



**TERMS OF BUSINESS AGREEMENT**

**AGENCY AGREEMENT**

# BETWEEN:

1. DAS Legal Expenses Insurance Company Limited, a company registered in England (company number: 103274) (FCA reference number: 202106) having its registered office at **DAS House | Quay Side | Temple Back | Bristol | BS1 6NH** (“**DAS**”);

and

1. The insurance intermediary authorised by DAS under this Agreement (the “**Agent**”).

Each a “**Party**” and together the “**Parties**”.

# WHEREAS

1. DAS is a legal expenses insurance company authorised to carry out various classes of insurance business.
2. The Agent is an insurance intermediary. The Agent arranges insurance business directly with Policyholders and/or through authorised third-parties.
3. The Agent wishes to arrange and market within the United Kingdom of Great Britain and Northern Ireland, (excluding the Isle of Man and the Channel Islands) the insurance and associated services that DAS has agreed to provide in accordance with this Agreement.
4. Both Parties are authorised by the Regulator to carry out their obligations under this Agreement.
5. Both parties carry out insurance business as authorised by the FCA within the scope of their authority and in accordance with the applicable published Regulator’s Handbook Rules.
6. The Parties have made this Agreement on the following terms.

# IT IS AGREED

## DEFINITIONS AND INTERPRETATION

* 1. In this Agreement unless the context requires otherwise the following capitalised terms shall have the following meanings:

“**Acceptances**” means written and dated confirmation of an Insurance Product in electronic and/or paper format;

“**Agreement**” means this agreement and the schedules and appendices hereto which shall form part of it and will be incorporated in this Agreement and shall be of full force and effect;

“**Appointed**

**Representative**” means someone who undertakes regulated activities under the supervision of an authorised firm, who is their ‘Principal’. The ‘Principal’ accepts responsibility of the ‘Appointed Representative’ in writing by way of a written agreement;

“**Business Day**” means a day (other than a Saturday or Sunday) on which banks are ordinarily open for general commercial business in London;

“**CASS**” means the Regulator’s client money requirements outlined in the Client Assets Sourcebook contained within the FCA Handbook or any replacement thereof;

“**Client**” means such persons who are introduced to DAS by the Agent in accordance with the terms of this Agreement;

“**Commencement Date**” means July 2018;

**“Commission”** means as defined in Clause 7.7;

“**Complaint**” means a complaint as defined under the DISP Rules arising as a result of this Agreement;

**“Confidential**

**Information”** means information relating to any information and/or material relating to the business, affairs, finances, systems, processes and/or methods of operation of either Party (other than information and Personal Data about an Insured, held by either Party or supplied by either Party to the other in connection with the operation of this Agreement) 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). Confidential Information shall not include: (a) information already known to the receiving Party prior to the Commencement Date; (b) information received from a third party who is not bound by a confidentiality agreement; (c) information that is, or becomes available, to the public (other than as a direct or indirect breach of this Agreement); and (d) information as agreed between the Parties in writing as being capable of being disclosed;

“**Credit Period**” means 30 days from the date of the submitted request for payment to the Agent by DAS or as otherwise agreed between the Parties and formally authorised in writing by DAS;

“**Customer Data**” means all data (including but not limited to Personal Data and Confidential Information), information, text, drawings, statistics, analysis and other materials owned by and/or provided to the Agent pursuant to this Agreement by or on behalf of:

* DAS; and/or
* any DAS Group company; and/or
* an Insured.

“**DAS Group**” means DAS and any other company which is for the time being its subsidiary or holding company or a subsidiary of any such holding company and, where the context so permits any of those companies. The terms “subsidiary” and “holding company” shall have the meaning given in s 1159 of the Companies Act 2006;

**“Data Controller,** have the meaning given to them in the DPL;

**Data Processor,**

**Data Subject and**

**Data Subject Request”**

**“Delegated Authority”** means the delegated authority granted by DAS to the Agent under this Agreement as detailed in Clause 4;

“**DISP Rules**” means the Dispute Resolution Complaints manual contained within the FCA Handbook or any replacement thereof;

**“DPA”** means the Data Protection Act 1998;

“**DPL**” means any applicable law relating to the processing, privacy, and use of Personal Data, as applicable to DAS or the Agent including:

(a) the DPA and the Privacy and Electronic Communications (EC Directive) Regulations 2003 and any laws or regulations implementing Directive 95/46/EC or Directive 2002/58/EC;

(b) the General Data Protection Regulation (EU) 2016/679, and/or any corresponding or equivalent national laws or regulations; and/or

(c) any judicial or administrative interpretation of any of the above, any guidance, guidelines, codes of practice, approved codes of conduct or approved certification mechanisms issued by any relevant supervisory authority;

**“E-Trade Platform/s”** means

- the platform hosted by Acturis; and/or

- the platform hosted by SSP; and/or

- DAS’s portal ‘DAS Connect’ ; and/or

- any alternative electronic platform for selling Insurance Products that DAS gives written notice of to the Agent.;

“**EU Standard**

**Contractual Clauses**” means the set of standard contractual clauses as approved by Commission Decision of 15 June 2001 (as amended) on standard contractual clauses for the transfer of Personal Data to third countries, under Directive 95/46/EC (as amended by Commission Decision of 27 December 2004 amending Decision 2001/497/EC as regards the introduction of an alternative set of standard contractual clauses for the transfer of Personal Data to third countries);

“**FCA**” means the Financial Conduct Authority and any organisation which supersedes it as a regulatory authority;

“**FSMA**” means the Financial Services and Markets Act 2000 and its subordinate legislation, regulations, rules and guidance;

**“Gross Premium”** means the total sum received by the Agent from the Policyholder in respect of an Insurance Product including Commission and excluding Tax;

“**Insurance**” means insurance underwritten by DAS;

“**Insurance Product**” means Insurance and other services that DAS provide, that the Agent will introduce under the terms of this Agreement;

“**Insured**” means a Policyholder and any other person covered by the Policy to whom DAS has extended indemnity under the Policy;

“**Intellectual**

**Property Rights**” means patents, rights to inventions, copyright and related rights, moral rights, brands, trade marks and service marks, trade names and domain names, rights to goodwill or to sue for passing off, rights in designs, rights in computer software, database rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications (or rights to apply) for, and renewals or extensions of, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world;

“**Marketing**

**Literature**” means any sales and marketing literature and materials used, produced, published, displayed, issued, distributed, and/or made available electronically on any website by the Agent in relation to the Insurance;

“**Net Premium**” means the amount charged by DAS, excluding Tax, in respect of each Insurance Product;

“**Personal Data**” has the meaning set out in section 1(1) of the DPA (or any succeeding legislation) and relates only to personal data, including sensitive personal data, or any part of such personal data;

“**Personal Data**

**Breach**” means any breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, any Personal Data transmitted, stored or otherwise processed;

“**Policy**” means the terms and conditions applicable to the Insurance purchased by and issued to a Policyholder;

“**Policy Document**” means any literature and materials issued to a Policyholder, in respect of the Policy, including the Policy wordings, Policy summary, IPID (‘insurance product information document’) schedules, certificates of insurance, endorsements, renewal notices, and any amendments, default and/or termination notices issued (excluding all Marketing Literature);

“**Policyholder**” means any person who is the legal holder of a Policy;

“**Processing and**

**process**” have the meaning set out in section 1(1) of the DPA (or any succeeding legislation);

**“Regulations”** means FSMA, the rules, regulations and guidance of the Regulator, the Consumer Insurance Act 2013, the Bribery Act 2010, Modern Slavery Act 2015, European Union Regulation 2580/2001, the Terrorist Asset-Freezing etc. Act 2010, compliance with the United Nations Global Compact and any other laws, regulations, rules, or orders imposed to the maximum extent applicable to the performance by either Party of its obligations under this Agreement, including but not limited to the sale and administration of the Policies under this Agreement and all as amended from time to time;

**“Regulator”** means the FCA or any competent governmental, statutory or regulatory body having regulatory or supervisory authority over either Party at any time;

**“Security Incident”** means an actual, suspected or threatened unauthorised exposure, access, disclosure, use, communication, deletion, revision, encryption, reproduction or transmission of any component of Customer Data or unauthorised access or attempted unauthorised access or apparent attempted unauthorised access (physical or otherwise) to any Customer Data or any supplier systems on which such Customer Data is processed or stored.

**“Security**

**Measures**“ means the implementation of the appropriate technical and organisational measures required by the DPL in order to safeguard the rights and freedoms of individuals by securing Personal Data including but not limited to protection against unauthorised or unlawful processing, access, disclosure, copying, modification, storage, reproduction, display or distribution and against accidental or unlawful loss, destruction, alteration, disclosure or damage;

**“Tax”** means any relevant tax payable in respect of the Insurance Product including, but not limited to, insurance premium tax (or any successor tax, charge or levy) at the prevailing rate at the time of sale.

**“Territory”** has the definition given under the Policy;

**“Third-Party”** means any sub-agent, broker, agent, insurance intermediary, Appointed Representative (as defined in the UK Regulator’s Handbook) and/or any other third-party who introduce Insurance to Policyholders.

* 1. In this Agreement:
     1. the masculine gender includes the feminine and neuter and the singular includes the plural and vice versa;
     2. references to Clauses, Schedules and Appendices are to the clauses, schedules and appendices of this Agreement;
     3. headings and sub-headings are included for ease of reference only and shall not affect the interpretation of this Agreement;
     4. the words “including”, “include”, “for example”, “in particular” and words of similar effect shall not limit the general effect of the words which precede them;
     5. reference to each Party herein include reference to its successors in title, permitted assigns and novatees;
     6. reference to termination of this Agreement include reference to expiry of this Agreement;
     7. an obligation on a Party not to do something includes an obligation not to allow that thing to be done;
     8. reference to a person shall include a reference to an individual, firm, company, corporation, unincorporated body of persons, or any state or any agency of that person; and
     9. any reference to legislation shall (except where the context otherwise requires) be construed as referring to such legislation as amended, supplemented or varied and in force for the time being and from time to time and to any legislation which re-enacts or consolidates (with or without modification) any such legislation and to any statutory instruments, subordinate legislation, rules, guidance or regulations made pursuant to it from time to time in force.

## APPLICATION OF AGREEMENT

#### Commencement

#### Subject to Clause 2.2, this Agreement shall supersede any earlier agreement between the parties the subject of which is the introduction of Insurance Products detailed at Schedule 2 which are available on the E-Trade Platform/s and shall commence on the Commencement Date and endures until termination of the Agreement in accordance with its terms.

#### Data Protection

#### Clause 13 of this Agreement and its associated definitions shall on the Commencement Date supersede any data protection provisions contained in any earlier agreement between the Parties the subject of which is the introduction of any Insurance Products.

#### Extent

#### This Agreement applies to all business outlined herein within the Agent’s control or arranged and marketed by the Agent and/or its Third-Parties within the Territory in accordance with this Agreement on or after the Commencement Date.

### APPOINTMENT

* 1. Insurance shall only be made available to persons who reside in the Territory.
  2. The Agent shall act in the capacity of agent for DAS to carry out its obligations under the Delegated Authority.
  3. DAS will be acting as product manufacturer and the Agent will be acting as product distributor. The respective roles and responsibilities of each party are allocated in accordance with Schedule 3.
  4. Except as set out in this Agreement, the Agent shall act as the agent of its Clients for the purposes of placing insurance business with DAS via E-Trade Platforms of the nature or type set out in Schedule 2 with DAS.

### DELEGATED AUTHORITY

#### Grant of Delegated Authority

* + 1. Underwriting rules and ratings for the Insurances have been built into the E-Trade Portals and signed off by DAS. Therefore referrals and Acceptances carried out via the E-Trade Platforms will refer each individual risk to DAS for acceptance.
    2. The Agent is hereby authorised by DAS to:
       1. introduce Policyholders to DAS
       2. act as agent of DAS for the purpose of:

1. collecting, receiving and holding Net Premiums plus Tax from Policyholders; and
2. refunding Net Premium plus Tax or part thereof to Policyholders on DAS instructions; and
   * + 1. deal with cancellations, mid-term adjustments and renewals.
     1. The Delegated Authority granted by this Clause 4 is subject to the obligations and restrictions specified in this Agreement.
     2. The Delegated Authority shall be at the absolute discretion of DAS.
     3. The Agent shall at all times act within the limits of the Delegated Authority.
   1. **Limitations of the Delegated Authority**
      1. The Agent is the agent for DAS for the collection, holding and refunding of Net Premium and Tax. The Agent is the agent of its Client for all other purposes.
      2. The Agent is not authorised to bind DAS to any Insurance
      3. The Agent is not authorised to hold or receive claims money without the prior written authority of DAS.
      4. The Agent is not authorised to issue or defend legal proceedings on behalf of DAS without the prior written authority of DAS.
      5. The Delegated Authority may not be transferred, assigned or novated nor can any rights under this Agreement be transferred, assigned or novated without the prior written agreement of DAS acting in its absolute discretion.
      6. Nothing in this Agreement shall grant the Agent authority to accept, amend, or vary any contract of Insurance, settle, negotiate or compromise claims, alter any document or Policy, make any non-exempt financial promotion on behalf of DAS, and/or commit DAS in any way.
   2. **Extension of Delegated Authority**
      1. The Agent may introduce the Insurance through a Third-Party provided that:
         1. the Agent seeks the prior written permission of DAS;
         2. the Agent shall at all times remain responsible and liable for the acts and/or omissions of the Third-Party;
         3. the Agent sub-delegates to the Third-Party the Delegated Authority (or part of it, as applicable) subject to the limitations under Clause 4.2;
         4. the Agent ensures that such Third-Party holds the monies set out in Clause 5.2 in accordance with Clause 5.3 of this Agreement;
         5. the Agent is responsible to ensure that any Third-Party acts within the limits of the Delegated Authority under Clause 4.2;
         6. the Agent carries out adequate due diligence of any proposed Third-Party prior to its appointment, including but not limited to satisfactory FCA and credit reports and shall provide DAS with documented evidence of such due diligence on request;
         7. the Agent undertakes adequate monitoring of the Third-Party during the term of its appointment, including but not limited to completing satisfactory regular FCA and credit reports and quality monitoring of sales process in line with the Consumer Insurance Act 2013;
         8. the Agent enters into a written terms of business agreement with the Third-Party before trading commences, which imposes on the Third-Party the obligations and conditions imposed on the Agent under this Agreement (in particular, without limitation, under Clauses 4 and 5 of this Agreement) and which provides for automatic termination on the termination of this Agreement for any reason;
         9. the Agent ensures that the Third-Party is appropriately authorised by the Regulator to perform the obligations of the Agent under this Agreement;
         10. within 14 days of knowledge, the Agent advises DAS if any Third-Party ceases to hold the required authorisation from the Regulator;
         11. the Agent advises DAS as soon as reasonably practicable of any material changes to, additions of or removal of any Third-Parties in their distribution chain;
         12. the Agent provides an up to date list of all Third-Parties on request by DAS; and
         13. the Agent permits DAS access to sample copies of the agreements described under 4.3.1.8 on request.
      2. DAS shall grant risk transfer to Third-Parties in respect of monies held under Clause 5.2 of this Agreement subject to the requirements of Clause 4.3.1 and the provisions of Clause 5.3.
      3. For the avoidance of doubt, if the Agent is to be acting as Principal for its Appointed Representative it shall assume regulatory responsibility for the Appointed Representative’s activities.
      4. DAS at its absolute discretion reserves the right to withdraw any extension of the Delegated Authority at any time.

### RISK TRANSFER AND INDEMNITY

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* 1. DAS shall own the Net Premium plus Tax.
  2. Where the Agent or Third Party holds:
     1. Net Premium due to be paid to DAS; or
     2. return Net Premium due to be paid to the Agent’s Client; or
     3. any sum due in respect of Tax; or
     4. subject to Clause 4.2.3, claims money due to be paid to the Agent’s Client; or
     5. money received by the Agent from DAS for onward payment to agents of DAS in respect of claims adjustment, legal and similar professional fees;

the Agent shall hold such monies in accordance with Clause 5.3 of this Agreement.

* 1. Pending payment to DAS or the Policyholder, DAS shall bear the risk in respect of the Net Premium plus Tax provided that the Agent shall hold the money described in Clause 5.2 as agent for DAS within the Agent’s account, which shall be a statutory or non-statutory trust account. DAS hereby consents to such money being co-mingled with the Agent’s client money, as applicable. DAS consents to its rights with regard to money held in the Agent’s client money account being subordinated to those of the Agent’s clients in accordance with CASS 5, and agrees that any interest earned on the said account shall accrue to the Agent.
  2. Where the Agent is holding client money, it shall comply with the relevant requirements of CASS.
  3. The Agent shall from time to time provide DAS with documentary evidence confirming the trust status of the bank account in which Net Premium plus Tax is held. Such evidence to be in the form as prescribed by DAS from time to time.
  4. DAS accepts no liability for actions undertaken by the Agent in breach of this Clause 5.
  5. The Agent shall fully indemnify DAS against any and all liabilities, costs, claims, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation, Tax liability, and all interest, penalties and legal costs (calculated on a full indemnity basis) and all reasonable professional costs and expenses) suffered or incurred by DAS arising out of or in connection with any breach, negligent performance and/or non-performance of this Agreement by the Agent and/or any Third-Party to whom the Delegated Authority has been extended.

### DAS OBLIGATIONS

#### DAS shall:

* + 1. ensure that it has sufficient capacity to underwrite the Insurance;
    2. set underwriting criteria for the Policies ; and
    3. honour the terms of the Policies and the statements made in the Policy Documents and Marketing Literature.

#### DAS will deal with claims by Insured persons through services provided by the DAS Group and at the absolute discretion of DAS, may appoint legal or other firms or companies to act on its behalf or on behalf of the Insured to deal with any aspect of such claims.

#### DAS will provide telephone helpline services within the Insurance Products either through services provided by the DAS Group or by other firms or companies.

#### Communication

#### DAS may deal directly with the Insured in relation to the provision of services ancillary to the Insurance Product, as part of the claims process and where the Insured makes an unsolicited approach.

### FINANCIALS

#### For the purposes of Clause 7.2, transactions are due for payment in the month following, the later of:

* + 1. the date on which the cover transacted starts; or
    2. the date the transaction was processed on the E-Trade Platform/s.

#### Utilising the data held on the E-Trade Platform/s for Insurance Products transacted DAS will, no earlier than 14 days after the end of the preceding month, issue a request for payment in respect of new business, renewals or adjustments that are due for payment (‘Request for Payment’).

#### The Agent shall, within the Credit Period, reconcile each month’s Request for Payment and return it to DAS together with full payment in cleared funds as specified in Schedule 1.

#### If there are items on the Request for Payment which subsequently need adjustment, the monies owing on the request for payment will remain unchanged, and will need to be paid.

#### Upon entering an adjustment on the E-Trade Platform, following the 14 days after the end of the preceding month, any refund required will appear on a subsequent Request for Payment.

#### General

* + 1. Net Premium plus Tax shall not be subject to any charge, set off, encumbrance, lien or compensation.
    2. No allowance shall be made for late payment including but not limited to:
       1. any delay within the Agent’s accounting system;
       2. any liability to obtain monies from the Policyholder or prospective Policyholder.
    3. Interest at the base rate prevailing from time to time of the Bank of England plus 2% is payable by the Agent for late payment and shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. The Agent shall pay the interest together with the overdue amount.
    4. All payment queries should be directed to the ‘credit control department’ at DAS Head office at Bristol
    5. Payment to DAS:
       1. is not related to any credit period given by or arranged by the Agent to its client or the Agent’s counterparts; and
       2. is not related to any outsourced premium or funding arrangements that may be in place between the Agent, client and the finance provider.

#### Commission

* + 1. All premiums quoted on the E-Trade Platforms are Gross Premiums plus Tax.
    2. Commission is set at 15% of Gross Premium exclusive of Tax. DAS may, upon request via the E-Trade Platforms, agree in writing that commission can be increased up to a maximum of 50%, or decreased to a minimum of 0%, of the Gross Premium exclusive of Tax.
    3. The Agent may deduct and retain the Commission upon receipt of the Gross Premium from the Policyholder. For the avoidance of doubt, the payment made to DAS under Clause 7.6 shall not include the Commission.
    4. Details of any charges the Agent makes to the Policyholder in addition to the Gross Premium must be disclosed to the Policyholder in accordance with the applicable Regulations.
    5. The Agent shall inform DAS if in addition to the Commission, the Agent is to be remunerated or paid by the Policyholder for any services provided by the Agent to the Policyholder in respect of the Insurance Product/s. In such circumstances, the Agent shall also disclose to the Policyholder that they are or shall be paid Commission by DAS and the amount of such Commission.
    6. The Agent shall refund to the Policyholder any Commission on any contract of insurance which has for any reason been avoided, terminated or cancelled pro rata to the award of Net Premium to be repaid to the Policyholder as recorded on the E-trade Platform.
    7. In the case of cancellation, such repayment shall be only in respect of Commission received by the Agent which is attributable to that part of the Net Premium repaid. Unless otherwise obliged to by law, regulation or terms of the contract of insurance, DAS shall refund premiums net of Commission.

### THE AGENT’S OBLIGATIONS

#### Information

* + 1. For new or renewed Policies, the Agent must promptly provide the information that DAS requires in the format that DAS requires it.
    2. If DAS invites renewal of Policies, the Agent must notify DAS in writing on or prior to the renewal date if (and with specific reasons as to why) a renewal is not to take place.
    3. If mid-term adjustments to Gross Premium are requested (as permitted by law or the relevant Insurance Product), the Agent must inform DAS as soon as possible via the E-Trade Platform.
    4. The Agent shall provide any information reasonably required by DAS to ensure compliance with any contractual, statutory, regulatory, court or other requirement.
    5. The Agent must notify DAS:
       1. immediately if it ceases to be directly authorised by the Regulator;
       2. immediately and in writing if the Agent, any individual within the Agent’s business, or any Third-Party becomes subject to enforcement or disciplinary proceedings instigated by the Regulator and at the point of the eventual outcome.
       3. immediately if there is any change to its regulatory status;
       4. if there is a change of the registered or trading name and address;
       5. if there is a change of ownership including the directors’ controlling shares and capital structure or change of owner (whether legal or beneficial) or partners;
       6. immediately if at any time the Agent does not have professional indemnity insurance as required by the Regulator;
       7. as soon as reasonably practicable if there are any other material changes that occur in the Agent’s business, which would impact upon the contractual relationship between both Parties;
       8. immediately if the Agent becomes aware of any individual or entity, that has been put on cover with DAS, that are an exact match with any individual or entity on the HM Treasury’s asset freeze target list.

#### Marketing

* + 1. The Agent shall not publish to any third party any material, document or literature referring expressly or implicitly to DAS unless it is in accordance with this Agreement or with DAS’ prior written consent.
    2. The Agent shall market the Insurance Product and shall comply with all applicable Regulations whilst doing so, including but not limited to those related to internet marketing where direct selling regulations would apply.

#### Audit

* + 1. The Agent shall prepare, maintain and retain for the appropriate period under Regulations full and proper accounts and records as appropriate which present and reflect in all material respects all transactions and matters relating to this Agreement.
    2. DAS, as well as its Regulator, or the agents or representatives of DAS or its Regulator, or the HMRC, shall be entitled, on giving at least 5 days’ notice, to conduct an audit. Such notice shall detail the scope of the audit unless the audit concerned relates to suspected fraud or has arisen from requirements of the Regulator, in which event no notice (or such shorter period as may be required by the Regulator) shall be required.
    3. DAS shall be permitted to audit any relevant documents, contracts or any other records however stored, recorded or held which relate to the subject matter of this Agreement. For the avoidance of doubt, relevant records shall include any appointed agency agreements and other relevant records between the Agent and any Third Parties.
    4. Should DAS require to attend the Agent’s offices to conduct the audit, then the Agent shall make available reasonable facilities to enable the audit to be carried out. Should DAS require copies of any such documents, contracts or any other records then the Agent shall provide such copies. DAS will be responsible for the reasonable copying costs.
    5. Any audit will be conducted reasonably.
    6. In the event that the Agent has delegated any or all of its obligations under this Agreement to a Third Party, the Agent shall impose written obligations on its Third Parties to ensure that DAS is entitled to audit the Third Parties on terms no less stringent than those set out in this Clause.

#### Compliance

* + 1. The Agent shall, in the performance of its obligations under this Agreement, have in place processes to ensure compliance with all Regulations and other relevant primary and secondary legislation and with the requirements of the Regulator(s) to which it is subject, including maintaining necessary regulatory consents and authorisations.
    2. The Agent shall in respect of the Insurance Products:
       1. supply all documentation to the Policyholder or potential Policyholder promptly;
       2. not make misleading claims about the Insurance Product;
       3. forward all claims correspondence to DAS immediately it is received; and
       4. carry out at the point of sale adequate checks on all new (and recurring) clients in accordance with, but not limited to, the Terrorist Asset-Freezing etc. Act 2010 and in particularly in respect of financial sanctions and HM Treasury’s asset freeze target list and the Regulations.
    3. The Agent must treat the Insured and/or potential Policyholder fairly in accordance with applicable Regulations.

1. **OBLIGATIONS OF BOTH PARTIES**

#### Regulatory Responsibilities

* + 1. Each Party shall comply with the obligations set out in the General Insurance Activity Schedule at Schedule 3.
    2. Each Party shall ensure that the service to the other and to the Insured or potential Policyholder is provided in accordance with the Regulations.
    3. Both Parties must meet their obligations as per The Responsibilities of Providers and Distributors for the Fair Treatment of Customers (RPPD) contained within the FCA Handbook or any replacement thereof.
    4. The Parties will not incur any liability or indebtedness for the other Party except in accordance with this Agreement.
    5. Each Party shall:
       1. take appropriate steps to safeguard information, money and property held on behalf of the Insured;
       2. resolve Complaints fairly and promptly in accordance with the Regulator's relevant standards and co-operate with each other in doing so;
       3. ensure that all written information sent to the Insured is sent promptly and is clear, fair and not misleading;
       4. comply with all relevant law, regulation, the requirements of any regulator of the Parties and act in accordance with the requirements of any ombudsman, arbitrator or court to which any of the Parties are subject;
       5. maintain insurance of the type required or specified by the applicable Regulator from time to time; and
       6. render reasonable assistance to and co-operate with the other Party to enable its compliance with all legal, taxation and regulatory requirements, and/or any application for authorisation or other permit applicable to the business under this Agreement.

### TERMINATION

* 1. Either Party may terminate this Agreement upon giving 30 days’ written notice to the other Party.

#### Either Party may terminate this Agreement immediately in writing at any time if:

* + 1. the other Party fails to pay any amount due under this Agreement on the due date for payment and remains in default not less than 60 calendar days after being notified in writing to make such payment; or
    2. the other Party commits a material breach of any term of this Agreement and (if such breach is remediable) fails to remedy that breach within a period of 15 Business Days after being notified in writing to do so; or
    3. the other Party is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or if it is a firm, the owner or any of the partners in the firm are made bankrupt or the firm is wound up; or
    4. the other Party commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than for the sole purpose of a scheme for solvent amalgamation of that other Party with one or more other companies or the solvent reconstruction of that other Party; or
    5. a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of that other Party other than enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within 14 Business Days; or
    6. any event occurs or proceeding is taken, with respect to the other Party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in Clauses 10.2.3-10.2.5 (inclusive); or
    7. if the other Party’s direct authorisation as granted by the Regulator is withdrawn; or
    8. if the other Party suspects fraud or dishonesty or suspects that the administration of the business is likely to prejudice the rights of the Insured; or
    9. the other Party suspends or ceases, or threatens to suspend or cease, to carry on all or a substantial part of its business; or
    10. there is a change of control of the other Party.

#### DAS may immediately terminate this Agreement without notice if the Agent has not placed business with DAS for a period of 18 months or more, all existing Insurance Products have lapsed and in the reasonable opinion of DAS this Agreement has become dormant.

#### In the event of either Party becoming aware that any of the events in Clause 10.2 are likely to affect its organisation, such Party must give notice in writing to the other Party without undue delay.

### CONSEQUENCES OF TERMINATION

* 1. The consequences of termination shall include:
     1. All Net Premiums and Tax shall be paid to DAS immediately.
     2. The Delegated Authority shall cease unless otherwise agreed by DAS in writing.
     3. The Agent shall return or destroy all Policy Documents, all stationery and property of DAS that are in the Agent’s possession and immediately ceases to promote the products of DAS, subject to the retention of Policy Documents necessary for compliance with obligations under this Agreement and/or the requirements of any Regulator.
     4. DAS shall have the right to communicate directly with the Insured or introduce via another Agent where it is, in DAS’ reasonable opinion, in the best interests of the Insured:
        1. in providing continued relevant insurance cover and/or services; and/or
        2. in order to establish if Gross Premium and Tax had been paid, which would enable us to determine whether to continue to honour cover, should a claim arise.
     5. Examples under clause 11.1.4 would include if:
        1. the Agent’s FCA authorisation is withdrawn;
        2. the Agent ceases to trade due to bankruptcy, having a liquidator, receiver
        3. an administrative receiver is appointed or the Agent has passed a resolution for winding up, is wound up, or a court of competent jurisdiction makes an order to that effect;
        4. if the Agent ceases to trade due to any form of insolvency, DAS will communicate directly with the Policyholder.
     6. Termination of this Agreement does not affect any liabilities or duties that have already accrued prior to termnination. Nor does termination affect any term that expressly or implicitly is intended to come into force or continue in force after the termination.

### INTELLECTUAL PROPERTY

#### Nothing in this Agreement will result in the transfer of ownership from one Party of any Intellectual Property Rights belonging to the other.

#### The Agent undertakes to not use in any way and undertakes to not permit its Third Parties to use DAS’ Intellectual Property Rights and/or DAS Group’s Intellectual Property Rights without the specific written consent of DAS.

### DATA PROTECTION

#### The Parties agree that each Party shall be the Data Controller in respect of any Personal Data controlled by them or that they hold in the course of meeting their obligations under this Agreement and each Party shall comply with their obligations under the DPL and shall ensure that it is included in the register maintained by the Information Commissioner’s Office.

#### Each Party confirms that its registry entry in terms of the DPA, or any subsequent data protection legislation in force in England and Wales, permits and, throughout the currency of this Agreement, will permit it to carry out the activities and obligations hereunder.

#### The Agent shall, as applicable, obtain the necessary consents or authorisations and/or give all fair processing notices as required by the DPL prior to any use or transfer of Personal Data to DAS.

#### The Agent shall not transfer Personal Data for which DAS is the Data Controller outside the United Kingdom without the prior written consent of DAS, which (if granted) will be subject to the Agent entering into a binding data transfer agreement with the party to whom the data is being transferred which will meet in full the requirements within the DPL for transfer of Personal Data outside the European Economic Area and will incorporate the EU Standard Contractual Clauses for such transfer as published from time to time and/or shall otherwise meet the requirements of the DPL for such transfers.

#### Both Parties shall:

* + 1. implement and maintain appropriate Security Measures;
    2. ensure that all employees who have or need access to Personal Data:
       1. are informed of the confidential nature of the Personal Data;
       2. have undertaken adequate training on the DPL and in the care and handling of Personal Data; and
       3. are aware both of the Parties’ duties and their personal duties and obligations under the DPL and this Agreement.
    3. ensure that access to the Personal Data is limited to:
       1. those employees who need access to the Personal Data to meet their obligations under this Agreement; and
       2. in the case of any access by any employee, such part or parts of the Personal Data as is strictly necessary for performance of that employee's duties.
    4. use all reasonable endeavours to assist the other Party in complying with all obligations imposed on them with regards to Personal Data under the DPL such obligations to include but not limited to:
       1. implementing appropriate technical and organisational measures to ensure a level of security appropriate to the risk;
       2. notifying any Personal Data Breach to the relevant supervisory authority within 72 hours;
       3. communicating the Personal Data Breach to the Data Subject without undue delay;
       4. carrying out an assessment of the impact of the envisaged processing operations on the protection of Personal Data;
       5. consulting the supervisory authority prior to processing where a data protection impact assessment indicates that the processing would result in a high risk in the absence of measures taken by the controller to mitigate the risk.

#### If the Agent receives a Data Subject Request from an Insured in relation to their rights under the DPL in respect of any Personal Data for which DAS is the Data Controller, the Agent shall forward the request to DAS immediately on receipt of the request, who will deal with it in accordance with the provisions of the DPL.

#### If the Agent receives any complaint, notice or communication which relates directly or indirectly to either Party's compliance with the DPL, it shall immediately notify DAS and it shall provide DAS with full co-operation and assistance in relation to any such complaint, notice or communication.

#### If the Agent becomes aware of a Personal Data Breach relating to any Personal Data obtained in connection with the performance of this Agreement, the Agent shall:

* + 1. notify DAS without undue delay (but in no event later than 12 hours after becoming aware of the Personal Data Breach); and
    2. provide DAS without undue delay with such details as DAS reasonably requires regarding:
       1. the nature of the breach, including the categories and approximate numbers of Data Subjects and Personal Data records concerned;
       2. any investigations into the breach;
       3. the likely consequences of the breach; and
       4. any measures taken, or that the Firm recommends, to address the breach, including to mitigate its possible adverse effects.

#### DAS reserves the right to terminate this Agreement without notice in the event of a Personal Data Breach.

#### The Agent shall seek the written consent of DAS prior to appointing any third party processor of Personal Data under this Agreement.

#### Each Party shall indemnify the other Party against all claims and proceedings and all liability, loss, costs and expenses reasonably incurred in connection therewith by the other Party 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 that Party’s unauthorised Processing, unlawful Processing, unlawful destruction of and/or damage to any Personal Data Processed by that Party, its employees or agents in their performance of this Agreement.

#### The provisions in this Clause 13 shall survive termination of this Agreement however arising.

### INFORMATION SECURITY

#### Both Parties shall have in place appropriate administrative, physical, procedural and technical controls in place to ensure the security (confidentiality, integrity and availability) of information.

#### Both Parties shall ensure the controls at Clause 14.1 are in accordance with the industry standard and shall review such controls regularly to ensure continued compliance with industry standard.

#### Both Parties shall have appropriate security governance in place including but not limited to:

* + 1. Information security policy;
    2. Risk management;
    3. Information security strategy; and
    4. Regular reviews of all security governance.

#### The Agent shall notify DAS immediately if it becomes aware of any Security Incident, unauthorised or unlawful processing, loss of, damage to, corruption of or destruction of Customer Data.

#### The Agent shall have and maintain in place written procedures to be followed in the event of a Security Incident. In the event of a Security Incident, the Agent shall:

* + 1. immediately inform DAS with as many details as known at that time and regularly update DAS thereafter;
    2. implement any and all measures necessary to restore the security of compromised systems, files and information;
    3. make a report of any such Security Incident to DAS promptly upon becoming aware of such Security Incident which shall include a summary of measures taken to restore the security of compromised systems, files and information;
    4. modify any related policies, procedures and practices to minimise the risk of similar occurrences in future; and
    5. provide a summary of such modifications to DAS for its information.

#### The Agent agrees that information obtained by DAS can be used for managing the agency relationship. This will include agency administration and processing, prevention of financial crime, legal proceedings, trade references, trade enquiries and discussions, and credit searches. Some of this information may be passed to DAS’ business partners, any Regulator of the Parties, the Police, relevant trade associations, appropriate credit bodies and forums, financial crime prevention registers and lawyers acting for DAS. This Clause relates to all business relations conducted between the Parties

#### Information supplied may be used by DAS to advise the Agent of other Insurance Products that may be of interest to the Agent or its Clients unless the Agent has notified DAS otherwise in writing. This relates to sales and marketing procedures, newsletter information and literature.

### COMPLAINTS RESOLUTION

#### Each Party shall be responsible for resolving any Complaints, dispute or problems raised by any person arising from the act or omission of that Party or its representatives.

#### If one Party believes that any Complaint received by that Party should more properly be dealt with by the other Party, the receiving Party shall immediately report in writing to the other.

#### Each Party shall comply with all reasonable requests from the other for the provision of information and documents in connection with their activities for the purpose of dealing with any such Complaint. The one Party shall update the other Party in respect of the progress of such Complaint.

#### Complaints shall be handled by both Parties in accordance with their own Complaints handling procedures save where the two procedures conflict or fail to provide a clear resolution, in which case the Parties shall agree the most appropriate method of dealing with the Complaint.

#### Each Party agrees to handle Complaints in accordance with its regulatory responsibilities and the DISP Rules as amended from time to time and to assist the other in satisfying the FCA in respect of appropriate handling of Complaints.

#### Each Party shall be responsible for resolving any Complaints, dispute or problems received from the Financial Ombudsman Service (“FOS”) which relates in any way to the functions or activities for which that Party or its representatives is responsible. That Party shall investigate the Complaint and shall be responsible for any case fee and/or any award that the FOS determines is due.

#### If one Party believes that any FOS Complaint received by that Party should more properly be dealt with by the other Party, the receiving Party shall immediately report in writing to the other.

### VARIATION

DAS may vary the terms of this Agreement at any time by notification in writing. Changes shall be effective 30 days from notification.

### ASSIGNMENT

#### Subject to Clause 17.2, this Agreement is personal to the Parties. It may not be assigned, transferred or novated except with the written consent of the other Party.

#### DAS may at any time assign its rights under this Agreement to a member of the DAS Group.

### WAIVER

The failure by either Party to enforce at any time or for any period any one or more of the terms

or conditions of this Agreement shall not be a waiver of them or of the right at any time subsequently to enforce all terms and conditions of this Agreement.

### CONFIDENTIALITY AND NON-SOLICITATION

#### Both Parties shall treat as confidential at all times all Confidential Information obtained from the other as a result of this Agreement. The Agent shall not disclose such information to any third party (other than those of its employees and agents whose responsibilities require them to know the same) or use for any purposes other than those set out within this Agreement. The Agent shall ensure that its employees and agents are aware of and comply with the obligations within this Clause 19.1.

#### For the avoidance of doubt, each Party agrees that the obligation stated in Clause 19.1 above includes an undertaking not to solicit the other Party’s customers where such details have been acquired solely for the purposes of or as a result of this Agreement.

### NOTICES

#### All notices sent under this Agreement shall be in accordance to this Clause 20 and shall, if the other Party is a limited company be sent to the registered office of the receiving Party or, if the party is a firm or sole trader, the last known address of the receiving Party.

#### Wherever possible, written notices should be sent by pre-paid first class post or special delivery. A letter will be deemed to have arrived within two Business Days after posting.

#### In respect of DAS, all notices should be for the attention of the Agency Department. A written notice shall be validly given if sent by post as referred to in the above Clause 20.2.

#### A notice given under or in connection with this Agreement shall not be validly given if sent by email only unless otherwise agreed by the Parties.

### THIRD PARTIES

Apart from a member of the DAS Group, a person who is not a Party to this Agreement has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement.

### FORCE MAJEURE

#### Neither Party shall be liable to the other if performance of any of its obligations under this Agreement is prevented, hindered or delayed by circumstances beyond that Party’s control. These circumstances shall include, but are not limited to, Acts of God, strikes or any other industrial action whether actual or threatened, or civil commotion, acts of government or any quasi governmental authority, or any change in any statute, order or regulation having the force of law or any guidelines or restrictions issued or imposed by the FCA, or any other Regulator, whether or not having the force of law, that affects the operation of any Insurance Product or service of that Party supplied under this Agreement.

#### The Party affected shall immediately notify the other Party of any such circumstances.

#### The Party affected shall use all reasonable endeavours to overcome or minimise the adverse effects and shall inform the other Party of the steps it is taking to do so.

### NO PARTNERSHIP

Nothing in this Agreement and no action taken by the Parties shall constitute a partnership, employment, association, joint venture or other co-operative entity between any of the Parties.

### COUNTERPARTS

This Agreement may be executed in any number of counterparts, and by the Parties on separate counterparts, but shall not be effective until each Party has executed at least one counterpart. Each counterpart shall constitute an original of this Agreement, but all the counterparts shall together constitute one and the same agreement.

### GOVERNING LAW AND JURISDICTION APPLICABLE TO THIS AGREEMENT

This Agreement and any dispute or claim arising out of or in relation to or in connection with it is governed by, and shall be construed in accordance with, English Law. The Parties irrevocably agree to submit to the exclusive jurisdiction of the Courts of England in relation to all matters relating to this Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formulation.

## SCHEDULE 1

### PAYMENT FROM THE AGENT TO DAS

**Payment must be made by:**

**Electronic Transfer, (BACS)** direct to DAS Legal Expenses Insurance Company’s account number

**50306290** at:

#### Barclays Bank, Queens Square | Bristol

The Bank’s Sort Code is **20-13-42**

Each payment should include the relevant ‘request for payment’ reference number as provided by DAS as a bank payment reference.

## SCHEDULE 2

**DAS INSURANCE PRODUCTS**

* Commercial Loss Assist
* Trades & Professions Legal Expenses Insurance
* Small Business Legal Expenses Insurance
* Commercial Property Owners Legal Expenses Insurance
* Commercial Options Legal Expenses Insurance

## SCHEDULE 3

|  |  |  |
| --- | --- | --- |
|  | **RESPONSIBILITY for**  **(Including Costs)** | |
| **GENERAL INSURANCE ACTIVITY** | **Agent** | **DAS** |
| **Product design and governance:** | | |
| Product approval process |  |  |
| Target market assessment |  |  |
| Understanding of the identified target market |  |  |
| Product testing |  |  |
| Selection of distribution channels |  |  |
| Ensuring products are distributed to the identified target market |  |  |
| Product monitoring and review |  |  |
| IPID development/design and technical and compliance approval |  |  |
| Provide appropriate information to distributors and clearly differentiate that information which is intended for distributors as opposed to customers |  |  |
| Have adequate arrangements to obtain information about the product and the product approval process |  |  |
| **Presale activities:** | | |
| Drafting of marketing literature |  |  |
| Technical approval of marketing literature |  |  |
| Compliance approval of marketing literature |  |  |
| Design of Policy wording, schedules, |  |  |
| Technical approval of Policy document |  |  |
| Compliance approval of Policy document |  |  |
| **Post-sale activities:** | | |
| Written confirmation of cover |  |  |
| Approval of post-sale correspondence |  |  |
| Issue of Policy document |  |  |
| Issue of endorsement |  |  |
| Issue of renewal notice |  |  |
| Payment collection |  |  |
| Payment of commission |  |  |
| Cancellation of Policy |  |  |
| Refund of premium |  |  |
| **Complaints:** | | |
| The sale of product |  |  |
| Disputed Claims |  |  |
| Misrepresentation in respect of Marketing literature |  |  |
| About the product or the cover that is offered |  |  |
| Regulatory reporting of complaints they are responsible for (as above) |  |  |
| **Claims:** |  |  |
| - Negotiation of Claims |  |  |
| - Agreement of Claims |  |  |
| - Settlement of Claims |  |  |
| Queries concerning product/insurer/ process |  |  |
| **Miscellaneous:** | | |
| Keep proper records and accounts |  |  |
| Notification of complaints |  |  |