

## Terms of Business Agreement

### BETWEEN

- (1) **INCEPTA Risk Management Limited** (Company Number 7285254) of 141/142 Fenchurch Street, London EC3M 6BL ("Us/Ourselves/Our/We"), and
- (2) **The Intermediary** as detailed on Page 14 of this Agreement and any Appointed Representatives of such as agreed in writing by Us and listed in this Agreement ("You/Your")
- (together the "Parties" and each a "Party").

### WHEREAS

- (A) Both Parties conduct insurance mediation activities and are both independently authorised and regulated by the Financial Conduct Authority under the terms of the Financial Services & Markets Act 2000 or more specific local Regulator if You are situated outside the United Kingdom.
- (B) You act on behalf of customers; as such term is defined in the FCA Handbook ("Customers") in relation to the provision of advice in relation to Customers' insurance requirements and the procuring of suitable Insurance Contracts on Customers' behalf ("Customer Business").
- (C) You wish to appoint Us to place certain of Your Customer Business with Insurers.
- (D) Both Parties wish to regulate the placing of such Customer Business and payment of commission on such Customer Business on the terms of this Agreement.

**IT IS HEREBY AGREED** as follows:

### 1. DEFINITIONS AND INTERPRETATION

- 1.1 In this Agreement (including the recitals), unless the context otherwise requires, the following words and expressions shall bear the following meanings: -

<b>"Act"</b>	the Financial Services and Markets Act 2000
<b>"Appointed Representative"</b>	as defined in Section 39 of the Act and being a wholly owned subsidiary or a member of the same group of companies as You and listed in this agreement.
<b>"Appointment"</b>	as defined in clause 3;
<b>"CASS"</b>	the Client Assets Sourcebook contained in the FCA Handbook;
<b>"Control"</b>	control (as such term is defined by section 840 of the Income and Corporation Taxes Act 1988);
<b>"Customers"</b>	as defined in FCA Handbook (each a "Customer");
<b>"Customer Business"</b>	as defined in recital (B);
<b>"DPA"</b>	as defined in clause 13;
<b>"Effective Date"</b>	Date this Agreement is signed by You or the date you request us to perform Our Obligations in respect of Customer Business whichever occurs first;
<b>"Force Majeure"</b>	an event beyond the reasonable control of a party including, without limitation, strike, lock out, labour dispute, act of God, war, warlike operations, act of terrorism, kidnap, riot, civil commotion, malicious damage, compliance with a law or governmental order, rule,

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	regulation or direction, accident, breakdown of plant or machinery, fire, flood or storm;
<b>“FCA”</b>	the Financial Conduct Authority or any successor regime;
<b>“FCA Handbook”</b>	the FCA’s Handbook of Rules and Guidance for Insurance Intermediaries;
<b>“FSMA”</b>	the Financial Services and Markets Act 2000;
<b>“ICOBS”</b>	the Insurance: Conduct of Business Rules contained in the FCA Handbook;
<b>“Information”</b>	as defined in clause 3.1;
<b>“Insurance Contracts”</b>	contracts (or policies) of insurance entered into between Insurers and one or more Insured pursuant to this Agreement (each an “Insurance Contract”);
<b>“Insureds”</b>	Your actual and potential Customers for whom You act in relation to Customer Business (each an “Insured”);
<b>“Insurers”</b>	insurance undertakings (as defined in the FCA Handbook) (each an “Insurer”);
<b>“Insurer Authorities”</b>	an agreement between Us and Insurers allowing Us to bind certain classes of risk and in some circumstances underwrite Insurance Contracts on their behalf.
<b>“Our Obligations”</b>	as defined in clause 3;
<b>“Regulatory Authority”</b>	the FCA, The Information Commissioner’s Office, Financial Ombudsman Service, HM Revenue and Customs and any other successor regime or regulatory body as may be applicable from time to time to the obligations provided by the parties under this Agreement. For the purposes of this definition the relevant industry requirements and regulations shall include but not be restricted to all relevant regulatory body codes of practice and guidelines;
<b>“Run-Off Policies”</b>	as defined in clause 11.2.1;
<b>“Underwriters”</b>	Those insurers and underwriters with which we have Terms of Business Agreements.
<b>“Your Commission” as</b>	defined in clause 9;
<b>“Your Obligations”</b>	as defined in clause 4.

1.2 Except where otherwise expressly stated, references in this Agreement to statutory provisions shall be construed as references to those provisions as modified or re-enacted from time to time whether before on or (in the case of re-enactment or consolidation only) after the date of this Agreement, and to any subordinate legislation made under such provision and shall include references to any repealed statutory provision which has been so re-enacted; and

1.3 Words and phrases defined in FSMA shall have the same meaning in this Agreement unless they are otherwise defined in this Agreement or unless the context or subject matter otherwise requires and references to statutory provisions shall be construed as references to those provisions as amended or re-enacted or as their application is modified by other provisions from time to time and shall include reference to any provisions of which they are re-enactments (whether with or without modification).

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- 1.4 In this Agreement, unless otherwise expressly provided, any reference to:-
- 1.4.1 a clause or a schedule is a reference to a clause of or a schedule to this Agreement;
  - 1.4.2 words importing the singular shall include the plural and vice versa; and
  - 1.4.3 the masculine gender shall include the feminine and neuter and the singular shall include the plural and vice versa.

### **2. DURATION**

This Agreement shall commence on the Effective Date and shall continue until such time as the Agreement is terminated in accordance with clause 10.

### **3. OUR OBLIGATIONS**

You hereby appoint Us to place Customer Business (the "Appointment") with effect from the Effective Date and to perform the following obligations for Your benefit (the "Our Obligations") in accordance with the terms of this Agreement. You acknowledge and accept that Our Obligations set out in this Agreement constitute, unless otherwise agreed in writing between the parties, an exhaustive list of Our service obligations to You and We accept no responsibility for or liability in respect of any other service obligations:-

- 3.1 to receive risk information and instructions from You relating to Insureds and to request, where appropriate, further information and instructions from You (the "Information");
- 3.2 You acknowledge and accept that We in some circumstances have authority delegated to Us by Insurers to administer Insurance Contracts (Insurer Authorities) and in dealing with any Customer Business placed under such authorities, We will be acting on behalf of Insurers and for which We may be separately remunerated by Insurers.
- 3.3 Under the Terms of Business Agreements we hold with the majority of Our Underwriters We, have been appointed agent (that is granted risk transfer) for the collection of Retail Premium monies or claims monies on behalf of such Underwriters and (where applicable) for the payment of Premium Refunds to Policyholders. Where risk transfer is cascaded to You as our sub agent you will be notified and it shall be subject to the following:
  - 3.3.1 Such monies shall be:
    - a) deposited in a segregated bank account in an Approved Bank (as defined by the FCA) which account shall be designated as an 'insurance broking trust account' or 'insurance trust bank account' and
    - b) shall be held on trust for the benefit of the Underwriters
  - 3.3.2 Such trust may either:
    - a) be for the benefit of the Underwriters (together if applicable with other insurers with whom We or You place insurance business) or
    - b) where regulatory requirements permit monies held on trust for the Underwriters to be treated as Client Money, such monies may be co-mingled with other Client Money and held in either a Statutory Trust or a Non-Statutory Trust and the Underwriters consent to their interest under such trust being subordinated to the interests of Our Customers and Your Customers who are not themselves insurers.
  - 3.3.3 We and You must supply to the Underwriters on request:
    - a) copies of all documents setting up and designating the bank account and/or constituting the trust and thereafter any copies of any amendments to such documents and
    - b) copies of all audits and accounts produced in relation to the trust
  - 3.3.4 The Underwriters appointment of Us and You as its agent for this purpose is for the protection of Policyholders and without prejudice to the Underwriters' right to recover from Us and You any premium received by Us or You and not passed on to the Policyholder

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- 3.3.5 We and You shall be entitled to interest on any premium held in a bank account set up and operated in accordance with this clause 3.3 subject where applicable to Regulatory Requirements
  - 3.3.6 References in this clause 3.3 to 'trusts' shall in the case of monies held in Scotland, refer to monies held in accordance with Scottish Law of Agency
  - 3.3.7 The Underwriters' may withdraw this appointment from Us with 14 days' notice in writing to Us.
  - 3.3.8 Where cascaded risk transfer does not apply then you will have fulfilled your fiduciary duty under CASS once we have received from you cleared payment in respect of Customer Business.
  - 3.3.9 For the avoidance of doubt cascaded risk transfer does not apply to any Appointed Representative or sub agent of You.
- 3.4 Following consideration of the Information to provide You with a quotation or advise where Insurers have declined cover.
  - 3.5 To effect Insurance Contracts with Insurers on receipt of firm instructions from You and provide confirmation that insurance cover is in place.
  - 3.6 To receive claims information from You or Insureds for onward transmission to Insurers or to administer within the limits of Our Insurer Authorities if applicable.
  - 3.7 Notwithstanding 3.6 If you require assistance from Us with an individual claim or run off claims handling services for previous placements which require a significant amount of time or expertise or which is otherwise onerous on our part, we reserve the right to charge for such services, such charge to be agreed with You before we provide the services in question.
  - 3.8 We shall exercise reasonable skill and care in performing Our Obligations.
  - 3.9 We will use all reasonable endeavours to monitor, using publicly available information, the financial standing of Insurers. We do not accept any liability and shall not be held in any way liable in any circumstances if Insurers are unable, for whatever reason, to meet their obligations to an Insured under an Insurance Contract.
  - 3.10 You acknowledge that We shall not provide, or be taken as providing You with advice in relation to any Customer Business, We shall not under any circumstances provide, or be taken as providing, advice to You in relation to the adequacy of insurance cover or sums insured.
  - 3.11 You acknowledge that We shall not under any circumstances be liable for or fund any premiums.
  - 3.12 You acknowledge and accept that in placing Insurance Contracts, We may receive additional income from the following sources:-
    - 3.12.1 interest earned on insurance monies passing through Our bank accounts;
    - 3.12.2 expense allowances or commissions from Insurers for managing and administering certain lineslips, covers, binding/delegated authorities and other similar facilities, including claims which may arise thereunder;
    - 3.12.3 profit commissions or profit share paid by Insurers on specific facilities and arrangements for a limited class of business; and
    - 3.12.4 administrative service fees which may be paid for specific services We provide to Insurers as part of the placing or claims process, including but not limited to fees for arranging premium finance.
  - 3.13 Subject to clause 3.14, You authorise Us to receive and request Information from any Appointed Representatives of You and, where Information is received by Us from an Appointed Representative, to deal directly with the Appointed Representative in relation to relevant Customer Business in the manner set out in this Agreement as if the Appointed Representative was You.

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- 3.14 We will not accept premiums and IPT (or any other applicable taxes, duties or charges) directly from an Appointed Representative (only via You).
- 3.15 Each party will promptly advise the other of any notice of cancellation either from the Client or the Insurer.
- 3.16 In the event of an Adjustment that results in a Return Premium or you terminate our Appointment or the Policies are cancelled before their natural expiry date we will refund the Return Premium due to you net of our full commission and any charge made by Insurers. Where the premium is being paid by instalments, we will claim our full commission together with any charge made by Insurers in the calculation of any Return Premium to you.
- 3.17 Except with Your prior consent, We will not contact the Customer directly

### **4. YOUR OBLIGATIONS**

In order to enable Us to perform Our Obligations, You shall with effect from the Effective Date perform the following obligations (“**Your Obligations**”) in accordance with the terms of this Agreement. If You fail to perform all or any part of the Your Obligations, We shall not be obliged to perform Our Obligations:-

- 4.1 to furnish Us with all information and documentation required for the placing of Insurance Contracts, and thereafter to provide any information or documentation subsequently becoming available in relation thereto which may affect the validity or enforceability of any Insurance Contract arranged by Us pursuant to this Agreement or as may be required by the terms of any Insurance Contract;
- 4.2 to check and verify the accuracy, adequacy and completeness of all information or documentation to be provided to Us in relation to the placing of Insurance Contracts. ; it is solely the responsibility of You to elicit (by providing examples and otherwise) from the Customer matters which ought to be disclosed to Insurers but which the Customer might not think it necessary to mention. It is acknowledged by You that We shall be under no duty to check or verify the accuracy or completeness of information or documentation;
- 4.3 to submit all proposal forms and any associated documentation to Us promptly, or within such period as is notified to You by Us in respect of any Insurance Contract from time to time;
- 4.4 to notify Us promptly of any complaints, actions, suits or proceedings in relation to You which affect or may affect any Insurance Contract or the future conduct of Customer Business between You and Us;
- 4.5 to forward an amount equivalent to the premiums (net of Your Commission but inclusive of any fees or commission payable to Us) and IPT (or any other applicable taxes, duties or charges), as collected from Insured's to Us;
- 4.6 to hold premiums in respect of Insurance Contracts placed by Us as required by the FCA, or more specific local Regulator if outside the United Kingdom, segregated from Your general operating accounts;
- 4.7 to ensure promptly upon receipt that all cover notes (and other policy documentation) received by You from Us comply with instructions received by You from Insureds and, to the extent that they do not so comply, promptly notify Us;
- 4.8 to forward policy documentation received from Us to Insureds promptly following receipt of the same;
- 4.9 to comply with any relevant regulatory, fiduciary and legal requirements regarding disclosure of all forms of remuneration from any arrangements You may have in connection with Insurance Contracts; and
- 4.10 You shall not: -

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- 4.10.1 confirm to an Insured that its application for an Insurance Contract will be acceptable to Us or Insurers or confirm that such Insurance Contract is in force until You have received written, including system generated, confirmation from Us that insurance cover is in place;
  - 4.10.2 make any deduction from net premiums of any kind not expressly permitted by Us;
  - 4.10.3 impose any additional charge not expressly permitted by Us herein unless You fully comply with all applicable disclosure obligations contained in the FCA Handbook or as otherwise required by law or regulation; and
  - 4.10.4 use or cause or permit the use of the name INCEPTA Risk Management Ltd, This Insurance or other trading styles of Ourselves, Our parent company or one of its subsidiaries which may be added from time to time or any logo the intellectual property rights in which belong (either solely or jointly) to Us Our parent company or one of its subsidiaries.
- 4.11 You shall procure that before permitting an Appointed Representative to contact Us with a view to performing obligations on Your behalf pursuant to clause 3.13 of this Agreement, the Appointed Representative shall have read and understood the contents of this Agreement and have agreed to co-operate with Us to give effect to this Agreement.
- 4.12 You warrant and represents that at all times during the period in which an Appointed Representative performs obligations on behalf of You pursuant to this Agreement: -
- 4.12.1 the Appointed Representative shall be Your Appointed Representative (under the terms of section 39 of FSMA and SUP 12) and shall not be prohibited by FSMA or the FCA Handbook from performing the obligations of You anticipated in clause 3.14 of this Agreement on Your behalf;
  - 4.12.2 the Appointed Representative shall appear on the FCA's register of appointed representatives;
  - 4.12.3 the Appointed Representative shall not have sought or received authorisation from the FCA in accordance with the terms of FSMA to perform any services regulated under FSMA;
  - 4.12.4 You shall inform Us immediately if You become aware that the FCA has issued any notices against the Appointed Representative which could affect its continued inclusion on the FCA register of Appointed Representatives and/or is no longer an Appointed Representative of You;
  - 4.12.5 You accept responsibility for the performance by the Appointed Representative of the its obligations anticipated in clause 3.14 of this Agreement on Your behalf in accordance with the terms of section 39(1)(b) of FSMA;
  - 4.12.6 You are compliant with all of the provisions of SUP 12 of the FCA Handbook in respect of the Appointed Representative(s);
  - 4.12.7 You have entered into a legally binding and enforceable written agreement with the Appointed Representative which is consistent with the provisions of this clause 4.12.7 ("**AR Agreement**");
  - 4.12.8 in the event that the AR Agreement is terminated, You will advise any other parties affected by the termination that the Appointed Representative no longer acts on Your behalf and You will implement arrangements enabling You to continue to meet and fulfil Your obligations, regulatory or otherwise;
  - 4.12.9 You shall procure that the Appointed Representative shall not permit any sub-agent, contractor, consultant, agent or other legal person to undertake any of the obligations anticipated in clause 3.14 of this Agreement;
  - 4.12.10 You shall procure that the Appointed Representative shall not, represent itself as being authorised or regulated by the FCA or empowered to act on behalf of or bind Us other than to

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disclose to Customers that it is acting as an appointed representative of You permitted to perform the Your obligations anticipated in clause 3.14 of this Agreement on Our behalf;

4.12.11 You have notified Your errors and omissions insurers that You have accepted responsibility for the Appointed Representative and such insurers have agreed to extend cover to include Your liability for the errors and omissions of the Appointed Representative.

4.13 You shall exercise reasonable skill and care in performing Your Obligations.

### **5. CONDUCT OF INSURANCE BUSINESS**

5.1 You acknowledge that, notwithstanding the Appointment, You remain solely responsible for the following matters:-

- 5.1.1 ensuring that each Insured is fully aware at all times of all advisory aspects relating to the Insurance Contracts, including, without limitation: -
- (a) the extent of cover provided by or evidenced by any Insurance Contract, cover note or the like, including but not limited to any premium payment warranties and any onerous and unusual exclusions and/or limitations relating to such Insurance Contract;
  - (b) the duty of utmost good faith and the obligation to disclose all circumstances material to the risk to be insured and the consequences of failure to disclose facts to Insurers;
  - (c) the Insured's responsibility to ensure that any answers or statements made in the completion of any proposal form, claim form or other material document containing Information are true, accurate and complete and that Insureds are aware that the inclusion of any incorrect Information may result in a claim being denied or repudiated and/or the cover failing to respond and/or the cover being avoided, rescinded or discharged;
  - (d) the obligations to Insurers and general London market practice concerning the timely payment of premiums, and Insurers' right to cancel insurances if the relevant premiums are not so paid; and
  - (e) the need for Insureds to notify claims under the terms of the Insurance Contracts and disclose all material facts in relation to the claim.
  - (f) being liable for the payment of premiums to Insurers in accordance with the terms of each Insurance Contract, failing which Insurers may exercise their rights under such Insurance Contract
  - (g) providing Insureds with all necessary and appropriate advice in relation to the Insurance Contracts effected and the terms and conditions thereof;
  - (h) reminding Insureds of forthcoming renewals and reminding Insureds of their duties of utmost good faith and disclosure;
  - (i) generally corresponding with Insureds and responding to their queries relating to insurance services; and
  - (j) collecting premiums and IPT (and other applicable taxes, duties and charges) from Insureds in a timely fashion (save to the extent that insurers require premiums and IPT (and other applicable taxes, duties and charges) to be paid directly to them, for example, where an Insurer provides Insureds with a premium financing facility).

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### **6. COMPLIANCE**

- 6.1 Both Parties in performing their Obligations under this Agreement, shall comply in all respects with all statutory provisions and all rules and regulations made pursuant thereto (including where applicable the FCA Handbook (including but not limited to ICOBS, CASS and SUP) which may affect the carrying on of its business.
- 6.2 If so required by the Financial Conduct Authority (FCA) under the provisions of ICOBS each Party is responsible for making its own status disclosure to the Customer.
- 6.3 Requests by Customers for disclosure of commissions are to be discussed by the Parties and a common course of action agreed on, provided always that a prompt and accurate response will always be given to the Customer
- 6.4 Each Party warrants that it is and, during the course of this Agreement, shall remain authorised by the FCA, or any other more specific local Regulator if outside the UK, to conduct insurance mediation activities and is not and, during the course of this Agreement, shall not become prohibited from carrying out any of the insurance mediation activities envisaged under this Agreement.
- 6.5 Each Party shall inform the other if its scope of permission, as set out in its FCA authorisation, is suspended or restricted so as to materially affect its ability to perform its obligations under this Agreement.
- 6.6 If a Party becomes aware that a conflict of interest may arise, that Party shall bring the actual or potential conflict to the other Party's attention as soon as reasonably practicable and the Parties shall work together to agree the most appropriate course of action to resolve the conflict.

### **7. INDEMNITY**

- 7.1 You shall fully indemnify Us and hold Us harmless (for Ourselves and for the benefit of Our officers and employees) against any claims made or proceedings brought ("**Claim**") against Us or any investigation, enquiry or complaint which is conducted into Your conduct by any Regulatory Authority whatsoever arising out of and/or in relation to and/or attributable to the performance or non-performance of Your Obligations and the conduct of the Customer Business by You including without limitation:-

- 7.1.1 any claims made or proceedings brought against Us by any Insureds arising from Insurers avoiding rescinding, discharging or denying any Insurance Contract or in any other way the cover failing to respond on grounds connected with the accuracy, adequacy and completeness of Information passed to Insurers; and
- 7.1.2 any claims or losses suffered by any Insured occasioned by Insurers avoiding rescinding, discharging or denying any Insurance Contract or in any other way the cover failing to respond on grounds connected with the non-payment of premium;
- 7.1.3 any claims made or proceedings brought against Us by or in relation to the actions, errors or omissions of any Appointed Representative,

except where such claim arises out of or is a direct result of any negligent act, error or omission or wilful default on the part of Us (or Our officers or employees) in the performance or non-performance of Our Obligations.

- 7.2 The indemnity contained in clause 7.1 shall continue to be binding and of effect notwithstanding termination of this Agreement (howsoever arising).

### **8. PROFESSIONAL INDEMNITY INSURANCE**

- 8.1 Each Party warrants that throughout the term of this Agreement and for so long as liability shall subsist thereafter in relation to acts, errors and omissions made during the term of this Agreement, each Party



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shall maintain and keep in full force and effect a minimum of such professional indemnity insurance as may be required by the FCA, or more specific local Regulator if outside the United Kingdom.

- 8.2 You will promptly supply, upon reasonable request, a current letter of verification issued by the professional indemnity insurance broker placing such insurance or, in the absence of which, a copy of the policy for such professional indemnity insurance.
- 8.3 You will promptly inform Us if such professional indemnity insurance is cancelled, not renewed or ceases to meet FCA requirements, or more specific local Regulator if outside the United Kingdom, or there are any circumstances that would or might lead to such cancellation, non-renewal or cessation.

### **9. CONSIDERATION**

- 9.1 Our principal remuneration for placing Insurance Contracts on behalf of Insurers will be by way of commission, being a proportion of the premium paid which is allowed to Us by Insurers for placing the Insurance Contracts on their behalf or a fee agreed with You. In consideration of the parties mutually agreeing, as set out herein, We agree to pay a proportion of such commission or Fee to You at a level and on a basis to be agreed between the parties ("**Your Commission**").
- 9.2 Payment of Your Commission and credit and any other terms shall be agreed separately in writing between the parties from time to time.
- 9.3 Your Commission may be deducted from cleared Customers remittances at any point prior to payment to us within the agreed credit terms.

### **10. TERMINATION**

- 10.1 This Agreement may be terminated upon either Party giving to the other 30 (thirty) days written notice of such Party's desire to terminate this Agreement.
- 10.2 Notwithstanding clause 10.1, this Agreement will terminate automatically with immediate effect (without the need for notice to be given by either Party) if any of the following events occur:-
- 10.2.1 if a Party enters into liquidation or an administrator is appointed in relation to it or it enters a scheme of arrangement or composition or other similar arrangement for the relief of its creditors or any application is made for any of the foregoing reliefs relating to it or if it becomes, in the reasonable opinion of the other Party, unable to pay its debts as the same fall due for payment;
- 10.2.2 if a Party ceases to be authorised to conduct insurance mediation activities by the FCA or more specific local Regulator if outside the United Kingdom or has its scope of permission suspended or restricted so as to materially affect its ability to perform its obligations under this Agreement.
- 10.3 Notwithstanding clause 10.1, either Party (the "**non-breaching Party**") may terminate this Agreement with immediate effect upon the giving by the non-breaching Party of written notice to the other (the "**breaching Party**") if any of the following events occur:-
- 10.3.1 if the breaching Party is in material breach of its obligations under this Agreement such breach which is (i) incapable of remedy; or (ii) where capable of remedy, which is not remedied within 14 (fourteen) days after written notice of the breach has been given to the breaching Party by the non-breaching Party requiring its remedy;
- 10.3.2 if there is a change of Control of the breaching Party and the non-breaching Party, acting in good faith, is of the opinion that it would be materially inappropriate for this Agreement to continue;
- 10.3.3 if the breaching Party or any of its employees, officers or agents:-

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- (a) commits a breach of or becomes unable to comply with FSMA and/or any rules or regulations made under it (including the FCA Handbook); or
- (b) is convicted of a criminal offence which is linked to crimes against property or other crimes related to financial activities.

10.4 Notwithstanding clause 10.1, We may terminate this Agreement:-

- 10.4.1 upon giving to You 30 (thirty) days written notice of Our desire to terminate this Agreement if the volume of business You introduces to Us is not, in Our opinion, sufficient to merit the continuance of this Agreement; or
- 10.4.2 with immediate effect upon giving to You written notice, if You fail to pay premiums or IPT (or any other applicable taxes, duties or charges) or commission or fees due to Us under clause 9.2 within the time period stipulated therein.
- 10.4.3 with immediate effect if You fail to continue to meet our financial and other due diligence conditions set upon Your Appointment.

### **11. EFFECT OF TERMINATION**

11.1 Termination of this Agreement (howsoever occasioned) shall not affect any accrued rights or obligations of the parties prior to such termination nor shall it affect any Insurance Contract effected pursuant to this Agreement which shall continue until expiry.

11.2 On termination You shall:-

- 11.2.1 immediately desist from providing Your Obligations save to the extent that they may be relevant for Insurance Contracts put in place pursuant to this Agreement which are still in force at the date of termination ("**Run-Off Policies**") until they expire (except in the event of termination pursuant to clause 10.2 of this Agreement); and
- 11.2.2 remit to Us all premium in respect of risks placed on cover to date and shall provide such information as is, in the discretion of Ourselves, necessary to enable Us to complete a reconciliation of any accounting entries to enable Insurers to draw up a Statement of Account for the period since the last Statement of Account to the date of termination which shall be final save in respect of Your Commission payable or repayable in respect of any premium adjustments, pursuant to Run-Off Policies (which shall be dealt with in subsequent Statements of Account).

11.3 On termination We shall:-

- 11.3.1 immediately desist from providing Our Obligations save to the extent that they may be relevant for Run-Off Policies until they expire (except in the event of termination pursuant to clause 10.2 of this Agreement); and
- 11.3.2 if requested to do so by You and subject to any lien which We may be legally entitled to exercise, We will reproduce and forward to You (or to any other person You request), copies of the documents and records to which Your Insureds are legally entitled. We reserve the right to charge You for the reasonable costs of such reproduction and forwarding and to retain copies for Our internal or regulatory requirements.

### **12. BRIBERY AND ANTI-CORRUPTION**

12.1 You hereby undertake, represents and warrant to Us as follows:

- 12.1.1 You have not engaged or will engage at any time in any activity, practice or conduct which would constitute an offence under any applicable laws or regulations designed to combat bribery, fraud or corruption including the Bribery Act 2010 (the "**Relevant Bribery Laws**");

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- 12.1.2 You shall ensure that all persons associated with You who are involved in the performance of Your Obligations including, without limitation, Your directors, employees, representatives, agents or subsidiaries (the "**Your Associates**") shall comply with this clause 12;
- 12.1.3 You shall at all times have in place (and make available to Us for review) adequate policies and procedures designed to ensure compliance with the Relevant Bribery Laws by both Yourself and Your Associates;
- 12.1.4 neither You nor any of Your Associates have been the subject of any investigation, inquiry or enforcement proceedings by any governmental, administrative or regulatory body or any Client regarding any offence or alleged offence under the Relevant Bribery Laws and no such investigation, inquiry or proceedings have been threatened or are pending and there are no circumstances likely to give rise to any such investigation, inquiry or proceedings;
- 12.1.5 neither You nor any of Your Associates are ineligible by reason of being prohibited for previous breaches of the Relevant Bribery Laws by a government, public body, international association or organisation from being awarded any contract or business;
- 12.1.6 no foreign public official is an officer, employee or shareholder of Yours.

### **13. CONFIDENTIALITY**

- 13.1 It is acknowledged by both Parties that the contents of this Agreement and the insurance affairs of the Insureds are confidential and therefore except as may be required by law or regulatory authority or rule of any relevant securities exchange or for the transaction of insurance business, all information acquired by both Parties concerning and consequent upon this Agreement shall be treated as confidential and shall not be used otherwise than in connection with this Agreement or divulged to any other person.
- 13.2 Notwithstanding the above, We may disclose such confidential information as may be required to Insurers who underwrite or who may potentially underwrite Insurance Contracts for the Insureds and You may disclose such confidential information as may be required to Appointed Representatives who perform obligations on behalf of You under this Agreement to the extent that they need to know the same and agree to keep such confidential information confidential.

### **14. DATA PROTECTION**

- 14.1 Each Party warrants and undertakes to the other:-
- 14.1.1 that it will maintain all registrations and notifications in terms of the Data Protection Act 1998 (the "**DPA**") which are required for or otherwise appropriate to the performance of its obligations under this Agreement;
- 14.1.2 that in the performance of its obligations under this Agreement it will comply with all applicable obligations imposed by the DPA (including without limitation the data protection principles set out in the DPA) and with any regulations and orders made thereunder and any guidelines and guidance notes issued from time to time by the Data Protection Commissioner; and
- 14.1.3 that it is not currently subject to any prohibition or restriction which would restrict or otherwise affect its ability to disclose or transfer contact details and other relevant personal data relating to Insureds to Us.
- 14.2 You further undertake to ensure that any such disclosure or transfer will not give rise to any breach of any provision of the DPA, any duty of confidentiality, any intellectual property rights of a third party, or any contractual obligation on its part.

## *Terms of Business Agreement*

### **15. RECORDS**

During the period of this Agreement, We will make, maintain and keep a record of all material particulars relating to all Insurance Contracts placed under this Agreement. Such records may be kept in paper based, electronic or any other medium We consider appropriate.

Subject to any lien which we may be legally entitled to exercise, we will reproduce and forward to you (or to any other party you request) copies of the documents and records to which you are legally entitled, but we reserve the right to charge you for the reasonable costs of reproduction and forwarding and to retain copies for our own internal requirements. You shall have no right to inspect any records kept by Us on behalf of Insurers.

### **16. EXCLUSION OF RIGHTS OF THIRD PARTIES**

For the avoidance of doubt nothing in this Agreement shall confer on any third party any benefit or the right to enforce any term of this Agreement and the terms of The Contracts (Rights of Third Parties) Act 1999 are not intended by this Agreement or otherwise to be enforceable and are thus expressly excluded.

### **17. ASSIGNMENT**

This Agreement is personal between the parties and neither Party shall sell, assign or otherwise dispose of or transfer rights or obligations hereunder save that We may on written notice to You novate this Agreement to any other company which is a wholly owned subsidiary of INCEPTA Risk Management Ltd or its parent company.

### **18. NON-DELEGATION OF RESPONSIBILITIES**

Save in respect of Your employees or Appointed Representatives as far as permitted by this Agreement, You shall not delegate any of Your Obligations or any other obligation under this Agreement to any other party, person or legal entity.

### **19. NOTICES**

Any notice required or permitted to be given by or under this Agreement may be given by facsimile copier or by delivering the same to the Parties normal place of business or to such other address as the Party concerned may have notified to the other. Any such notices shall be deemed to be served in the case of service by facsimile copiers 24 hours after it shall have been properly dispatched, in the case of personal service at the time of delivery to the Party concerned and in the case of service by post 48 hours after the time at which it was put in the post and in proving such service it shall be sufficient to prove that the notice was properly addressed and posted.

### **20. FORCE MAJEURE**

20.1 Neither Party shall be liable for any breach of its obligations hereunder resulting from an event of Force Majeure.

20.2 Each Party agrees to give notice forthwith to the other upon becoming aware of any event of Force Majeure, such notice to contain details of the circumstances giving rise to the event of Force Majeure.

20.3 If a default due to any event of Force Majeure shall continue for more than ninety (90) days then the Party not in default shall be entitled to terminate this Agreement. Neither Party shall have any liability to the other in respect of the termination of this Agreement as a result of an event of Force Majeure.

### **21. ENTIRE AGREEMENT**

This Agreement constitutes the whole and only agreement between the Parties relating to the rights and obligations of the Parties between themselves with respect to the subject matter hereof and supersedes and extinguishes any prior drafts, agreements, undertakings, representations, warranties and arrangements of any nature whatsoever, whether or not in writing, relating thereto.

## *Terms of Business Agreement*

### **22. PARTNERSHIP AND NON-EXCLUSIVITY**

22.1 Nothing in this Agreement shall be deemed at law to constitute a partnership between the Parties and none of them shall have any authority to bind any other save as provided for by this Agreement.

22.2 The Parties shall perform their respective obligations under this Agreement on a non-exclusive basis.

### **23. VARIATION**

We reserve the right to vary this Agreement at any time, by giving no less than 30 days written notice to You.

### **24. WAIVER**

Failure to exercise or delay in exercising or enforcing any right or remedy under this Agreement by any Party shall not constitute a waiver of it and no single or partial exercise or enforcement of any right or remedy under this Agreement shall preclude or restrict the further exercise or enforcement of any such right or remedy.

### **25. INVALIDITY AND SEVERABILITY**

If any provision of this Agreement shall be found by any court or administrative body of competent jurisdiction to be void or unenforceable, such a provision shall be deemed to be deleted from this Agreement and the remaining provisions in this Agreement shall continue in full force and effect.

### **26. EMAIL COMMUNICATION**

26.1 Where email is used as a communication medium between the Parties, each Party acknowledges and agrees to accept the risks associated with the use thereof, including but not limited to:-

26.1.1 Integrity & Receipt: There is no certainty of the completeness, accuracy or even receipt of a message or data file sent by email. Using email as part of the contractual process may create an exposure for the parties in such areas as misrepresentation or non-disclosure of information, where corruption of data during transmission or missing file attachments may not be immediately obvious to the recipient, and the offer and acceptance process of contract terms;

26.1.2 Confidentiality: By unavoidably having to use third party service providers to 'deliver' emails, confidentiality may be outside the sender's control;

26.1.3 Appropriateness: Where receipt of a message by a given time/date is critical or the subject matter is of an important nature, such message should be communicated by facsimile to ensure that it is received and can be acted upon. Many contracts of insurance have provisions which require notice in writing in order to ensure compliance, particularly in relation to claims advices. The use of email in such circumstances may be inappropriate.

### **27. COUNTERPARTS**

This Agreement may be signed in any number of counterparts each of which shall constitute an original and together shall be taken as one agreement.

### **28. COMPLAINTS AND DISPUTES**

In the event of a complaint or dispute between the Parties (a "Dispute"), a representative of each Party responsible for the operation of the business to be transacted pursuant to this Agreement shall co-operate with each other and attempt to resolve such Dispute within 7 (seven) days. If both Parties are unable to resolve the Dispute, they shall refer the Dispute to senior managers of each Party who shall co-operate with each other and attempt to resolve such Dispute within a further 28 (twenty eight) days.

## *Terms of Business Agreement*

### **29. INTELLECTUAL PROPERTY RIGHTS**

Each Party will retain ownership of all its respective rights, including intellectual property rights, in the products, data, databases, computer programmes, documents, materials, ideas or other information or any compilation thereof used in the performance of the services. Each Party agrees to do whatever is reasonably necessary to confirm or give effect to such ownership. To the extent that any products, data, databases, documents, materials, ideas or other information constitute an original item developed by either Party as a consequence of performing the Services, each Party agrees to do whatever is reasonably necessary to confirm or give effect to such rights vesting in the developing party. Unless first agreed otherwise, each Party has the right to use any jointly developed intellectual property for any purpose whatsoever.

### **30. GOVERNING LAW AND JURISDICTION**

- 30.1 This Agreement shall be governed by and construed in accordance with the laws of England. The Parties hereby submit to the exclusive jurisdiction of the English Courts in respect of any dispute or claim arising out of or in connection with this Agreement, or its breach, termination, formation or validity.
- 30.2 In the event of a change in law or regulation (including FCA Rules), which affect any of the obligations on either Party under this Agreement, the Parties will co-operate in good faith to agree any necessary amendment(s) or variation(s) to the Agreement.

## *Terms of Business Agreement*

For and on behalf of **INCEPTA Risk Management Ltd**

Of

141/142 Fenchurch Street, London, EC3M 6BL



**Date: 02 July 2015**

In consideration of the intermediary application dated 26 June 2015

On behalf of

John Morgan Partnership Ltd

Of

12 Imperial Square, Cheltenham, Gloucestershire, GL50 1QB

**Appointed Representative Details, Name Address and Firm Reference Number.**

None