

# Terms of Business Agreement - Consumers

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Authorised and regulated by the Financial Conduct Authority No: 307170 Registered Office: Oakes House, Derby Road, Long Eaton, Notts, NG10 1PD. Registered in England & Wales. Consumer Credit Act Licence No 659527, Data Protection Act Registration No: Z578319.

Please read this document carefully. It sets out the terms and conditions on which we agree to act for you, contains details of our responsibilities together with your responsibilities both to us, to insurers and to other third party providers. Please contact us immediately if there is anything in this document that you do not understand/or with which you disagree. Your receipt of this document constitutes your informed consent to its contents.

In the interests of security, staff training and to generally improve our service please be aware that telephone calls may be monitored and/or recorded.

## 1. Definitions

- 1.1. A Consumer means anyone acting outside their trade or profession in respect of the insurance cover requested or arranged.
- 1.2. 'You' or 'your' means you (and/or your appointed agent).
- 1.3. 'We' or 'us' or 'our' means the firm noted in the heading of this document.

## 2. Who regulates us?

- 2.1. We are authorised and regulated by the Financial Conduct Authority (FCA) an independent body that regulates the UK financial services industry. Our details may be confirmed on the FCA's Register [www.fca.org.uk](http://www.fca.org.uk) or by phoning the FCA on 0800 1116768.

## 3. Our service

- 3.1. We are committed to providing you with quality advice, service and insurance products. As an intermediary and your agent we owe various duties to you and will advise you as necessary if circumstances occur that may create a possible conflict of interest.
- 3.2. Our permitted business activities are advising, arranging (bringing about) deals, making arrangements with a view to transactions, dealing as agent, assisting in the administration and performance of a contract and agreeing to carry on a regulated activity in respect of General Insurance contracts.
- 3.3. We will advise you and will make a personal recommendation after we have assessed your insurance needs. This will include the type of cover you require together with the costs involved. We undertake to explain the main features of the products and services that we offer to you as well as the basis on which we have provided information and/or advice
- 3.4. Upon receipt of your instructions we will place, amend or renew insurance cover on your behalf with insurers. We will advise you of any inability to place your insurance.
- 3.5. You are not to rely on any insurance policy you have instructed us to place on cover until we have confirmed in writing to you that the insurer has agreed to such insurance cover being in place. Please note that you must comply with the terms and conditions of the insurance policy you purchase including any matters where the insurer makes cover subject to your compliance with conditions or with express or implied warranties. Failure to comply may entitle the insurer to cancel your insurance contract and/or risks a claim you make not being paid in part or in full. (Also see Clause 15. Claims).
- 3.6. Please also note, unless your policy confirms otherwise, the rights under your policy may only be pursued in an English court.

## 4. Our remuneration and other income

- 4.1. We are usually remunerated by commission from your insurer(s) for our insurance broking services, or by way of a fee negotiated and agreed with you. If we receive both, this will be confirmed in writing to you at the time of incepting or renewing your insurance. In addition:
  - 4.1.1. We may also make individual charges up to £50 to cover the administration of your insurances e.g. arranging a new policy, mid-term adjustments, short period or mid-term cancellations, renewals, issue of replacement or duplicate documents. We may also make individual charges where we prepare and issue documents on behalf of insurers, these will be confirmed in writing to you at the time of incepting or renewing your insurance where applicable.
  - 4.1.2. Some insurers may make additional payments to us reflecting the size and/or profitability of our account with them and/or in respect of work we undertake on their behalf. In addition we may also receive payment from other firms, such as premium finance providers, where non-insurance products or services are supplied to you.
- 4.2. Our remuneration in whatever form and in respect of any policy shall be due on the date of inception or renewal of that policy. We shall be entitled to retain all commission and/or agreed fees in respect of the full policy period including where you appoint another intermediary in our place during the currency of a policy or where a policy is cancelled after inception or renewal. (Also see Clause 13. Short period and cancelled policies).

## 5. If resident in a country other than the UK

- 5.1. The law or regulations in your country of domicile may take precedence over any relevant UK legislation. Therefore references in this document to the FCA or Financial Ombudsman Service or Financial Services Compensation Scheme and any rights or benefits thereunder may not apply. If you wish to clarify your position in this respect then we will discuss this on request.

## 6. Duty to disclosure accurate and full information

- 6.1. It is your responsibility to take reasonable care and, when asked, to answer all questions fully and accurately to insurers and us prior to and when you purchase an insurance policy, throughout the life of the policy and when you renew that policy. Failure on your part to immediately disclose accurate information when asked or provide misleading information could result in your insurer imposing different terms on the policy, charging a higher premium, or in some circumstances may avoid the policy from inception and any claims would not be paid.

6.2. All statements and material facts disclosed on proposal forms, statements of fact, claims forms and other documents should be full, true and accurate. Material facts are those that would influence an insurer in deciding whether or not to accept a risk and the terms and conditions that would apply. Where forms are completed or partially completed on your behalf, you should check them for accuracy before signing. If you are in any doubt as to whether a fact is relevant, you should disclose it and then ask for guidance.

## **7. Notification of changes, alterations and renewals**

- 7.1. Amendments to policies may be arranged upon receipt of full details and on return of the certificate of insurance (if applicable). Cover is subject to acceptance by insurers and payment of any additional premium required inclusive of Insurance Premium Tax (IPT).
- 7.2. Renewals are invited on the basis that there have been no changes in the risk other than those specifically notified to us or your insurers.

## **8. Insurer security**

- 8.1 We will only place cover with insurers who satisfy certain minimum criteria assessed by the rating agencies and/or our own assessment, or for whom you have given us specific approval to use. Whilst the information upon which we rely is obtained from sources considered to be reliable, and we use all reasonable endeavours to review that information in order to protect your interests, predictability of solvency cannot be, and is not, guaranteed by us. The financial standing of any insurer can, of course, change after the insurance contract had incepted. We do not guarantee the ongoing ability of any insurer to meet their contractual obligations.

## **9. Quotations**

- 9.1. Quotations are valid until the date cover commences up to a maximum of 30 days, unless otherwise stated. Specimen policy wordings are available upon request.

## **10. Documentation**

- 10.1. It is your responsibility to read all documentation upon receipt and raise any query regarding it otherwise you risk a loss you suffer not being paid in part or in full. Documentation including your policy and certificate, if applicable, will be issued to you upon receipt from insurers.
- 10.2. You must check all documentation issued to you to ensure the details are correct and the insurance cover provided meets your requirements. We will arrange insurance cover according to your instructions but only you can identify if it does not meet your intentions. If you have any concerns in respect of your insurance cover or are uncertain as to the meaning of any terms and conditions or if you discover errors in the documentation, then you must notify us immediately.

## **11. Payment of the premium**

- 11.1 We must receive your payment, unless it is made by you directly to your insurer, by cheque, credit or debit card, electronic funds transfer or be in receipt of a completed premium instalment application form (with deposit where requested) drawn on a bank, building society or other UK financial institution account in the policyholder's name and before cover commences unless we agree otherwise. A charge may apply to payments made by credit card and this will be confirmed to you in writing at the time of incepting or renewing your insurance. If we agree to accept payment from someone other than the policyholder then this must be notified to us and agreed by us.
- 11.2 We have no obligation to fund any premium, taxes or fees (if applicable) on your behalf nor do we have any responsibility for any loss you may suffer as a result of cancellation of insurance cover or any other prejudicial steps taken as a result of late payment substantially attributable to you. If we decide to retain certain documents whilst awaiting payment, we shall provide details of your insurance cover and any information or documents required by law.
- 11.3 We shall be entitled (but not obliged) without providing notice to you to set off any amounts due to us from you, against any amounts which we may receive on your behalf (i.e. claims moneys, refunded premiums and other sums). Please be aware that full or partial non-payment of a premium or default on a credit agreement may result in the cancellation or lapsing of your policy.

## **12. Transferred business**

- 12.1. When we are appointed to service insurance policies other than at their inception or renewal and which were originally arranged via another party, we shall not be liable during the current insurance period for any loss arising from any errors or omissions or gaps in your insurance cover or advice not supplied by us. Should you have any concerns in respect of a policy, which has been transferred to us, or if you require an immediate review of your insurance arrangements, you must notify us immediately. Otherwise we shall review your insurance arrangements and advise accordingly as each policy falls due for renewal.

## **13. Short period and cancelled policies**

- 13.1. If you wish to cancel your policy then you will need to return the policy document and current certificate of insurance (if applicable) and confirm your cancellation instructions. Subject to the cancellation terms of your policy, a refund of premium may be available. Details of any applicable cancellation terms and charges will be found in your policy documents. Our commission and/or fees are fully earned from the date insurance cover commences and may not be refundable in the event of cancellation, avoidance or early termination of a policy.

## **14. Cooling Off Period**

- 14.1. You have the statutory right to cancel a policy within 14 days of its conclusion or inception or renewal or upon receipt of the policy documentation whichever is the later. You may without providing a reason, cancel the policy in accordance with its terms and conditions. Any policy documentation and in particular any legal document, i.e. a certificate of motor insurance, should be returned with your instruction to cancel.
- 14.2. These cancellation rights do not apply to a short-term policy of less than one month's duration or to a policy for which the performance has been fully completed. If no premium has been paid then a time on risk premium inclusive of Insurance Premium Tax (IPT) and in addition to any relevant administration costs may be charged.

## **15. Claims**

- 15.1 We will assist you with advice when you make a claim under your policy but it remains your responsibility to have read, understood or queried all documentation upon receipt. All incidents that could possibly give rise to a claim must be notified to us or your insurer in accordance with the terms of your policy and a claim form completed where required. Delay on your part in notifying a claim and/or completing required forms may risk a loss you suffer not being paid in part or in full.
- 15.2 You must not under any circumstance admit liability for a loss or agree to any course of action, other than emergency measures carried out to minimise the loss, as you will risk your claim not being met in part or in full. All correspondence, claims, writs, summonses etc. should be forwarded immediately, unanswered, either to us or to your insurer. You are also reminded of your duty to keep all losses and costs arising from an incident to a minimum and that failure to comply with policy terms and conditions may invalidate cover.

- 15.3 We will remit claim payments received on your behalf, to you as soon as practicable after confirmation of receipt of cleared funds in our bank account. In the event that an insurer becomes insolvent or delays making settlement, we do not accept liability for any unpaid amounts.
- 15.4 Where we have a delegated authority from an insurer to settle your claim on their behalf we shall make you aware of this on notification of the claim and obtain your informed consent to proceed.
- 15.5 We will provide a claims handling service for you as long as you remain our customer. We reserve the right to charge a fee for our claims services if you cease to be a client but still wish us to handle any claim, and we are prepared to do so. If you wish us to provide claims services on policies issued before our appointment, we also reserve the right to charge you a fee.

## **16. Client and insurer money**

- 16.1. The FCA requires us to hold all client monies, including yours, in a trust account, the purpose of which is to protect you in the event of our financial failure since, in such circumstances; our general creditors would not be able to make claims on client money as it will not form part of our assets.
- 16.2. We hold all client monies in a Statutory Trust bank account in accordance with the FCA client money rules. Under these arrangements, we assume responsibility for such monies and are permitted to, and may:
- 16.2.1.1. For the purpose of effecting a transaction on your behalf, pass your money to another intermediary, including those resident outside the UK who would therefore be subject to different legal and regulatory regimes. In the event of a failure of the intermediary, this money may be treated in a different manner from that which would apply if the money were held by an intermediary in the UK. Please inform us if you do not agree to this.
- 16.2.1.2. Retain for our own use, any interest earned on client money.
- 16.3. Your money will be held either as agent of the insurer or agent of the client, depending on which insurer(s) your insurance has been placed with. Where money is held as agent of the insurer, this means that when we have received your cleared premium, it is deemed to have been paid to the insurer.
- 16.4. Unless we receive your written instruction to the contrary, we shall treat receipt of payment from you and of any claim payment and/or refund of premium which fall due to you, as being with your informed consent to the payment of those moneys into our Statutory Trust bank account.

## **17. Our liability to you**

- 17.1. Unless we have otherwise agreed with you in writing, we shall treat your instructions to us to place or renew your insurance cover as acceptance of the limitation of our liability to you and to any other person with an interest in your insurance cover, as follows;
- 17.2. Except in respect of any claim: -
- resulting from our fraudulent act; or
  - resulting from a breach by us of the FCA's rules or Principles of Business; or
  - in relation to any liability for death or personal injury resulting from our negligence; or
  - in relation to any other liability which cannot lawfully be excluded or limited

our liability to you (whether in contract, tort (including, without limitation, negligence) or otherwise) shall be limited to £5,000,000 in respect of any and all insurance mediation activities undertaken by us on your behalf over any 12-month period.

- 17.3. This Agreement contains all obligations owed by us to you. Our liability shall be strictly limited to direct liability in contract. We expressly exclude any liability for indirect or consequential loss howsoever arising and any and all liability in tort save in relation to liability for our negligent acts causing personal injury or death or other liability expressly reserved by statute.

## **18. Confidentiality and security**

- 18.1. We will ensure that any information obtained from you is treated as private and confidential by us. These Terms of Business assume that any information you supply to us on behalf of a third party is done so with their permission.
- 18.2. We will not take instructions on your insurance arrangements from anyone else unless we have your prior written permission. We will also not provide information you supply to anyone else unless we have your prior written permission to do so or are required by a regulatory body, by law or are required to do so in the normal course of arranging your insurance or in connection with claims matters or other services we may provide to you.
- 18.3. We may from time-to-time, provide you with marketing information on other products we supply and/or pass your contact details to other suppliers of products or services of whom we approve. Please notify us promptly in writing if you do not wish your details to be used for any of these purposes otherwise we shall treat issue of this Terms of Business as evidence of your informed consent.
- 18.4. We take appropriate steps to ensure the security of any money, documents, other property or information handled or held on your behalf. It is our policy to retain records for insurance cover effected on your behalf for a minimum of 3 years after expiry and otherwise as required by regulation or law.
- 18.5. All information in any form, with the exception of policy documents and certificates issued on behalf of insurers, supplied by us to you must be treated as strictly private and confidential and not be released directly or indirectly to any other party, without our explicit, written consent.

## **19. Termination of our authority to act on your behalf**

- 19.1. You or we may terminate our authority to act on your behalf by providing at least 14 days notice in writing (or such other period we agree). Termination is without prejudice to any transactions already initiated by you, which will be completed according to these Terms of Business unless we agree otherwise in writing.
- 19.2. You will remain liable to pay for any transactions or adjustments effective prior to termination and we shall be entitled to retain any and all commission and/or fees payable in relation to insurance cover placed by us prior to the date of written termination of our authority to act on your behalf.

## **20. Severability**

20.1. If any provision of these Terms of Business is found to be invalid or unenforceable in whole or in part, the validity of the other provisions of these Terms of Business and the remainder of the provision in question will not be affected.

## 21. Assignment

- 21.1. We are entitled to assign these Terms of Business to any other company within the group of companies of which we are part but then only for so long as such company remains a member of such group.
- 21.2. We are entitled to transfer client monies to an identical bank account held in the name of any other company within the group of companies of which we are a part but then only for so long as such company remains a member of such group

## 22. Law and jurisdiction

22.1. These Terms of Business which form our agreement with you shall be governed by and construed in accordance with the laws of England and the exclusive jurisdiction of the English courts unless we agree with you otherwise.

## 23. Rights of Third Parties

23.1. Unless otherwise agreed between us in writing no provision of this Terms of Business is enforceable under the Contracts (Rights of Third parties) Act 1999 by any person other than you or us.

## 24. Insurer credit searches

- 24.1. Insurers may ask credit reference agencies to provide a credit scoring computation. Credit scoring uses a number of factors to calculate the risks involved in any application. A score is given to each factor and a total score obtained. Where automatic credit scoring computations are used by the insurer, acceptance or rejection of your application will not solely depend on the results of the credit scoring process.
- 24.2. To ensure you receive the most competitive offer from insurers, now or at any time and to protect customers from fraud and verify customers identity, insurers may use publicly available data which they obtain from a variety of sources, including credit reference agencies and other external organisations. Their search will appear on your credit report whether or not your application proceeds.

## 25. Premium finance credit searches

25.1. When applying for a loan to facilitate payment of your premium by instalment facilities, your application for credit will be passed to the credit provider who in assessing your application may search public information held by a credit reference agency about you. The credit reference agency will add details of the search and your application to their record about you whether or not your application proceeds.

## 26. Bribery and corruption

26.1. We have no tolerance for bribery and corruption and this policy extends throughout the company for all of its dealings and transactions in all countries in which we operate. Our anti bribery policy is updated in line with the changes in law, changes in our business and our reputational demands. All employees are required to comply with this policy.

## 27. Sanctions

27.1. Both parties shall pay due regard to, and co-operate in respect of the observance of, any applicable international economic, financial or trade sanctions legislation.

## 28. Complaints

28.1. While we will always endeavour to provide you with a high level of customer service if you feel dissatisfied with the service you have received you should, in the first instance, contact the office you usually deal with to register your complaint.

Or, alternatively you may refer the matter to –

**email:**            **richard@oakesinsurance.co.uk**

**post:**             **Richard Anthony Oakes, Sharon Linda Oakes & Ashley Burton t/a Oakes Insurance Consultants**  
**Oakes House, Derby Road**  
**Long Eaton,**  
**Notts, NG10 1PD**

**Tel:**                **0115 9737601**  
**Fax:**                **0115 9462283**

- 28.2. We need you to help us by summarising the problem, policies affected and the resolution you expect. Please ensure whenever possible that you quote your customer reference number together with the identity of our member of staff and office address.
- 28.3. We will endeavour to rectify the problem immediately but if we are unable to do so your complaint will be dealt with in accordance with our formal Complaints Procedure, a copy of which will be provided to you.
- 28.4. If you remain dissatisfied you may be an eligible complainant within the rules of the Financial Ombudsman Service (FOS). Their jurisdiction broadly covers those that employ less than 10 persons and whose turnover or annual balance sheet is less than 2 million Euros, and charities or trusts whose turnover or net assets respectively are less than £1m. Should you remain dissatisfied with our final decision or more than 8 weeks have passed since receipt of your complaint then if you wish, you may contact the FOS, details of which can be found at [www.financial-ombudsman.org.uk](http://www.financial-ombudsman.org.uk). Full details will be supplied in our Complaints Procedure.

## 29. Compensation

29.1. We are covered by the Financial Services Compensation Scheme (FSCS) and you may be entitled to compensation from the FSCS if we cannot meet our obligations. Full details and further information on the scheme are available at [www.fscs.org.uk](http://www.fscs.org.uk).