Dated

(1) **BROKER**

 - and -

(2) **INSURER**

**Terms of Business Agreement**

draft - not available for acceptance

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**THIS AGREEMENT** is made the  day of 20…..

**BETWEEN:**

1. ***[Insert name of broker]*** , details of which are set out in [Appendix 1](#Ref472683389) (the **Broker**); and
2. ***[Insert name of insurer]*** , details of which are set out in [Appendix 2](#Ref472683650) (the **Insurer**).

**BACKGROUND:**

1. The Broker is an insurance intermediary authorised in the UK to carry on insurance broking activities in the UK and where conducting business outside of the UK, the Territory .
2. The Insurer is an insurer authorised in the UK to effect and carry out contracts of insurance in the UK or is an insurer authorised in its country of registration and having the appropriate permissions to effect and carry out contracts of insurance in the UK.
3. The purpose of this Agreement is to set out the basis on which the Broker may arrange policies of insurance underwritten by the Insurer.

**NOW IT IS AGREED** as follows:

# Definitions and interpretation

## In this Agreement:

**Accountable Documents** means statements of fact, [cover notes], certificates of insurance, policy wordings, schedules, [cover note books] and schedule pads and any other items provided by the Insurer for the Broker’s use and/or which the Broker is able and authorised by the Insurer (including using electronic business and/or an Internet Trading System) to issue Policies to a Customer;

**Aggregator Sites** means internet sites offering financial services products from a number of providers for comparison and sale to Customers;

**Agreement** means this agreement, the Schedules, the Appendices and the Conditions;

**Approved Bank** means as defined in the glossary to the Handbook;

**Auditor** means the Insurer, its Regulator, its reinsurers or any auditor appointed by the Insurer;

**Brand** means names, trademarks and logos belonging to the Insurer or the Broker, as applicable;

**Brand Guidelines** means each Party's policies, instructions and guidelines in relation to the use of its intellectual property including its Brand as notified to the other from time to time;

**Broker Data** means Personal Data Processed by the Broker in relation to Customers, exclusively in its capacity as a broker for a Customer and other than in its capacity in the process of selling and administering Policies under this Agreement;

**Business Day** means a day which is not a Saturday, Sunday or public or bank holiday in England;

**Commission Schedule** means the schedule of standard rates of commission set out in [Schedule 5](#Ref472683368) as varied by the Insurer from time to time in accordance with clause 5.2;

**Complaint** means any oral or written expression of dissatisfaction, whether justified or not, from or on behalf of any person which alleges that the complainant has suffered (or may suffer) financial loss, material distress or material inconvenience relating to the provision of, or failure to provide, a financial service in accordance with the terms of this Agreement;

**Conditions** means:

(a) any current underwriting guidelines and conditions;

(b) instructions and directions contained or referred to in each document issued to the Broker by the Insurer;

(c) system administration notes and/or software house guides relating to electronic business and/or the Internet Trading System or included on the computer systems which the Broker uses to transact electronic business with the Insurer;

**Confidential Information** means any information whether written, electronic, oral or comprised in any other medium, which is expressly stated to be confidential or is by its nature confidential and is disclosed to the Receiving Party or a third party acting on its behalf including any information relating to products, Customers, operations, underwriting and rating guides, finances and any and all intellectual property rights, proprietary, and economic rights contained and embodied therein;

**Control** means control as defined in section 1124 of the Corporation Tax Act 2010;

**Customer** means a Policyholder or proposed Policyholder or former Policyholder;

**Controller** has the meaning given to it in the Data Protection Legislation;

**Processor** has the meaning given to it in the Data Protection Legislation;

**Data Subject** has the meaning given to in the Data Protection Legislation;

**Data Protection Legislation** means all applicable data protection and privacy legislation, regulations and guidance including:

(a) prior to 25 May 2018, the DPA and the Privacy and Electronic Communications (EC Directive) Regulations 2003 and any guidance or codes of practice issued by the UK Information Commissioner from time to time (all as amended, updated or re-enacted from time to time); and

(b) on or after 25 May 2018 Regulation (EU) 2016/679 (the General Data Protection Regulation or GDPR) and the Privacy and Electronic Communications (EC Directive) Regulations 2003 including any law based on or seeking to enact or extend any such legislation and regulations in the UK and any applicable guidance or codes of practice issued by the Data Protection Regulator from time to time (all as amended, updated or re-enacted from time to time);

**Data Protection Regulator** means the UK Information Commissioner's Office and in addition, from 25 May 2018: the European Data Protection Board, and any successor body or bodies to such organisations;

**DPA** means the Data Protection Act 1998;

**Disclosing Party** means a party which discloses Confidential Information;

**EDI** means data transmitted electronically in a standardised format between the Broker and the Insurer, including any part of such data;

**Effective Date** means unless otherwise agreed, the date of signature of this Agreement by the later of the Parties to sign;

**ELTO** means the Employers’ Liability Tracing Office;

**ELTO Records** means all employers’ liability insurance details required by ELTO from time to time including, policy number, broker reference, policyholder name, employer name, employer reference number, subsidiary company information, cover start date, cover end date and address details and any updates thereof;

**Force Majeure Event** means any circumstance not within a Party’s reasonable control including acts of God, flood, drought, earthquake or other natural disaster, epidemic or pandemic, terrorist attack, civil war, civil commotion or riots, war, threat of or preparation for war, armed conflict, imposition of sanctions, embargo, or breaking off of diplomatic relations, nuclear, chemical or biological contamination or sonic boom, collapse of buildings, fire, explosion and/or any labour or trade dispute, strikes, industrial action or lockouts (other than in each case caused by the Party seeking to rely on clause [21](#Ref472695218), or companies in the same Group as that Party);

**Gross Premium** means the Retail Premium less IPT;

**Group** means in relation to either Party, its subsidiaries, its holding companies, and their subsidiaries from time to time and ‘holding company’ and ‘subsidiary’ shall have the meanings given to them by section 1159 Companies Act 2006;

**Final Notice** means any 'final notice' issued by a Regulator if it takes action against the Broker;

**Handbook** means the handbook of rules and guidance published by the Financial Conduct Authority or any successor body and made under the Financial Services and Markets Act 2000;

**Insurance Business** means effecting, administering, or carrying out general insurance contracts.

**Insurer Instalment Plan** means a variable direct debit facility or any other arrangement that permits the Policyholder to pay the Retail Premium in instalments throughout the term of the Policy;

**Insurer Property** means all Accountable Documents, show cards, advertising material, prospectuses and other property supplied by the Insurer to the Broker;

**Intellectual Property Rights** means copyrights and related rights, design rights, database rights, patents, rights in undisclosed or confidential information such as rights to inventions, know-how or trade secrets (whether patentable or not), trade and domain and business names, logos and devices, trade and service marks, moral rights, rights in unfair competition, and other similar or equivalent intellectual property rights (whether registered or unregistered and wherever in the world enforceable) together with any extensions, revivals or renewals thereof, and all pending applications therefor and rights to apply for any of the foregoing in each case as may now or in the future exist anywhere in the world;

**Internet Trading System** means the computer software system and/or connected websites used by the Broker for the purposes of internet Trading and arranging and administering Policies via the internet;

**IPT** means insurance premium tax or any replacement or equivalent thereof;

 **[MIB** means the Motor Insurance Bureau (its successors in title or any other organisation appointed to administer the Motor Insurance Database);]

**Net Premium** means Gross Premium less commission payable in accordance with this Agreement;

**Party** means the Insurer and the Broker, each being a party to this Agreement;

**Personal Data** has the meaning given to in the Data Protection Legislation;

**Policy** means an insurance policy underwritten by the Insurer;

**Policyholder** means a person who is insured by or who has effected a Policy with the Insurer through the Broker in accordance with this Agreement;

**Process, Processed and Processing** have the meaning given to it in the Data Protection Legislation;

**Receiving Party** means a Party which receives Confidential Information from the Disclosing Party;

**Records** means all records in whatever medium as such may be held in respect of this Agreement including records relating to trust account arrangements, risks covered, accounts, files, documents, Policies, quotations, Accountable Documentation, premiums correspondence, information, electronic data and recordings of telephone conversations;

**Regulator** means any regulatory or enforcement authority concerned with the activities carried out pursuant to this Agreement by all or any part of the business of any of the Parties including (without limitation) the Prudential Regulation Authority, the Financial Conduct Authority, the Data Protection Regulator and any successor body as well as the applicable regulatory and enforcement authorities in the jurisdiction in which the Policy operates;

**Regulatory Requirements** means all applicable legal, statutory and other rules, codes, regulations, instruments and provisions in force from time to time including practice requirements, insurance industry wide agreements and accreditation terms stipulated by any regulatory authority or body to which the Parties are subject from time to time including the Regulator, the Association of British Insurers, the British Insurance Brokers’ Association, and the Advertising Standards Authority and any rules, guidance and/or feedback (individual or market-wide) issued by the Regulator;

**Retail Premium** means the premium paid or payable by the Policyholder including IPT;

**Risk Transfer Monies** means as defined in clause [11.1](#Ref472695268);

**Shared Personal Data** means any Personal Data Processed by the Broker in the process of selling and administering Policies under this Agreement (other than in relation to its employees, agents or sub-contractors) and excluding any Broker Data;

**System** means the hardware and software utilised by the Broker in connection with electronic business including any Internet Trading System;

**Territory** means the UK, the Channel Islands, the Isle of Man, the Republic of Ireland, together with such other jurisdictions as may be agreed from time to time in writing by the Parties and where different, the territorial limits applicable to Policies sold under this Agreement as documented in such Policies;

**Third Party** means any person not being one of the Parties including, for the avoidance of doubt, any Insurer Group company;

**Trading** means all forms of trading in relation to the Policies including electronic business, internet trading, [trading via Aggregator Sites] and telephone based trading and **Trade** shall be construed accordingly; and

**TUPE** means Transfer of Undertakings (Protection of Employment) Regulations 2006;

**UK** means England, Scotland, Wales and Northern Ireland;

**Year** means a period of 12 months during the term of this Agreement, the first period commencing on the Effective Date.

## In this Agreement:

### unless the context requires otherwise, a reference to a statute or statutory provision includes that statute or statutory provision as consolidated, modified, amended, re-enacted or replaced by any statute or statutory provision from time to time, and includes all applicable subordinate legislation made under the relevant statute;

### words in the singular include the plural and vice versa and terms importing any gender include all other genders;

### unless otherwise specified, references to clauses, Schedules and Appendices are to clauses of and Schedules and Appendices to this Agreement;

### references to a Party include its successors in title and permitted assignees from time to time;

### references to persons includes natural persons, firms, partnerships, companies, corporations, associations, organisations, governments, states, foundations and trusts (in each case whether or not having separate legal personality);

### headings are for ease of reference only and do not affect the interpretation of the applicable sections of this Agreement;

### to the extent that any provision of any Schedule and/or Appendix to this Agreement conflicts with any provision of the main body of this Agreement, the latter shall prevail to the extent of such conflict;

### any capitalised term not defined in this Agreement has, where such term is defined in the glossary to the Handbook, the meaning given to it in such glossary; and

### references to **including**, **include** and **in particular** shall be deemed to mean including without limitation, include without limitation and in particular without restriction respectively.

# Appointment of the Broker

## The Insurer appoints the Broker, from the Effective Date, to act in accordance with the terms and subject to the conditions of this Agreement until such time as the Agreement is terminated in accordance with clause 14.

## The Parties agree that the appointment of the Broker is non-exclusive.

## The appointment of the Broker applies within the Territory only.

# Acceptance of insurance

## Nothing in this Agreement requires the Insurer to accept any proposal for insurance or renewal of a Policy.

## The Broker shall ensure that all quotations for insurance which it issues on the Insurer’s behalf are consistent with the information set out in the proposal form or statement of fact (as appropriate).

## In the event that the Insurer decides not to renew a Policy it will use reasonable endeavours to notify the Broker not less than 30 days prior to the expiry of that Policy and the Broker will promptly forward such notice to the Policyholder in order to ensure compliance with the Regulatory Requirements.

# REGULATORY STATUS AND COMPLIANCE

## **Regulatory status of Broker**

## The Broker represents and warrants that it has in effect, and undertakes that it shall maintain for the duration of this Agreement, all necessary authorisations and permissions to carry out its activities under this Agreement.

## The Broker shall notify the Insurer in writing as soon as is reasonably practicable:

### of any events, developments or circumstances that will or are likely to have a material adverse impact on Broker's ability to meet its obligations under this Agreement;

### if any authorisations or permissions that it requires to carry out the activities under this Agreement are suspended, varied or terminated and which will or are likely to have a material adverse impact on the Broker's ability to meet its obligations under this Agreement;

### if it becomes subject to one of the insolvency events described in clauses 14.3.1(b) or 14.3.1(c);

### if any person, firm or company engaged or employed by the Broker to carry out activities in performance of this Agreement is convicted of a criminal offence (other than a motoring offence not resulting in a custodial sentence);

### if it commits a material breach of Regulatory Requirements;

### if it agrees, acknowledges or accepts any suggestion, allegation or finding from a Regulator that the Broker is in breach of any of the Regulatory Requirements, or receives a decision notice from a Regulator identifying any breaches of the Regulatory Requirements;

### if there are any changes in the directors, partners or control of the Broker; and/or

### any changes in the name or the trading name of the Broker;

### upon becoming aware of any matter arising out of the operation or in connection with the Agreement which has resulted in:

#### a Complaint being made to a Regulator;

#### legal proceedings being brought against the Broker through the courts; or

(c) a dispute with the Broker proceeding to arbitration.

## **Compliance of the Broker**

### The Broker shall:

#### comply with the Regulatory Requirements;

#### act in accordance with good industry practice relevant to the activities of an insurance broker;

#### maintain all necessary authorisations under the Regulatory Requirements to carry out credit-related activities where the Broker uses the Insurer Instalments Plan.

### The Insurer shall provide the Broker with such assistance and co-operation as the Broker reasonably requests in order to allow it to comply with the Regulatory Requirements and to assist in its investigations into fraud, suspected fraud, and financial crime.

## **Documentation**

Each Party will ensure that any advertising, promotional or other material that it produces complies with the Regulatory Requirements.

## **Regulatory status of the Insurer**

The Insurer shall notify the Broker in writing as soon as reasonably practicable :

### of any events, developments or circumstances that will or are likely to have a material adverse impact on the Insurer’s ability to meet its obligations under this Agreement;

### if any authorisations or permissions that it requires to accept any proposal for and/or underwrite insurance in relation to this Agreement are suspended, varied or terminated and which will or are likely to have a material adverse impact on the Insurer's ability to meet its obligations under this Agreement;

### If it becomes subject to one of the insolvency events described in clauses 14.3.1(b) or 14.3.1(c);

### if there are any changes in the name or the trading name of the Insurer; and/or

### upon becoming aware of any matter arising out of the operation or in connection with the Agreement which has resulted in:

#### a Complaint being made to the Regulator;

#### legal proceedings being brought against the Insurer by the Customer through the courts; or

(c) a dispute with the Insurer proceeding to arbitration.

## **Compliance of the Insurer**

### The Insurer shall:

#### comply with the Regulatory Requirements;

#### act in accordance with good industry practice relevant to the activities of an insurer;

#### maintain all necessary authorisations under the Regulatory Requirements to carry out credit-related activities where the Broker uses the Insurer Instalments Plan.

### The Broker shall provide the Insurer with such assistance and cooperation as the Insurer reasonably requests in order to allow the Insurer to comply with the Regulatory Requirements and to assist in its investigations into fraud, suspected fraud, money laundering and financial crime.

## **Complaints**

### Each party will notify the other in accordance with the rules of the UK Regulator (or other EEA regulatory body) of any Complaint concerning or otherwise involving the other party relating to Insurance Business subject to this Agreement

### The Party with regulatory responsibility for the factual matrix of the Complaint will deal with that Complaint. The other Party will provide the Party dealing with the Complaint with all assistance as may be reasonably required to investigate and settle the Complaint.

## **Anti-bribery and Anti-Corruption**

 Each Party shall:

### comply with all applicable laws, statutes, regulations, and codes relating to anti-bribery and anti-corruption, but not limited to, the Bribery Act 2010 (together the “Relevant Requirements”);

### not offer, promise, receive or give any financial or other advantage to any person in breach of any law against bribery (including the Bribery Act 2010).

### not engage in any activity, practice or conduct which would constitute an offence under sections 1, 2 or 6 of the Bribery Act 2010 if such activity, practice or conduct had been carried out in the UK

### have and shall maintain in place throughout the terms of this Agreement its own policies and procedures, including but not limited to adequate provisions under the Bribery Act 2010, to ensure compliance with the Relevant Requirements; and will enforce them where appropriate;

### promptly report to the other Party any request or demand for any undue financial or other advantage of any kind received by it in connection with the performance of this Agreement;

### unless prohibited by the Relevant Requirements and/or any Regulator (specifically those related to financial crime, including money laundering, bribery or sanctions) governmental department or operation of law, notify the other party in writing on becoming aware or having any reasonable suspicion of any criminal act relating to the operation of this Agreement or any Policy provided that such notification obligations shall not apply in cases where any such notification could be considered to be “tipping off” under any applicable legislation; and

### use reasonable endeavours to perform its respective obligations under this Agreement in a way that is conducive to maintaining the reputation of the other Party and, unless prohibited by the Relevant Requirements and/or any Regulator, each Party shall notify the other in writing on becoming aware or having any reasonable suspicion of any act relating to the operation of this Agreement or any Policy which may damage the reputation of the other Party and the Parties shall cooperate in good faith in order to minimise all or any such reputational damage.

# COMMISSION

## **Basis of commission**

Commission shall be allowed to the Broker in accordance with the Commission Schedule, which may be varied in accordance with clause 5.2, save where alternative rates have been agreed between the Parties as at the date of, or subsequent to, the date of this Agreement.

## **Commission rates**

### The Commission Schedule may be varied by the Insurer on giving the Broker not less than [60 days’] notice in writing.

## **Payment of commission**

### The Broker shall on receipt of cleared premium be entitled to deduct its commission from the Gross Premium in respect of Policies sold and placed with the Insurer. Where the Retail Premium is being paid using the Insurer Instalment Plan the commission is due and payable to the Broker when the first instalment due under the Insurer Instalment Plan is received by the Insurer.

### The commission due to the Broker covers all expenses that the Broker may incur and is inclusive of all applicable tax.

## **Refunds of commission**

The Broker shall refund commission on the following basis:

### Where any part of the Retail Premium is not received by the Broker (or where an Insurer Instalment Plan is in place and an instalment has not been received), commission shall not be payable on that part and the Broker will refund to the Insurer any such commission already paid to or deducted by the Broker.

### In the event of cancellation or mid-term adjustments which give rise to a return of premium the Broker will promptly refund to the Insurer a proportionate amount of commission.

## **Earliest** **event**

For the purposes of clause [5.4.1](#Ref472695912) and [5.4.2](#Ref472695913) where one or more of the events described occurs in relation to any Policy, commission will be treated as not payable or proportionally refundable as appropriate with effect from the earliest of the events.

## **Continuing** **liability**

The Broker remains liable for any refund of commission as set out above including for any Policy where the Broker has asked the Insurer to redirect commission to a third party.

# RESPONSIBILITIES OF THE BROKER

## **Agency**

### The Broker is not authorised to act as the agent of the Insurer except as expressly set out in this Agreement.

### It is acknowledged and agreed that, on the terms and subject to the conditions of this Agreement, the Broker acts as agent for the Insurer solely for the purpose of:

[Drafting Note: insurer and broker to review and amend this clause if necessary to reflect the scope of the broker's authority.]

#### issuing quotations;

#### placing the Insurer on risk save in respect of quotations;

#### issuing Policy documentation and revised Policy documentation (as applicable);

#### handling mid-term adjustments;

#### cancelling Policies in accordance with clause [6.4](#Ref472696035);

#### obtaining the surrender of, and retaining certificates of, insurance or declarations thereof as agreed between the Parties; and

#### collecting, receiving, holding and (where applicable) repaying to Policyholders Retail Premium.

### It is acknowledged that the Broker acts as agent of the Insurer in respect of Risk Transfer Money, including claims payments pursuant to clause 11.1.1(c). ***[Drafting note: if the Broker is not permitted to hold Risk Transfer Money, delete clause 6.1.3.]***

### In all other circumstances the Broker is the agent of the Customer. In particular, it is acknowledged and agreed that the Broker acts as agent for the Customer (and will notify the Customer to this effect) for the purposes of:

#### gathering information from, or on behalf of, the Customer and/or assisting or advising the Customer in the completion of proposal forms, statements of facts, cover notes and other documentation in relation to inception of Policies, mid-term adjustments and cancellations;

#### providing the Insurer with information notified by the Customer to the Broker as part of the Customer's presentation of the risk or which is otherwise required to be disclosed to the Insurer under the terms of this Agreement; and

#### where the Customer has notified the Broker of their intention to make a claim under the Policy, the Broker shall notify the Insurer.

### The authority granted in clause [6.1.2](#Ref472696176), shall be exercised by the Broker strictly in accordance with the terms of this Agreement.

### Except as expressly stated in this Agreement, the Broker has no authority to commit or bind the Insurer.

## **Use of current documentation and guides**

### The Broker shall only use current rating guides and Accountable Documents as supplied by the Insurer to arrange insurance with the Insurer for Policyholders.

### The Broker shall not vary in any way any of the documentation which the Insurer provides, including the Accountable Documents. The Broker will not append or affix to any documentation any item which might obscure any part of the content of that documentation.

### The Broker shall upon request by the Insurer promptly:

#### return Accountable Documents to the Insurer; and

#### subject to clause [(a)](#Ref472696201), destroy, so far as reasonably practicable, all obsolete rating guides and Accountable Documents.

## **Issue of documentation**

### The Broker shall:

#### provide the Policyholder with details of the Policy and promptly provide all relevant documentation to the Policyholder; and

#### only issue Accountable Documents to a Customer for a Policy in compliance with the Conditions.

### The Broker shall not issue any document that is pre-timed or backdated so as to provide, vary or cancel (or purport to do so) for any period prior to the date on which such cover is agreed and effected.

## **Policy cancellation - notification**

### The Broker shall promptly notify the Insurer after receipt of a notice of cancellation from a Policyholder and in any event

#### in respect of all motor Policies, within 5 working days of the effective date of cancellation; and

#### within 10 working days of the effective date of cancellation for all other policies.

### Where a Policyholder cancels a Policy the Insurer may charge an amount to reflect the period for which the Insurer was on risk and the Broker will handle the cancellation in accordance with the Regulatory Requirements.

## **Policy cancellation – authority**

### The Broker may cancel any Policy:

#### on behalf of the Policyholder; or

#### on behalf of the Insurer at the Insurer’s request;

provided it does so in accordance with the terms of the Policy and/or the terms of its contract with the Policyholder, or if required to do so under applicable Regulatory Requirements.

## **[Motor insurance certificates/cover notes/security of documentation**

The Broker shall comply with the obligations in respect of motor insurance certificates set out in Schedule 3.] OR **[Not Used]**

## **Data protection**

### The Parties acknowledge that:

#### the Parties act as joint Controllers in respect of the Shared Personal Data;

#### in respect of Shared Personal Data, the [Broker/Insurer] shall be the designated contact point for the Data Subject;

#### the Broker acts as a sole Controller over the Broker Data; and

#### the Insurer acts as a sole Controller in respect of any Policyholder's Personal Data it is Processing.

### Each Party shall comply at all times with its obligations under the Data Protection Legislation.

### The Broker shall ensure that:

#### the Shared Personal Data is collected and Processed in accordance with the Data Protection Legislation;

#### it gives Data Subjects of the Shared Personal Data a fair processing notice in accordance with Data Protection Legislation, which confirms that data will be shared with insurers for the purposes of arranging cover and entitles those insurers to Process such Shared Personal Data for the purposes set out in this Agreement, including, but not limited to, the administration and renewal of the Policies;

#### where required by the Data Protection Legislation, it identifies the appropriate lawful basis or bases for Processing in order to meet the Broker's obligations and the Insurer's obligations under the Data Protection Legislation and entitles the Insurer to Process such Shared Personal Data for the purposes set out in this Agreement including the administration and renewal of the Policies.

### Where a Party (the "Receiving Party") receives a request or enquiry relating to Shared Personal Data:

#### **from a Data Subject:**

##### for data subject access or data portability: the Receiving Party shall notify the other Party promptly. The other Party shall provide reasonable assistance to allow the Receiving Party to respond to the Data Subject in accordance with the Data Protection Legislation; or

##### for the rectification, erasure or restriction of Processing, of any Shared Personal Data: the Receiving Party shall notify the other Party promptly. The Parties shall (acting reasonably) agree whether such request is valid under the Data Protection Legislation, and the response to be made to the Data Subject, which shall be made by the Receiving Party (unless the Parties agree otherwise),

#### **from a Data Protection Regulator:** the Receiving Party shall (to the extent legally permitted) notify the other Party. The Parties shall provide each other with such information and assistance as is reasonably required in order to assess the request or enquiry. The Parties shall (acting reasonably) agree the response to be made to the Data Protection Regulator, which shall be made by the Receiving Party (unless the Parties agree otherwise).

### In the event that a Party suffers a 'personal data breach' (as defined in Data Protection Legislation) that relates to Shared Personal Data, the Party in breach shall:

#### notify the other Party within 24 hours of becoming aware of such a breach;

#### notify the other Party by midday on the next available working day if the Party in breach becomes aware of such breach outside normal office hours within the applicable Territory with no out of hours notification arrangements in place between the Parties;

#### use reasonable endeavours to agree with the other Party whether or not they are required to notify any Data Protection Regulator and any Data Subject;

#### use reasonable endeavours to agree the content of such notifications with the other Party;

#### be responsible for the submission of such notifications to the Data Protection Regulator and such Data Subjects.

### Without prejudice to any other rights the Parties may have, in the event that any Shared Personal Data is corrupted, lost or degraded sufficiently as to be unusable the Party in breach shall, at its own cost and so far as it is reasonably capable, carry out such remedial action to restore the Shared Personal Data.

### The Parties agree that they shall:

#### take reasonable steps to ensure the reliability of any of the personnel who have access to the Shared Personal Data and that such personnel have undergone training in respect of the requirements of the Data Protection Legislation and in the care and handling of Personal Data;

#### ensure that only those of its personnel who need to have access to the Shared Personal Data are granted access to such data and only for the purposes of the performance of this Agreement, and that all personnel required to access the Shared Personal Data are informed of its confidential nature and comply with the obligations set out in this clause 6.7 and those set out in clause 19;

#### implement and maintain appropriate technical and organisational measures to protect such Shared Personal Data against unauthorised or unlawful Processing and against accidental loss or destruction of, or damage. Such measures shall include, but not be limited to, the minimum security standards set out in Schedule 6;

#### promptly notify the Insurer in the event that it becomes aware of any breach of the Data Protection Legislation or the provisions of this clause 6.7 in relation to the Shared Personal Data either by it or any employee, subcontractor or agent;

### A breach of this Clause 6.7 shall be deemed a material breach of this Agreement.

## **Electronic trading terms**

The Broker shall comply with the obligations in respect of electronic trading set out in Schedule 4.

# NEW BUSINESS

## **Information and proposals**

The Broker shall:

### promptly submit to the Insurer details of all Policies, mid-term adjustments, renewals, lapses and cancellations; and

### promptly present to the Insurer all information and proposals relating to any Policy reasonably requested in such format as the Insurer requires and within such timeframes as the Insurer specifies in order to enable the Insurer to comply with timeframes set under the Regulatory Requirements [and, if applicable, by the MIB].

## **Advice to Customers**

The Broker is solely responsible for the advice and recommendations which it gives to Customers.

## **Policy issue**

The Insurer is responsible for the proper and accurate preparation of Policies and other insurance documentation, including statements of fact (where the Insurer has given the Broker prior written consent to issue statements of fact) and shall issue such documentation to the Broker promptly.

## **Employers Liability Tracing Office**

The Broker shall where appropriate use reasonable endeavours to:

### promptly obtain the ELTO Records from the Policyholder; and

### supply, in such format as the Insurer may require, the ELTO Records to the Insurer within 60 calendar days from the date of inception of the Policy.

# RENEWALS

## **Renewal invitations**

## The Broker shall, where the Insurer is prepared to offer renewal, promptly pass to Policyholders:

### renewal invitations; and

### changes to the terms and conditions of Policies.

## [Not Used] OR [In the case of private motor insurance, where a Policyholder does not renew his Policy, the Broker shall:

### in respect of EDI business, submit a lapse message the day after non-renewal of the Policy; and

### in respect of non-EDI business, within 5 days of the expiry of the due date for renewal:

#### inform the Insurer by telephone or email of the lapse; and

#### destroy, to the extent technically and legally practicable, the motor insurance certificate held by the Broker in respect of the renewal of the Policy.]

## [NOT USED] OR [In the case of renewal of fleet motor insurance, the Broker shall:

### in the event the Policyholder wishes to renew its Policy, notify the Insurer prior to the renewal date by telephone or email; or

### in the event the Policyholder does not wish to renew the Policy:

#### notify the Insurer prior to the renewal date by telephone or email; and

#### destroy, to the extent technically and legally practicable, any motor insurance certificate held by the Broker in respect of the renewal of the Policy.]

## Where a Policyholder does not renew his Policy, the Broker shall:

### inform the Insurer in writing within the following timescales:

#### promptly in respect of commercial Policies; and

#### 30 days after the due date for renewal in all other instances; and

### promptly destroy, so far as is reasonably practicable and by an appropriate secure means, all renewal documentation it holds in respect of that Policyholder.

## **Issue of renewal terms**

### The Insurer shall issue renewal documentation promptly to the Broker in accordance with the Regulatory Requirements, where it is prepared to offer renewal of any Policy.

### Where the Insurer is not prepared to offer renewal of any Policy it shall notify the Broker promptly and in good time before the renewal date to permit the Broker and/or the Customer to make alternative arrangements.

## **[NOT USED] OR [Motor Insurance Bureau**

Where the Broker retains the obligation to notify the Insurer of the vehicles covered under the Policy, the Broker shall provide the Insurer, on a daily basis, with such data as it holds and as the Insurer requires to comply with its obligations to report to the MIB.]

# CLAIMS

## **Claims notifications**

### Unless otherwise agreed in writing by the Insurer, the Broker has no authority to admit, settle, negotiate or compromise claims or to give a Policyholder any instructions or advice concerning the actual or probable outcome of any claim on behalf of the Insurer.

### The Broker shall as soon as practicable notify the Insurer in the event that a Policyholder notifies the Broker that he is considering making a claim.

## **Claims notified to the Insurer**

### Subject to any agreement to the contrary, the Broker acknowledges that the Insurer is solely responsible for providing and managing first notification of loss and claims handling services in respect of all claims arising under Policies.

### The Broker shall not in connection with a claim under a Policy, unless agreed otherwise with the Insurer:

#### pass the details of Policyholders or Third Parties to any organisation or service provider other than the Insurer;

#### use any information in relation to Third Parties save for providing the information to the Insurer;

#### accept any payment or fee in relation to the transfer or use of any information or data in relation to Policyholders or Third Parties; or

#### directly or indirectly approach or solicit Policyholders or Third Parties (or both) with a view to introducing them to organisations providing claims services.

# PREMIUM SETTLEMENT

## **Account statement and reconciliation**

### Provided the Broker has received payment of the Retail Premium, the Broker shall pay the Net Premium to the Insurer within the timescales agreed between the Parties in accordance with each statement of account.

### The Broker shall reconcile each statement of account and return the same to the Insurer in accordance with the credit terms specified by the Insurer. Any queries relating to entries on the statement of account shall be raised immediately on discovery and not when the statement of account is returned to the Insurer.

### Should the Broker fail to pay Net Premium to the Insurer in accordance with clause [10.](#Ref472696291)1, the Insurer may dispatch a statement of overdue items. The Broker must settle the statement of overdue items within 7 days of the date of the statement.

### The Broker shall adopt appropriate credit control processes.

### The Broker shall respond promptly to any request from the Insurer for information relating to remittance of IPT and/or Net Premiums to the Insurer including by way of provision of accounting records.

## **Payment terms**

### Provided that the Broker itself has received payment of the Retail Premium, the Broker shall:

#### pay to the Insurer all sums due as set out in the statement of account within the timescales agreed between the Parties; and

#### comply with any credit limits and terms of credit specified by the Insurer.

### The Insurer reserves the right to charge interest in respect of late payment of any sum due to the Insurer (before as well as after judgment) at the rate of 2% per annum above the base rate from time to time of HSBC Bank plc from the due date of payment for such sum until the date of actual payment.

# RISK TRANSFER, TRUST REQUIREMENT AND CO-MINGLING

## **Risk transfer**

### The Insurer appoints the Broker as its agent for the purpose of receiving and holding any monies representing:

#### Retail Premium payable to the Insurer and paid to the Broker by or on behalf of the Policyholder;

#### Retail Premium refunds payable to the Policyholder; and

#### Claims payments payable from the Insurer to the Policyholder.

(**Risk Transfer Money**) and the Broker shall receive and hold all Risk Transfer Money at all times as the agent of the Insurer in accordance with the terms of this clause [11](#Ref472696311). [Accordingly, Risk Transfer Money shall not constitute client money for the purposes of chapter 5 of the FCA's Client Assets sourcebook (**CASS**).] ***[Drafting note: if the Broker uses 11.1.6, delete the wording in square brackets.]***

### All Risk Transfer Money shall be held by the Broker at all times under appropriate trust arrangements within a bank account with an Approved Bank.

### The Insurer acknowledges that the intention of the Parties is that, in the event of the insolvency or other financial default of the Broker, Policyholders whose monies are required to be dealt with in accordance with this clause [11](#Ref472697033) shall not be denied insurance cover or any Risk Transfer Money which may be due to them from the Insurer as a result of such insolvency or other financial default, and accordingly irrevocably agrees that:

#### in respect of all sums referred to in clause [11.1.1(a)](#Ref472697051), such sums shall be treated as having been received by the Insurer when they are received by the Broker [or any Sub-agent appointed in accordance with clause [11.1.8](#Ref472697115)]; ***[Drafting note: if the Broker is not permitted to appoint a Sub-Agent to hold Risk Transfer Money, delete the wording in square brackets.]***

#### in respect of all sums referred to in clause [11.1.1(b)](#Ref472697134) and 11.1.1(c), such sums shall be treated as having been paid to the applicable Policyholder (or as otherwise directed by the Insurer) or third party only when they are actually paid by the Broker [or any Sub-agent appointed in accordance with clause [11.1.8](#Ref472697115)] to such recipient; and ***[Drafting note: if the Broker is not permitted to appoint a Sub-Agent to hold Risk Transfer Money, delete the wording in square brackets.]***

#### the provisions of clauses [(a)](#Ref472697261) and [(b)](#Ref472697276) shall apply in all circumstances notwithstanding any breach by the Broker of any of the terms (express or implied) of this Agreement (including this clause [11](#Ref472697302)) or any matter which may entitle either party to terminate or rescind this Agreement or to treat this Agreement as not being binding upon them.

### If required by the Insurer, the Broker shall as soon as reasonably practicable provide to the Insurer a copy of any executed deed of trust creating the account together with an acknowledgement from the bank at which the Broker maintains its risk-transferred money account that the bank is not entitled to combine that account with any other account or to exercise any right of set-off or counterclaim against money in that account in respect of any sum owed to such bank on any other account.

### ***[EITHER]*** [The Broker is not permitted to co-mingle Risk Transfer Money with any other client money held by the Broker, but Risk Transfer Money in the risk-transferred money account may be co-mingled with monies relating to other insurers [held pursuant to a trust deed].]

### ***[OR]*** [The Broker shall be entitled to co-mingle Risk Transfer Money with any other client money and/or Risk Transfer Money held by the Broker and the Insurer consents to its interests with regard to monies held in the Broker's client monies account being subordinated to the interests of the Broker's clients.]

### ***[EITHER]*** [The Broker has no authority, whether under this Agreement or otherwise, to permit any third party to receive, hold, or pay any money on behalf of the Insurer without the Insurer’s prior express written consent.]

### ***[OR]*** [The Broker may, subject in each case to it first obtaining the written consent of the Insurer, permit client money received by any of its appointed representatives, field representatives and other agents (together **Sub-agents**) to be held as agent for the Insurer provided, unless otherwise agreed by the Insurer, that any such Sub-agent enters into an agreement agreeing to be subject to the same terms as set out in this clause [11](#Ref472697575).]

### The Broker shall ensure that, in accordance with CASS 5.2.3R (3), each Policyholder in respect of which Risk Transfer Money is held in accordance with this clause [11](#Ref472697630) is informed that the Broker will hold their money as agent of the Insurer.

### The Broker shall be entitled to any interest or investment income earned in respect of Risk Transfer Money.

### Unless the parties otherwise agree in writing, section 53 of the Marine Insurance Act 1906 shall, if otherwise applicable, apply notwithstanding the provisions of this clause [11](#Ref472697362).

### This clause 11 shall continue in full force and effect, notwithstanding the termination or rescission of this Agreement for any reason, both in respect of all Risk Transfer Money held by the Broker at the date of termination or rescission and in respect of all further Risk Transfer Money which may be received by the Broker following such termination or rescission.

### The terms of this clause [11](#Ref472697666) shall apply notwithstanding any other arrangements made between the Broker and the Insurer in relation to the subject matter of this Agreement, unless the Parties expressly state in writing that this clause [11](#Ref472697547) is not to apply, either generally or in relation to any particular arrangement.

### References in this clause [11](#Ref472697520) to a **trust** shall, in the case of monies held in Scotland, refer to monies in held in accordance with Scottish law.

## **[No risk transfer]**

[Drafting note: if no risk transfer is to be granted, delete clauses 11.1 and use this clause 11.2.]

### The Insurer does not grant risk transfer in respect of Retail Premium, Retail Premium refunds or claims monies.

### Where the Broker receives or holds any monies representing:

#### Retail Premium payable to the Insurer and paid to the Broker by or on behalf of the Policyholder;

#### Retail Premium refunds payable to the Policyholder; or

#### Claims payments payable from the Insurer to the Policyholder’

(**Client Money**) the Broker shall receive and hold all Client Money in accordance with the applicable client money rules set out in the FCA's Client Assets sourcebook.

# PREMIUM – MISCELLANEOUS

## **Provisional premiums**

### Where it is not possible for a final Retail Premium to be calculated the Insurer shall notify the Broker of a provisional Retail Premium which it shall collect from the Policyholder. The provisional Retail Premium will appear on the Broker’s statement of account.

### Once the final Retail Premium has been calculated the Insurer will notify the Broker and the Broker shall then use reasonable endeavours to promptly collect the additional premium and any IPT thereon from, or make a refund to, the Policyholder (as appropriate). The adjustment due to the Insurer or the Broker (as appropriate) will appear on the Broker’s statement of account.

## **Customer credit control**

### The Broker shall use reasonable endeavours to collect from each Policyholder the Retail Premium and all other monies due to the Insurer and forward any refunds of such sums due to the Policyholder.

### Where the Insurer notifies the Broker of the requirement to charge an additional Net Premium and such additional Net Premium is agreed with the Policyholder, the Broker shall use reasonable endeavours to collect that additional Net Premium together with any associated IPT from the Policyholder and promptly pay such additional sum to the Insurer.

### The Broker has no authority to pledge the Insurer’s credit in any way except by using the Insurer Instalments Plan. The Insurer reserves the right to withdraw or to remove the Broker’s authority to offer an Insurer Instalments Plan at its absolute discretion at any time on not less than 28 days’ notice in writing. Any other arrangement made by the Broker to collect Retail Premium payable by instalments shall be at the Broker’s own risk and the Broker shall be responsible for the payment of all sums due to the Insurer.

### Where the Broker releases Accountable Documentation providing insurance cover the Broker shall be responsible to the Insurer for the Net Premium or time on risk charge (as applicable) due to the Insurer or any resulting bad debt unless the Insurer has accepted the Policyholder’s application to use an Insurer Instalments Plan, in which case the credit terms of the applicable Insurer Instalments Plan shall apply.

# INSURER STEP-IN AND SUSPENSION

## **Step-in**

In the event that one of the circumstances set out in clauses [14.2](#Ref472697777) or [14.3](#Ref472697781) arises in relation to the Broker, the Insurer reserves the right to appoint another authorised broker to contact the Policyholders on behalf of the Insurer.

## **Suspension**

### The Insurer may suspend the Broker’s authority on written notice where any of the events in clauses [14.2](#Ref472697777) or [14.3](#Ref472697781) occurs in relation to the Broker.

### Whilst the Broker’s appointment is suspended the Insurer reserves the right to require the Broker to arrange for Policyholders to make payments of all sums due in respect of Policies transacted prior to the date of suspension directly to the Insurer.

### On suspension the Broker shall:

#### unless the Insurer agrees otherwise, immediately cease all forms of Trading in relation to Policies; and

#### provide all assistance and information that the Insurer requests in order to suspend the Broker’s ability to Trade business for the Insurer.

### For the period of suspension the Broker shall not:

#### conduct insurance business in relation to the Insurer otherwise than in accordance with the written directions of the Insurer; or

#### receive commission save in respect of Policies and mid-term adjustments transacted prior to the date of suspension.

### Any suspension of this Agreement by the Insurer is without prejudice to the Insurer’s right to terminate the Agreement. The Broker’s suspension will continue for the period which the Insurer specifies, until the Insurer gives notice to either:

#### cancel the suspension; or

#### terminate the Agreement.

# TERMINATION AND CONSEQUENCES

## **Termination on ordinary notice or by agreement**

This Agreement may be terminated by:

### written agreement of the Parties; or

### either Party giving not less than one calendar month’s written notice to the other.

## **Termination for breach**

### Either Party may terminate this Agreement immediately on notice to the other Party where the other is in material breach of any of the terms of this Agreement and, if the breach is capable of remedy, such breach has not been remedied within 14 days after receipt by the defaulting Party of notice from the other requiring remedy.

### The Insurer may also terminate this Agreement on immediately on notice where the Broker:

#### is in breach of the Regulatory Requirements;

#### fails to maintain the Records;

#### breaches the Brand Guidelines or uses the Insurer Brand in such a way as to bring the Insurer Brand into disrepute; and/or

#### breaches any provision of clause [4.9](#Ref472695710).

### The Broker may terminate this Agreement immediately on notice where the Insurer:

#### is in breach of the Regulatory Requirements; and/or

#### breaches any provision of clause 4.9

## **Other default events**

### Either Party may terminate this Agreement immediately on notice to the other where:

#### it has reasonable grounds to suspect that the other Party, or the other Party’s employees, agents or independent contractors are guilty of fraud or dishonesty in respect of matters to which this Agreement relates;

#### the other Party:

#####  ceases or threatens to cease carrying on business;

##### has any authorisation or permission necessary for it to transact Insurance Business under this Agreement varied, impacting upon its ability to transact Insurance Business under this Agreement, or terminated;

##### undergoes a change of Control;

##### becomes bankrupt or commits an act of bankruptcy;

##### becomes subject of an administration order;

##### becomes insolvent or has gone into administrative receivership, provisional liquidation or liquidation (except for the purpose of bona fide reconstruction);

##### has a receiver, administrator or administrative receiver appointed over its assets;

##### compounds with or assigns its estate and/or effects for the benefit of its creditors;

##### has its goods seized in execution; or

##### suspends payments or is unable to pay its debts in accordance with the Insolvency Act 1986.

#### any procedure is commenced with a view to the winding-up or reorganisation of the other Party and that procedure (unless commenced by the other Party) is not terminated or discharged within 30 days, save that no right to terminate will arise in respect of any procedure commenced for the purpose of a solvent amalgamation or bona fide reconstruction with the prior consent of the Party; or

#### clause [21.3](#Ref472698288) applies.

### The Insurer may terminate this Agreement immediately:

#### if the Broker is a sole trader and the Broker dies;

#### if the Broker fails to pay monies due to the Insurer following a final demand in accordance with the terms of this Agreement;

#### if the Broker takes up residence or becomes domiciled or located outside the UK;

#### if the Broker is the subject of any Final Notice issued by the Regulator; or

#### if any of the directors or partners (as applicable) of the Broker is subject to disciplinary proceedings brought by the Regulator or any trade body or is convicted of a criminal offence (other than a minor motoring offence).

## **On termination – orderly run-off of business**

### On termination of this Agreement for whatever reason, unless the Parties otherwise agree:

#### no further commission will be payable to the Broker except commission earned prior to the date of termination and commission earned pursuant to clause 14.4.2;

#### the Broker will not be entitled to any compensation on termination;

#### all monies outstanding to the Insurer become immediately due and payable; and

#### the Broker shall at the request of the Insurer:

#####  disable Policy and cover note numbers;

##### permit the Insurer to access such of the applicable parts of its Systems and/or records as necessary for the Insurer to ensure that all unused Policy and cover note numbers which it has allocated to the Broker are disabled provided that the Insurer shall comply with its obligations under clause [19](#Ref472698763) in respect of any Broker Confidential Information to which the Insurer gains access; and

##### immediately remove the Insurer Brand and other references or links to the Insurer from the Broker’s website or any Aggregator Site on which the Broker trades products.

### From and including the effective date of termination of this Agreement (howsoever caused), the Broker shall not:

#### issue new quotations on behalf of the Insurer;

#### place the Insurer on risk save in respect of quotations issued prior to the Broker’s deemed receipt of notification of termination; and/or

#### handle any mid-term adjustments unless the effective date of such mid-term adjustment is prior to the termination date.

### Save as provided in this Agreement, termination will not affect any accrued rights or obligations of the Parties expressly stated or implicitly required or intended to survive termination of this Agreement.

# MATERIALS AND RECORDS

## **Insurer Insurance Materials**

### All the Insurer Property shall be and shall remain the property of the Insurer.

### In respect of the Insurer Property the Broker shall:

#### keep it secure on its business premises;

#### make it available for inspection by the Insurer or its authorised representatives; and

#### return it on request by recorded delivery post or any equivalent postal service for which the Insurer agrees to reimburse postal costs reasonably incurred by the Broker in complying with this clause.

### In the event of the loss or theft of any or all of the following:

#### any Accountable Document;

#### electronic business hardware; or

#### electronic business software;

the Broker shall notify the Insurer within 24 hours of discovery of such loss or theft.

## **Record keeping**

The Broker shall keep full and accurate Records relating to the performance of its obligations under this Agreement for the minimum periods set out below, measured from the expiry date of each Policy or quotation (as the case may be):

### commercial Policies, including employers' liability insurance, 10 years; and

### all other Policies, 6 years;

or such other periods as the Parties agree in writing.

# BROKER / CUSTOMER RELATIONSHIP

## During the term of this Agreement, the Insurer may deal directly with Policyholders or appoint a third party to deal directly with Policyholders only:

### if it is necessary for the Insurer to do so in order to comply with Regulatory Requirements;

### for the purposes of fulfilling the Insurer’s contractual obligations to the Policyholder;

### if the Broker ceases to maintain the authorisations, licences and consents necessary to carry out any activity under this Agreement;

### if the Broker ceases to trade or become insolvent or bankrupt;

### on the death of the Broker where the Broker is a sole trader;

### if the Broker ceases to act on behalf of a Policyholder and no other insurance broker acceptable to the Insurer (acting reasonably) has been appointed to act on the Policyholder’s behalf;

### where the Insurer has received written permission from the Broker to deal directly with the Policyholder;

###  if instructed to do so in writing by the Policyholder and in these circumstances, the Insurer shall keep the Broker informed of any instruction that it may receive from the Insured;

### in order to investigate any Complaint brought against the Insurer; or

### to conduct customer satisfaction analysis in respect of the Policies and/or the services provided by the Insurer or any member of the Insurer's Group pursuant to this Agreement;

and the Broker shall provide the Insurer with such information as the Insurer reasonably requires in order to contact Policyholders directly in these circumstances.

## The Insurer shall refer each Policyholder to the Broker in any circumstance where it is contacted by the Policyholder and, subject to clause [16.1](#Ref472176883), the Insurer is not permitted to deal directly with the Policyholder.

## During the term of this Agreement and for a period of 5 years following termination, the Insurer shall not use any information acquired by it as a result of this Agreement to:

### directly and knowingly solicit business or provide information to a Third Party to enable that Third Party to solicit business or endeavour to entice away any clients of the Broker from the Broker;

### market to clients of the Broker; or

### directly and knowingly provide information to a Third Party to enable them to market to clients of the Broker.

## The Insurer may use the Policy, Customer and claims data (or any combination of them) for research and statistical analysis, credit checking or fraud prevention and detection (the **Permitted** **Uses**). The Insurer may undertake the Permitted Uses (whether by itself or in collaboration with Third Parties) in cases where the Insurer reasonably believes that such use will:

### assist with or improve the development, pricing, underwriting and reinsurance of insurance products;

### improve the performance of insurance products; and/or

### reduce fraud (whether by prevention or detection).

## The Broker shall, where required to do so by the Insurer for the purpose of complying with the Data Protection Legislation:

### promptly incorporate within its sales process and any documentation issued to Customers, such wording as the Insurer requires to enable the Insurer to undertake the Permitted Uses; and

### where appropriate, retain and promptly provide confirmation of the obtaining of consent from the Customer to the Insurer carrying out the Permitted Uses whether recorded by documentation signed by the Customer, call recordings or otherwise.

# INTELLECTUAL PROPERTY

## Neither Party shall, by virtue of this Agreement, acquire any proprietary right, title or interest to or in the Intellectual Property Rights of the other Party.

## Each Party grants to the other for the term of this Agreement a non-exclusive, non-transferable, royalty free and non-assignable licence to use its Brand solely in relation to the performance of this Agreement. Neither Party shall use the other Party's Brand for any other purpose.

## Each Party may terminate or vary the terms of the licence its grants to the other under clause [17.2](#Ref472699893) at any time immediately upon written notice to that other Party.

## Each Party shall when instructed by the other Party immediately remove that other Party's Brand and other references or links to that other Party from its website and/or any Aggregator Site on which the Broker trades products.

## Neither Party shall not dispute or challenge the validity of the other's Brand, or the rights of the other Party to grant a licence of its Brand.

## Each Party shall comply with the Brand Guidelines when using the Brand of the other Party.

## Any Intellectual Property Rights in any data, material or literature (or in any part of such data, material or literature) produced by, or on behalf of, either Party in connection with this Agreement shall belong to the Party who produced such data, material or literature (or such part).

# VARIATIONS

## This Agreement may be varied by written agreement of the Parties.

## The Insurer shall provide [60 days’] written notice of any variation to the credit terms or imposition of credit limits.

## The Insurer may change the Conditions, premium rates and policy terms from time to time and may issue new and/or revised Conditions, premium rates and policy terms. Such change will be effective and binding on the Broker on the earlier of:

### implementation of such changes via the Internet Trading System;

### the Insurer notifying the Broker of any such change in writing;

### the Insurer providing the Broker with a software update for the Broker’s electronic business system; or

### the Broker implementing the change on its electronic business system;

or on such date as the Insurer may specify.

## The Broker shall so far as reasonably practicable, destroy all materials rendered obsolete as a result of any change provided for in clause [18.3](#Ref472700000) and remove the same from its website.

# CONFIDENTIALITY AND ANNOUNCEMENTS

## The Receiving Party shall:

### treat all Confidential Information as confidential;

### maintain the confidentiality of all Confidential Information in a prudent and business-like manner;

### not at any time divulge, disclose or make known to any person any Confidential Information which it receives from the Disclosing Party; and

### only use the Confidential Information for the purposes of performing its obligations or exercising its rights under this Agreement.

## Nothing in clause [19.1](#Ref472700056) shall prevent the Receiving Party from disclosing any Confidential Information to the extent that such disclosure is reasonably necessary for the purposes of this Agreement:

### to its professional advisors and, in the case of the Insurer, its reinsurers and any claims handling organisation appointed to handle claims;

### to a member of its Group;

### where the Receiving Party is the Insurer and the Broker is a member of a network, to that network as the network requests

### PROVIDED THAT the Receiving Party shall impose upon such recipients obligations of confidentiality and non-use equivalent to those contained in clause 19.1 and take reasonable steps to enforce the same.

## Nothing in clause 19.1 shall prevent the Receiving Party from disclosing any Confidential Information:

### as may be required by the Regulatory Requirements provided that the Receiving Party gives the Disclosing Party reasonable prior written notice of such required disclosure as soon as is reasonably practicable;

### that is already in the public domain otherwise than as a result of a breach of this Agreement by the Receiving Party;

### that is already lawfully in the Receiving Party’s possession and not subject to any confidentiality provisions.

## Confidential Information of a member of the Insurer's or the Broker's Group company shall be deemed Confidential Information of the Insurer or the Broker (as applicable) for the purposes of this clause [19](#Ref472700088).

## The Broker shall not, without the prior consent of the Insurer:

### publish any marketing literature which makes reference to the Insurer save where this has been supplied to the Broker by the Insurer;

### advertise on behalf of the Insurer or undertake a financial promotion on behalf of the Insurer except in a form approved by the Insurer; and

### include the Insurer Brand on websites and links except in a form approved by the Insurer.

## The rights and obligations contained in this clause 19 are without prejudice to and shall in no way affect the rights and obligations of the Parties contained in clause 6.7 above.

## The rights and obligations in this clause 19 shall survive the termination of this Agreement howsoever caused.

# NOTICES

## Notices under this Agreement must be given in writing, signed, marked for the attention of:

### in the case of the Broker: …………………………….; and

### in the case of the Insurer: …………………………….;

or to such other person or office-holder as either Party may notify the other by notice from time to time.

## Any notice shall be delivered by hand or sent by pre-paid first class post or recorded delivery post (or any equivalent postal service) to the registered office address of the recipient. Notices given under this Agreement shall not be validly served if sent by email.

## Any notice shall be deemed to have been received:

### if delivered by hand, on signature of a delivery receipt (or at the time the notice is left at the proper address); or

### at 9.00 am on the second business day after posting (or at the time recorded by the delivery service).

# FORCE MAJEURE

## If a Party is prevented or delayed in the performance of any of its obligations under this Agreement by a Force Majeure Event (the **Affected Party**), the Affected Party shall immediately give notice in writing to the other specifying the nature and extent of the circumstances giving rise to the Force Majeure Event.

## Subject to the service of notice in accordance with clause [21.1](#Ref472700547) and to the Affected Party implementing its business continuity plan (where appropriate), the Affected Party shall have no liability in respect of the performance of such of its obligations as are prevented or delayed by the Force Majeure Event, for the continuance of such events, and for such time after they cease as is necessary for the Affected Party, using all reasonable endeavours to recommence its operations in order for it to perform its obligations.

## Subject to clause [21.2](#Ref472700554), if the Affected Party is prevented or delayed from the performance of its obligations for a continuous period in excess of one month, the non-Affected Party may terminate this Agreement immediately on written notice to the other, in which case neither Party shall have any liability save for those rights and liabilities which accrued prior to such termination.

# INSURANCE and indemnity

## The Broker shall obtain and maintain in force for the term of this Agreement and thereafter, until its obligations under this Agreement are discharged, professional indemnity insurance of at least the minimum level of cover required by the Regulatory Requirements.

## On the Insurer’s request the Broker shall provide the Insurer with a copy of the insurance certificate together with reasonable evidence that the applicable premium has been paid.

# GENERAL

## The rights and remedies provided in this Agreement are cumulative and not exclusive of any rights or remedies provided by law.

## No failure or delay by a Party to exercise any right or remedy provided under this Agreement or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

## The relationship between the Parties is that of principal and agent only to the extent expressly set out in this Agreement. Nothing will create a partnership or joint venture between the Parties or relationship of employer and employee.

## This Agreement sets out the entire agreement between the Parties in relation to the subject matter within the scope of this Agreement and supersedes any previous agreement, representations and understandings between the Parties in such respect with effect from (and including) the Effective Date (without prejudice to accrued rights for past breaches).

## Each Party acknowledges that, in entering into this Agreement, it has not relied on, and shall have no right or remedy in respect of any statement, representation, assurance or warranty (whether made negligently or innocently) other than as expressly set out in this Agreement.

## Neither Party may assign, delegate or subcontract any of its rights, benefits, interests and/or obligations under this Agreement without the prior written consent of the other Party, such consent not be unreasonably withheld or denied.

## Nothing in this Agreement shall limit or exclude any liability for fraud or fraudulent misrepresentation.

## If any provision of this Agreement is found by any court or administrative body of competent jurisdiction to be invalid or unenforceable, such invalidity or unenforceability shall not affect the other provisions of this Agreement which will remain in full force and effect.

## This Agreement may be executed in any number of counterparts, and by the Parties on separate counterparts but will not be effective until the date on which the last Party has executed at least one counterpart. Each counterpart will constitute an original of this Agreement, but all the counterparts will together constitute one and the same instrument.

## The Parties to this Agreement do not intend that any term of this Agreement should be enforceable, by virtue of the Contracts (Rights of Third Parties) Act 1999 or otherwise, by any person who is not a Party to this Agreement.

# DISPUTES

## If any dispute arises in connection with this Agreement, a director or other senior representatives of the Parties with authority to settle the dispute will, within 14 days of a written request from one Party to the other, meet in a good faith effort to resolve the dispute. If the dispute is not wholly resolved at that meeting, the Parties agree to enter into mediation to settle such a dispute and will do so in accordance with the Centre for Effective Dispute Resolution (**CEDR**) Model Mediation Procedure. Unless otherwise agreed between the parties within 14 days of notice of the dispute, the mediator will be nominated by CEDR. To initiate the mediation a Party must give notice in writing (**ADR notice**) to the other Party to the dispute, referring the dispute to mediation. A copy of the request should be sent to CEDR. Unless otherwise agreed, the mediation will start not later than [28] days after the date of the ADR notice.

## No Party may commence any court proceedings/arbitration in relation to any dispute arising out of this Agreement until it has attempted to settle the dispute by mediation and either the mediation has terminated or the other Party has failed to participate in the mediation, provided that the right to issue proceedings is not prejudiced by a delay.

# LAW and jurisdiction

## This Agreement and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the law of England and Wales.

## Subject to clause [24](#Ref472701776), each Party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this Agreement or its subject matter or formation.

# SCHEDULE

# Details of the Broker

|  |  |
| --- | --- |
| Broker name: |  |
| Broker registered office / principal place of business: |  |
| Broker company registration number: |  |
| FS Register number: |  |

# SCHEDULE

# Details of the Insurer

|  |  |
| --- | --- |
| Insurer name: |  |
| Insurer registered office / principal place of business: |  |
| Insurer company registration number: |  |
| FS Register number: |  |

# SCHEDULE

# [NOT USED] OR [Motor insurance certificates / cover notes / security of documentation]

[To be inserted]

# SCHEDULE

# Electronic trading terms

[To be inserted]

# SCHEDULE

# Commission

[To be inserted]

# Schedule 6

# MINIMUM SECURITY STANDARDS

# SCHEDULE 7

# AMENDMENTS

**SIGNATURE PAGE**

|  |  |
| --- | --- |
| Signed by ……***[Insert name of director].***…….. for and on behalf of …***[Insert name of broker]***……………………..  | ............................... [SIGNATURE OF DIRECTOR] Director  |
|   |   |
|  |  |
|  |  |
| Signed by ……***[Insert name of director]***………..for and on behalf of …***[Insert name of insurer]***……………………..  | ............................... [SIGNATURE OF DIRECTOR] Director  |
|   |   |