



TERMS OF BUSINESS AGREEMENT

EFFECTIVE: 25th May 2018

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Introduction

These Terms of Business replace the existing Thames Underwriting Limited Terms of Business Agreement

Please read these Terms of Business carefully.

They set out the Agreement between You (the Producing Broker) and Thames Underwriting Limited (Us/We) for business conducted with Us on or after 25th May 2018.

By submitting Business to Us after this date, You agree to these Terms.

Thames Underwriting Limited is authorised and regulated by the Financial Conduct Authority (firm reference number: 533504) to conduct Non-Investment General Insurance Business.

Nothing in this Agreement shall override the duty of the Intermediary to place the interests of policyholders before all other considerations to the extent required by the Financial Conduct Authority, or other recognised regulatory body requirements (so far as such requirements are applicable to the Intermediary).

Our Relationship with You

You warrant that You are acting with the Customer's full authority at all times.

We reserve the right to accept or decline any new proposal for insurance, renewal of existing business or continuation of cover in respect of any existing Insurance Business.

You are under no obligation to offer any proposal for Insurance Business or renewal of any existing Insurance Business to Us.

These Terms only operate between You and Us and do not create any contractual relationship between Us and any director, partner, member, employee, adviser, appointed representative, agent or Customer of yours.

We assume that any person purporting to give instructions to Us on Your behalf has authority to do so but We reserve the right to ask for evidence of such authority or confirmation of instructions.

We will carry out checks on Your firm, including regulatory authorisation, the scope of Your permissions to conduct Regulated Activities and credit checks.

We will not conduct Business with You if You do not hold relevant authorisation or permissions.

We reserve the right not to conduct further Business with You.

At no time will You act as agent of Thames Underwriting Limited.

You have no authority to do any of the following:

- a) sign or amend any documents, or any policies on our behalf;
- b) bind Us to any contract with any third party;
- c) collect information from a Customer on our behalf as our agent;
- d) make any financial promotion on our behalf without our prior written consent
- e) make any statements or promises or representations of any kind which bind or purport to bind Us and You will not hold Yourself out as having authority to make such representation
- f) commit Us in any way.

You will always act in the Customer's best interests and comply with the Rules on suitability and ensure all communications with Customers are clear, fair and not misleading in compliance with the FCA Rules.

You will ensure that all communications from You and actions You take on behalf of the Customer and all information submitted to Thames Underwriting Limited are accurate and where applicable, issued in accordance with the Customer's wishes and instructions.

You will ensure that Customers are advised in accordance with The Insurance Act 2015 and / or The Consumer Insurance (Disclosure and Representations) Act 2012 where it applies to their policy or potential cover including subjects such as the duty of the insured to make a fair presentation of risk, duty to take reasonable care not to make misrepresentation and the consequences of misrepresentation or non-disclosure (whether deliberate or reckless or not) and the consequences of the breach of any warranties, conditions, subjectivities, clauses, endorsements and policy limitations.

It is Your responsibility as agent of the Customer to ensure that the Customer is aware of the need to inform Us immediately of any changes to any information supplied either before cover is arranged or during the course of the

Insurance Policy. You will use all reasonable endeavours to ensure that all changes in the facts or circumstances or risk(s) relating to the Customer are promptly fully and accurately disclosed by the Customer to You and by You to Us.

It is Your responsibility as agent of the Customer to confirm to the Customer the terms of the Insurance cover effected through Us after having received written confirmation from Us that such Insurance is in force and then only in accordance with such confirmation. You will review all information upon receipt and advise Us immediately if the details of the cover or the participating Insurers do not meet its approval or do not reflect the instructions given to Us and particularly if any required cover is excluded. You take sole responsibility to ensure that the cover has been affected on the correct terms.

It is Your responsibility as agent of the Customer to check that any terms for new quotations, renewals or mid-term adjustments we provide match the Customer requirements.

You agree to indemnify us from and against any liability which we may have or damage which we suffer as a result of any failure on the part of You to comply with Your obligations under this agreement. In the same way, We agree to indemnify You from and against any liability which you may have or damage which You may suffer as a result of any failure on the part of Us to comply with Our obligations under this Agreement

All communication from Us including Policy Documents will be sent to You by email.

You must pass on without delay and without amendment any documentation or communication from Us for the attention of, or completion by, the Customer or which the Customer wishes You to forward to Us. If We send You any documentation or communication which is found to contain an error, it should be returned to Us as soon as possible.

You will comply with relevant regulatory, fiduciary and Legal Requirements regarding disclosure of all forms of remuneration from any arrangements You may have for remuneration in connection with Insurance Business.

In assessing new applications and renewal Business, to prevent fraud, check identity and to maintain our policy records, We may search files made available to Us by credit reference agencies. We may Use credit reference agencies to obtain a credit score.

Choice of Insurer(s)

Whilst We make every effort to monitor the solvency of any Insurer we use, this cannot be guaranteed. The responsibility for the final choice of Insurer lies between You and the Customer. A liability for a premium may arise in the event of an Insurer becoming insolvent and You, as agent of the Customer, will be responsible for any such liability.

Professional Indemnity

You undertake to maintain in force at all times professional indemnity insurance in accordance with the requirements of the FCA and provide a copy of Your policy to Us on request.

Placing Business on Behalf of Other Brokers

We do not permit Producing Brokers to arrange or place Business with Us on behalf of other Brokers (i.e. wholesaling), unless this has been specifically requested in writing and agreed in writing by Thames Underwriting Limited.

Appointed Representatives

This Agreement does not extend to include any appointed representatives.

We do not transact Business with appointed representatives unless this has been disclosed to Us in advance and specifically agreed in writing.

We will consider extending the Agreement to Your appointed representatives but will be subject to completion of a satisfactory completed questionnaire. We reserve the right to refuse any appointed representative without reason.

You will be responsible at all times for the conduct, actions, omissions or breach of the regulations by Your appointed representatives and anyone who represents You and You will procure and monitor their compliance with these Terms as if directly binding on them. You will ensure that such Persons are properly trained, competent and maintain professional indemnity insurance.

Non-Solicitation

We agree not to contact any Customer without Your prior approval, during the period of this Agreement and for a period of twenty-four calendar months after the termination of this Agreement other than as described in this Agreement.

You agree that We or someone acting officially on our behalf may contact a Customer if it is a legal or regulatory requirement to do so, in order to act in the best interests of the Customer or other parties to the insurance contract.

If a Customer makes any unsolicited direct contact to Us then We shall not be prohibited from corresponding with them.

We shall not be prohibited from dealing with Business relating to a Customer on behalf of another Producing Broker who has obtained authority to act on behalf of that Customer

For the avoidance of doubt, examples of where We may contact the Customer directly are as follows;

- a) where We or the insurers seeks to void or cancel the insurance policy for any reason including any non-payment of premiums. In these circumstances, a recorded delivery letter will be issued directly to the Customer and a copy sent to You.
- b) You are no longer authorised by the FCA to transact Business
- c) In the event that You become insolvent, bankrupt, compound with creditors, appoint a receiver, go into run off.

Handling of Monies

All monies received by Thames Underwriting Limited are kept in a Non-Statutory Insurer Trust bank account pending settlement to the Insurer(s). We are authorised to hold Money as agent and trustee on behalf of our Insurers.

Where Risk Transfer is Cascaded to You

We will confirm whether 'Risk Transfer' is cascaded to You the Producing Broker within our Quotation(s).

Money held by You as agent for the Insurer must be held;

- a) in a client bank account as described in CASS 5.3 ("**Statutory trust**") or CASS 5.4 ("**Non-Statutory Client Money Trust**"), if the Producing Broker is authorised by the UK Regulator to hold and control Client Money, in either of which cases the Insurer consents to such Monies being co-mingled with the Broker's other Client Money. In these circumstances the Insurer(s) consents to its rights with regard to Monies held in the Broker's Client Money account being subordinated to those of the Broker's clients in accordance with CASS 5 and further agrees that any interest earned on the Monies in the said account shall accrue to the Broker; or
- b) in a bank account designated a trust account, in which case the UK Regulator's Client Money Rules shall not apply to the Insurer Monies.

For the purpose of this clause, the Broker must write to the bank requesting the bank to acknowledge to the Broker in writing ("**Bank's Written Acknowledgement**") that all Monies standing to the credit of the trust account are held by the Broker as trustee of the Insurer(s) (or if relevant in Scotland, as agent) and that the bank is not entitled to combine the account with any other account or to exercise any right of set-off or counterclaim against Monies in that account in respect of any sum owed to it on any other account belonging to the Broker, and that the title of the account sufficiently distinguishes that account from any account containing other money belonging to the Broker, and is in the form requested by the Broker.

Where Risk Transfer is not Cascaded to You

If We offer a quotation with an Insurer that does not cascade 'Risk Transfer' to You the Producing Broker, then this will be shown within our Quotation(s).

In these circumstances, Monies must be held by You in one of the following ways:

- a) in a Statutory trust or a Non-Statutory Client Money Trust if the Broker is authorised by the FCA to hold and control Client Money; or
- b) the Broker must establish and maintain procedures to ensure that Monies received will be in the form of either BACS payment or cheque direct from the client's account made payable to Thames Underwriting Limited

If You are unable to meet any of these obligations at any time, You agree to notify Us immediately.

Your Payment to Us & Responsibility of Premiums

You undertake to collect promptly all premiums due from the Customers including new Business, renewals and mid-term adjustments in respect of all Business and act as agent for the Customer at all times.

A monthly statement of account will be made available to You and this will detail all Business transacted which will confirm either a premium due to be paid to Us or a return of premium due to You. You undertake to check the statement of account and bring to our attention as soon as reasonably practicable any errors or queries that You may wish to raise with Us. We will aim to investigate and provide You with a response as soon as reasonably practicable. In the absence of Agreement, our statement will be the prime record of remuneration due and will be final and binding.

In respect of Monies held under this Agreement, You agree to advise Us within 2 working days of receipt of any request from Us, whether You have received any specified premiums.

In executing this Agreement, You agree to pay all monies owed to Us for the placement of insurance policies within the payment credit terms of 30 days from the inception date.

No allowance will be made for:

- a) any delay caused by deficiencies within Your accounting system
- b) Your inability to obtain monies from the Customer
- c) delays caused by the use of a third-party credit collection agency

If You are unable to collect the premium from the Customer within the credit terms timeframe specified, You shall promptly inform Us in writing. We shall then inform You in writing (without prejudice to Our right to contact the Customer direct and collect the premium for its own account) that either;

- a) We shall remain on risk for a specified time pending payment of premium (but if we do not receive the premium during that period, We shall be deemed to have cancelled the Policy with effect from inception and You shall notify the Customer of such cancellation) or;
- b) We have cancelled the policy with effect from inception and You will notify the Customer of such cancellation.

Our account is to be settled by BACS or cheque. We will provide details of our bank account.

You agree to be fully accountable for all monies due under this Agreement.

Premium Payment Conditions may apply to certain classes of Business and You undertake to make the Customer(s) aware of such Conditions before inception of the Policy.

In the event of cancellation or return of premium adjustments, You agree to repay the relevant commission.

Cancellations and return of premiums will be refunded net of Your commission through Your monthly statement once received by Us from the insurer(s).

Commission and Fees

When placing Business, the level of commission payable must be agreed in writing prior to cover commencing, and may be deducted upon receipt of cleared funds.

Where Business is placed on a net premium basis, You will not be entitled to receive any commission.

Any commission payable to You is only applicable on premiums and not on any taxation, fees or charges.

Our terms may also include a fee charged either by Us or the Insurer and is not subject to commission.

Our Quotation(s) will detail the level of commission payable if applicable.

Our Quotation(s) will detail any fee charged by Us.

For any mid-term adjustment made to a policy during the term of the policy, We will charge a fee of £25.00 in addition to any additional or return premium due.

You agree to disclose to the Customer any fees, commission or charges, as required by the FCA.

You agree to return promptly to Us the relevant amount of commission on cancelled policies or where an adjustment results in a return premium.

If You owe Us a return of commission, We reserve the right to deduct such commission from commission due to You.

You shall only be entitled to commission in respect of business placed during the term of the Agreement and provided You remain the agent to the Customer. If You cease to be the Customer's agent during the term of the policy, You shall continue to be entitled to retain the original commission on the inception premium.

If You become the appointed broker for a Customer during the term of the policy You agree that;

- a) if a mid-term adjustment occurs after the date You are appointed, then You will be entitled to receive commission on any additional adjustment premium at the rate of commission agreed at inception of the policy.
- b) If a mid-term adjustment results in a return of premium, then You will be responsible to repay to Us commission at the rate of commission agreed at inception of the policy, irrespective of whether any commission has been received by You.

In the event of any dispute by one or more Producing Broker in respect of commission due for the same policy then Thames Underwriting Limited will have sole discretion as to who will receive commission and at what share if any.

Confidentiality & Intellectual Property

Each of the Parties will treat information received from the other relating to this Agreement and to the Insurance Business as confidential and will not disclose it to any other person not entitled to receive such information except as may be necessary to fulfil their respective obligations in the conduct of the Insurance Business under this Agreement 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 and other associated bodies.

In the event that the Customer appoints a new Producing Broker, You agree that We can provide information in relation to that Customer.

This clause will not apply to information which was rightfully in the possession of such disclosing 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.

We reserve the right to request additional information and in some cases evidence of identity of Your potential Customers should We feel it prudent to do so in accordance with Money Laundering Regulations.

This Agreement will not result in the transfer of ownership between either party of any intellectual property including but not limited to copyright, trademark and design.

You agree to keep confidential and to not disclose to any third party confidential information, technical data or trade secrets in respect of Us, both during and after termination of this Agreement except with our prior consent or as required by law or in accordance with the order of a court or tribunal of competent jurisdiction.

Making a Claim

In the event of a claim or potential claim involving one of Your Customers for whom We have arranged insurance, the claim reporting procedures as detailed within the Policy must immediately be followed.

You shall not negotiate, adjust, compromise, settle or commit Us or any Insurer to any liabilities in respect of claims.

Any monies paid to You in relation to a claims settlement by Us or any Insurer shall be held by You on behalf of the Customer and shall be solely at Your risk where You are authorised by the FCA to hold such claims money.

Compliance

You warrant that You are authorised by the FCA to conduct Insurance Mediation Activities in accordance with governing rules and principles set out by the FCA and any other applicable statutory regulation.

Where You are authorised and regulated by either of the Jersey Financial Services Commission or the Guernsey Financial Services Commission or the Isle of Man Financial Services Supervision Commission (or any replacement thereof) then reference to FCA in this Agreement is replaced by the appropriate regulatory entity subject to Us reserving the right to impose requirements at any time on You to meet the equivalent rules of the FCA.

You shall

- a) Act at all times with utmost integrity, due skill, care and diligence in the course of providing such activities.
- b) Correspond with Customers, passing promptly to them policy documentation and certificates of insurance having regard to the FCA Contract Certainty requirements and bring to their attention all terms, conditions and subjectivities, taking due care and attention to accuracy.
- c) Respond to queries and provide advice relating to Insurance Mediation Activities including the suitability of any Insurance Policy. This will be the sole responsibility of the Producing Broker along with any liabilities that may arise out of such advice.
- d) Arrange and maintain adequate Professional Indemnity Insurance covering all aspects of Your General Insurance Mediation Activities under this Agreement. The limit of indemnity must at all times at least satisfy the minimum level required by the FCA.

You will notify Us immediately in the event that:

- a) Any authority given to You is or is threatened to be withdrawn, suspended, qualified, impaired or modified.
- b) Any claim or potential claim is intimated under the Professional Indemnity Insurance relating to any Business placed in respect of this Agreement.
- c) You become the subject of an investigation, audit or enforcement action by the FCA or any other regulatory authority.

Data Protection

Each Party warrants to the other that where required by the Law, it is and will remain registered under and will comply with the Data Protection Law or equivalent Laws and legislation in the jurisdiction in which it carries on Business.

The Producing Broker warrants to Thames Underwriting Limited that it will process any Personal Data (as defined in the Data Protection Law) acquired for or pursuant to this Agreement in accordance with the current Data Protection Law. The Parties acknowledge and agree that where a Party processes Personal Data under or in connection with this Agreement it alone determines the purposes and means of such processing as a Data Controller.

Where the broking of Insurance Business or other activity involves the processing of any Personal Data supplied by the Producing Broker whether directly or through any third party, in whatever form, the Producing Broker, in respect of any such Personal Data supplied by it will:

- a) ensure that the Personal Data has been or will be obtained in accordance with the Data Protection Law;
- b) ensure that the Personal Data can be lawfully processed by Thames Underwriting Limited, in the manner anticipated;
- c) ensure that all amendments to any Personal Data necessary to comply with Data Protection Law are notified to the other party promptly; and
- d) refer to Thames Underwriting Limited any request from data subjects for access or changes to the Personal Data under the Data Protection Law.

The Producing Broker warrants that it has adequately informed any Data Subject (as defined in the Data Protection Law) of the transfer to Thames Underwriting Limited of any Personal Data obtained pursuant to this Agreement.

Where either Party acts in the capacity of a Data Processor (as defined in the Data Protection Law) under this Agreement, it will comply with the instructions of the Data Controller (as defined in the Data Protection Law) and shall at

all times perform its obligations under this Agreement in such a manner as not to cause the Data Controller in any way to be in breach of the Data Protection Law.

Without prejudice to the generality of clauses above, both parties agree to ensure that each of them is able to process the Personal Data it processes under or in connection with this Agreement for the purposes contemplated by this Agreement lawfully, fairly and in a transparent manner and in compliance with the 6 Principles detailed in the Data Protection Law.

The Producing Broker will at all times during and after the subsistence of this Agreement, indemnify Thames Underwriting Limited against any proceedings, losses, costs, claims, demands, fines or expenses which Thames Underwriting Limited suffers or incurs arising out of or in connection with the failure of the Producing Broker or of any third party who has supplied Thames Underwriting Limited with Personal Data on behalf of the Producing Broker to comply with the provisions of the Data Protection Law and the data protection provisions contained in this Agreement.

Both parties agree that they shall notify the other Party without undue delay after, and in any event within 24 hours of, becoming aware of a Personal Data Breach.

Further details of how we process personal data can be found under our privacy policy on our website.

Anti-Bribery and Corruption, Money Laundering, Sanctions, and Criminal Finances

You will have in place adequate policies and procedures to ensure compliance with the relevant Anti-Bribery and Anti-Money Laundering regulations and the Criminal Finances Act 2017. You must not engage at any time in any activity, practice or conduct which would constitute an offence under any applicable laws or regulations designed to combat bribery, fraud, money laundering, tax evasion or corruption including the Bribery Act 2010, the Proceeds of Crime Act 2002, and the Criminal Finances Act 2017. You will ensure that all persons associated with you who are involved in the performance of this agreement including without limitation, your Directors, employees, representatives, agents or subsidiaries ("your Associates") shall comply with this clause.

You will pay due regard to, and co-operate in respect of the observance of, any applicable international economic, financial or trade sanctions legislation.

You will contact us immediately if you are, or have been, or become aware of any breach of the above terms.

Access to Records

You will retain all records related to the insurance contracts placed under this agreement for a minimum of 6 years after expiry of the contract that was placed, or the minimum required by law or regulatory body with jurisdiction over the parties. You agree to allow us to inspect and take copies upon reasonable notice.

Termination of this Agreement

This Agreement may be terminated:

- a) By either Us or You provided that written notice is given specifying the effective date of termination which shall not be less than 14 calendar days thereafter – see section on **Notices** for further details.
- b) By either Us or You immediately if there are reasonable grounds to suspect fraud or dishonesty on the part of the other party.
- c) By either Us or You where there has been a breach of the Agreement which has failed to be remedied within 14 working days of a written request from the party not in breach, or immediately where the breach is irredeemable.
- d) By Us immediately upon Your death, insolvency, receivership or bankruptcy, or if You enter into a voluntary arrangement with creditors, dissolution of any partnership or are presented with a winding up petition.
- e) By Us on expiry, termination or suspension for any reason of any license or permission You are required to utilise to comply with the terms of this Agreement including but not limited to the withdrawal by the FCA of any permission or authorisation held by You.
- f) By Us or You when it is believed that there are reasonable grounds to suspect that the administration of the account by the other party is being operated in a manner causing or likely to cause prejudice to the position of the Customer.
- g) By Us if You merge with, or are acquired or otherwise absorbed by any individual, corporation or other Business entity or organisation of any kind.
- h) By Us immediately if You arrange or place Business with Us on behalf of other Producing Brokers.

Upon termination of this Agreement, all premiums, taxes, and fees which have not been paid to Us in relation to any insurance will become payable by You without set off or deductions within 14 days of termination. This overrides any previously agreed credit period offered.

You shall indemnify Us and hold Us harmless from and against all losses, liabilities and related costs and expenses which may be incurred in respect of any claim made against Us or otherwise relating to the Transfer of Undertakings (Protection of Employment) Regulations 1981 in connection with the termination of this Agreement.

If in the unlikely event that termination is because You intend to, or have ceased trading, and have not made ongoing arrangements for Your Customers to be transferred to another authorised firm, We reserve the right to protect the interest of Your Customers by supplying them with a choice of authorised firms for them to contact. We would stress that such actions would only be taken if the Customers were deemed to be 'orphan Customers' and only to protect their interest. Thames reserves the right (notwithstanding the Non-Solicitation Clause above) to deal directly with the Customer where such action is in the Customer's best interests.

Notices

If notice is given to Thames Underwriting Limited under this Agreement, it shall be in writing and sent on email to keith.syrett@thamesunderwriting.com, or to the following address:

Thames Underwriting Limited
Monometer House
Rectory Grove
Leigh-On-Sea
Essex SS9 2HN

Thames Underwriting Limited shall be entitled to give the Producing Broker a notice under or in connection with this Agreement (a) at the Producing Broker's registered address (if a company or limited liability partnership) or at their last known address (in any other case) or (b) by email to the email address provided by the Producing Broker.

A notice shall be deemed to have been served (a) if posted, at the expiration of two Business days after posting; (b) if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the address; and (c) if by email at the expiration of 24 hours after the time of sending.

Dispute Resolution

Both parties are committed to resolve any dispute over this Agreement whether such dispute arises before, during or after termination Using best endeavours to avoid the need for litigation. Both You and Us will make available any information that is reasonably required to resolve the dispute.

All disputes must be resolved within 3 months by senior authorised officials, however, if the matter remains unresolved the services of a mediator should be agreed and utilised by all parties.

This Dispute Resolution procedure does not preclude the right of either party to seek immediate protection or assistance of the High Court of England and Wales.

Variation

We reserve the right to vary the terms of this Agreement without notice. We will endeavour to give You notice of any variation as soon as reasonably practicable. Such variation will not affect Business in force with Us before the variation take place.

Force Majeure

Neither party are liable for any delay or non-performance of its obligations under this Agreement caused by an unforeseen event beyond its control (a "Force Majeure Event") provided that either party gives prompt written notice of such a Force Majeure Event in writing to the other party and Uses its best endeavours to continue to perform its obligations under this Agreement.

Either party may terminate this Agreement if such Force Majeure Event continues for more than 90 calendar days.

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 the other Party relating to Insurance Business subject to this Agreement. For the avoidance of doubt, any complaint received that is made against us shall be reported immediately by email to keith.syrett@thamesunderwriting.com

Governing Law

This Agreement shall be governed by and construed according to the law of England and Wales and any disputes in relation hereto may be determined by the courts of England and Wales.

Conclusion

You must carefully read this Agreement and contact us immediately if there is anything within the Agreement that You do not fully understand or accept.