



accident and health
financial professions
commercial

DOA Underwriting Ltd

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TERMS OF BUSINESS AGREEMENT

Between

DOA UNDERWRITING LTD (*The Principal Company - FRN 772309*)
&/OR DAVID OLIVER T/AS DAVID OLIVER ASSOCIATES (*Appointed Representative*)
&/OR DOA SPECIAL FACILITIES LTD (*Appointed Representative*)

“THE UNDERWRITING AGENT”

And

“THE SUB AGENT”

(Details as per submitted online application)

TERMS OF AGREEMENT

This Agreement specifies the Terms under which the Sub Agent will introduce to the Underwriting Agent business on behalf of its clients which it wishes to be placed by the Underwriting Agent with either Lloyd’s Brokers, Lloyd’s Syndicates or Insurance Companies, “the Insurer/s”. It is a condition precedent to this Agreement that the Sub Agent is authorised and regulated by the Financial Conduct Authority (FCA), or any successor regulatory bodies and by individual consideration; the Isle of Man, Guernsey or Jersey regulatory bodies, and complies at all times with the regulatory requirements relating to, but not limited to status, product disclosure, disclosure of commission, fees, placing of Insurance business, claims handling, premium and claims accounting of all business as required by the FCA’s Insurance Conduct of Business Sourcebook (ICOBS) rules and other applicable legal, licencing and regulatory requirements including the Data Protection Act 2018, Money Laundering Regulations 2017, Proceeds of Crime Act 2002, and the Bribery Act 2010, which are relevant to the general Insurance business to which this Agreement refers. The Underwriting Agent will only appoint Sub Agents with appropriate regulatory authorisation to conduct business as per this Agreement and should any relevant regulator communicate that the Sub Agent’s authorisation has ceased, the Underwriting Agent will cancel the agency with immediate effect. The Underwriting Agent warrants that it is authorised and regulated by the FCA to conduct insurance mediation activities (as defined in the FCA’s Handbook).

Nothing in this Agreement shall override the duty of the Sub Agent to place its client’s interests before all other considerations in accordance with the FCA’s ICOBS rules. This Agreement does not bind the Underwriting Agent to accept any proposal for New Business or Renewal put to it by the Sub Agent, nor does it bind the Sub Agent to accept on behalf of its clients, the terms put to it by the Underwriting Agent. The Sub Agent shall acquaint its clients fully with the terms of this Agreement which affect the client’s rights, benefits or liabilities under any contracts of Insurance and the Underwriting Agent accepts business under this Agreement under the express understanding that the Sub Agent’s clients have full knowledge of the terms of this Agreement as applying to the clients. The Underwriting Agent acts only on the instruction of the Sub Agent as agent for its clients, as detailed in this Agreement, or its clients where authorised by the Sub Agent to do so. Therefore the Underwriting Agent cannot be held liable by the Sub Agent’s clients for any errors, omission, negligent act or defective advice suffered by the clients. This Agreement is not assignable without the express agreement of all parties. For the purposes of this Agreement, the Sub Agent is the agent of its clients and the Underwriting Agent is an agent of the Insurers.

OUR SERVICE

The Sub Agent will not receive advice or a recommendation from the Underwriting Agent. The Underwriting Agent may ask some questions to narrow down the selection of products that it will provide details on. The Sub Agent will then need to make its own choice about how to proceed. Being an independent underwriting agency and wholesale broker means the Underwriting Agent is not tied to any particular Insurance provider or group of Insurance providers and it may select the appropriate General Insurance product from a range of Insurers. For a more specialised Insurance, the Underwriting Agent might only consider a specific product from a single provider, or products from a small selection of relevant providers. The Underwriting Agent may limit the number of providers it asks to those used for selected types of Insurance, through our own specialist facilities.

The Underwriting Agent may also choose to use a ‘delegated authority’ arrangement, which means that we have the authority to do certain things on behalf of the provider. That could include calculating premiums, issuing policy documents and administering claims. The Underwriting Agent may also use another intermediary to help place business.

APPOINTED REPRESENTATIVES

The Sub Agent must notify the Underwriting Agent of any Appointed Representatives which it intends to utilise within this Agreement. For the avoidance of doubt, all the terms of this Agreement shall remain fully enforceable on Appointed Representatives and ultimately the Sub Agent. Appointed Representatives shall be noted by Addendum to this Agreement.

SUB BROKING

The Sub Agent must notify the Underwriting Agent of any Sub Broking Agents which it intends to utilise within this Agreement. For the avoidance of doubt, all the terms of this Agreement shall remain fully enforceable on Sub Broking Agents and ultimately the Sub Agent.

PRESENTATION

The Sub Agent will present information to the Underwriting Agent using the forms and proposals specified by the Underwriting Agent or in such other manner as may be agreed between the Sub Agent and the Underwriting Agent to permit it to underwrite the risks. The Sub Agent must exercise the skill and care required by the FCA's ICOBS rules and is responsible for explaining the duty to take reasonable care not to make a misrepresentation and of utmost good faith to its clients. It is the duty of the Sub Agent and its clients to ensure that reasonable care is taken to answer all the questions honestly and to the best of their knowledge and to make the Underwriting Agent aware of any changes in circumstances affecting the risks at all times during the duration of the policy (including renewal) and to ensure that all requirements of additional information, declarations subsequently required and the like are complied with in a timely and complete fashion.

If the Insurance is for a Commercial Customer (i.e. an Insured who has bought Insurance wholly or mainly for purposes related to their trade, business or profession) please note that the duty of disclosure has been amended following the introduction of the Insurance Act 2015. The Insured has a duty to make a fair presentation of the risk to the Insurer including every material circumstance which it knows or ought to know after reasonable search and in a manner which makes that disclosure clear and accessible to a prudent insurer, i.e. no data dumping. Therefore, all information and content provided within any electronic presentation, proposal form, statement of fact, declaration or as provided in any other manner must be accurate and complete.

Simply answering certain questions is not necessarily regarded as a fair presentation of the risk. All material facts must be disclosed whether requested or not. If the Insured do not comply with their duty to make a fair presentation of the risk, including failing to disclose or misrepresenting a material fact, or disclosing material facts in a way which is not clear and accessible the policy may not be valid or the policy may not provide cover fully or at all. A material fact is any fact which could influence Insurers assessment or acceptance of the application for insurance.

Should the Underwriting Agent consider a proposal inadequate, or unsuitable, it reserves the right to decline on behalf of the Sub Agent and its clients.

Once the Underwriting Agent has provided a quotation, if the Sub Agent presents that quotation to its client, it undertakes to present it on the same terms without amendment, alteration, rider or enhancement unless previously agreed with the Underwriting Agent and confirmed in writing. The Underwriting Agent undertakes to confirm quotations and their conditions to the Sub Agent and the Underwriting Agent cannot be held liable to the Sub Agent or its clients for any errors or omissions, discrepancies or disagreements until receipt of such confirmation by the Sub Agent and notification in writing by the Sub Agent of the error which must be made within seven days of receipt of the confirmation. In the event of receipt of such confirmation, the Underwriting Agent will be allowed 48 hours to rectify the cover if the error is incapable of remedy, without penalty. The Underwriting Agent will not be bound to incept Insurances on behalf of the Sub Agent, or its clients, until written instructions are received to commence covers, and written confirmation of covers have been provided by the Underwriting Agent.

AUTHORITY

Nothing in this Agreement authorises the Sub Agent to confirm to its clients the existence of Insurance cover placed through the Underwriting Agent without having received written confirmation of the existence of such cover from the Underwriting Agent. The Sub Agent is not empowered to issue cover, confirm cover save as aforementioned or hold itself out as the Insurers original Agent.

The Sub Agent must confirm to the client the capacity in which it is acting whether as agent for the Insurer, the client, or both. Likewise the Sub Agent must also ensure that they inform their client if there is a chain.

Nothing in this section shall override the duty of the Sub Agent to comply at all times with the regulatory requirements relating to the Sub Agent's duty of disclosure as required by the FCA's ICOBS rules and other applicable regulatory requirements which are relevant to the general Insurance business to which this Agreement refers.

The Sub Agent must inform the Underwriting Agent in relation to all Insurance business where the Insured is classified as a Retail Customer as per FCA's ICOBS rules.

RISK TRANSFER

The Underwriting Agent is granted Risk Transfer on the majority of business.

The Underwriting Agent is able to cascade Risk Transfer to the Sub Agent in respect of premiums and return premiums on the majority of business.

In some instances, Risk Transfer will only apply when we advise the Sub Agent following receipt of the premium.

The Underwriting Agent will confirm the Risk Transfer position as standard procedure when offering and confirming terms, please refer to the terms and conditions of each individual quotation issued.

The Underwriting Agent does have alternative options where Risk Transfer is not in place; i.e. it will inform the Sub Agent when the money has been paid and cleared our account. Alternatively, and to prevent the Sub Agent having to track the monies under CASS rules, the Underwriting Agent may be able to set up a low cost Direct Debit facility for the client if the Insurer provides this service. Alternatively we could place these risks on our own in house instalment facilities which would negate the need for the Sub Agent to classify funds as client money. Should either of these options not be acceptable in the event Risk Transfer is not granted then please contact the Underwriting Agent to seek obtaining special consideration with our providers.

FEES & CHARGES

The Sub Agent shall ensure that any policy fees or administration charges (or equivalent) payable by the client in excess of the premium, levied by Insurers, the Underwriting Agent or the Sub Agent shall be disclosed to the client prior to binding Insurance and each fee be shown on all documentation separately from the premium and not breach any local laws or regulations.

MAINTENANCE OF FUNDS

The Sub Agent undertakes to hold all funds received on behalf of the Underwriting Agent in a separate designated Clients account or in a separate designated Insurers account, which shall be either a statutory trust account or a non-statutory trust account, operated in accordance with the FCA Client Assets Sourcebook (CASS) rules.

The Sub Agent will supply to the Underwriting Agent on request a copy of the trust deed constituting the trust and thereafter copies of any amendments to such document as well as copies of all audits and accounts produced in relation to the trust.

These funds may not be used by the Sub Agent for any purpose other than for the purpose of settling accounts with the Underwriting Agent (or other insurers with whom the Sub Agent does business) or premium refunds or claims to clients or any other transactions where expressly authorised by the Underwriting Agent. For the avoidance of doubt, and without prejudice to the generality of the foregoing, the Sub Agent may not invest these monies in any way without the prior written consent of the Underwriting Agent and the assets held in the above mentioned account may not be co-mingled with assets in respect of the Sub Agent's general or operating account. Subject to adherence to these requirements, any interest earned on such monies held by the Sub Agent shall accrue to the Sub Agent.

ACCOUNTING

In respect of SunWorld Travel business, monthly declarations are available to the Sub Agent online and should be printed immediately after each month end. Please forward the nett amount due to be received by this office by 15th of each month.

In respect of all other business, the Underwriting Agent will submit Statements of Accounts at the beginning of the month, which will be sent to the Sub Agent when premiums have been agreed. In the event of protracted negotiations which delay the agreement of the final premiums, the Underwriting Agent may prepare and submit provisional accounts equivalent to the anticipated premiums.

Please forward the nett amount due to be received by this office by 28th of each month, following the month of which the policy incepts or renews or is adjusted, unless such payment terms are specifically varied or otherwise stated on a specific policy.

In the event the Sub Agent receives the premium after the time permitted for the client to pay the premium and provided the relevant contract of Insurance has not been validly cancelled, the Sub Agent shall pay that premium to the Underwriting Agent as soon as reasonably possible.

Without releasing the Sub Agent from its obligations to make payments to the Underwriting Agent for any premiums which are due, the Underwriting Agent may, at its discretion, approach the clients directly to effect payment of any sums due.

Payment can be made by cheque payable to 'DOA Underwriting Ltd' or by BACS transfer to our Insurance Accounts below:

Travel Business

Account Name: DOA Underwriting Ltd
Account Number: 50881988
Sort Code: 20-74-05

All Other Business

Account Name: DOA Underwriting Ltd
Account Number: 20241156
Sort Code: 20-74-05

RESPONSIBILITY FOR PREMIUMS

Once the Underwriting Agent has received instructions and has confirmed cover in respect of the inception, renewal or amendments of the Sub Agent's client's Insurances, the Sub Agent and its clients become jointly and severally responsible to the Underwriting Agent for the payment of all and any premiums which may be or may become due at any time relating to the Insurances. Should the Underwriting Agent be unable to collect premiums from the Sub Agent, it may demand payments from the clients, who will be required to pay any monies unpaid to the Underwriting Agent on Insurance policies arranged for it notwithstanding anything previously agreed or transacted between the clients and the Sub Agent. Notwithstanding any action taken by either party, should premiums not be paid to the Underwriting Agent by the client or the Sub Agent within the terms of this Agreement or any premium payment warranties, cover may be cancelled.

COMMISSION

The Underwriting Agent will allow to the Sub Agent a proportion of its commission which will be agreed separately at the time of placement including renewal, adjustment and mid-term transactions.

Where the Underwriting Agent has not specifically sub delegated risk transfer, commission is due and payable to the Sub Agent upon receipt by the Underwriting Agent of cleared premium funds in respect of the relevant policy or policies. Where the Underwriting Agent has specifically sub delegated risk transfer, commission is due and payable to the Sub Agent upon receipt by the Sub Agent of cleared premium funds in respect of the relevant policy or policies.

COMMISSION DISCLOSURE

The Underwriting Agent will disclose and the Sub Agent must disclose to its clients all commissions or other income which the Underwriting Agent and its Sub Agent receives or is entitled to receive from placing any Insurance Business in connection with this agreement, in accordance with legal and regulatory requirements.

MAINTENANCE & RENEWAL

The Sub Agent undertakes to inform the Underwriting Agent of any changes during the duration of the policy (including renewal), which would affect the Underwriting Agent's attitude to covers or levels of premiums or which the Underwriting Agent should be made aware. The Sub Agent must liaise with the Underwriting Agent prior to each renewal to enable the Underwriting Agent to provide notification of renewal terms or non-renewal in good time to allow the Sub Agent to meet its regulatory obligations to customers in this respect.

CLAIMS

Except in specifically agreed cases where the Sub Agent may deal directly with the Insurers, any notification of claims received by the Sub Agent must be advised to the Underwriting Agent immediately in writing. The Sub Agent should only formally acknowledge receipt of the claims from its clients. Unless authorised by the Insurers, no negotiations should be entered into by the clients, or the Sub Agent.

RETENTION OF DOCUMENTS

The Sub Agent shall retain all records, including electronic records, relating to all Policies bound, claims handled and recoveries pursued for a minimum period of seven (7) years or for such longer period as may be required by applicable law, statutes and regulations.

AUDITS

The Underwriting Agent, Insurers, external auditors or other representatives appointed by the Insurers shall have the right at any time during normal business hours, without any restriction or limitation, to inspect and audit any records, statistical information, systems and processes (including electronic systems and processes) of the Sub Agent relating to Insurances bound and to the operation of the Agreement (including in relation to claims and recoveries) and shall have the right to make copies or extracts of any such records, provided reasonable notice is given to the Sub Agent.

ANTI-BRIBERY, CORRUPTION AND SANCTIONS

The Sub Agent will ensure that at all times it complies with all applicable laws, statutes and regulations relating to anti-bribery and corruption. In particular, the Sub Agent shall comply with the Bribery Act 2010 of the United Kingdom. The Sub Agent will ensure that it has in place and maintains adequate policies and procedures to prevent the Sub Agent, and protect the Underwriting Agent, from being exposed to a bribery or corruption event. Current anti-money laundering regulations require the Underwriting Agent to obtain adequate "Know Your Client" information about the Sub Agent. In order to prevent bribery, corruption or other financial crime, additional due diligence may be carried out. Further steps may be taken which include status and credit checks using credit reference agencies, and other background checking, as deemed appropriate.

Each party will conduct appropriate due diligence and screening against applicable financial sanctions target lists (e.g. UK, EU, UN and US), and have systems and controls in place to prevent participation in activities which would place the Sub Agent and/or the Underwriting Agent in breach of financial sanctions legislation. Insurance cover and the parties involved in its provision or arrangement, may be, or may become subject to sanctions legislation. In such circumstances, Insurance cover, associated payments and transactions may be prohibited or subject to restrictions. The Sub Agent remains responsible for maintaining effective systems and controls to ensure it does not participate in activity which breaches financial sanctions legislation.

CONFLICTS OF INTEREST

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

DATA PROTECTION

Each Party shall comply with all applicable obligations imposed by, or made under requirements of the Data Protection Act 2018 and General Data Protection Regulation, together with any other applicable regulations, orders or codes of practice or equivalent legislation in the jurisdiction in which it carries on business.

This includes but is not limited to; processing personal data appropriately and as necessary, taking appropriate measures against unauthorised or unlawful processing of personal data as well as against the accidental loss or destruction of, or damage to personal data, promptly complying with any valid request to amend, transfer or delete personal data, not authorising any third party or sub-contractor to process personal data and to notify the other party should it become aware of non-compliance of any aspect of the above.

TREATING CUSTOMERS FAIRLY AND CONDUCT RISK

Treating Customers Fairly (TCF) and customer focused conduct of business (Conduct Risk) form core parts of the customer approach, and are the practical application of the FCA's Principles for Business No. 6 - "*Customers' Interests*" which states; "*A firm must pay due regard to the interests of its customers and treat them fairly.*"

As such, The Sub Agent shall ensure that TCF and Conduct Risk are applied in all areas of its daily business activities. In particular to; treating customers fairly at each stage of the product life cycle, offering a transparent, efficient and professional service, reviewing treatment of customers constantly to identify areas for improvement and ensuring a fair outcome for the customer at all times.

PROFESSIONAL INDEMNITY INSURANCE

Both parties undertake to maintain cover in accordance with the FCA requirements and to produce to each other copies of confirmation of the existence of such cover as and when required to do so. Both parties shall inform each other immediately if such cover ceases or is likely to be insufficient in the light of the nature and / or scale of operations.

NOTIFICATION OF CHANGES

The Sub Agent shall notify the Underwriting Agent immediately on becoming aware of any changes to the information provided by the Sub Agent in the formation of this Agreement including any variation or cancellation of the Sub Agent's regulatory licences or permissions, initiation of regulatory disciplinary or investigation of the Sub Agent's staff, directors or conduct or any change in the Sub Agent's Approved Persons or subsequently, failing of which the Underwriting Agent may terminate the Agreement in accordance with the section headed Termination.

MARKET SECURITY

Whilst the Underwriting Agent monitors the financial strength of Insurers with whom business is placed, it should be noted that the claims paying ability of even the strongest Insurers may be affected by adverse business conditions. The Underwriting Agent cannot therefore assess or guarantee the solvency of any Insurer at any time. If an Insurer who has granted risk transfer becomes insolvent, any related premiums held for that Insurer are deemed to have been paid to them and will not be returnable. In the event of an Insurer's insolvency there may still be a liability to pay the premium due.

The Underwriting Agent does not accept any liability for any unpaid amounts in respect of claims or return premiums due from a participating Insurer who becomes insolvent or delays settlement.

CONFIDENTIALITY

Each party will treat information received from the other relating to this Agreement and to any Insurance business as confidential and will not disclose it to any other person not entitled to receive such information except as may be necessary to fulfil their respective obligations in the conduct of the Insurance business under this Agreement and except as may be required by Law or regulatory bodies. For the avoidance of doubt each party shall be entitled to disclose such information where necessary to its Insurers or reinsurers, actuaries, auditors, professional agents and advisers and other associated bodies. This clause will not apply to information which was rightfully in the possession of such disclosing party prior to this Agreement, which is already public knowledge or becomes so at a future date (otherwise than as a result of a breach of this clause) or which is trivial or obvious.

ELECTRONIC TRADING

The Underwriting Agent may transact business with the Sub Agent by a number of methods including electronic trading and as such the Underwriting Agent and the Sub Agent accept the hazards intrinsic with communicating electronically, such as the infection by computer viruses, the corruption of data, and the possible breach of confidentiality if using a third party service provider.

Whilst the Underwriting Agent and the Sub Agent agree to be individually responsible for and endeavour to ensure that such communication shall remain free from any such interference, the Sub Agent will be responsible for ensuring that any and all correspondence sent to the Sub Agent electronically shall be virus checked. Furthermore, it shall be the Sub Agent's responsibility to ensure that any messages sent from the Underwriting Agent to the Sub Agent are received complete. In the event of a dispute, the Sub Agent agrees that the Underwriting Agent's system shall be the definitive record of electronic communications and documentation transmitted by the Relevant Company.

MYSTERY SHOPPING

The Market Research Society (MRS) defines mystery shopping or 'mystery customer research' as: 'The use of individuals trained to experience and measure any customer service process, by acting as potential customers and in some way reporting back on their experiences in a detailed and objective way.' Mystery shopping is a long-established research technique and is used extensively in many industry sectors, to measure the quality of service provided. Many large financial services providers use mystery shopping to research their competitors and their own sales staff to improve customer services and to help ensure they are treating customers fairly.

The Underwriting Agent may from time to time undertake 'mystery shopping' to give us a detailed insight into the way our financial products are sold to customers. These calls may be recorded as this is the most accurate and fair way to record what took place during an exercise. It is an important part of the quality assurance process and gives unambiguous and actionable information which can be used to review our products and overall sales journey.

COMPLAINTS

The Underwriting Agent aims to provide a high level of service at all times. If the client or Sub Agent feels that the Underwriting Agent has not met these high standards, please contact the Underwriting Agent with full details of the complaint and any supporting information, to the address shown on the first page or by email to compliance@doainsurance.co.uk, or by telephone 01371 878538 and we will do our best to resolve the problem.

In the event that we are unable to resolve a complaint, it may be possible to refer the matter to the Financial Ombudsman Service or the Complaints Team at Lloyds where a complaint is concerning a policy underwritten by a Lloyd's Insurer.

The Sub Agent must notify the Underwriting Agent of any complaint made to it about the Underwriting Agent or Insurers at the earliest opportunity. Where a complaint concerns an Insurer, the Underwriting Agent will update the Insurer as required.

The Underwriting Agent also expects to be kept updated of any complaint made against the Sub Agent concerning the sale of one of our policies.

Full details of our complaints procedures are available online, upon request and will be provided at the appropriate stage of a complaint.

COMPENSATION

The Underwriting Agent is covered by the Financial Services Compensation Scheme (FSCS). Clients of the Sub Agent may be entitled to compensation from the scheme if the Underwriting Agent cannot meet its obligations. This depends on the type of business and the circumstances of the claim. The maximum level of compensation available from the Scheme for a claim against an Insurance firm depends on the type of Insurance policy. No protection is available for Goods in Transit, Marine, Aviation and Credit Insurance. Contracts of reinsurance are also not protected. Further information is available from the FSCS.

TERMINATION

This Agreement may be terminated by mutual agreement between both parties by exchanging written confirmation to each other.

Or, by either party giving 60 days written notice to the other of their wish to terminate the Agreement.

Or, immediately if instructed to by Insurers, regulatory bodies or enforcement agencies.

Or, by either party immediately in the event of its suspecting the other party of fraud, dishonesty or bad administration of the accounts on behalf of its clients or on the other party becoming insolvent, appointing a Receiver or Manager, seeking a Liquidation or ceasing to trade or any analogous proceeding in any jurisdiction or any of its Principals becoming bankrupt or in the event either party ceasing to be authorised by the FCA (or equivalent) or in the event of the failure of either party to comply with the FCA rules including ICOBS or to meet any of its obligations under the terms of this Agreement.

In the event of termination, nothing in this Agreement shall affect the Underwriting Agent's right of action as detailed in the Agreement or rights to recover premiums from the Sub Agent or its clients or to apply any return premiums received from Insurers against any monies which may be owed to it by the Sub Agent or its clients.

In the event of live policies still in force once termination of the Agreement is effective, the Underwriting Agent reserves the right to enforce the terms of the Agreement until all policies have lapsed, contact the clients directly regarding the matter or direct the clients to seek assistance from another Sub Agent if required.

JURISDICTION

This Agreement shall be governed by and interpreted in all respects in accordance with the laws of England and both parties hereto agree to submit to the exclusive jurisdiction of the English Courts.

VARIATION

The Underwriting Agent may vary the terms of this Agreement by advising the Sub Agent in writing.

Signed on behalf of;

DOA Underwriting Ltd &/or David Oliver T/as David Oliver Associates &/or DOA Special Facilities Ltd.



D. G. Oliver ACII

Managing Director

Version January 2018 v3