

# Broker Terms of Business

**Please read this document carefully. It sets out the basis on which we agree to act for you and contains some information about us and our regulatory responsibilities. There is no need for you to sign and return this document; we have retained details of when it was issued to you.**

Pound Gates of Hyde Park House, Crown Street, Ipswich IP1 3LG United Kingdom, is an intermediary that provides risk management advice and arranges insurance solutions for businesses. Pound Gates is the trading name of Pound Gates and Company Ltd ("us/we").

We are authorised and regulated by the Financial Conduct Authority (FCA) and our FCA Firm Number is 304300. Our permitted activity is introducing, advising, arranging, dealing as agent, and assisting in the administration and performance of general insurance contracts and credit broking (and supplementary debt-related administration) in relation to insurance instalment facilities. This information can be checked on the FCA's Register by visiting the FCA's website [www.fca.org.uk/register](http://www.fca.org.uk/register)

## Commencement, term and scope

This version of our Broker Terms of Business (this Agreement) is dated **21<sup>st</sup> December 2020** and will automatically replace any prior version issued to you. This Agreement will come into effect when you next renew a policy or place a new policy with us after the above date and shall be deemed to be the basis upon which we conduct business with you. It will continue until terminated in accordance with the Termination section below.

This Agreement specifies the terms under which you will introduce to us general insurance business (insurance) on behalf of your clients which you wish to be placed by us and the terms under which we will handle such insurance for you. You understand that this Agreement applies to all business transacted between you and us.

Each proposal for insurance, renewal of existing insurance or continuation of cover in respect of any existing insurance will be accepted or declined by us at our sole discretion. You are under no obligation to offer any proposal for insurance or renewal of any existing insurance to us.

## What we mean by insurers

In this Agreement reference to "insurers" shall be construed to be a reference to insurers (or, where applicable, reinsurers), underwriters, service companies or managing general agents with whom we place insurance business.

## Your regulatory status and conduct

You warrant that you are authorised and regulated by the FCA to conduct insurance business.

You will ensure that each transaction with your client is undertaken in accordance with the rules as applicable and enforced by the FCA or any successor current at the time of the transaction. This is to include FCA regulations relating to consumer credit.

Both parties to this Agreement undertake to maintain their current regulatory status. Any change in regulatory status of one party shall be informed to the other party in writing within 5 business days.

## 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.

We are dedicated to providing a prompt, efficient and professional service in all our dealings with you. Maintaining the highest standard of customer service is of key importance to us, and your comments help us to identify areas for improvement in our service.

In the unlikely event that you have a complaint in the first instance please contact: The Complaints Manager, Pound Gates, Hyde Park House, Crown Street, Ipswich, Suffolk IP1 3LG, Telephone: 01473 346046. Email: [info@poundgates.com](mailto:info@poundgates.com)

## Insurer financial stability

We monitor the financial standing of insurers we use however we do not guarantee their financial stability or ability to meet policyholder obligations.

The ultimate decision on the suitability of any insurer rests with you and your client.

Responsibility for premium, whether in full or pro rata, may arise for your client under policies where a participating insurer becomes insolvent.

## Commission

We will allow you commission as quoted at the time, subject to any individual case being negotiated separately at the time of the placement. Your entitlement to commission is conditional on the following points being satisfied:-

- i) that your appointment as a producing broker is still in force;
- ii) that the business has been introduced and completed by you;
- iii) that the premium for the business has been received by us;
- iv) that you continue to act for the policyholder.

The commission is payable on net premiums i.e. less rebates, discounts or any deduction due to the policyholder.

Should we make a refund of premium (whether under the terms of the policy or for any other reason) you will be debited with the commission upon the amount so refunded. We have the right to retain our portion of any commission earnings.

## Authority

Nothing in this Agreement authorises you to accept, amend, or vary insurance cover, settle, negotiate or compromise claims, alter any document or policy or commit us or the insurer in any other way.

Insurance cover, amendments to cover or cancellations requested by you will only be treated as bound and in force when we have confirmed the same in writing to you. It is not sufficient discharge of your responsibilities to make a request and you can only rely on our actions when we have confirmed these in writing to you.

## Presentation

You will present information to us in writing using the format specified by us, or in such other manner as may be agreed in writing between you and us.

You have a duty to present all material information to us and give a 'fair presentation' of risk. Should we consider the proposal inadequate, or unsuitable, we reserve the right to decline to act on behalf of you and your client. We will not be bound to incept the insurance on behalf of you, or your client, until a written instruction is received to commence cover on a proposal for which we have issued a quotation within the preceding 30 days.

## Maintenance and renewal

You undertake to inform us of any changes during the currency of the insurance which would affect the insurer's attitude to cover, levels of premium or any other material fact.

Renewal is your responsibility and you must liaise with us well in advance of your client's renewal date with a view to providing terms to your client in a timely fashion, sufficient to enable you and your client to review and agree the terms prior to renewal. Subject to the above, we will despatch renewal invitation(s) without undue delay where no further information is required by the insurer prior to renewal date and, subject otherwise to you acting in accordance with the terms of this Agreement, where it is normal practice for renewal invitation to be prepared by insurers.

## Claims

Any notification of claims received by you must be advised to us immediately in writing unless otherwise specifically agreed by insurers. You should only acknowledge receipt of the claim from your client. Except as may be authorised by the insurer, no negotiation should be entered into by your client or you. You are expected to assist with any enquiries if so required.

## Accounting and responsibility for premiums

Once we have received confirmation of the inception, renewal or amendment of your client's insurance, you become responsible to us for the payment of all and any premium which may be or may become due or outstanding at any time relating to the insurance.

We will submit a debit note to you and you will pay to us all premiums debited to you on behalf of your clients within 30 days of the date of issue of said debit note by us, or any alternative period as advised to you.

If you do not make arrangements with us to pay the insurance premiums due you acknowledge and agree that we may be required by the relevant insurers to cancel your client's insurance (or if this occurs shortly after the start or renewal of the insurance, to notify the insurer that the policy has not been taken up). For the avoidance of doubt, we have no obligation to fund any monies owed by you or your client to insurers and will have no responsibility for any loss which you or your client may suffer as a consequence of the cancellation of the insurance or the insurer taking any other steps as a result of the late or non-payment of such sums if attributable to you or your client.

In the event of cancellation of the insurance due to non-payment the insurer may still require a premium to be paid. This may be calculated pro-rata or, if a claim/loss has been notified, up to the full annual premium may be charged.

We reserve the right to vary the terms stated above by giving 14 days notice of our intention to vary such terms.

#### **Risk transfer**

Unless we advise you otherwise all quotations issued by us will be with insurers with whom we hold risk transfer. Accordingly all monies held by us on your and your client's behalf are deemed to be insurer monies, and as such there is no need for you to track monies via us to the ultimate insurer once we have received monies from you.

We do not automatically cascade risk transfer to you as our ability to do so varies between the different insurers we deal with. For the avoidance of doubt you should check with us whether cascaded risk transfer does apply and we will confirm the position to you in writing. In the absence of such written confirmation you should not consider monies as being protected under risk transfer until we have received said monies from you.

#### **Client ownership**

We acknowledge that ownership of your client remains with you. We will not knowingly contact your client directly under any circumstances unless either:

- i) you have authorised us to do so; or,
- ii) it is necessary to protect the client's best interests in the event that you become insolvent, bankrupt, compound with creditors, appoint a receiver, go into run-off or cease to be authorised by the FCA to transact business.

#### **Non-solicitation**

We agree that for the duration of this Agreement and for a period of one year after termination of a policy we will not directly solicit or seek to obtain business from your clients. For clarification this only applies to business that has been on risk with us and not to quotations given by us.

Our obligations in respect of non-solicitation or seeking business shall, for the avoidance of doubt, not apply to those cases where we can show that we have sought or obtained business:

- i) by means of general marketing, such marketing not being directed at a client in particular;
- ii) following an independent approach by the client or an introduction to the client by another intermediary.

#### **Placing business on behalf of other intermediaries**

We do not permit you to place cover on behalf of other intermediaries, thereby creating a chain, unless this has been disclosed to us in advance and we have specifically agreed to this course of action in writing.

#### **Your duty to keep us informed**

You shall immediately notify us in writing:-

- i) of any change of your address or other contact details;
- ii) if you or any partner or director compounds with creditors, enters into any deed or arrangement with creditors, or becomes bankrupt, or has a receiving order made against you or any partner or director or (in the case of a company) goes into liquidation or (in the case of a partnership) is finally dissolved;
- iii) in the event that your ownership changes;
- iv) in the event of any other changes which are material and have relevance to this Agreement.

#### **Termination**

This Agreement may be terminated by either party giving at least 30 days written notice to the other party.

Either party may terminate this Agreement immediately on written notice to the other:-

- i) if in respect of the other party any resolution is passed or order made for the winding up of the company or a receiver, administrator or administrative receiver is appointed over the assets, or any

arrangement or composition is made with its creditors or a petition for bankruptcy or an administrative order is filed, or it is adjudged bankrupt;

- ii) where it has reasonable grounds for suspecting fraud or dishonesty by the other party or its employees or agents;
- iii) if the other party commits a material breach of any provisions of this Agreement which is not remedied within 21 days from written notification of the breach.

We may suspend or terminate this Agreement forthwith if:-

- i) you cease or threaten to cease to carry on business or suspend payments or are unable to pay your debts as they fall due;
- ii) you cease to be authorised by the FCA;
- iii) any of your directors or partners are convicted of a criminal offence;
- iv) you are acquired, amalgamated, controlled or administered by any other person, partnership, company, corporation or authority.

In the event of this Agreement being terminated:-

- i) we will not be liable to you for any compensation, consequential or otherwise, arising as a result of termination;
- ii) nothing in this Agreement affects our rights to recover premium from you or your clients, or to use any return premiums received from insurers against any monies which may be owed to us by you or your client. Any sums owed to us by you must be remitted within 15 days of being requested by us;
- iii) we will agree with you the procedure for administering the insurance business current at the time of the termination;
- iv) you will make all reasonable efforts to provide us with contact details for any client or other party where we have contracted in the conduct of insurance business; and
  - a. you have acted as our agent; and
  - b. where such information is reasonably required in order for us to carry out our obligations in relation to insurance business concluded in accordance with this Agreement.
- v) where permissible both you and we will remain liable to perform our respective 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.

You shall, both during the term of this Agreement and thereafter, safeguard and maintain in confidence all trade secrets and other information relating to us and shall not in any manner make use of the same except in the best interests of us.

#### **Credit and other checks**

We, and other firms involved in arranging insurance for your client (insurers, other intermediaries, premium finance companies and the like) may use public and personal data from a variety of sources including credit reference agencies and other organisations. Any credit reference search may appear on your client's credit report whether or not their application proceeds.

UK money laundering regulations require us to obtain evidence of the identity of clients for whom we are asked to provide insurance quotations at the start of the business relationship. We are also required to cross check your client's individual name(s), company/organisation name(s) against the HM Treasury Office of Financial Sanctions consolidated list as part of this process. We are also obliged to report to the National Criminal Agency any evidence or suspicion of money laundering at the first opportunity and we are prohibited from disclosing any such report.

#### **Data Protection**

When you submit a risk to us for quotation/cover purposes you do so as a controller of the personal data which you collect and process from your client. You are solely responsible for your own processing of that personal data in line with the relevant data protection legislation, including ensuring you have the necessary permissions to collect and share that personal data.

When you pass your client's personal data to us we will receive that personal data as a controller. We will hold that data in accordance with our published Privacy Notice, available to view at [www.poundgates.com/privacy-notice](http://www.poundgates.com/privacy-notice).

Each party shall be separately and independently responsible under the relevant data protection legislation for any personal data in respect of which each party is a controller while the personal data is in their possession or under their control. The parties shall, where necessary, co-operate with, and provide reasonable assistance to, one another in order to comply with their legal obligations.

### **Variation**

Any variation to the terms of this Agreement must be confirmed in writing by us.

### **Indemnity from you to us**

You hereby agree to fully indemnify us for any loss, whether financial or otherwise, suffered by us due to:-

- i) any breach of this Agreement by you;
- ii) negligence, error or omission of you, your directors, partners or employees.

Furthermore you are solely responsible for any advice that you may offer and/or give to your clients and agree to fully indemnify us for any loss suffered as a consequence of that advice.

You undertake to maintain cover against Errors & Omission/Professional Indemnity risks in accordance with the rules as enforced by the FCA.

In the event that an insurance policy for your client is cancelled or avoided due to non-disclosure on the part of your client or you, we reserve the right to charge a reasonable fee to cover the cost of making the insurance arrangements.

### **Legal and jurisdiction**

This Agreement sets out the terms of our relationship with you and constitutes the entire agreement between the parties in respect of our engagement. All other terms, expressed or implied by statute or otherwise, are excluded to the fullest extent permitted by law. This Agreement may not be varied except in writing between the parties.

This Agreement shall be governed by and construed in accordance with the Law of England and Wales. Any dispute arising under it shall be subject to the exclusive jurisdiction of the English Courts.

Unless agreed otherwise between us in writing no terms of this Agreement are enforceable under the Contracts (Rights of Third Parties) Act 1999.

### **Limitation of Liability**

We acknowledge that we will be liable to you for loss, damage, costs and expenses ("losses") caused by our negligence or the negligence of any of our directors, employees, consultants, sub-contractors or agents for whose acts errors or omissions we are legally liable ("the specified persons"), subject to the following provisions of this clause.

We shall have no other liability of any nature, whether in contract, tort or otherwise, for any losses whatsoever and howsoever caused, arising from or in any way connected with the services and/or advice provided by us or our engagement by you. We shall not be liable in contract, tort (including negligence) or otherwise for:

- i) any increased costs or expenses; or,
- ii) any loss of profit, business, business contacts, business revenues or anticipated savings; or,
- iii) any special, indirect or consequential damage of any nature whatever.

We shall not be liable to the extent that losses are due to the provision of false, misleading, inaccurate, or incomplete information or documentation or your failure to inform us of any material information or if and to the extent losses are due to any act or omission of any person other than us or any of the specified persons. We shall not be liable to you or be deemed to be in breach of our contract with you by reason of any delay in performing, or any failure to perform any of our obligations to you, or the delay or failure was due to any cause beyond our reasonable control.

Unless otherwise agreed by us with you in writing, our total liability to you (whether in contract, tort [including negligence] or otherwise) shall not exceed £5,000,000 in respect of any one claim.

We have professional indemnity insurance in accordance with the requirements of the FCA. Details are available on request.