

TERMS OF BUSINESS AGREEMENT

In respect of General Insurance between

Broker Direct Plc

(Deakins Park, Deakins Mill Way, Egerton, Bolton, BL7 9RW)
*(also referred to as “The Company” “we”, “us” or “our” generally and
as instructed by you in relation to each trade)*

and

(also referred to as “The Intermediary” you” or “your”)

of

Definitions

Agreement	Refers to this Terms of Business Agreement (TOBA)
CASS	The FCA's Client Asset Sourcebook
FCA	The Financial Conduct Authority and any successor body and/or its rules which regulate general insurance activities.
General Insurance	has the meaning assigned to it by Part 1 Schedule 1 of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001
JMLSG Guidance Notes	Joint Money Laundering Steering Group 'Prevention of Money laundering/Combating the Financing of Terrorism' guidance notes.
Records	Anything on which any information of any description is stored.
Regulator	Means any applicable regulatory or enforcement authority concerned with the activities carried on by that party or any part, division or element thereof in respect of the activities carried out pursuant to this agreement including but not limited to the Financial Conduct Authority, the Office of Fair Trading, the Information Commissioner and HM Customs and Excise (for the avoidance of doubt, this does not include any regulator whose authority arises pursuant to any voluntary code of conduct).
Regulations	Means all statutes, statutory instruments, orders, regulations, guidance and codes of practice (whether or not having the force of law) in force from time to time which may apply to the parties in the conduct of their business including without limitation the requirements, rules, regulations, guidance and codes of practice of the Financial Services and Markets Act 2000, any Regulator, the Money Laundering Regulations 2007, the Terrorism Order and the JMLSG Guidance Notes.
Restricted Person	Shall have the meaning given to it in the Terrorism Order.
Sub-delegated Functions	Means any function sub delegated by us to you under this Agreement on behalf of an insurer.
Terrorism Order	Means the Terrorism (United Nations Measures) Order 2009 No. 1774 and any orders, regulations, codes of practice, instruments or other subordinate legislation (as defined in section 21 (1) of the Interpretation Act 1978) which amends, extends, consolidates or replaces the same (whether or not having retrospective effect).
The Insurer	Means an insurer or Managing General Agent whose functions have been sub delegated to you.
The Parties	Means Broker Direct Plc, BD Elite Limited and The Intermediary

1. Agreement

This is an Agreement regulating the terms of business between The Intermediary and The Company.

It is a condition precedent to this Agreement that The Intermediary is authorised and regulated by the Financial Conduct Authority (FCA) and at all times complies with the FCA's rules and guidance and other applicable legal and regulatory requirements including but not limited to The Financial Services and Markets Act, Financial Sanction legislation, The Data Protection Act 1998, Money Laundering Regulations 2007, Proceeds of Crime Act 2002, and the Bribery Act 2010,

From the effective date shown this Agreement shall apply to the conduct of any business transacted between you and us relating to Consumer Credit and General Insurance other than business which is arranged or in respect of which quotations are obtained directly via the internet, such business being prohibited unless subject to specific authorisation by us as attached to this Agreement.

The agency shall commence on the effective date confirmed by us and shall continue until cancelled by either party in accordance with section 18 of this agreement.

We and you may by mutual consent agree to vary the terms and conditions of this Agreement at any time in writing. In the event of mutual consent not being obtained, we reserve the right to give three months' written notice of variation to the terms and conditions of this Agreement.

2. Relationship

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 principal and agent or employer and employee. 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.

Nothing in this Agreement shall override your duty to place the interests of your client before all other considerations.

The Intermediary has no authority to act as an agent of Insurers, except in respect of sub-delegated functions (such as the issue of insurance documents or collection of premiums.) arising in this Agreement when you are deemed to be acting as our agent for such purposes.

3. Broker and Client Relationship

We agree that all insurance business transacted in performance of this Agreement arises out of a broker/client relationship and acknowledge that the policyholders' goodwill rests solely with you and your successors in title as provided for in Clause 17 of this Agreement.

We undertake not to solicit directly the insurance business of your clients or employ any information obtained on business underwritten under this Agreement for such purposes, directly ourselves or indirectly by arrangement with another party.

We undertake not to enter knowingly into any negotiations or agreement with any employee, director or partner of your insurance broking business during the validity of any such employment, directorship or partnership, with a view to the transfer of any of your clients to them.

We recognise all broker/client relationships where you have current authority to act on behalf of your client and shall not unreasonably refuse any policyholder written request to transfer policies specified by them to you or another Broker with whom Terms of Business exists with us.

Broker Direct recognises the importance of policyholders receiving independent professional advice on all insurance matters and undertakes not to offer policies of insurance directly to consumers, except as provided for under Clause 18c of this Agreement.

4. Qualifying Conditions

This Agreement is conditional upon you continuing to be:

- Authorised and Regulated by the FCA to undertake regulated general insurance activities;
- Holding an appropriate Data Protection License; and
- The holder of the **minimum number** of shares in Broker Direct Plc as specified by us from time to time **or** at our discretion subject of the payment of a premium levy.

5. The Intermediaries Regulatory Obligations and Representations

The Intermediary shall:

- I. Comply with all reasonable requests to obtain and forward to The Company documentation, information and answers to any reasonable queries within specified timescales.
- II. Be responsible for ensuring information supplied to The Company and insurers is accurate, complete and representative of any risks presented.
- III. Keep and maintain proper files containing all information relevant to any and all Insurances and all obligations placed upon The Intermediary pursuant to this agreement.
- IV. Indemnify The Company against all loss, expense or damage that The Company may incur by reason of act, error or omission on the part of The Intermediary in carrying out their duties under this agreement
- V. Report promptly all claims or lawsuits arising under or in connection with any Insurance and cooperate fully in the investigation and adjustments of all such claims.
- VI. Hold all monies in trust in compliance with clause 9. b.
- VII. Conduct reasonable affordability checks when a client chooses to pay a premium on finance.
- VIII. At all times comply with the underwriting instructions provided by us and as amended from time to time.
- IX. Inform consumers of the importance to take reasonable care not to make misrepresentations in accordance with the Consumer Insurance (Disclosure and Representations) Act 2012.
- X. Support us (including monitoring) in respect of any sub-delegated functions to ensure compliance with the requirements of Broker Direct or The Insurer.
- XI. Implement in a timely fashion all instructions issued by us in writing to you from time to time
- XII. Have appropriate Disaster Recovery and Business Continuity Plans in relation to the size and scope of their business.
- XIII. Comply with all Regulations applicable to you, your employees and agents, including, but not limited to compliance with all relevant anti-money laundering and financial sanctions legislation

6. Financial Sanctions

You warrant in relation to the Terrorist Order that:

- I. any promotions, administration, sales of any insurance product or any other activities in connection with this Agreement are not for the benefit, directly or indirectly, of a Restricted Person, or on behalf of such a Restricted Person; and
- II. No Restricted Persons have been employed directly or indirectly, to act for you or on your behalf in connection with your activities under this agreement
- III. You will notify Broker Direct immediately in the event that you suspect that you have been approached by or are dealing with a Restricted Person or if any circumstances arise whereby there is a risk that any of the warranties given have been or may be breached. Such notification shall be accompanied by full particulars of the events giving rise to the notification and you shall fully cooperate with Broker Direct in relation to any reasonable requests Broker Direct may make arising from such notification

7. Complaints

(a) You will:

- I. Have an adequate complaint procedure in place in respect of all Sub-delegated Functions and deal expeditiously with all such complaints. Your complaints procedure should be in accordance with FCA rules and Guidance;
- II. Ensure that each client is advised of the complaint procedure;
- III. Keep a log of all complaints relating to Sub-delegated Functions and provide us and the Insurer concerned with such details in writing of that log and in such a format as we or the Insurer from time to time require.

Furthermore:

(b) You will inform us immediately in writing upon receipt of all complaints in respect of:

- i. Any Sub-delegated Functions which is likely in your opinion to or does give rise to legal, arbitration, ombudsman proceedings against us or the Insurer or lead to a complaint to any regulator or to the media;
- ii. Any function of ours or of the Insurer or matter appertaining to us or the Insurer which is not delegated to you under this or any other Agreement.

We and the Insurer will be entitled to deal with any complaint under section 7b.

You will give us and the Insurer all reasonable co-operation with any investigation and the resolution of such all complaints referred to Us.

You will not make any statement, representation or response to complaints referred to in Clauses 7b without obtaining our, or the Insurer's prior written consent but you shall acknowledge receipt of such complaints.

8. Cover authority

You shall not issue, bind or confirm cover on our behalf for any insurance risk unless expressly authorised by us which shall include our acceptance by electronic data interchange.

In accordance with the terms of the insurance policy any material information provided by the proposer or policyholder will be passed to us by you immediately by electronic means or recorded post. In the event of your being aware of any non-disclosure by a proposer or policyholder, you will either agree such non-disclosure being made known or decline to act on his behalf in effecting any insurance arrangement with us.

Where documents and any other information relating to insurance policies to be issued under this Agreement are held by you, they shall be kept in a safe place in your office as our custodian and available for our inspection during normal business hours.

9. Premiums

Except under the circumstances of default mentioned below or under any other exceptional circumstances agreed by us, all premiums will be paid by the policyholder.

Where you instruct inception of cover on behalf of a policyholder you will be responsible to us for the premium or time on risk charge (as applicable) due unless we have accepted the Policyholder's application to use a Broker Direct debit facility. This will apply whether insurance documentation has been released or not. The normal payment terms will apply.

a) Direct to Broker Direct by:

- Electronic funds transfer, or
- Direct debit instruction.

In the event of any direct debit default by the policyholder you shall take all reasonable measures to assist us in recovering any outstanding monies due.

We hold appropriate Consumer Credit permissions with the FCA to carry on consumer credit business, which permits us to accept the payment of premiums by direct debit instruction.

It is a condition of this Agreement that if you wish to utilise Broker Directs premium direct debit facilities you will hold the appropriate FCA permissions for credit brokerage.

b) Direct to you by any means acceptable to you.

When a policy is inception the details will be included in a statement sent to you each month. The Company will collect the premium net of commission from your nominated bank account by direct debit.

- (i) It is hereby understood and agreed that you act as the Insurers' agent for the purpose of receiving premiums from policyholders and for the purpose of settling refunds, on the express basis that all such money is to be treated as if it were Client Money (as defined in the applicable FCA rules) and is to be subject to the regulatory regime applicable to Client Money as from time to time in effect.

Client Money Requirements

- (ii) Pending payment to us, all such monies referred to in paragraph 9. b) (i) shall be held by you as the agent and trustee of the Insurers within your client monies account, which shall be either; a non-statutory trust account, established in accordance with CASS 5.4 or; a statutory trust account established in accordance with CASS 5.3.

The Insurers consent their rights with regard to monies held in such client monies account being subordinated to those principals that are not insurance undertakings (when acting as such), in accordance with CASS 5 and further agrees that any interest earned on the said account shall accrue to you.

The Insurers expressly authorise the co-mingling of any such monies with monies held by you on behalf of Clients (as defined in the applicable FCA rules).

Risk Transfer only Requirements

- (iii) For the avoidance of doubt, notwithstanding the foregoing, you shall not be required to comply with CASS 5 rules to the extent that risk transfer money solely is being handled. Where this is the case:
- You shall hold all such monies referred to in paragraphs 9. b) (i) and (ii) in an Insurer Trust account that is separate from the assets of the business.

- All premiums paid by policyholders shall be treated as having been paid to the Insurer upon receipt by you. Refunds of premiums will be paid into the nominated bank account and shall be treated as having been paid to the policyholder only upon receipt by the policyholder.
- In no event shall you allow or permit any right of set-off, consolidation, charge, encumbrance, lien, compensation or retention against monies of the funds held in the nominated bank account by any financial institution holding such accounts
- Should you enter into receivership, administration or liquidation, the receiver, liquidator or administrator so appointed to manage your business shall only have access to the funds contained in the nominated bank account for the following purposes and in the following order of, (1) paying return premiums due to policyholders, (2) paying net premiums and taxes to Insurers, and (3) collecting commissions
- In no event shall the funds contained in the nominated bank account be considered to be your assets or used to pay fees to the receiver, liquidator or administrator, or be used to pay any other liabilities of yours.

10. Commission and Account Settlement

Where we quote premiums to you as a net rate excluding any commission you may add commission (within the parameters set by us which we reserve the right to alter subject to 6 months' written notice by recorded post).

Commission becomes due and payable when it is received by you as part of the full gross premium from your client; or as part of the full gross premium from a third party financing arrangement; or from us where the premium is being paid directly to us from your client.

We will issue statements each month. Settlement to The Company must be made by direct debit no later than the 11th day following the end of the month covered by the statement. In the event of any premium not being paid, your account will be debited with a refund of the proportionate amount of commission received/credited.

The Intermediary may deduct the Commission upon receipt of the premium.

Details of any charges The Intermediary make to the client in addition to the premium must be disclosed to the client in accordance with the applicable regulations and guidance.

11. Responsibility for Premiums/Risk Transfer

Where you are responsible for the collection of Premium from your clients and once received you shall be responsible to us for payment of the premium.

For the avoidance of doubt, any arrangements between the policyholder and you, or any party other than us, for the giving of credit in respect of, or the provision of finance or the extension of time for payment of the Premium shall be at your or other third parties risk and shall not affect your responsibility to us for the Premium.

12. Data Protection

In performance of this Agreement You shall comply with all its obligations under the Data Protection Legislation including:

- (i) Having registered or have notified the Information Commissioner under the Data Protection Act 1998 and you undertake at all times to comply with the provisions of that Act (as amended, re-enacted or extended from time to time) and any secondary legislation or other regulations made pursuant thereto ("the Act").
- (ii) Undertake to process personal data (as defined by the Act) strictly in accordance with our instructions and any instruction of the Insurer issued in the capacity of data controller in respect of any Sub-delegated Functions;
- (iii) Will ensure that only such of your employees and contractors who may be required by you to assist in meeting your obligations in respect of Sub-delegated Functions shall have access to the personal data relating to those functions. You shall ensure that all employees and contractors used by you to meet your obligations have undergone training in the law of data protection and in the care and handling of personal data;
- (iv) Undertake to hold and process all personal data in respect of Sub-delegated Functions in accordance with the relevant laws of the United Kingdom;
- (v) Hereby agree to assist us or the Insurer with all subject information requests which may be received from data subjects (as defined by the Act) in respect of Sub-delegated Functions;
- (vi) Undertake not to unlawfully disclose personal data held or processed in respect of Sub-delegated Functions;

- (vii) Will ensure that you have appropriate operational and technological processes and procedures in place (including disaster recovery measures) to safeguard against any unauthorised access, loss, destruction, theft use or disclosure of the personal data held or processed in respect of Sub-delegated Functions.
- (viii) Comply and have appropriate procedures in accordance with the Data Protection Act 1988 Broker Direct Plc will use the information you supply for the purpose of managing the agency relationship.

Some of the information may be passed to business partners, subsidiary companies, the Regulator, fraud prevention registers and lawyers acting on our behalf. We may contact you about services which may be of interest to you or provide you with commercial updates.

13. Use of electronic certificates of motor Insurance

You are not permitted to send out electronic certificates of motor insurance, unless we have provided you with written permission.

If permission to provide electronic certificates is provided we authorise you to deliver certificates in this format provided you satisfy each of the following:

- The Policyholder agrees to accept delivery by this method
- You agree to the conditions in 13a.

(a) Electronic Certificate Delivery Methods

- The certificate must be hosted in a vault on a secure server.
- Access to the Vault must be controlled by a unique customer ID and password.
- The Certificate must be stored as a non-editable PDF.
- The Certificate must be available to the customer via the server until the expiry of the policy

Or

- The Certificate can be emailed to the customer as an attachment as a non-editable PDF.

14. Confidentiality of premium rating, underwriting information and company logos

All insurance rating and underwriting information provided to you by us under this Agreement are confidential and you undertake not to communicate these to any party other than a bona fide proposer or policyholder, or to use or disclose the same for or in connection with any arrangement with any other insurance undertaking or third party without our written authority.

You shall not use or reproduce our name, logos or trading style in any form of promotion or advertising without our express written consent.

15. Changes in Broker Information

The Intermediary shall advise The Company of:

- Any changes to the information noted in the Broker Direct Agency Application form.
- Any change in ownership of the controlling interest of the intermediary.

16. Assignment

Neither party shall assign or otherwise transfer any of its rights, interests or obligations under this Agreement (Contract) to a third party without the prior written consent of the other party [which shall not be unreasonably withheld]. The Intermediary may not appoint any sub-agent or appointed representative in relation to this Agreement (Contract) without the prior written consent of The Company.

17. Death or incapacity of a sole trader

In the event of the death or incapacity of a Sole Trader, his administrators or successors in title shall be subject to the terms and conditions of this Agreement.

18. Termination

a. This Agreement may be terminated by either party giving 60 days' written notice to the other by recorded post, following which you may, at your option:

- (i) Allow all existing business to run-off and replace it elsewhere and new business will, if accepted by us during the notice period, be allowed to remain in force under the terms of this Agreement for the period of such insurance.

Or

- (ii) With our agreement, which will not be unreasonably withheld, transfer all insurance business subject to this Agreement to another Insurance Broking Practice with whom we have a current Agreement or are

prepared to enter into one with.

b. We reserve the right to terminate immediately this Agreement if:

- I. You compound with your creditors, or become insolvent, or appoint an administrator, or are subject to a winding up petition;
- II. You become resident outside the United Kingdom, or the Channel Islands;
- III. You are in breach of this Agreement;
- IV. The Intermediary or any partner or director is or are convicted of any offence;
- V. The administration by you of the business placed with us, is such as to prejudice the interests of policyholders;
- VI. In our reasonable opinion, your conduct has the potential to cause reputational harm to Us or associated Insurers;
- VII. There is a change in ownership of the controlling interest of the Intermediary.

c. In the event of termination of this Agreement due to any reason in (b) above:

- I. Notwithstanding anything expressed to the contrary in clause 8 of this Agreement, we reserve the right to deal directly with policyholders or appoint another insurance broking practice to safeguard the interest of policyholders;
- II. all rights to commission cease from the date of termination;
- III. all books, papers and other property belonging to us must be surrendered by you immediately;
- IV. any monies due to us become payable immediately.

19. Claims

We undertake to keep you properly informed of claims progress and shall if you request issue any policyholder settlement cheques to you for onward transmission. We recognise your duty to seek an equitable settlement on all valid claims on behalf of your clients.

You must also tell us if you suspect any claim is fraudulent.

You are not authorised to admit liability, settle or negotiate settlement of a claim without our consent.

20. Right of Audit and Record Keeping

The Company, our insurers and the FCA have the right to inspect and audit any records and/or accounts maintained by the Intermediary in relation to insurance transactions with The Company at anytime giving reasonable advance notice in writing and shall be permitted to make copies or extracts of any such records and/or accounts.

We and the Insurer, concerned its servants or agents shall be entitled without restriction or limitation to inspect and audit any records documents systems processes and administration held or maintained or controlled by you which relate in any way whatsoever to Sub delegated Functions and to take or make such copies of records and documentation as we or the Insurer shall require and for the purpose of exercising such rights shall be further entitled to enter any office or other premises occupied by you at any time during normal working hours. Unless our or the Insurer's regulator(s) decides otherwise you will be given reasonable prior notice of any inspection or audit.

The Intermediary must remedy any defect revealed by such inspection or audit within 30 days. All records created or held by you should be held for a minimum of six years and in any event the minimum periods required by law.

21. Jurisdiction

Unless otherwise agreed, this Agreement shall be construed according to English Law and any disputes arising under it shall be determined in the English Courts.

22. Dispute Resolution

The parties to this agreement are committed to resolving any disputes without the need for litigation and to allow as far as possible for commercial relationships to remain unaffected by disputes and therefore the parties will attempt in good faith to resolve any dispute or claim promptly through negotiations between respective senior executives.

In the event that the matter cannot be resolved between the parties within an agreed period, the assistance of a mediator should be sought to assist in the rectification of the dispute.

23. Force Majeure

Neither party to this agreement shall be liable for any delay or non-performance of its obligations under this

Agreement caused by an event beyond its control provided that the Party affected gives prompt notice in writing to the other party and uses all reasonable endeavours to continue to perform its obligations under the agreement.

24. Exclusion of Rights of Third Parties

Nothing in this agreement shall confer on any third party any benefit or right to enforce any terms of this agreement. A person who is not party to this agreement has no right under Contract (Rights of Third Parties) Act 1999 to enforce any term of the agreement.

25. Enforceability

In the event that any portion of this agreement is found for any reason to be invalid or unenforceable, the remainder shall remain in full force and effect and shall be interpreted as if the unenforceable provision or clause or section had not been contained herein, unless such a construction would be unreasonable.

26. Entire Agreement

This Agreement constitutes the entire agreement and understanding of The Parties and supersedes any previous agreement between the parties relating to the subject matter of this Agreement.

From time to time we will amend this agreement due to regulatory, legislative or business changes. If the agreement is amended we will advise you of the changes 30 days prior to the changes coming into force.

Signed for and on behalf of us:

Signature

Effective Date

Position

Signed for and on behalf of The Intermediary:

Signature

Date

Position

In the Presence of:

Signature

Date

Position