation, warranty or statement made or deemed to be made by an Obligor in the Finance Documents or any other document delivered by or on behalf of any Obligor under or in connection with any Finance Document is or proves to have been incorrect or misleading when made or deemed to be made.

23.4.2 No Event of Default under Clause 23.4.1 above will occur if the failure to comply is capable of remedy and is remedied within 10 Business Days after the earlier of the Agent giving notice to the Obligor's Agent or relevant Obligor or the Obligor's Agent or an Obligor becoming aware of the failure to comply.

23.5 **Cross default**

23.5.1 Any Financial Indebtedness of any member of the Group is not paid when due nor within any originally applicable grace period.

23.5.2 Any Financial Indebtedness of any member of the Group is declared to be or otherwise becomes due and payable prior to its specified maturity as a result of an event of default (however described).

23.5.3 Any commitment for any Financial Indebtedness of any member of the Group is cancelled or suspended by a creditor of any member of the Group as a result of an event of default (however described).

23.5.4 Any creditor of any member of the Group becomes entitled to declare any Financial Indebtedness of any member of the Group due and payable prior to its specified maturity as a result of an event of default (however described).

23.5.5 No Event of Default will occur under Clauses 23.5.1 to 23.5.4 if the aggregate amount of Financial Indebtedness or commitment for Financial Indebtedness falling within Clauses 23.5.1 to 23.5.4 above is less than £250,000 (or its Base Currency Equivalent).

23.6 **Insolvency**

23.6.1 An Obligor or any member of the Group is unable or admits inability to pay its debts as they fall due or is deemed to or declared to be unable to pay its debts under applicable law, suspends or threatens to suspend making payments on any of its debts or, by reason of actual or anticipated financial difficulties, commences

negotiations with one or more of its creditors with a view to rescheduling any of its indebtedness.

23.6.2 The value of the assets of any Obligor or any member of the Group is less than its liabilities (taking into account contingent and prospective liabilities).

23.6.3 A moratorium is declared in respect of any indebtedness of any Obligor or any member of the Group. If a moratorium occurs, the ending of the moratorium will not remedy any Event of Default caused by that moratorium.

23.7 **Insolvency proceedings**

23.7.1 Any corporate action, legal proceedings or other procedure or step is taken in relation to:

(a) the suspension of payments, a moratorium of any indebtedness, winding-up, dissolution, administration or reorganisation (by way of voluntary arrangement, scheme of arrangement or otherwise) of any Obligor or any member of the Group;

(b) a composition, compromise, assignment or arrangement with any creditor of any Obligor or any member of the Group;

(c) the appointment of a liquidator, receiver, administrative receiver, administrator, compulsory manager or other similar officer in respect of any Obligor or any member of the Group or any of its assets; or

(d) enforcement of any Security over any assets of any Obligor or any member of the Group,

or any analogous procedure or step is taken in any jurisdiction.

23.7.2 Clause 23.7.1 above shall not apply to any winding-up petition which is frivolous or vexatious and is discharged, stayed or dismissed within 14 days of commencement, or, if earlier, the date on which it is advertised.

23.8 **Creditors' process**

Any expropriation, attachment, sequestration, distress or execution or any analogous process in any jurisdiction affects any asset or assets of an Obligor or a member of the Group having an aggregate value of £500,000 or more and is not discharged within 7 days.

23.9 **Unlawfulness and invalidity**

23.9.1 It is or becomes unlawful for an Obligor or, any other member of the Group that is party to the Shareholder's Undertaking, to perform any of its obligations under the Finance Documents or any Transaction Security created or expressed to be created or evidenced by the Transaction Security Documents ceases to be effective or any subordination created under the Shareholder's Undertaking or the guarantee created under the Enstar Guarantee is or becomes unlawful.

23.9.2 Any obligation or obligations of any Obligor under any Finance Document or any member of the Group under the Shareholder's Undertaking are not (subject to the Legal Reservations) or cease to be legal, valid, binding or enforceable and the cessation individually or cumulatively materially and adversely effects the interests of the Lenders under the Finance Documents.

23.9.3 Any Finance Document ceases to be in full force and effect or any Transaction Security or any subordination created under the Shareholder's Undertaking or the guarantee created under the Enstar Guarantee ceases to be legal, valid, binding, enforceable or effective or is alleged by a party to it (other than a Finance Party) to be ineffective.

23.10 **Shareholder's Undertaking and Enstar Guarantee**

23.10.1 Any party to the Shareholder's Undertaking and/or the Enstar Guarantee (other, in each case, than a Finance Party) fails to comply with the provisions of, or does not perform its obligations under, the Shareholder's Undertaking and/or the Enstar Guarantee or a representation or warranty given by that party in the Shareholder's Undertaking and/or the Enstar Guarantee is incorrect in any material respect.

23.10.2 No Event of Default under 23.10.1 above will occur if the non-compliance or circumstances giving rise to the misrepresentation are capable of remedy, and it is remedied within 10 Business Days of the earlier of the Agent giving notice to that party or that party becoming aware of the non-compliance or misrepresentation.

23.11 **Cessation of business**

Any Obligor or any member of the Group suspends or ceases to carry on (or threatens to suspend or cease to carry on) all or a material part of its business except as a result of a disposal which is a Permitted Disposal or a Permitted Transaction which is contemplated in paragraph (a) of the definition of that term.

23.12 **Change of ownership**

After the date of this Agreement, an Obligor (other than the Borrower) ceases to be a wholly-owned Subsidiary of the Borrower except in the case, as a result of a disposal which is a Permitted Disposal.

23.13 **Amending articles of association**

The Borrower amends, varies, supplements, supersedes, waives or terminates any provision of its Constitutional Documents which could adversely affect the interests of the Finance Parties without the prior written consent of the Majority Lenders.

23.14 **Audit qualification**

The Auditors of the Group qualify the audited annual consolidated financial statements of the Borrower.

23.15 **Expropriation**

The authority or ability of any Obligor or any member of the Group to conduct its business is limited or wholly or substantially curtailed by any seizure, expropriation, nationalisation, intervention, restriction or other action by or on behalf of any governmental, regulatory or other authority or other person in relation to any Obligor or any member of the Group or any of its assets.

23.16 **Repudiation and rescission of agreements**

23.16.1 An Obligor (or any other relevant party other than a Finance Party), the Shareholder or any Investor rescinds or purports to rescind or repudiates or purports to repudiate a Finance Document or any of the Transaction Security or evidences an intention to rescind or repudiate a Finance Document or any Transaction Security.

23.16.2 Any party to the Acquisition Documents or the Shareholder's Undertaking rescinds or purports to rescind or repudiates or purports to repudiate any of those agreements or instruments in whole or in part where to do so has or is, in the reasonable opinion of the Majority Lenders, likely to have a material adverse effect on the interests of the Lenders under the Finance Documents.

23.17 **Litigation**

Any litigation, arbitration, administrative, governmental, regulatory or other investigations, proceedings or disputes are commenced or threatened in relation to the Transaction Documents or the transactions contemplated in the Transaction Documents or against any Obligor or any member of the Group or its assets and which if successful would be reasonably likely to have a Material Adverse Effect.

23.18 **FSMA Sanctions**

Any fine, levy or sanctions are imposed upon any member of the Target Group by the FSA or under FSMA which the Majority Lenders reasonably believe has or is reasonably likely to have a Material Adverse Effect

23.19 **Material adverse change**

Any event or circumstance occurs which the Majority Lenders reasonably believe has or is reasonably likely to have a Material Adverse Effect.

23.20 **Acceleration**

23.20.1 On and at any time after the occurrence of an Event of Default which is continuing the Agent may, and shall if so directed by the Majority Lenders, by notice to the Borrower:

(a) cancel the Total Commitments at which time they shall immediately be cancelled;

(b) declare that all or part of the Loans, together with accrued interest, and all other amounts accrued or outstanding under the Finance Documents be immediately due and payable, at which time they shall become immediately due and payable;

(c) declare that all or part of the Loans be payable on demand, at which time they shall immediately become payable on demand by the Agent on the instructions of the Majority Lenders;

(d) exercise or direct the Security Agent to exercise any or all of its rights, remedies, powers or discretions under the Finance Documents.

24 **Changes To The Lenders**

24.1 **Assignments and transfers by the Lenders**

Subject to this Clause 24, a Lender (**Existing Lender**) may:

(a) assign any of its rights; or

(b) transfer by novation any of its rights and obligations, under any Finance Document to another bank or financial institution or to a trust, fund or other entity which is regularly engaged in or established for the purpose of making, purchasing or investing in loans, securities or other financial assets (**New Lender**).

24.2 **Conditions of assignment or transfer**

24.2.1 An Existing Lender must consult with the Borrower for no more than 5 days before it may make an assignment or transfer in accordance with Clause 24.1 (*Assignments and transfers by the Lenders*) unless the assignment or transfer is:

(a) to another Lender or an Affiliate of a Lender;

(b) if the Existing Lender is a fund, to a fund which is a Related Fund of the Existing Lender; or

(c) made at a time when an Event of Default is continuing.

24.2.2 An assignment will only be effective on:

(a) receipt by the Agent (whether in the Assignment Agreement or otherwise) of written confirmation from the New Lender (in form and substance satisfactory to the Agent) that the New Lender will assume the same obligations to the other Finance Parties and the other Secured Parties as it would have been under if it was an Original Lender; and

(b) the performance by the Agent of all necessary "know your customer" or other similar checks under all applicable laws and regulations in relation to such assignment to a New Lender, the completion of which the Agent shall promptly notify to the Existing Lender and the New Lender.

24.2.3 A transfer will only be effective if the procedure set out in Clause 24.5 (*Procedure for transfer*) is complied with.

24.2.4 If:

(a) a Lender assigns or transfers any of its rights or obligations under the Finance Documents or changes its Facility Office; and

(b) as a result of circumstances existing at the date the assignment, transfer or change occurs, an Obligor would be obliged to make a payment to the New Lender or Lender acting through its new Facility Office under Clause 14 (*Tax gross-up and indemnities*) or Clause 15.1 (*Increased costs*),

then (unless the assignment, transfer or charge has been made in mitigation in accordance with Clause 17 (*Mitigation by the Lenders*)) the New Lender or Lender acting through its new Facility Office is only entitled to receive payment under those Clauses to the same extent as the Existing Lender or Lender acting through its previous Facility Office would have been if the assignment, transfer or change had not occurred.

24.3 **Assignment or transfer fee**

Unless the Agent otherwise agrees and excluding an assignment or transfer:

(a) to an Affiliate of a Lender;

(b) to a Related Fund; or

(c) made in connection with primary syndication of the Facilities,

the New Lender shall, on the date upon which an assignment or transfer takes effect, pay to the Agent (for its own account) a fee of £1,000.

24.4 **Limitation of responsibility of Existing Lenders**

24.4.1 Unless expressly agreed to the contrary, an Existing Lender makes no representation or warranty and assumes no responsibility to a New Lender for:

(a) the legality, validity, effectiveness, adequacy or enforceability of the Transaction Documents, the Transaction Security or any other documents;

(b) the financial condition of any Obligor;

(c) the performance and observance by any Obligor or any other member of the Group of its obligations under the Transaction Documents or any other documents; or

(d) the accuracy of any statements (whether written or oral) made in or in connection with any Transaction Document or any other document,

and any representations or warranties implied by law are excluded.

24.4.2 Each New Lender confirms to the Existing Lender, the other Finance Parties and the Secured Parties that it:

(a) has made (and shall continue to make) its own independent investigation and assessment of the financial condition and affairs of each Obligor and its related entities in connection with its participation in this Agreement and has not relied exclusively on any information provided to it by the Existing Lender or any other Finance Party in connection with any Transaction Document or the Transaction Security; and

(b) will continue to make its own independent appraisal of the creditworthiness of each Obligor and its related entities whilst any amount is or may be outstanding under the Finance Documents or any Commitment is in force.

24.4.3 Nothing in any Finance Document obliges an Existing Lender to:

(a) accept a re-transfer or reassignment from a New Lender of any of the rights and obligations assigned or transferred under this Clause 24; or

(b) support any losses directly or indirectly incurred by the New Lender by reason of the non-performance by any Obligor of its obligations under the Transaction Documents or otherwise.

24.5 **Procedure for transfer**

24.5.1 Subject to the conditions set out in Clause 24.2 (*Conditions of assignment or transfer*) a transfer is effected in accordance with Clause 24.5.3 below when the Agent executes an otherwise duly completed Transfer Certificate delivered to it by the Existing Lender and the New Lender. The Agent shall, subject to Clause 24.5.2 below, as soon as reasonably practicable after receipt by it of a duly completed Transfer Certificate appearing on its face to comply with the terms of this Agreement and delivered in accordance with the terms of this Agreement, execute that Transfer Certificate.

24.5.2 The Agent shall only be obliged to execute a Transfer Certificate delivered to it by the Existing Lender and the New Lender upon its completion of all “know your customer” or other checks relating to any person that it is required to carry out in relation to the transfer to such New Lender.

24.5.3 On the Transfer Date:

(a) to the extent that in the Transfer Certificate the Existing Lender seeks to transfer by novation its rights, benefits and obligations under the Finance Documents and in respect of the Transaction Security each of the Obligors and the Existing Lender shall be released from further obligations towards one another under the Finance Documents and in respect of the Transaction Security and their respective rights against one another under the Finance Documents and in respect of the Transaction Security shall be cancelled (being the **Discharged Rights and Obligations**);

(b) each of the Obligors and the New Lender shall assume obligations towards one another and/or acquire rights and benefits against one another which differ from the Discharged Rights and Obligations only insofar as that Obligor or other member of the Group and the New Lender have assumed and/or acquired the same in place of that Obligor and the Existing Lender;

(c) the Agent, the Arranger, the Security Agent, the New Lender and the other Lenders shall acquire the same rights and assume the same obligations between themselves and in respect of the Transaction Security as they would have acquired and assumed had the New Lender been an Original Lender with the rights, and/or obligations acquired or assumed by it as a result of the transfer and to that extent the Agent, the Arranger, the Security Agent and the Existing Lender shall each be released from further obligations to each other under the Finance Documents; and

(d) the New Lender shall become a Party as a **Lender** .

24.6 **Procedure for assignment**

24.6.1 Subject to the conditions set out in Clause 24.2 (*Conditions of assignment or transfer*) an assignment may be effected in accordance with Clause 24.6.3 below when the Agent executes an otherwise duly completed Assignment Agreement delivered to it by the Existing Lender and the New Lender. The Agent shall, subject to Clause 24.6.2 below, as soon as reasonably practicable after receipt by it of a duly completed Assignment Agreement appearing on its face to comply with the terms of this Agreement and delivered in accordance with the terms of this Agreement, execute that Assignment Agreement.

24.6.2 The Agent shall only be obliged to execute an Assignment Agreement delivered to it by the Existing Lender and the New Lender upon its completion of all “know your customer” or other checks relating to any person that it is required to carry out in relation to the assignment to such New Lender.

24.6.3 On the Transfer Date:

(a) the Existing Lender will assign absolutely to the New Lender its rights under the Finance Documents and in respect of the Transaction Security expressed to be the subject of the assignment in the Assignment Agreement;

(b) the Existing Lender will be released from the obligations (**Relevant Obligations**) expressed to be the subject of the release in the Assignment Agreement (and any corresponding obligations by which it is bound in respect of the Transaction Security); and

(c) the New Lender shall become a Party as a **Lender** and will be bound by obligations equivalent to the Relevant Obligations.

24.6.4 Lenders may utilise procedures other than those set out in this Clause 24 to assign their rights under the Finance Documents provided that they comply with the conditions set out in Clause 24.2 (*Conditions of assignment or transfer*).

24.7 **Copy of Transfer Certificate or Assignment Agreement to Borrower**

The Agent shall, as soon as reasonably practicable after it has executed a Transfer Certificate or an Assignment Agreement, send to the Borrower a copy of that Transfer Certificate or Assignment Agreement.

24.8 **Disclosure of information**

(a) Any Lender may disclose to any of its Affiliates and any other person:

(i) to (or through) whom that Lender assigns or transfers (or may potentially assign or transfer) all or any of its rights and obligations under the Finance Documents;

(ii) with (or through) whom that Lender enters into (or may potentially enter into) any sub-participation in relation to, or any other transaction under which payments are to be made by reference to, the Finance Documents or any Obligor; or

(iii) for whose benefit that Lender charges, assigns or otherwise creates Security (or may do so) pursuant to Clause 24.9 (*Security interests over Lenders' rights*); or

(iv) to whom, and to the extent that, information is required to be disclosed by any applicable law or regulation; and

(b) any Finance Party may disclose to a rating agency or its professional advisers, or (with the consent of the Borrower) any other person,

any information about any Obligor, the Group and the Finance Documents as that Lender or other Finance Party shall consider appropriate if in relation to paragraphs (a)(i) and (ii) above, the person to whom the information is to be given has entered into a Confidentiality Undertaking (unless such information was publicly available at the time disclosed).

Any Confidentiality Undertaking signed by a Finance Party pursuant to this Clause 24.8 shall supersede any prior confidentiality undertaking signed by such Finance Party for the benefit of any member of the Group.

24.9 **Security Interests over Lenders' rights**

24.9.1 In addition to the other rights provided to Lenders under this Clause 24, each Lender may without consulting with or obtaining consent from any Obligor, at any time charge, assign or otherwise create Security in or over (whether by way of collateral or otherwise) all or any of its rights under any Finance Document to secure obligations of that Lender including, without limitation:

(a) any charge, assignment or other Security to secure obligations to a federal reserve or central bank; and

(b) in the case of any Lender which is a fund, any charge, assignment or other Security granted to any holders (or trustee or representatives of holders) of obligations owed, or securities issued, by that Lender as security for those obligations or securities,

24.9.2 except that no such charge, assignment or Security shall:

(a) release a Lender from any of its obligations under the Finance Documents or substitute the beneficiary of the relevant charge, assignment or Security for the Lender as a party to any of the Finance Documents; or

(b) require any payments to be made by an Obligor or grant to any person any more extensive rights than those required to be made or granted to the relevant Lender under the Finance Documents.

25 Changes to the Obligors

25.1 Assignment and transfers by Obligors

No Obligor or any other member of the Group may assign any of its rights or transfer any of its rights or obligations under the Finance Documents.

25.2 Additional Obligors

25.2.1 Subject to compliance with the provisions of Clause 20.9 (*"Know your customer" checks*), the Borrower may request that any of its wholly owned Subsidiaries become an Obligor.

25.2.2 The Borrower shall procure that any entity that becomes a member of the Group (and is not a Dormant Subsidiary or a Restricted Subsidiary) shall, as soon as possible after becoming a member of the Group, shall become an Additional Obligor and grant Security as the Agent may require and shall accede to the Shareholder's Undertaking.

25.2.3 A member of the Group shall become an Additional Obligor if:

(a) the Borrower and the proposed Obligor deliver to the Agent a duly completed and executed Accession Letter; and

(b) the Agent has received all of the documents and other evidence listed in Part 2 (Conditions precedent) in relation to that Additional Obligor, each in form and substance satisfactory to the Agent.

25.2.4 The Agent shall notify the Borrower and the Lenders promptly upon being satisfied that it has received (in form and substance satisfactory to it) all the documents and other evidence listed in Part 2 (Conditions precedent).

25.2.5 If any legal prohibition would prevent or limit a Subsidiary's ability to become an Additional Obligor and/or to enter into Transaction Security, the Obligors shall use their reasonable endeavours lawfully to overcome the prohibition.

25.3 Repetition of Representations

Delivery of an Accession Letter constitutes confirmation by the relevant Subsidiary that the representations and warranties referred to in Clause 19.34 (*Times when representations made*) are true and correct in relation to it as at the date of delivery as if made by reference to the facts and circumstances then existing.

25.4 Resignation and release of security on disposal

25.4.1 In this clause, **Third Party Disposal** means the disposal of an Obligor to a person which is not a member of the Group where that disposal is permitted under Clause 22.14 (*Disposals*) or made with the approval of the Majority Lenders (and the Borrower has confirmed this is the case).

25.4.2 If the Borrower or an Obligor is or is proposed to be the subject of a Third Party Disposal then:

(a) where the Borrower or that Obligor created Transaction Security over any of its assets or business in favour of the Security Agent, or Transaction Security in favour of the Security Agent was created over the shares (or equivalent) of the Borrower or that Obligor, the Security Agent may, at the cost and request of the Borrower, release those assets, business or shares (or equivalent) and issue certificates of non-crystallisation;

(b) the resignation of the Borrower or that Obligor and related release of Transaction Security referred to in Clause 25.4 above shall not become effective until all Disposal Proceeds resulting from that Third Party Disposal have been irrevocably paid to the Agent in accordance with Clause 8 (*Mandatory Prepayment*); and

(c) if the disposal of the Borrower or that Obligor is not made, the release of Transaction Security referred to in Clause 25.4 above shall have no effect and the obligations of the Borrower or Obligor and the Transaction Security created or intended to be created by or over the Borrower or that Obligor shall continue in full force and effect.

26 Role Of The Agent, The Arranger, The Security Agent And Others

26.1 Appointment of the Agent

26.1.1 The Arrangers and each of the Lenders appoints the Agent to act as its agent under and in connection with the Finance Documents.

26.1.2 The Arrangers and each of the Lenders authorises the Agent to exercise the rights, powers, authorities and discretions specifically given to the Agent under or in connection with the Finance Documents together with any other incidental rights, powers, authorities and discretions.

26.2 Duties of the Agent

26.2.1 The Agent shall promptly forward to a Party the original or a copy of any document which is delivered to the Agent for that Party by any other Party excluding, for the avoidance of doubt, any Fee Letter.

26.2.2 Except where a Finance Document specifically provides otherwise, the Agent is not obliged to review or check the adequacy, accuracy or completeness of any document it forwards to another Party.

26.2.3 If the Agent receives notice from a Party referring to this Agreement, describing a Default and stating that the circumstance described is a Default, it shall promptly notify the other Finance Parties. The Agent is not obliged to monitor or enquire whether a Default has occurred.

26.2.4 If the Agent is aware of the non-payment of any principal, interest, commitment fee or other fee payable to a Finance Party (other than the Agent, the Arranger or the Security Agent) under this Agreement it shall promptly notify the other Finance Parties.

26.2.5 The Agent’s duties under the Finance Documents are solely mechanical and administrative in nature.

26.3 Role of the Arranger

Except as specifically provided in the Finance Documents, the Arranger has no obligations of any kind to any other Party under or in connection with any Finance Document.

26.4 No fiduciary duties

26.4.1 Nothing in this Agreement constitutes the Agent and/or the Arranger as a trustee or fiduciary of any other person.

26.4.2 None of the Agent, the Security Agent or the Arranger shall be bound to account to any Lender for any sum or the profit element of any sum received by it for its own account.

26.5 Business with the Group

The Agent, the Security Agent and the Arranger may accept deposits from, lend money to and generally engage in any kind of banking or other business with any Obligor or any member of the Group.

26.6 Rights and discretions

26.6.1 The Agent may rely on:

(a) any representation, notice or document believed by it to be genuine, correct and appropriately authorised; and

(b) any statement made by a director, authorised signatory or employee of any person regarding any matters which may reasonably be assumed to be within his knowledge or within his power to verify.

26.6.2 The Agent may assume (unless it has received notice to the contrary in its capacity as agent for the Lenders) that:

(a) no Default has occurred (unless it has actual knowledge of a Default arising under Clause 23.1 (*Non-payment*));

(b) any right, power, authority or discretion vested in any Party or the Majority Lenders has not been exercised; and

(c) any notice or request made by the Borrower (other than a Utilisation Request or Selection Notice) is made on behalf of and with the consent and knowledge of all the Obligors.

26.6.3 The Agent may engage, pay for and rely on the advice or services of any lawyers, accountants, actuaries or other experts.

26.6.4 The Agent may act in relation to the Finance Documents through its personnel and agents.

26.6.5 The Agent may disclose to any other Party any information it reasonably believes it has received as agent under the Finance Documents.

26.6.6 The Agent may execute on behalf of the Finance Parties any document expressed by any Finance Document to be executed by the Agent on their behalf.

26.6.7 Notwithstanding any other provision of any Finance Document to the contrary, none of the Agent or the Arranger is obliged to do or omit to do anything if it would

or might in its reasonable opinion constitute a breach of any law or regulation or a breach of a fiduciary duty or duty of confidentiality.

26.7 **Majority Lenders' instructions**

26.7.1 Unless a contrary indication appears in a Finance Document, the Agent shall (i) exercise any right, power, authority or discretion vested in it as Agent in accordance with any instructions given to it by the Majority Lenders (or, if in relation to any Hedging Agreement, the Majority Creditors) (or, if so instructed by the Majority Lenders (or Majority Creditors, as the case may be), refrain from exercising any right, power, authority or discretion vested in it as Agent) and (ii) not be liable for any act (or omission) if it acts (or refrains from taking any action) in accordance with an instruction of the Majority Lenders (or Majority Creditors, as the case may be).

26.7.2 Unless a contrary indication appears in a Finance Document, any instructions given by the Majority Lenders or Majority Creditors as the case may be will be binding on all the Finance Parties other than the Security Agent.

26.7.3 Any Lender may by notice to the Agent divide its Loans or Commitments into separate amounts to reflect sub-participation or similar transactions and may require the Agent to count such separate amounts individually in calculating the composition of the Majority Lenders.

26.7.4 The Agent may refrain from acting in accordance with the instructions of the Majority Lenders (or, if appropriate, the Lenders or Majority Creditors) until it has received such security as it may require for any cost, loss or liability (together with any associated VAT) which it may incur in complying with the instructions.

26.7.5 In the absence of instructions from the Majority Lenders, (or, if appropriate, the Lenders or Majority Creditors), the Agent may act (or refrain from taking action) as it considers to be in the best interest of the Lenders.

26.7.6 The Agent is not authorised to act on behalf of a Lender (without first obtaining that Lender's consent) in any legal or arbitration proceedings relating to any Finance Document. This Clause 26.7 shall not apply to any legal or arbitration proceeding relating to the perfection, preservation or protection of rights under the Transaction Security Documents or enforcement of the Transaction Security or Transaction Security Documents.

26.8 **Responsibility for documentation**

Neither the Agent nor the Arranger:

(a) is responsible for the adequacy, accuracy and/or completeness of any information (whether oral or written) supplied by the Agent, the Arranger, an Obligor or any other person given in or in connection with any Finance Document, the Information Memorandum or the Report or the transactions contemplated in the Finance Documents; or

(b) is responsible for the legality, validity, effectiveness, adequacy or enforceability of any Finance Document or the Transaction Security or any other agreement, arrangement or document entered into, made or executed in anticipation of or in connection with any Finance Document or the Transaction Security.

26.9 Exclusion of liability

26.9.1 Without limiting Clause 26.9.2 below and without prejudice to the provisions of Clause 29.13 (*Disruption to the Payment Systems etc.*), the Agent will not be liable for any action taken by it under or in connection with any Finance Document or the Transaction Security, unless directly caused by its gross negligence or wilful misconduct.

26.9.2 No Party (other than the Agent) may take any proceedings against any officer, employee or agent of the Agent in respect of any claim it might have against the Agent, or in respect of any act or omission of any kind by that officer, employee or agent in relation to any Finance Document or any Transaction Document and any officer, employee or agent of the Agent, may rely on this Clause subject to Clause 1.8 (*Third party rights*) and the provisions of the Third Parties Act.

26.9.3 The Agent will not be liable for any delay (or any related consequences) in crediting an account with an amount required under the Finance Documents to be paid by the Agent if the Agent has taken all necessary steps as soon as reasonably practicable to comply with the regulations or operating procedures of any recognised clearing or settlement system used by the Agent for that purpose.

26.9.4 Nothing in this Agreement shall oblige the Agent or the Arranger to carry out any “know your customer” or other checks in relation to any person on behalf of any Lender and each Lender confirms to the Agent and the Arranger that it is solely responsible for any such checks it is required to carry out and that it may not rely on any statement in relation to such checks made by the Agent or the Arranger.

26.10 Lenders’ indemnity to the Agent

Each Lender shall (in proportion to its share of the Total Commitments or, if the Total Commitments are then zero, to its share of the Total Commitments immediately prior to their reduction to zero) indemnify the Agent, within three Business Days of demand, against any cost, loss or liability (including for negligence or any other category of liability whatsoever) incurred by the Agent (otherwise than by reason of the Agent’s gross negligence or wilful misconduct) (or in the case of any costs, loss or liability pursuant to Clause 29.13 (*Disruption to Payment Systems etc.*) notwithstanding the Agent’s negligence, gross negligence or any other category of liability whatsoever but not including any claim based on the fraud of the Agent) in acting as Agent under the Finance Documents (unless the Agent has been reimbursed by an Obligor pursuant to a Finance Document).

26.11 Resignation of the Agent

26.11.1 The Agent may resign and appoint one of its Affiliates acting through an office in the United Kingdom as successor by giving notice to the Lenders and the Borrower.

26.11.2 Alternatively the Agent may resign by giving notice to the Lenders and the Borrower, in which case the Majority Lenders (after consultation with the Borrower) may appoint a successor Agent.

26.11.3 If the Majority Lenders have not appointed a successor Agent in accordance with Clause 26.11.2 above within 30 days after notice of resignation was given, the Agent (after consultation with the Borrower) may appoint a successor Agent (acting through an office in the United Kingdom).

26.11.4 The retiring Agent shall, at its own cost, make available to the successor Agent such documents and records and provide such assistance as the successor Agent

may reasonably request for the purposes of performing its functions as Agent under the Finance Documents.

26.11.5 The Agent's resignation notice shall only take effect upon the appointment of a successor.

26.11.6 Upon the appointment of a successor, the retiring Agent shall be discharged from any further obligation in respect of the Finance Documents but shall remain entitled to the benefit of this Clause 26. Its successor and each of the other Parties shall have the same rights and obligations amongst themselves as they would have had if such successor had been an original Party.

26.11.7 After consultation with the Borrower, the Majority Lenders may, by notice to the Agent, require it to resign in accordance with Clause 26.11.2 above. In this event, the Agent shall resign in accordance with Clause 26.11.2 above.

26.12 **Confidentiality**

26.12.1 In acting as agent for the Finance Parties, the Agent shall be regarded as acting through its agency division which shall be treated as a separate entity from any other of its divisions or departments.

26.12.2 If information is received by another division or department of the Agent, it may be treated as confidential to that division or department and the Agent shall not be deemed to have notice of it.

26.12.3 Notwithstanding any other provision of any Finance Document to the contrary, neither the Agent nor the Arranger are obliged to disclose to any other person (i) any confidential information, or (ii) any other information if the disclosure would or might in its reasonable opinion constitute a breach of any law or a breach of a fiduciary duty.

26.13 **Relationship with the Lenders**

26.13.1 The Agent may treat each Lender as a Lender, entitled to payments under this Agreement and acting through its Facility Office unless it has received not less than five Business Days prior notice from that Lender to the contrary in accordance with the terms of this Agreement.

26.13.2 Each Lender shall supply the Agent with any information required by the Agent in order to calculate the Mandatory Cost in accordance with Schedule 4 (*Mandatory Cost Formula*).

26.13.3 Each Lender shall supply the Agent with any information that the Security Agent may reasonably specify (through the Agent) as being necessary or desirable to enable the Security Agent to perform its functions as Security Agent. Each Lender shall deal with the Security Agent exclusively through the Agent and shall not deal directly with the Security Agent.

26.14 **Credit appraisal by the Lenders**

Without affecting the responsibility of any Obligor for information supplied by it or on its behalf in connection with any Finance Document, each Lender confirms to the Agent and the Arranger that it has been, and will continue to be, solely responsible for making its own independent appraisal and investigation of all risks arising under or in connection with any Finance Document including but not limited to:

(a) the financial condition, status and nature of each Obligor and each member of the Group;

(b) the legality, validity, effectiveness, adequacy or enforceability of any Finance Document and the Transaction Security and any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document or the Transaction Security;

(c) whether that Secured Party has recourse, and the nature and extent of that recourse, against any Party or any of its respective assets under or in connection with any Finance Document, the Transaction Security, the transactions contemplated by the Finance Documents or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document;

(d) the adequacy, accuracy and/or completeness of the Information Memorandum, the Report or any other information provided by the Agent, any Party or by any other person under or in connection with any Finance Document, the transactions contemplated by the Finance Documents or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document; and

(e) the right or title of any person in or to, or the value or sufficiency of any part of the Charged Property, the priority of any of the Transaction Security or the existence of any Security affecting the Charged Property.

26.15 **Reference Banks**

26.15.1 If a Lender is a Reference Bank (or an Affiliate of a Reference Bank) but later ceases to be a Lender, the Agent shall (in consultation with the Borrower) appoint another Lender or another Affiliate of a Lender to replace that Reference Bank.

26.15.2 If a Reference Bank which was not a Lender subsequently becomes a Lender, the Agent may (in consultation with the Borrower) appoint that Lender to replace any Reference Bank which is not then either a Lender or an Affiliate of a Lender.

26.16 **Deduction from amounts payable by the Agent**

If any Party owes an amount to the Agent under the Finance Documents the Agent may, after giving notice to that Party, deduct an amount not exceeding that amount from any payment to that Party which the Agent would otherwise be obliged to make under the Finance Documents and apply the amount deducted in or towards satisfaction of the amount owed. For the purposes of the Finance Documents that Party shall be regarded as having received any amount so deducted.

26.17 **Reliance and engagement letters**

Each Finance Party and Secured Party confirms that the Arranger and the Agent has authority to accept on its behalf (and ratifies the acceptance on its behalf of any letters or reports already accepted by the Arranger or Agent) the terms of any reliance letter or engagement letters relating to the Report or letters provided by accountants or actuaries in connection with the Finance Documents or the transactions contemplated in the Finance Documents (including any net asset letter in connection with the financial assistance procedures) and to bind it in respect of those reports or letters and to sign such letters on its behalf and further confirms that it accepts the terms and qualifications set out in such letters.

26.18 **Appointment of Security Agent**

26.18.1 Each other Finance Party irrevocably appoints the Security Agent as its agent and trustee on the terms set out in Schedule 12 (*Security Agent*).

26.18.2 Each Obligor and each other Finance Party agrees to the terms set out in Schedule 12 (*Security Agent*). In the event of any conflict between the terms of Schedule 12 (*Security Agent*) and any other Finance Document, the terms of Schedule 12 (*Security Agent*) shall prevail.

26.19 **Release of Security**

26.19.1 The Security Agent may at its sole discretion and without reference to any other Finance Party take such action as it deems necessary or advisable to release any assets from the Security constituted by the Transaction Security Documents to the extent that their disposal or release is:

(a) permitted or required by the terms of this Agreement including pursuant to any instructions given to it in accordance with Clause 26.20 (*Instructions*); or

(b) permitted or required by the original form of any other Finance Document and will not result or could not reasonably be expected to result in any breach of the terms of this Agreement.

26.19.2 If:

(a) all of the shares in the capital of any member of the Group are to be disposed of, which would result in any Obligor ceasing to be a member of the Group; or

(b) any asset which is the subject of a Transaction Security Document is to be disposed of to a person outside (and which will remain outside) the Group,

and in any such case:

(i) the Majority Lenders agree to such disposal; or

(ii) the Security Agent has received instructions from the relevant Finance Parties that comply with Clause 26.20 (*Instructions*) instructing it to release the relevant Security and/or Guarantees over such asset; or

(iii) the disposal is permitted by the terms of the relevant Finance Document and will not result or could not reasonably be expected to result in any breach of any of the terms of this Agreement; or

(iv) the disposal is being made at the request of the Security Agent in circumstances where any Security created by the Transaction Security Documents has become enforceable; or

(v) the disposal is being effected by enforcement of a Transaction Security Document,

then, in the case of a disposal contemplated by paragraph (a) above, the Security provided by that Obligor over its assets under the Transaction Security Documents and any related guarantees given by, or in respect of, such Obligor will be released and in the case of a disposal contemplated by paragraph (b) above those assets will be released from such Security, in each case at the expense of the relevant Obligor.

26.19.3 The Security Agent is authorised by each other Finance Party to execute (on behalf of itself and each such Finance Party) all releases of any Security or any guarantee resulting from any disposal contemplated in Clauses 26.19.1 and 26.19.2 above, without the need for any further referral to, or authority from, any other Party, including any formal release of any asset which the Security Agent in its absolute discretion considers necessary or desirable in connection with that disposal.

26.20 **Instructions:**

26.20.1 The Security Agent shall act in accordance with:

(a) the terms of this Agreement; or

(b) joint instructions received from, or on behalf of, the Majority Lenders.

26.20.2 Any release of any Security constituted by the Transaction Security Documents or any release of any claim arising by virtue of any guarantee given under the Finance Documents, shall (other than as provided in Clause 26.19 (*Release of Security*)) require the prior written consent of, or on behalf of, the Majority Lenders).

26.20.3 The Security Agent will not be liable to any other Finance Party for any act (or omission) if it acts (or refrains from taking any action) in accordance with the terms of this Agreement even if such action would otherwise cause a breach of any Finance Document. If there is any conflict between the provisions of this Agreement and any other Finance Document with regard to instructions or other matters affecting the Security Agent, this Agreement will prevail.

26.20.4 Any instructions given to the Security Agent in accordance with the terms of this Agreement will be binding on all other Finance Parties who shall not be entitled to object to anything done or omitted to be done as a result of such instructions.

26.20.5 In the absence of instructions, the Security Agent may act (or refrain from taking action) in such manner as it considers to be in the best interests of the Finance Parties but is not authorised to act on behalf of another Finance Party (without first obtaining their consent) in any legal or arbitration proceedings relating to any Finance Document.

26.20.6 The Security Agent may refrain from acting in accordance with any instructions until it has received such Security as it may require for any cost, loss or liability (together with any associated Tax) which it may incur in complying with the instructions.

27 **Conduct Of Business By The Finance Parties**

No provision of any Finance Document will:

(a) interfere with the right of any Finance Party to arrange its affairs (tax or otherwise) in whatever manner it thinks fit;

(b) oblige any Finance Party to investigate or claim any credit, relief, remission or repayment available to it or the extent, order and manner of any claim; or

(c) oblige any Finance Party to disclose any information relating to its affairs (tax or otherwise) or any computations in respect of Tax.

28 Sharing Among The Finance Parties

28.1 Payments to Finance Parties

If a Finance Party (**Recovering Finance Party**) receives or recovers any amount from an Obligor other than in accordance with Clause 29 (*Payment mechanics*) and applies that amount to a payment due under the Finance Documents then:

(a) the Recovering Finance Party shall, within three Business Days, notify details of the receipt or recovery, to the Agent;

(b) the Agent shall determine whether the receipt or recovery is in excess of the amount the Recovering Finance Party would have been paid had the receipt or recovery been received or made by the Agent and distributed in accordance with Clause 31 (*Payment mechanics*), without taking account of any Tax which would be imposed on the Agent in relation to the receipt, recovery or distribution; and

(c) the Recovering Finance Party shall, within three Business Days of demand by the Agent, pay to the Agent an amount (**Sharing Payment**) equal to such receipt or recovery less any amount which the Agent determines may be retained by the Recovering Finance Party as its share of any payment to be made, in accordance with Clause 29.8 (*Partial payments*).

28.2 Redistribution of payments

The Agent shall treat the Sharing Payment as if it had been paid by the relevant Obligor and distribute it between the Finance Parties (other than the Recovering Finance Party) in accordance with Clause 29.8 (*Partial payments*).

28.3 Recovering Finance Party's rights

28.3.1 On a distribution by the Agent under Clause 28.2 (*Redistribution of payments*), the Recovering Finance Party will be subrogated to the rights of the Finance Parties which have shared in the redistribution.

28.3.2 If and to the extent that the Recovering Finance Party is not able to rely on its rights under Clause 28.3.1 above, the relevant Obligor shall be liable to the Recovering Finance Party for a debt equal to the Sharing Payment which is immediately due and payable.

28.4 Reversal of redistribution

If any part of the Sharing Payment received or recovered by a Recovering Finance Party becomes repayable and is repaid by that Recovering Finance Party, then:

(a) each Finance Party which has received a share of the relevant Sharing Payment pursuant to Clause 28.2 (*Redistribution of payments*) shall, upon request of the Agent, pay to the Agent for account of that Recovering Finance Party an amount equal to the appropriate part of its share of the Sharing Payment (together with an amount as is necessary to reimburse that Recovering Finance Party for its proportion of any interest on the Sharing Payment which that Recovering Finance Party is required to pay); and

(b) that Recovering Finance Party's rights of subrogation in respect of any reimbursement shall be cancelled and the relevant Obligor will be liable to the reimbursing Finance Party for the amount so reimbursed.

28.5 **Exceptions**

28.5.1 This Clause 28 shall not apply to the extent that the Recovering Finance Party would not, after making any payment pursuant to this Clause, have a valid and enforceable claim against the relevant Obligor except where that would be inconsistent with the terms of the Shareholder's Undertaking.

28.5.2 A Recovering Finance Party is not obliged to share with any other Finance Party any amount which the Recovering Finance Party has received or recovered as a result of taking legal or arbitration proceedings, if:

(a) it notified the other Finance Party of the legal or arbitration proceedings; and

(b) the other Finance Party had an opportunity to participate in those legal or arbitration proceedings but did not do so as soon as reasonably practicable having received notice and did not take separate legal or arbitration proceedings.

28.5.3 A Hedge Counterparty which is a Recovering Finance Party is not obliged to share with any other Finance Party any amount which it has received or recovered pursuant to terminating or closing out a Hedging Arrangement under Clauses 27 (*Conduct of Business By The Finance Parties*) and/or 28 (*Sharing Among The Finance Parties*), where such termination or close out is permitted under the terms of this Agreement.

29 **Payment Mechanics**

29.1 **Payments to the Agent**

29.1.1 On each date on which an Obligor or a Lender is required to make a payment under a Finance Document excluding a payment under the terms of a Hedging Agreement, that Obligor or Lender shall (and the Borrower shall ensure that such Obligor will) make the same available to the Agent (unless a contrary indication appears in a Finance Document) for value on the due date at the time and in such funds specified by the Agent as being customary at the time for settlement of transactions in the relevant currency in the place of payment.

29.1.2 Payment shall be made to such account with such bank as the Agent specifies.

29.2 **Distributions by the Agent**

Each payment received by the Agent under the Finance Documents for another Party shall, subject to Clause 29.3 (*Distributions to an Obligor*) and Clause 29.4 (*Clawback*) be made available by the Agent as soon as practicable after receipt to the Party entitled to receive payment in accordance with this Agreement (in the case of a Lender, for the account of its Facility Office), to such account as that Party may notify to the Agent by not less than five Business Days' notice.

29.3 **Distributions to an Obligor**

The Agent may (with the consent of the Obligor or in accordance with Clause 30 (*Set-off*)) apply any amount received by it for that Obligor in or towards payment (on the date and in the currency and funds of receipt) of any amount due from that Obligor under the Finance Documents or in or towards purchase of any amount of any currency to be so applied.

29.4 Clawback

29.4.1 Where a sum is to be paid to the Agent under the Finance Documents for another Party, the Agent is not obliged to pay that sum to that other Party (or to enter into or perform any related exchange contract) until it has been able to establish to its satisfaction that it has actually received that sum.

29.4.2 If the Agent pays an amount to another Party and it proves to be the case that the Agent had not actually received that amount, then the Party to whom that amount (or the proceeds of any related exchange contract) was paid by the Agent shall on demand refund the same to the Agent together with interest on that amount from the date of payment to the date of receipt by the Agent, calculated by the Agent to reflect its cost of funds.

29.5 Proceeds of enforcement

Subject to the payment of any claim ranking in priority as a matter of law, the proceeds of enforcement of the Security constituted by the Transaction Security Documents shall be paid to the Security Agent and those proceeds (together with all other amounts paid to the Security Agent in accordance with the terms of this Agreement or any other Finance Document) shall be applied in the following order:

(a) First, in satisfaction of all costs, charges, expenses (including legal expenses) and liabilities properly incurred by the Security Agent or any Insolvency Representative appointed under the Transaction Security Documents or their attorneys or agents and of the remuneration of such Insolvency Representative (and all interest on such sums as provided in the Finance Documents);

(b) Second, in payment of all reasonable costs and expenses (including legal expenses) properly incurred by or on behalf of any other Finance Party in connection with such enforcement;

(c) Third, in payment to the Agent for application in or towards the discharge of the Loans on a pro rata basis; and

(d) Fourth, any surplus to such persons who may be entitled to them.

29.6 Waterfall

No such proceeds or amounts shall be applied in payment of any amounts specified in any of the paragraphs in Clause 29.5 (*Proceeds of Enforcement*) until all amounts specified in any earlier paragraph have been paid in full.

29.7 Good discharge

An acknowledgement of receipt signed by the relevant person to whom payments are to be made under 29.5 (*Proceeds of Enforcement*) shall be a good discharge of the Security Agent.

29.8 Partial payments

29.8.1 If the Agent receives a payment for application against amounts due in respect of any Finance Documents that is insufficient to discharge all the amounts then due and payable by an Obligor under those Finance Documents, the Agent shall apply that payment towards the obligations of that Obligor under those Finance Documents in the following order:

(a) **first** , in or towards payment pro rata of any unpaid fees, costs and expenses of the Agent under the Finance Documents;

(b) **secondly** , in or towards payment pro rata of:

(i) any periodical payments (not being payments as a result of termination of closing out) due but unpaid to the Hedge Counterparties under the Hedging Agreements (if any); and

(ii) any accrued interest, fee or commission due but unpaid under this Agreement;

(c) **thirdly** , in or towards payment pro rata of:

(i) any payments as a result of termination or closing out due but unpaid to the Hedge Counterparties under the Hedging Agreements (if any); and

(ii) any principal amount due but unpaid under this Agreement; and

(d) **fourthly** , in or towards payment pro rata of any other sum due but unpaid under the Finance Documents.

29.8.2 The Agent shall, if so directed by the Majority Creditors, vary the order set out in paragraphs (a) to (d) above.

29.8.3 Clauses 29.8.1 and 29.8.2 above will override any appropriation made by an Obligor.

29.9 **No set-off by Obligors**

All payments to be made by an Obligor under the Finance Documents shall be calculated and be made without (and free and clear of any deduction for) set-off or counterclaim.

29.10 **Business Days**

29.10.1 Any payment which is due to be made on a day that is not a Business Day shall be made on the next Business Day in the same calendar month (if there is one) or the preceding Business Day (if there is not).

29.10.2 During any extension of the due date for payment of any principal or Unpaid Sum under this Agreement interest is payable on the principal or Unpaid Sum at the rate payable on the original due date.

29.11 **Currency of account**

29.11.1 Subject to Clauses 29.11.2 to 29.11.5 below, the Base Currency is the currency of account and payment for any sum due from an Obligor under any Finance Document.

29.11.2 A repayment of a Loan or Unpaid Sum or a part of a Loan or Unpaid Sum shall be made in the currency in which that Loan or Unpaid Sum is denominated on its due date.

29.11.3 Each payment of interest shall be made in the currency in which the sum in respect of which the interest is payable was denominated when that interest accrued.

29.11.4 Each payment in respect of costs, expenses or Taxes shall be made in the currency in which the costs, expenses or Taxes are incurred.

29.11.5 Any amount expressed to be payable in a currency other than the Base Currency shall be paid in that other currency.

29.12 Change of currency

29.12.1 Unless otherwise prohibited by law, if more than one currency or currency unit are at the same time recognised by the central bank of any country as the lawful currency of that country, then:

(a) any reference in the Finance Documents to, and any obligations arising under the Finance Documents in, the currency of that country shall be translated into, or paid in, the currency or currency unit of that country designated by the Agent (after consultation with the Borrower); and

(b) any translation from one currency or currency unit to another shall be at the official rate of exchange recognised by the central bank for the conversion of that currency or currency unit into the other, rounded up or down by the Agent (acting reasonably).

29.12.2 If a change in any currency of a country occurs, this Agreement will, to the extent the Agent (acting reasonably and after consultation with the Borrower) specifies to be necessary, be amended to comply with any generally accepted conventions and market practice in the London interbank market and otherwise to reflect the change in currency.

29.13 Disruption to Payment Systems etc.

If either the Agent determines (in its discretion) that a Disruption Event has occurred or the Agent is notified by the Borrower that a Disruption Event has occurred:

(a) the Agent may, and shall if requested to do so by the Borrower, consult with the Borrower with a view to agreeing with the Borrower such changes to the operation or administration of the Facilities as the Agent may deem necessary in the circumstances;

(b) the Agent shall not be obliged to consult with the Borrower in relation to any changes mentioned in paragraph (a) if, in its opinion, it is not practicable to do so in the circumstances and, in any event, shall have no obligation to agree to such changes;

(c) the Agent may consult with the Finance Parties in relation to any changes mentioned in paragraph (a) but shall not be obliged to do so if, in its opinion, it is not practicable to do so in the circumstances;

(d) any such changes agreed upon by the Agent and the Borrower shall (whether or not it is finally determined that a Disruption Event has occurred) be binding upon the Parties as an amendment to (or, as the case may be, waiver of) the terms of the Finance Documents notwithstanding the provisions of Clause 35 (*Amendments and Waivers*);

(e) the Agent shall not be liable for any damages, costs or losses whatsoever (including, without limitation for negligence, gross negligence or any other category of liability whatsoever but not including any claim based on the fraud of the Agent) arising as a result of its taking, or failing to take, any actions pursuant to or in connection with this Clause 29.13; and

(f) the Agent shall notify the Finance Parties of all changes agreed pursuant to paragraph (d) above.

30 Set-Off

A Finance Party may set off any matured obligation due from an Obligor under the Finance Documents (to the extent beneficially owned by that Finance Party) against any matured obligation owed by that Finance Party to that Obligor, regardless of the place of payment, booking branch or currency of either obligation. If the obligations are in different currencies, the Finance Party may convert either obligation at a market rate of exchange in its usual course of business for the purpose of the set-off. No security interest is created by this Clause 30.

31 Notices

31.1 Communications in writing

Any communication to be made under or in connection with the Finance Documents shall be made in writing and, unless otherwise stated, may be made by fax or letter.

31.2 Addresses

31.2.1 The address and fax number (and the department or officer, if any, for whose attention the communication is to be made) of each Party for any communication or document to be made or delivered under or in connection with the Finance Documents is:

(a) in the case of the Borrower, that identified with its name below;

(b) in the case of each Lender or any other Obligor, that notified in writing to the Agent on or prior to the date on which it becomes a Party; and

(c) in the case of the Agent or the Security Agent, that identified with its name below,

or any substitute address, fax number or department or officer as the Party may notify to the Agent (or the Agent may notify to the other Parties, if a change is made by the Agent) by not less than five Business Days' notice.

31.3 Delivery

31.3.1 Any communication or document made or delivered by one person to another under or in connection with the Finance Documents will only be effective:

(a) if by way of fax, when received in legible form; or

(b) if by way of letter, when it has been left at the relevant address or five Business Days after being deposited in the post postage prepaid in an envelope addressed to it at that address,

and, if a particular department or officer is specified as part of its address details provided under Clause 31.2 (*Addresses*), if addressed to that department or officer.

31.3.2 Any communication or document to be made or delivered to the Agent or the Security Agent will be effective only when actually received by the Agent or Security Agent and then only if it is expressly marked for the attention of the department or officer identified with the Agent's or Security Agent's signature below

(or any substitute department or officer as the Agent or Security Agent shall specify for this purpose).

31.3.3 All notices from or to an Obligor shall be sent through the Agent.

31.3.4 Any communication or document made or delivered to the Borrower in accordance with this Clause 31 will be deemed to have been made or delivered to each of the Obligors or any other member of the Group party to a Finance Document.

31.4 **Notification of address and fax number**

Promptly upon receipt of notification of an address and fax number or change of address or fax number pursuant to Clause 31.2 (*Addresses*) or changing its own address or fax number, the Agent shall notify the other Parties.

31.5 **Electronic communication**

31.5.1 Any communication to be made between the Agent or the Security Agent and another Finance Party under or in connection with the Finance Documents may be made by electronic mail or other electronic means, if the Agent, the Security Agent and the relevant Finance Party:

(a) agree that, unless and until notified to the contrary, this is to be an accepted form of communication;

(b) notify each other in writing of their electronic mail address and/or any other information required to enable the sending and receipt of information by that means; and

(c) notify each other of any change to their address or any other such information supplied by them.

31.5.2 Any electronic communication made between the Agent or the Security Agent and a Finance Party will be effective only when actually received in readable form and in the case of any electronic communication made by a Finance Party to the Agent or the Security Agent only if it is addressed in such a manner as the Agent or Security Agent shall specify for this purpose.

31.6 **Use of websites**

31.6.1 The Borrower may satisfy its obligation under this Agreement to deliver any information in relation to those Lenders (**Website Lenders**) who accept this method of communication by posting this information onto an electronic website designated by the Borrower and the Agent (**Designated Website**) if:

(a) the Agent expressly agrees (after consultation with each of the Lenders) that it will accept communication of the information by this method;

(b) both the Borrower and the Agent are aware of the address of and any relevant password specifications for the Designated Website; and

(c) the information is in a printable format or otherwise capable of being downloaded by the relevant Website Lender and is in a format previously agreed between the Borrower and the Agent.

If any Lender (**Paper Form Lender**) does not agree to the delivery of information electronically then the Agent shall notify the Borrower accordingly and the Borrower shall at its own

cost supply the information to the Agent (in sufficient copies for each Paper Form Lender) in paper form. In any event the Borrower shall at its own cost supply the Agent with at least one copy in paper form of any information required to be provided by it.

31.6.2 The Agent shall supply each Website Lender with the address of and any relevant password specifications for the Designated Website following designation of that website by the Borrower and the Agent.

31.6.3 The Borrower shall promptly upon becoming aware of its occurrence notify the Agent if:

(a) the Designated Website cannot be accessed due to technical failure;

(b) the password specifications for the Designated Website change;

(c) any new information which is required to be provided under this Agreement is posted onto the Designated Website;

(d) any existing information which has been provided under this Agreement and posted onto the Designated Website is amended; or

(e) the Borrower becomes aware that the Designated Website or any information posted onto the Designated Website is or has been infected by any electronic virus or similar software.

If the Borrower notifies the Agent under paragraphs (a) to (e) above, all information to be provided by the Borrower under this Agreement after the date of that notice shall be supplied in paper form unless and until the Agent and each Website Lender is satisfied that the circumstances giving rise to the notification are no longer continuing.

31.6.4 Any Website Lender may request, through the Agent, one paper copy of any information required to be provided under this Agreement which is posted onto the Designated Website. The Borrower shall at its own cost comply with any such request within ten Business Days.

31.7 **English language**

31.7.1 Any notice given under or in connection with any Finance Document must be in English.

31.7.2 All other documents provided under or in connection with any Finance Document must be:

(a) in English; or

(b) if not in English, and if so required by the Agent, accompanied by a certified English translation and, in this case, the English translation will prevail unless the document is a constitutional, statutory or other official document.

32 Calculations And Certificates

32.1 Accounts

In any litigation or arbitration proceedings arising out of or in connection with a Finance Document, the entries made in the accounts maintained by a Finance Party are prima facie evidence of the matters to which they relate.

32.2 **Certificates and determinations**

Any certification or determination by a Finance Party of a rate or amount under any Finance Document is, in the absence of manifest error, conclusive evidence of the matters to which it relates.

32.3 **Day count convention**

Any interest, commission or fee accruing under a Finance Document will accrue from day to day and is calculated on the basis of the actual number of days elapsed and a year of 360 days or, in any case where the practice in the London interbank market differs, in accordance with that market practice.

33 **Partial Invalidity**

If, at any time, any provision of the Finance Documents is or becomes illegal, invalid or unenforceable in any respect under any law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions nor the legality, validity or enforceability of such provision under the law of any other jurisdiction will in any way be affected or impaired.

34 **Remedies And Waivers**

No failure to exercise, nor any delay in exercising, on the part of any Finance Party or Secured Party, any right or remedy under the Finance Documents shall operate as a waiver, nor shall any single or partial exercise of any right or remedy prevent any further or other exercise or the exercise of any other right or remedy. The rights and remedies provided in this Agreement are cumulative and not exclusive of any rights or remedies provided by law.

35 **Amendments And Waivers**

35.1 **Required consents**

35.1.1 Subject to Clause 35.2 (*Exceptions*) any term of the Finance Documents may be amended or waived only with the consent of the Majority Lenders and the Obligors' Agent and any such amendment or waiver will be binding on all Parties.

35.1.2 The Agent may effect, on behalf of any Finance Party, any amendment or waiver permitted by this Clause 35.

35.1.3 Each Obligor agrees to any such amendment or waiver permitted by this Clause 35 which is agreed to by the Obligors' Agent.

35.2 **Exceptions**

35.2.1 An amendment or waiver that has the effect of changing or which relates to:

(a) the definition of **Majority Lenders** in Clause 1 (*Definitions*);

(b) an extension to the date of payment of any amount under the Finance Documents;

(c) a reduction in the Margin or a reduction in the amount of any payment of principal, interest, fees or commission payable;

(d) a change in currency of payment of any amount under the Finance Documents;

(e) an increase in or an extension of any Commitment or the Total Commitments;

(f) a change to the Borrower or Obligors other than in accordance with Clause 25 (*Changes to the Obligors*);

(g) any provision which expressly requires the consent of all the Lenders;

(h) Clause 2.3 (*Finance Parties' rights and obligations*), Clause 8 (*Mandatory prepayment*), Clause 24 (Changes to the Lenders) or this Clause 35;

(i) the nature or scope of the Charged Property or the manner in which the proceeds of enforcement of the Transaction Security are distributed (except to the extent that it relates to a sale or disposal of an asset which is the subject of the Transaction Security where such sale or disposal is expressly permitted under this Agreement or any other Finance Document);

(j) the release of any Transaction Security unless permitted under this Agreement or any other Finance Document or relating to a sale or disposal of an asset which is the subject of the Transaction Security where such sale or disposal is expressly permitted under this Agreement or any other Finance Document;

(k) any amendment to Clause 29.5 (*Proceeds of Enforcement*) or to the order of priority or subordination under the Shareholder's Undertaking; or

(l) any extension of an Availability Period,

shall not be made without the prior consent of all the Lenders,

35.2.2 An amendment or waiver which relates to the rights or obligations of the Agent, the Arranger, a Hedge Counterparty or the Security Agent may not be effected without the consent of the Agent, the Arranger, Hedge Counterparty or the Security Agent.

36 Counterparts

Each Finance Document may be executed in any number of counterparts, and this has the same effect as if the signatures on the counterparts were on a single copy of the Finance Document.

37 Governing Law

This Agreement is governed by English law.

38 Enforcement

38.1 Jurisdiction of English courts

38.1.1 The courts of England shall have exclusive jurisdiction to settle any dispute arising out of or in connection with the Finance Documents expressed to be governed by English law (including a dispute regarding the existence, validity or termination of any Finance Document) (**Dispute**), only where such Dispute is the subject of proceedings commenced by the Obligor.

38.1.2 Where a Dispute is the subject of proceedings commenced by one or more Finance Parties, the Finance Parties are entitled to bring such proceedings in any court or courts of competent jurisdiction (including but not limited to the courts of England). If any Obligor raises a counter-claim in the context of proceedings

commenced by one or more Finance Parties, that Obligor shall bring such counter-claim before the court seized of the Finance Party's claim and no other court.

38.1.3 The commencement of legal proceedings in one or more jurisdictions shall not, to the extent allowed by law, preclude the Finance Parties from commencing legal actions or proceedings in any other jurisdiction, whether concurrently or not.

38.1.4 To the extent allowed by law, each Obligor irrevocably waives any objection it may now or hereafter have on any grounds whatsoever to the laying of venue of any legal proceeding, and any claim it may now or hereafter have that any such legal proceeding has been brought in an inappropriate or inconvenient forum.

38.2 **Service of process**

Without prejudice to any other mode of service allowed under any relevant law, each Obligor (other than an Obligor incorporated in England and Wales):

(a) irrevocably appoints Enstar (EU) Limited. (Attention: Derek Reid, Avaya House, 2 Cathedral Hill, Guildford, Surrey GU2 7YL) as its agent for service of process in relation to any proceedings before the English courts in connection with any Finance Document; and

(b) agrees that failure by an agent for service of process to notify the relevant Obligor of the process will not invalidate the proceedings concerned; and

(c) if any person appointed as an agent for service of process is unable for any reason to act as agent for service of process, the Borrower (on behalf of all the Obligors) must immediately (and in any event within five days of such event taking place) appoint another agent on terms acceptable to the Agent. Failing this, the Agent may appoint another agent for this purpose.

(d) The Borrower confirms that Enstar (EU) Limited has expressly agreed and consented to the provisions of Clause 37 (*Governing law*) and of Clause 38 (*Enforcement*).

38.3 **Waiver of Immunity**

Each Obligor (to the fullest extent permitted by law) irrevocably and unconditionally:

(a) agrees not to claim any immunity from proceedings brought against it by any Finance Party in relation to any Finance Document, and to ensure that no such claim is made on its behalf;

(b) waives all rights of immunity in respect of it or its assets; and

(c) consents generally in respect of such proceedings to the giving of relief or the issue of any process in connection with such proceedings.

This Agreement has been entered into on the date stated at the beginning of this Agreement.

Schedule 1 The Original Parties

Part 1

The Original Obligors

Name of Original Borrower	Jurisdiction of Incorporation, Registration Number
Royston Run-off Limited	England and Wales, 06708757

Name of Original Obligor	Jurisdiction of Incorporation, Registration Number
Royston Run-off Limited	England and Wales, 06708757

Part 2

The Original Lenders — other than UK non-bank Lenders

Name of Original Lender	Facility A Commitment US$	Facility B Commitment US$
National Australia Bank Limited	152,616,000	32,000,000

Part 3

The Original Lenders — UK non-bank Lenders

Name of Original Lender	Facility A Commitment US$	Facility B Commitment US$
None		

Schedule 2 Conditions Precedent

Part 1A

Conditions precedent to signing of the Agreement

1 **Obligors**

1.1 A copy of the Constitutional Documents of each Original Obligor, with such amendments as the Security Agent may reasonably request.

1.2 A copy of a resolution of the board of directors of each Original Obligor:

(a) approving the terms of, and the transactions contemplated by, the Transaction Documents to which it is a party and resolving that it execute, deliver and perform the Transaction Documents to which it is a party;

(b) authorising a specified person or persons to execute the Finance Documents to which it is a party on its behalf; and

(c) authorising a specified person or persons, on its behalf, to sign and/or despatch all documents and notices (including, if relevant, any Utilisation Request and Selection Notice) to be signed and/or despatched by it under or in connection with the Finance Documents to which it is a party.

1.3 A specimen of the signature of each person authorised by the resolution referred to in paragraph 1.2 above in relation to the Finance Documents and related documents.

1.4 A copy of a resolution signed by all the holders of the issued shares in each Original Obligor, approving the terms of, and the transactions contemplated by, the Finance Documents to which each Original Obligor is a party.

1.5 A copy of the register of members of the Borrower.

1.6 A certificate of the Borrower (signed by a director) confirming that borrowing or guaranteeing or securing, as appropriate, the Total Commitments would not cause any borrowing, guarantee, security or similar limit binding on any Original Obligor to be exceeded.

1.7 A certificate of an authorised signatory of each Original Obligor certifying that each copy document relating to it specified in this Part 1A of Schedule 2 is correct, complete and in full force and effect and has not been amended or superseded as at a date no earlier than the date of this Agreement or, to the extent such document has previously been delivered to the Agent that such document has not been amended or superseded since the date of such delivery.

2 **Finance Documents**

2.1 The Shareholder’s Undertaking in agreed form.

2.2 The Enstar Guarantee in agreed form.

2.3 The Fee Letters executed by the Borrower. 2.4 The following Transaction Security Document to be in agreed form:

Name of Original Obligor	Transaction Security Document	Governing law of document
Royston Run-off Limited	Debenture over all the assets of its assets present and future	English

2.5 Any document or information required to be delivered to the Agent or the Security Agent on or prior to the date of this Agreement pursuant to the terms of any Transaction Security Document and not otherwise specifically referred to in this Schedule.

3 Legal Opinion

The following legal opinions, each addressed to the Agent, the Security Agent and the Original Lenders and capable of being relied upon by any persons to become Lenders pursuant to the primary syndication of the Facilities, to be in agreed form:

(a) A legal opinion of Clyde & Co LLP, legal advisers to the Agent and the Arranger as to English law substantially in the form distributed to the Original Lenders prior to signing this Agreement.

(b) A legal opinion of Wakefield Quin as to Bermudian law substantially in the form distributed to the Original Lenders prior to signing this Agreement.

4 Other Documents And Evidence

4.1 If any Original Obligor is incorporated in a jurisdiction other than England and Wales, evidence that Enstar (EU) Limited has accepted its appointment as process agent referred to in Clause 38.2 (*Service of process*) and confirmed it agrees and consents to the provisions of Clause 37 (*Governing law*) and of Clause 38 (*Enforcement*).

4.2 The Group Structure Chart which shows the Group.

4.3 A copy, certified by an authorised signatory of the Borrower to be a true copy, of the Original Financial Statements of each member of the Group.

4.4 A copy of any other Authorisation or other document, opinion or assurance which the Agent notifies the Borrower is necessary or desirable in connection with the entry into and performance of the transactions contemplated by any Finance Document or for the validity and enforceability of any Finance Document.

4.5 Any information and evidence in respect of any Obligor, the Shareholder or any Investor required by any Finance Party to enable it to be satisfied with the results of all “know your customer” or other checks which it is required to carry out in relation to such person.

4.6 A copy of the Forecast Cash Flows.

4.7 A copy of the Report.

4.8 Evidence that a repayment of principal in an amount of at least AUD50,000,000 has been made under the Facilities Agreement dated 27 February 2008 between, inter alia, Cumberland Holdings Limited as borrower, National Australia Bank Limited and HSH Nordbank AG, London branch as Arrangers and Original Lenders, and National Australia Bank Limited as Agent and Security Agreement.

Part 1B

Conditions Precedent to initial Loan

1 A Certificate of the Borrower (signed by a director) certifying that:

(a) each of the matters specified in clause 3 (or the appropriate provision setting out conditions) of the Acquisition Agreement has been satisfied or, with the consent of the Agent, waived and the Acquisition Agreement has become wholly unconditional in all respects;

(b) no Acquisition Document has been amended, varied, novated, supplemented, superseded, waived or terminated except with the consent of the Agent;

(c) the Borrower is not aware of any breach of any warranty or any claim under the Acquisition Agreement save to the extent disclosed against in the Disclosure Letter; and

(d) all necessary or desirable Authorisations from any governmental authority or other regulatory body in relation to the Acquisition and in connection with the entry into and performance of the transactions contemplated by any Transaction Document (or for the validity or enforceability of any of those documents) have been obtained and are in full force and effect together with certified copies of those obtained; and

(e) the total amount of Loans equates to an amount equal to not more than 60% of the Base Currency Equivalent of the purchase price of the Target Shares (excluding fees and other expenses).

2 A copy of each of the Acquisition Documents and the other Transaction Documents (other than the Finance Documents) executed and delivered by the parties to those documents.

3 Evidence that the Extraordinary Transactions and the settlement of all Intra-Group Payables and Intra-Group Receivables (in each case as such term is defined in the Acquisition Agreement) as anticipated in the Acquisition Agreement have been completed.

4 Evidence that the commitment fees, arrangement and participation fees and agency fees have or will on the First Utilisation Date be paid in full.

5 A copy of all notices required to be sent under the Transaction Security Documents duly acknowledged by the addressees.

6 Originals of all share certificates transfers and stock transfer forms (all stock transfer forms to be executed by two directors or a director and the secretary of the company that owns the relevant shares but with the sections relating to the consideration and the transferee left blank) or equivalent, duly executed by the relevant Obligor in relation to the assets subject to or expressed to be subject to the Transaction Security and other documents of title to be provided under the Transaction Security Documents. The original share certificates relating to the Target Shares to be delivered to the Agent as soon as is reasonably practicable once the Borrower has completed the Acquisition.

7 The Shareholder's Undertaking executed by the Borrower and the Shareholder.

8 The Enstar Guarantee executed by Enstar.

9 The Debenture to be provided by the Borrower executed by the Borrower.

10 A copy of a resolution of the board of directors of the Shareholder:

(a) approving the terms of, and the transactions contemplated by, the Shareholder's Undertaking and resolving that it execute, deliver and perform the Shareholder's Undertaking;

(b) authorising a specified person or persons to execute the Shareholder's Undertaking on its behalf; and

(c) authorising a specified person or persons, on its behalf, to sign and/or despatch all documents and notices to be signed and/or despatched by it under or in connection with the Shareholder's Undertaking.

11 A copy of a resolution of the board of directors of Enstar:

(a) approving the terms of, and the transactions contemplated by, the Enstar Guarantee and resolving that it execute, deliver and perform the Shareholder's Undertaking;

(b) authorising a specified person or persons to execute the Enstar Guarantee on its behalf; and

(c) authorising a specified person or persons, on its behalf, to sign and/or despatch all documents and notices to be signed and/or despatched by it under or in connection with the Enstar Guarantee.

12 A specimen of the signature of each person authorised by the resolution referred to in paragraphs 10 and 11 above in relation to the Enstar Guarantee and Shareholder's Undertaking and related documents.

13 A certificate signed by an authorised signatory of the Borrower specifying each member of the Group (assuming the Closing Date has occurred) which is a Dormant Subsidiary and/or a Restricted Subsidiary as at the Closing Date together with certified copies (certified by such authorised signatory to be a true copy) of the last audited accounts of each such Dormant Subsidiary and/or Restricted Subsidiary.

14 A certificate of an authorised signatory of the Shareholder and Enstar certifying that each copy document relating to it specified in this Part 1B of Schedule 2 is correct, complete and in full force and effect and has not been amended or superseded as at a date no earlier than the date of this Agreement and confirming that the constitutional documents of each previously delivered to the Agent have not been amended or superseded since the date of such delivery.

15 A certificate of an authorised signatory of the Borrower certifying that there no member of the Target Group has any outstanding loans as at the First Drawdown Date.

16 A copy, certified by an authorised signatory of the Borrower to be a true copy, of a written notice from the FSA in accordance with section 184 FSMA in terms satisfactory to the Agent, that it approves or has no objection to the Borrower acquiring control (within the meaning of FSMA) of the Target pursuant to the Acquisition Agreement, or, in the absence of such notice, the period within which the FSA may serve a notice of objection pursuant to section 186 FSMA having elapsed without the FSA having served such notice of objection on the Borrower.

17 Evidence that all amounts outstanding under the Facilities Agreement dated 24 July 2008 between, inter alia, Simcoe Holdings Limited as borrower and National Australia Bank Limited as Arranger, Original Lender, Agent and Security Agreement have been repaid in full.

18 Evidence that an additional repayment of principal in an amount of at least AUD36,000,000 (aggregate amount of AUD86,000,000) has been made under the Facilities Agreement dated 27 February 2008 between, inter alia, Cumberland Holdings Limited as borrower, National Australia Bank Limited and HSH Nordbank AG, London branch as Arrangers and Original Lenders, and National Australia Bank Limited as Agent and Security Agreement.

19 A certificate of the Borrower (signed by a director) confirming that on the First Utilisation Date:

(a) Regulatory Cover is not less than 1.1:1;

(b) Net Worth Cover is not less than 1.65:1;

(c) Free Net Worth is at least US$300,000,000; and

(d) 100% by value of all investments in the investment portfolio of the Group have the Requisite Rating individually or are in investments advised by J.C.Flowers & Co. LLC, provided that no more than 10% of the total portfolio is held in investments advised by J.C.Flowers & Co. LLC,

and that none of the above will be breached as a result of the borrowing in full of the Total Commitments.

Part 1C

Conditions subsequent

1 **Target**

1.1 A copy of the Constitutional Documents of the Target and each other member of the Target Group providing a Debenture, with such amendments as the Security Agent may reasonably request.

1.2 A copy of a resolution of the board of directors of the Target and each other member of the Target Group providing a Debenture:

(a) approving the terms of, and the transactions contemplated by, the Transaction Documents to which it is a party and resolving that it execute, deliver and perform the Transaction Documents to which it is a party;

(b) authorising a specified person or persons to execute the Finance Documents to which it is a party on its behalf; and

(c) authorising a specified person or persons, on its behalf, to sign and/or despatch all documents and notices to be signed and/or despatched by it under or in connection with the Finance Documents to which it is a party.

1.3 A specimen of the signature of each person authorised by the resolutions referred to in paragraph 1.2 above in relation to the Finance Documents and related documents.

1.4 A copy of a resolution signed by all the holders of the issued shares in the Target, approving the terms of, and the transactions contemplated by, the Finance Documents to which the Target is a party.

1.5 A copy of the register of members of the Target and each other member of the Target Group providing a Debenture.

1.6 A certificate of the Target and each other member of the Target Group providing a Debenture (signed by a director) confirming that securing the Total Commitments would not cause any borrowing, guarantee, security or similar limit binding on the Target or such other member of the Target Group providing a Debenture to be exceeded.

1.7 A certificate of an authorised signatory of the Target and each other member of the Target Group providing a Debenture certifying that each copy document relating to it specified in this Part 1C of Schedule 2 is correct, complete and in full force and effect and has not been amended or superseded as at a date no earlier than the date of this Agreement or, to the extent such document has previously been delivered to the Agent that such document has not been amended or superseded since the date of such delivery.

1.8 A certificate of the Target and each other member of the Target Group providing a Debenture signed by the Chief Financial Officer of such company confirming the solvency of the relevant company.

2 **Finance Documents**

2.1 At least two originals of each of the following Transaction Security Documents executed by the relevant Obligor:

Name of Obligor	Transaction Security Document	Governing law of document
Unionamerica Holdings Limited	Debenture over all the assets of its assets present and future	English
Unionamerica Acquisition Company Limited	Debenture over all the assets of its assets present and future	English

2.2 A copy of all notices required to be sent under the Transaction Security Documents duly acknowledged by the addressees.

2.3 Originals of all share certificates transfers and stock transfer forms (all stock transfer forms to be executed by two directors or a director and the secretary of the company that owns the relevant shares but with the sections relating to the consideration and the transferee left blank) or equivalent, duly executed by the relevant Obligor in relation to the assets subject to or expressed to be subject to the Transaction Security and other documents of title to be provided under the Transaction Security Documents .

2.4 Any document or information required to be delivered to the Agent or the Security Agent on or prior to the date of this Agreement pursuant to the terms of any Transaction Security Document and not otherwise specifically referred to in this Schedule.

3 **Legal Opinions**

A legal opinion of Clyde & Co LLP as to English law in a form satisfactory to the Original Lenders addressed to the Agent, the Security Agent and the Original Lenders and capable of being relied upon by any persons to become Lenders pursuant to the primary syndication of the Facility.

Part 2

Conditions precedent required to be delivered by an Additional Obligor

1 An Accession Letter (if relevant) executed by the Additional Obligor and the Borrower.

2 A copy of the constitutional documents of the Additional Obligor, with such amendments as the Agent may reasonably require.

3 A copy of a resolution of the board of directors of the Additional Obligor:

3.1 approving the terms of, and the transactions contemplated by, the Accession Letter and the Finance Documents and resolving that it execute, deliver and perform the Accession Letter and any other Finance Document to which it is party;

3.2 authorising a specified person or persons to execute the Accession Letter and other Finance Documents on its behalf;

3.3 authorising a specified person or persons, on its behalf, to sign and/or despatch all other documents and notices to be signed and/or despatched by it under or in connection with the Finance Documents to which it is a party; and

3.4 authorising the Borrower to act as its agent in connection with the Finance Documents.

4 A specimen of the signature of each person authorised by the resolution referred to in paragraph 3 above.

5 A copy of a resolution signed by all the holders of the issued shares of the Additional Obligor, approving the terms of, and the transactions contemplated by, the Finance Documents to which the Additional Obligor is a party.

6 A certificate of the Additional Obligor (signed by a director) confirming that borrowing or guaranteeing or securing, as appropriate, the Total Commitments would not cause any borrowing, guarantee, security or similar limit binding on it to be exceeded.

7 A certificate of an authorised signatory of the Additional Obligor certifying that each copy document listed in this Part 2 of Schedule 2 is correct, complete and in full force and effect and has not been amended or superseded as at a date no earlier than the date of the Accession Letter.

8 If available, the latest audited financial statements of the Additional Obligor.

9 The following legal opinions, each addressed to the Agent, the Security Agent and the Lenders:

9.1 A legal opinion of Clyde & Co LLP as advisers to the Agent in England, as to English law in the form distributed to the Lenders prior to signing the Accession Letter.

9.2 If the Additional Obligor is incorporated in or has its **centre of main interest** or **establishment** in a jurisdiction other than England and Wales or is executing a Finance Document which is governed by a law other than English law, a legal opinion of the legal advisers to the Agent in the jurisdiction of its incorporation, **centre of main interest** or **establishment** (as applicable) or, as the case may be, the jurisdiction of the governing law of that Finance

Document (**Applicable Jurisdiction**) as to the law of the Applicable Jurisdiction and in the form distributed to the Lenders prior to signing the Accession Letter.

10 If the proposed Additional Obligor is incorporated in a jurisdiction other than England and Wales, evidence that Enstar (EU) Limited as any process agent referred to in Clause 38.2 (*Service of process*) has accepted its appointment and confirmed it agrees and consents to the provisions of Clause 37 (*Governing law*) and of Clause 38 (*Enforcement*).

11 The Transaction Security Documents or other security documents which are required by the Agent to be executed by the proposed Additional Obligor.

12 Any notices or documents (including title deeds) required to be given or executed under the terms of those security documents.

13 Share certificates and stock transfer forms executed in blank (as described in paragraph 3(l) of Part 1 of this Schedule) as required by any security document.

14 Such documentary evidence as legal counsel to the Agent may require that such Additional Obligor has complied with any law in its jurisdiction relating to financial assistance or analogous process.

15 Evidence that all necessary or desirable Authorisations from any government authority or other regulatory body in connection with the entry into and performance of the transactions contemplated by the Accession Letter, any Finance Document or Transaction Document to which the Additional Obligor is party or for the validity or enforceability of any of those documents have been obtained and are in full force and effect, together with certified copies of those obtained.

16 A certificate of the Borrower confirming that no Default is continuing or would occur as a result of the Additional Obligor executing the Accession Letter or the Finance Documents or the Transaction Documents to which it is party.

17 Any security documents that are required by the Agent to be executed by the proposed Additional Obligor subject to Clause 22.27 (*Further Assurance*) and Clause 22.30 (*Obligors*).

Schedule 3 Requests

Part 1 Utilisation Request

Loans

From: Royston Run-off Limited

To: National Australia Bank Limited (as Agent)

Dated:

Dear Sirs

Royston Run-off Limited — Facilities Agreement dated [ ] (Facilities Agreement)

1 We refer to the Facilities Agreement. This is a Utilisation Request. Terms defined in the Facilities Agreement have the same meaning in this Utilisation Request unless given a different meaning in this Utilisation Request.

2 We wish to borrow a Loan on the following terms:

2.1 Proposed Utilisation Date: [ ] (or, if that is not a Business Day, the next Business Day)

2.2 Amount: [ ] or, if less, the Available Facility

2.3 Interest Period: [ ]

3 We confirm that each condition specified in Clause 4.2 (*Further conditions precedent*) is satisfied on the date of this Utilisation Request.

4 Please arrange for the Arranger's arrangement, participation fee, the Lenders' commitment fees, the Agent's agency fee and lawyer's fees totalling US$[ ] to be deducted from the net proceeds and the balance, being:

US$[ ], to be credited to:

[account]

5 This Utilisation Request is irrevocable.

Yours faithfully

____

authorised signatory for
Royston Run-off Limited

Part 2 Selection Notice

From: Royston Run-off Limited

To: National Australia Bank Limited (as Agent)

Dated:

Dear Sirs

Royston Run-off Limited — Facilities Agreement dated [ ] (Facilities Agreement)

1 We refer to the Facilities Agreement. This is a Selection Notice. Terms defined in the Facilities Agreement have the same meaning in this Selection Notice unless given a different meaning in this Selection Notice.

2 We refer to the Loan with an Interest Period ending on [ ].

3 We request that the next Interest Period for the above Loan[s] is [ ]].

4 This Selection Notice is irrevocable.

Yours faithfully,

____
authorised signatory for
Royston Run-off Limited

Schedule 4 Mandatory Cost Formula

1 The Mandatory Cost is an addition to the interest rate to compensate the Lenders for the cost of compliance with:

1.1 the requirements of the Bank of England and/or the Financial Services Authority (or, in either case, any other authority which replaces all or any of its functions); or

1.2 the requirements of the European Central Bank.

2 On the first day of each Interest Period (or as soon as possible thereafter) the Agent shall calculate, as a percentage rate, a rate (**Additional Cost Rate**) for each Lender in accordance with the paragraphs set out below. The Mandatory Cost will be calculated by the Agent as a weighted average of the Lenders' Additional Cost Rates (weighted in proportion to the percentage participation of each Lender in the relevant Loans) and will be expressed as a percentage rate per annum.

3 The Additional Cost Rate for any Lender lending from a Facility Office in a Participating Member State will be the percentage notified by that Lender to the Agent. This percentage will be certified by that Lender in its notice to the Agent to be its reasonable determination of the cost (expressed as a percentage of that Lender's participation in all Loans made from that Facility Office) of complying with the minimum reserve requirements of the European Central Bank in respect of loans made from that Facility Office.

4 The Additional Cost Rate for any Lender lending from a Facility Office in the United Kingdom will be calculated by the Agent as follows:

4.1 in relation to a US Dollar Loan:

$$\frac{AB+C(B-D)+E\times 0.01}{100-(A+C)}$$

per cent per annum

4.2 in relation to a Loan in any currency other than sterling:

$$\frac{E\times 0.01}{300}$$ per cent per annum

where:

(A) is the percentage of Eligible Liabilities (assuming these to be in excess of any stated minimum) which that Lender is from time to time required to maintain as an interest free cash ratio deposit with the Bank of England to comply with cash ratio requirements.

(B) is the percentage rate of interest (excluding the Margin and the Mandatory Cost and, if the Loan is an Unpaid Sum, the additional rate of interest specified in paragraph (a) of Clause 10.3 (*Default interest*)) payable for the relevant Interest Period on the Loan.

(C) is the percentage (if any) of Eligible Liabilities which that Lender is required from time to time to maintain as interest bearing Special Deposits with the Bank of England.

(D) is the percentage rate per annum payable by the Bank of England to the Agent on interest bearing Special Deposits.

(E) is designed to compensate Lenders for amounts payable under the Fees Rules and is calculated by the Agent as being the average of the most recent rates of charge supplied by the Reference Banks to the Agent pursuant to paragraph 7 below and expressed in pounds per £1,000,000.

5 For the purposes of this Schedule:

5.1 **Eligible Liabilities** : and **Special Deposits** have the meanings given to them from time to time under or pursuant to the Bank of England Act 1998 or (as may be appropriate) by the Bank of England;

5.2 **Fees Rules** : means the rules on periodic fees contained in the FSA Supervision Manual or such other law or regulation as may be in force from time to time in respect of the payment of fees for the acceptance of deposits;

5.3 **Fee Tariffs** : means the fee tariffs specified in the Fees Rules under the activity group A.1 Deposit acceptors (ignoring any minimum fee or zero rated fee required pursuant to the Fees Rules but taking into account any applicable discount rate); and

5.4 **Tariff Base** : has the meaning given to it in, and will be calculated in accordance with, the Fees Rules.

6 In application of the above formulae, A, B, C and D will be included in the formulae as percentages (i.e. 5 per cent. will be included in the formula as 5 and not as 0.05). A negative result obtained by subtracting D from B shall be taken as zero. The resulting figures shall be rounded to four decimal places.

7 If requested by the Agent, each Reference Bank shall, as soon as practicable after publication by the Financial Services Authority, supply to the Agent, the rate of charge payable by that Reference Bank to the Financial Services Authority pursuant to the Fees Rules in respect of the relevant financial year of the Financial Services Authority (calculated for this purpose by that Reference Bank as being the average of the Fee Tariffs applicable to that Reference Bank for that financial year) and expressed in pounds per £1,000,000 of the Tariff Base of that Reference Bank.

8 Each Lender shall supply any information required by the Agent for the purpose of calculating its Additional Cost Rate. In particular, but without limitation, each Lender shall supply the following information on or prior to the date on which it becomes a Lender:

8.1 the jurisdiction of its Facility Office; and

8.2 any other information that the Agent may reasonably require for such purpose.

Each Lender shall promptly notify the Agent of any change to the information provided by it pursuant to this paragraph.

9 The percentages of each Lender for the purpose of A and C above and the rates of charge of each Reference Bank for the purpose of E above shall be determined by the Agent based upon the information supplied to it pursuant to paragraphs 7 and 8 above and on the assumption that, unless a Lender notifies the Agent to the contrary, each Lender's obligations in relation to cash ratio deposits and Special Deposits are the same as those of a typical bank from its jurisdiction of incorporation with a Facility Office in the same jurisdiction as its Facility Office.

10 The Agent shall have no liability to any person if such determination results in an Additional Cost Rate which over or under compensates any Lender and shall be entitled to assume that the information provided by any Lender or Reference Bank pursuant to paragraphs 3, 7 and 8 above is true and correct in all respects.

11 The Agent shall distribute the additional amounts received as a result of the Mandatory Cost to the Lenders on the basis of the Additional Cost Rate for each Lender based on the information provided by each Lender and each Reference Bank pursuant to paragraphs 3, 7 and 8 above.

12 Any determination by the Agent pursuant to this Schedule in relation to a formula, the Mandatory Cost, an Additional Cost Rate or any amount payable to a Lender shall, in the absence of manifest error, be conclusive and binding on all Parties.

13 The Agent may from time to time, after consultation with the Borrower and the Lenders, determine and notify to all Parties any amendments which are required to be made to this Schedule in order to comply with any change in law, regulation or any requirements from time to time imposed by the Bank of England, the Financial Services Authority or the European Central Bank (or, in any case, any other authority which replaces all or any of its functions) and any such determination shall, in the absence of manifest error, be conclusive and binding on all Parties.

Schedule 5 Form of Transfer Certificate

To: National Australia Bank Limited as Agent

From: [The Existing Lender] (**Existing Lender**) and [The New Lender] (**New Lender**)

Dated:

Royston Run-off Limited — Facilities Agreement dated [ ] (Facilities Agreement)

1 We refer to the Facilities Agreement. This is a Transfer Certificate. Terms defined in the Facilities Agreement have the same meaning in this Transfer Certificate unless given a different meaning in this Transfer Certificate.

2 We refer to Clause 24.5 (*Procedure for transfer*):

2.1 The Existing Lender and the New Lender agree to the Existing Lender transferring to the New Lender by novation all or part of the Existing Lender's Commitment, rights and obligations referred to in the Schedule in accordance with Clause 24.5 (*Procedure for transfer*) [OR] [*** Each Existing Lender listed in Part 1 of the Schedule transfers by novation to each New Lender listed in Part 2 of the Schedule that portion of the outstanding Loans and Commitments in accordance with Clause 24.5 (*Procedure for transfer*), such that:

(a) each New Lender will become a Lender under the Agreement with the respective Commitment and portion of outstanding Loans set out opposite its name in Part 3 of the Schedule; and

(b) each Existing Lender's Commitment and portion of outstanding Loans will be reduced to the amounts set out opposite its name in Part 3 of the Schedule. ***]

2.2 The proposed Transfer Date is [***].

2.3 The Facility Office and address, fax number and attention details for notices of the New Lender for the purposes of Clause 31.2 (*Addresses*) are set out in the Schedule.

3 [*** The/Each ***] New Lender expressly acknowledges the limitations on the Existing Lender['s][s'] obligations set out in paragraph (c) of Clause 24.4 (*Limitation of responsibility of Existing Lenders*).

4 [*** The/Each New Lender confirms that the person beneficially entitled to interest payable to that Lender in respect of an advance under a Finance Document is either:

4.1 a company resident in the United Kingdom for United Kingdom tax purposes; or

4.2 a partnership each member of which is:

(a) a company so resident in the United Kingdom; or

(b) a company not so resident in the United Kingdom which carries on a trade in the United Kingdom through a permanent establishment and which is required to bring into account in computing its chargeable profits (for the purposes of section 11(2) of the Taxes Act) the whole of any share of interest

payable in respect of that advance that falls to it by reason of sections 114 and 115 of the Taxes Act; or

4.3 a company not so resident in the United Kingdom which carries on a trade in the United Kingdom through a permanent establishment and which brings into account interest payable in respect of an advance under a Finance Document in computing the chargeable profits (for the purposes of section 11(2) of the Taxes Act) of that company; or ***]

4.4 [*** a Treaty Lender ***].

5 This Transfer Certificate may be executed in any number of counterparts and this has the same effect as if the signatures on the counterparts were on a single copy of this Transfer Certificate.

6 For the purpose of Clause 31.6 (*Use of websites*) the New Lender is a [*** Website Lender ***] [*** Paper Form Lender ***]. ***] OR [*** each New Lender specifies in Part 4 of the Schedule opposite its name whether it is a Website Lender or a Paper Form Lender. ***]

7 This Transfer Certificate is governed by English law.

8 The parties to this Transfer Certificate intend it to take effect as a deed and this Transfer Certificate shall be treated as having been duly executed and delivered as a deed only upon being dated.

IN WITNESS WHEREOF the authorised signatories of the parties have executed this deed on the day and year first above written.

The Schedule

Commitment/rights and obligations to be transferred

[insert relevant details]

[Facility Office address, fax number and attention details for notices and account details for payments,]

[Existing Lender]	[New Lender]
By:	By:

This Transfer Certificate is accepted by the Agent and the Transfer Date is confirmed as [•].

[Agent]

By:

[*** OR FOR GLOBAL TRANSFER CERTIFICATES ***]

Part 1

The Existing Lenders

[***]
[***]
[***]

Part 2

The New Lenders

[***]
[***]
[***]

Part 3

Details of portion of outstanding Loans and Commitment

Lender	Commitment	Loans
[*list here existing and new lenders*] [***] [***] [***] [***]	[**]	[**]

Part 4

New Lenders' Administrative Details

New Lender	Facility office Address/Fax no .Attention of	Address for service of notices (if different)	Account for Payment	Website or Paper Form Lender
[***]	[***]	[***]	[***]	[***]

EXECUTED as a Deed by)

[*** Each Existing Lender ***]) Authorised Signatory

Dated:

Executed as a Deed by)

[*** Each New Lender ***]) Authorised Signatory

Dated:

The Transfer Certificate is)

accepted by the Agent and the)

Transfer Date is confirmed by the)

Agent as [***])

Signed by [National Australia Bank Limited (ABN 12004044937) (as Agent)])

Dated:

Signed by [National Australia Bank Limited (ABN 12004044937) (as Security Agent)]

Dated:

Schedule 6 Form of Assignment Agreement

To: National Australia Bank Limited as Agent

From: [the Existing Lender] (**Existing Lender**) and [the New Lender] (**New Lender**)

Dated: [***]

Royston Run-off Limited — Facilities Agreement dated [ ] (Facilities Agreement)

1 We refer to the Facilities Agreement. This is an Assignment Agreement.

2 (a) We refer to Clause 24.6 (*Procedure for assignment*).

(a) The Existing Lender assigns absolutely to the New Lender all the rights of the Existing Lender under the Facilities Agreement, the other Finance Documents and in respect of the Transaction Security which correspond to that portion of the Existing Lender's Commitments and participations in Loans under the Facilities Agreement as specified in the Schedule;

(b) The Existing Lender is released from all the obligations of the Existing Lender which correspond to that portion of the Existing Lender's Commitments and participations in Loans under the Facilities Agreement specified in the Schedule.

(c) The New Lender becomes a Party as a Lender and is bound by obligations equivalent to those from which the Existing Lender is released under paragraph (c) above.

3 The proposed Transfer Date is [***].

4 On the Transfer Date the New Lender becomes:

(a) Party to the Finance Documents as a Lender; and

(b) Party to [*** other relevant agreements in other relevant capacity such as Shareholder's Undertaking ***].

5 The New Lender expressly acknowledges the limitations on the Existing Lender's obligations set out in paragraph (c) of Clause 24.4 (*Limitation of responsibility of Existing Lenders*).

6 The Facility Office and address, fax number and attention details for notices of the New Lender for the purposes of Clause 31.2 (*Addresses*) are set out in the Schedule to this Assignment Agreement.

7 [*** The New Lender confirms that the person beneficially entitled to interest payable to that Lender in respect of an advance under a Finance Document is either:

(a) a company resident in the United Kingdom for United Kingdom tax purposes; or

(b) a partnership each member of which is:

(i) a company so resident in the United Kingdom; or

(ii) a company not so resident in the United Kingdom which carries on a trade in the United Kingdom through a permanent establishment and

which is required to bring into account in computing its chargeable profits (for the purposes of section 11(2) of the Taxes Act) the whole of any share of interest payable in respect of that advance that falls to it by reason of sections 114 and 115 of the Taxes Act; or

(c) a company not so resident in the United Kingdom which carries on a trade in the United Kingdom through a permanent establishment and which brings into account interest payable in respect of an advance under a Finance Document in computing the chargeable profits (for the purposes of section 11(2) of the Taxes Act) of that company; or ***]

(d) [*** a Treaty Lender ***].

8 This Assignment Agreement may be executed in any number of counterparts and this has the same effect as if the signatures on the counterparts were on a single copy of this Assignment Agreement.

[*** Consider including checklist of steps necessary for the New Lender to obtain the benefit of the Transaction Security ***].

9 For the purpose of Clause 31.6 (*Use of Websites*) the New Lender is a [*** Website Lender ***] [*** Paper Form Lender ***]

10 This Assignment Agreement is governed by English law.

11 This Assignment Agreement has been [*** executed and delivered as a deed ***] [*** entered into ***] on the date stated at the beginning of this Assignment Agreement.

THE SCHEDULE

Commitment/rights and obligations to be transferred by assignment, release and accession

[*** insert relevant details ***]

[*** Facility office address, fax number and attention details for notices and account details for payments ***]

[*** Existing Lender ***]

By:

[*** New Lender ***]

By:

This Assignment Agreement is accepted by the Agent and the Transfer Date is confirmed as [***].

[*** Signature of this Assignment Agreement by the Agent constitutes confirmation by the Agent of receipt of notice of the assignment referred to herein, which notice the Agent receives on behalf of each Finance Party. ***]

[*** Agent ***]

By:

Schedule 7 Form of Accession Letter

To: National Australia Bank Limited as Agent

From: [Subsidiary] and Royston Run-off Limited

Dated:

Dear Sirs

Royston Run-off Limited — Facilities Agreement dated [ ] (Facilities Agreement)

1 We refer to the Facilities Agreement. This is an Accession Letter. Terms defined in the Facilities Agreement have the same meaning in this Accession Letter unless given a different meaning in this Accession Letter.

2 [Subsidiary] agrees to become an Additional Obligor and to be bound by the terms of the Facilities Agreement, the Shareholder's Undertaking and the other Finance Documents as an Additional Obligor pursuant to Clause 25.2 (*Additional Obligor*) of the Facilities Agreement and as an [Obligor] pursuant to Clause [ ] of the Shareholder's Undertaking. [Subsidiary] is a company duly incorporated under the laws of [name of relevant jurisdiction] and is a limited liability company and registered number [ ].

3 [Subsidiary's] administrative details are as follows:

Address:

Fax No.:

Attention:

4 This Accession Letter is governed by English Law

[This Accession Letter is entered into by deed.]

____________________	____________________
For and on behalf of	For and on behalf of
Royston Run-off Limited	[Subsidiary]

Schedule 8 Form of Compliance Certificate

To: National Australia Bank Limited as Agent

From: Royston Run-off Limited

Dated:

Dear Sirs

Royston Run-off Limited — Facilities Agreement dated [ ] (Facilities Agreement)

1 We refer to the Facilities Agreement. This is a Compliance Certificate. Terms defined in the Facilities Agreement have the same meaning when used in this Compliance Certificate unless given a different meaning in this Compliance Certificate.

2 We confirm that as at [*** insert the relevant testing date/ the Testing Date ***]:

2.1 **Regulatory Cover (which must be a minimum of 1.1:1):** the capital resources of the Target, as determined in accordance with Section 2.2 of the Integrated Prudential Sourcebook for Insurers as amended from time to time (including as required to meet solvency requirements) was [***] and the capital resources requirement of the Target, as determined in accordance with Section 2.1 of the Integrated Prudential Sourcebook for Insurers as amended from time to time (including as required to meet solvency requirements) was [***], therefore Regulatory Cover was [***] and that the requirements of Clause 21.2.1(a) (*Regulatory cover*) have been met.

2.2 **Net Worth Cover (which must be a minimum of 1.65:1)** : Consolidated Tangible Net Worth was [***] and Facility Debt was [***], therefore Net Worth Cover was [***] and that the requirements of Clause 21.2.1(b) (*Net Worth Cover*) have been met.

2.3 **Free Net Worth (which must be a minimum of $300,000,000)** : Free Net Worth was [***], therefore Free Net Worth was [***] and that the requirements of Clause 21.2.1(c) (*Free Net Worth*) have been met.

2.4 **Requisite Rating** : 100% by value of all investments in the investment portfolio of the Group have the Requisite Rating individually or are in investments advised by J.C.Flowers & Co. LLC and that no more than 10% of the total portfolio is held in investments advised by J.C.Flowers & Co. LLC as demonstrated below. [attach details of calculations] and therefore the requirements of Clause 21.2.1(d) (*Requisite Rating*) have been met.

3 We confirm that no Default is continuing. [1]

4 [We confirm that the following companies constitute Restricted Subsidiaries and/or Dormant Subsidiaries for the purposes of the Facilities Agreement:]

Name	Registration Number	Restricted/Dormant

[1] If this statement cannot be made, the certificate should identify any Default that is continuing and the steps, if any, being taken to remedy it.

Signed ________________________________ ________________________________

Director of Royston Run-off Limited Director of Royston Run-off Limited

[*insert applicable certification language*]

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for and on behalf of

[name of Auditors of Royston Run-off Limited]

Schedule 9 LMA Form of Confidentiality Undertaking

LMA CONFIDENTIALITY LETTER

FOR PRIMARY SYNDICATION

[Letterhead of Arranger]

To: [*insert name of Potential Lender*]

Re: the Facilities

Borrower:

Amount:

Agent:

Dear Sirs

We understand that you are considering participating in the Facilities. In consideration of us agreeing to make available to you certain information, by your signature of a copy of this letter you agree as follows:

1 **Confidentiality Undertaking**

You undertake:

1.1 to keep the Confidential Information confidential and not to disclose it to anyone except as provided for by paragraph 2 below and to ensure that the Confidential Information is protected with security measures and a degree of care that would apply to your own confidential information;

1.2 to keep confidential and not disclose to anyone the fact that the Confidential Information has been made available or that discussions or negotiations are taking place or have taken place between us in connection with the Facilities;

1.3 to use the Confidential Information only for the Permitted Purpose;

1.4 (to use all reasonable endeavours to ensure that any person to whom you pass any Confidential Information (unless disclosed under paragraph 2(b) below) acknowledges and complies with the provisions of this letter as if that person were also a party to it; and

1.5 not to make enquiries of any Obligor or member of the Group or any of their officers, directors, employees or professional advisers relating directly or indirectly to the Facilities.

2 **Permitted Disclosure**

We agree that you may disclose confidential information:

2.1 to members of the Participant Group and their officers, directors, employees and professional advisers to the extent necessary for the Permitted Purpose and to any auditors of members of the Participant Group;

2.2 where requested or required by any court of competent jurisdiction or any competent judicial, governmental, supervisory or regulatory body, (ii) where required by the rules of any stock exchange on which the shares or other securities of any member of the Participant Group are listed or (iii) where

required by the laws or regulations of any country with jurisdiction over the affairs of any member of the Participant Group; or

with the prior written consent of us and the Borrower.

3 **Notification Of Required Or Unauthorised Disclosure**

You agree (to the extent permitted by law) to inform us of the full circumstances of any disclosure under paragraph 2(b) or upon becoming aware that confidential information has been disclosed in breach of this letter.

4 **Return Of Copies**

If we so request in writing, you shall return all confidential information supplied to you by us and destroy or permanently erase all copies of confidential information made by you and use all reasonable endeavours to ensure that anyone to whom you have supplied any confidential information destroys or permanently erases such confidential information and any copies made by them, in each case save to the extent that you or the recipients are required to retain any such confidential information by any applicable law, rule or regulation or by any competent judicial, governmental, supervisory or regulatory body or in accordance with internal policy, or where the confidential information has been disclosed under paragraph 2(b) above.

5 **Continuing Obligations**

The obligations in this letter are continuing and, in particular, shall survive the termination of any discussions or negotiations between you and us. Notwithstanding the previous sentence, the obligations in this letter shall cease (a) if you become a party to or otherwise acquire (by assignment or sub participation) an interest, direct or indirect in the facility or (b) twelve months after you have returned all confidential information supplied to you by us and destroyed or permanently erased all copies of confidential information made by you (other than any such confidential information or copies which have been disclosed under paragraph 2 above (other than sub-paragraph 2(a)) or which, pursuant to paragraph 4 above, are not required to be returned or destroyed).

6 **No Representation; Consequences Of Breach, Etc**

You acknowledge and agree that:

6.1 neither we nor any of our officers, employees or advisers (each a **Relevant Person**) (i) make any representation or warranty, express or implied, as to, or assume any responsibility for, the accuracy, reliability or completeness of any of the Confidential Information or any other information supplied by us or any member of the Group or the assumptions on which it is based or (ii) shall be under any obligation to update or correct any inaccuracy in the Confidential Information or any other information supplied by us or any Obligor or any member of the Group or be otherwise liable to you or any other person in respect to the Confidential Information or any such information; and

6.2 we or the Obligors or any members of the Group may be irreparably harmed by the breach of the terms of this letter and damages may not be an adequate remedy; each Relevant Person or Obligor or any member of the Group may be granted an injunction or specific performance for any threatened or actual breach of the provisions of this letter by you.

7 **No Waiver; Amendments, Etc**

This letter sets out the full extent of your obligations of confidentiality owed to us in relation to the information the subject of this letter. No failure or delay in exercising any right, power or privilege under this letter will operate as a waiver thereof nor will any single or partial exercise of any right, power or privilege preclude any further exercise thereof or the exercise of any other right, power or privileges under this letter. The terms of this letter and your obligations under this letter may only be amended or modified by written agreement between us.

8 **Inside Information**

You acknowledge that some or all of the confidential information is or may be price-sensitive information and that the use of such information may be regulated or prohibited by applicable legislation relating to insider dealing and you undertake not to use any confidential information for any unlawful purpose.

9 **Nature Of Undertakings**

The undertakings given by you under this letter are given to us and (without implying any fiduciary obligations on our part) are also given for the benefit of the borrower, each other Obligor and each other member of the Group.

10 **Third Party Rights**

10.1 Subject to paragraph 6 and paragraph 9 the terms of this letter may be enforced and relied upon only by you and us and the operation of the Contracts (Rights of Third Parties) Act 1999 is excluded.

10.2 Notwithstanding any provisions of this letter, the parties to this letter do not require the consent of any Relevant Person or any Obligor or any member of the Group to rescind or vary this letter at any time.

11 **Governing Law And Jurisdiction**

This letter (including the agreement constituted by your acknowledgement of its terms) shall be governed by and construed in accordance with the laws of England and the parties submit to the non-exclusive jurisdiction of the English courts.

12 **Definitions**

In this letter (including the acknowledgement set out below):

Confidential Information means any information relating to the Borrower, the Group, and the Facilt[y/ies] and includes information given orally and any document, electronic file or any other way of representing or recording information which contains or is derived or copied from such information but excludes information that (a) is or becomes public knowledge other than as a direct or indirect result of any breach of this letter or (b) is known by you before the date the information is disclosed to you by us or any of our affiliates or advisers or is lawfully obtained by you after that date, other than from a source which is connected with the Group and which, in either case, as far as you are aware, has not been obtained in violation of, and is not otherwise subject to, any obligation of confidentiality.

Group means the Borrower and each of its holding companies and subsidiaries and each subsidiary of each of its holding companies (as each such term is defined in the Companies Act 1985).

Obligor means [***].

Participant Group means you, each of your holding companies and subsidiaries and each subsidiary of each of your holding companies (as each such term is defined in the Companies Act 1985).

Permitted Purpose means considering and evaluating whether to enter into the Facilities.

Please acknowledge your agreement to the above by signing and returning the enclosed copy.

Yours faithfully

____

For and on behalf of

National Australia Bank Limited (as Arranger)

To: National Australia Bank Limited (as Arranger)

The Borrower, each other Obligor and each other member of the Group

We acknowledge and agree to the above:

____

For and on behalf of

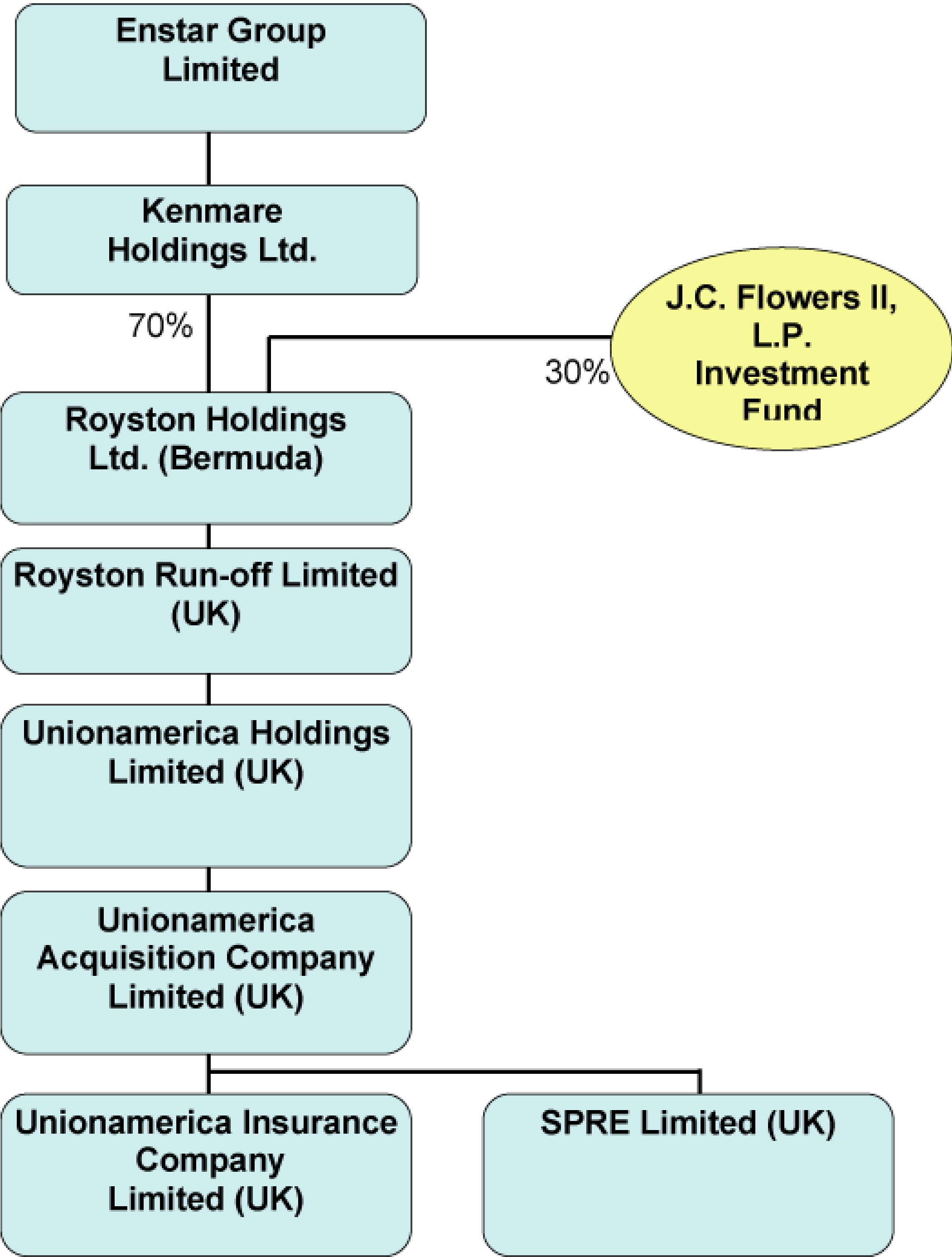
[Potential Lender]

Schedule 10 Timetables

Loans

	Loans in US Dollars
Delivery of a duly completed Utilisation Request (Clause 5.1 (*Delivery of a Utilisation Request*)) or a Selection Notice (Clause 11.1 (*Selection of Interest Periods and Terms)*)	3 Business Days prior to the date of the Loan
	9.30 a.m.
Agent notifies the Lenders of the Loan in accordance with Clauses 5.4 (*Lenders' participation*)	3 Business Days prior to the date of the Loan
	3.00 p.m.
LIBOR is fixed	Quotation Day as of 11.00 a.m.

Schedule 11 Group Structure



Schedule 12 Security Agent

1 **Appointment**

1.1 Each other Finance Party appoints the Security Agent to act as its agent and trustee under and in connection with the Finance Documents.

1.2 Each other Finance Party:

1.2.1 authorises the Security Agent to exercise the rights, powers, authorities and discretions specifically given to the Security Agent under or in connection with the Finance Documents together with any other incidental rights, powers, authorities and discretions;

1.2.2 confirms its approval of each Transaction Security Document; and

1.2.3 authorises and directs the Security Agent (by itself or by any Delegate) to execute and enforce the Transaction Security Documents as trustee, agent or in any other role (and whether or not expressly in that Finance Party's name) on its behalf, subject always to the terms of the Finance Documents.

2 **Duties**

2.1 Except where a Finance Document specifically provides otherwise, the Security Agent is not obliged to review or check the adequacy, accuracy or completeness of any document it forwards to another Party.

2.2 The Security Agent has only those duties which are expressly specified in the Finance Documents.

2.3 The Security Agent's duties under the Finance Documents are solely mechanical and administrative in nature.

2.4 Any requirement that the Security Agent is to "act reasonably" is to be construed as an obligation on the Finance Parties which are approached by it for instructions in accordance with this Agreement in relation to the relevant matter and not as an individual obligation on the Security Agent in that capacity.

3 **Relationship**

3.1 The relationship between the Security Agent and each other Finance Party is that of principal and agent save only that the benefits of the Transaction Security Documents are held by the Security Agent as trustee for them (to the extent that any amount is or is capable of being secured thereby).

3.2 In relation to any jurisdiction the courts of which would not recognise or give effect to the trusts expressed to be created by any Finance Document, the relationship of each other Finance Party to the Security Agent shall be construed solely as one of principal and agent but, to the fullest extent permissible under the laws of such jurisdiction, all the other provisions of the Finance Document shall have full force and effect between the Parties.

3.3 The Security Agent shall not be liable to any Party for any breach by any other Party of any Finance Document.

3.4 The Security Agent shall not be bound to account to any Party or any other person for any sum or the profit element of any sum received by it for its own account.

4 **No Fiduciary Duties**

4.1 Nothing in the Finance Documents makes the Security Agent a fiduciary for any other Party or any other person.

5 **Business with the Group**

5.1 The Security Agent may accept deposits from, lend money to and generally engage in any kind of banking or other business with any member of the Group.

5.2 If it is also a Lender, the Security Agent has the same rights and powers under the Finance Documents as any other Lender and may exercise those rights and powers as though it were not the Security Agent.

6 **Rights and Discretions**

6.1 The Security Agent may rely on:

6.1.1 any representation, notice or document believed by it to be genuine, correct and appropriately authorised; and

6.1.2 any statement made by a director, authorised signatory or employee of any person regarding any matters which may reasonably be assumed to be within his knowledge or within his power to verify.

6.2 The Security Agent may assume (unless it has received notice to the contrary in its capacity as agent for the other Finance Parties) that:

6.2.1 no Event of Default has occurred (unless it has actual knowledge of an Event of Default arising under Clause 23.1 (*Non-payment*) of this Agreement);

6.2.2 any right, power, authority or discretion vested in the Majority Lenders or any other person has not been exercised; and

6.2.3 any notice or request made by the Borrower is made on behalf of and with the consent and knowledge of all the Obligors.

6.3 The Security Agent may engage, pay for and rely on the advice or services of any lawyers, accountants, surveyors or other experts.

6.4 The Security Agent may act in relation to the Finance Documents through its personnel and Delegates.

6.5 The Security Agent may disclose to any other Party any information it reasonably believes it has received as agent under the Finance Documents.

6.6 Notwithstanding any other provision of any Finance Document to the contrary, the Security Agent is not obliged to do or omit to do anything if it would or might in its reasonable opinion constitute a breach of any law or a breach of a fiduciary duty or duty of confidentiality.

7 **Responsibility**

The Security Agent is not responsible for:

7.1 the adequacy, accuracy and/or completeness of any information (whether oral or written) supplied by any person given in or in connection with any Finance Document or the transactions contemplated in the Finance Documents.

7.2 the legality, validity, effectiveness, adequacy or enforceability of any Finance Document or any other agreement, arrangement or document entered into, made or executed in anticipation of or in connection with any Finance Document or the Transaction Security; or

7.3 for any failure in perfecting or protecting the Security created by any Transaction Security Document including any failure to:

7.3.1 take any necessary registration or recordings or filings of or otherwise protect the relevant Security under any laws in any jurisdiction;

7.3.2 give notice to any person of the execution of any Transaction Security Document; or

7.3.3 to obtain any authorisation for the creation of any Security, unless directly caused by its gross negligence or wilful misconduct.

8 **Exclusion of Liability**

8.1 Without limiting paragraph 8.2 below, the Security Agent will not be liable for any action taken by it under or in connection with any Finance Document, unless directly caused by its gross negligence or wilful misconduct.

8.2 No Party (other than the Security Agent) may take any proceedings against any officer, employee or Delegate of the Security Agent in respect of any claim it might have against the Security Agent or in respect of any act or omission of any kind by that officer, employee or Delegate in relation to any Finance Document and any officer, employee or Delegate of the Security Agent may rely on this provision.

8.3 The Security Agent will not be liable for any delay (or any related consequences) in crediting an account with an amount required under the Finance Documents to be paid by the Security Agent if the Security Agent has taken all necessary steps as soon as reasonably practicable to comply with the regulations or operating procedures of any recognised clearing or settlement system used by the Security Agent for that purpose.

8.4 The Parties agree that the Security Agent shall not be subject to the duty of care imposed on trustees by the Trustee Act 2000.

8.5 Nothing in this Agreement shall oblige the Security Agent to carry out any “know your customer” or other checks in relation to any person on behalf of any other Finance Party and every other Finance Party confirms to the Security Agent that it is solely responsible for any such checks it is required to carry out and that it may not rely on any statement in relation to such checks made by the Security Agent.

9 **Indemnity**

9.1 Each other Finance Party shall indemnify the Security Agent, within three Business Days of demand, against any cost, loss or liability incurred by the Security Agent (otherwise than by reason of the Security Agent’s gross negligence or wilful misconduct) in acting as Security Agent under the Finance Documents (unless the Security Agent has been reimbursed by an Obligor pursuant to a Finance Document).

9.2 The liability shall be divided between such Finance Parties pro rata to their respective aggregate Commitments [and outstandings under the Hedging

Agreement] from time to time or if all Commitments [and outstandings under the Hedging Agreement] have been reduced to zero, their respective aggregate Commitments [and outstandings under the Hedging Agreement] immediately prior to that reduction.

9.3 The Security Agent may, in priority to any payment to the Finance Parties, indemnify itself out of the Obligors' assets charged by the Transaction Security Documents in respect of, and pay and retain, all sums necessary to give effect to this indemnity and to all other indemnities given to it in the other Finance Documents in its capacity as Security Agent. The Security Agent shall have a lien on the Transaction Security Documents and the proceeds of enforcement of the Transaction Security Documents for all such sums.

10 **Resignation and Additional Security Agents**

10.1 The Security Agent may resign and appoint one of its Affiliates acting through an office in the United Kingdom as successor by giving notice to the other Finance Parties and the Borrower.

10.2 Alternatively the Security Agent may resign by giving notice to the other Finance Parties and the Borrower, in which case the Majority Lenders (after consultation with the Borrower) may appoint a successor Security Agent.

10.3 If the Majority Lenders have not appointed a successor Security Agent in accordance with paragraph 10.2 above within 30 days after notice of resignation was given, the Security Agent (after consultation with the Borrower) may appoint a successor Security Agent (acting through an office in the United Kingdom).

10.4 The retiring Security Agent shall, at its own cost, make available to the successor Security Agent such documents and records and provide such assistance as the successor Security Agent may reasonably request for the purposes of performing its functions as Security Agent under the Finance Documents.

10.5 The Security Agent's resignation notice shall only take effect upon the appointment of a successor.

10.6 Upon the appointment of a successor, the retiring Security Agent shall be discharged from any further obligation in respect of the Finance Documents but shall remain entitled to the benefit of this Schedule. Its successor and each of the other Parties shall have the same rights and obligations amongst themselves as they would have had if such successor had been an original Party.

10.7 After consultation with the Borrower, the Majority Lenders may, by notice to the Security Agent, require it to resign in accordance with paragraph 10.2 above. In this event, the Security Agent shall resign in accordance with paragraph 10.2 above.

10.8 The Security Agent may at any time appoint (and subsequently remove) any person to act as a separate security agent or trustee or as a co-agent or co-trustee jointly with it (any such person, an **Additional Security Agent**):

10.8.1 if it is necessary in performing its duties and if the Security Agent considers that appointment to be in the interest of the Finance Parties; or

10.8.2 for the purposes of complying with or conforming to any legal requirements restrictions or conditions which the Security Agent deems to be relevant; or

10.8.3 for the purposes of obtaining or enforcing any judgement or decree in any jurisdiction, and the Security Agent will give notice to the other Parties of any such appointment.

10.9 Any Additional Security Agent appointed in accordance with paragraph 10.8 above shall (subject to the terms of this Agreement) have the rights, powers and discretions (not exceeding those conferred on the Security Agent by this Agreement) and the duties and obligations as are conferred or imposed on the Additional Security Agent by the instrument of its appointment.

10.10 The remuneration that the Security Agent may pay to any Additional Security Agent and any reasonable costs and expenses (properly incurred) incurred by any Additional Security Agent in performing its functions pursuant to its appointment will, for the purposes of this Agreement, be treated as costs and expenses incurred by the Security Agent.

11 **Confidentiality**

11.1 In acting as agent for the Finance Parties, the Security Agent shall be regarded as acting through its agency division which shall be treated as a separate entity from any other of its divisions or departments.

11.2 If information is received by another division or department of the Security Agent, it may be treated as confidential to that division or department and the Security Agent shall not be deemed to have notice of it.

11.3 Notwithstanding any other provision of any Finance Document to the contrary, the Security Agent shall not be obliged to disclose to any other person (i) any confidential information or (ii) any other information if the disclosure would or might in its reasonable opinion constitute a breach of a fiduciary duty.

12 **Relationship with the Lenders**

12.1 The Security Agent may treat each Lender as a Lender, entitled to payments under this Agreement and acting through its Facility Office unless it has received not less than five Business Days prior notice from that Party or the Agent to the contrary.

13 **Credit Appraisal**

13.1 Without affecting the responsibility of any Obligor for information supplied by it or on its behalf in connection with any Finance Document, each other Finance Party confirms to the Security Agent that it has been, and will continue to be, solely responsible for making its own independent appraisal and investigation of all risks arising under or in connection with any Finance Document including but not limited to:

13.1.1 the financial condition, status and nature of each member of the Group;

13.1.2 the legality, validity, effectiveness, adequacy or enforceability of any Finance Document and the Transaction Security and any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document or the Transaction Security;

13.1.3 whether that Finance Party has recourse, and the nature and extent of that recourse, against any Party or any of its respective assets under or in connection with any Finance Document, the Transaction Security, the transactions contemplated by the Finance Documents or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document;

13.1.4 the adequacy, accuracy and/or completeness of any information provided by the Security Agent, any other Party or by any other person under or in connection with any Finance Document, the transactions contemplated by the Finance Documents or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document; and

13.1.5 the right or title of any person in or to, or the value or sufficiency of any part of the Charged Property, the priority of any of the Transaction Security or the existence of any Security affecting the Charged Property.

14 **Deduction from Amounts Payable by the Security Agent**

If any Party owes an amount to the Security Agent under the Finance Documents the Security Agent may, after giving notice to that Party, deduct an amount not exceeding that amount from any payment to that Party which the Security Agent would otherwise be obliged to make under the Finance Documents and apply the amount deducted in or towards satisfaction of the amount owed. For the purposes of the Finance Documents that Party shall be regarded as having received any amount so deducted.

15 **Title**

The Security Agent may accept without enquiry the title (if any) which an Obligor may have to any asset over which Security is intended to be created by any Transaction Security Document.

16 **Holding**

The Security Agent is not obliged to hold any share certificates or title deed, any Transaction Security Document or other document in connection with any asset over which Security is intended to be created by any Transaction Security Documents in its own possession. The Security Agent may permit the relevant Obligor or any professional adviser of the Security Agent to retain all such title deeds and other documents in its possession.

17 **Investments**

Except as otherwise provided in any Transaction Security Document, all moneys which are received by the Security Agent under that Transaction Security Document may be invested in the name of or under the control of the Security Agent in any investments which may be selected by the Security Agent. Additionally, those moneys may be placed on deposit in the name of or under the control of the Security Agent at such bank or institution (including itself) and upon such terms as it may think fit.

18 **Enforcement**

The Security Agent shall to the extent practicable use all reasonable endeavours to enforce the Security constituted by the Transaction Security Documents if it receives instructions to do so from the relevant Finance Parties that comply with Clause 26.20 (Instructions).

19 **Recoveries to be held on Trust**

19.1 The Security Agent shall hold the Recoveries on trust for the Finance Parties.

19.2 The Recoveries shall be distributed between the Finance Parties in accordance with Clause 29.5 (*Proceeds of enforcement*). Once so applied, the Security Agent shall be under no obligation to monitor how the relevant person receiving any such amount has applied such amounts.

19.3 Only amounts actually received by the Security Agent shall be capable of being applied by the Security Agent in accordance with this paragraph 19.

19.4 If the Security Agent receives any distribution under this Agreement or any other document otherwise than in cash from any person, the Security Agent may realise such distribution as it sees fit and then shall apply the proceeds of such realisation in accordance with the provisions of this Agreement.

19.5 If the Security Agent receives any amount under this Agreement or under any other Finance Document in a currency other than the currency of the relevant Debt the Security Agent may convert such amount into the currency of the relevant Debt at the Security Agent's spot rate of exchange for the purchase of the relevant currency with the currency of the amount received in the London foreign exchange market.

20 **Payment of Taxes**

The Security Agent shall be entitled to make such deductions and withholdings (on account of Taxes or otherwise) from payments to any other Finance Party as it is required by any applicable law to make and to pay out of amounts due to any other Finance Party all Taxes assessed against it in respect of any property charged or assigned pursuant to the Transaction Security Documents or by virtue of its role as agent or trustee under the Finance Documents.

21 **Conflict with Transaction Security Documents**

If there is any conflict between the provisions of this Schedule and any Transaction Security Documents with regard to instructions to or other matters affecting the Security Agent, this Schedule will prevail.

22 **Discharge Date**

Forthwith upon the date on which all present and future sums, obligations or liabilities from time to time due, owing or incurred (actually or contingently) by any Obligor to a Finance Party under or in connection with the Finance Documents shall have been irrevocably discharged in full and all Commitments have been cancelled, the trusts set out in Clause 26.18 (*Appointment of Security Agent*) and in this Schedule 12 shall be wound up and all the rights, duties and obligations of the Security Agent to the other Finance Parties (but not liabilities already incurred for negligence or breach of duty) shall cease

SIGNATURES

THE BORROWER

Royston Run-off Limited

By: /s/ Gareth Nokes

Address: Avaya House, 2 Cathedral Hill, Guildford, Surrey GU2 7YL

THE ORIGINAL OBLIGORS

Royston Run-off Limited

By: /s/ Gareth Nokes

Address: Avaya House, 2 Cathedral Hill, Guildford, Surrey GU2 7YL

THE ARRANGER

NATIONAL AUSTRALIA BANK LIMITED

ABN 12004044937

By: /s/ Simon Rolfe

Address: 88 Wood Street

London EC2V 7QQ

Fax: 020 7710 1914

Attention: Joe Platt

THE AGENT

NATIONAL AUSTRALIA BANK LIMITED

ABN 12004044937

By: /s/ Simon Rolfe

Address: 88 Wood Street

London EC2V 7QQ

Fax: 020 7726 0781

Attention: Joanne Ward/Stuart Hutton

THE SECURITY AGENT

NATIONAL AUSTRALIA BANK LIMITED

ABN 12004044937

By: /s/ Simon Rolfe

Address: 88 Wood Street

London EC2V 7QQ

Fax: 020 7726 0781

Attention: Joanne Ward/Stuart Hutton

THE LENDERS

NATIONAL AUSTRALIA BANK LIMITED

ABN 12004044937

By: /s/ Simon Rolfe

Address: 88 Wood Street

London EC2V 7QQ

Fax: 020 7710 1914

Attention: Joe Platt

EXHIBIT 21.1

Name	% of Voting Securities	Jurisdiction
Enstar Group Limited	N/A	Bermuda
A. Cumberland Holdings Limited	100%	Bermuda
1) Enstar Australia Holdings Pty Limited	100%	Australia
a) Enstar Australia Ltd.	100%	Australia
i) Cobalt Solution Services Limited	100%	Australia
b) AG Australia Holdings Lts	100%	Australia
i) Gordian Run-off Limited	100%	Australia
c) Shelly Bay Holdings Ltd.	100%	Australia
i) Church Bay Limited	100%	Australia
ii) Harrington Sound Limited	100%	Australia
A) TGI Australia Limited	100%	Australia
B. Enstar Limited	100%	Bermuda
1) Enstar (EU) Holdings Ltd.	100%	England
a) Enstar (EU) Ltd.	100%	England
b) Cranmore Adjusters Limited	100%	England
2) Enstar Brokers Limited	100%	Bermuda
3) Castlewood (Bermuda) Ltd.	100%	Bermuda
4) Bantry Holdings Ltd.	50%	Bermuda
a) Blackrock Holdings Ltd.	30%	Bermuda
i) Kinsale Brokers Limited	100%	England
C. Kenmare Holdings Limited	100%	Bermuda
1) Fitzwilliam (SAC) Insurance Limited	100%	Bermuda
2) Revir Limited	100%	Bermuda
a) River Thames Insurance Company	100%	England
b) Overseas Reinsurance Corporation Limited	100%	Bermuda
c) Regis Agencies Limited	100%	England
3) Hudson Reinsurance Company Limited	100%	Bermuda
a) Denman Holdings Limited	100%	Barbados
4) Harper Holding Sarl	100%	Luxembourg
a) Harper Insurance Limited	100%	Switzerland
b) Harper Financing Limited	100%	England
c) Enstar Holdings (US) Inc.	100%	Delaware
i) Enstar (US) Inc.	100%	Delaware
ii) Cranmore (US) Inc.	100%	Delaware
iii) Enstar Investments, Inc.	100%	Delaware
A) Sun Gulf Holdings, Inc.	100%	Delaware
I) Capital Assurance Company	100%	Florida
II) Capital Assurance Services, Inc.	100%	Florida
5) Mercantile Indemnity Company Ltd.	100%	England
6) Longmynd Insurance Company Ltd.	100%	England
7) Fieldmill Insurance Company Ltd.	100%	England
8) Virginia Holdings Ltd.	100%	Bermuda
a) Unione Italiana (UK) Reinsurance Company	100%	England
b) Stonewall Acquisition Corporation	44.40%	Delaware
i) Stonewall Insurance Company	100%	Rhode Island
ii) Seaton Insurance Company	100%	Rhode Island
c) Cavell Holdings Limited (U.K.)	100%	England
i) Cavell Insurance Company Limited	100%	England
9) Tate & Lyle Reinsurance Ltd.	100%	Bermuda
10) Courtenay Holdings Ltd	100%	Bermuda
a) Enstar Acquisitions Limited	100%	England
i) Goshawk Insurance Holdings plc	89.44%	England
A) Goshawk Holdings (Bermuda) Limited	100%	Bermuda
1) Rosemont Reinsurance Limited	100%	Bermuda
B) Goshawk Dedicated Limited	100%	UK
C) GK Consortium Management Limited	100%	UK
b) Simcoe Holdings Limited	100%	Bermuda
i) Electricity Producers Insurance Company (Bermuda) Ltd.	100%	Bermuda
c) Royston Holdings Limited	100%	Bermuda
i) Royston Run-off Ltd	100%	England
A) Unionamerica Holdings Limited	100%	England
B) Unionamerica Acquisition Company Limited	100%	England
i) Unionamerica Insurance Company Limited	100%	England
ii) SPRE Limited	100%	England
11) Comox Holdings Ltd	100%	Bermuda
a) Sundown Holdings Limited	100%	Bermuda
i) Bosworth Run-Off Limited	100%	England
12) Oceania Holdings Ltd.	100%	Bermuda
1) Inter-Ocean Holdings Limited	100%	Bermuda
a) Inter-Ocean Reinsurance Company Ltd.	100%	Bermuda
i) Inter-Ocean Reinsurance (Ireland) Ltd.	95.0% [1]	Ireland
13) Flatts Limited	100%	England
1) Marlon Insurance Company Limited	100%	England
a) Marlon Management Services Limited	100%	England
14) Rombalds Limited	100%	England
1) Guildhall Insurance company Ltd.	100%	England
15) Shelbourne Group Limited	50.10%	England
1) SGL No 1 Ltd.	100%	England
2) Shelbourne Syndicate Services Ltd	100%	England
16) Hillcot Re Limited	100%	England
a) Hillcot Underwriting Management	100%	England
17) Qualicum Holdings Limited	100%	Bermuda
18) Fanny Bay Holdings Limited	100%	Bermuda
D. Hillcot Holdings Limited	50.10%	Bermuda
1) Brampton Insurance Company Limited	100%	England

E. Enstar USA, Inc.	100%	Georgia
1) Enstar Financial Services, Inc.	100%	Florida
2) Enstar Group Operations, Inc.	100%	Georgia
B.H. Acquisition Ltd. (2)	100%	Bermuda
A. Brittany Insurance Company Ltd.	100%	Bermuda
B. Paget Holdings GmbH	100%	Austria
1) Compagnie Europeenne d'Assurances Industrielles SA	99.9% (3)	Belgium

(1) The remaining 5.0% of the company's voting securities is owned directly by Inter-Ocean Holdings Limited

(2) B.H. Acquisition Ltd. is 22% owned by Enstar Group Limited, 33% owned by Enstar USA, Inc. and 45% owned by Enstar Limited

(3) The remaining 0.1% of the company's voting securities is owned directly by Brittany Insurance Company Ltd.

EXHIBIT 23.1

CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

We consent to the incorporation by reference in Registration Statements No. 333-149551, 333-148863, 333-148862 and 333-141793 on Form S-8 of our reports dated March 4, 2009, relating to the consolidated financial statements and financial statement schedules of Enstar Group Limited and subsidiaries and the effectiveness of internal control over financial reporting, appearing in the Annual Report on Form 10-K of Enstar Group Limited and subsidiaries for the year ended December 31, 2008.

/s/ Deloitte & Touche

Hamilton, Bermuda
March 4, 2009

EXHIBIT 31.1

**CERTIFICATION PURSUANT TO
RULE 13a-14(a)/15d-14(a),
AS ADOPTED PURSUANT TO SECTION 302
OF THE SARBANES-OXLEY ACT OF 2002**

I, Dominic F. Silvester, certify that:

1. I have reviewed this Annual Report on Form 10-K of Enstar Group Limited;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
    a. Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
    b. Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
    c. Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
    d. Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
    a. All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
    b. Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Dated: March 4, 2009

/s/ Dominic F. Silvester
Dominic F. Silvester
Chief Executive Officer

EXHIBIT 31.2

CERTIFICATION PURSUANT TO
RULE 13a-14(a)/15d-14(a),
AS ADOPTED PURSUANT TO SECTION 302
OF THE SARBANES-OXLEY ACT OF 2002

I, Richard J. Harris, certify that:

1. I have reviewed this Annual Report on Form 10-K of Enstar Group Limited;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

    a. Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

    b. Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

    c. Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

    d. Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

    a. All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

    b. Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Dated: March 4, 2009

/s/ RICHARD J. HARRIS
Richard J. Harris
Chief Financial Officer

EXHIBIT 32.1

**CERTIFICATION PURSUANT TO
18 U.S.C. SECTION 1350,
AS ADOPTED PURSUANT TO SECTION 906
OF THE SARBANES-OXLEY ACT OF 2002**

In connection with the Annual Report of Enstar Group Limited (the "Company") on Form 10-K for the fiscal year ended December 31, 2008, as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Dominic F. Silvester, certify, pursuant to 18 U.S.C. section 1350, as adopted pursuant to section 906 of the Sarbanes-Oxley Act of 2002, that to the best of my knowledge:

(1) The Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and

(2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Dated: March 4, 2009

/s/ DOMINIC F. SILVESTER
Dominic F. Silvester
Chief Executive Officer

EXHIBIT 32.2

CERTIFICATION PURSUANT TO
18 U.S.C. SECTION 1350,
AS ADOPTED PURSUANT TO SECTION 906
OF THE SARBANES-OXLEY ACT OF 2002

In connection with the Annual Report of Enstar Group Limited (the "Company") on Form 10-K for the fiscal year ended December 31, 2008, as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Richard J. Harris, certify, pursuant to 18 U.S.C. section 1350, as adopted pursuant to section 906 of the Sarbanes-Oxley Act of 2002, that to the best of my knowledge:

(1) The Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and

(2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Dated: March 4, 2009

/s/ Richard J. Harris
Richard J. Harris
Chief Financial Officer