



PEN UNDERWRITING PRODUCING BROKER

TERMS OF BUSINESS AGREEMENT

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An agreement governing the conduct of Insurance Business between:

- (1) **One or more of the parties listed in Schedule 2 to this Agreement** as agent of the Insurer (“**Pen**”); and
 - (2) you and each of your Associated Bodies (the “**Broker**”),
- each a “**Party**” and, collectively, the “**Parties**”.

1. Interpretation

1.1 Definitions

Agreement: This Terms of Business Agreement, any attached Schedules or Appendices or the Insurer List and the Acceptance Receipt.

Appointed Representative: Has the meaning given to it in Section 39 of FSMA.

Associated Bodies: In relation to a company or other body corporate, its parent and subsidiary undertakings (as each term is defined in section 1162 of the Companies Act, 2006 (as amended)), and any company which is a parent and subsidiary undertaking (whether directly or indirectly) of each such parent and subsidiary, as the case may be.

BIPAR: The European Federation of Insurance Intermediaries.

BIPAR Principles: A set of high level principles to follow when handling the placement of a risk with multiple insurers, agreed by BIPAR with the Directorate General for Competition.

CASS: The UK Regulator’s Client Assets Sourcebook.

Claims Service Provider: Shall mean the individual or company appointed by Pen or the Insurer from time to time to process and manage claims, as notified by Pen to the Broker from time to time.

Client Money: Means client money, as defined in CASS.

Client Money Rules: The rules set out in CASS 5.1 to 5.8.

Commencement Date: Has the meaning set forth on the signature page.

Commission: Commission payable to the Broker (if any) in respect of that Insurance Business which shall be at the rates and dates set out in a relevant Slip or schedule of commissions or agreed at placement.

Data Protection Legislation: means all data protection and privacy legislation, regulations and guidance applicable in respect of a party from time to time including, without limitation as applicable: (i) prior to 25 May 2018, the Data Protection Act 1998 and the Privacy and Electronic Communications (EC Directive) Regulations 2003 (each as amended, updated or re-enacted from

time to time); and (ii) from 25 May 2018 onwards, Regulation (EU) 2016/679 (the “**General Data Protection Regulation**” or the “**GDPR**”) and Data Protection Act 2018 (or, in the event that the UK leaves the European Union, all legislation enacted in the UK in respect of the protection of personal data) and the Privacy and Electronic Communications (EC Directive) Regulations 2003; and (iii) any applicable guidance or codes of practice issued by Working Party 29, the European Data Protection Board or the Data Protection Regulator from time to time (all as amended, updated or re-enacted from time to time).

Electronic System(s): Means such electronic system(s) which Pen provides the Broker access to for the purposes of entering and retrieving data and proposals in connection with the Insurance Business, whether provided by a website or any other means.

FSMA: The Financial Services and Markets Act 2000.

ICOBS: The Financial Conduct Authority’s (“**FCA**”) Insurance Conduct of Business Sourcebook.

Insured: Any party (not being the Insurer) entering into a contract of insurance which is subject to this Agreement.

Insurer: The insurer (or managing agent when placing Insurance Business into Lloyd’s) with whom the Insurance Business is placed and for which Pen acts as agent.

Insurance Business or Insurance: Any insurances or reinsurances falling within the definition of “contract of insurance” in Article 3(1) of the FSMA (Regulated Activities) Order 2001 together with insurances concluded under any contracts for insurance arranged by Pen on behalf of the Insurer where the Broker is the coverholder or the placing broker, but specifically excluding any outwards reinsurance business placed by the Broker as agent of the Insurer.

Law or Legal Requirements: Includes any applicable, common or customary law and any treaty, constitution, statute, legislation, decree, rule, regulation, code of practice, judgement, order, writ, injunction, determination, award or other legislative or administrative measure or judicial or arbitral decision in any jurisdiction (to which this Agreement is subject) which has the force of law or compliance with which is in accordance with the general practice of such jurisdiction.

Monies: Premiums payable in respect of any Insurance Business and any other monies that are required to be held by the Parties arising from the conduct of Insurance Business under this Agreement.

the Pen Group: In relation to each Pen entity, its parent and subsidiary undertakings (as each term is defined in section 1162 of the Companies Act, 2006), and any company which is a parent and subsidiary undertaking (whether directly or indirectly) of each such parent and subsidiary, as the case may be.

Pen Portal: Means the portal made available to the Broker from time to time.

PERG: Means the UK Regulator’s Perimeter Guidance Manual

Previous TOBA: Any terms of business agreement which is in place prior to the date of this Agreement for the placing of Insurance Business between any of the Pen entities using any of the trading names listed in Schedule 2, and the Broker.

Principal: Means a principal as defined in PERG.

Privacy Policy: Pen’s Privacy Policy available at <https://www.penunderwriting.co.uk/Privacy-Policy> or such other website as advised by Pen from time to time.

Records: Anything on which any information of any description is recorded.

Regulatory Requirements: All applicable statutes, statutory instruments, orders, regulations and codes of practices in force from time to time and including without limitation the rules and guidance made by the UK Regulator and all other instruments and regulations made pursuant to FSMA.

List of Insurers: Means the List of Insurers/ Managing Agents made available at <https://www.penunderwriting.co.uk/~ /media/Files/ Pen-Underwriting/Agency-Pen-Insurer-Partners-- Aug-2017.pdf> referred to in clause 6 which shall be incorporated in and form part of this Agreement.

Slip: Any document containing the particulars of a risk proposed for Insurance held in whatsoever form which is or is to form the basis of either a contract for or of insurance. A Slip may incorporate details of administrative arrangements pertinent to the processing of the contract for or of insurance.

Taxes: All Insurance Premium Taxes (“IPT”) and other para-fiscal charges which may be levied by overseas fiscal authorities on insurance premiums.

UK Regulator: The FCA and/or the Prudential Regulation Authority as appropriate, or any successor regulatory body or bodies to all or any of them.

1.2 This Agreement shall commence on the Commencement Date.

1.3 A reference to a statute or statutory provision (including for the avoidance of doubt a reference to a UK Regulator’s rule) is a reference to it as amended, extended or re-enacted from time to time and shall include all subordinate legislation made from time to time under that statute or statutory provision.

2. Scope

2.1 This Agreement sets out the rights and obligations of the Parties only in respect of the matters specifically addressed in the Agreement. Any matters relating to the relationship between the Parties which are

not expressly addressed in this Agreement, remain unaffected and unaltered by this Agreement. This Agreement shall not override the terms of any underlying contract for or of Insurance Business or the terms of any Slip, save the Parties agree that clause 6 shall apply to the exclusion of any equivalent terms in any binding authority agreement placed between the Parties as coverholder, where the binding authority agreement in question does not make provision for monies to be held in accordance with CASS or in a segregated trust account.

2.2 Subject to clause 2.9 below, the Parties agree that the terms set out in this Agreement shall apply to the conduct of any Insurance Business and shall supersede the terms of any Previous TOBA. All Insurance Business which was placed under any Previous TOBA(s) continues to be governed by such Previous TOBA(s) until such Insurance Business is renewed or terminated. All monies held by the Broker as agent and trustee of the Insurer(s) under such Previous TOBA(s) shall continue to be held by the Broker as agent and trustee of the Insurer(s) until such monies are paid by the Broker to the relevant party.

2.3 Under authority granted to it by the Insurer(s), Pen authorises the Broker to perform the following functions only:

2.3.1 commit the Insurer(s) to provide insurance to the prospective policy holder via the Electronic System(s) accessed by the Broker which facilitate(s) the confirmation of Insurance Business; and

2.3.2 subject to and in accordance with the provisions of clause 6 of this Agreement, collect and hold premium.

2.4 Except to the extent stated in clauses 6.1, 10.2 and 16.3, nothing in this Agreement shall be construed as creating a partnership or joint venture of any kind between the Parties or as appointing either Party as agent of the other Party for any purpose and neither Party shall have the authority to bind the other Party or to contract in its name for any purpose.

2.5 Subject to clause 16 (which is to be given a free and unfettered interpretation) nothing in this Agreement overrides the Broker’s duty to place the interests of its client before all other considerations nor shall this Agreement override any legal or Regulatory Requirements (whether obligatory or advisory) which may apply to the Broker, Pen, the Insurer, or the placing of any Insurance Business.

2.6 Each proposal for Insurance Business, renewal of existing Insurance Business or continuation of cover in respect of any existing Insurance Business will be accepted or declined by Pen 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 Pen.

2.7 Save where it is in the best interests of the Insured to do so and permitted under the terms of the

Insurance, the Broker shall not knowingly, either directly or by instructing an agent or other person to do so on its behalf, use Personal Data (as defined in the Data Protection Legislation) or any confidential information obtained as a result of this Agreement to solicit, induce or encourage any Insured, or assist or facilitate any other person to solicit, induce or encourage any Insured, to cancel an Insurance policy or transfer any Insurance policy to any insurer other than the Insurer, save to coincide with the natural expiry of the Insurance.

- 2.8 Pen will not knowingly, either directly or by instructing an agent or other person to do so on its behalf, solicit the custom of the Broker's clients in relation to the Insurance Business during the currency of this Agreement and for a period of three years following termination of this Agreement. However, the Broker agrees that Pen may contact the Broker's clients if it is reasonable to do so. The Broker further agrees that, if the Broker's client makes an unsolicited direct or indirect approach, Pen will not be prohibited from dealing with them.
- 2.9 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 Pen may agree provisions relating to the conduct of that Insurance Business. These provisions may include (but are not limited to) roles and responsibilities relating to administration of the Insurance Business and the handling of claims and processes by which amendments to the risk may be agreed, and so forth. This Agreement shall be subject to any provisions so agreed, and does not seek to address such provisions.
- 2.10 Pen reserves the right to vary this Agreement upon giving thirty (30) days' notice to the Broker in writing except in circumstances where the variation is required in order to comply with changes in the Regulatory Requirements in which case no notice period is required. In respect of varying the List of Insurers, clause 6.5 shall apply. If Pen wishes to amend this Agreement for any other reason, the Broker shall have the right to terminate this Agreement by giving Pen thirty (30) days' written notice in accordance with clause 28.
- 2.11 The Broker shall comply with all reasonable requests or requirements made in writing by Pen in relation to the operation of this Agreement, the Insurances bound under the Agreement or the claims arising thereunder.
- 2.12 Where Pen has agreed that the Broker may receive notice of a claim from the Broker's client the Broker shall immediately advise Pen or the third party Claims Service Provider as notified by Pen, of the claim. The Broker shall provide, both for the benefit of the Insured and Pen, such cooperation, information and assistance in relation to any claim as may be reasonably requested without creating a conflict of interest.
- 2.13 Where Pen provides the Broker with access to an Electronic System, the Broker agrees to comply with the provisions of Schedule 3.

3. Regulatory Status

- 3.1 The Broker warrants that it is authorised by the UK Regulator (or other EEA regulatory body) to conduct insurance mediation activities (as defined in the UK Regulator's Handbook) from the date of this Agreement or that it is an Appointed Representative of an insurance intermediary which is authorised by the UK Regulator (or other EEA regulatory body) and therefore properly exempt from the requirement to be authorised by the UK Regulator (or other EEA regulatory body). Pen warrants that it is authorised by the UK Regulator (or other EEA regulatory body) to conduct insurance mediation activities (as defined in the UK Regulator's Handbook) from the date of this Agreement.
- 3.2 Each Party shall notify the other promptly in writing in accordance with clause 28 if at any time during the period of this Agreement:
- 3.2.1 The UK Regulator (or other EEA regulatory body) suspends, withdraws or alters its authorisations; or
- 3.2.2 where permitted by the Regulator to make such notification, it becomes the subject of an enforcement or disciplinary action by the UK Regulator (or other EEA regulatory body); or
- 3.2.3 it otherwise ceases in any way to be authorised by the UK Regulator (or other EEA regulatory body) to undertake any activities in relation to any Insurance Business subject to this Agreement; or
- 3.2.4 it ceases to be an Appointed Representative and properly exempt from the requirement to be authorised by the UK Regulator (or other EEA regulatory body); or
- 3.2.5 it becomes insolvent or an application for the winding up is made by it.

4. Authority

- 4.1 This Agreement sets out the basis on which Pen may accept Insurance Business from the Broker.
- 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 financial promotion on Pen's behalf without Pen's prior written consent, and/or commit Pen in any way.

5. Remuneration

- 5.1 Commission shall be agreed between the Parties and shall be set out in the relevant Slip or, as appropriate, recorded in writing by the Parties.
- 5.2 Subject to clause 5.3 below, the Broker may deduct the Commission upon 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 and recorded in writing on a risk-by-risk basis between the Parties.
- 5.4 The Broker shall only be entitled to commission in respect of any Insurance Business placed during the term of the Agreement and provided it remains agent to the Insured. In the event of any dispute by one or more broker in respect of commission due for the same Insurance Business then Pen may determine in its sole discretion in what shares that commission is to be paid.
- 5.5 Pen shall be entitled to administration charges for the administration of insurance policies (for instance, a charge for cancelling a policy). Where Pen requires the Broker to inform the Broker's client that an administration charge is to be applied the Broker shall ensure that it communicates the same to its client without undue delay.
- 6. Handling of Monies by the Broker**
- 6.1 The relevant Pen entity is appointed to hold Monies as agent and trustee of Insurer pursuant to CASS 5.2.3R and typically the Insurer agrees the authority granted to such Pen entity is extended to the Broker. Except in those instances specified in the List of Insurers where risk transfer is not cascaded to the Broker, or if the Broker is advised at the time of placement prior to binding, the Broker will be deemed to have authority to hold Monies ("**Insurer Monies**") and the Broker may hold Insurer Monies as the agent and trustee of the Insurer. Monies must be held by the Broker in one of the following manners:
- (i) in a client bank account as described in CASS 5.3 ("**Statutory trust**") or CASS 5.4 ("**Non-Statutory Client Money Trust**"), if the 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 commingled with the Broker's other Client Money. The relevant Pen entity further confirms that in these circumstances the Insurer 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
 - (ii) 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 6.1(ii), 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.
- 6.2 In those instances specified in the List of Insurers where risk transfer is not cascaded to the Broker, or if the Broker is advised at the time of placement prior to binding, Monies must be held by the Broker in one of the following manners:
- (i) 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
 - (ii) the Broker must establish and maintain procedures to ensure that Monies received will be in the form of either cheques direct from the client's account made payable to the relevant Pen entity, via that relevant Pen entity's direct debit facility, via BACS payment or by credit card to the relevant Pen entity.
- 6.3 The Broker, if it is an Appointed Representative, must establish and maintain procedures which it has agreed in writing with its Principal to ensure that Monies are handled in accordance with this clause 6 and the UK Regulator's Client Money Rules relating to the handling of Monies by Appointed Representatives.
- 6.4 On Pen's written request, the Broker shall send a copy of the Bank's Written Acknowledgement to Pen as soon as reasonably practicable to the address set out in clause 28.
- 6.5 Pen will notify the Broker of any Insurer added to or changes to existing Insurers on the List of Insurers where in respect of such Insurer risk transfer will not be cascaded to the Broker. Such notice will have immediate effect upon receipt by the Broker. Save as set out above, the List of Insurers may be updated from time to time by Pen without notice.
- 7. Handling of Monies by Pen**
- 7.1 The relevant Pen entity will hold Insurer Monies in one of the following manners, in each case subject to such conditions and/or restrictions as the Insurer(s) may impose:
- 7.1.1 in a Non-Statutory Client Money Trust, pursuant to the UK Regulator's Client Money Rules. Monies shall be paid into a client bank account as described in CASS 5.4; or
 - 7.1.2 in a bank account which is designated an "**Insurer Trust Account**", in which case the UK Regulator's Client Money Rules shall not apply to the Insurer(s) Monies so held.
- 7.2 For the purpose of clause 7.1, the manner in which Insurer Monies will be held by the relevant Pen entity is set out in Schedule 1.

8. Accounting

- 8.1 In respect of Monies held under this Agreement, the Broker, in accordance with clause 28, shall advise Pen within seven (7) days of receipt of any request from Pen, whether it has received any specified premiums. The Broker shall notify Pen as soon as possible, and in any case within no more than 2 days, if the Insured has failed to pay the premium (or as the case may be, any provisional premium) on the date that it becomes overdue.
- 8.2 On receipt of a notification in accordance with clause 8.1, Pen reserves the right not to retain the Insured on risk for a further period, or to cease cover thereafter, in each case, by notifying the Broker. The Broker will comply with any instructions given by Pen, provided that there shall be no obligation on Pen or the Broker whatsoever to fund premium, IPT, or any part thereof, which has not been paid by the Insured, or by any third party funding the premium on behalf of the Insured.
- 8.3 Notwithstanding clause 8.2 above, the Broker will be responsible to Pen for the premium due (including Taxes) if the Broker requests Pen (or the Insurer, as applicable) to pay a claim before payment to Pen of the premium due in respect of the Insurance. No payment in respect of a claim will be made unless and until all premium due has been paid by the Insured or by any third party funding the premium on behalf of the Insured.
- 8.4 Provided the Broker shall itself have received the premium but subject always to clause 8.3 above, the Broker shall pay such premium (net of Commission, but including Taxes) to Pen within the time permitted for the Insured to pay such premium in accordance with the terms of trade incorporated in the relevant Slip or otherwise as agreed between Pen and the Broker. In the event the Broker receives the premium after the time permitted for the Insured to pay the premium and provided the relevant contract of Insurance has not been validly cancelled, the Broker shall pay that premium (net of Commission, but including Taxes) to Pen as soon as reasonably possible.
- 8.5 Unless otherwise agreed, the Broker shall remain liable to Pen for premiums and Taxes where Section 53(1) and Section 53(2) of the Marine Insurance Act 1906 apply.
- 8.6 In the event of the cancellation or avoidance of a contract of Insurance, where Pen is obliged by Law, regulation or the terms of the contract of Insurance to repay gross premiums in respect of such contract of Insurance, the Broker agrees to repay the relevant Commission (which shall not for the purpose of this clause include fees paid by the Insured). Unless otherwise obliged to by Law, regulation or terms of the contract of Insurance, Pen shall refund premiums net of Commission.

9. Currency conversion

- 9.1 Pen may have to convert funds to another currency in order to settle amounts due to the Insurer. If a

repayment of funds is due to or requested by the Broker or the Insured after the currency is converted, any such payment will be made in the currency into which the funds have been converted. Any shortfall arising from currency exchange differences remains the liability of the party requesting such repayment.

- 9.2 If the Broker pays a premium in a different currency or to a bank account in a different currency from that requested, Pen may, at its discretion, either return the funds to the Broker or convert the money to the required currency. In the latter case, the converted funds will be applied against the amount due with any shortfall arising from currency exchange differences remaining the Broker's liability.

- 9.3 Any surplus arising from currency exchange differences will be retained by Pen.

10. Taxes

- 10.1 Except where required by Law or regulatory authority or by the terms of this Agreement, the Parties agree that the Broker will not be expected to act as guarantor to Pen or the Insurer with regard to the payment of any Taxes relating to any Insurance Business. Where at the date of this Agreement it is market practice that the Broker administratively arranges payment of Taxes, that practice shall continue.

- 10.2 Where the Broker, under the authority granted to it by the Insurer, processes and pays Taxes on behalf of Pen, which Taxes are related to premium in respect of any Insurance Business, the Broker will hold such Monies in accordance with clause 6 for Pen and account to Pen for amounts received by the Broker in respect of such liability for Tax which Pen may have in respect of that Insurance Business.

11. Compliance

- 11.1 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 Pen under this Agreement.
- 11.2 The Parties will pay due regard to the Contract Certainty Code of Practice published by the London Market Group (or successor body) in issue at the time of placing the Insurance Business.
- 11.3 The Broker will inform Pen, in relation to all Insurance Business, whether the Insured is classified as a consumer or a commercial customer for the purposes of ICOBS.
- 11.4 The Broker will forward promptly notices of Insureds' rights to cancel Insurance Business in all instances where such notices are required by Chapter 7 of ICOBS and in accordance with those rules. Such notices shall be forwarded to Pen in accordance with clause 28.
- 11.5 Each Party will conduct their business in accordance with the BIPAR Principles.

11.6 Each Party shall comply with and co- operate in respect of the observance of, any applicable international economic, financial or trade sanctions legislation which bind the relevant customer, the Broker, Pen or the Insurer.

12. Data Protection

12.1 Each Party warrants to the other that where required by the legislation, it is and will remain registered under (if relevant) and will comply with the Data Protection Legislation or equivalent legislation in the jurisdiction in which it carries on business.

12.2 The Broker warrants to Pen that it will process any Personal Data (as defined in the Data Protection Legislation) acquired for or pursuant to this Agreement in accordance with the Data Protection Legislation. Where the broking of Insurance Business or other activity involves the processing of any Personal Data supplied by the Broker whether directly or through any third party, in whatever form, the Broker, in respect of any such Personal Data supplied by it will:

12.2.1 ensure that the Personal Data has been or will be obtained in accordance with the Data Protection Legislation;

12.2.2 ensure that the Personal Data can be lawfully processed by Pen, or by any Pen Associate Body, in the manner anticipated;

12.2.3 ensure that all amendments to any Personal Data necessary to comply with Data Protection Legislation are notified to the other party promptly; and

12.2.4 refer to Pen any request from data subjects for access or changes to the Personal Data under the Data Protection Legislation.

12.3 The Broker warrants that it has adequately informed any Data Subject (as defined in the Data Protection Legislation) of the transfer to Pen and to any Pen Associated Body of any Personal Data obtained pursuant to this Agreement, prior to such transfer taking place, including but not limited to making available Pen's Privacy Policy. .

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

13. Management Information

If agreed between the Parties, the Broker shall provide Pen with management information containing such information, at such intervals and by such method as may be agreed between the Parties from time to time.

14. Termination

14.1 This Agreement shall terminate:

14.1.1 At any time by one Party giving 30 days' written notice of termination to the other Party, such notice to be given in accordance with clause 28;

14.1.2 Immediately, without notice, should either Party become the subject 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;

14.1.3 Immediately, without notice, should the Broker have any authority or permission granted to it by the UK Regulator (or other EEA regulatory body) withdrawn or altered by the UK Regulator (or other EEA regulatory body) 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.

14.2 Following termination:

14.2.1 Subject to clause 14.3, the authority granted to the Broker under clause 2.3 shall cease and the Broker shall not undertake any activities on behalf of the Insurer or Pen under this Agreement except where expressly stated to the contrary.

14.2.2 The Parties will together decide on the procedure for administering the Insurance Business current at the time of termination.

14.2.3 The Broker will make all reasonable efforts to provide Pen with contact details for any Insured or other party with whom Pen has contracted in the conduct of Insurance Business where:

14.2.3.1 The Broker has acted as the agent of Pen; and/or

14.2.3.2 Such information is where permissible the Parties will remain liable to perform their 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.

14.3 Termination of this Agreement shall not affect the continuance in force of express or implied rights and obligations accrued including in respect of Commission, profit Commission and Monies due in respect of policies administered under this Agreement.

15. Professional Indemnity

- 15.1 Each Party shall maintain professional indemnity insurance to the level required by the UK Regulator (or other EEA regulatory body).
- 15.2 The Broker will be held liable for any loss sustained by Pen or the Insurer in respect of any errors, omissions or acts of the Broker, its employees, agents or representatives, including to the extent the Broker or its employees, representatives or agent exceeds the scope of the authorities granted to it by Pen (or the Insurer, as applicable).

16. Access to Records

- 16.1 The Broker will retain all of the Records created or held by it in its capacity as agent of Pen and all Records received by the Broker for the purposes of the introduction, arranging, concluding, administration or performance of the Insurance Business for a minimum of six (6) years and in any event the minimum periods required by Law or any regulatory body with jurisdiction over the Broker, Pen or the Insurance Business.

- 16.2 The Broker agrees to allow Pen, on reasonable notice of not more than thirty (30) days, to inspect and to take copies of the following:-

- 15.1.1 The accounting records pertinent to any Insurance Business, including, but not limited to, information relating to the receipt and payment of premiums and claims and documentation such as any Insurance contract or Slip endorsements, addenda or bordereaux in the possession of the Broker relating to the Insurance Business; and
- 15.1.2 Documents as may be in the possession of the Broker which were disclosed to Pen 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.

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

- 15.3.1 The Broker accepts Pen's appointment or instructions on the basis that the information received by the Broker in respect of a claim made upon any Insurance Business is disclosable to the Broker's client.

- 15.3.2 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 Pen, other than documents over which the Broker has a proprietary commercial interest.

- 15.3.3 The Broker will take reasonable steps to retain, maintain and safeguard any of Pen's documents in the Broker's possession in accordance with any Regulatory Requirements which apply to Pen and of which the Broker has notice.

- 15.3.4 On termination of this Agreement for whatever reason and on reasonable notice the Broker will deliver up to Pen all such documentation, if requested.

17. 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 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. 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.

18. 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.

19. 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.

20. Conflicts of Interest

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

21. 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.

22. Anti-Bribery, Corruption and Sanctions

- 22.1 The Broker will ensure that at all times it complies with all applicable laws, statutes and regulations

relating to anti-bribery and corruption. In particular, the Broker shall comply with each of the Bribery Act 2010 of the United Kingdom and the Foreign and Corrupt Practices Act 1977 of the United States as well as any other applicable legislation.

- 22.2 The Broker will ensure that it has in place and maintains adequate policies and procedures to prevent the Broker, and protect Pen, from being exposed to a bribery or corruption event.
- 22.3 Current anti-money laundering regulations require Pen to obtain adequate “Know Your Client” information about the Broker. In order to prevent bribery, corruption or other financial crime, additional due diligence may be carried out. Further steps may be taken which include notification to the relevant authorities, status and credit checks using credit reference agencies, and other background checking, as deemed appropriate.
- 22.4 Each Party will conduct appropriate due diligence and screening against applicable financial sanctions target lists (UK, EU, UN and US), and have systems and controls in place to prevent participation in activities which would place the Broker and/ or Pen in breach of financial sanctions legislation. Insurance cover and the parties involved in its provision or arrangement, may be, or may become subject to sanctions legislation. In such circumstances, insurance cover, associated payments and transactions may be prohibited or subject to restrictions. The Broker remains responsible for maintaining effective systems and controls to ensure it does not participate in activity which breaches financial sanctions legislation. The Broker will be aware that some policies may include clauses specifically dealing with sanctions imposed on states/entities/individuals. The Broker should pay particular attention to such clauses as they may affect cover under the policy.

23. Assignment and Novation

- 23.1 Subject to clause 23.2 below, this Agreement cannot be assigned or otherwise transferred by either Party without the prior written consent of the other Party, such consent not to be unreasonably withheld or delayed.
- 23.2 The Broker herein consents to the automatic novation of Pen’s rights and obligations under this Agreement to any company within the Pen Group, on such date as may be notified by Pen to the Broker in writing (the “**Novation Date**”). Pen warrants that such Pen Group company shall assume all of Pen’s rights and obligations under this Agreement from the Novation Date and both Parties accept, in the event of such novation, that Pen’s liabilities under this Agreement shall be limited to Pen’s activities pursuant to this Agreement prior to the Novation Date only.

24. Rights of Third Parties

A person who is not party to this Agreement has no right under the Contracts (Rights of Third Parties) Act

1999 to enforce or to enjoy the benefit of any term contained in this Agreement.

25. Dispute Resolution

- 25.1 The Parties to this Agreement are committed to resolving all disputes arising under it or otherwise touching 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:
- 25.1.1 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;
- 25.1.2 will attempt in good faith, if the matter is not resolved through negotiation within three months of one Party receiving written notice from the other, 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
- 25.1.3 only if the matter has not been resolved by mediation within six (6) months of the initial notification of the dispute, or if either Party will not participate in a mediation procedure, the Parties will refer the dispute in accordance with clause 30.
- 25.2 Notwithstanding the above, either Party may, at its own discretion, seek the immediate protection or assistance of the High Court of England and Wales by way of application for the injunctive or interim relief.

26. Severability

The invalidity, illegality or unenforceability of any of the provisions of this Agreement (or any part thereof) shall not affect the validity, legality or enforceability of the remaining provisions in this Agreement.

27. 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.

28. Notices

- 28.1 If notice is given to Pen under this Agreement, it shall be in writing and sent to the relevant Pen entity and marked for the attention of Chief Legal Counsel at the following address:

The Walbrook Building
25 Walbrook
London EC4N 8AW

- 28.2 Pen shall be entitled to give the Broker a notice under or in connection with this Agreement (a) at the 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 Broker on the Pen Portal.
- 28.3 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.

29. Force Majeure

Neither Party shall be in breach of this Agreement nor liable for delay in performing, or failure to perform, any of its obligations under this Agreement if such delay or failure results from events, circumstances or causes beyond its reasonable control. In the event of a force majeure the affected Party shall notify the other as soon as reasonably practicable.

30. Governing Law and Jurisdiction

This Agreement shall be construed according to English Law and any disputes arising under it shall, subject to the provisions of clause 25, be determined in the Law Courts of England and Wales.

31. Counterparts

This Agreement may be executed in any number of counterparts, each of which when executed shall constitute a duplicate original, but all the counterparts shall together constitute the one agreement. No counterpart shall be effective until each Party has executed at least one counterpart.

SCHEDULE 1

1. The following Pen entities hold Insurer Monies in accordance with clause 7.1.1:

| |
|-----------------------------------|
| Heath Lambert Limited |
| Ink Underwriting Agencies Limited |
| OAMPS (UK) Limited |
| Oval Insurance Broking Limited |
| Pen Underwriting Limited |

2. The following Pen entities hold Insurer Monies in accordance with clause 7.1.2:

| |
|--|
| Property & Commercial Limited |
| Zennor Limited |
| Evolution Underwriting Limited |
| Pen Underwriting Limited (solely in respect of the Business units known as "Pen SME" and "Pen Real Estate", formerly trading as Evolution Underwriting Limited and Zennor Limited, respectively) |

SCHEDULE 2

PEN ENTITIES

| Trading name(s) | Registered company name of Pen entity | Registered office | Company Registered Number | UK Regulator's Firm Reference Number |
|---|--|---|---------------------------|--------------------------------------|
| Pen Underwriting (Think) Think e-trading Heath Lambert Insurance Services (HLIS) Homeline | Heath Lambert Limited | The Walbrook Building, 25 Walbrook, London, EC4N 8AW | 01199129 | 312030 |
| Pen Underwriting (Ink) Pen Underwriting (Dallas Kirkland) Pen Underwriting (IRS) Pen Underwriting (Commercial) Dallas Kirkland (Professions) Dallas Kirkland Recruitinsure Indemnity Risk Solutions Ink Insurance IRS | Ink Underwriting Agencies Limited | The Walbrook Building, 25 Walbrook, London, EC4N 8AW | 03110970 | 308369 |
| Pen Underwriting (OAMPS) OAMPS Schemes | OAMPS (UK) Limited | 10 Fenchurch Street, London, EC3M 3BE | 01969267 | 302649 |
| Pen Underwriting (e-Underwriting)* Pen Underwriting (Woodbrook)* Pen Underwriting (OIM)* AJG Underwriting Group* E-Underwriting * OIM * Woodbrook Underwriting* | Pen Underwriting Limited (formerly known as OIM Underwriting Limited) | The Walbrook Building, 25 Walbrook, London, EC4N 8AW | 05172311 | 314493 |
| Pen Underwriting (Vela) Vela Underwriting Vela Risk Services | Oval Insurance Broking Limited | 9 South Parade, Wakefield, West Yorkshire, WF1 1LR | 01195184 | 303041 |

| Trading name(s) | Registered company name of Pen entity | Registered office | Company Registered Number | UK Regulator's Firm Reference Number |
|---|---------------------------------------|--|---------------------------|--------------------------------------|
| Pen Underwriting (Keelan-Westall) Keelan Westall | Property & Commercial Limited | The Walbrook Building, 25 Walbrook, London, EC4N 8AW | 08206861 | 591070 |
| Pen Underwriting (Zennor) | Zennor Limited | The Walbrook Building, 25 Walbrook, London, EC4N 8AW | 04254495 | 312733 |
| Evolution Underwriting Group | Evolution Underwriting Limited | Suite 2, 8 West End, Kemsing, Sevenoaks, Kent, TN15 6PX | 04996236 | 309603 |

*Trading names previously used by Pen Underwriting Limited

SCHEDULE 3

ELECTRONIC SYSTEM(S)

- 1 Pen will provide nominated staff of the Broker with usernames and passwords, use of which will give restricted access to the Electronic System(s).
- 2 Access will be restricted to;
 - 2.1 completion and amendment of risk submissions to Pen;
 - 2.2 completion and submission of proposed amendments in relation to the Broker's Policies which were originally brokered by use of the Electronic System(s); and
 - 2.3 view access to all the Broker's risk submissions regardless of outcome.
- 3 If Pen becomes aware or suspects that any unauthorised person has obtained or has attempted to obtain access to the Electronic System(s) then Pen shall notify the user whose account was used for that attempt and shall immediately disable that account until a full investigation has been undertaken.
- 4 The Broker undertakes not to;
 - 4.1 attempt to obtain access to, use or interfere with data of Pen or data relating to matters other than those risks submitted by the Broker;
 - 4.2 permit the disclosure of any user account details by any individual user to any other person, including but not limited to other employees of the Broker; or
 - 4.3 input anything obscene, offensive or defamatory.
- 5 The Broker shall indemnify Pen against any loss, damage or liability which Pen may sustain or incur as a consequence of the Broker failing to comply with the above undertaking.
- 6 The Broker shall ensure that;
 - 6.1 passwords are kept secure and that each member of the Broker's staff keep their password confidential at all times; and
 - 6.2 the Broker uses and processes any personal data contained in the Electronic System(s) only in accordance with the provisions of the Data Protection Legislation.
- 7 Pen shall use reasonable endeavours to maintain the Electronic System(s) in operation 24 hours per day, save for (i) scheduled maintenance outside normal business hours in the UK or (ii) emergencies requiring or resulting in the unavailability of the Electronic System(s), but Pen makes no warranties as to the availability of the Electronic System(s).
- 8 Notwithstanding the above Pen reserves the right to;
 - 8.1 withdraw all or any part of the Electronic System(s) at any time with immediate effect;
 - 8.2 alter the areas of the Electronic System(s) to which the Broker has the right of access; and
 - 8.3 stipulate further terms of use of the Electronic System(s) on the Electronic System(s) from time to time.
- 9 Pen shall not be liable for any loss or damage sustained or incurred by the Broker as a result of any use, failure or breakdown of the Electronic System(s).
- 10 In the event that any of the Broker's staff that has been provided with a username and password to access the Electronic System(s) leaves the Broker's employment during the term of this Agreement, the Broker shall, without undue delay, notify Pen of the same.

Signed for and on behalf of Pen Underwriting Limited, Evolution Underwriting Limited, Heath Lambert Limited, Ink Underwriting Agencies Limited, OAMPS (UK) Limited, Oval Insurance Broking Limited, Property & Commercial Limited and Zennor Limited:

| | |
|--------------------------|--|
| Signed |  |
| Name of Signatory | Ian Story |
| Position | Director of Pen Underwriting Limited, Evolution Underwriting Limited, Heath Lambert Limited, Ink Underwriting Agencies Limited, OAMPS (UK) Limited, Oval Insurance Broking Limited, Property & Commercial Limited and Zennor Limited |
| Date | 18 May 2018 |

This Agreement shall be deemed to have been signed by both Parties on the date that you (on behalf of the Broker) electronically submit to Pen via the Pen Portal acceptance to be bound by the Agreement.

Once electronic acceptance has been submitted by you (on behalf of the Broker) to Pen, an acceptance of terms and signature receipt ("**Acceptance Receipt**") will be sent to you via e-mail and also available to you on the Pen Portal which shall be deemed to be the Commencement Date of this Agreement.

This Agreement shall be read in conjunction with your Acceptance Receipt, which forms part of this Agreement.

Pen Underwriting is the overarching brand for the MGA businesses within our group.

- Pen Underwriting Limited. Company Number: 5172311
- Pen Underwriting (Zennor) is a trading name of Zennor Limited. Company Number: 4254495
- Pen Underwriting (Ink), Pen Underwriting (Commercial), Pen Underwriting (Dallas Kirkland), Pen Underwriting (IRS), Dallas Kirkland (Professions), Dallas Kirkland Recruitinsure, IRS, Indemnity Risk Solutions and Ink Insurance are trading names of Ink Underwriting Agencies Limited. Company Number: 3110970
- Pen Underwriting (OAMPS) and OAMPS Schemes are trading names of OAMPS (UK) Limited. Company Number: 1969267
- Pen Underwriting (Vela), Vela Underwriting and Vela Risk Services are trading names of Oval Insurance Broking Limited. Company Number: 1195184
- Pen Underwriting (Think), Think e-trading, Heath Lambert Insurance Services (HLIS) and Homeline are trading names of Heath Lambert Limited. Company Number: 1199129
- Pen Underwriting (Keelan-Westall) and Keelan Westall are trading names of Property & Commercial Limited. Company Number: 8206861
- Evolution Underwriting Limited. Company Number: 04996236

All legal entities mentioned above are authorised and regulated by the Financial Conduct Authority. Registered in England and Wales. Registered Office (unless otherwise stated): The Walbrook Building, 25 Walbrook, London EC4N 8AW. Oval Insurance Broking Limited - Registered Office: 9 South Parade, Wakefield, WF1 1LR. Evolution Underwriting Limited – Registered Office: Suite 2, 8 West End, Kemsing, Sevenoaks, Kent, TN15 6PX.

