

2009

Business Terms Agreement

Exeter Friendly Society Limited
Incorporating all Pioneer traded products

[] (1) and

[] (2)

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DATED

2009

PARTIES

(1) Exeter Friendly Society Limited (incorporated under the Friendly Societies Act 1992 with Registered Number 91F) whose registered office is at Lakeside House, Emperor Way, Exeter, Devon EX1 3PD (**Society**); and

(2) [●]

(Intermediary)

Dated:

2009

BACKGROUND

(A) The Society is authorised and regulated by the Financial Services Authority (FSA) as, a provider of insurance products and any other products which might be permitted by the FSA in the future.

(B) The Intermediary is authorised and regulated by the Financial Services Authority to carry out the agreed activities in relation to the Society's products. These may be one or more of insurance mediation services and advising on/arranging of investments.

(C) This Agreement sets out the terms on which the Society agrees to accept applications for its products by Customers which are submitted to the Society by the Intermediary.

(D) This Agreement replaces any earlier terms of business between the Society and the Intermediary.

AGREED TERMS

1 Definitions and Interpretation

1.1 In this Agreement the words below have the meanings next to them unless the context requires otherwise:

Appointed Representative has the same meaning as set out in the FSA Rules.

Business Day a day which is not a Saturday or Sunday or a public holiday in England and Wales.

Clawback Circumstances A Customer:

- ceases to pay the agreed premiums on a Product;
- lapses a Product;
- varies the agreed terms of a Product, resulting in a decrease in the premium levels agreed at the outset;
- cancels a Product under any cancellations right provided under the FSA Rules; and/or
- has their contract for a Product terminated by the Society for any reason.

Commission Terms

- the rates of commission payable by the Society to the Intermediary on accepted applications for Products; and

- the rates at which commission already paid by the Society to the Intermediary will be reclaimed by the Society upon one of the Clawback Circumstances occurring as set out at Clause 5 and the Commission Schedule.

Commission Schedule	the schedules provided to the Intermediary listing the activities and rates of commission as agreed by the Society, in respect of each product, and amended under clause 5 from time to time.
Confidential Information	all information or data (whether oral, visual, recorded in writing, in any other medium or by any other method) disclosed to or obtained by one Party from the other or from a third party, including any information relating to a Party's operations, processes, plans, intentions, price lists, pricing structures, intellectual property, know-how, design rights, trade secrets, software, market opportunities and business affairs.
Contracts of Insurance	contracts of general insurance and contracts of long term insurance as defined by the RAO.
Customer	A policy holder and any person who applies for a Product.
Customer Due Diligence	has the same meaning as set out in the Money Laundering Regulations 2007.
Data	Any information in any form which relating to Customers or parties.
DPA	Data Protection Act 1998 and any secondary legislation made there under.
Effective Date	the date on which this Agreement comes into force – being the date inserted on page 1.
Electronic Means	email or by some other electronic communication channel that has been agreed prior to sending.
FSA	the Financial Services Authority or any other regulatory body that replaces or succeeds the same from time to time.
FSMA	the Financial Services and Markets Act 2000 and, where appropriate, any secondary legislation made there under.
FSA Rules	the rules and guidance of FSA as set out in the FSA Handbook and amended from time to time.
Indemnity Basis	where commission is paid by the Society to the Intermediary on the assumption that a Customer will maintain the agreed premiums for a Product for the minimum of the Indemnity Period.
Indemnity Period	the period during which, if any of the circumstances set out at Clause 5 of the Agreement occur, the Society has the right to clawback commission paid to the Intermediary under this Agreement and the Commission Terms
Intellectual Property	Any patent, copyright, registered design, design right, trademark or other industrial or intellectual property right whether registrable or not anywhere in the world
Intermediary	one of the following as appropriate:

- (1) a directly authorised Intermediary
- (2) an appointed representative of either a directly authorised Intermediary or of a Network
- (3) a Network (being directly authorised);

Intermediary's Nominated Bank Account	the bank account into which commissions due to the Intermediary from the Society will be paid under this Agreement, the details of which will be notified by the Intermediary to the Society within ten Business Days of the Effective Date
Money Laundering Legislation	the Money Laundering Regulations 2007, the Proceeds of Crime Act 2002, the Terrorism Act 2000 and any other relevant UK legislation which concerns the identification and prevention of Money Laundering
Network	As defined by the FSA Glossary
Ongoing Monitoring	has the same meaning as set out in the Money Laundering Regulations 2007
Parties	Each and all of the parties to this Agreement
Part IV Permission(s)	has the same meaning as set out in the FSA Rules
Personal Data	any information of whatsoever nature relating to an individual as defined by the Data Protection Act 1998.
Products	The products offered by the Society from time to time which constitute Contracts of Insurance or other Relevant Investments
RAO	the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001
Relevant Investments	has the same meaning as set out in the RAO
Simplified Due Diligence	has the same meaning as set out in the Money Laundering Regulations 2007
Term	The period of this Agreement as set out in Clause 2

- 1.2 In this Agreement unless the context requires otherwise:
- 1.2.1 references to a Clause or Schedule are to a clause of, or a schedule to, this Agreement; references to this Agreement include its schedules; and references in a Schedule to a paragraph are to a paragraph of that Schedule;
 - 1.2.2 references to this Agreement or any other document are to this Agreement or that document as amended from time to time;
 - 1.2.3 the singular includes the plural and vice versa; references to any gender include every gender; and references to persons include corporations, partnerships and other unincorporated associations or bodies of persons;
 - 1.2.4 all headings are for convenience, have no legal effect and should be ignored when interpreting this Agreement;
 - 1.2.5 the words "other", "including" and "in particular" do not limit the generality of any preceding words;

- 1.2.6 any obligation not to do anything is deemed to include an obligation not to suffer, permit or cause that thing to be done if it is within the power of the relevant person to prevent that thing being done;
- 1.2.7 reference to the Parties include their respective successors in title;
- 1.2.8 a reference to any provision of any enactment will be construed as a reference to that provision or enactment as amended, re-enacted or extended at the relevant time;
- 1.2.9 the definitions contained in the Interpretation Act 1978 apply (unless a specific definition has been included or the context otherwise requires) in interpreting words and phrases used in this Agreement.

2 Term

- 2.1 This Agreement will commence upon the Effective Date and will continue until terminated under Clause 18.

3 Scope of this Agreement

- 3.1 This Agreement is to apply to the introduction of Customers of the Intermediary to the Society for the purpose of the Society providing one or more of the Products for such Customers.
- 3.2 All applications for Products submitted by the Intermediary to the Society on behalf of Customers will be accepted (or otherwise dealt with) on the terms of this Agreement.
- 3.3 The Society reserves the right, at its discretion, not to accept any application for a Product from a Customer submitted by the Intermediary and nothing in this Agreement shall require the Society to accept any application from a Customer for a Product, or to renew any existing Product held by a Customer or to maintain cover in respect of any existing Product.

4 Status of the Intermediary and the Society

- 4.1 The Intermediary will at all times act as agent for any Customer on whose behalf the Intermediary submits an application for a Product to the Society. The Intermediary is not appointed by the Society to act as its agent under this Agreement or otherwise.
- 4.2 The Intermediary warrants that at the Effective Date and at all times whilst this Agreement is in force it will maintain the necessary registrations, permissions, authorisations and appropriate Part IV Permissions, to act as agent for Customers and to carry out the business of the Intermediary in advising Customers on the Products and/or submitting applications for Products to the Society on behalf of Customers.
- 4.3 The Intermediary will obtain each Customer's authority to act on that Customer's behalf before submitting an application for a Product to the Society on that Customer's behalf.
- 4.4 The Intermediary is not authorised, under this Agreement or otherwise, to bind the Society or make representations on behalf of the Society, in any way including but not limited to providing or promising cover for any risk, signing documents or endorsing cheques on behalf of the Society.
- 4.5 The Society warrants that at the Effective Date and at all times while this Agreement is in force it will maintain the necessary and appropriate Part IV Permissions to act as the provider of Products.

The Intermediary undertakes to the Society that the Intermediary:

- 4.6 has taken out its own professional indemnity insurance cover in accordance with the FSA rules, or through the Network if an appointed representative and will inform the Society immediately if such cover is cancelled, withdrawn or lapses or does not meet with the requirements of the FSA. The Intermediary shall from time to time provide The Society with a copy of the current professional indemnity insurance certificate on demand;
- 4.7 does not carry out insurance mediation or the regulated activity of insurance mediation directly or indirectly on behalf of a person who is not authorised by the FSA in contravention of section 19 FSMA or, the Insurance Mediation Directive in another EEA state.

5 Commission

- 5.1 The Society will pay commission to the Intermediary on all applications for Products submitted to the Society by the Intermediary on behalf of Customers, and accepted by the Society on the terms set out at this Clause 5 and in accordance with the Commission Schedule.
- 5.2 Rates of commission payable to the Intermediary on accepted applications for Products will be notified by the Society to the Intermediary from time to time in writing in the Society's Commission Terms.
- 5.3 The Society will give at least 20 Business Days notice of a change on commission rates and the new rates will be applicable to commissions earned at the end of the 20 business day notice period.
- 5.4 The Society will pay commission on an indemnity basis but reserves the right to pay commission on a non - indemnity basis where the Society deems it appropriate to do so. In particular but without limitation, the Society will not pay commission on an indemnity Basis on accepted applications for products submitted by the Intermediary on behalf of the following persons:
 - 5.4.1 employees of the Intermediary;
 - 5.4.2 other persons retained by the Intermediary; and
 - 5.4.3 family members of the Intermediary or of the partners, LLP members or directors of the Intermediary.
- 5.5 Should any of the Clawback Circumstances occur during the Indemnity Period, the Society will reclaim all or part of any unearned commission already paid to the Intermediary on an indemnity Basis, at the rates set out in the Society's Commission Terms.
- 5.6 Should the Society be entitled to reclaim any commission already paid to the Intermediary under this Clause 5, the Society shall notify the Intermediary in writing as soon as reasonably practicable after the Clawback Circumstance occurs and the Society shall be entitled, at its discretion:
 - 5.6.1 to set-off any commission re-claimed from the Intermediary under this Clause 5 against any other commission payable to the Intermediary under this Clause 5. Any such set-off will be notified to the Intermediary in writing on the next commission statement provided by the Society to the Intermediary; or
 - 5.6.2 to submit a written request to the Intermediary that the Intermediary reimburses the Society the full amount of reclaimed commission as notified by the Society to the Intermediary under this Clause 5, within 10 Business Days.
- 5.7 Should any amount remain outstanding to the Society by the Intermediary under Clause 5.6.2 above after the due date, the Society may charge interest from the due

date until the date of payment, before and after any judgment, at the rate of 5% above the base rate of Barclays Bank plc from time to time.

- 5.8 Commission shall be paid to the Intermediary in accordance with the Commission Schedule and accompanied by a statement of account which may be contained in writing, disk, tape, by some other electronic means or any other method of communication unless agreed otherwise. Payments will be made on a net basis setting-off any clawbacks due on unearned commission already paid.
- 5.9 Notwithstanding Clause 1.1, at its discretion the Society may pay commission to the Intermediary before the first premium or contribution has been received by the Society, where the Society has received a completed direct debit mandate from the Customer.
- 5.10 Should any dispute arise between the Intermediary and any other person in respect of to whom commission is payable in respect of a particular application by a Customer for a Product, the Society shall have absolute discretion to whom it shall pay such commission to but any such payment shall be subject to the indemnity at Clause 14.2.
- 5.11 The Society will cease to pay any commission to the Intermediary under this clause if the Intermediary and/or a Customer who holds a product notifies the Society that the Intermediary is no longer acting as agent for that Customer.
- 5.12 If the Intermediary is a member of a Network then commission may be paid to the Network and not to the appointed representatives.

6 Payment of premiums

- 6.1 The Intermediary has no authority to collect premiums on behalf of or as agent for the Society.
- 6.2 If there are any unpaid premiums the Society shall send a notice directly to the Customer and at the same time notify the Intermediary.
- 6.3 The Society reserves the right to issue renewal invitations directly to Customers whose insurances are arranged by the Intermediary with The Society and not to pay commission in respect of premiums thereon in the following circumstances:-
- 6.3.1 apparent evidence of fraud;
- 6.3.2 civil or criminal charges material to the operation of the business under the terms of this Agreement including any proceedings brought by the FSA or by any other relevant regulatory authority;
- 6.3.3 if there is reason to believe that the Intermediary is unable to meet any applicable capital adequacy requirements;
- 6.3.4 if the administration of the account is in the opinion of the Society such as to prejudice the interests of Members of the Society;
- 6.3.5 if the Society, in its absolute discretion, considers it appropriate to do so.
- 6.4 Where possible, notice will be given to the Intermediary by the Society of the proposed actions and the reason for them.

7 Assignment

- 7.1 Neither Party can, without the prior written consent of the other Party assign, transfer, charge or deal in any way with this Agreement or any of its rights under it, or purport to do any of these things, nor sub-contract any or all of its obligations under this Agreement.

- 7.2 Nothing herein contained shall be deemed to restrict the Society's entitlement in any case to require a proposed assignee to enter into a Terms of Business Agreement directly with the Society.

8 Transfer of rights to receive commission

- 8.1 Should the Intermediary request that the Society transfer to the Intermediary any right to receive commissions on an existing product already held by a person at the Effective Date and/or where that product was arranged by a person other than the Intermediary, the Society reserves the right to refuse to do so unless:

8.1.1 the Intermediary is able to provide satisfactory evidence to the Society that either the person in whose name the Product is held or the person who arranged the Product and who has received and/or is currently in receipt of commission from the Society in respect of that Product consents to the transfer; and

8.1.2 the Intermediary, at the date of transfer and for as long as commission remains payable in respect of the Product, holds the necessary Part IV Permissions under the FSMA/RAO to advise on and/or arrange Products in the same category as the Product concerned.

9 Documentation

- 9.1 Should:

9.1.1 the Society supply any documentation to the Intermediary for the benefit of, or for completion by, the Customer; or

9.1.2 a Customer provide any documentation or information to the Intermediary in relation to an application for a product;

the Intermediary shall immediately, in full and without amendment, pass such documentation and/or information to the Customer or the Society respectively.

- 9.2 On each application or proposal for a product submitted to the Society by the Intermediary on behalf of a Customer, the Intermediary shall ensure that all details requested in relation to the Customer and the Intermediary are completed accurately and fully, to the best of the Intermediary's knowledge and belief after conducting reasonable investigations as would be expected of any competent person carrying out such services provided by the Intermediary to a professional standard.

- 9.3 For the avoidance of doubt, as agent for the Customer, notification of any information by the Customer to the Intermediary is not deemed to be notification to the Society.

10 New business and Renewals

- 10.1 The Intermediary will present information and applications relating to any Product in the form specified by the Society using only the Society's literature relating to the relevant product or in such other manner as may be agreed in writing between the Society and the Intermediary and will ensure that the attention of Customers and prospective Customers is drawn to the condition that eligibility for benefit under any Product shall only begin when premiums due have been received in full by the Society.

- 10.2 The Intermediary will notify the Customer of all terms and conditions applying to the product promptly and accurately and will ensure that the Customer or prospective Customer is at all times aware of the nature, scope and extent of the products provided by the Society and all the obligations and rights of the Customer or prospective Customer in respect of such Products. Without prejudice to the generality of this duty, but for the avoidance of doubt these will include:-

- 10.2.1 the extent of cover provided by the Society under any particular product and the gross premium payable (distinguishing that from any other charges);
 - 10.2.2 the Customer's or prospective Customer's obligation to disclose all circumstances material to the risk that is being insured, and the consequences of failure to disclose any material fact to the Society;
 - 10.2.3 the Customer's or prospective Customer's responsibility to ensure that any answers or statements made in the completion of any application form, claim form or other material documents are true, accurate and complete;
 - 10.2.4 the Society's right to cancel the product if premiums are not paid;
 - 10.2.5 that the Intermediary, as agent of the Customer or prospective Customer, will not receive premiums as agent for the Society (or indeed receive premium at all); and
 - 10.2.6 the need to ensure that the Customer or prospective Customer is aware of the rules relating to his products and the need to notify claims promptly and to disclose material facts in relation to claims; and
 - 10.2.7 that any loss of premium in the hands of the Intermediary will be compensated through the Intermediary's redress process (the Financial Services Compensation Scheme).
- 10.3 Any information required by the Society in order to confirm the acceptability of the risk will be promptly sought by the Intermediary.
 - 10.4 The Society will produce the information required by the FSA rules in respect of each application form submitted by the Intermediary (subject always to the right to refuse business in Clause 3.3), but it shall be the Intermediary's responsibility to provide such information to the prospective Customer in accordance with FSA rules.
 - 10.5 The Intermediary will pass promptly to the Customer the Society's renewal documentation including details of any change in the terms and conditions applying to the Product and to the items covered.
 - 10.6 In order to comply with clause 10.5 and the FSA rules, the Society will issue renewal documentation to the Intermediary (or a notice that it will not invite renewal) within a reasonable time.
 - 10.7 Dependent upon the receipt by the Intermediary of the information in Clause 10.2 from the Society, the Intermediary will pass on such information to the Customer not less than 15 Business Days prior to the renewal date to comply with the FSA Rules.
 - 10.8 Notwithstanding clauses 10.5 to 10.7 above, the Society may send renewals direct to Customers if it considers it appropriate to do so.
 - 10.9 At its discretion the Society may accept applications for Products submitted by the Intermediary on behalf of Customers on a non-advised or execution-only basis. In the case of non-advised business, Clauses 10.1 to 10.4 will apply in full. In the case of execution-only business the Intermediary must ensure that the Customer has signed an appropriate execution-only statement acknowledging that the Intermediary has not provided any advice or information to the Customer on the Product and so has placed no reliance whatsoever on the Intermediary other than to execute the Customer's specific instructions to arrange the Product. The Intermediary will provide a copy of any execution-only statement signed by a Customer to the Society on request.

11 Online Business

- 11.1 This Clause 11 only applies to the Intermediary if the Society has authorised the Intermediary to conduct business through the Society's websites. Access to the

websites will be by an authorised link for which access codes and passwords will be provided by the Society to the Intermediary.

- 11.2 The Intermediary or network must agree a separate sub-agency for each Appointed Representative that needs to effect online applications and obtain a new user name and password for each sub-agent for commission tracking purposes.
- 11.3 The Intermediary agrees that it will only receive commission in accordance with the Commission Schedule where an agency number provided by the Society has been supplied and used for the effecting of introductions. Business introduced to the Society by the Intermediary which has not used the authorised agency number and the authorised link will not receive commission.
- 11.4 The Society reserve the right to make changes or corrections, alter, suspend or discontinue any aspect of the online service including the Intermediary's access to it.
- 11.5 The Intermediary is solely responsible for all use of and for protecting the confidentiality of any user name or password, e-mail verification or link authorisation that may be given to the Intermediary for access to the online service. The Intermediary may not share these with or transfer them to any third parties. The Intermediary must notify the Society immediately of any unauthorised use of them or any breach of security regarding the Society's websites that comes to the Intermediary's attention.
- 11.6 Any user name, password, e-mail verification and link authorisation remains the property of the Society. If this Agreement is terminated all this property shall be returned to the Society and if not practical to return, it shall be destroyed to the reasonable standards required by The Society.
- 11.7 The Society websites are controlled and operated by the Society from its offices in the UK. The Society has used its best endeavours to ensure that all materials comply with UK laws. However, the Society makes no representations that the materials and the online service are appropriate or available for use in locations outside the UK. Those who visit the Society websites from other locations do so on their own initiative and are responsible for compliance with all applicable laws. If use of the Society websites or the viewing of it, or the content of the websites including any products offered are contrary to or infringe any applicable law in the Intermediary's jurisdiction, the Intermediary is not authorised by the Society to view or use the websites and the Intermediary must exit immediately.
- 11.8 The Society makes no warranties, express or implied that making the online service available in any particular jurisdiction outside the UK is permitted under any applicable non-UK laws or regulations. Accordingly, if making the online service available in your jurisdiction is prohibited the online service is not offered for subscription to you. If you are outside the UK you must satisfy yourself that you are lawfully able to use the online service.
- 11.9 The Society accepts no liability to the Intermediary to the extent permitted by applicable law, for any costs, losses or damages resulting from or related to the access or attempted access of the online service by the Intermediary if such a person is in a jurisdiction outside the UK or is nominee of or Trustee for citizens, residents or nationals of other countries.
- 11.10 The Society will try to make the online service available but cannot guarantee that the online service will operate continuously or without interruption or be error free and can accept no liability for its unavailability. The Intermediary must not attempt to interfere with the proper working of the online service and in particular must not attempt to circumvent security, tamper with, hack into, or otherwise disrupt any computer system, server, or website router or any other internet connected device.
- 11.11 In order to provide a true record of online applications completed by the Intermediary on behalf of the Client, the Society will send a copy of the completed application form along with the policy documents to the Intermediary to be

forwarded to the Client for them to sign and return to the Society through the Intermediary.

12 Money laundering

- 12.1 The Intermediary will at all times comply with the Money Laundering legislation when dealing with Customers in relation to Products, including but not limited to any specific obligations set out at this Clause 12.
- 12.2 The Intermediary will be responsible for carrying out all Customer Due Diligence and Ongoing Monitoring in relation to Customers on whose behalf the Intermediary submits applications for Products to the Society.
- 12.3 By entering into this Agreement with the Society, the Intermediary consents to the Society relying on the Intermediary to carry out Customer Due Diligence as set out at Clause 12.2 above.
- 12.4 The Intermediary will keep records, as required by the Money Laundering Regulations 2007 and for the periods set out therein, of the evidence obtained from the Customer in order to carry out Customer Due Diligence and Ongoing Monitoring. The Intermediary will provide the Society with access to such records and/or forward copies of such records to the Society as soon as reasonably practicable after receiving a request from the Society.
- 12.5 Where only Simplified Due Diligence is required to be carried out by the Intermediary due to Product type and/or premium amount the Intermediary nevertheless agrees to carry out Customer Due Diligence if requested to do so by the Society due to an increase in premium or for any other reason.

13 Data protection and information

- 13.1 Both the Society and the Intermediary will process all Personal Data relating to Customers strictly in accordance with the DPA.
- 13.2 Personal data about the Intermediary or its Customers will be held by the Society for the purposes of the business related to this Agreement.
- 13.3 All Personal Data about Customers of the Society gathered and collated for the purpose of The Society underwriting and administering a policy shall remain at all times the property of the Society and the Intermediary has a licence to use the data only insofar as is absolutely necessary to pass information between the Society and the Customer and to the extent permitted in the Intermediary's terms of business with the Customer.
- 13.4 When this Agreement comes to an end the Society will own the Personal Data on a Customer that the Intermediary has obtained for the Society over the course of the Agreement and the Intermediary will own the Personal Data of those Customers who have not taken up any of the Society's products or services.
- 13.5 By entering into this Agreement the Intermediary consents to the Society using any Personal Data held on the Intermediary to;
 - 13.5.1 carry out such checks and searches on the Intermediary and such persons as the Society sees fit, including but not limited to credit checks, fraud searches and any checks deemed necessary by the Society to satisfy its legal and/or regulatory obligations; and
 - 13.5.2 contact the Intermediary from time to time regarding Products and any other matters concerning this Agreement or the Society's or the Intermediary's business generally.
- 13.6 The Intermediary shall immediately notify the Society of all material changes in the director, partners, shareholders, control or scope of activities of the Intermediary, including all changes in the name or trading name of the Intermediary.

14 Other regulatory obligations of the Intermediary and the Society

- 14.1 Both the Intermediary and the Society will at all times carry out their obligations under this Agreement and any obligations owed to Customers under the FSA rules strictly in accordance with the FSA rules.
- 14.2 For the avoidance of doubt, provided it is in compliance with Clause 13.1, the Society reserves the right to communicate directly with Customers.
- 14.3 The Intermediary (and shall procure that its representatives and agents) shall keep, maintain and must produce to the Society, on demand and at the Intermediary's cost; records, books and accounts as the Society may reasonably require in relation to Products effected for Customers introduced to the Society by the Intermediary, in order for the Society to confirm compliance by the Intermediary with its obligations under this Agreement and/or the FSA Rules. The materials referred to in this clause 14.3 must be kept up to date.
- 14.4 Where the Intermediary does not reasonably satisfy the Society that this Agreement and regulation is being materially complied with, the Intermediary shall allow the Society reasonable access to its offices, records (including extraction and copying facilities) and staff to investigate its concerns.
- 14.5 The Intermediary will notify the Society immediately if the FSA withdraws any of the Intermediary's Part IV Permissions, or changes the status of the Intermediary's authorisation or if the Intermediary receives notice that that FSA [or it's principal firm] intends to suspend, withdraw or change the status of the Intermediary's authorisation, or if the Intermediary is in breach of or has reasonable cause to suspect it will be in breach of any term of this Agreement.
- 14.6 The provisions of this Clause 14 will continue to have effect as long as is necessary to allow the Society to comply with the regulatory requirements, notwithstanding the termination or expiry of this Agreement.

15 Company Property

- 15.1 All books and documents, computer hardware or software belonging to the Society and in possession of the Intermediary will at all times be made available to the Society for inspection and be delivered to the Society by the Intermediary on demand, at the cost of the Intermediary. The Intermediary may not copy, alter or loan any such items without the prior written consent of the Society.

16 Indemnity

- 16.1 The Intermediary shall indemnify the Society against any claims made or proceedings brought against the Society (including the Society's reasonable legal costs), or any loss suffered by the Society arising from:
- 16.1.1 the Intermediary acting, purporting to act or holding itself out as being entitled to act as agent of the Society or otherwise as having the capacity to bind the Society in any manner whatsoever;
 - 16.1.2 the Intermediary breaking any term of or obligation under this Agreement; and/or
 - 16.1.3 any other act or omission whatsoever of the Intermediary.
- 16.2 Where a dispute arises between the Intermediary and another person as to who is entitled to receive commission from the Society in respect of a particular application for a Product by a Customer, the Intermediary will indemnify the Society against all claims, proceedings, costs (including reasonable legal costs) and losses incurred by the Society as a result of such dispute.

17 Variation

- 17.1 The Society shall be entitled to vary any provision of this Agreement upon giving reasonable notice to the Intermediary, subject to Clause 17.2 and Clause 17.3.
- 17.2 Where changes in the FSA rules, or any other regulatory obligation or applicable law require, the Society shall be entitled to vary the provisions of this Agreement before giving notice to the Intermediary. In such cases the Society shall give the Intermediary notice of such variation as soon as reasonably practicable after the variation takes effect.
- 17.3 Unless required by FSA rules, any other regulatory obligation on the Society or applicable law; no variation to this Agreement shall take effect in relation to Products already held by Customers or applications submitted by the Intermediary on behalf of Customers before the variation takes effect.

18 Termination

- 18.1 Each Party is entitled to terminate this Agreement immediately by giving written notice to the other if:
- 18.1.1 that other Party commits a material breach of this Agreement and fails to remedy the breach within 10 Business Days of being required to do so. [For this purpose "**material breach**" includes persistent breaches of this Agreement whether or not these breaches are material and/or have been remedied by the defaulting Party;
- 18.1.2 that other Party, being a natural person, dies or being a partnership or other unincorporated association, is dissolved;
- 18.1.3 that other Party, being a company, passes a resolution for winding up (other than for the purposes of a solvent reconstruction or amalgamation where the resulting entity assumes all of the obligations under this Agreement of the relevant Party) or a court makes a winding up order in respect of that other Party or that other Party has a receiver, administrative receiver, manager or administrator appointed of all or part of its undertaking and assets;
- 18.1.4 that other Party ceases or threatens to cease to carry on its business or is unable to pay its debts or becomes insolvent (within the meaning of the Insolvency Act 1986) or makes or proposes to make any arrangement or composition with its creditors;
- 18.1.5 that other Party suffers any analogous event to those set out in this Clause in any other jurisdiction;
- 18.2 For the avoidance of doubt, the Society may terminate this Agreement immediately by giving written notice to the Intermediary if:
- 18.2.1 the Intermediary ceases to hold the Part IV Permissions required to advise on any of the Products; and/or
- 18.2.2 the Society has any reason to suspect fraud or dishonesty by the Intermediary or by any of the Intermediary's employees, agents or independent contractors; and/or
- 18.2.3 in the reasonable opinion of the Society, the continuation of this Agreement would prejudice the interests of Customers or the reputation of the Society.
- 18.3 Either Party shall be entitled to terminate this Agreement on giving 20 Business Days notice in writing to the other party. The written notice must be served in accordance with Clause 21.
- 18.4 The termination of this Agreement for any reason is without prejudice to any rights or obligations which have already accrued before the date of termination.

- 18.5 Upon termination of this Agreement under this Clause 18 the Society will prepare a statement of account as between the Society and the Intermediary. Settlement of such account will be by way of immediate payment by either Party of the net balance due to the other Party as shown in the statement of account (which shall include but not be limited to premiums, commissions, and any clawback on unearned commission). Payment shall also be made to the Society of all known premiums not included in the statement of account.

19 Effects of termination

- 19.1 On termination of this Agreement, the Intermediary must:

19.1.1 at the request of the Society, immediately return or dispose of as the Society directs, all literature relating to the Society, the Products and this Agreement which the Society has previously sent to the Intermediary; this does not include any correspondence between the Parties relating to this Agreement; and

19.1.2 immediately deliver to the Society (at the Intermediary's cost) or dispose of as the Society directs, all property of the Society which the Intermediary has in its possession or under its control.

- 19.2 Where this Agreement is terminated by the Society under Clauses 18.1 or 18.2 or where following termination of this Agreement under Clause 18.3 any of the circumstances set out at Clause 18.2.1 - 18.2.3 apply the Society reserves the right to cease paying commission to the Intermediary on Products held by Customers at the date of termination, without giving notice to the Intermediary.

- 19.3 Subject to Clause 19.2 the Society will continue to pay commission under Clause 5 of this Agreement and on the Commission Terms following its termination in relation to Products held by Customers introduced to the Society by the Intermediary, at the effective date of Termination.

- 19.4 The following Clauses survive termination of this Agreement: 4.4, 5 (all), 6 (all), 9.1, 9.3, 10.5 to 10.8, 12 (all), 13 (all), 14 (all), 16 (all), 17 (all), 18.4, 18 (all), 19 (all), 20 (all).

20 Confidentiality

- 20.1 The Parties will at all times keep confidential all Confidential Information acquired in consequence of this Agreement, except for information which they are bound to disclose by law, or they are requested to disclose by regulatory agencies or information given to their professional advisers where reasonably necessary for the performance of their professional services.

- 20.2 The obligations of confidentiality set out in Clause 20.1 will remain in full force and effect despite termination of this Agreement for any reason.

21 Advertising

- 21.1 The Intermediary must not publish, circulate, issue or release, in any media, any advertisement, financial promotion or other literature relating to the Products or make use of the Society's name or any of the Society's Intellectual Property in any promotional activities of the Intermediary without first receiving prior written authorisation from the Society.

22 Notices

- 22.1 Any notices served by Parties may be delivered by hand or sent by first class, pre-paid, recorded delivery post to the address of the registered office at the time of the notice of the addressee. Notices may be sent by facsimile, e-mail or other electronic means provided they are also delivered by hand or sent by post in accordance with the provisions of this Clause. All Notices under this Clause will be deemed duly served:

- 22.1.1 in the case of a notice delivered by hand, at the time of delivery;
- 22.1.2 in the case of a notice sent inland by first class, pre-paid, recorded delivery, two clear Business Days after the date of dispatch;
- 22.1.3 in the case of a notice sent overseas by recorded delivery airmail, 7 Business Days (being Business Days in the place to which the notice is dispatched) after the date of dispatch;
- 22.1.4 subject to Clause 22.1, in the case of a facsimile transmission, e-mail or other electronic means, if sent during normal business hours at the time of transmission and if sent outside normal business hours than on the next following business day.

23 Disputes

- 23.1 Without prejudice to either party's right to seek interlocutory relief in the courts the parties shall use their best efforts to negotiate in good faith and settle amicably any dispute that may arise out of or relate to this Agreement (or its construction, validity or termination) (a **Dispute**). If a Dispute cannot be settled through negotiations by appropriate representatives of each of the parties, either party may give to the other a notice in writing (a **Dispute Notice**). Within seven days of the Dispute Notice being given the parties shall each refer the Dispute to the senior representatives nominated by each party who shall meet in order to attempt to resolve the dispute. If the Dispute is not settled by agreement in writing between the parties within 14 days of the Dispute Notice it shall be resolved in accordance with Clauses 23.2 and 25.7.
- 23.2 Any Dispute may be referred to mediation in accordance with the Centre for Dispute Resolution (CEDR) Model Mediation Procedure. The mediation shall be conducted by a single mediator appointed by mutual agreement, or (failing mutual agreement within seven days of a notice from either party to the other calling upon the other so to agree) by the Centre for Dispute Resolution. Both parties agree to co-operate fully with such mediator, provide such assistance as is necessary to enable the mediator to discharge his duties, and to bear equally between them the fees and expenses of the mediator.

The mediation shall be conducted in London in English. The mediation shall be conducted without prejudice to the rights of any of the parties in future proceedings.

24 Review

- 24.1 The Society will review this Agreement on an annual basis. The review will consider the volumes of business submitted, quality of business submitted, retention of business submitted, standards of business practice, compliance with FSA rules, guidance and principles and any other matters which the Society considered to be relevant.
- 24.2 If, in the opinion of the Society, the review is unsatisfactory then, but without prejudice to the Society' other rights and remedies under this Agreement:
 - 24.2.1 the terms under which the Agreement continues may be varied by the Society giving written notice to that effect to the Intermediary setting out the terms of such variations; or
 - 24.2.2 in exceptional cases, terminated forthwith on the delivery by the Society to the Intermediary of written notice to that effect.

25 General

- 25.1 Nothing in this Agreement will make any Party the agent or employee of the other nor will it create a partnership or employment relationship between the Parties. Neither Party has any authority to bind the other in any way.

- 25.2 All rights and remedies under this Agreement or by law are cumulative so a reference to or the exercise of one remedy does not affect any of the others and any failure to exercise or delay in exercising any rights or remedies will not operate as a waiver or prevent any further exercise of them.
- 25.3 Each Party will co-operate with the other and will execute and deliver any other instruments and documents and will take any steps reasonably requested from time to time in order to carry out, evidence and confirm their rights and the intended purpose of this Agreement.
- 25.4 The Parties will each bear their own legal and accountancy costs and other expenses incurred in connection with this Agreement.
- 25.5 Neither Party is liable for any failure or delay in performance of this Agreement which is caused by circumstances beyond the reasonable control of a Party.
- 25.6 If any provision of this Agreement is held to be illegal, void or unenforceable, the legality, validity and enforceability of the remainder of this Agreement is not to be affected.
- 25.7 English law applies to this Agreement and the Parties submit to the exclusive jurisdiction of the English courts as regards any claim or matter arising under this Agreement.
- 25.8 No person who is not a Party has a right to enforce any term of this Agreement under the Contracts (Rights of Third Parties) Act 1999.

26 Whole Agreement

- 26.1 This Agreement sets out the entire Agreement between the Parties in connection with the matters with which the Agreement deals and supersedes any previous Agreements between them relating to the subject matter of this Agreement.
- 26.2 Each of the Parties acknowledge that in entering into this Agreement it has not relied on, any statement, representation, warranty or understanding (whether negligently or innocently made) not set out in this Agreement and that, in the absence of fraud, its only remedy for breach of this Agreement is for breach of contract under the terms of this Agreement.

27 Treating Customers Fairly

- 27.1 The Intermediary acknowledges the Society's Treating Customers Fairly policy and goals as detailed below and confirms that in any activities undertaken on behalf of the Society, due regard will be paid to these and all actions will seek to support and further them:

- "We deliver what our customers believe it says on the tin, which means that we deliver the following outcomes to our customers:
 - (a) We interact with and learn from all our customers so that we can deliver products and services that meet their individual needs
 - (b) There are no surprises for our customers
 - (c) We offer simple and easy access to our products and services and the guidance and support that we provide
 - (d) We ensure that we deliver honest advice and information, everywhere
 - (e) We ensure our customers understand what they are buying
 - (f) We treat customers as individuals

(g) We deliver what the customer expects every time.”

27.2 The Intermediary confirms that it has its own written Treating Customers Fairly policy and will make available to the Society a copy of such policy upon request.

Commission Schedule

Part A – Private Medical Insurance

This Commission Schedule is supplemental to a Terms of Business Agreement between the Society and [] (The Intermediary) dated the [].

- 1 From the Effective Date the Society agrees to pay the Intermediary the following commission:

Direct		Online	
Initial %	Renewal %	Initial %	Renewal %

Initial means in respect of the first year’s premium for all policies introduced by the Intermediary and accepted by the Society in each calendar year;

Renewal means in respect of the annual renewal premium of all such policies received by the Society in each calendar year.

- 1.1 All commission due to the Intermediary from the Society under this Agreement shall be paid by the Society to the Intermediary at the latest on the next Settlement Date after the first premium or contribution is paid by the Customer to the Society
- 1.2 The Society shall send to the Intermediary a monthly statement, invoice and remittance in respect of commission due to the Intermediary net of any clawback and refunds, repayments or other sums due from the Intermediary to the Society on any account whatsoever.
- 2 The Society shall calculate the amount of the commission, calculated in accordance with this Schedule and Clause 5 of the Terms of Business Agreement on an Indemnity Basis meaning that the commission will have been paid before being earned. The Society shall be entitled to clawback such commission as represents the commission paid relating to any unpaid instalments of premium.
- 3 The commission payable by the Society referred to above shall be based on premiums exclusive of insurance premium tax or any other tax chargeable on such premiums. Such commission shall however include the amount of any VAT which may at any time be or become properly chargeable on such commissions.
- 4 For business introduced through the Society websites, commission will only be payable if the authorised link and/or the user name and password provided by Society is used. No commission will be payable where the introduction is made through a third party using a link unauthorised by the Society.

Part B - The Commission Schedule for Protection Products (Indemnity Basis)

This Commission Schedule is supplemental to a Terms of Business Agreement between the Society and [] (The Intermediary) dated the []

- 1 From the Effective Date the Society agrees to pay the Intermediary the following commission:

Direct		Online	
Initial %	Renewal %	Initial %	Renewal %

Initial means in respect of the first year’s premium for all policies introduced by the Intermediary and accepted by the Society in each calendar year;

Renewal means in respect of the annual renewal premium of all such policies received by the Society in each calendar year.

- 2 The commission payable by the Society referred to above shall be based on premiums exclusive of insurance premium tax or any other tax chargeable on such premiums. Such commission shall however include the amount of any VAT which may at any time be or become properly chargeable on such commissions.
- 3 The Society shall send to the Intermediary a monthly statement, invoice and remittance in respect of commission due to the Intermediary net of any clawback and refunds, repayments or other sums due from the Intermediary to the Society on any account whatsoever.
- 4 The Society shall calculate the amount of the commission, calculated in accordance with this Schedule and pay such amount of commission to the Intermediary in accordance with Clause 5 of the Terms of Business Agreement. No commission will accrue in advance of a premium instalment being received by the Society.
- 5 For business introduced through the Society websites, commission will only be payable if the authorised link and/or the user name and password provided by Society is used. No commission will be payable where the introduction is made through a third party using a link unauthorised by the Society.

Part C – The Commission schedule for Protection Products (Non-Indemnity Basis)

This Commission Schedule is supplemental to a Terms of Business Agreement between the Society and [] (The Intermediary) dated the []

- 1 From the Effective Date the Society agrees to pay the Intermediary the following commission:

Direct	Online
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- 2 The commission payable by the Society referred to above shall be based on premiums exclusive of insurance premium tax or any other tax chargeable on such premiums. Such commission shall however include the amount of any VAT which may at any time be or become properly chargeable on such commissions.
- 3 The Society shall calculate the amount of the commission, calculated in accordance with this Schedule and pay such amount of commission to the Intermediary in accordance with Clause 5 of the Terms of Business Agreement. No commission will accrue in advance of a premium instalment being received by the Society.
- 4 For business introduced through the Society websites, commission will only be payable if the authorised link and/or the user name and password provided by Society is used. No commission will be payable where the introduction is made through a third party using a link unauthorised by the Society.

Signed today by:
Name:
Position: Director
Date:

**DULY AUTHORISED ON BEHALF OF
EXETER FRIENDLY SOCIETY LIMITED**

Signed today by:
Name:
Position:
Date:
Intermediary No:

**DULY AUTHORISED ON BEHALF OF
[INTERMEDIARY NAME]**