

Experience the difference



Open Cover

Terms of Business Agreement

irs
the insolvency risk specialists

This agreement sets out our professional relationship with you and the services we will provide to you in accordance with that relationship and this agreement. By asking us to quote for, arrange or handle your insurances, you are providing your informed agreement to these terms of business.

We urge you to read this agreement carefully. Please contact us immediately if you do not understand any part of this agreement.

We specifically draw your attention to the following sections of this agreement:

- Conflicts of Interest
- Your Responsibilities
- Client Money
- Limitation of Liability
- Complaints

ABOUT US

AUA Insolvency Risk Services Limited (**IRS**) is authorised and regulated by the Financial Services Conduct Authority (FCA). We are an insurance intermediary and the permissions granted to us by the FCA allow us to deal with non-investment insurance contracts. We deal with both advised and non-advised sales. We shall let you know in writing if we arrange insurance for you but do not offer advice.

You can verify IRS's authorisation at www.fca.org.uk/register - IRS's registration number is 471561.

OUR RELATIONSHIP WITH YOU

We will act as your insurance intermediary in providing the services set out below. We will therefore act as your agent and be subject to the general law of agency in England.

OUR SERVICES PROVIDED TO YOU

The general services we provide you in accordance with this agreement and our relationship with you as your insurance intermediary are affected by certain conflicts of interest and your responsibilities before and after any cover is placed. Please ensure that you carefully consider the Conflicts of Interest and Your Responsibilities sections below.

Placing your policies of insurance

By you agreeing to the terms of this agreement and appointing us as your insurance intermediary, when notified by you we will provide the following services to you:

- The Open Cover facility we have arranged with insurers enables us to offer cover from the date of your appointment with limited information being available, provided you notify us within the relevant timescales as set out in the document "Insolvency Open Cover – A guide for clients". This Open Cover uses Master Policy Wordings which set out the terms and conditions of the relevant covers provided. We have provided you with Master Policy Wordings. We will issue an Evidence of Cover document to you confirming the placement of Open Cover once it is in force.
- If you require terrorism cover on all of your appointments you must notify us. Please note that if you provide such notice the terrorism cover will be effective from the date of appointment for your future appointments. Otherwise, cover for any appointment will only be effective from the date of acceptance of the relevant quotation for terrorism cover for such appointment.

- Where you have instructed us to do so and provided sufficient information, we will advise you on the suitability of any existing insurance policies in place for the applicable company(ies) or individual(s) for which you have been appointed. Subject to your agreement, we will then endeavour to place any further policies of insurance that are required for the applicable company(ies) or individual(s) for which you are acting. We will issue appropriate evidence of such covers being in place.
- Please note that in providing the above services:
 - Providing you notify us within the relevant period, as set out in the document “Insolvency Open Cover – A guide for clients”, after your appointment, we will firstly seek to place the cover under binding authorities held by us with a limited number of insurers.
 - A binding authority agreement delegates authority from the insurer to us and allows us to agree cover, issue documents on insurer’s behalf and collect premiums. You may request the names of such insurers from us.
 - We will not undertake any investigation of the general insurance market to obtain any alternative cover unless it cannot be placed under the binding authorities.
 - If the cover cannot be placed under the binding authorities held by us, we will then endeavour to place the cover on the open market. We will also endeavour to place any other policies of insurance on your behalf as requested by you. We use a limited number of insurers who are best suited to your requirements. You may ask us for a list of the insurers we deal with.
 - We do not offer advice in relation to tax, accounting, regulatory or legal matters and you should take any separate advice you consider necessary regarding such matters.

Insurers

Following an analysis of the market, we use a limited number of insurers who are best suited to our requirements. We are not obliged to conduct business in this manner, but do so in the best interests of our clients. You may ask us for a list of the insurers we deal with.

Whilst we are unable to guarantee the solvency of any insurer, stringent checks are made on all markets used.

Claims

We will, upon receipt of all necessary information, provide the following claims handling services to you:

- Notify your claim or circumstances to insurers
- Represent you in the resolution of the claim
- Arrange for the collection and/or settlement of the claim

We will not remit claims monies to you before they have been collected from insurers.

We may have a delegated claims authority on some of the binding authorities we have in place. This enables us to expedite the claims settlement process to you. We have implemented strict controls to ensure independency in the claims assessment. and will inform you where we act for an insurer in relation to a claim.

Use of third parties

We may use a third party, such as another broker, to arrange a policy on your behalf, undertake administrative procedures or transfer money to or from insurers.

CONFLICTS OF INTEREST

Whilst we are your agent in our capacity as your insurance intermediary in performing the services set out above, we also have arrangements with insurers that mean we will also act as their agent. These arrangements will affect the way in which we provide the relevant services to you. We are now disclosing to you these arrangements with insurers and the way in which they will affect the services we provide to you, so that you can assess whether you are content for us to provide the services to you.

- We will firstly seek to place the cover under binding authorities held by us.
- We will not undertake any investigation of the general insurance market to obtain any alternative cover unless it cannot be placed under the binding authorities.

Other occasions can arise where we, one of our associated companies, clients, or insurers, may have a potential conflict of interest with business being transacted for you. If this happens, and we become aware that a potential conflict exists, we will advise you of the potential conflict and explain how it has arisen. We will also take appropriate action to avoid any detriment to you. This may, for example, involve the creation of “ethical barriers”, where we act for you and another party in the same transaction, in order to restrict access to your information to those acting on your behalf. Alternatively, it may include ceasing to act for one or more parties. If such conflicts of interest do arise, we will take reasonable steps to notify you of such conflict and seek your instructions as to whether you wish for us to continue to act as your insurance intermediary.

Please contact us immediately if you would like more information on the procedures and controls we have in place to manage the conflicts of interest.

YOUR RESPONSIBILITIES

Your duty to make a fair presentation of the risk

Your insurance is based upon the information provided to the insurance company and you are required to present the risk (i.e. the subject matter of the proposed insurance) fairly. This means that you must disclose to insurers, before the setting up or renewal of your insurance policy is concluded, anything that might influence the judgement of an insurer in fixing the premium, setting the terms or determining whether they would take the risk. If you are uncertain whether anything is material, you should disclose it.

In order to identify what must be disclosed, you are obliged to carry out a reasonable search before presenting the risk to insurers. This includes anyone who plays a significant role in the making of decisions about how your activities are to be managed or organised, regardless of whether or not that individual is a member of your board or is formally in a management role. You must also consult with anyone who has particular knowledge about the risk to be insured.

If you deliberately or recklessly (i.e. without care) fail to comply with your obligations to present the risk fairly, insurers may avoid the policy. This means they can retain all premiums and treat the policy as if it never existed and refuse to make any claims payments. You could also be obliged to repay any claims payments that had already been made.

If you fail to present the risk fairly, but your failure was neither deliberate nor reckless, insurer's response will depend upon what would have happened if you had complied with your obligations:

- a) if insurers would not have provided the policy, they may treat the policy as if it never existed, refuse to make any claims payments and demand the return of any claims payments already made. However, insurers would have to return any premium payments already made;
- b) if insurers would have provided the policy but on different terms, the policy will remain in force but will be treated as if those different terms applied from the start of the policy. This could result in a claim not being met in part or in full;
- c) if insurers would have provided the policy but charged a higher premium, insurers may reduce any payment in proportion to the difference between the premium charged and the premium that would have been charged if you had fairly presented the risk. This could result in a significant reduction to the amount of any payment under the policy.

All statements and facts disclosed on proposal forms, statement of facts, claim forms and other

documents should be full, true and accurate and must be given after undertaking a reasonable search, including consulting with senior management.

It is your responsibility to make sure that the information to be submitted to the insurer is presented in a way that the insurer will find reasonably clear and accessible. Where a large amount of information is provided you will need to ensure that it is organised in a structured way with appropriate indexing and signposting to enable the insurer to navigate to what is important.

Statement of Fact

Once we receive your risk details, we will issue a Statement of Fact which confirms the information you have provided and we have used to place the cover. If the Statement of Fact is incorrect, you must contact us immediately to advise us of the amendments required. Any amendments will only be effective from the date you notify us.

Cover information and policy documentation

We advise you to review all information upon receipt and to let us know immediately if the details of cover or the participating insurers do not meet with your approval, or do not reflect the instructions previously given to us, and particularly if any cover you require is excluded.

We will maintain the records and documents of the policies we arrange for you in accordance with FCA requirements.

Claims

Please contact us immediately if you become aware of any claim or circumstances that could give rise to a claim under the policy. It is important that you present to insurers all information that is relevant and material to a claim. Failure to promptly report claims to insurers or provide accurate information to insurers may result in the insurers denying the claim.

It is important for you to safely maintain copies of the policy documents and claims reporting instructions, as you may need to report a claim after the expiry of the policy.

We will represent you in relation to your claims under the relevant policies. Where we also have a claims handling authority from your insurers, we will advise you that this is the case [and ask you to confirm that you wish us to continue to act for you in relation to the notified claim.]

Payment of premium

We will provide you with an invoice for the premium due under the policy with the due date for payment and instructions for methods of payment. This will tell you the total price to be paid and identifies any fees, taxes and charges separately from the premium.

It is important that you pay any relevant premium by the due date, especially where payment of premium is a warranty or condition of the policy. Failure to pay premium on time may result in the insurers cancelling your policy.

We will not pay the premium on your behalf.

Premium payments will only be accepted by BACS.

OUR REMUNERATION

Our usual remuneration is either by way of brokerage (also known as commission), being a percentage of the premium charged by insurers in respect of the insurance contract arranged by us, or a fee which is agreed in advance with you for the services provided by us, or with your agreement a combination of both. Our remuneration is fully earned upon the inception of the insurance contract and, in the event that the insurance is cancelled or is terminated after inception for whatever reason, or if our appointment is terminated for any reason, we may retain/recover the remuneration we have earned

Our commission will be deducted upon receipt of the premium from you (unless your insurer indicates to the contrary) and consistent with market practice this will be before we pay the money to insurers. We may earn income in a number of other ways. Some insurers may provide efficiency fees or

production over-riders periodically to reflect the benefit of receiving large amounts of business from a single source that has been handled promptly and efficiently. Occasionally certain insurers may pay a commission to us to reflect the profitability of our account with them.

On request we will be pleased to provide information about any remuneration and other earnings received by us in the handling of your insurances.

In the event that you decide to cancel your policy any return of premium will be dependent on insurer and placing broker conditions. We reserve the right not to refund our commission unless we agree otherwise with you.

CLIENT MONEY DISCLOSURES

Client money is any premium, refund or claims money that we receive and hold on your behalf in the course of arranging or administering insurance. We will hold such money in accordance with FCA client money rules.

In many cases, insurers have appointed us on a 'Risk Transfer' basis to act as their agent in collecting premiums and handling refunds due to clients. In these circumstances such monies received by us are deemed to be held by the insurer(s) with whom your insurance is arranged. We will notify you if 'Risk Transfer' applies. For the purpose of some transactions, money may pass through other authorised intermediaries before being paid to the insurer.

We will hold premiums and refunds in a statutory trust account with an approved UK Clearing Bank pending payment. The establishment and operation of the statutory trust account follow the rules of the FCA to protect money held by authorised intermediaries. Client money will cease to be client money when paid to the insurer, or a third party with 'Risk Transfer' from the insurer, or when paid to the client in respect of refunds or claims. A copy of the Deed of Trust is available on request. If you object to your money being held in a statutory trust account, you should advise us immediately. Your agreement to pay the premium together with your acceptance of these terms of business will constitute your informed consent to our holding your money in a statutory trust account.

Segregation of Designated Investments

Although we pay client money into a Trust bank account, we may also arrange to invest client money in separate designated investments permitted under FCA rules. If we do this we will be responsible for meeting any shortfall in our client money resource which is attributable to any shortfall in market value of such investment.

Interest on client money

Any interest earned on client money held by us and any investment returns on any segregated designated investments will be retained by us.

Tax

Dependant upon the transaction, we may administer the payment of applicable taxes whether due from you or insurers to the appropriate tax authorities. In doing so we only undertake this role as an insurance intermediary and we cannot advise on the validity of any tax payment.

Accordingly, whilst we exercise reasonable care in relation to such payments, we do not accept responsibility for administration without specific instructions from you or insurers. We therefore request that if you have specific instructions relating to the payment or administration of applicable taxes, you confirm those instructions in writing.

MONEY LAUNDERING

We are obliged to take reasonable steps to safeguard our company and our clients against the risk of financial crime. To help us achieve this we may need to ask you to provide us with additional information relating to any insurance transactions you ask us to undertake on your behalf.

DATA PROTECTION & CONFIDENTIALITY

This is a summary of how we use relevant information about you to arrange and administer your insurance. This information includes details such as your name, address and contact details and other information that we collect about you in connection with arranging and administering your insurance. This information may also include more sensitive details such as information about your health and any criminal convictions you may have and other sensitive information. Our full privacy statement can be found on our website www.insolvencys.com, or can be provided on request. You should review our privacy statement to ensure that you understand how we use data and your rights in respect of that data.

We will process any personal information we obtain in the course of providing our services in accordance with Data Protection Law and we have policies and procedures in place to protect and manage that information. We treat all information provided by our clients as private and confidential and we will always work to ensure that personal data is processed lawfully, fairly and in a transparent manner and in compliance with Data Protection Law. This may require us to enter into other written agreements with you to enable us to comply with Data Protection Law.

Personal data that we collect will only be disclosed in the normal course of negotiating insurance transactions undertaken on behalf of our clients and administering insurance. We will however need to use and disclose information provided by our clients which may include personal and sensitive personal data in order to obtain insurance quotations and in the course of arranging, placing or administering insurance. This may involve passing information on to insurer(s), other intermediaries and other product or service providers which supply us with business and compliance support in relation to such insurance. We may also need to pass such information on to industry regulators, auditors or in the event that the information is requested by a court of competent jurisdiction. The use and disclosure of your personal data by various insurance market participants such as intermediaries, insurers and reinsurers is further explained in The Lloyds and London Insurance Market Core Uses Information Notice. Our core uses and disclosures are consistent with this notice and we recommend you review this document which can be accessed via a link in our privacy notice.

Depending on the circumstances or nature of the insurance we may need to transfer personal data out of the jurisdiction of the European Economic Area. If this is necessary, we will always ensure that the data is protected as required by Data Protection Law.

We may use personal data for research, statistical analysis and crime prevention including the investigation of fraud. Sometimes we will also contact you or pass your details to other companies associated with us in order to promote products or services which may be of interest to you. We will only do this however in accordance with our obligations under Data Protection Law.

In some circumstances, we will need to pass information about you on to credit reference agencies and premium finance providers in connection with the assessment of your financial standing generally and in particular where you have requested a premium instalment plan. This may include details of your payment record to us.

Where using personal data relies on the consent of individuals, we will obtain that consent or ensure that the consent is obtained in accordance with Data Protection Law. Where this is the case, individuals will be entitled to withdraw that consent. That may mean however that we are unable to arrange, place or administer your insurance properly.

If you have supplied us with personal or sensitive personal information relating to another individual or a third party, you must ensure that you have done so in compliance with Data Protection Law and provide the information to them which is required to be provided to individuals under Data Protection Law. This includes making them aware of their rights and of how we use their data and obtaining their consent where it is required in accordance with Data Protection Law.

In some cases, individuals will have the right to ask us to stop using their data, to tell us that they no longer want to receive information from us, to ask us to correct information we have about them or to ask us for the information we hold about them. Full details of these rights under Data Protection Law and how to enforce those rights are set out in our privacy statement on our website.

If at any time an individual wants us, or any company associated with us, to cease processing any personal data or sensitive personal data we hold, or to cease contacting them about products and services, they should write to our Compliance Officer.

“Data Protection Law” means all applicable statutes and regulations in any jurisdiction pertaining to the processing of Personal Data, including but not limited to the privacy and security of Personal Data.

COMPLAINTS

We take complaints made against us very seriously and maintain a procedure to ensure that complaints are dealt with promptly and fairly.

If you wish to register a complaint, please notify the Complaints Representative of IRS at the following address

5th Floor

City Gate East Tollhouse Hill Nottingham NG1 5FS

Tel: 0115 9084999

Email: IRScomplaints@insolvencyrs.com

If we cannot resolve your complaint straight away, we will acknowledge its receipt promptly and arrange for a senior manager to investigate the matter and provide you with a response.

If your complaint is not resolved to your satisfaction or if you are unhappy with the way in which your complaint has been handled, you may be eligible to refer the matter to the Financial Ombudsman Service (FOS). Details of how to contact the FOS and the applicable eligibility rules can be found at www.financial-ombudsman.org.uk. We will send you details of how to refer to the FOS when we send you your final written response or at 8 weeks after receipt of your complaint (whichever occurs first).

FINANCIAL SERVICES COMPENSATION SCHEME

You may be entitled to compensation from the Financial Services Compensation Scheme (FSCS).

Details of the FSCS and the circumstances in which you may be entitled to compensation can be found on the FSCS website: www.fscs.org.uk

TERMINATION

Subject to your immediate settlement of any outstanding premiums and fees, you may instruct us to stop acting for you and we will not impose a penalty. Your instructions must be given in writing and will take effect from the date of receipt.

In circumstances where we feel we cannot continue providing services to you, we will give you a minimum of 7 days notice.

Unless otherwise agreed in writing, if our relationship ends, any transactions previously initiated will be completed according to these terms of business. You will be liable to pay for any transactions concluded prior to the end of our relationship and we will be entitled to retain commission received for conducting these transactions, together with all fees charged by us for services provided.

ENTIRE AGREEMENT

This agreement and any subsequent amendments constitute the entire agreement between us regarding the basis of the services we will provide you as your insurance intermediary and supersedes all previous agreements between us. We shall advise you in writing of any amendment to this agreement.

Third Party (Rights Against Insurers) Act 2010

Where an insured becomes insolvent and has incurred a liability to a third party, the third party may be entitled under the Third Party (Rights Against Insurers) Act 2010 (“the Act”) to make a claim against the relevant insurer directly. Pursuant to this right the third party will be entitled under the Act to obtain policy information from any party it believes holds that information including the insured’s broker. That party has twenty-eight days in which to comply with the request for information. Where we receive a request under the terms of the Act we will contact you and discuss the request before releasing any information.

If we are unable to make contact with you we will not be in breach of our duty of confidentiality to you by releasing information in response to such request, even where it transpires that you are not insolvent, nor have you incurred a liability to the third party, provided we have made reasonable efforts to establish the facts.



GOVERNING LAW

This agreement, which sets out the basis of our relationship with you as your insurance intermediary, shall be governed by the laws of England and Wales.

Any dispute between us arising under or out of or in connection with this agreement and our relationship with you as your insurance intermediary shall be subject to the exclusive jurisdiction of the courts of England.

