



## **Broker Terms of Business Agreement**

ALDIUM Insurance Services Ltd trading as

**ACCURO Underwriting**

## 1. INTRODUCTION

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- 1.1 This Agreement is effective from the Commencement Date between You and Us as specified in the Schedule which forms part of this Agreement.
- 1.2 The purpose of this Agreement is to set out the terms of business under which all general insurance and any associated business is transacted between You and Us.
- 1.3 This Agreement replaces any other Terms of Business Agreement between You and Us with effect from the Commencement Date without prejudice to accrued rights for past breaches.

## 2. DEFINITIONS

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Administration Rights	The rights and responsibilities We have delegated to You to create, manage and control Authorised Users.
Authorised Representative	a firm or person(s) who undertake regulated activities acting as Your agent and for whom, under FCA regulations, You act as Principal.
Authorised User	You, if a Sole Trader, any partner, director, employee or Authorised Representative of Yours only while employed by You or while appointed by You as an Authorised Representative
Agreement	This contract between the parties as stated in the Schedule
Aviva Business	Policies of insurance placed by Us on Your behalf with Aviva Insurance Limited
Commencement Date	The date from which the Agreement is affective as stated in the Schedule
Commission	the portion of any premium <ul style="list-style-type: none"><li>• due to Us from the Policyholder to which You are entitled</li><li>• due from Us to the Policyholder for which You are liable to repay to Us in accordance with the rates as set out in the Schedule</li></ul>
Contract Certain Quotation	A quotation provided by Us on which an instruction can be accepted by Us to place the insurance cover in accordance therewith.
Data Controller	the same meaning as in the Data Protection Laws
Data Processor	the same meaning as in the Data Protection Laws
Data Protection Laws	the EU Data Protection Directive 95/46/EC as implemented in the appropriate local territories of the European Union until 25 May 2018 and the GDPR on and from 25 May 2018 (as amended and superseded from time to time), and/or all applicable laws, rules, regulations, regulatory guidance, regulatory requirements from time to time, in each case in each jurisdiction where personal data is processed pursuant to the Agreement;
EEA	the European Economic Area
EU	the European Union
FCA	the Financial Conduct Authority or such successor or replacement bodies as may, from time to time, authorise and regulate the parties to this Agreement.
FMSA	the Financial Services and Markets Act 2000
GDPR	the General Data Protection Regulation (EU) 2016/679
Member State	a member state of the EU

Our Data	all data (including personal data which are processed) of, owned by or relating to any of Ours which is generated by, supplied to, or is otherwise retained by, You or your sub-contractor pursuant to or in connection with the Agreement.
Personal Data	the same meaning as in the Data Protection Laws
Personal Data Breach	the same meaning as in the Data Protection Laws
Policyholder	a person or organisation who is the insured party to a policy of insurance sold placed by You with Us pursuant to this Agreement
Product Providers	An Insurer or Insurance Intermediary with whom We have placed a policy of insurance on Your behalf
Retail Premium	the premium payable by the Policyholder including premium taxes
Secure Website	That part of Our Website which requires a password to access.
Special Categories of Personal Data	the same meaning as in the Data Protection Laws
Standard Contractual Clauses	Standard Contractual Clauses (Processors) (as laid down in the Commission Decision 2010/87/EU of 5 February 2010) or the Standard Contractual Clauses (Controllers) (as laid down in Commission Decision C(2010) 5271;
Supervisory Authority	an independent public authority which is established by a member state pursuant to Article 51 of GDPR; and any similar regulatory authority responsible for the enforcement of data protection laws.
Transaction	The monetary reflection of incepting, amending or cancelling an insurance policy or Underwriting Fee.
Schedule	The document so titled forming part of this Agreement
Underwriting Fee	A charge we may make for underwriting and/or processing the New Business, Renewal, Amendment or Cancellation of an insurance policy.
Very Rough Indication	A broad indication of price provided by Us based on limited risk information provided by You which does not constitute a Contract Certain Quotation.
We/Us/Our	the party to the Agreement as stated in the Schedule
You/Your	the party to the Agreement as stated in the Schedule

### 3. COMPLIANCE

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- 3.1 You represent and warrant that You
- 3.1.1 are authorised to conduct the regulated activities required by this Agreement in accordance with Part IV of the Financial Services and Markets Act 2000 (“FSMA”)
  - 3.1.2 undertake to comply at all times with the regulatory requirements applicable or which become applicable including all the rules and requirements of the Financial Conduct Authority (“FCA”) including, but not limited to, the requirements to
    - 3.1.2.1 Treat customers fairly
    - 3.1.2.2 Conduct Your business with due skill, care and diligence

- 3.1.2.3 Have appropriate systems in place which reflect the nature, scale and complexity of Your business
- 3.1.2.4 have in place and be able to implement a Business Continuity and Disaster Recovery Plan
- 3.1.3 undertake to comply with all other applicable laws and regulations including, but not limited to,
  - 3.1.3.1 The Bribery Act 2010, the Foreign and Corrupt Practices Act 1977 of the United States and any similar purposed legislation and/or regulations
  - 3.1.3.2 The Terrorism Act 2000, the Proceeds of Crime Act 2002, the Money Laundering Regulations 2007 and any similar purposed Financial Crime legislation and/or regulations
  - 3.1.3.3 Her Majesty's Treasury Sanctions checks
  - 3.1.3.4 The Modern Slavery Act 2015 and any similar purposed anti-slavery and human trafficking legislation and/or regulations
- 3.1.4 have obtained and will maintain in effect any licence or authorisation which You may be required to hold in respect of the activities You conduct.
- 3.1.5 have obtained and will maintain professional indemnity insurance with a reputable Insurer with an indemnity limit any one event that meets the requirements of the FCA or £5 million whichever is the greater of the two.
- 3.1.6 will provide Us, upon request, with evidence that those matters to which You warrant are in place.
- 3.1.7 shall indemnify and keep Us indemnified after as well as before the termination of this Agreement from and against all loss, damage and liability suffered and expenses (including but not limited to legal expenses) incurred by Us resulting from any and all fraudulent or negligent acts and omissions, or breaches of the terms of this Agreement, by You.
- 3.1.8 will notify Us immediately in the event of any breach of
  - 3.1.8.1 The warranties as stated above
  - 3.1.8.2 Any other terms of this Agreement.

## 4. COMMISSIONS

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- 4.1 You are entitled to Commission if You are able (if requested) to produce written evidence that the Policyholder recognised You as their agent at the effective date of the insurance to which the transaction and the Commission thereon refers.
- 4.2 The amount of Commission entitlement is as stated in the Schedule to this Agreement and may be varied in accordance with clause 4.5 below.
- 4.3 For the sake of clarity, that Commission entitlement only applies to premiums excluding any Tax and does not apply to any Underwriting Fee.
- 4.4 In the event of a policy being the subject of cancellation or a mid-term adjustment We are entitled to deduct and You are obligated to repay Us Commission on the premium being repaid by Us to the Policyholder.
- 4.5 The amount of Commission may be varied
  - 4.5.1 In respect of any single business by mutual agreement
  - 4.5.2 in general by Us providing You with one calendar months' notice in writing

## 5. ACCOUNTING

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- 5.1 You shall pay Us within 30 days of the end of the month following that in which each Transaction amount is shown to be effective, the total amount of that Transaction subject only to deduction of any Commission entitlement detailed as part of the Transaction.
- 5.2 We are responsible for the preparation and delivery to You of a statement of account in such format as the We may determine which will show all Transactions outstanding.
- 5.3 In the event that any Transaction amount due is not paid within 30 days You will provide Us with a full written explanation as to why any such amount(s) have not been paid no later than the date upon which such unpaid items should have been paid.
- 5.4 Without prejudice to any of Our rights or remedies, in the event of non-payment of any Transaction by the due date as specified in clause 5.1, We have the right, but not an obligation, to
  - 5.4.1 Lapse the relevant policy or policies from the effective date of the policy or policies in question
  - 5.4.2 Cancel the policy or policies by providing not less than 7 days' notice to You
  - 5.4.3 Require You to pay interest on the unpaid sum at the rate applicable from time to time under the Late Payment of Commercial Debts (Interest) Act 1998, entitlement to interest as such rate to apply both before and after any judgement.
- 5.5 For the avoidance of doubt
  - 5.5.1 Each Transaction is raised by Us as a consequence of an instruction from You to Us to incept, renew or vary a policy of insurance and, in giving that instruction, You become liable to pay Us in accordance with the terms as stated above notwithstanding the credit terms You afford the policyholder
  - 5.5.2 Any arrangement by You for the policyholder to pay premiums by instalments is entirely at Your own risk and does not affect Your obligations in accordance with the above.

## 6. RESPONSIBILITY FOR PREMIUMS

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- 6.1 Whether We are granted Risk transfer by a Product Provider and whether this, in turn, is 'cascaded' to You will be stated on every quotation We provide to You.
- 6.2 Where Risk Transfer does apply:
  - 6.2.1 We appoint You as Our agent solely for the purpose of receiving and holding monies representing monies
    - 6.2.1.1 Due to Us and paid to You by or on behalf of the policyholder
    - 6.2.1.2 Payable to the policyholder
  - 6.2.2 All such monies are held under appropriate trust arrangements in an Approved Bank
  - 6.2.3 Said trust arrangements may either be
    - 6.2.3.1 Designated for Our benefit or with other Insurers with whom You have Risk transfer or
    - 6.2.3.2 Where FCA rules permit, co-mingled with Monies not held under Risk Transfer i.e. Client Money and We consent to Our interest being subordinated to monies not held under Risk Transfer
  - 6.2.4 You may deduct, from the Trust Account, commission You are entitled in respect of any premium when You have received that premium as cleared funds

- 6.2.5 You shall be entitled to interest on any monies held in a bank account set up and operated in accordance with the requirements subject, where applicable, to FCA rules and We waive any right or claim We would otherwise have to such interest.
- 6.2.6 You will provide Us, upon request, evidence of the trust arrangements and a copy of a letter from Your bank confirming they are not entitled to combine that account with any other account (other than as provided for under clause 6.2.3) or to exercise right of set-off or counterclaim against money in that account in respect of any sum owed to them.
- 6.2.7 You may not secure any advances of credit against the bank account operated pursuant to paragraph 6.2.3 unless permitted by the FCA and only then in accordance with their rules and Our prior written permission
- 6.2.8 Our appointment of You as Our agent in this respect is for the protection of Policyholders and is without prejudice to Our right to recover from You all monies
- 6.2.8.1 Due to Us and paid to You by or on behalf of the policyholder
- 6.2.8.2 Paid by Us to or held by You for refund but not passed on to the Policyholder.
- 6.3 Where Risk Transfer does not apply You warrant that all monies received or held by You representing Monies
- 6.3.1 Due to Us and paid to You by or on behalf of the Policyholder
- 6.3.2 Paid by Us to You or held by You for refund but not passed on to the policyholder
- are held by You on behalf of the Policyholder and not as Our agent and are received and held in accordance with the applicable client money rules set out by the FCA.

## 7. CLAIMS

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- 7.1 You must notify Us or the relevant Insurer (as appropriate) and provide full details immediately when notification of a claim is received from a policyholder.
- 7.2 You are not authorised to accept any liability (whether on Our behalf or otherwise) in respect of any claim or to agree or arrange a claims settlement without the prior written consent of the Us or the relevant Insurer

## 8. COMPLAINTS

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- 8.1 Complaints made to You relating solely to Your acts and omissions as an intermediary shall be for You to resolve in accordance with the FCA Dispute Resolution Complaints Sourcebook and/or successors
- 8.2 Notwithstanding the above, You undertake to notify Us immediately of any Complaint received by You in respect of the activities to which this Agreement applies, which cannot be resolved by the end of the business day following the date of notification to You of the Complaint.
- 8.3 You will respond as soon as is practicable to any requests We make to You for information pursuant to the handling of any Complaint and will offer a balanced view of the Complainant's experience.
- 8.3 We will handle all complaints in accordance with regulatory requirements

## 9. DOCUMENTATION

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- 9.1 You shall prepare all proposal forms and statement of facts to be presented to Us properly and accurately and in accordance with the instructions, guidelines and the approved forms We provide from time to time in respect of any insurance arranged or proposed to be arranged by Us,
- 9.2 You must provide Us promptly with all material information
- 9.2.1 Provided by the Policyholder
- 9.2.2 You are otherwise aware of
- 9.3 You must inform Us immediately upon becoming aware of non-disclosure of material information by the policyholder.
- 9.4 You must despatch all documentation intended for the Policyholder that We issue to You, without alteration, promptly to the Policyholder
- 9.5 In respect of New Business, We will only accept an instruction from You to incept cover providing
- 9.5.1 It is in writing
- 9.5.2 A Contract Certain Quotation has been issued
- 9.5.2 The risk or any material part of the risk is not situated outside the United Kingdom, Channel Islands and Isle of Man (in relation to Aviva Business)
- For the avoidance of doubt, any Very Rough Indication We may issue is not a Contract Certain Quotation.
- 9.6 In respect of Renewal
- 9.6.1 Unless otherwise agreed We shall issue renewal invitation documentation to You in respect of those insurance policies for which We are prepared to offer renewal.
- 9.6.2 If We are unable for any reason to offer renewal for a policy We undertake to notify You as soon as practicable.
- 9.6.3 Renewal of any policy is not automatic and You must provide Us with a written instruction to renew prior to the renewal date
- 9.6.4 In the event We do not receive an instruction to renew a policy by the renewal date, We shall deem this to be notification from You that the policy is not to be renewed and insurance cover will cease on the renewal date unless otherwise agreed and authorised by Us in writing.
- 9.6.5 If You become aware a Policyholder does not wish to renew their policy, You must notify Us as soon as is practicably possible
- 9.7 In the event You advise Us of any required variance to the basis on which a Contract Certain Quotation, a Renewal Invitation or a Mid-Term alteration has been issued, We reserve the right amend or withdraw Our terms.
- 9.8 We reserve the right to refuse any business introduced without any obligation to provide an explanation.

## 10. INSURERS

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- 10.1 Whilst we endeavour to conduct due diligence on any insurer we use, we cannot guarantee the solvency of any Insurer with which we place business. This means that you may still be liable for any premium due and not be able to recover the premium paid, whether in full or in part, should an insurer become insolvent and it is incumbent upon You to conduct Your own due diligence.

## 11. INTELLECTUAL PROPERTY AND CONFIDENTIALITY

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- 11.1 Unless otherwise stated nothing in this Agreement will result in the transfer of ownership from one party to the other of any intellectual property belonging to either party whether design, trademark, copyright or otherwise.
- 11.2 For the avoidance of doubt all intellectual property rights including, but not limited, to Our brand names, terms and wordings of any policy, guidance booklets, policy schedules, risk information forms and any associated documentation issued by Us belong to Us and may not be used by You in any context without Our prior written permission.
- 11.3 Each party agrees, at all times during the continuance of this Agreement and after its termination, to
- 11.3.1 Keep confidential, to protect and not to disclose to any third party any confidential information, technical data or trade secrets in respect of the other or in respect of any Insurer
- 11.3.2 Use their best endeavours to prevent said disclosure by any of its past or present employees, agents, representatives or otherwise
- except with the prior written consent of the Company or as required by law or in accordance with the order of a court of tribunal of competent jurisdiction.
- 11.4 Neither party shall Use the other party's confidential information for any purpose other than to perform obligations under this Agreement and to the extent required in the performance of its obligations under this Agreement.
- 11.5 These obligations shall not apply to information which is publicly available or becomes publicly available otherwise than as a result of a breach of this provision or any other confidentiality agreement relating to any of the matters referred to in this Agreement.

## 12. SUSPENSION

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- 12.1 We may, by giving You notice in writing, suspend this Agreement if
- 12.1.1 Any of the events referred to in clause 13.3 or clause 13.4 occur  
*or*
- 12.1.2 If the FCA exercise any of the powers which it has under FSMA in relation to You (including in particular any powers available to the FCA under Part II of the FSMA).
- 12.2 In the event that this Agreement is suspended
- 12.2.1 During this period of suspension You must not conduct insurance business in relation to Us otherwise than in accordance with Our written directions.
- 12.2.2 We shall be entitled to communicate directly with Your policyholder in respect of insurance business they have with Us during the period of such suspension;



12.2.3 You shall pass all monies received by You on Our behalf directly to Us without deduction and shall not be entitled to Commission during the period of such suspension.

12.3 The suspension shall last for such period as the notice given by Us under clause 12.1 may specify, or, if no such period is stated, until We give notice in writing cancelling such suspension.

12.4 Suspension of this Agreement under this clause 11.1 is without prejudice to Our right to terminate under clause 12.3 or clause 12.4 as the case may be.

## 13. TERMINATION

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13.1 Either party may terminate this Agreement by giving the other party not less than 14 days written notice without providing any reason for doing so.

13.2 In the event of such termination You may either:

13.2.1 Commencing not more than 30 days after notice of termination, take 12 months to place existing business elsewhere as policies fall due for renewal. In such cases the parties shall co-operate during this period to achieve such objective and We shall provide (if appropriate) the information reasonably necessary to You to place the business elsewhere

*or*

13.2.2 With Our consent, transfer Your insurance business to another intermediary with whom We a current Agreement or are prepared to enter into a new Agreement.

13.3 Either party may terminate this Agreement on written notice to the other party with immediate effect if:

13.3.1 It has reasonable grounds for suspecting the other party, or other party's employees, agents, independent contractors are guilty of fraud or dishonesty;

13.3.2 If the other party has materially breached any of the provisions of the Agreement and either such breach is incapable of remedy or, if capable of remedy, the other party has failed to remedy such breach within 30 days of receiving written notice requiring such breach to be remedied from the party not in breach;

13.3.3 The other party's permission under Part IV of FSMA is terminated;

13.3.4 The other party or any connected person makes a voluntary arrangement with its creditors or becomes subject to an administration order or goes into bankruptcy or liquidation or an encumbrance takes possession or a receiver is appointed over any of the property or assets of the other party or any connected person, or the other party ceases, or threatens to cease, to carry on business;

13.3.5 The other party suspends payments or is unable to pay its debts in accordance with the Insolvency Act 1986.

13.4 We may terminate this Agreement by written notice with immediate effect if:

13.4.1 You take up residence or becomes domiciled outside the UK;

13.4.2 If You fail to pay or account for any sum due to the Us under this Agreement within the time permitted for such payments;

13.4.3 You, being a sole trader, die.

13.4.4 You, being a sole trader make any arrangement or composition with Your creditors or a petition for bankruptcy or an administrative order is filed or You are adjudged bankrupt

13.4.5 You, being a partnership, are dissolved

- 13.4.6 We, at Our absolute discretion, decide We are unable to continue this Agreement as a result of the appointment by You of a director or partner.
- 13.4.7 Your permission under Part IV of FSMA is terminated or has been varied and such variation, at Our sole discretion, is likely to cause prejudice to customers;
- 13.4.8 You cease or threaten to cease to carry on business.
- 13.5 On termination of the Agreement;
  - 13.5.1 We shall not accept instructions from You to place any insurance cover other than at Our sole discretion and You shall not issue renewal invitations on Our behalf
  - 13.5.2 All Your rights to commission cease from the date of termination;
  - 13.5.3 All books, papers, records and other property of Ours must be returned to Us immediately.
  - 13.5.4 You must immediately provide Us with full details of all transactions being carried out by You in the course of the Agreement at the date of termination;
  - 13.5.5 All monies outstanding to Us become immediately due and payable;
  - 13.5.6 Where at the date of termination, premiums are due from the Policyholders for cover issued before termination, We may
    - 12.5.6.1 collect the premium direct from the Policyholder
    - 12.5.6.2 retain and offset Commission You are otherwise entitled to in respect of those premiums but only to the extent of the indebtedness You have to Us
  - 13.5.7 At Your request, We will provide reasonable access to Our records relating to the policyholder for the purpose of placing insurance business relating to those policyholders with other insurers.
  - 13.5.8 We are entitled to vary and implement specific procedures required for administering current business at the time of termination
  - 13.5.9 The Agreement shall continue in effect in respect of all insurance written prior to the date of termination and all such sums due from either party to the other shall be paid in accordance with the terms of the Agreement.
- 13.6 Where We have terminated the Agreement for any reason under clauses 13.3.1 to 13.3.5 or under clauses 13.4.1 to 13.4.8 We reserve the right to deal directly with Policyholder and, in such circumstances, You will not be entitled to any payment for goodwill which may arise from such arrangements neither will We be under any duty to account to You in respect of such arrangements in any way whatsoever.

## **14. WEBSITE**

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- 14.1 In using Our Secure Website, You agree to the following terms.
- 14.2 The Secure Website is solely for the use of Authorised Users and You will ensure only Authorised Users have access.
- 14.3 You are responsible for maintaining the confidentiality of all unique log-on identification passwords.
- 14.4 You are responsible for using and ensuring the use of adequate security measures to prevent unauthorised access to the Secure Website.

- 14.5 In the event we have provided You with Administration Rights then You must ensure that the person responsible reviews the list of Users at least once every 90 days and takes whatever action is necessary to ensure only Your Authorised Users have access to the Secure Website.
- 14.6 You must notify Us immediately upon becoming aware of any person who You nominated and to whom We have provided Administration Access leaves or intends to leave You.
- 14.7 In the event any other person no longer qualifies as an Authorised User you must immediately
- 14.7.1 Notify Us if We have not provided You with Administration Rights
  - 14.7.2 Deny that person's access to the Secure Website if We have provided You with Administration Rights
- 14.8 You must notify Us immediately upon becoming aware of any unauthorised access.
- 14.9 You will indemnify Us against any loss caused by access to the Secure Website by any person (other than Our Employees or representatives) to whom We or You (if We have provided You with Administration Rights) have provided a password.
- 14.10 Everything without exception uploaded to/posted on Our Secure Website is the sole responsibility of the person or persons doing so and You are fully responsible for whatever that may be if said person or persons are or have been Authorised Users.
- 14.11 Your use of or reliance on the content on Our website is entirely at Your own risk and we do not warrant the accuracy or veracity of the content whether created by Us or by any third party nor shall We be liable for the consequences of Your use or reliance thereof.
- 14.12 It is Your responsibility to ensure the adequate protection and security of your own computer systems from the inherent risks of accessing and downloading content from the internet and We will not be liable for any loss of any type caused by those risks including, but not limited to, computer virus infection, spyware, malicious software, trojans, worms or changes made to Our website by unauthorised third parties.
- 14.13 Our website may contain links or references to websites operated by third parties which are there for your convenience only and do not imply endorsement in any way of the sites linked or referred to. The responsibility for the operation and contents of those websites lies solely with the controllers of those websites and we are not liable for any loss or damage You may suffer as a result of accessing those website.
- 14.14 We reserve the right to, without notice,
- 14.14.1 Suspend access to all or part of our website or to close it indefinitely
  - 14.14.2 Suspend or permanently terminate access by any Authorised User to our Secure Website without liability for any type of loss that may be suffered by You as a consequence

## **15. DATA PROTECTION**

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- 15.1 In the performance of the Agreement, We and You at all times shall comply with Our respective obligations under the data protection laws in respect of Our processing of personal data
- 15.2 When either You or We (the "discloser") disclose or transfer personal data, to the other party (the "recipient"), the relevant discloser warrants, undertakes and confirms that:
- 15.2.1 It is not, and will not be, subject to any prohibition or restriction which would restrict or otherwise affect its ability to disclose or transfer that personal data;
  - 15.2.2 Any such disclosure or transfer will not give rise to any breach of any provision of the data protection laws, any duty of confidentiality, any intellectual property rights of a third party or any contractual obligation on its part:

- 15.2.3 It will only disclose the personal data for one or more of the defined purposes which are consistent with the terms of the Agreement (other than to comply with a requirement of applicable law to which a party is subject) ("purposes");
  - 15.2.4 it will take all reasonable steps appropriate to provide a fair processing notice to those data subject(s) whose personal data are to be disclosed to a recipient under the Agreement, informing them that their personal data will be disclosed to the recipient for the purposes;
  - 15.2.5 It has obtained necessary consents or authorisations required to permit the disclosure of such personal data to the recipient for the purposes.
- 15.3 The relevant recipient shall:
- 15.3.1 Put in place and maintain appropriate technical and organisational measures to protect the personal data against unauthorized or unlawful processing or accidental destruction, loss or damage;
  - 15.3.2 Have adequate security programmes and procedures to ensure that only authorised personnel have access to personal data and that any persons authorised to have access to personal data shall respect and maintain all due confidentiality;
  - 15.3.3 Only process the personal data for the purposes; and
  - 15.3.4 Not process personal data for longer than is necessary to carry out the purposes (other than to comply with a requirement of applicable law to which the recipient is subject).
- 15.4 We and You shall co-operate with each other, to the extent reasonably requested, in relation to:
- 15.4.1 Any data subject requests:
  - 15.4.2 Any other communication from a data subject concerning the processing of their personal data; and
  - 15.4.3 Any communication from a supervisory authority concerning the processing of personal data, or compliance with the data protection laws.
- 15.5 Whilst it is anticipated that generally each of Us will act as data controllers in handling of personal data in some situations You may act as data processor on Our behalf.  
In such cases, You warrant and undertake to Us that:
- 15.5.1 You will not process, transfer, modify, amend or alter the personal data or disclose or permit the disclosure of the personal data to any third party other than in accordance with Our documented instructions (whether in the Agreement or otherwise) in relation to any personal data which You process on Our behalf, unless processing is required by EU or member state law to which You are subject, in which case, You shall, to the extent permitted by such law, inform Us of that legal requirement before processing the personal data;
  - 15.5.2 You will not publish, disclose or divulge any of the personal data to any third party (including the data subject), unless directed to do so in writing by Us;
  - 15.5.3 You will not authorise any sub-contractor to process the personal data ("sub-processor") other than with Our prior written consent, which We may refuse in Our absolute discretion, provided that in the case of each approved sub-processor, You shall:
    - 15.5.3.1 Provide Us with full details of the processing to be undertaken by the relevant sub-processor;
    - 15.5.3.2 Include terms in the contract between You and each sub-processor which are the same as those set out in this paragraph 15.5
    - 15.5.3.3 Insofar as that contract involves the transfer of personal data outside of the EEA, only transfer such personal data in accordance with paragraph 4. 1.16 below and
    - 15.5.3.4 Remain fully liable to Us for any failure by each sub processor to fulfil its obligations in relation to the processing of any personal data;

- 15.5.4 You will ensure that, in respect of any personal data processed on behalf of Us, You will implement appropriate technical and organisational measures to ensure a level of security appropriate to the risk and take all measures required pursuant to Article 32 of GDPR. In assessing the appropriate level of security, You shall take account in particular of the risks that are presented by processing, in particular from accidental or unlawful destruction, loss, unauthorised disclosure of, or access to personal data transmitted, stored or otherwise processed;
- 15.5.5 without limitation to the foregoing, You shall implement and maintain each of the technical and organisational measures set out and referred to in the Agreement. We shall provide written notice to You if, in the reasonable opinion of Ours, the technical and organisational measures set out in the Agreement need to be changed to take account of a change to data protection laws and You shall implement any changes to such measures as reasonably requested by Us;
- 15.5.6 You shall make changes to the technical and organisational measures referred to in the Agreement as are necessary to ensure ongoing compliance with paragraphs 15.5.4 and 15.5.5 and promptly inform Us of any such changes being made;
- 15.5.7 You shall take reasonable steps to ensure the reliability of any employee, agent or contractor who may have access to the personal data, ensuring in each case that access is strictly limited to those individuals who need to access the relevant personal data, as strictly necessary for the purposes set out in this Agreement in the context of that individual's duties to You, ensuring that all such individuals are subject to confidentiality undertakings or professional or statutory obligations of confidentiality;
- 15.5.8 You shall promptly notify Us if You receive a request from a data subject under any data protection laws in respect of the personal data, including requests by a data subject to exercise rights in Chapter III of GDPR;
- 15.5.9 You shall provide such assistance as may reasonably be requested by Us to enable Us to comply with the exercise of Chapter III of GDPR rights by a data subject and/or to comply with any assessment, enquiry, notice or investigation under any data protection laws in respect of the personal data or the Agreement;
- 15.6.10 You shall notify Us immediately upon becoming aware of or reasonably suspecting a personal data breach, and shall provide Us at the time of the original notification with sufficient information which allows Us to meet any obligations to report a personal data breach under the data protection laws. Such notification shall as a minimum:
- 15.6.10.1 Describe the nature of the personal data breach, the categories and numbers of data subjects concerned, and the categories and numbers of personal data records concerned;
  - 15.6.10.2 Communicate the name and contact details of Your relevant contact from whom information may be obtained;
  - 15.6.10.3 Describe the likely consequences of the personal data breach; and
  - 15.6.10.4 Describe the measures taken or proposed to be taken to address the personal data breach;
- 15.5.11 if at the time of making the original notification described in 15.6.10, You do not have available to You all of the information set out in 15.6.10, You shall include in the original notification such information as You have available to You at that time, and shall then provide the further information set out in 15.6.10 as soon as possible thereafter;
- 15.5.12 You shall co-operate with Us and take such reasonable commercial steps as are directed by Us to assist in the investigation, mitigation and remediation of each personal data breach;
- 15.5.13 in the event of a personal data breach, You shall not inform any third party without first obtaining Our prior written consent, unless notification is required by EU or member state law to which You are subject, in which case You shall to the extent permitted by such law inform Us of that legal requirement, provide a copy of the proposed notification and consider any comments made by Us before notifying the personal data breach;

- 15.5.14 without prejudice to Our general rights to audit under the Agreement and in addition to those rights, You will allow Your data processing facilities, procedures and documentation to be submitted for scrutiny by Our auditors or supervisory authority in order to ascertain compliance with the data protection laws and the terms of this Agreement You shall provide full co-operation to Us in respect of any such audit and shall at Our request, provide Us with evidence of compliance with Your obligations under the Agreement. You shall immediately inform Us if, in Your opinion, an instruction pursuant to this paragraph 15.5.14 infringes the GDPR or other EU or member state data protection provisions;
- 15.5.15 You shall provide reasonable assistance to Us with any data protection impact assessments which are required under Article 35 of GDPR and with any prior consultations to any supervisory authority of Ours which are required under Article 36 of GDPR, in each case solely in relation to processing of the personal data by You on Our behalf and taking into account the nature of the processing and information available to You.
- 15.5.16 You shall not (and shall procure that Your sub-processors shall not) under any circumstances transfer Our data outside the EEA unless authorised in writing by Us to do so. At Our direction, where You (or Your sub-processors) is to process Our data including personal data outside the EEA, the standard contractual clauses (or such other mechanism as directed by Us) shall be completed and entered into between Us (or any other relevant data controller) and You (and, where applicable, any relevant sub-processor) before such transfer. Following any exit by the UK from the EU, in the event that transfers of personal data from the UK to the EU or from the EU to the UK are prohibited by UK Data Protection Laws or EU Data Protection Laws (as the case may be), You shall (and shall procure that Your sub-processors shall), at Our direction enter into the standard contractual clauses, or any other set of contractual clauses or other similar mechanism approved by a supervisory authority, or by the data protection laws, in respect of such transfer of personal data and any variation(s) are required to this paragraph to take account of any changes in data protection laws shall be incorporated; and
- 15.5.17 save insofar as is strictly necessary for the sole purpose of complying with Your obligations under the Agreement, You shall have no right of access to data relating to any past, present or future policyholders of Ours. You shall only Use Our data for the purposes of complying with Your obligations under the Agreement and for no other purpose whatsoever.
- 15.6 Subject to the requirements of the consequences of termination provisions of the Agreement and any applicable exit plan, and except to the extent that such data is required in relation to continuing customer relationships, law or regulation, You shall cease processing Our data as soon as reasonably practicable and in any event within 30 days following the termination or expiry of the Agreement or, in the event of an Orderly Run-off, with effect from the end of the Orderly Run-off and as soon as possible thereafter, either return, or securely wipe from Your systems, Our data and any copies of it or of the information it contains.
- 15.7 This section 15 sets out the details required by article 28(3) GDPR as at the date of the Agreement. We reserve the right to amend this section at any time during the term of the Agreement by written notice to You if necessary to comply with any legal requirement or guidance from a supervisory authority, or if required to take account of any changes to the processing of personal data pursuant to the Agreement. The subject matter, and the purpose of processing anticipated pursuant to Your appointment as a data processor under this Section 15 is the collection of retail premiums. The nature of the processing shall be those processing operations which are necessary to collect the retail premiums. This processing shall be in relation to customers. Personal data processed may include, without limitation, names, contact details, dates of birth, ID numbers, Usernames, passwords and logon data, as Well as special categories of personal data. The obligations and rights of Us as data controller are as set out in this Agreement.
- 15.8 We may hold personal data relating to You, including details of Your director(s) and other officer(s), partners/proprietor, any of Your approved persons, or other employees, sub-agents, introducers, outsourcing providers or customers, and may use such data for the purposes of administering the account, enforcing its rights under the Agreement, or any other agreement between Us and You, or for the purposes of assessing further agreements or relationships with You, debt management and recovery and compliance with any regulatory codes/rules, or relating to any policy. Such data may also be disclosed by Us to third party insurers, trade associations, credit reference agencies (see paragraph 15.10 below) and regulatory bodies/organisations/authorities for such purposes. You undertake to obtain all necessary consents or authorisations required to permit such Use and disclosure of such data for the purposes stated in this paragraph 15.9 and You will provide appropriate fair processing notices

to the data subjects stated in this paragraph 15.9 whose personal data are to be disclosed, informing them that their personal data will be disclosed to Us for the stated purpose.

- 15.9 For the purposes of the Agreement, We may from time to time search files made available to Us by credit reference agencies for credit referencing and credit scoring purposes. Those credit reference agencies involved may keep a record of that search. We may also pass to credit reference agencies information that We hold about You and Your payment record with Us. Credit reference agencies share information with other organisations, enabling applications for financial products or services to be assessed or to assist in the tracing of debtors or to prevent fraud. Individuals have a right of access to any personal data files held as permitted under the data protection laws.

## 16. GENERAL

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- 16.1 This Agreement shall be governed by and interpreted in accordance with the laws of England and both parties hereto agree to submit to the exclusive jurisdiction of the English Courts.
- 16.2 Any waiver by either party of a breach of any provisions of this Agreement shall not be considered as a waiver of any subsequent breach of the same or any other provision thereof.
- 16.3 This Agreement is personal to the parties and the benefits and obligations may not be assigned or delegated in whole or in part without Our written consent.
- 16.4 Waiver of a breach of any terms of this Agreement or of a default under this Agreement does not constitute a waiver of any other breach or default and shall not affect the other terms of this Agreement. The rights and remedies provided by this Agreement are cumulative and (subject as otherwise in this Agreement) are not exclusive of any rights or remedies provided by law.
- 16.5 If any court or administrative body of competent jurisdiction shall find any provision of this Agreement 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.
- 16.6 Any variations to the terms of this Agreement must be confirmed by Us in writing.
- 16.7 Neither party shall be liable for any delay or failure in the performance of their respective obligations under this Agreement resulting from events beyond such party's control including but not limited to war, riots, civil disorder, fire, explosion, strikes, lock-outs, industrial or labour or transportation disputes provided that this clause shall not apply in respect of any delay or failure by You to make timely payment of any monies due to Us. In the event that delays occasioned by the aforesaid last for a period of more than 30 days all monies due to Us shall be paid immediately and this Agreement shall terminate at close of business on the 30<sup>th</sup> day. If We consider that an orderly run-off is not practicable the provisions of clause 13.6 shall apply.
- 16.8 Save for any company which is in Our group of companies, a person who is not a party to this Agreement has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement but this does not affect any right or remedy of a third party which exists or is available apart from that Act.
- 16.9 Any notice to be given pursuant to the terms of this Agreement
- 16.9.1 shall be given in writing to the party due to receive such notice at (in the case of a company) its registered office from time to time or (in the case of an individual or partnership) at the address set out in this Agreement or such other address as may be notified from time to time to the other party.
- 16.9.2 may be sent via
- 16.9.2.1 Email in which case it will be deemed to have been received by the other party upon completion of the transmission provided the sender shall have received printed confirmation of successful delivery
- 16.9.2.2 Fax in which case it will be deemed to have been received by the other party upon completion of the transmission provided the sender shall have received printed confirmation of that transmission

16.9.2.3 First class post in which case it will be deemed to have been received by the other party 48 hours after posting provided it is sent to the other party's address as stated in the schedule to this Agreement or such address as may be notified by either party to the other from time to time.

16.9.3 Any difference or dispute arising out of or in connection with this Agreement which cannot be settled amicably shall in the first place be referred to a senior management representative nominated by each party

16.10 If there is failure to reach agreement between the parties within a 21 day period from the date of the dispute or difference was first referred to senior management then the courts of England shall have exclusive jurisdiction to settle the dispute or difference and to hear and decide any suit action or proceedings relating to the dispute or difference and for these purposes each party irrevocably submits to the jurisdiction of the courts of England.

16.11 The parties hereto agree that the Transfer of Undertakings (Protection of Employment) Regulations 2006 do not apply for the transfer of any employees between Us and You at any time during the continuance of this Agreement.