

## TERMS OF BUSINESS AGREEMENT

### FAIRMEAD INSURANCE LIMITED - TERMS OF BUSINESS FOR IFA AGENCIES

By completing the online application (the **"Online Application"**) for IFA agencies on this Fairmead website (the **"Website"**) and ticking the box to confirm your acceptance of these terms of business, you (the **"Intermediary"**) are entering into a legally binding agreement with **FAIRMEAD INSURANCE LIMITED** (**"Fairmead"**) on the terms set out here (the **"Agreement"**). Fairmead is a company registered in England and Wales (company number 423930) with its registered office at 57 Ladymead, Guildford, Surrey, England, GU1 1DB.

This Agreement sets out the terms upon which the Intermediary, acting as agent for Fairmead, will distribute and sell certain general insurance policies in the UK.

#### AGREEMENT:

#### 1. DEFINITIONS AND INTERPRETATION

1.1 In this Agreement the following expressions shall be defined as follows:

<b>"Adviser"</b>	means the Intermediary's Advisers and/or the Sub Intermediaries, as the context may require;
<b>"Applicable EU Law"</b>	any law of the European Union (or the law of one of the Member States of the European Union);
<b>"Applicable Law"</b>	means all applicable laws, statutes, statutory instruments, orders, rules, regulations and codes of practice (whether or not having the force of law) in force from time to time, and in particular but without limitation the requirements, rules, regulations, guidance and codes of practice of FSMA, the FCA, the PRA and the Data Protection Legislation and any other Regulatory Authority;
<b>"Associated Company"</b>	any company which at the relevant time is (a) a holding company of a Party or (b) a subsidiary or subsidiary undertaking of a Party or (c) a subsidiary or subsidiary undertaking of any such holding company (other than the Party itself); and the expressions "holding company", "subsidiary" and "subsidiary undertaking" have the meanings given to them by sections 1159 and 1162 of the Companies Act 2006 (each section being in force at the date of this Agreement);
<b>"Business Days"</b>	any day which is not a Saturday or Sunday or a bank holiday in England;
<b>"Cancelled from Outset"</b>	a Policy is deemed to be cancelled from outset if:  (a) it never goes on Risk; or (b) it is discontinued as a result of: (i) having been mis-sold; or

(ii) the Customer cancelling the Policy during any cooling-off period; or

(c) if, for any other reason, the Customer does not pay the first premium or instalment on the Policy;

**“Change of Control”**

means, in relation to the Intermediary, a transaction or series of transactions pursuant to which any person (who immediately prior to such transaction or series of transactions did not otherwise have Control of such Party) acquires Control of such Party;

**“Claim”**

means a claim under a Policy;

**“Commission”**

Initial Commission and/or Renewal Commission payable to the Intermediary by Fairmead in respect of the Policies;

**“Commission Paid On Indemnity Terms”**

an advance payment to the Intermediary by Fairmead in respect of Commission to be earned in relation to Policies by the payment by the Customer of instalments or premiums during the 12 months life of the Policy;

**“Complaint”**

means any oral or written expression of dissatisfaction (whether justified or not) in relation to the Policies or the activities to be performed pursuant to this Agreement by or on behalf of the Parties and made by or on behalf of a Policyholder or a Customer or any person who is otherwise an eligible complainant within the meaning of the FCA Handbook; against Fairmead, the Intermediary, the Advisers and/or any of their respective employees, agents, sub agents, or employees of their respective agents or sub agents;

**“Confidential Information”**

means, any information and/or material relating to the business, affairs, finances, systems, processes and/or methods of operation of each Party which is disclosed by one Party to the other in connection with the operation of this Agreement (whether oral or in writing and whether or not such information is expressly stated to be confidential or marked as such) and all information of a confidential nature pertaining to the operation of this Agreement;

**“Control”**

means, in relation to a Party, the possession, directly or indirectly, of:

(a) the power to direct, or cause the direction of, the management and/or policies of that Party, whether through the ownership of voting securities in that or any other company, by contract or otherwise; or

(b) such securities (or other rights) as confer on the holder thereof the right to exercise in excess of fifty percent (50%) in number of all votes exercisable in general meeting of all the members of such Party;

**“Customer”**

a person who is a retail customer and to whom the Intermediary or any one of its Advisers has provided

advice, or illustrations, in respect of a Policy (whether or not such persons have entered into an agreement with Fairmead in respect of such);

**"Data Protection Legislation"**

means (a) any law, statute, declaration, decree, directive, legislative enactment, order, ordinance, regulation, rule or other binding restriction (as amended, consolidated or re-enacted from time to time) which relates to the protection of individuals with regards to the processing of personal data to which a Party is subject, including the Data Protection Act 2018 and Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and repealing Directive 95/46/EC (General Data Protection Regulation) OJ L 119/1, 4.5.2016 (the "GDPR") (or, in the event that the UK leaves the European Union, all legislation enacted in the UK in respect of the protection of personal data), and (b) any codes of practice or guidance published by the ICO and/or European Data Protection Board from time to time;

**"Data Protection Particulars"**

means, in relation to any processing under this Agreement: (a) the subject matter and duration of the processing; (b) the nature and purpose of the processing; (c) the type of personal data being processed; and (d) the categories of data subjects as set out in Schedule 2 (Data Protection Particulars);

**"Data Subject Request"**

an actual or purported request or notice or complaint from (or on behalf of) a data subject exercising his rights under the Data Protection Legislation;

**"Data Transfer"**

transferring the personal data to, and/ or accessing the personal data from and/ or processing the personal data within, a jurisdiction or territory that is a Restricted Country;

**"DISP"**

the Dispute Resolution Sourcebook in the FCA Handbook as amended or replaced from time to time as amended or replaced from time to time;

**"Effective Date"**

the earlier of the date of this Agreement and the date on which the Intermediary commenced selling and marketing the Policies;

**"FCA"**

the Financial Conduct Authority and / or any successor to its functions;

**"FCA Handbook"**

the rules, principles, policy and guidance made by the FCA for the time being in force;

**"FSMA"**

the Financial Services and Markets Act 2000;

**"GDPR"**

Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the

processing of personal data and repealing Directive 95/46/EC (General Data Protection Regulation) OJ L 119/1, 4.5.2016;

<b>“Good Industry Practice”</b>	the level of care, skill, diligence, prudence and foresight that can reasonably be expected from a skilled and experienced person under the same or similar circumstances, such person seeking to comply with its contractual obligations in full and complying with all applicable laws (including the Data Protection Legislation);
<b>"ICO"</b>	the UK Information Commissioner's Office, or any successor or replacement body from time to time;
<b>“ICOB”</b>	the Insurance Conduct of Business Sourcebook in the FCA Handbook as amended or replaced from time to time;
<b>“Initial Commission”</b>	the commission payable by Fairmead to the Intermediary on the premiums or instalments paid or to be paid by a Policyholder to Fairmead in respect of a Policy during the first 12 months of the policy;
<b>“Insurance Distribution Activity”</b>	means “insurance distribution” and “insurance distribution activity” as respectively defined in the FCA Handbook;
<b>"Insurance Intermediary"</b>	has the meaning given in the glossary of the FCA Handbook;
<b>“Insolvency Event”</b>	where used in relation to a Party, means that the Party has: (i) ceased to do business; (ii) become unable to pay its debts as they fall due; (iii) become or been deemed insolvent; (iv) had a receiver, manager, administrator, administrative receiver or similar officer appointed in respect of the whole or any part of its assets or business; (v) made a composition or arrangement with its creditors or taken or suffered any similar action in consequence of debt; or (vi) been the subject of an order or resolution made for its dissolution or liquidation (other than for the purpose of solvent amalgamation or reconstruction), or any equivalent or similar action or proceeding in any jurisdiction and the same has not been dismissed or discharged within thirty (30) days thereafter;
<b>“Intermediary’s Adviser"</b>	any person representing the Intermediary for the purposes of providing advisory and/or sales services to Customers in respect of the Policies but excluding Sub Intermediaries;
<b>“Intellectual Property”</b>	patents, registered designs, trade marks and service marks (whether registered or not), and applications for any of the foregoing, copyright, design right (whether registered or not), rights in know-how, confidential information, moral rights, photographic images, rights in and to databases and all similar and/or analogous rights subsisting at any time in any

	part of the world;
<b>“IPID”</b>	the Insurance Product Information Document relating to the Policies;
<b>“IPT”</b>	the insurance premium tax levied on general insurance premiums by HM Government at the rate applicable from time to time and which Fairmead is responsible for remitting to HM Revenue & Customs;
<b>“Money Laundering Requirements”</b>	means the Terrorism Act 2000 (as amended by the Anti-Terrorism Crime and Security Act 2001), the Criminal Justice Act 1993, the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017, the Proceeds of Crime Act 2002, The Fraud Act 2006, the Enterprise Act 2002, the Terrorist Asset-Freezing Act 2010 and The Bribery Act 2010 and such other anti money laundering legislation as shall be in force from time to time, the money laundering rules in the FCA's Handbook and the Guidance Notes for the Financial Sector issued by (as current from time to time) the Joint Money Laundering Steering Group (and/or other body, agency, entity or organisation whatsoever which shall succeed to or otherwise assume in whole or in part the responsibilities of the Joint Money Laundering Steering Group);
<b>“New Business”</b>	all Policies other than those which are already underwritten by Fairmead at the date of this Agreement;
<b>“Policies”</b>	such general insurance policies as Fairmead decides (in its sole discretion) to make available to the Intermediary for sale to Customers pursuant to this Agreement;
<b>“Policy Documents”</b>	the documents of Fairmead setting out all the terms and conditions of the Policies, including the IPID, as amended from time to time by Fairmead;
<b>“Policyholder”</b>	any Customer who enters into a Policy;
<b>“PRA”</b>	the Prudential Regulation Authority or any successor or replacement body from time to time;
<b>“Premium”</b>	the premium charged to the Policyholder under the terms of a Policy, including IPT;
<b>“Renewal”</b>	Renewal by a Policyholder of a Policy;
<b>“Renewal Commission”</b>	any Commission (other than Initial Commission) payable by Fairmead to the Intermediary in respect of a Policy;
<b>“Regulatory Authority”</b>	the FCA, PRA, ICO and/or any governmental or regulatory body which has responsibility for regulating any member of the Intermediary, the Intermediary's Associated Companies, any of the Advisers and/or Fairmead and/or any of its services or products;

<b>“Regulatory Authority Correspondence”</b>	any correspondence or communication (whether written or verbal) from a Regulatory Authority in relation to the processing of the personal data;
<b>"Restricted Country"</b>	means: (i) whilst the UK remains a member of the European Union, a country, territory or jurisdiction which is outside of the European Economic Area; or (ii) in the event that the UK leaves the European Union, a country, territory or jurisdiction which is outside of the UK, and, (in each case) which is not covered by an adequacy determination by a competent authority with jurisdiction over the Party who wishes to export the personal data;
<b>"Security Requirements"</b>	means the requirements regarding the security of the personal data, as set out in the Data Protection Legislation (including, in particular the measures set out in Article 32(1) of the GDPR (taking due account of the matters described in Article 32(2) of the GDPR);
<b>"Staff"</b>	all persons engaged or employed from time to time by the relevant Party, including employees, consultants, contractors and permitted agents;
<b>“Sub Intermediary”</b>	means any sub agent including the Intermediary's Appointed Representatives (as defined in 39(2) of FSMA) appointed by the Intermediary pursuant to clause 2.6 to assist the Intermediary in marketing and selling Policies pursuant to this Agreement, but excluding the Intermediary's Advisers;
<b>"Third Party Request"</b>	a written request from any third party for disclosure of personal data where compliance with such request is required or purported to be required by Applicable Law;
<b>"Transparency Requirements"</b>	the requirements around ensuring that processing is fair and transparent, as set out in the Data Protection Legislation (including, in particular the measures set out in Articles 5(1)(a), 13 and 14 of the GDPR; and
<b>“Unearned Commission”</b>	that proportion of any Commission Paid on Indemnity Terms as is equal to the proportion of the full annual Premium of the relevant Policy that has not, at the relevant time, been received by Fairmead.

1.2 In this Agreement and its Schedules:

- 1.2.1 references to clauses and Schedules and sub-divisions are to the clauses of and Schedules to this Agreement and sub-divisions thereof respectively, unless expressed otherwise;
- 1.2.2 words importing gender include both the other genders and the singular includes the plural and vice versa;

- 1.2.3 references to persons include individuals, bodies corporate, firms, unincorporated associations and governmental, semi-governmental and local authorities or agencies; and
- 1.2.4 the headings are included for convenience only and shall not affect the interpretation.
- 1.3 Except in any definition, references to any statute or any section of any statute include any statutory amendment, modification or re-enactment and instruments and regulations under it in force from time to time.
- 1.4 Where expressions used in this Agreement are not specifically defined and have a special meaning according to the usage or custom of the insurance trade, such expressions are to be interpreted accordingly.
- 1.5 The Schedules form part of this Agreement.

## **2. APPOINTMENT OF INTERMEDIARY AND DURATION**

- 2.1 Fairmead hereby appoints the Intermediary on a non-exclusive basis to market and sell the Policies as Fairmead's agent through the Intermediary or any of the Intermediary's Advisers in accordance with this Agreement and the Intermediary hereby accepts such appointment and will at all times perform its obligations in a manner consistent with its regulatory obligations including (but without limitation) those arising under Applicable Law.
- 2.2 Fairmead shall have the right to appoint other agents to distribute the Policies or such other insurance products as it may from time to time wish to make available.
- 2.3 This Agreement shall commence on the Effective Date and continue unless and until terminated in accordance with clause 11. (*Termination*).
- 2.4 Fairmead shall have absolute discretion to decide the terms on which it is prepared to enter into a Policy with any Customer and whether or not to enter into a Policy with any Customer if it considers that it would be commercially inappropriate or in breach of any Applicable Law to do so.
- 2.5 Fairmead will make the Policies available to the Intermediary for distribution through the Intermediary's distribution channels at the date of this Agreement. Fairmead may, in its absolute discretion at any time and without notice withdraw a Policy and/or amend the specification, pricing and other aspects of any Policy as it sees fit.
- 2.6 **Sub Intermediaries**
  - 2.6.1 The Intermediary must obtain Fairmead's prior written consent before appointing any Sub Intermediary in relation to this Agreement.
  - 2.6.2 The Intermediary will terminate the appointment of a Sub Intermediary if requested to do so in writing by Fairmead at any time, and will ensure that its terms of appointment of each Sub Intermediary entitle it to do so.
  - 2.6.3 Where Fairmead agrees to the Intermediary appointing a Sub Intermediary, the Intermediary shall procure that such Sub Intermediary will comply with all the terms and conditions of this Agreement as they apply to the Intermediary. The Intermediary agrees with Fairmead that every act and omission of a Sub Intermediary in its capacity as such shall be deemed for the purpose of this Agreement to be an act or omission of the Intermediary.
  - 2.6.4 The Intermediary undertakes and agrees to have in place at all times terms of business agreements on terms no less onerous than this Agreement and in a

form approved by Fairmead with all Sub Intermediaries appointed pursuant to this clause 2.6 together with all other agreements necessary to operate the systems, procedures, checks and controls as required under the terms of this Agreement and any Applicable Laws and shall provide Fairmead with a copy of the same on request.

3. **DOCUMENTATION**

- 3.1 The Intermediary shall have no authority to issue any cover note, Policy Documents, endorsement, renewal receipt, renewal notice or other document without the prior written consent of Fairmead.
- 3.2 Fairmead shall supply the Intermediary with any marketing materials reasonably required to facilitate the promotion and marketing of the Policies. Any such materials shall remain the property of Fairmead and must be immediately returned to Fairmead or destroyed on request.
- 3.3 Unless expressly authorised in writing by Fairmead , the Intermediary will not amend, vary or otherwise alter such marketing materials or other documentation, nor will the Intermediary make any statements or representations to Policyholders or Customers, which are inconsistent with such materials and other documentation provided by Fairmead.
- 3.4 Where Fairmead provides the Intermediary with amended or updated materials or other documentation, the Intermediary will ensure that it and its Advisers only use such amended or updated materials, or other documentation, and will immediately destroy or return to Fairmead all copies of materials, or other documentation which have been replaced by Fairmead except that the Intermediary may retain copies for its own records.

4. **FAIRMEAD'S RIGHTS AND RESPONSIBILITIES**

- 4.1 Fairmead shall, at all times during the continuance of this Agreement:
  - 4.1.1 act towards the Intermediary dutifully and in good faith;
  - 4.1.2 comply with Applicable Law;
  - 4.1.3 conduct business with integrity, skill, care and diligence and pay due regard to the interests of Policyholders and treat them fairly;
  - 4.1.4 communicate all information to Policyholders in a way that is clear, fair and not misleading;
  - 4.1.5 administer Claims on Policies with the standard of skill, care and diligence expected of an insurer; and
  - 4.1.6 make available to the Intermediary any marketing materials reasonably required to facilitate the promotion and marketing of the Policies. Any such materials shall remain the property of Fairmead and must be returned to it on request.

5. **INTERMEDIARY'S RIGHTS AND RESPONSIBILITIES**

- 5.1 The Intermediary shall:
  - 5.1.1 act towards Fairmead dutifully and in good faith;
  - 5.1.2 conduct their business with integrity, skill, care and diligence and pay due regard to the interests of Policyholders and treat them fairly. market and sell the Policies to Policyholders and Customers in accordance with Applicable Law;;

- 5.1.3 act in their customer's best interests and maintain appropriate procedures and controls to identify and manage any conflicts of interest that may arise in connection with this Agreement and disclose any such conflicts to Customers in accordance with Applicable Law;
  - 5.1.4 identify and provide a statement of its Customer's demands and needs in accordance with Applicable Law and only offer Policy to a Customer where the Policy is consistent with the Customer's demands and needs;
  - 5.1.5 train all of the Intermediary's Advisers, its Appointed Representatives and employees (as defined in TC 4.2.4R of the FCA Handbook), representatives and/or agents who may be involved in marketing, selling, administering or performing any other activities in relation to the Policies in accordance with Applicable Laws and ensure that such persons have adequate skills, knowledge, competence and experience for the tasks to be undertaken by them and that each such person is adequately supervised;
  - 5.1.6 not make any statement or representation to Customers or Policyholders which is inconsistent with the Policy Documents, marketing materials or other documentation relating to Policies; and
  - 5.1.7 comply with DISP and any other procedures for handling Complaints pursuant to clause 17 and as notified by Fairmead to the Intermediary from time to time.
- 5.2 The Intermediary undertakes, represents and warrants to Fairmead that, during the currency of this Agreement:
- 5.2.1 it does, and will comply with all Applicable Laws, including the relevant provisions of the FCA Handbook as it applies to Insurance Intermediaries;
  - 5.2.2 it has the capacity, power and authority to enter into, exercise its rights and perform and comply with its obligations under this Agreement;
  - 5.2.3 it has and will have, the relevant authorisations or exemptions and permissions from the FCA for the business submitted to Fairmead pursuant to this Agreement and agrees that Fairmead has the right to check with the FCA from time to time to confirm that the Intermediary holds the appropriate permissions;
  - 5.2.4 it has, and will during the currency of this Agreement have, and shall procure that each of the Advisers have all necessary authorisations, permissions, licences and/or exemptions to perform and comply with its obligations under this Agreement;
  - 5.2.5 unless otherwise agreed in writing by Fairmead, the Intermediary shall carry out appropriate sanctions checks on all Policyholders and Customers in accordance with the Money Laundering Requirements and shall not enter into any Policy (or endorsement or variation to a Policy) with any person, company or entity appearing from time to time on the HM Treasury consolidated sanctions lists and, where the Intermediary knows or suspects that any transaction involves such a person, company or entity, the Intermediary must refer the matter immediately to Fairmead;
  - 5.2.6 all Customers should complete their application for a Policy in the manner prescribed by Fairmead from time to time (the "**Application**");
  - 5.2.7 it shall be the responsibility of the Intermediary and the Advisers to ensure that the Customer has understood, completed and agrees with the information contained in the Application and is aware of the consequences of non-disclosure of certain information; and

- 5.2.8 it will notify Fairmead promptly of any material changes to the information supplied by a Policyholder in their Application.
- 5.3 The Intermediary shall on request confirm to Fairmead in writing that it is in compliance with clause 5.2.
- 5.4 The Intermediary shall immediately notify Fairmead in writing if:
- 5.4.1 it becomes aware that any of the warranties set out in clause 5.2 ceases to be correct or becomes inaccurate, or if it has any grounds for believing that any such warranties is or will cease to be correct or become inaccurate;
- 5.4.2 it becomes aware of any development which may have a material impact on its ability to carry out its obligations under this Agreement effectively and in compliance with Applicable Law;
- 5.4.3 it submits any business to Fairmead that another party (other than a Sub Intermediary) has arranged for a Customer, and in this case shall confirm that it has checked the FCA register to ensure the other party has not undertaken Insurance Distribution Activity in contravention of section 19 of FSMA; and/or
- 5.4.4 any Regulatory Authority takes or threatens to take any enforcement, disciplinary, or remedial action against the Intermediary, or exercises or threatens to exercise any powers of intervention, in each case in respect of any actual or alleged default or misconduct on the part of the Intermediary (or any person acting on its behalf) pertaining to this Agreement (including any Adviser).

6. **PREMIUM**

The Intermediary has no authority to collect Premiums on behalf of Fairmead or to receive, handle, process or exert any degree of control over monies belonging to a Policyholder on behalf of Fairmead and must not collect, handle, process or exert any degree of control over any monies belonging to a Policyholder.

7. **COMMISSION**

- 7.1 Commission will be calculated at such rates as are notified by Fairmead to the Intermediary from time.
- 7.2 The Commission will become due and payable to the Intermediary at the end of the calendar month following the calendar month in which the Policyholder's payment details are validated by their bank or building society and Fairmead receives from the Policyholder (as the case may be) the full annual Premium or the first instalment of the annual Premium (as notified by Fairmead to the Policyholder).
- 7.3 The Intermediary will, prior to conclusion of a Policy or upon Renewal of a Policy, inform the Policyholder of the nature and basis of the remuneration which the Intermediary receives from Fairmead as a result of the Policyholder placing its business with the Intermediary.
- 7.4 Fairmead may, in its absolute discretion, cease, withhold or suspend payment of Commission to the Intermediary on notice to the Intermediary in the event that the Intermediary:
- 7.4.1 ceases to have appropriate licences, authorisations or exemptions, permissions, approvals or consents to carry on the activities envisaged by this Agreement;
- 7.4.2 is in breach of any material term of this Agreement or of any Applicable Law that is relevant to its obligations under this Agreement; or

7.4.3 suffers an Insolvency Event.

7.5 Fairmead may subject to the terms of this Agreement and in its absolute discretion, pay Commission Paid on Indemnity Terms to the Intermediary in respect of Initial Commission and/or Renewal Commission. Commission Paid on Indemnity Terms constitutes an advance payment of Commission by Fairmead to the Intermediary.

7.6 If and to the extent that any Premium, fee, payment or other contribution due to be paid by the Policyholder under the Policy during the term of the Policy is not paid when due, the corresponding amount of Initial Commission and/or Renewal Commission will become immediately repayable by the Intermediary to Fairmead and Fairmead may exercise its set-off right in clause 24.1 in relation to any such Commission.

7.7 All payments of Commission by Fairmead are inclusive of Value Added Tax, if any, at the prevailing rate. The Intermediary undertakes to account for all Value Added Tax due on Commission received by it as and when required by Applicable Law.

## 8. **CANCELLATIONS**

8.1 If Fairmead allows a refund of any Premium (or part thereof) to a Policyholder whether during or after termination of this Agreement, including where a Policy is Cancelled from Outset, the Intermediary shall repay to Fairmead immediately on demand the amount of Commission paid thereon (or the applicable pro-rata amount thereof).

8.2 Notwithstanding clause 7.2, Fairmead shall not be required to pay the Intermediary any Commission in relation to Policies, which in Fairmead's reasonable opinion, are Cancelled from Outset.

8.3 If the Intermediary has been paid Commission Paid on Indemnity Terms by Fairmead and that Policy is cancelled or discontinued by the Policyholder for any reason, Fairmead shall be entitled to reclaim, on written demand, all Unearned Commission in relation thereto, and any such amounts shall, in the absence of manifest error, be offset against any sums payable to the Intermediary under this Agreement.

8.4 Fairmead's consent must be obtained to transfer the Intermediary's actual or contingent liability in respect of Unearned Commission. If Fairmead's consent is withheld, all Unearned Commission shall become immediately repayable to Fairmead.

8.5 For the avoidance of doubt the provisions of this clause 8 mean that the Intermediary may be required to make repayments after termination of this Agreement.

## 9. **INFORMATION FROM POLICYHOLDERS AND CLAIMS HANDLING**

9.1 Where the Intermediary receives notification of a Claim from a Policyholder it will as soon as reasonably practicable pass such Claim and all relevant information received to Fairmead to ensure that Fairmead can comply with Applicable Law and its obligations under the Policies. The Intermediary will make and maintain full and accurate records of all Claims that are notified to it.

9.2 The Intermediary has no authority to accept, settle, negotiate or handle Claims on behalf of Fairmead and further cannot alter any receipt or document or commit Fairmead in relation to Claims in any way.

## 10. **RECORDS, INFORMATION AND AUDIT**

10.1 The Intermediary will and will procure that the Advisers will make and maintain full and accurate records and accounts in respect of the marketing and selling of Policies undertaken pursuant to this Agreement.

- 10.2 The Intermediary will promptly notify Fairmead of all material information that a Policyholder notifies to the Intermediary pursuant to a Policy.
- 10.3 The Intermediary will provide management information as reasonably requested by Fairmead from time to time in the form determined by Fairmead.
- 10.4 Fairmead will provide management information in the form determined by Fairmead from time to time.
- 10.5 Following termination of this Agreement, the Intermediary will allow Fairmead to retain copies of any records relating to the Policies accepted by the Intermediary and its Sub Intermediaries for such time as is required under Applicable Laws.
- 10.6 Fairmead may appoint its auditors (both internal and external), officers, employees and representatives (including internal compliance and business standards departments) to inspect, audit, examine and verify, during normal office hours:
- 10.6.1 at the offices of the Intermediary and any of the Advisers all accounts, books, files, and papers relating to the marketing and selling of the Policies by the Intermediary and the Advisers; and
- 10.6.2 the computer systems used which contain data, files and programs relating to the marketing and selling of the Policies by the Intermediary and the Advisers;
- and the Intermediary shall (and shall procure that the Advisers shall), whenever required and on reasonable notice, give such auditors (both internal and external), officers, employees and representatives access to its offices for such purposes.
- 10.7 The Intermediary shall permit the representatives and appointees of any Regulatory Authority access to its offices and to the accounts, books, correspondence, files, papers and computer systems referred to in clause 10.6, and shall procure access to those of the Advisers and shall allow the representatives and appointees of the any Regulatory Authority to copy any documents or other material and to print any data or information held on any computer system and to remove such copies and printed materials.
- 10.8 The Intermediary shall at all times comply with any reasonable request made by Fairmead to produce for inspection during normal office hours by any Regulatory Authority or any other person or persons authorised by Fairmead any accounts, books, correspondence, files, papers and systems of the types referred to in clause 10.6, subject at all times to the confidentiality requirements set out in this Agreement.
- 10.9 The Intermediary shall ensure that Staff are available during normal office hours to assist the any Regulatory Authority, Fairmead, or their respective auditors (both internal and external) and any other officer, employee, appointee or representative as is necessary or appropriate in respect of any inspection or audit under clauses 10.6, 10.7 and 10.8.
- 10.10 Fairmead reserves the right to make enquiries through credit forums or credit checking agencies and other insurance companies and other third parties regarding the Intermediary's credit status. Such enquiries may include credit checks against senior managers involved in the Intermediary's business, and the Intermediary shall ensure that such individuals are aware of the possibility of such enquiries.
- 10.11 The Intermediary shall answer truthfully, fully and promptly all questions that are reasonably put to it directly by any Regulatory Authority and their representatives or appointees.
- 10.12 The Intermediary shall promptly provide such co-operation with all any Regulatory Authority as may reasonably be requested by Fairmead or otherwise required by such authorities.

11. **TERMINATION**

- 11.1 The Parties may terminate this Agreement by mutual written consent at any time.
- 11.2 Either Party can terminate this Agreement by serving 30 (thirty) days' written notice on the other Party.
- 11.3 This Agreement may be terminated by a Party immediately on written notice to the other Party, if that other Party:
- 11.3.1 commits a material breach of this Agreement, or of any of its conditions or obligations, that is incapable of remedy;
  - 11.3.2 has committed a material breach capable of remedy and has not remedied such breach within 30 days' written notice from the Party not in breach specifying the breach and requiring it to be remedied;
  - 11.3.3 ceases to hold any authorisations, exemptions, licences or permissions necessary to be able to perform its obligations under this Agreement or such authorisations, exemptions, licences or permissions are suspended, revoked or cancelled;
  - 11.3.4 suffers an Insolvency Event; or
  - 11.3.5 breaches clause 22 (Compliance with the Bribery Act 2010).
- 11.4 This Agreement may be terminated by Fairmead immediately by written notice to the Intermediary, if the Intermediary:
- 11.4.1 undergoes a Change of Control (or any of the Intermediary's Associated Companies, that are in any way connected with the subject matter of this Agreement, undergo a Change of Control);
  - 11.4.2 if the Intermediary commits, or is investigated on suspicion of committing fraud;
  - 11.4.3 is guilty of serious misconduct as determined by any Regulatory Authority;
  - 11.4.4 undergoes change to its business which materially adversely affects its reputation and standing in the market in which it carries on business or which materially adversely affects its ability to generate or process new business or which may have a significant adverse effect on its financial position;
  - 11.4.5 breaches clause 23 (Prevention of the Facilitation of Tax Evasion);
  - 11.4.6 if it is unable, after making reasonable attempts, to contact the Intermediary on the most recent contact details as provided by the Intermediary from time to time;
  - 11.4.7 if it receives notification from Policyholders that they are unable to contact the Intermediary or any Adviser;
  - 11.4.8 in the event of late payment to Fairmead of any amounts due in accordance with this Agreement; or
  - 11.4.9 either in a single transaction or in a series of transactions (whether related or not) disposes of a material part of its undertaking, assets or any interest therein or enters into any agreement to do so.
- 11.5 For the purposes of this clause 11 a breach shall be considered capable of remedy if the Party in breach can comply with the provision in question in all respects other than as to the time of performance (provided that time of performance is not of the essence).

11.6 The rights to terminate this Agreement given by this clause 11 shall be without prejudice to any other right or remedy of either Party in respect of the breach concerned (if any) or any other breach.

## 12. **RIGHTS AND DUTIES POST TERMINATION**

12.1 Upon termination of this Agreement:

12.1.1 the Intermediary shall immediately cease to market and sell the Policies and will cease to represent to any person that they are permitted to do so;

12.1.2 the Intermediary shall promptly return or (on the request of Fairmead) destroy all property of any description belonging to Fairmead and send written confirmation signed by a duly authorised officer that this clause has been complied with;

12.1.3 the Intermediary shall promptly and in any event within 10 days of request from Fairmead account for and pay to Fairmead all amounts due under this Agreement;

12.1.4 for avoidance of doubt and subject to clauses 4.2 and 16, the use and control of any information in respect of the Policies and the Policyholders, (including for the avoidance of doubt the name and address of the Policyholder(s), amount of insurance coverage and insurance expiration dates) shall, vest solely with Fairmead;

12.1.5 Fairmead will continue to administer Policies including honouring valid quotes issued prior to termination in accordance with their terms, offering the Renewal of Policies to Policyholders and effecting Renewals, mid term adjustments and cancellations;

12.1.6 the Intermediary will not directly or indirectly take any action which will or is intended to cause or contribute to the termination or cancellation of any Policy during the policy term as defined in the Policy Document or at Renewal except where such action is strictly necessary to enable the Intermediary to meet any regulatory or other duty imposed by Applicable Law to a Policyholder; and

12.1.7 clauses 1, 4.2, 10, 12, 13, 14, 15, 16, 17, 18, and 24 and such other clauses as are expressly or by implication intended to survive termination, and such other clauses as are expressly or by implication intended to survive termination, will remain in full force and effect, except where expressed otherwise in this Agreement.

12.2 Fairmead may, in its absolute discretion and at any time, cancel any Policy in accordance with the cancellation provisions provided in the Policy Document or other such documentation containing the terms and conditions relating to cancellation of the Policy.

12.3 Notwithstanding termination of this Agreement for any reason Fairmead may at its absolute discretion, accept amendments, variations and mid-term adjustments in relation to any Policy in force at the date of termination or which is accepted or renewed after termination in accordance with clause 12.1.5 of this Agreement.

12.4 No compensation shall be payable to the Intermediary upon termination of this Agreement for any reason.

12.5 For the avoidance of doubt, and other than where the Agreement is terminated by Fairmead pursuant to either clause 11.3 or 11.4, and subject at all times to clause 7.3 and Fairmead's rights of set off pursuant to clause 24.1, Commission, whether Commission Paid on Indemnity Terms and Commission in relation to any subsequent Renewal will continue to be due and payable in relation to any Policy or application relating to which was submitted prior to Termination.

12.6 Subject to the express provisions of this clause 12, any termination of this Agreement is without prejudice to the rights, duties and liabilities of either Party accrued prior to termination.

### 13. **INDEMNITY AND LIMITATION OF LIABILITY**

13.1 The Intermediary shall indemnify Fairmead during the term of this Agreement and following its termination against any and all losses, damages, claims, costs, regulatory fines and expenses (including reasonable legal fees) incurred in connection with this Agreement arising from any negligent or fraudulent act or omission, or wilful misconduct, or breach of Applicable Law or breach of this Agreement by the Intermediary (including the Advisers), its employees, agents, or representatives.

13.2 The Intermediary shall at all times maintain in full force and effect, and observe the terms and conditions of, an appropriate professional indemnity policy adequate to cover the Intermediary's potential liability in relation to its dealings with Fairmead under this Agreement in accordance with Applicable Law.

13.3 Nothing in this Agreement shall exclude or limit any Party's liability in respect of death or personal injury arising from that Party's negligence or liability for fraudulent misrepresentation, or exclude or limit liability to a greater extent than is permitted under Applicable Law.

13.4 Subject to clauses 13.3 and 13.5, Fairmead shall in no event be liable to the Intermediary in contract, tort, negligence, breach of statutory duty, breach of warranty or otherwise for:-

13.4.1 The following direct losses:- loss of business opportunity, loss of profits, loss of sales, loss of turnover, loss of opportunity or loss of data; and/or

13.4.2 Any indirect or consequential damages even if the loss was reasonably foreseeable or Fairmead had been advised of the possibility of such damage.

13.5 Subject to clauses 13.3 and 13.4, Fairmead's total liability to the Intermediary arising out of or in connection with this Agreement whether in contract, tort negligence, for breach of statutory duty, breach of warranty or otherwise shall not exceed £1,000,000 (one million pounds sterling) or the amount of Commission paid to the Intermediary in a calendar year, what ever is the higher.

13.6 This clause 13 sets out Fairmead's entire liability arising out of or in connection with this Agreement and whether arising from negligence, breach of contract or otherwise.

13.7 The Parties expressly agree that if any limitation or provision contained or expressly referred to in this clause 13 is held to be invalid under any applicable statute or rule of law it will to that extent be deemed omitted but if any Party becomes liable for loss or damage which would otherwise have been excluded that liability will be subject to the other limitations and provisions set out in this clause 13.

13.8 Nothing in this clause 13 will be taken as in any way reducing or affecting a Party's general duty to mitigate loss suffered by that Party.

13.9 The Parties agree that they have negotiated this clause 13 and that it represents a fair and equitable position.

### 14. **TRADEMARKS AND INTELLECTUAL PROPERTY**

14.1 All Intellectual Property in any of the Policy, the Policy Documents and other documentation produced or provided by Fairmead to the Intermediary belongs to, vests solely in and remains with Fairmead both during the currency, and after termination, of this Agreement.

14.2 Except as expressly provided herein nothing in this Agreement shall confer on the Intermediary any right or interest in any Intellectual Property owned or licensed by Fairmead or any Associated Company. The Intermediary shall not be entitled to use Fairmead's name, logo or trademarks (or any other Intellectual Property belonging to Fairmead) in any advertising or literature without Fairmead's written consent.

15. **CONFIDENTIALITY**

15.1 Subject to clause 15.2 each Party shall keep confidential:

15.1.1 all matters concerning the Policies; and

15.1.2 the contents of this Agreement; and

15.1.3 the business affairs of the other which may come within its knowledge pursuant to this Agreement, during both the currency of this Agreement, and the negotiations leading to its conclusion.

15.2 Clause 15.1 shall not apply to:

15.2.1 communications between the Parties and their respective professional advisers and/or bankers;

15.2.2 disclosures necessary to enable a Party to perform its obligations under, or enforce the compliance by the other Party with, this Agreement;

15.2.3 disclosures required to be made by any Party by law to the FCA, the PRA or to any other statutory or Regulatory Authority or in accordance with the requirements of this Agreement; and/or

15.2.4 information which has come into the public domain otherwise than by reason of the default of the relevant Party or its professional advisers and/or bankers.

15.3 Without prejudice to the generality of the foregoing, the Parties shall apply the provisions of this clause 15 to any information held within their computer systems.

16. **DATA PROTECTION**

16.1 In this clause 16 the terms "**controller**", "**processor**", "**data subject**", "**personal data**" and "**process**" shall have the meanings set out in the GDPR and "**process**" and "**processed**" when used in relation to the processing of personal data, will be construed accordingly. Any reference to "personal data" includes a reference to "**sensitive personal data**", as applicable, whereby "**sensitive personal data**" means personal data that incorporates such categories of data as are listed in Article 9(1) of the GDPR.

16.2 Both the Intermediary and Fairmead shall comply at all times with the Data Protection Legislation. Each Party shall not, by its acts or omissions, cause the other Party to breach its respective obligations under the Data Protection Legislation.

16.3 Each of the Parties acknowledges and agrees that Schedule 2 (Data Protection Particulars) is an accurate description of the Data Protection Particulars.

- 16.4 Where the Intermediary collects personal data which it subsequently discloses to Fairmead under this Agreement:
- 16.4.1 the Intermediary will ensure that all fair processing notices have been given (and/or, as applicable, consents obtained) and are sufficient in scope to meet the Transparency Requirements (and shall supply Fairmead with copies of the same when requested to do so) to:
    - 16.4.1.1 allow it to transfer the personal data to Fairmead; and
    - 16.4.1.2 ensure that the personal data that it provides to Fairmead can be lawfully processed or disclosed by Fairmead in the manner and for the purposes anticipated by this Agreement; and
  - 16.4.2 Fairmead will ensure that such personal data is only used for the purposes anticipated by this Agreement.
- 16.5 The Parties shall implement and maintain appropriate technical and organisational measures sufficient to comply with the Security Requirements.
- 16.6 Each Party shall notify the other Party promptly (and in any event within forty-eight (48) hours) following its receipt of any Data Subject Request or Regulatory Authority Correspondence.
- 16.7 Each Party shall cooperate with the other Party and use its best endeavours to assist the other Party in all data reporting obligations in the event of a breach of the Data Protection Legislation in connection with this Agreement and each Party further undertakes to notify the other Party of any breach of the Data Protection Legislation, this clause 16 (Data Protection) or of any actual, suspected, threatened or 'near miss' personal data breach which may have occurred in connection with this Agreement as soon as reasonably practicable (and in any event, within twenty-four (24) hours) upon becoming aware of the same, and:
- 16.7.1 implement any measures necessary to restore the security of compromised personal data; and
  - 16.7.2 assist the other Party to make any notifications to the ICO and affected data subjects.
- 16.8 To the extent that the Intermediary acts as a processor of Fairmead, in addition to its obligations under clauses 16.2 to 16.7 (inclusive), the Intermediary warrants and undertakes that it shall:
- 16.8.1 only process the personal data on instruction from Fairmead;
  - 16.8.2 unless prohibited by law, notify Fairmead immediately (and in any event within twenty-four (24) hours of becoming aware of the same) if it considers, in its opinion (acting reasonably) that it is required by Applicable EU Law to act other than in accordance with the instructions of Fairmead, including where it believes that any of Fairmead's instructions under clause 16.8.1 infringes any of the Data Protection Legislation;
  - 16.8.3 take reasonable steps to ensure the reliability of any of its Staff who have access to the personal data for the purposes of this Agreement and ensure that each member of Staff shall have entered into appropriate contractually-binding confidentiality undertakings;
  - 16.8.4 not disclose the personal data to a third party (including a subcontractor) in any circumstances without Fairmead's prior written consent, save in relation to: (i) disclosures to Sub Intermediaries; and (ii) Third Party Requests. For Third Party Requests, the Intermediary shall use reasonable endeavours to advise Fairmead

in advance of such disclosure, unless the Intermediary is prohibited by law or regulation from notifying Fairmead of that disclosure, in which case it shall do so as soon as practicable thereafter (where permitted by Applicable Law);

- 16.8.5 without prejudice to the generality of clause 2.6, not sub-contract the performance of any of its obligations under this Agreement without the prior written consent of Fairmead;
  - 16.8.6 following such a notification provided in clause 16.6 it shall:
    - 16.8.6.1 not disclose any personal data in response to any Data Subject Request or Regulatory Authority Correspondence without Fairmead's prior written consent; and
    - 16.8.6.2 give reasonable assistance required by Fairmead in respect of any such Data Subject Request or Regulatory Authority Correspondence;
  - 16.8.7 provide such information as is reasonably necessary to enable Fairmead to satisfy itself of the Intermediary's compliance with this clause 16;
  - 16.8.8 not make a Data Transfer save where authorised or instructed by Fairmead in writing to do so and has been provided and the appropriate EU Model Clauses have been completed and signed by the appropriate parties prior to any such Data Transfer taking place; and
  - 16.8.9 use all reasonable endeavours, in accordance with Good Industry Practice, to assist Fairmead to comply with the obligations imposed it by the Data Protection Legislation.
- 16.9 The Intermediary will indemnify Fairmead against all claims and proceedings and all liability, loss, costs and expenses incurred in connection therewith incurred by Fairmead as a result of any claim made or brought by any individual or other legal person in respect of any loss, damage or distress caused to that individual or any other legal person as a result of the unauthorised processing, unlawful processing, destruction of and/or damage to, any personal data processed by the Intermediary, its employees or agents in their performance of this Agreement.

## 17. **COMPLAINTS**

- 17.1 In accordance with DISP, the Parties shall at all times have and make due notification to its Policyholders and/or Customers of a proper procedure for the prompt handling of Complaints and each Party shall maintain with and comply with its own complaints handling procedures.
- 17.2 Unless agreed otherwise in writing between the Parties as a result of Fairmead's review of a particular Complaint, or where the Policyholder requests that Fairmead handle the Complaint, the Intermediary shall be responsible for handling Complaints relating to the sale of Policies under this Agreement by the Intermediary. Fairmead shall be responsible for handling all other Complaints relating to the contractual terms of Policies, post sale administration and claims handling effected through this Agreement.
- 17.3 Each of the Parties shall provide the other with all reasonable assistance so as to enable the other Party to investigate Complaints under this Agreement. If one Party receives a Complaint which falls to be dealt with by the other Party, then the Party who receives the Complaint shall immediately refer it to the other Party and will notify the Policyholder.
- 17.4 Fairmead reserves the right to take over the investigation and resolution of a Complaint at its reasonable discretion where it considers it to be in the interests of the Policyholder to do so.

- 17.5 In the event that Fairmead shall consider the refund of any instalment or premium in respect of a Policy sold by the Intermediary to the Policyholder following investigation of a Complaint, Fairmead shall give reasonable notice to the Intermediary and shall consider any representations made by the Intermediary in response thereto in good faith prior to making a final decision whether or not to refund any and, if so, which, instalments or premiums. Fairmead shall advise the Intermediary of the final decision on a Complaint as soon as possible after making the same.
- 17.6 Neither Party shall make any statement or representation which may affect the other Party in response to any legal proceedings brought by a Policyholder and/or Customer or a Policyholder and/or Customer complaint without the prior written consent of the other Party.
- 17.7 For the avoidance of any doubt any costs, damages or liabilities incurred by the Intermediary or by Fairmead on the Intermediary's behalf under this clause 17 shall be the Intermediary's responsibility.

18. **DISPUTES**

- 18.1 Both Parties shall use their best efforts to negotiate in good faith and settle any dispute that may arise out of or in relation to this Agreement or any breach thereof. If appropriate representatives of each Party cannot settle any such dispute through ordinary negotiations, the dispute shall be referred to the senior representatives nominated by the Parties who shall meet in good faith in order to try and resolve the dispute. If the dispute or difference is not resolved as a result of such meeting either Party may (at such meeting or within 14 days of its conclusion) propose to the other in writing that structured negotiations be entered into with the assistance of a neutral adviser or mediator ("Neutral Adviser") before resorting to litigation.
- 18.2 All negotiations connected with the dispute shall be conducted in complete confidence and the Parties undertake not to divulge details of such negotiations except to their professional advisers who shall also be subject to such confidentiality or as required by law and shall be without prejudice to the rights of the Parties in any future proceedings.

19. **ELECTRONIC TRADING & USE OF SYSTEMS**

- 19.1 Where Fairmead transacts business with the Intermediary electronically (whether via the internet, electronic data exchange, e-mail or otherwise) the Intermediary agrees to (i) abide by the Electronic Trading Terms set out in Schedule 1 as may be amended by Fairmead from time to time (ii) comply with the procedure guides issued by software houses and Fairmead which shall form part of this Agreement.

20. **DISASTER RECOVERY**

- 20.1 For as long as it has any obligations under this Agreement each Party shall maintain and implement a disaster recovery plan which shall at all times provide for disaster recovery and back-up facilities:
- 20.1.1 in accordance with Good Industry Practice and Applicable Laws; and
- 20.1.2 to a standard and quality (including with regard to data integrity, speed, reliability and overall suitability of any off-site secure back-up facility) which minimises any disruption to the operations relevant to this Agreement to the fullest extent practicable.

21. **NOTICES**

- 21.1 Any notice or other communication to be given under this Agreement shall be in writing and shall be deemed to have been duly served on, given to or made in relation to a Party if it is sent to:

in respect of **Fairmead**: the Company Secretary

in respect of **the Intermediary**: the Managing Director,

21.2 at the address of the intended recipient Party set out at the head of this Agreement, or posted by pre-paid first class post to the address of the intended recipient Party set out at the head of this Agreement, or any other address notified in writing to the other Party.

21.3 Any such notice shall be in the English language and shall be deemed to have been received and given:

21.3.1 in the case of delivery by hand, at the time of delivery; or

21.3.2 in the case of prepaid mail, two Business Days after the date of mailing;

provided that, where in the case of personal delivery such delivery occurs after 5.30 pm on a Business Day or at any time on a day which is not a Business Day, the notice shall be deemed to have been given at 9.30 am on the next following Business Day.

## 22. **COMPLIANCE WITH BRIBERY ACT 2010**

22.1 The Parties shall, in relation to this Agreement, comply with all applicable laws and regulations relating to anti-bribery and anti-corruption and shall not commit, authorise or permit any action which would cause any Party, any of their Associated Companies or sub-contractors or any person associated with such Party in relation to this Agreement to be in violation of any applicable anti-bribery laws or regulations, including the Bribery Act 2010.

22.2 The Parties acknowledge that this obligation applies to any payments or inducements to persons including, but not limited to, government officials, representatives of public authorities or their associates, families or close friends where the intention is to influence such persons to obtain or retain business or an advantage in the conduct of business.

22.3 Each Party agrees that it and its Associated Companies will neither offer or give, or agree to give, to any employee, representative or third party, nor accept, or agree to accept from any employee, representative or third party any gift or benefit, be it monetary or other, that the recipient is not legally entitled to with regard to the negotiation, conclusion or the performance of this Agreement.

22.4 The Parties shall promptly notify each other Party if they become aware of, or have specific suspicion of, any corruption with regard to the negotiation, conclusion or the performance of this Agreement, including any breach of this clause 22.

22.5 Each Party shall have and maintain in place throughout the term of this Agreement its own policies and procedures including, but not limited to, adequate procedures under the Bribery Act 2010, to ensure compliance with this clause 22.

22.6 The Intermediary shall comply with any policies and procedures provided by Fairmead designed to ensure compliance with this clause 22, as amended from time to time.

22.7 Either Party may terminate this Agreement with immediate effect on written notice to the other Party if the other Party has breached this clause 22 in relation to this Agreement.

## 23. **PREVENTION OF THE FACILITATION OF TAX EVASION**

23.1 The Intermediary shall:

- 23.1.1 comply with all Applicable Laws relating to taxation, the prevention of tax evasion and the prevention of the facilitation of tax evasion including but not limited to the Criminal Finances Act 2017 ("**CFA**") ("**Relevant Tax Requirements**");
  - 23.1.2 not engage in any activity, practice or conduct which would constitute or facilitate an offence under the Relevant Tax Requirements;
  - 23.1.3 comply with any policies provided by Fairmead and any relevant industry code, guidance, or accepted practice relating to tax evasion or preventing an offence under the Relevant Tax Requirements in each case as amended from time to time;
  - 23.1.4 have and shall maintain in place throughout the term of this Agreement such policies and procedures, including Prevention Procedures (as defined under the CFA) as may be necessary to ensure compliance with this clause 23;
  - 23.1.5 promptly report to Fairmead any fact or circumstance which indicates that the Intermediary, or any Person Associated (as defined under the CFA) with the Intermediary is or could be involved in tax evasion or the facilitation of a Tax Evasion Offence in connection with the performance of this Agreement.
- 23.2 Breach of this clause 23.1 shall be deemed a material breach and the Intermediary shall be liable to Fairmead under clause 13.

## 24. **GENERAL TERMS**

- 24.1 Set-off. Fairmead may at any time on written notice to the Intermediary, set off any monies or liability the Intermediary owes to Fairmead against any liability or monies Fairmead owes to the Intermediary whether under this Agreement or any other agreement that may be in place between the Parties.
- 24.2 Force Majeure. If either Party (the "**Claiming Party**") is prevented or restricted from or interfered with in complying with any obligation under this Agreement by any circumstances beyond its reasonable control it shall promptly notify the other Party (the "**Non-Claiming Party**"). If this situation is not remedied within 30 days of receiving notice, the Non-claiming Party will be entitled to terminate this Agreement on immediate written notice to the Claiming Party.
- 24.3 Waiver. The failure by either Party to enforce any provision of this Agreement shall not constitute a waiver of that provision.
- 24.4 Entire Agreement. This Agreement represents the entire agreement between the Parties and supersedes all other prior oral or written agreements relating to the subject matter of this Agreement, except as otherwise provided herein.
- 24.5 No partnership. Nothing in this Agreement shall constitute a partnership or joint venture relationship, or the relationship of employer and employee between the Parties and neither shall have authority or power to bind the other or to contract in the name of or create liability against the other in any way or for any purpose save as expressly authorised in this Agreement.
- 24.6 Costs. Except as provided otherwise in this Agreement, each Party shall pay its own costs and expenses in relation to the negotiation, preparation, and carrying into effect of, this Agreement.
- 24.7 Further Assurance: Each of the Parties shall, on being so required by the other, do or execute, or (so far as it is reasonably able) procure the doing or execution, of all such acts and documents as the other Party may reasonably consider necessary to give full effect to terms of this Agreement.

- 24.8 Continuing Provisions: The provisions of this Agreement will subsist beyond termination to the fullest extent necessary to give effect to this Agreement's terms and intention.
- 24.9 Severability. If any provision of this Agreement is ruled to be invalid for any reason, that invalidity will not affect the rest of this Agreement, which will remain valid and enforceable in all respects.
- 24.10 Variation. No variation of this Agreement shall be valid unless it is in writing and signed by or on behalf of the Parties to it. The Parties will make any amendments to this Agreement that are required by Applicable Law from time to time.
- 24.11 Late Payment. In the event of any late payment of sums due to either Party under the terms of this Agreement, that Party shall be entitled to charge interest at the base rate of the Bank of England from time to time in force from the date such sums were due and payable.
- 24.12 Counterparts. This Agreement may be executed in any number of counterparts and by the Parties to it on separate counterparts, each of which is an original but all of which taken together shall constitute one and the same instrument.
- 24.13 Third Parties. Save as expressly provided elsewhere in the Agreement, the Parties exclude the operation and effect of the Contracts (Rights of Third Parties) Act 1999 from this Agreement.
- 24.14 Assignment. The Intermediary may not assign, delegate or sub-contract this Agreement or its rights and duties under this Agreement (except as otherwise set out in this Agreement) without obtaining the prior written consent of Fairmead, such consent not be unreasonably withheld.
- 24.15 Governing Law. This Agreement shall be construed in accordance with English law and the Parties hereby submit to the exclusive jurisdiction of the English Courts.

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## **SCHEDULE 1**

### **EDI Terms for personal lines General Insurance Business**

If the Intermediary trades with Fairmead electronically, the terms contained in this Schedule will apply to any such business. The Agreement will otherwise also apply in the same way as for any other business transacted between the Intermediary and Fairmead.

#### **1. Definitions**

- 1.1 Message – Data transmitted electronically between the Intermediary and Fairmead, including any part of such data.
- 1.2 Transaction Log – A complete record of the Messages sent and received by the Intermediary.
- 1.3 System – The computer system(s) which the Intermediary is authorised to use under paragraph 2.2 below.
- 1.4 Software House – The supplier(s) of the System.

#### **2. Operating Procedures**

- 2.1 The Intermediary must comply with the procedures laid down by Fairmead from time to time.
- 2.2 The Intermediary is authorised to use the System for trading with or on behalf of Fairmead where such authorisation is given from time to time by Fairmead.
- 2.3 Fairmead reserves the right to suspend or to withdraw the Intermediary's authority to use the electronic trading facilities immediately on delivery of a notice in writing to the Intermediary.
- 2.4 The Intermediary will ensure that the System is kept up to date at all times by installing the latest releases of software received from the Software House, by the effective date of each such release. Failure to do so will invalidate any guarantees which apply to the insurance risk.
- 2.5 The Intermediary will ensure that the System containing data on policies underwritten by Fairmead is operated and maintained in a serviceable condition and in accordance with any instruction/guidelines by the Software House.

#### **3. Security**

- 3.1 The Intermediary will keep confidential in accordance with clause 15 of the Agreement, data relating to the business underwritten by Fairmead and will ensure that access to such data is not granted to any person other than individuals in the employment of the Intermediary and who are required in the course of their duties to have this access for the purpose of the Agreement, or other persons specifically authorised by Fairmead.

#### **4. Authenticity of Messages**

- 4.1 Each message must identify the sender and recipient(s) and must include a means of verifying the authenticity of the Message, either through a technique used in the Message itself or by some other means as provided for in the procedures laid down by Fairmead.
- 4.2 The Intermediary and Fairmead may by agreement also use higher levels of authentication to verify any Message.

## **5. Integrity of Messages**

- 5.1 The Intermediary and Fairmead will ensure that any Message sent to the other is complete, accurate and secure against being altered in the course of transmission.
- 5.2 The Intermediary and Fairmead will each accept the integrity of any Message and agree to accord each Message the same status a would apply to any document or to information sent other than by electronic means, unless such Message can be shown to have been corrupted because of technical failure of any computer, computer system or transmission line.
- 5.3 Where there is evidence that a Message has been corrupted, or if any Message is identified as incorrect, it will be re-transmitted by the sender as soon as possible, with a clear indication that it is a correct Message. No liability of the sender from failure to comply with this clause will arise if paragraph 5.5 below applies.
- 5.4 Notwithstanding paragraphs 5.1 and 5.3 above, the sender will not be liable for direct losses arising from any incomplete or incorrect transmission if the error is or should be, in the circumstances, reasonably obvious to the recipient. The recipient must notify the sender immediately of any such error.
- 5.5 If the recipient has reason to believe any Message is not intended for him/her/it, the recipient must notify the sender and delete from the System the information contained in the Message, but a record must be kept of its recipient.

## **6. Back-up, Recovery and Re-transmission**

- 6.1 The Intermediary will back-up sufficient data from the System to ensure uninterrupted customer service without loss of data.
- 6.2 The Intermediary must make suitable alternative provisions for prompt handling of business with Fairmead in the event the System is disrupted or is out of use for any reason. Full details of the procedures in place must be provided to Fairmead on request.
- 6.3 The System must be able to store at least the last five transmissions to Fairmead, to enable re-transmission where necessary.

## **7. Confirmation of Receipts of Messages**

- 7.1 Except where receipt of Messages is confirmed automatically by the System, Fairmead may request the Intermediary to confirm receipt of each Message. The Intermediary shall send any such confirmation requested to Fairmead without delay.
- 7.2 The Intermediary and Fairmead will process and/or deal with each Message received in accordance with any response times specified by Fairmead the Software House, or as the Intermediary and Fairmead may agree. In the absence of such specification, or agreement, the Intermediary and Fairmead will process and/or deal with each Message without unreasonable delay.
- 7.3 Confirmation of receipt of any Message will not, in itself, give rise to any legal obligation, or confer any right on any person or constitute acceptance of any offer contained/implied in such Message.

## **8. Verification**

- 8.1 In order to verify Messages sent and received, the Intermediary must maintain a Transaction Log including details, without any modifications, of all Messages sent and received by the Intermediary. Fairmead will not accept liability for any insurance risk where the Intermediary cannot produce such verification.

8.2 The Transaction Log may be maintained on computer or by other suitable means, provided that the data can be readily retrieved and presented in a readable form by the Intermediary on request from Fairmead.

8.3 The Intermediary will ensure that the Transaction Log and any reproduction made from it is correct.

## 9. **Audit**

9.1 All books, documents and any Messages or other data relating to business underwritten by Fairmead and held by the Intermediary will be made available by the Intermediary at all times to Fairmead or their professional advisors, or HM Revenue & Customs, for inspection.

## 10. **Liability**

10.1 The Intermediary is responsible for the accuracy of all data input or processed by the Intermediary.

10.2 The Intermediary will indemnify Fairmead for any loss sustained by Fairmead resulting from any misuse or corruption of, unauthorised access to, use of or additions or alterations to any data, or any failure to keep the data up to date, unless caused by an event beyond the control of the Intermediary, or the Intermediary's employees or agents.

10.3 If the Intermediary becomes aware of any misuse or corruption of unauthorised access to, use of or additions or alterations to any data, or any failure to keep the data up to date as at out in paragraph 10.2 above, the Intermediary must notify Fairmead immediately.

10.4 Fairmead will not be liable for any loss or damage suffered by the Intermediary as a result of any delay in relaying data to the Intermediary where such delay is beyond the control of Fairmead, their agents or employees.

10.5 Fairmead will only be liable to the Intermediary for loss arising directly as a result of negligence, fraud or wilful default by it or any of its employees or agents. Fairmead shall not be liable for:

10.5.1 any consequential, indirect or special losses; or

10.5.2 any loss of profits, business revenue, goodwill or anticipated savings suffered or incurred whether direct, indirect or consequential and whether or not such losses or damages were direct, foreseen or foreseeable.

10.6 Nothing contained in this Agreement shall exclude Fairmead's liability for death or personal injury resulting from any act, omission or negligence of Fairmead or its officers, agents, employees or sub contractors or any other liability the exclusion of which is expressly prohibited by statute.

## 11. **Termination**

11.1 These terms will cease automatically in the event of the termination of the Intermediary's agency facilities with Fairmead for any cause, or if Fairmead withdraws the Intermediary's authority to transact business electronically with Fairmead in accordance with paragraph 2.3 above.

11.2 The Intermediary must continue to observe the provisions of paragraphs 3, 8, 9, 10 and 11 notwithstanding any such termination, suspension or withdrawal of authority by Fairmead.

11.3 Within 14 days of such termination or withdrawal of authority by Fairmead, the Intermediary will provide to Fairmead all data or records held by the Intermediary relating to business underwritten by Fairmead.

12. **Variation**

- 12.1 Any amendments to these terms will be notified in writing to the Intermediary by Fairmead and, as far as possible, a reasonable period of notice will be given before such changes become operative.

## SCHEDULE 2

### Data Protection Particulars

<b>The subject matter and duration of the processing</b>	<p>The Parties will Process the customer information in the course of (a) the Intermediary distributing the Policies to Customers and potential Customers and (b) Fairmead underwriting the Policies and providing servicing and administration services to Policyholders.</p> <p>The Processing will take place for the duration of the Agreement and for the duration of any Policy that Fairmead underwrites under this Agreement.</p>
<b>The nature and purpose of the processing</b>	<p>The Processing shall take place for the "permitted Purpose" which shall be:</p> <ul style="list-style-type: none"><li>• In the case of the Intermediary for the purpose of carrying out the Insurance Distribution Activities; and</li><li>• In the case of Fairmead for underwriting and administering the Policies</li></ul>
<b>The type of personal data being processed</b>	<ul style="list-style-type: none"><li>• Customer names, addresses, date of birth;</li><li>• Policy documentation including claims handling;</li><li>• Intermediary and Fairmead names and details for the purposes of carrying out the Agreement.</li></ul>
<b>The categories of data subjects</b>	<ul style="list-style-type: none"><li>• Intermediary Customers;</li><li>• Policyholders; and</li><li>• Prospective Policyholders.</li></ul>