

## Terms of Business Agreement

This agreement is dated ...../...../20..... and is made between

1. Aro Underwriting Group Limited (number 07491066) (the "Company") whose registered offices are Sackville House, 55 Buckhurst Avenue, Sevenoaks, Kent, TN13 1LZ and
2. .... (Company number ..... ) whose registered office is ..... (The "Broker") together the "Parties".

### Whereas

1. The Company is an APPOINTED REPRESENTATIVE of Ambant Underwriting Services Limited which is authorised and regulated by the Financial Conduct Authority number 486865
2. The purpose of this Agreement is to allow the Broker, subject to the terms and conditions of this Agreement, to introduce commercial insurance enquiries to the Company.
3. This Agreement sets out the terms of business between the Broker and the Company, and regulates their dealings in respect of the insurance business introduced

### 1. Definitions

1.1 Agreement	This agreement and any attached schedule.
1.2 CASS	The FCA's Client Assets Sourcebook.
1.3 Certificate	A document which is or is to form the basis of either a contract for insurance or contract of insurance. A Certificate may incorporate details of administrative arrangements pertinent to the processing of the contract for or of insurance.
1.4 Commission	Commission receivable by the Broker at the rates and times (if any) set out in this Agreement or otherwise in writing.
1.5 FCA	The Financial Conduct Authority or any successor regulatory body.
1.6 Group	Has the meaning given to it either in section 421 of the Financial Services and Markets Act 2000 or section 262 of the Companies Act 1985.
1.7 ICOBS	The Insurance Conduct of Business Rules promulgated and issued from time to time by the FCA.
1.8 Insurance Business	Any insurances 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 made by the Company where the Broker is the coverholder.
1.9 Insured	As defined in article 3 of the Financial Services and Markets Act 2000 (Meaning of "Policy and "Policyholder") Order 2001 (SI 2001/2361)) and any prospective policyholder
1.10 Records	Anything on which any information of any description is recorded.
1.11 Sub-Broker	Any third party other than the Insured on whose behalf the Broker offers commercial insurance customers to the Company.
1.12 Taxes	Insurance Premium Tax (IPT) and all other taxes and para-fiscal charges, which may be levied by fiscal authorities on insurance premiums.
1.13 Underwriter	One or more firms authorised to underwrite the Insurance Business and on whose behalf the Company acts as agent.

## 2. Scope

2.1 This Agreement shall not override the terms of any underlying contract for or of Insurance Business or the terms of any Certificate.

2.2 Nothing in this Agreement overrides the Broker's duty to place the interests of its client before all other considerations (save where the broker acts as an agent of the Underwriter) nor shall this Agreement override any legal or regulatory requirements (whether obligatory or advisory), which may apply to the Broker, the Company, or the placing or underwriting of any Insurance Business.

2.3 Subject to clause 2.5 below, these terms of engagement replace any previous agreement between us and accordingly also relate to the renewal, adjustment and cancellation of policies.

2.4 Each proposal for Insurance Business, renewal or continuation of cover in respect of any existing Insurance Business will be accepted or declined by the Company at its sole discretion. The Broker is under no obligation to offer any proposal for Insurance Business or renewal of any existing Insurance Business to the Company.

2.5 Prior to or at the time of placement of any Insurance Business (or as otherwise agreed separately in writing between the Parties), the Broker and the Company may agree provisions relating to its conduct. Such provisions may include (but are not limited to) roles and responsibilities relating to administration and the handling of claims and processes by which amendments to the risk may be agreed, and so forth. This Agreement does not seek to address such provisions.

## 3. Regulatory Status

3.1 If operating in the United Kingdom, the Broker agrees to comply with the Rules of the Financial Conduct Authority ("FCA") or such other regulatory body for insurance brokers generally which the FCA may from time to time instigate.

3.2 If and when not operating in the United Kingdom but operating in the European Economic Area, the Broker agrees to comply with all regulations made in the respective member states pursuant to the Insurance Mediation Directive or any succeeding legislation.

3.3 If and when not operating in the European Economic Area, the Broker agrees to comply with all regulations applicable and not undertake any activity that would constitute a criminal act in the jurisdiction in which it is located or doing business.

3.4 In the event of a change in law or regulations (in particular the FCA rules), which affect either party's obligations under this Agreement, the Parties will cooperate in good faith to agree necessary amendments or variations to the Agreement so far as these matters may affect existing policies of insurance.

3.5 Each Party shall inform the other immediately in writing if at any time during the period of this Agreement:

3.5.1 the FCA suspends or withdraws any part of its authorisation; or

3.5.2 it ceases in any way to be authorised by the FCA to undertake any activities in relation to any Insurance Business subject to this Agreement; or

3.5.3 it becomes insolvent.

3.5.4 it is otherwise unable to comply with any clause of this Agreement.

3.6 The Broker shall inform the Company immediately in writing if, at any time during the period of this Agreement, it has placed business with the Company on behalf of a Sub-Broker and for which the circumstances in 3.5.1 to 3.5.3 above become applicable.

3.7 References to the FCA are to be applicable also in respect of any regulatory organisation in other jurisdictions than the United Kingdom.

## 4. Authority

4.1 Any authority provided under this clause may not be delegated by the Broker to any other party (including but not limited to sub-brokers and Appointed Representatives, unless authorised in writing).

4.2 Nothing in this Agreement shall grant the Broker authority to accept, amend, or vary Insurance Business, settle, negotiate or compromise claims, alter any document or policy, make any non-exempt financial promotion on the Company's or the Underwriter's behalf, and/or commit the Company or the Underwriter in any way.

4.3 Coverage and amendments or cancellations requested by the Broker will only be treated as bound and in force when the Company has confirmed in writing, by post, e-mail or facsimile that it has been done. It is not sufficient discharge of the Broker's responsibilities to make a request and it can only rely on the actions of the Company when they have been confirmed in writing.

4.4 Where the Company issues an indication of premium with subjectivities or a request for additional information and where the broker requests coverage and amendments or cancellations, cover will only be treated as bound and in force when the Company has confirmed in writing, by post or e-mail that it has been concluded. It is not sufficient discharge of the Broker's responsibilities to make a request and it can only rely on the actions of the Company when they have been confirmed in writing.

4.5 The Broker warrants that it is not acting as an agent of any other insurance intermediary, or if so it will inform the Company in writing of that fact before accepting its quotation and use all reasonable endeavours to inform the insured promptly of any requirements of the Underwriter and/or the Company;

## 5. Remuneration

5.1 The Company will pay the Broker a Commission based on the premium net of Insurance Premium Tax in respect of Insurance Business arranged in accordance with this Agreement. The rates or amounts of any such commission are set out in Schedule A or otherwise in writing.

5.2 The Broker may deduct the Commission upon its receipt of the premium.

5.3 Where premium is payable in more than one instalment, the Broker will only deduct the proportion of Commission that the instalment premium bears to the premium as a whole, unless otherwise agreed on a risk-by-risk basis between the Parties."

## 6. Premiums & Claims

6.1 Unless otherwise stated in writing, the Broker is authorised to hold insurance monies it receives in accordance with this Agreement as the agent of the respective Underwriter for the policy(ies) including:

- (a) premium due to be paid to the Company;
- (b) return premium due to be paid to the Broker's client; or
- (c) taxes due on Insurance Business; or
- (d) claims monies due to be paid to the Broker's client; or
- (e) money received by the Broker from the Company for onward payment to agents of the Company in respect of claims adjustment, legal and similar professional fees

Such monies shall be held subject to paragraphs 6.2 to 6.8 inclusive.

The Broker has no authority under this Agreement to permit any Sub-Broker to receive, hold, or pay any money on behalf of the Company or the Underwriter, without the Company's written consent.

6.2 The Broker shall advise the Company within 7 days of receipt of any request from the Company, whether it has received any specified premiums.

6.3 Provided the Broker shall itself have received the premium, the Broker shall pay that premium (net of Commission, but including Taxes) to the Company in accordance with the terms of trade contained in Clause 8 of this Agreement or otherwise as may be agreed in writing.

6.4 Pending payment to the Company, Insured or intermediary (as the case may be), the Broker shall hold the monies described in clause 6.1 above as the agent and trustee of the respective Underwriter(s) within:

6.4.1 its client monies account, which shall be a statutory or non-statutory trust account, established in accordance with CASS 5.4. The Company hereby consents on behalf of Underwriters to such monies being co-mingled with the Broker's other client monies held on behalf of Underwriters. The Company further consents to such funds being subordinated to those of the Broker's clients, in accordance with CASS 5 and further agrees that any interest earned on the said account shall accrue to the Broker, or

6.4.2 its premium trust account in accordance with FCA CASS 5.2 "Holding money as agent of insurance undertaking", and

6.4.3 each such account shall be maintained with a reputable bank and domiciled in the United Kingdom or elsewhere as notified in advance to the Company in writing.

6.5 The Broker will notify the Company immediately that the Insured or any intermediary has failed to pay any amount in accordance with any terms for payment by or on behalf of such Insured.

6.6 In the event of the cancellation of a contract of insurance, where the Company is obliged by law, regulation or the terms of the contract of insurance to refund gross premiums in respect of such contract of insurance, the Broker agrees to refund the relevant Commission (which shall not for the purpose of this clause include fees) received by the Broker which is attributable to the period following cancellation of the contract of insurance for which such contract of insurance would otherwise have remained in force. Unless otherwise obliged to, the Company shall refund premiums net of Commission.

## **7. Terms of Trade**

7.1 Terms of Credit for payment of premiums may be specified in Schedule A which are otherwise due within 30 days of the date of the Company's invoice or debit note. All premiums must be remitted to the Company in accordance with Terms of Credit applicable in each case in settled funds in the currency of the premium due.

7.2 The Company's Certificates of insurance or debit notes may contain a premium payment warranty and the failure to settle amounts due in full within the prescribed period will render those insurances void.

7.3 Payment of all monies due must be made without set off or deduction (other than permitted deduction of Commission) to the Company in cleared funds.

7.4 For the avoidance of doubt, the Broker's obligations will be unaffected by:

7.4.1 any arrangement whereby the Broker has allowed credit to the Client;

7.4.2 any delay in crediting the Company with monies received or due from the Client because of delays within the Broker's accounting system.

7.5 Without prejudice to the Broker's responsibility to collect and pay premiums to the Company within the terms of credit, the Broker will keep the Company informed of any premium financing arrangements

## **8. Compliance and Financial Crime**

8.1 Each Party will comply with their respective legal, licensing and regulatory requirements applicable to the production, placing, claims handling and premium and claims accounting of any Insurance Business which the Broker places with the Company.

8.2 The Broker will inform the Company in relation to all Insurance Business whether the Insured is classified as a consumer customer or a commercial customer for the purposes of ICOBS.

8.3 The Broker will forward promptly notices of Insured's rights to cancel Insurance Business in all instances where such notices are required by ICOBS and in accordance with those rules.

8.4 The Broker shall not undertake any activity in any way that would constitute a criminal act in the jurisdiction in which it is located or doing business, which would expose the Company to any criminal sanction.

8.5 The Broker shall conduct its business in accordance with all relevant anti-money laundering, financial crime and international economic or financial sanctions legislation and undertakes to report any suspicious activity to the respective authority.

8.6 The Broker shall not accept, offer or facilitate payment, consideration, or any other benefit which constitutes an illegal corrupt practice contrary to any applicable anti-bribery legislation.

8.7 The Broker is responsible for taking all reasonable precautions to avoid procuring insurance policies for the benefit of any person or organisation subject to UK and international financial sanctions.

## **9. Data Protection and Information Gathering**

9.1 The Parties shall comply with all applicable obligations imposed by, or made under requirements of the Data Protection Act 1998 ("DPA"), together with any other applicable regulations, orders or codes of practice.

9.2 In the course of its business the Company receives, creates and stores documents and data which refer to the insurance affairs or risk profile of Clients and prospective Clients. The Company recognises its responsibility to protect this information and to disclose it only in the interests of Clients, within the Company to those who require it for their work and otherwise in accordance with directions from duly authorised regulators or following due legal process.

9.3 The Company reserves to itself the right to use such information for statistical and marketing purposes and to destroy all records relating to Clients' affairs as early as may be permitted by applicable regulatory or legal provisions.

9.4 The broker will take all reasonable steps and at its own expense to obtain and communicate to the Company in an accurate and timely manner all information about an enquiry, policy or claim which the Company and/or Underwriters are required to gather. In the United Kingdom this includes data for: Employer's Reference Number (ERN) for the Employers' Liability Tracing Office (ELTO) and information for the Motor Insurance Bureau.

## 10. Termination

10.1 This Agreement shall terminate:-

10.1.1 at any time by one party giving written notice of termination to the other;

10.1.2 immediately, without notice, should either Party become the subject of any form of voluntary or involuntary rehabilitation or liquidation proceedings (save for the purposes of amalgamation or solvent re-organisation) or become the subject of an action in bankruptcy or make or propose any composition with its creditors or otherwise acknowledge its insolvency;

10.1.3 immediately, without notice, should the Broker have any authority or permission granted to it by the FCA withdrawn or altered by the FCA in such a manner as materially to affect in any way the Broker's ability to introduce, arrange, conclude, administer, perform or otherwise be involved with any Insurance Business which is carried out between the Parties under this Agreement.

10.1.4 upon the death of the Broker (when the Broker is a sole proprietor);

10.2 The termination of this Agreement for whatever reason shall not prejudice any right of the Company against the Broker arising before or after such termination.

10.3 Following termination the Company's obligations under this Agreement shall cease and no compensation shall be due to either party, but following termination as a result of clauses 10.1.2, 10.1.3, 10.1.4 above, the Company retain the option to recommend another authorised firm deal directly with any Client of the Broker.

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

10.3.2 the Broker will make all reasonable efforts to provide the Company with contact details for any Insured or other Party with whom the Company has contracted in the conduct of Insurance Business where the Broker has acted as the agent of the Company where such information is reasonably required in order for the Company to carry out its obligations in relation to Insurance Business concluded in accordance with this Agreement.

10.3.3 where permissible the Parties will remain liable to perform their obligations in accordance with the terms of this Agreement in respect of all Insurance Business subject to this Agreement until all Insurance Business has expired or has otherwise been terminated.

## 11. Access to Records

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

11.2 The Broker agrees to allow the Company, on reasonable notice, to inspect and to take copies of the following:-

11.2.1 the accounting records pertinent to any Insurance Business including information relating to the receipt and payment of premiums and claims and documentation such as any insurance contract or Certificate endorsements, addenda or bordereaux in the possession of the Broker relating to the Insurance Business; and

11.2.2 documents as may be in the possession of the Broker which were disclosed to the Company by the Broker 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.

11.3 In the event that the Company requests the Broker to carry out any functions or duties on its behalf, such as the appointment of loss adjusters, lawyers or others, or the Broker otherwise acts as an intermediary between the Company and its representatives or agents:-

11.3.1 The Broker accepts the Company's appointment or instructions on the basis that the information received by it in respect of a claim made upon any Insurance Business is disclosable to the Broker's client (save when The Broker acts as Coverholder).

11.3.2 All documentation and records created or received by the Broker in the performance of such functions or duties shall be and remain the property of the Company, other than documents over which the Broker has a proprietary commercial interest.

11.3.3 The Broker will take reasonable steps to retain, maintain and safeguard any of the Company's documents in the Broker's possession in accordance with any regulatory requirements which apply to the Company and of which the Broker has notice.

11.3.4 On termination of this Agreement for whatever reason and on reasonable notice the Broker will deliver up to the Company such documentation if requested.

## **12. Confidentiality**

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 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 concerned Underwriter, actuaries, auditors, professional agents and advisers and other Group companies. 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.

## **13. Complaints**

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

## **14. 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 trademarks.

## **15. Conflicts of Interest**

The Parties will adopt and/or maintain procedures to ensure that each has in place arrangements for the identification and management of any conflicts of interest that may arise in relation to any Insurance Business.

## **16. Disclosure**

The Broker will comply with relevant regulatory, fiduciary and legal requirements regarding disclosure of all forms of remuneration from any arrangements it may have for remuneration in connection with Insurance Business.

## **17. Variations & Assignment**

This Agreement constitutes the whole agreement between the Parties and supersedes any previous agreement between us and it may be assigned or varied only in writing by the Parties.

## **18. Rights of Third Parties**

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. This clause shall not affect any right or remedy of a third party which exists or is available apart from that Act.

## **19. Dispute Resolution**

19.1 The Parties to this Agreement are committed to resolving all disputes arising under it (and whether such dispute arises before or after termination of this Agreement) without the need for litigation and to allow as far as possible for commercial relationships to remain unaffected by disputes and therefore the Parties:-

19.1.1 will attempt in good faith to resolve any dispute or claim promptly through negotiations between respective senior executives of the Parties who have authority to settle the same;

19.1.2 will attempt in good faith, if the matter is not resolved through negotiation within three months of the dispute arising to resolve the dispute or claim through mediation with the assistance of a mediator agreed between the Parties or as recommended to the Parties by the Centre for Dispute Resolution or such similar organisation as the Parties may agree; or

19.1.3 if the matter has not been resolved by mediation within six months of the dispute arising, or if either Party will not participate in a mediation procedure, the Parties will refer the dispute in accordance with the Jurisdiction and Choice of Law Clause below.

19.2 Notwithstanding the above, either Party may seek the immediate protection or assistance of the High Court of England and Wales if appropriate.

19.3 The Broker agrees to indemnify the Company against any loss or damage or expense that it may suffer or incur as a direct or indirect result of the failure of the Broker to comply with its obligations in this Agreement.

## **20. Jurisdiction & Choice of Law**

This Agreement shall be construed according to English law and any disputes arising under it shall, subject to the provisions of clause 19 above, be determined in the English Courts.

## **21. Enforceability**

In the event any portion of this Agreement is found to be invalid or unenforceable, the remainder shall remain in full force and effect.



## 22. 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.

## 23. Service of Notices

Any notices to be given under this Agreement shall be sent by first class recorded delivery post or by hand 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 posting and if by hand, at the expiration of one business day after it was delivered.

## 24. 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. Either Party may terminate this Agreement if such Force Majeure Event continues for more than 3 months.

Signed for and on behalf of

The Company

The Broker

.....  
Name

.....  
Name

.....  
Position

.....  
Position

Date.....

Date.....

**SCHEDULE A**

**COMMISSION AND TERMS OF CREDIT**

<b>Class of business</b>	<b>Commission Broker to</b>	<b>Terms of Credit</b>
	As agreed case by case	As agreed case by case

Terms of credit (in days) shall be calculated from the earlier of the Company's debit note, the Company's Certificate or the inception of cover and settlement may be due earlier in accordance with any quotation or Premium Payment Warranty.