

Terms of Business Agreement

Between

Ingham Underwriting

And

[default Broker name and address]

(Please amend and return if incorrect)

Effective date –

TERMS OF BUSINESS AGREEMENT

This Agreement is entered into between the following parties:

Ingham Underwriting, which is the trading name of Ingham & Co (Liabilities) Ltd, whose registered address is Pearl Assurance House, 15-17 Waterloo Road, Wolverhampton, West Midlands, WV1 4DJ, registered in England under number 3921079 (hereinafter referred to as the "Company");

And

The Intermediary specified on the title page of this Agreement (hereinafter referred to as the "Intermediary")

Collectively hereinafter referred to as the "Parties"

IT IS HEREBY UNDERSTOOD AND AGREED THAT:

1. Interpretation and Definitions

- 1.1. "**Agreement**" means this Agreement and any attached schedule.
- 1.2. "**CASS**" means the FSA's Client Asset Sourcebook
- 1.3. "**Client**" means a person who is a Policyholder or prospective Policyholder.
- 1.4. "**FSA**" means the Financial Services Authority or any successor regulatory body.
- 1.5. "**Insurance Business**" means any insurance falling within the definition of "contract of insurance" in article 3(1) of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 or as amended together with insurances concluded under any contracts for insurance arranged by the Company where the Intermediary is the placing broker.
- 1.6. "**Insurer**" means the Insurance Company or Lloyd's Underwriter with whom The Company has placed the Insurance.
- 1.7. "**Policy**" means any policy of Insurance issued by The Company or The Insurer in accordance with this Agreement and "**Policyholder**" shall be construed accordingly.
- 1.8. "**Premium**" means the amount payable by the Policyholder to the Company in consideration for the cover afforded by the Policy and shall include any additional, return or adjustment amounts.
- 1.9. "**Records**" means anything on which any information of any description is recorded.

2. Scope

- 2.1. The Company and the Intermediary agree that the terms of this Agreement will apply to and govern any and all dealings between them. This Agreement shall not override the terms of any underlying contract for or of Insurance Business or the terms of any Policy.
- 2.2. Nothing in this Agreement overrides the Intermediary's duty to place the interests of its Clients above all other considerations nor shall this Agreement override any legal or regulatory requirements which may apply to the Intermediary, the Company, or the placing of any Insurance Business.
- 2.3. The Parties agree that the terms herein shall apply to the conduct of any Insurance Business which has been or may be transacted between the Parties on or after the date of this Agreement. The terms of this Agreement supersede the terms of any other terms of business or risk transfer agreement already in place between the Parties. The terms of this Agreement shall apply from the date of the Agreement.
- 2.4. Each proposal for Insurance Business, renewal of existing Insurance Business or continuation of cover in respect of any existing Insurance Business will be accepted or declined by the Company at its sole discretion. The Intermediary is under no obligation to offer any proposal for Insurance Business or renewal of any existing Insurance Business to the Company.

3. Regulatory Status

- 3.1. Both Parties warrant that they are authorised by the FSA to conduct insurance mediation activities (as defined in the FSA's handbook) from the date of this Agreement. The Company also warrants that the Insurers with whom it places any Insurance Business are authorised to conduct Insurance Business from the date of this Agreement. It remains the responsibility of the Intermediary to ensure that the status of the Insurer meets any specific demands and needs of their client.
- 3.2. The Intermediary shall inform the Company immediately in writing if at any time during the period of this Agreement:
 - 3.2.1. the FSA suspends or withdraws the Intermediary's authorisation; or
 - 3.2.2. the Intermediary otherwise ceases in any way to be authorised by the FSA to undertake any activities in relation to any Insurance Business subject to this Agreement; or
 - 3.2.3. the Intermediary becomes insolvent.
- 3.3. The Company shall inform the Intermediary immediately in writing if at any time during the period of this Agreement:
 - 3.3.1. the FSA suspends or withdraws the Company's authorisation; or

3.3.2. the Company otherwise ceases in any way to be authorised by the FSA to undertake any activities in relation to any Insurance Business subject to this Agreement; or

3.3.3. the Company becomes insolvent.

3.3.4. any Insurer with whom the Company has placed Insurance Business for a client of the Intermediary is subject to any of events 3.3.1 to 3.3.3 above.

4. Relationship

4.1. Nothing in this Agreement shall be construed as creating any partnership between the Company and the Intermediary (or any of the Intermediary's Employees) nor the relationship of principal and agent or employer and employee.

4.2. Neither the Company nor the Intermediary shall represent that it or its Employees are in partnership with or an agent or employee of the other, other than as provided for in clause 5.1.

5. Authority

5.1. This Agreement sets out the basis on which the Company will accept Insurance Business from the Intermediary. The Company authorises the Intermediary to act as agent of the Company for the sole purpose of receiving and holding premiums identified in clause 6.1 below.

5.2. The Intermediary is not empowered to bind the Company by contract or to impose any liability on the Company by any statement whether written or oral or by conduct unless previously instructed in specific terms in writing.

5.3. Cover on new policies, renewals or alterations will only be in force following receipt by the Company of a written request from the Intermediary and written confirmation from the Company. The Company is not bound to accept any enquiry or proposal for new policies, renewals or alterations.

5.4. Subject to the terms and conditions of any specific Insurance, the Company's right to cancel or decline any Insurance may be exercised by the Company at any time and (provided such cancellation or declination is exercised legitimately) no financial compensation shall be due to the Intermediary as a result of the same

5.5. The Intermediary shall not negotiate, adjust, compromise, settle or commit the Company or the Insurer to any liability with respect to any claim or suit. The Intermediary shall however promptly report to the Company all claims and/or suits arising under or in connection with any Policy or any matter pursuant to this Agreement, which comes to the attention of the Intermediary and co-operate fully in the investigation and adjustment of all such claims and/or suits.

6. Premium

6.1. Where the Intermediary holds:-

(a) premium due to be paid to the Company

(b) return premium due to be paid to the Intermediary's Client

the Intermediary shall hold such monies as agent of the Company, unless the Company has advised the Intermediary prior to cover being placed that the premium is not to be held as agent of the Company. The Intermediary has no authority under this Agreement to permit any third-party, sub-agent, or Appointed Representative (as defined in the FSA handbook) to receive, hold, or pay any money on behalf of the Company, without the Company's consent. The Intermediary shall advise the Company within 7 days of receipt of any request from the Company, whether it has received any specified premium.

6.2 Provided the Intermediary shall itself have received the premium, the Intermediary shall pay that premium (net of Commission, but including taxes) to the Company prior to the 30th day of the month after the effective inception, renewal or adjustment date (as appropriate) of the policy, subject to any agreement to the contrary or notification by the Company of different terms for a particular contract of insurance.

6.3 Pending payment to the Company or Client (as the case may be), the Intermediary shall hold the monies described in clause 6.1 above as the agent and trustee of the Company within its client monies account, which shall be a trust account, established in accordance with CASS 5.3 or 5.4. The Company hereby consents to such monies being co-mingled with the Intermediary's other client monies. The Company further consents to its rights with regard to monies held in the Intermediary's client monies account being subordinated to those of the Intermediary's Clients, in accordance with CASS 5, and further agrees that any interest earned on the said account shall accrue to the Intermediary. Where the Intermediary is not authorised by the FSA to hold Client Money and CASS 5.3 or 5.4 do not apply, the banking arrangements for holding monies described in 6.1 above must be advised to and agreed by the Company.

6.4 The Intermediary will notify the Company, within such time as may be agreed between the Parties, that the Client has failed to pay the premium.

7. Intermediary's Commission

7.1. Commission shall be agreed between the Parties on a case by case basis, and shall be set out in the relevant quotation or policy documentation.

7.2. The Intermediary may deduct the commission upon receipt of the premium. Should the Company give a refund of premium (for whatever reason), the Intermediary will repay the commission upon the amount refunded.

8. Client Contact

The Company will not directly or knowingly solicit the custom of any Policyholder, the subject of Insurance Business placed with the Company by the Intermediary either during the currency of this Agreement or for two years following termination

of this Agreement. The Company will only contact the Policyholder directly in the following circumstances:

- where specifically requested by the Intermediary; or
- to confirm cancellation of the Policy; or
- where this agreement has been terminated for any reason detailed in clauses 3.2.1 to 3.2.3.

9. Termination

9.1. This Agreement may be terminated:-

- 9.1.1. at any time by one party giving 60 days' written notice of termination to the other;
- 9.1.2. at any time immediately by mutual agreement of the Parties;

9.2. This Agreement shall terminate immediately, without notice:-

- 9.2.1. on the death of the Intermediary (if a sole trader);
- 9.2.2. on the expiry, termination or suspension for any reason of any licence or permission the Intermediary is required to utilise to comply with the terms of this Agreement (including but not limited to the withdrawal of any permission or authorisation of the Intermediary by the FSA);
- 9.2.3. on the insolvency, liquidation or bankruptcy of the Intermediary;
- 9.2.4. on the institution of any proceedings by [or against] the creditors, either seeking to adjudicate the Intermediary bankrupt or insolvent, or seeking its liquidation, winding up, reorganisation, arrangement, adjustment, protection, relief or composition of it or its debts under any law relating to bankruptcy, insolvency or reorganisation or relief of debtors;
- 9.2.5. on the institution of any proceedings by or against the Intermediary seeking the entry of an order for relief or the appointment of a receiver, trustee or other similar official for it or any substantial part of its property;
- 9.2.6. on the expiry, termination or suspension for any reason of any licence or permission the Company is required to utilise to comply with the terms of this Agreement (including but not limited to the withdrawal of any permission or authorisation of the Company by the FSA);
- 9.2.7. on the insolvency, liquidation or bankruptcy of the Company;
- 9.2.8. on the institution of any proceedings by [or against] the creditors, either seeking to adjudicate the Company bankrupt or insolvent, or seeking its liquidation, winding up, reorganisation, arrangement, adjustment, protection, relief or composition of it or its debts under any law relating to bankruptcy, insolvency or reorganisation or relief of debtors;

9.2.9. on the institution of any proceedings by or against the Company seeking the entry of an order for relief or the appointment of a receiver, trustee or other similar official for it or any substantial part of its property.

9.3. Following termination:-

9.3.1. the Parties will agree the procedure for administering the Insurance Business current at the time of termination;

9.3.2. unless otherwise agreed in writing by the Company, the Intermediary shall immediately pay to the Company all premiums together with all taxes (including IPT) which have not been paid to the Company in relation to any Policy;

9.3.3. the Intermediary agrees that all of the Policies shall remain in force with the Company for the full policy period of those Policies;

9.3.4. the Intermediary shall not sell or arrange to offer any Insurance on behalf of the Company unless otherwise agreed in writing;

9.3.5. the Company shall not be liable to the Intermediary for any compensation in respect of losses, consequential or otherwise, arising as a result of the termination of the Agreement

9.4. Any termination as detailed above shall not affect the rights and obligations of the Parties hereto as to transactions, acts or things done by either party prior to the effective date of termination. In particular termination of this Agreement shall not act to terminate any Policy in force at the time of such termination, nor shall it act to terminate or diminish the obligations of the Parties pursuant to this Agreement in connection with such Policies, unless expressly agreed in writing by the Parties.

10. Access to Records

10.1. The Intermediary will retain all of the Records created or held by it in its capacity as agent of the Company and all Records received by the Intermediary for the purposes of the introduction, arranging, concluding, administration or performance of the Insurance Business for a minimum of six years and in any event the minimum periods required by law or any regulatory body with jurisdiction over the Intermediary, the Company or the Insurance Business.

10.2. The Intermediary agrees to allow the Company, on reasonable notice, to inspect and to take copies of the following:-

10.2.1. the accounting records pertinent to any Insurance Business including information relating to the receipt and payment of premiums and documentation such as any insurance contract or Policy endorsement, addenda or bordereaux in possession of the Intermediary relating to the Insurance Business; and

10.2.2. documents as may be in the possession of the Intermediary which were disclosed to the Company by the Intermediary in respect of any

Insurance Business including, but not limited to, documentation relating to the proposal for the Insurance Business, the placing thereof (including endorsements and reinstatements) and any claims thereunder.

11. Assignment and Variation

This Agreement may be assigned only if agreed in writing by the Parties. The Company reserve the right to vary this Agreement at any time, by giving no less than 30 days written notice to the Intermediary.

12. Complaints

Each Party will notify the other in accordance with FSA Rules of any complaint concerning the other Party relating to Insurance Business subject to this Agreement.

13. Confidentiality

Both Parties shall during the term of this Agreement and thereafter, safeguard and maintain in confidence all trade secrets and other information relating to the Parties, except as may be necessary to fulfil their respective obligations in the conduct of the Insurance Business and except as may be required by law or regulatory authority.

For the avoidance of doubt each party shall be entitled to disclose such information where necessary to its Insurers or reinsurers, actuaries, auditors, professional agents and advisers.

This clause will not apply to information which was rightfully in the possession of such party prior to this Agreement, which is already public knowledge or becomes so at a future date (otherwise than as a result of a breach of this clause) or which is trivial or obvious.

14. Enforceability

In case any one or more of the provisions contained in this Agreement shall, for any reason, be held to be unenforceable, such provision or provisions shall be ineffective only to the extent of such unenforceability, without invalidating the remainder of such provision or provisions of this Agreement. This Agreement shall be construed as if such invalid, illegal or unenforceable provision or provisions had never been contained herein, unless such a construction would be unreasonable.

15. Protection of Reputation

Each Party agrees it will not, without the written authority of the other Party, make use of the other Party's corporate or trading names or logos and trade marks.

16. General Interpretation of this Agreement

In this Agreement, words importing the singular shall include the plural and vice versa. Headings are included for ease of reference and convenience only and shall not affect the interpretation of the Agreement.

17. Governing Law and Jurisdiction

The construction, validity and performance of this Agreement shall be governed in all respects by English Law and any proceedings arising out of or connected with this Agreement shall be subject to the exclusive jurisdiction of the English Courts.

18. Service of Notices

Any notices to be given under this Agreement shall be sent by first class recorded delivery post, by hand or facsimile to the Compliance Officer at the registered office of the Party to be served.

The notice shall be deemed to have been served, if posted, at the expiration of two business days after the posting and if by facsimile or hand, at the expiration of one business day after it was dispatched.

19. Force Majeure

Neither party shall be liable for any delay or non-performance of its obligations under this Agreement caused by an event beyond its control (a "Force Majeure Event") provided that the Party affected gives prompt notice in writing to the other Party of such Force Majeure Event and uses all reasonable endeavours to continue to perform its obligations under the Agreement.

Signed for and on behalf of **Ingham Underwriting**

Signature	
Name of Signatory	
Position	
Date	

Signed for and on behalf of the **Intermediary**

Full Company Name	
Signature	
Name of Signatory	
Position	
Date	