



## THB RISK SOLUTIONS LTD TERMS OF BUSINESS AGREEMENT

**THIS AGREEMENT** will be effective from \_\_\_\_\_ and will replace any previous Agreement signed by you prior to this date.

### BETWEEN

- (1) THB Risk Solutions Ltd, registered in England under No. 3215844 whose registered office is 107 Leadenhall Street, London EC3A 4AF (“The Company”)
- (2) \_\_\_\_\_ and all trading names and trading offices from time to time whose registered address is under No. \_\_\_\_\_ (“The Member”)

### 1. Recitals

- 1.1 This Agreement specifies the terms under which the Member will introduce business to the Company on behalf of its Clients, which it wishes to be placed by the Company with our Partner Insurer(s) as per the attached appendix / appendices.
- 1.2 In this agreement words importing the singular shall include the plural and vice versa.
- 1.3 Headings are included for ease of reference and convenience only and shall not reflect the interpretation of the Agreement.
- 1.4 This agreement does not, and is not intended to, confer or create any right enforceable by any person who is not a party hereto.

### 2. Definitions

- “Act” means the Financial Services and Markets Act 2000
- “Agreement” means this document and any appendix or appendices attached hereto.
- “Client” means a client or potential client of the Member
- “Commission” means any payment made by Partner Insurers to the Member in consideration for placing General Insurance Business
- “Confidential Information” means all our business and trade secrets, methods of doing business, and customer lists of any Member, excluding such information already in the public domain
- “General Insurance Business” means the scope of insurance business extended to the Member by the Financial Conduct Authority on authorisation
- “ICOBS” means the Insurance New Conduct of Business Sourcebook of the Financial Conduct Authority



“Intellectual Property Rights”	means all intellectual and industrial property rights world wide, including without limitation any invention, patent, design or utility model rights, any copyright and trade marks, service marks, database rights, topography rights, trade names, domain names, commercial or Confidential Information, corporate symbol, logo and any other rights of similar nature
“Money Laundering Rules”	means the Money Laundering Regulations 2007 and Proceeds of Crime Act 2002.
“Partner Insurer(s)”	an FCA approved UK Insurance Company or an Insurance Company regulated by the Irish regulator providing exclusive capacity to THB Risk Solutions Ltd for the sales and marketing of Products as detailed in attached Appendix.
“Rules”	means the Financial Conduct Authority Handbook of Rules, including regulations where applicable and amendments made from time to time

### 3. **Agency status of Member**

At all times the Member warrants that they hold a live and approved agency with Partner Insurer(s)

### 4. **Regulatory Status of the Member**

- 4.1 The Member warrants and represents that they are fully authorised by the Financial Conduct Authority to deal with General Insurance Business and that they will be able to fulfil their duties and obligations under this Agreement.
- 4.2 The Member shall retain in force all Financial Conduct Authority and other regulatory permissions necessary to enable them to transact General Insurance Business and their duties and obligations under this Agreement.
- 4.3 If it transpires that the Member is not duly authorised by the Financial Conduct Authority, then this Agreement will be terminated with immediate effect.
- 4.4 The member warrants that they will immediately inform the Company in writing if during any time that this Agreement is in force:
- (i) The Member’s authorisation is suspended or withdrawn in full or in part by the Financial Conduct Authority.
  - (ii) The Member is subject to disciplinary action or is under investigation by the Financial Conduct Authority or other regulatory authority.
  - (iii) The Member is or becomes aware of any suspected or actual breach of the FCA rules or their inability to comply with them.



## 5. **Compliance**

- 5.1 The Member will hold, maintain and meet their own cost of Professional Indemnity Insurance of sufficient level in accordance with the requirements of the Financial Conduct Authority and produce evidence upon demand.
- 5.2 The Member shall inform the Company immediately in writing if their Professional Indemnity Insurance is cancelled, voided, not renewed, or is deemed to be insufficient to meet their business needs or scale of their operations.
- 5.3 The Member agrees to inform the Company immediately and confirm in writing if any of the following occur:
- (i) there is any change to ownership, partners, directors or general shareholding.
  - (ii) the Member changes trading name, address or in the case of a sole trader or partnership, becomes incorporated.
  - (iii) the Member becomes insolvent, appoints a receiver, administrator or manager over any part of their undertaking or assets, seek liquidation or any analogous proceeding in any jurisdiction, or if any of the Member's principals become bankrupt.
  - (iv) the principal, owners, partners or directors of the Member are subject to now, or become in the future subject to any disciplinary proceeding instituted by a professional or regulatory entity or if the same are convicted of any criminal offence (excluding minor offences).

## 6. **Obligations**

- 6.1 The Member's duty to act in the best interests of his client shall be paramount.
- 6.2 This Agreement is personal to the parties hereto and shall not be assignable by either of them.
- 6.3 Nothing in this Agreement shall place the Company under any obligation to accept any proposal or new business or the renewal of existing business put to it by the Member, nor shall the Member be under any obligation to accept on behalf of his client the terms put to them by the Company in respect of any such proposal.
- 6.4 The Member shall acquaint their client fully with the terms of this Agreement and the terms of business between the Member and the Partner Insurer(s) which affect the client's rights, benefits or liabilities and the Company shall only accept business under this Agreement on the basis that any client of the Member has full knowledge of and accepts the terms of this Agreement in so far as they apply to the client.

## 7. **Instructions**

- 7.1 The Company agrees to compile all underwriting information relating to the placement for presentation to the Partner Insurer(s)



- 7.2 The Company agrees to present quotations to the Member only on the terms quoted to the Company by the Partner Insurer(s) quoting the gross premium, without amendment or alteration unless previously agreed by the Member on behalf of the client and confirmed in writing to the Company.
- 7.3 The Company will not confirm the order to the Partner Insurer(s) until a verbal or written instruction is received from the Member on behalf of the client to commence cover.
- 7.4 The Company agrees to immediately inform the Member of any notice of cancellation, avoidance, or reservation of rights by the Partner Insurer(s).
- 7.5 The Company shall accept no liability whether to the Member or the client for any error, omission, negligent act or defective advice or any loss or damage arising therefrom suffered by the Member or their client as a result of the Company acting in accordance with such instructions received under 7.3.
8. **Presentation & Renewal**
- 8.1 The Member shall exercise the due skill, care and diligence required of them by the law. It is the duty of the Member and their client to ensure that all matters material to the risk are accurately and completely disclosed to the Company, to make the Company aware of any material changes affecting the risk during the currency of the policy and to ensure that all requirements of the Partner Insurer(s) regarding additional information, declarations subsequently required and the like are complied with in a full and expeditious manner.
- 8.2 Information is material if it would influence the judgment of a prudent Partner Insurer in evaluating the risk.
- 8.3 If any material information is omitted or misrepresented, Partner Insurer(s) have the right to void the policy and return any premium paid. The effect of this is that there is no longer an insurance policy in force and no claims will be paid. It is therefore extremely important that attention is paid to the information that is provided to enable the Partner Insurer(s) to consider the risk and to the accuracy and completeness of that information.
- 8.4 The Member shall present all information to the Company using such forms and / or proposal forms specified by the Company, or in such other manner as may be agreed between the Member and the Company. The Member shall provide all further information required by the Company to place and administer the relevant General Insurance Business.
- 8.5 The Company reserves the right to decline to act on behalf of the Member and/or any of its Clients.
- 8.6 Upon the Company providing a quotation, the Member, if he wishes to present such quotation to their client, shall present it on the exact same terms as those quoted to them by the Company.
- 8.7 The Company shall not be bound to instruct Partner Insurers to incept any insurance on behalf of the Member, or their client, until formal instructions are received from the Member to commence such cover.
- 8.8 The renewal of the Client's General Business Insurance shall be the Member's responsibility.



8.9 All documentation regarding any proposed contract of insurance required by the Financial Conduct Authority under the provision of ICOBS shall be drafted in good time to permit compliance with Financial Conduct Authority requirements and once agreed shall be sent to the client by the Member.

## 9. **Client Contact**

Without the prior consent of the Member, the Company will not contact the client directly.

## 10. **Commission, Costs and Remuneration**

10.1 The Partner Insurer(s) will pay the Member agreed commission on placement of risks under the terms of the agency agreement that exists between both parties.

10.2 The Company will

- (i) provide details of the premium costs of each of the general business insurances offered and not impose any fees or charges in addition to the premium required by the Partner Insurer(s)
- (ii) be remunerated for arranging the general business insurance in the form of commission paid to the Company by the Partner Insurer(s)
- (iii) in addition to such commission, the Company will be entitled to benefit from and retain for its sole purpose:
  - (a) additional remuneration, which the Company is able to generate from certain product(s) and its underwriting performance, which are not identifiable to any specific risk.
  - (b) additional remuneration, which the Company is able to generate from certain finance houses, which are not identifiable to any specific risk.

10.3 The Member should respond to requests by its commercial clients for disclosure of commission, fees or other aspects of remuneration promptly and accurately in accordance with Financial Conduct Authority Rules.

## 11. **Responsibility for Premiums**

11.1 For the avoidance of doubt, the Company has no obligation to fund any premiums, duties, fees or taxes on behalf of the Member or the insured and has no responsibility for any loss which the Member and/or the insured may suffer as a result of Partner Insurer(s) cancelling the policy or taking any other prejudicial steps, as a result of the late payment of such sums if such delay is attributable to either the Member or the insured.

11.2 Notwithstanding any action taken by either party, in the event of any premium not being paid to the Partner Insurer(s) by the Member or their client within the terms of this Agreement, the general business insurance cover to which such premium relates may be cancelled by the Partner Insurer(s) in accordance with the terms of general business insurance between the Member and the Partner Insurer. Such notices of cancellation being given in accordance with the policy wording.



## 12. **Termination**

12.1 This Agreement may be terminated by mutual agreement between both parties on giving written confirmation to each other or by either party giving not less than 6 months written notice to the other of their wish to terminate the Agreement.

or

12.2 Forthwith by the Company, in the event of the Member becoming insolvent, appointing a Receiver or Manager, seeking liquidation or any analogous proceeding in any jurisdiction or any of the Member's principals becoming bankrupt.

12.3 In addition to the above the Company shall be entitled to immediately terminate this Agreement should the Member be in breach of any of the events as set out in all of clause 4.

12.4 Either party to this Agreement shall be entitled to terminate the Agreement on written notice if:

- (i) the other party is in material breach under the terms of this Agreement and that such breach cannot be rectified within 30 days of said breach being notified or,
- (ii) the other party is in persistent material breach of this Agreement.

## 13. **Confidentiality**

Both parties will treat information received from the other relating to this Agreement and to the client's general business insurance as confidential information and will not disclose it to any other person not entitled to receive it, except as may be necessary to fulfill their respective obligations in the conduct of the general business insurance and except as may be required by law or regulatory authority.

## 14. **Intellectual Property Rights**

Both parties will retain ownership of all their respective rights, including intellectual property rights, in the products, data, databases, computer programs, documents, materials, ideas or other information or any compilation thereof used in the performance of the services. The parties agree to do whatever is reasonably necessary to confirm or give effect to such ownership to the extent that any products, data, databases, documents, materials, ideas or other information constitute an original item developed by either party as a consequence of performing the services. Each party agrees to do whatever is reasonably necessary to confirm or give effect to such rights vesting in the developing party. Unless first agreed otherwise, each party has the right to use any jointly developed intellectual property for any purpose whatsoever.

## 15. **Force Majeure**

Neither party will be liable or deemed to be in default for any failure in performance or delay in respect of this Agreement, if such failure or delay is caused by circumstances or conditions beyond its reasonable control, including but not limited to Acts of God, insurrections and wars.

## 16. **Enforceability**

If in the event that any provision of this Agreement is found to be illegal, invalid or unenforceable, then such provision will be deemed to be deleted from the Agreement, but the remainder will remain in full force and effect.



**17. Governing Law**

In respect of policies issued in England and Wales, these Terms of Agreement will be governed by, and construed in accordance with, the Laws of England and Wales and the parties submit to the exclusive jurisdiction of the Courts of England and Wales. In respect of policies issued in Scotland, these Terms of Agreement will be governed by, and construed in accordance with, the Laws of Scotland and the parties submit to the exclusive jurisdiction of the Courts of Scotland.

**18. Variation**

Any variation to the terms of this Agreement must be confirmed in writing and signed by both parties hereto including provision for clauses 16 and 19.

**19. Changes in Law and or Regulation**

In the event of a change in law or regulation (including the Financial Conduct Authority Rules), which affect any of the parties' obligations under this Agreement, the parties will co-operate in good faith to agree any necessary amendment(s) or variation(s) to the Agreement.

IN WITNESS WHEREOF THE PARTIES HERETO have executed this Agreement on the date recorded below and are duly authorised by each party to do so:

**Signed on the       day of**

Signature:.....

Name:.....

Position:.....

For and on behalf of ("The Member")

**Signed on the       day of**

Signature:.....

Name:.....

Position:.....

For and on behalf of THB Risk Solutions Ltd ("the Company")

# APPENDIX



THB UK Risk Solutions

## Encompass Mini Fleet Membership Form

Business name:

Business address:

Postcode:

Tel number:

Fax number:

E-mail address:

Contact names:

Formal contact	<input type="text"/>	Position:
Encompass contact	<input type="text"/>	Position:

Are there any associated branch offices? Yes  No

If yes, please list on separate headed paper giving full trading name(s), address(es) and agency numbers where relevant.

AXA Insurance Agency number:

FCA Number:





**Encompass Mini Fleets**

Commission Rate

2 + Vehicles (Maximum 10)	From 10%
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This agreement is made between the Company and the Member and represents a fully binding contract between the two parties and is issued in conjunction with the attached Terms of Business Agreement.

I ....., having applied for membership to the Company, and being an authorised person representing the member, hereby undertake to be fully committed to placing commercial insurance business with the Company over a 12 month period commencing with the date of my membership acceptance email. In return, the Company will facilitate to pay commissions as highlighted above.

Membership is only available to Brokers and Intermediaries who satisfy membership criteria.

Authorised Signature*:	Date:
Name (please print):	
Position:	

Witnessed by:	Date:
Name (please print):	
Position:	

\*Director (Limited Company), Partner (Partnership) or Principal.