



Dated 01 December 2015

Premier Commercial Limited

and

**TERMS OF BUSINESS AGREEMENT
WITH RISK TRANSFER**

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An Agreement dated 01 December 2015 governing the conduct of insurance business between:

- (1) **Premier Commercial Limited** company number SC160330 of 1a Lansdowne Crescent, Edinburgh EH12 5EQ (the “**Coverholder**”); and
(2) **Limited** company number of (the “**Broker**”),

(each a “**Party**” and collectively the “**Parties**”).

1 DEFINITIONS

1.1 In this Agreement, unless otherwise specified, the following words and expressions shall have the following meanings:

Agreement means this agreement as amended from time to time;

Appointed Representative has the definition in the Glossary to the FCA Handbook;

BIPAR Principles means the high level principles regarding placement of a risk with multiple Coverholders issued by BIPAR, the European Federation of Insurance Intermediaries, in Brussels on 28 April 2008;

Broker's Trust Account means a statutory or non-statutory client account established and operated in accordance with CASS 5.3 or CASS 5.4 in the name of the Broker with an approved bank (as defined in the FCA Handbook) in the Territory;

CASS means the Client Assets Sourcebook contained within the FCA Handbook;

Claim means any claim, fact or circumstance which may give rise to a claim, communicated by the Policyholder to the Broker under the terms and conditions of the Policy of Insurance;

Claims Money means money of any currency held by the Broker in respect of a Policyholder's Claim;

Commission means commission due and payable to the Broker at the rates and times (if any) set out in a relevant Slip or as otherwise agreed in writing between the Coverholder and the Broker in accordance with clause 5 in respect of that Insurance Business;

Coverholder means Premier Commercial Limited in its capacity as an approved Coverholder on behalf of certain underwriters at Lloyd's

FCA means the Financial Conduct Authority or any successor regulatory body or bodies;

FCA Handbook means the FCA Handbook of Rules and Guidance, as amended from time to time;

Group has the meaning given to it in section 421 of the Financial Services and Markets Act 2000;

HMRC means HM Revenue and Customs;

ICOBS means the Insurance: New Conduct of Business Sourcebook of the FCA Handbook;

Insurance Business means any Policy of Insurance where the Broker carries out Insurance Mediation Activities under this Agreement. For the avoidance of doubt Insurance Business does not include any outwards reinsurance business placed by the Broker as agent of the coverholder;

Insurance Documentation means the Policy of Insurance and any schedules and endorsements and all other relevant documents in a form previously approved by the Coverholder;

Insurance Mediation Activities has the meaning given to such expression in the FCA Handbook;

Insurance Premium Taxes or **IPT** means any tax levied on non-life insurance premiums by HM Revenue and Customs;

Policyholder means a person or legal entity or entities to whom or which a Policy of Insurance has or had been issued by the Coverholder;

Policy of Insurance means a policy of insurance or reinsurance falling within the definition of “contract of insurance” in Article 3(1) of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (the **RAO**), as amended from time to time, and more particularly within one or more of the class(es) of general insurance business set out in the RAO, written and issued by the Coverholder to a Policyholder, which sets out the terms and conditions upon which insurance or reinsurance cover is provided by the Coverholder on behalf of Certain Underwriters at Lloyd's to that Policyholder and in connection with which the Broker carries or has carried out Insurance Mediation Activities under this Agreement and “**Policies of Insurance**” shall be construed accordingly;

Premium means the aggregate amount of money charged by the Coverholder for writing and issuing a Policy of Insurance and includes new business premium, renewal premium and additional premium and, to the extent the Coverholder is responsible for collection of Taxes relating thereto, such Taxes;

Promotional Materials means any materials of whatever kind and in whatever form prepared or used for the advertising, promotion and marketing of the Policies of Insurance;

Records means all books, records, correspondence whether electronic or otherwise in respect of the Insurance Business;

Slip means a document which is or is to form the basis of a Policy of Insurance and which may incorporate details, amongst others, of administrative arrangements pertinent to the processing of the Policy of Insurance and the amount and payment of Commission;

Taxes means all Insurance Premium Taxes and other fiscal or para-fiscal charges which may be levied by any UK or overseas fiscal authorities on insurance premiums; and

Territory means the United Kingdom meaning England, Scotland, Wales and Northern Ireland, and excluding the Channel Islands and the Isle of Man.

1.2 In this Agreement:

- (a) references to **clauses** and **schedules** are to clauses of, and schedules to, this Agreement respectively and references in a schedule or part of a schedule to paragraphs are to paragraphs of that schedule or that part of that schedule respectively;
- (b) references to this Agreement or any other document are to this Agreement or that document as in force and amended from time to time;
- (c) the headings and the contents table are for convenience only and do not affect its interpretation;
- (d) words importing either gender or the neuter include every gender and the neuter;
- (e) references to the singular include the plural and vice versa;
- (f) a reference to a **company** shall include any company, corporation or other body corporate, wherever and however incorporated or established;
- (g) references to **persons** include companies, firms, unincorporated associations and governmental, semi-governmental and local authorities or agencies;
- (h) any words following the terms **including, include, in particular** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms;
- (i) references to any English law, regulation or legal term shall, for any jurisdiction other than England and Wales, be deemed to include a reference to the law, regulation or term which most nearly approximates to the English law, regulation or legal term in that jurisdiction;
- (j) references to any statute or any section of any statute include instruments and regulations under it in force from time to time and any amendment, modification or re-enactment of any of them; and
- (k) references to any codes of practice include any amendments or revisions to them from time to time.

2 COMMENCEMENT AND TERM

This Agreement is deemed to come into effect as of its date and shall continue in effect until terminated in accordance with clause 8.

3 SCOPE

- 3.1 The Parties agree that if there should be any conflict between the terms of this Agreement and the terms of a Slip, the terms of the Slip will prevail.
- 3.2 Except as provided under clause 6.1 and 11.3, the Broker shall act as agent of the Policyholder or prospective Policyholder and the Coverholder acknowledges that nothing in this Agreement overrides the Broker's duty to act in the best interests of the Policyholder or prospective Policyholder nor shall this Agreement override any legal or regulatory requirements (whether obligatory or advisory) which may apply to the Broker, the Coverholder or the placing of the Insurance Business.
- 3.3 Subject to clause 3.5 below, the Parties agree that the terms of this Agreement shall apply to any Insurance Mediation Activities in respect of the Insurance Business which are carried on by the Broker on or after the date on which this Agreement comes into effect. The terms of this Agreement supersede the terms of any other terms of business agreement (TOBA) already in place between the Parties.
- 3.4 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 the Coverholder 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 Coverholder.
- 3.5 The Broker is not authorised to bind the Coverholder, issue Policies of Insurance or endorsements or defend, dispute or settle Claims unless otherwise expressly authorised to do so in writing by the Coverholder.
- 3.6 The Broker shall not represent itself or hold itself out as an agent of the Coverholder for any purpose other than as set out in clause 6.1 and 11.3 or pledge the Coverholder's credit or give any condition or warranty or make any representation (whether oral or written) on the Coverholder's behalf to any Policyholder, prospective Policyholder or any other third party. Further, the Broker shall not make any promise, representation or statement with reference to the Policies of Insurance beyond those contained in the Promotional Materials supplied by the Coverholder or otherwise incur any liability on behalf of the Coverholder.
- 3.7 Nothing in this Agreement shall grant the Broker authority to accept, amend, or vary Policies of Insurance, settle, negotiate or compromise Claims, alter any document or Policy of Insurance, make any financial promotion on the Coverholder's behalf, and/or commit the Coverholder in any way.
- 3.8 The Coverholder is entering into this Agreement in respect of insurance business effected and carried out from its UK operations only.

4 REGULATORY STATUS

- 4.1 The Broker warrants that it is authorised by the FCA to conduct Insurance Mediation Activities from the date of this Agreement. The Coverholder warrants that it has the necessary FCA authorisations to conduct the Insurance Business from the date of this Agreement. Both Parties shall be responsible at their own cost and expense for obtaining and maintaining all authorisations, licences, permits and approvals which are necessary or advisable for it to perform its duties and obligations hereunder.
- 4.2 The Broker shall inform the Coverholder immediately in writing if at any time during the period of this Agreement:
- (a) the FCA suspends, varies or withdraws the Broker's authorisation;
 - (b) the Broker otherwise ceases in any way to be authorised by the FCA to undertake Insurance Mediation Activities;
 - (c) the Broker becomes insolvent;
 - (d) the Broker is involved in any other circumstances that may diminish the Coverholder's market reputation including any criminal investigations, discovery of fraud and any other conduct deemed by the Coverholder to adversely affect its market reputation or give rise to a termination event under clause 8; or
 - (e) the FCA initiates an investigation or enforcement action is taken in respect of the Broker (or its employees, agents, representatives or sub-contractors).
- 4.3 The Broker undertakes to maintain in force at all times professional indemnity insurance in accordance with the requirements prescribed by the FCA.
- 4.4 The Coverholder shall inform the Broker immediately in writing if at any time during the period of this Agreement:
- (a) the FCA suspends or withdraws the Coverholder's authorisation; or
 - (b) the Coverholder otherwise ceases to be authorised by the FCA to undertake any activities in relation to any Insurance Business subject to this Agreement; or
 - (c) the Coverholder becomes insolvent.
- 4.5 Each Party will comply with its respective legal, licensing and regulatory requirements and applicable law and codes of practice in force and which apply to this Agreement and/or the Parties' respective obligations hereunder including, but without limitation, all FCA rules and requirements.
- 4.6 The Broker will inform the Coverholder in relation to business transacted under this Agreement whether the Policyholder is classified as a retail customer (consumer) or a commercial customer for the purposes of the FCA's ICOBS rules.
- 4.7 The Broker will promptly forward notice of Policyholders' rights to cancel Policies of Insurance in all instances where such notices are required by Chapter 7 of ICOBS and in accordance with those rules.
- 4.8 The Parties will adopt and/or maintain procedures to ensure that each has in place arrangements for the implementation of the FCA principle of treating customers fairly. The Coverholder shall notify the Broker from time to time of its practices and procedures for ensuring it treats customers fairly and the Broker shall comply with the Coverholder's requests for information regarding the Broker's practices and procedures for implementing the FCA rules in relation to treating its customers fairly.
- 4.9 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.
- 4.10 Each Party will pay due regard to the BIPAR Principles.
- 4.11 Each Party will pay due regard to, and co-operate in respect of the observance of any applicable international economic, financial or trade sanctions legislation which binds the client, the Broker or the Coverholder or their Groups.
- 4.12 Neither Party shall be involved in the offering, promising or giving of any financial or other advantage to any person in breach of any law against bribery (including the Bribery Act 2010). Each Party shall, whether or not the Parties are associated persons for the purposes of the Bribery Act 2010, maintain on an ongoing basis its own anti-corruption and bribery policies and procedures to prevent corruption and bribery offences.

5 REMUNERATION

- 5.1 The Broker shall be entitled to payment of Commission on Premium actually received by the Coverholder from the Broker on Policies of Insurance issued or renewed by the Coverholder. Commission shall become payable to the Broker when the Premium (less such Commission) is actually received by the Coverholder, or as otherwise agreed with the Coverholder in the Slip or otherwise expressly agreed in writing with the Coverholder.
- 5.2 The Broker shall be entitled to deduct Commission payable to it pursuant to clause 5.1 from the relevant Premium on payment of that Premium (less the Commission) to the Coverholder. Commissions repayable by the Broker to the Coverholder shall be set-off against Commission payable to the Broker pursuant to this sub-clause. If any dispute arises as to the amount of Commission payable by the Coverholder to the Broker, such dispute shall be referred to the Coverholder's auditors for settlement and their certificate shall be binding on both Parties.

- 5.3 The Broker agrees to return promptly to the Coverholder Commission previously paid to it, or debited from the relevant Premium, on Premiums reimbursed to the Policyholder under any Policy of Insurance for any reason whether the reimbursement is made during or after the term of this Agreement.
- 5.4 If the Broker ceases to be the Policyholder's broker of record during the term of a multi-year Policy of Insurance, the Broker shall be entitled to Commission on a pro-rata basis for each year for which the Broker was the Policyholder's broker of record. If Commission has been paid to the Broker for the entirety of a multi-year Policy of Insurance, the Broker shall reimburse the balance of the Commission which the Broker has not earned to the Coverholder within thirty (30) days of the Broker ceasing to be the broker of record.
- 5.5 If the Broker ceases to be the Policyholder's broker of record during the term of any annual Policy of Insurance, the Broker shall nevertheless be entitled to the entire Commission payable by the Coverholder pursuant to sub-clause 5.1 above, subject to the provisions of sub-clause 5.3 above, with respect to that annual Policy of Insurance.

6 PREMIUMS AND CLAIMS

- 6.1 Where the Broker holds:
- (a) Premium due to be paid to the Coverholder; or
 - (b) refunds of Premium due to be paid to the Policyholder; or
 - (c) Claims Money due to be paid to the Policyholder or a third party; or
 - (d) money received from the Coverholder for onward payment to agents of the Coverholder in respect of claims adjustment, legal and other professional fees,
- the Broker shall hold such monies as agent of the Coverholder. The Broker has no authority under this Agreement to permit any third-party, sub-agent or Appointed Representative to receive, hold, or pay any money on behalf of the Coverholder, without the Coverholder's consent.
- 6.2 Pending payment to the Coverholder, client or third party (as the case may be), the Broker shall hold the monies described in clause 6.1 above as the agent and trustee of the Coverholder. The Coverholder hereby agrees that such monies shall be held by the Broker in the Broker's Trust Account and the Coverholder agrees and acknowledges that such monies may be co-mingled with other monies held by the Broker in that account. The Coverholder further consents to its rights with regard to monies held in the Broker's Trust Account being subordinated to those of the Broker's clients, in accordance with CASS 5. The Coverholder further agrees that any interest earned on the Broker's Trust Account shall belong to the Broker.
- 6.3 The Broker shall procure that the bank which holds the Broker's Trust Account has no rights by way of charge (whether fixed or floating) encumbrance, lien or right of set-off, compensation or retention against monies in such account at any time.
- 6.4 Unless otherwise expressly agreed from time to time between the Coverholder and the Broker either in the Slip or in writing, the Broker shall be responsible for collecting Premium in respect of all Policies of Insurance and endorsements issued by the Coverholder from time to time.
- 6.5 Premium shall (subject to clause 7) be remitted to the Coverholder no later than thirty (30) days from the date the Broker invoices the Policyholder for the Premium. The Broker agrees and acknowledges that the Coverholder is entitled to deem that the Broker will have invoiced the Policyholder for the Premium no later than five (5) business days after the inception date of the Policy of Insurance.
- 6.6 Where the Broker holds Premium refunds, Claims Money or other monies due to be paid to the Policyholder, the Broker shall ensure that such monies are paid to the Policyholder promptly.
- 6.7 The Broker shall advise the Coverholder, within seven (7) days of receipt of any request from the Coverholder, whether it has received any specified Premiums.
- 6.8 Unless otherwise agreed, the Broker shall remain personally liable to the Coverholder for Premium where Section 53(i) and Section 53(ii) of the Marine Insurance Act 1906 apply.
- 6.9 If the Broker is unable to collect and remit Premium received from a Policyholder within the timeframe specified in sub-clause 6.5 above or in a timeframe otherwise agreed in writing with the Coverholder, the Broker shall promptly inform the Coverholder in writing. The Coverholder shall then inform the Broker in writing (without prejudice to its right to contact the Policyholder direct and to collect Premium for its own account) that either:
- (a) the Coverholder shall remain on risk for a specified period pending payment of Premium (but if the Coverholder does not receive the Premium during that period the Coverholder shall be deemed to have cancelled the Policy of Insurance with effect from inception and the Broker will immediately notify the Policyholder of such cancellation); or
 - (b) the Coverholder has cancelled the Policy of Insurance with effect from inception (and the Broker will immediately notify the Policyholder of such cancellation).
- 6.10 In the absence of prompt notification by the Broker to the Coverholder in accordance with sub-clause 6.9 that the Broker has failed to collect the Premium from a Policyholder, or if the Broker fails immediately to notify a Policyholder of the cancellation of their Policy of Insurance under sub-clause 6.9, the Broker shall be responsible for payment to the Coverholder of the Premium in respect of such Policy of Insurance.

- 6.11 Notwithstanding sub-clause 6.10, the Broker shall be responsible with immediate effect for payment to the Coverholder of the Premium due where the Coverholder agrees to a request from the Broker to make payment of a Claim before the payment to the Coverholder of the Premium due in respect of that Policy of Insurance.
- 6.12 The Broker warrants that it will not do anything to prevent, hinder or prejudice the Coverholder's right to collect Premium for Policies of Insurance in the circumstances set out in sub-clause 6.9.
- 6.13 For the avoidance of doubt, unless expressly agreed with the Coverholder in writing the Broker shall not be entitled to any Commission for Premium collected by the Coverholder.
- 6.14 Where the Coverholder has agreed to pay a Claim, the Broker shall be entitled to set off the amount of Claims Money which the Coverholder has agreed to pay in relation to such Claim against any Premium which the Broker remits to the Coverholder.

7 TAXES

- 7.1 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 the Coverholder with regard to the payment of any Taxes relating to any Insurance Business.
- 7.2 Subject to clause 7.3, the Coverholder shall be responsible for remitting IPT to HMRC unless otherwise agreed between the Parties.
- 7.3 Where at the date of this Agreement it is market practice that the Broker administratively arranges payment of Taxes, that practice shall continue. The Broker shall co-operate with any written requests for information received from the Coverholder and provide such information as the Coverholder may require in order to calculate IPT payable on Premiums received by the Coverholder and any other Taxes.
- 7.4 Where the Broker processes and pays Taxes on behalf of the Coverholder in respect of any Insurance Business, the Broker will hold such monies in accordance with clause 6.1 above for the Coverholder and account to the Coverholder for amounts received by the Broker in respect of such liability for Tax which the Coverholder may have in respect of that Insurance Business.
- 7.5 If HMRC disputes the amount of any IPT paid by or on behalf of the Coverholder in respect of the Insurance Business, the Party receiving notice of such dispute shall inform the other party within 14 days of receipt of such notice. The Broker shall not respond to HMRC in respect of any such dispute without the prior written approval of the Coverholder. The Parties shall cooperate to establish whether any amount of IPT claimed by HMRC is properly due, and either Party may refer the issue to a major accounting firm or QC specialising in indirect taxation whose advice shall be binding on the Parties. Each Party shall bear its own costs in respect of such referral and the costs of the accounting firm or QC shall be shared equally. Any decision as to whether an appeal under Section 60 of the Finance Act 1994 or otherwise is submitted shall rest solely with the Coverholder.
- 7.6 If HMRC rejects any submission made by the Parties under clause 7.5 and issues an assessment for additional IPT, interest and/or penalties against the Coverholder then, unless such assessment is a direct consequence of an error or omission on the part of the Coverholder, the Broker will pay to the Coverholder the amounts so assessed within 25 working days of the receipt of such assessment(s).

8 TERMINATION

- 8.1 Either Party shall have the right to terminate this Agreement by serving not less than thirty (30) calendar days' written notice on the other Party.
- 8.2 If the Broker commits a material breach of this Agreement, the Coverholder shall be entitled, without prejudice to any other rights and remedies under this Agreement or otherwise, to serve written notice upon the Broker:
- (a) specifying the nature of the breach or breaches in as much detail as the Coverholder is reasonably able to provide; and
 - (b) requiring the Broker to remedy such breach or breaches within thirty (30) days of the date of service of the written notice on the Broker, failing which this Agreement shall terminate immediately.
- 8.3 Either Party may terminate this Agreement immediately by serving written notice on the other Party if the other Party:
- (a) has any step taken (and not withdrawn within thirty (30) days) against it to appoint an administrator, trustee or other similar officer over all or any part of its property or assets;
 - (b) other than for the purposes of a solvent reconstruction, convenes a meeting of its creditors or makes a voluntary arrangement with its creditors or becomes subject to an administration order;
 - (c) has any order made by any competent court or passes a resolution for its winding up or dissolution or for the appointment of a liquidator (except for the purpose of a solvent amalgamation or reconstruction);
 - (d) becomes the subject of voluntary or involuntary rehabilitation or liquidation proceedings (save for the purposes of amalgamation or solvent re-organisation) or becomes the subject of an action in bankruptcy or makes or proposes any composition with its creditors or otherwise acknowledges its insolvency;
 - (e) is unable to pay its debts as and when they fall due or ceases or threatens to cease to carry on all or a substantial part of its business;
- or

- (f) has any authority or permission granted to it by the FCA suspended, varied or withdrawn by the FCA in such a manner as to materially affect in any way the Broker's ability to carry on Insurance Mediation Activities.
- 8.4 If there is any material change in either Party's circumstances, that Party shall promptly notify the other of any material change in its circumstances including but not limited to its ownership, capital structure or financial situation or anything which may affect its capacity to carry out its obligations under this Agreement.
- 8.5 The Coverholder may, for whatever reason, on written notice to the Broker immediately suspend all or any part of any authority granted to the Broker under this Agreement.
- 8.6 In the event of termination of this Agreement, termination of a Policy of Insurance or alteration to the terms and conditions of a Policy of Insurance for whatever reason the Parties undertake to act in good faith and use all reasonable endeavours to agree the text of a letter of notification to be sent to the Policyholder. The Coverholder reserves the right, at all times, to notify the Policyholder of the termination of this Agreement, termination of a Policy of Insurance or alteration to the terms and conditions of a Policy of Insurance.
- 8.7 Termination of this Agreement shall be without prejudice to the Coverholder's rights to receive Premiums or to the Broker's right to its Commission or other remuneration due in respect of Policies of Insurance bound pursuant to this Agreement.
- 8.8 Upon termination of this Agreement:
- (a) the Broker shall immediately cease to exercise all authorities and rights granted under this Agreement;
 - (b) the Broker shall immediately pay to the Coverholder all and any outstanding balances due to the Coverholder;
 - (c) the Parties shall agree the procedure for administering the Insurance Business current at the time of termination;
 - (d) nothing in this Agreement shall be construed or have effect as constituting any relationship of commercial agent and principal between the Broker and the Coverholder. Upon termination of this Agreement for whatever reason the Broker shall not have any claims for damages or compensation of any nature whatsoever and shall merely be entitled to any outstanding Commission and other remuneration if any due to it;
 - (e) each Party shall promptly deliver to the other Party or, so far as reasonably practicable, destroy or irretrievably delete all copies of Confidential Information received by it originating from the other Party except to the extent required by any Applicable Requirements or by the Coverholder's own records management policy; and
 - (f) where permissible the Parties will remain liable to perform their obligations in accordance with the terms of this Agreement in respect of all Policies of Insurance subject to this Agreement until Policies of Insurance have expired or have otherwise been terminated.

9 ACCOUNTS AND FINANCIAL HEALTH

- 9.1 The Broker shall provide to the Coverholder on an annual basis and upon request by the Coverholder a copy of its accounts as filed with the registrar of companies.
- 9.2 The status of the Broker as an approved broker of the Coverholder will at all times be conditional upon a satisfactory review by the Coverholder of the financial health and stability of the Broker.

10 DATA PROTECTION

- 10.1 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.
- 10.2 Without prejudice to the generality of clause 10.1, where either Party (the "**Disclosing Party**") discloses Personal Data (as defined in the DPA) to the other (the "**Recipient**") in connection with the operation of this Agreement, the Disclosing Party will ensure that it obtains all necessary consents from the Policyholder or any third party that is necessary so that the Personal Data it provides to the Recipient can be lawfully processed, used by or disclosed by the Recipient in the manner and for the purposes anticipated by this Agreement. Further, each Party shall comply with any request it receives from data subjects for access or changes to its Personal Data and neither Party shall require the other to take any action which would cause the other to be in breach of the DPA and its notification thereunder.
- 10.3 The Parties shall take reasonable care to establish and maintain appropriate technical and organisational measures against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data.

11 ACCESS TO RECORDS

- 11.1 The Broker shall retain all of the Records created or held by it in its capacity as agent of the Coverholder 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, or longer if required by any such law or body with jurisdiction over the Broker, the Coverholder or the Insurance Business.
- 11.2 The Broker agrees to allow the Coverholder, on reasonable notice, to inspect and to take copies of the following:
- (a) the accounting records relating to any Insurance Business including information whether written or oral relating to the receipt and payment of Premiums and Claims Monies 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

(b) such documents as may be in the possession of the Broker which were disclosed to the Coverholder by the Broker or the Policyholder 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 If the Coverholder 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 Coverholder and the Coverholder's representatives or agents:

- (a) the Broker accepts the Coverholder'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;
- (b) 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 Coverholder, other than documents over which the Broker has a proprietary commercial interest;
- (c) the Broker will take all reasonable steps to retain, maintain and safeguard any of the Coverholder's documents in the Broker's possession in accordance with any regulatory requirements which apply to the Coverholder and of which the Broker has notice; and
- (d) on termination of this Agreement for whatever reason and on reasonable notice the Broker will deliver up to the Coverholder such documentation if requested.

12 CONFIDENTIALITY

12.1 Each of the Parties will treat as confidential all information or data (including all oral and visual information or data and all information or data recorded in writing or in any other medium or by any other method) received from the other relating to this Agreement and to the Policies of Insurance ("**Confidential Information**"), except to the extent that such information is public knowledge or acquired from another source other than as a result of any breach of this Agreement. Neither Party shall disclose Confidential Information to any third party or use it for any purpose other than is necessary to perform its obligations under this Agreement or any Policy of Insurance or as may be required by law or by any governmental or regulatory authority. For the avoidance of doubt each party shall be entitled to disclose Confidential Information where necessary to its Coverholders or reCoverholders, actuaries, auditors, professional agents and advisers and officers and employees. Unless prohibited by law or regulation, the party disclosing Confidential Information to any other person will ensure that such other person is made aware of and shall comply with the restrictions as to confidentiality set out in this clause 12.

12.2 The provisions of this clause 12 shall survive and continue to apply for a period of three (3) years following the expiration or termination of this Agreement howsoever caused.

13 PROTECTION OF REPUTATION

Neither Party shall advertise on behalf of the other, nor shall either Party use the other's name, trade names, trademarks or logos or data or any part of them in advertising without the other's prior written consent. Neither Party shall communicate any non-exempt financial promotions in respect of the other and the other's business unless it is authorised to do so or unless the other Party has given its consent.

14 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 the performance of its obligations under this Agreement or as required by applicable law.

15 ENTIRE AGREEMENT

15.1 Subject to sub-clause 15.2:

- (a) this Agreement (together with all other documents to be entered into pursuant to it) sets out the entire agreement and understanding between the Parties, and supersedes all proposals and prior agreements, arrangements and understandings between the Parties, relating to its subject matter; and each Party acknowledges that in entering into this Agreement (and any other document to be entered into pursuant to it) it does not rely on any representation, warranty, collateral contract or other assurance of any person (whether Party to this Agreement or not) that is not set out in this Agreement or the documents referred to in it; and
- (b) each Party waives all rights and remedies which, but for this clause, might otherwise be available to it in respect of any such representation, warranty, collateral contract or other assurance. The only remedy available to any Party in respect of any representation, warranty, collateral contract or other assurance that is set out in this Agreement (or any document referred to in it) is for breach of contract under the terms of this Agreement (or the relevant document).

15.2 The Coverholder may rely upon any express representations made by the Broker to the Coverholder.

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 the Insurance Business.

17 VARIATION AND ASSIGNMENT

- 17.1 No variation of this Agreement shall be effective unless it is in writing, expressed to amend this Agreement and signed by or on behalf of each of the Parties, save that the Coverholder, in its absolute discretion, has the right to amend the Insurance Documentation at any time by written notice to the Broker.
- 17.2 Unless this Agreement expressly states otherwise, no right, authority or obligation arising under it may be delegated, assigned, transferred or otherwise disposed of, in whole or in part, by any Party without the prior written agreement of the other Party, such consent not to be unreasonably withheld or delayed.
- 17.3 The Coverholder shall be entitled to delegate or assign any of its rights or obligations under this Agreement to any Group undertaking.

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 SEVERABILITY

If any provision in this Agreement is or at any time becomes to any extent invalid, illegal or unenforceable under any enactment or rule of law, such provision will, to that extent, be deemed not to form part of this Agreement but the validity, legality and enforceability of the remainder of this Agreement will not be affected.

20 FORCE MAJEURE

The Parties shall be released from their respective obligations in the event of national emergency, war, prohibitive governmental regulations or if any other cause beyond the reasonable control of the Parties renders performance of the Agreement impossible for a period of more than thirty days, whereupon all money due to the Coverholder shall be paid immediately and this Agreement shall be deemed to have been terminated.

21 COMPLAINTS

Each Party will notify the other Party in accordance with the FCA rules and, in any event, as soon as reasonably practicable after becoming aware of the complaint, of any complaint concerning either Party relating to the Insurance Business and Insurance Mediation Activities subject to this Agreement.

22 SERVICE OF NOTICES

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

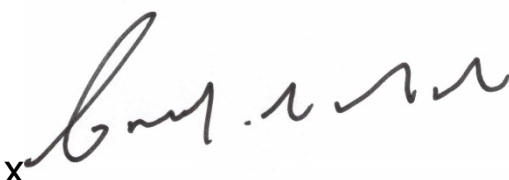
23 DISPUTE RESOLUTION

- 23.1 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:
- (a) 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; or
 - (b) will attempt in good faith, if the matter is not resolved through negotiation within three (3) 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
 - (c) if the matter has not been resolved by mediation within six (6) 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 clause 24 below.
- 23.2 Notwithstanding the above, either Party may seek the immediate protection or assistance of the High Court of England and Wales if appropriate.

24 JURISDICTION AND CHOICE OF LAW

This Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be construed according to English law and any such dispute or claim shall, subject to the provisions of clause 23 above, be determined in the English Courts.

Signed for and on behalf of

The Coverholder – Premier Commercial Limited	
 X	
By	Crawford Boyd
Position	Managing and Underwriting Director
The Broker –	
X	
By:	
Position:	

SPECIMEN