

AUTHORISED FINANCIAL INTERMEDIARY TERMS OF BUSINESS

for directly authorised firm with no guarantee

For Information Only

If you are interested in registering as a Shepherds Friendly Intermediary, please get in touch with our Business Development Team on 0161 495 6495 or intermediary@shepherdsfriendly.co.uk, who will be happy to support you with any queries you may have.

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Parties

- (1) **Shepherds Friendly Society Limited** (“**SF**”, “**we**” or “**us**”) which is an incorporated Friendly Society under the 1992 Friendly Societies Act No. 240F. We are authorised by the Prudential Regulation Authority and regulated by the Financial Conduct Authority and the Prudential Regulation Authority under firm registration number 109997 and our registered address is Haw Bank House, High Street, Cheadle, Cheshire SK8 1AL; and
- (2) You as an intermediary (“**Authorised Financial Intermediary**”, “**AFI**” or “**you**”) who submits applications for our Products on behalf of Clients and whose details are set out in the AFI Questionnaire submitted to us.

Background

- (A) We are a provider of certain insurance and other products, details of which are set out in this Agreement (“the **Products**”).
- (B) You are an intermediary who wishes to submit applications for the Products to us on behalf of your Clients (as defined in clause 1) and to be remunerated by us for doing so.
- (C) Applications for the Products may be submitted by others for whom you accept responsibility in accordance with this Agreement, including your appointed representatives, and you accept responsibility for their acts and omissions in accordance with the terms of this Agreement.
- (D) If we accept you as our AFI, all dealings will be subject to the AFI Questionnaire and these Terms of Business, together with any other document stated in these Terms of Business to be a part of this Agreement (and such together shall be the “**Agreement**” or the “**AFI Agreement**”).

Agreed terms

1. INTERPRETATION

The following definitions and rules of interpretation apply to the AFI Agreement.

1.1 Definitions:

"Agreement" or "AFI Agreement" means the agreement between us relating to your dealings as an AFI, comprising these terms, the AFI Questionnaire any other document expressed to be part of this Agreement, including any Commission Notice.

"AFI Questionnaire" the information in a form specified by us which you provide to us, relating to you, your business, your Authorised Third Parties and such other matters as we may specify.

"Applicable Law And Regulation" any law, statute, ordinance, rule, regulation, order or determination of any governmental or regulatory authority or any requirement of any official body (including any taxation authority) which is binding on

	either of us including FSMA, FCA Rules, PRA Rules or Data Protection Law.
"Agreed Purposes"	the purposes for which the Client Personal Data may be held by us in accordance with clause 15.
"Application"	an application for one of our Products by a Client (in whatever form) submitted by you or by an Authorised Third Party in accordance with this Agreement.
"Appointed Representative" or "AR"	has the meaning given in section 39 FSMA.
"Authorised Third Parties"	your Appointed Representatives, agents, business writers or other third parties for whom you accept full and unconditional responsibility under this Agreement in accordance with clause 5.
"Business Day"	a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business.
"Business Lapse Rate"	has the meaning given in clause 5.2.
"Client"	has the meaning given in FCA Rules and includes your Clients and those of your Authorised Third Parties.
"Client Personal Data"	the Personal Data and Special Categories of Personal Data relating to a Client to be provided by you to us, the specific types of which are set out in our Privacy Notice at:- https://intermediary.shepherdsfriendly.co.uk/privacy-notice/
"Commission"	means any and all Initial, Renewal and other commissions payable by us to you in accordance with this Agreement (and except where the context requires otherwise or the contrary is expressly stated, includes both Non-Indemnity and Indemnity Commission).
"Commission Notice"	means a notice in writing which we may give you from time to time specifying rates of Commission in accordance with clause 7.1.
"Controller, Processor, Data Subject, Personal Data, Personal Data Breach, Processing and Appropriate Technical Measures, Special Categories of Personal Data"	as set out in the UK Data Protection Legislation in force at the time.

"Data"	Personal Data and Special Categories of Personal Data.
"Data Protection Law"	the UK Data Protection Legislation and any other European Union legislation relating to Personal Data and all other legislation and regulatory requirements in force from time to time which apply to a party relating to the use of Personal Data (including without limitation the privacy of electronic communications); and the guidance and codes of practice issued by the relevant data protection or supervisory authority and applicable to a party.
"FCA"	the Financial Conduct Authority or any successor regulatory authority.
"FCA Rules"	the Handbook of Rules and Guidance of the FCA.
"FSMA"	the Financial Services and Markets Act 2000.
"FSMA Controller"	a controller of an FCA-authorized firm as defined in FCA Rules and FSMA.
"GDPR"	the General Data Protection Regulation ((EU) 2016/679).
"Group"	in relation to a company, that company, any subsidiary or holding company from time to time of that company, and any subsidiary from time to time of a holding company of that company (and holding company and subsidiary will be as defined in clause 1.9).
"Indemnity Commission"	any Commission consisting of or including any element of increased or advance Commission which we may pay (subject to any discount for early payment at a rate we determine from time to time in our discretion) in our absolute discretion in accordance with this Agreement and which is liable to be repaid to us and/or clawed back in accordance with this Terms.
"Initial Commission"	Commission payable on entry of a Client into a Product.
"Intellectual Property"	has the meaning given in clause 12.3.
"Intermediary Personal Data"	has the meaning given in clause 15.1.
"JMLSG"	the Joint Money Laundering Steering Group.
"Money Laundering Regulations"	the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (SI 2017/692).

"Non-Indemnity Commission"	Commission which is not Indemnity Commission and which is payable in accordance with clause 7.2.1.
"Permitted Recipients"	in relation to a party and to confidential information or Personal Data means its Staff, its employees, officers, representatives or advisers, those of any member of its Group or (in your case) those of any Authorised Third Parties who need to know such information for the purposes of carrying out the party's obligations under this Agreement.
"PRA"	the Prudential Regulation Authority or any successor regulatory authority.
"PRA Rules"	the Rulebook of the Prudential Regulation Authority.
"Principals"	your FSMA Controllers, directors, partners or (if you are a sole trader) yourself.
"Product"	our insurance and other financial products in respect of which we pay Commission in accordance with this Agreement and Applicable Law.
"Relevant Regulator"	the FCA or the PRA as the context requires.
"Renewal Commission"	Commission paid subsequent to Initial Commission on a Client renewing or continuing in a Product.
"Security Details"	has the meaning given in clause 3.
"Staff"	directors, partners and employees of you or any Authorised Third Party and any other persons engaged by you or any Authorised Third Party under a contract for services or contract of service which, for the avoidance of doubt includes where appropriate, any Principals.
"Supervisory Authority"	the relevant supervisory authority for the purpose of Data Protection Law in the territories where the parties to this Agreement are established.
"UK Data Protection Legislation"	all applicable data protection and privacy legislation in force from time to time in the UK including the General Data Protection Regulation ((EU) 2016/679); the Data Protection Act 2018; the Privacy and Electronic Communications Directive 2002/58/EC (as updated by Directive 2009/136/EC) and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended.

- 1.2 **Person.** A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality) and that person's personal representatives, successors and permitted assigns.
- 1.3 **Number.** Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.
- 1.4 **Amendments to statutes etc.** A reference to a statute or statutory provision or any provision of FCA Rules or PRA Rules is a reference to it as amended, extended or re-enacted from time to time.
- 1.5 **Subordinate legislation.** A reference to a statute or statutory provision shall include all subordinate legislation made from time to time.
- 1.6 **Obligations.** Any obligation on a party not to do something includes an obligation not to allow that thing to be done.
- 1.7 **Writing.** A reference to **writing** or **written** includes fax and e-mail.
- 1.8 **Including.** Any words following the terms **including, include, in particular, for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
- 1.9 **Companies.** Reference to a holding company or a subsidiary means a holding company or a subsidiary (as the case may be) as defined in section 1159 of the Companies Act 2006.
- 1.10 **Clauses and schedules.** References to clauses and Schedules are to the clauses and Schedules of this Agreement.

2. THIS AGREEMENT

- 2.1 This Agreement shall comprise the AFI Questionnaire, these Terms of Business and such other document as is expressed to be part of this Agreement (including any Commission Notice referred to in clause 7.1).
- 2.2 In submitting an AFI Questionnaire to us, you agree to be bound by the terms of this Agreement.
- 2.3 In submitting the AFI Questionnaire, you authorise us to take such steps as we consider to be necessary in relation to the information you have given to us in the AFI Questionnaire and to make such further enquiries as we consider appropriate.
- 2.4 This Agreement shall continue in force until terminated in accordance with clause 18.

3. SECURITY AND LOG IN DETAILS

- 3.1 We may arrange security details for submitting Applications or communicating with us, including a user name, password, security questions and/or such other log-in requirements as we shall specify ("**Security Details**"). The Security Details are personal to you and should not be disclosed to any third party other than to your Authorised Third Parties. You must keep the Security Details safe at all times. You must tell us immediately if there is any breach of security, loss, theft or unauthorised use of any of the Security Details. Without limiting clause 3.3, you shall be

responsible for any use of the Security Details where you have allowed another person to use them in breach of this Agreement and we may regard your doing so as a material breach of these Terms.

3.2 We shall treat any instruction or Application as genuine if it is communicated or made using your Security Details unless we know that it is fraudulent or not authorised by you. Subject to Applicable Law, we shall have no obligation to enquire as to whether any use of your Security Details is genuine or has been authorised by you.

3.3 You shall in all circumstances be responsible for any use made by your Authorised Third Parties of your Security Details and any party using them shall be deemed to be your Authorised Third Party.

4. AUTHORISED THIRD PARTIES

4.1 Persons falling within either clause 4.2 to 4.4 inclusive shall be your Authorised Third Parties. You accept full and unconditional responsibility for the actions and omissions of your Authorised Third Parties and shall procure their compliance with this Agreement.

4.2 In the absence of express agreement to the contrary in writing, all or any of your Appointed Representatives shall be deemed to be your Authorised Third Parties.

4.3 Your Authorised Third Parties shall also be those persons whom you have identified to us as your Authorised Third Parties and such identification can be in any form, either oral or in writing.

4.4 Additionally, where in respect of an Appointed Representative, agent, business writer or other third party:

4.4.1 you submit or have at any time submitted an Application in respect of a Product advised on or arranged by any such person;

4.4.2 you receive payment of Commission in respect of a Product advised on or arranged by any such person;

4.4.3 you make any representation (express or implied, orally or in writing) that you assume responsibility for any such person in relation to your and/or their dealings with us;

4.4.4 we reasonably infer from your conduct that you accept responsibility for any such person in your and/or their dealings with us; or

4.4.5 (to the extent not covered by clauses 4.4.1 to 4.4.4 inclusive) you are responsible for any such person on normal principles of agency law;

then any such person shall also be your Authorised Third Party.

4.5 In accordance with clause 3, you shall be responsible for any use made by any person of your Security Details as if they had been used by you or any of your Authorised Third Parties.

5. SCOPE OF THIS AGREEMENT

5.1 Ongoing obligations

In relation to any activities which you perform in relation to this Agreement, you shall (and will procure that your Authorised Third Parties shall):

- 5.1.1 comply with all our reasonable and lawful instructions and follow any policies and procedures which we prescribe from time to time in relation to Applications and the Products;
- 5.1.2 act honestly, fairly and professionally;
- 5.1.3 comply strictly with all provisions of Applicable Law and Regulation; and
- 5.1.4 comply strictly with the requirements of this Agreement.

5.2 Business Lapse Rate

Without limiting clause 5.1, we may from time to time set down minimum standards for acceptable levels of any or all of:

- 5.2.1 justified complaints by Clients;
- 5.2.2 withdrawal from, and cancellation of, Products by Clients;
- 5.2.3 lapse of Products and Products not taken up; and
- 5.2.4 such other similar matters as we consider appropriate;

(“**Business Lapse Rate**”) and shall communicate such information to you in such manner as we consider appropriate.

5.3 Limited scope of authority

5.3.1 No authority to bind

Neither you nor your Authorised Third Parties shall have authority, and you shall not (and will procure that none of your Authorised Third Parties shall) hold yourself or any other person out, or permit any person to hold itself or himself out, as being authorised to bind us in any way. You shall not (and shall procure that your Authorised Third Parties shall not) do any act which might reasonably create the impression that you or they are so authorised.

5.3.2 No authority to contract or negotiate

You shall not (and shall procure that your Authorised Third Parties shall not) make or enter into any contracts or commitments or incur any liability for or on our behalf including for the provision of the Products or the price for them, and shall not negotiate any terms for the provision of the Products with Clients or the terms of the Products or enter into any contract on our behalf.

5.4 **Marketing material**

You shall not (and shall procure that your Authorised Third Parties shall not) produce any marketing material for the Products or use our name, logo or trade marks on any marketing material for the Products without our prior written consent.

5.5 **Limits on representations**

You shall not, without our prior written consent (and shall procure that your Authorised Third Parties shall not) make or give any representations, warranties or other promises concerning the Products which are not contained in our marketing material.

5.6 **You are agent for your Clients**

You and where appropriate your Authorised Third Parties shall act as agent for Clients, not as our agent.

6. **SUBMISSION OF APPLICATIONS FOR THE PRODUCTS**

6.1 **Applications**

You and your Authorised Third Parties may from time to time submit Applications on behalf of your Clients for the Products. You will submit Applications in such form as we may from time to time require (without limiting our absolute discretion to accept Applications in a different form in any particular case).

6.2 **No obligation to enter into Product**

While we will consider all Applications submitted to us in good faith, the entry into any Product by us with a Client shall be entirely within our discretion.

6.3 **Applicable Law and Regulation**

In submitting any Application to us, you are deemed to represent and warrant that you and your Authorised Third Parties:

6.3.1 have complied with Applicable Law and Regulation in respect of all dealings with the Client who is applying for the Product;

6.3.2 have the full and unconditional authority of the Client to submit the Application; and

6.3.3 without limitation, have performed all due diligence checks required in relation to the Client under the Money Laundering Regulations and other Applicable Law and Regulation (and you shall provide any documents or materials obtained in conducting such checks immediately on our request).

6.4 **Authorised Third Parties**

Where your Authorised Third Parties submit Applications to us, you accept full and unconditional responsibility for their compliance with the terms of this Agreement.

6.5 **We may contact Clients**

Where we reasonably consider it necessary to do so, we may contact Clients direct in relation to any matter relating to an Application or a Product.

7. **COMMISSION AND INDEMNITY COMMISSION**

7.1 **Commission rates**

Subject to the terms of this Agreement, Commission shall be payable by us at such rates as are specified by us from time to time (whether in the Schedule to this Agreement or otherwise) as varied from time to time in accordance with this Agreement. Current rates of Commission may be specified in the Schedule to these Terms of Business, but in the absence of such specification (and subject to the next sentence) Commission shall be payable at the default rates specified on our website. Additionally, we may from time to time by notice to you in writing ("**Commission Notice**") specify rates of Commission applicable to you and where we do so, the rates specified in the Commission Notice shall supersede and take priority over any rates specified in the Schedule or the website.

7.2 **Indemnity and Non-Indemnity Commission**

We:

7.2.1 will pay Non-Indemnity Commission (which is a stipulated percentage of sums actually received from a Client) in accordance with clause 7.3 and other relevant provisions of this Agreement); and

7.2.2 may pay Indemnity Commission in accordance with clause 7.4 and other relevant provisions of this Agreement.

7.3 **Non-Indemnity Commission**

We shall pay Non-Indemnity Commission as soon as reasonably practicable after receipt of the relevant payment from the Client, subject to clause 7.6.

7.4 **Indemnity Commission**

Payment of Indemnity Commission shall be in our absolute discretion as will be the frequency with which it is paid. Without limiting our discretion in any way, this may include payment of Indemnity Commission by us when we determine that a Product is on risk. Any payment of Indemnity Commission by us is subject to the following terms:

7.4.1 it is paid in anticipation of premium and/or other payments by the Client;

7.4.2 you must repay all amounts of Indemnity Commission on our first written demand which we may make at any time in our absolute discretion; and

7.4.3 we may discontinue, suspend, withhold or withdraw the payment of all or some Indemnity Commission at any time in our absolute discretion and (subject to Applicable Law and Regulation) do not need to give any reason for doing so.

7.5 **Method of Payment**

We shall make any payments to you to the bank account which you have nominated for this purpose. We shall not be obliged to make payment direct to any Authorised Third Party and, where we have made a payment to you and any part of that payment is due to an Authorised Third Party, you shall be responsible for making any such payment. Any payment to you shall be an absolute discharge of any obligation we may have in respect of payment of Commission and we shall have no duty to enquire as to whether any Authorised Third Party is entitled to all or any part of such payment.

7.6 **Minimum Payment**

We shall not be obliged to make any payment of Commission where the total due to you is in our assessment less than a minimum figure stated by us from time to time (but at the time of this Agreement, the minimum figure is £100).

7.7 **Commission Statement**

We shall send you a Commission Statement on a regular basis. Our Commission Statement will be a conclusive record of the matters it states except in the case of manifest error or inconsistency with this Agreement, in which case this Agreement shall prevail.

7.8 **You may not deduct Commission**

You shall forward to us in full and without set off or deduction of any kind any payments received from a Client in respect of a Product and you may not deduct any amount that you consider to be due to you.

7.9 **Disclosure to Client.**

You shall disclose to Clients details of the Commission agreed to be paid to you in accordance with FCA Rules and Applicable Law and Regulation.

7.10 **No obligation to pay Commission in certain circumstances**

Without limiting any other provision of this Agreement, we may decide not to pay Commission to you on any basis (whether Indemnity or Non-Indemnity Commission) where:

7.10.1 we reasonably consider that another intermediary has a prior right to Commission in respect of any Application and/or Product;

7.10.2 you or any Relevant Third Party has ceased to act for the Client;

7.10.3 we reasonably determine that we cannot make a payment of Commission to you without contravening any requirement of Applicable Law and Regulation;

7.10.4 we reasonably determine that the making of any payment or further payment to you may entail material damage to our commercial reputation;

7.10.5 we reasonably suspect that in relation to the relevant Client, you have acted in breach of the terms of this Agreement, or of Applicable Law and

Regulation or of what we reasonably regard to be acceptable business practice;

7.10.6 you have in our reasonable opinion, consistently failed to meet acceptable standards with regard to the Business Lapse Rate; or

7.10.7 the Agreement has been terminated in accordance with clause 18 (subject to clause 19.2.2).

7.11 Investigation by us

We may defer or suspend any payment of Commission where we consider it necessary to make any further investigation, including where we reasonably suspect that any of the circumstances in clause 7.10.1 to 7.10.6 inclusive are applicable.

8. ADJUSTMENT, CLAWBACK AND REPAYMENT OF COMMISSION BY YOU

8.1 Indemnity Commission - our determination is conclusive

For the avoidance of doubt, we may exercise all or any of our rights, discretions or powers in clause 7.4 in our absolute discretion. Where we demand repayment of Indemnity Commission, we are not obliged to agree to any repayment plan or give time to pay any sum demanded. Examples of situations where we may demand repayment within clause 7.4 include but are in no way limited to the following:

8.1.1 where payments in respect of a Product have ceased or reduced or are not received for any reason or we anticipate that any such occurrence is likely;

8.1.2 where we are not satisfied as to any credit risk involved in relation to your ability to repay Indemnity Commission;

8.1.3 where you have in our reasonable opinion, consistently failed to meet acceptable standards with regard to the Business Lapse Rate; or

8.1.4 where we suspect that you or any of your Authorised Third Parties are in breach of this Agreement or (whether in relation to this Agreement or otherwise) have engaged in conduct which is in contravention of Applicable Law and Regulation or which represents a breach of what we would reasonably regard to be acceptable business practice.

8.2 Clawback of Non-Indemnity Commission

Without limiting our rights under clause 7.1, you shall be liable to repay to us on our written demand all or any Non-Indemnity Commission where:

8.2.1 notwithstanding payment of premium or other sum by the Client, we have been obliged to make a repayment to the Client, whether because of cancellation, following an adjudication by the Financial Ombudsman Service or for any other reason whatsoever; or

8.2.2 where we reasonably suspect that in relation to the Client in respect of whom the Commission was paid, you or your Authorised Third Party has acted in breach of the terms of this Agreement, or of Applicable Law and Regulation or what we regard to be acceptable business practice.

8.3 Commission Statement is sufficient demand

Where our Commission Statement indicates that any sum or amount is payable from you to us, such statement shall in the absence of manifest error be sufficient demand of such amount and shall be payable by you to us without further demand or other action.

8.4 VAT

Payments in Commission shall be inclusive of VAT unless agreed otherwise in writing.

9. PAYMENTS AND SET OFF

9.1 Our right to set off

We may at any time, without notice to you, set off any liability of you to us under this Agreement against any sum due from us to you, whether either liability is present or future, liquidated or unliquidated.

9.2 Interest on late payment

If you fail to make any payment due to us under this Agreement by the due date for payment, then you shall pay interest on the overdue amount at the rate of 4% per annum above Barclays' Bank's base rate from time to time. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment.

10. REPRESENTATIONS, WARRANTIES AND UNDERTAKINGS

10.1 General representations and warranties

You represent and warrant in submitting the AFI Questionnaire and on a continuing basis for so long as this Agreement is in force that:

10.1.1 you have full power and authority to:

10.1.1.1 execute and deliver this Agreement; and

10.1.1.2 comply with the provisions of, and perform all your obligations under this Agreement;

10.1.2 this Agreement constitutes your legal, valid and binding obligations enforceable against you in accordance with its terms;

10.1.3 the performance of your obligations and liabilities under this Agreement will not:

10.1.3.1 contravene any requirement of Applicable Law and Regulation; or

10.1.3.2 conflict with, or result in any breach of any of the terms of, or constitute a default under, any agreement or other instrument to which you are a party or any licence or other authorisation to which you are subject or by which it or any of your property is bound; or

- 10.1.3.3 contravene or conflict with any provision of your constitutional documents;
- 10.1.4 you have taken all corporate and other action required to approve its execution, delivery, performance and enforceability of this Agreement;
- 10.1.5 None of the events or circumstances set out in clauses 18.2.5 and/or 18.2.6 are applicable to you or any of your Authorised Third Parties or any of your or their Principals; and
- 10.1.6 any information provided to us in connection with this Agreement (including, but not limited to, any information given by you in the AFI Questionnaire) is and remains accurate in all material respects

10.2 **Notification requirements**

Subject to Applicable Law and Regulation, you shall notify us immediately in writing if you, any of your Authorised Third Parties or any of its or their Principals or senior Staff:

- 10.2.1 is convicted of a criminal offence involving violence, fraud or other dishonesty, breach of FSMA or any offence relating to money laundering, consumer protection, bribery or corruption;
- 10.2.2 is or to your knowledge is likely to become subject to any of the events or circumstances in clauses 18.2.5, 18.2.6 and/or 18.2.8 to 18.2.11 inclusive;
- 10.2.3 is or may be (or may have caused us to be) in material breach of FCA Rules or PRA Rules or other provision of Applicable Law and Regulation relation to any, any Application or the subject matter of this Agreement;
- 10.2.4 might reasonably not be considered suitable or fit and proper for the purposes of FCA Rules or PRA Rules to perform any functions in relation to the activities which you or they currently carry on in relation to the subject matter of this Agreement.

11. **CONFIDENTIALITY**

11.1 **Obligations of confidentiality**

Each party undertakes that it shall not (and you undertake to procure that your Authorised Third Parties shall not) at any time disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party or of any member of the Group to which the other party belongs except as permitted by clause 11.2.

11.2 **Confidentiality exceptions**

Each party may disclose the other party's confidential information:

- 11.2.1 to its employees, officers, representatives or advisers, those of any member of its Group or (in your case) those of any Authorised Third Parties who need to know such information for the purposes of carrying out the party's obligations under this Agreement ("**Permitted Recipients**"). Each party

shall procure that that any and all Permitted Recipients comply with this clause 11; and

11.2.2 as may be required by Applicable Law and Regulation.

11.3 **Limited use of confidential information**

No party shall use any other party's confidential information for any purpose other than to perform its obligations under this Agreement and you shall procure that any Authorised Third Parties comply with this requirement.

11.4 **Return of documents and records**

All documents and other records (in whatever form) containing confidential information supplied to or acquired you or any of your Authorised Third Parties from us shall be returned promptly to us on termination of this Agreement, and no copies shall be kept, whether digitally or otherwise.

12. **INTELLECTUAL PROPERTY**

12.1 You shall (and shall procure that your Authorised Third Parties shall) comply with our brand guidelines or instructions relating to the form and context in which trademarks, logos or the Intellectual Property (as defined below) and literature (including marketing materials) are used during the term of this Agreement.

12.2 You acknowledge on your behalf and on behalf of your Authorised Third Parties that you and they have no rights in or to the Intellectual Property (as defined below) and undertake not to do or omit to do anything (and shall procure that no Authorised Third Party does or omits to do anything) by which the goodwill and reputation associated with the Intellectual Property might be diminished or jeopardised.

12.3 Unless otherwise expressly agreed in writing between the parties, all right, title and interest in and to all trademarks, trade names, literature, copyrights, database rights, patents, designs and all other intellectual property rights ("**Intellectual Property**") in and relating to the Products and any promotional or other materials provided to you or any Authorised Third Parties in relation to them shall belong to us.

13. **COMPLIANCE**

13.1 **Compliance**

Subject to the terms of this Agreement, each party shall (and you shall procure that your Authorised Third Parties shall) at its own expense comply with requirements of Applicable Law and Regulation, as they may change from time to time, and comply with any conditions binding on it in any applicable licences, registrations, permits and approvals.

13.2 **Policies and Procedures**

We may prescribe from time to time such policies and procedures, and give you such instructions as we reasonably consider to be required in respect of compliance with FSMA, FCA Rules and other Applicable Law and Regulation and in the event that we do so you shall comply with such policies and procedures and will procure that your Authorised Third Parties comply with them.

13.3 **Disclosure of complaints etc.**

You shall promptly disclose to us:

13.3.1 any complaint or other expression of dissatisfaction by a Client relating to your conduct in relation to an Application or a Product; and/or

13.3.2 (subject to Applicable Law and Regulation), any question or investigation by any public or regulatory authority (including without limitation a Relevant Regulator);

which relates in whole or part to your dealing with any Client, to any Application or any Product or otherwise relates to the subject matter of this Agreement.

13.4 **Co-operation in relation to complaints**

Each party shall, co-operate with each other (and you shall procure that your Authorised Third Parties shall co-operate with you and us) with a view to the prompt and fair resolution of any complaints, whether by the Financial Ombudsman Service or otherwise.

13.5 **Access to records etc.**

Throughout the term of this Agreement, you shall (and will procure that your Authorised Third Parties shall) provide to us where we reasonably consider it necessary to do so:

13.5.1 on reasonable notice, access to your, Staff, computer hardware and software, records, documents, books, returns and files and those of any Authorised Third Party as we may specify;

13.5.2 at your cost, such facilities as may reasonably be required for the purposes of accessing and inspecting computer hardware and software, records (including telephone recordings), documents, books, returns and files held by you or on your behalf or held by on behalf of any Authorised Third Party;

13.5.3 at your cost, such copies in such form as may be required, of records, books, returns, files, documents and other information held by or on your behalf or held by or by on behalf of any Authorised Third Party; and

13.5.4 at your cost such facilities, as may reasonably be required for the purposes of taking copies of records, files, books, documents, returns and other information held by or on your behalf or by or on behalf of any Authorised Third Party.

13.6 You shall (and will procure that your Authorised Third Parties shall) keep, or assist us in keeping, such books, records and accounts and make such returns in connection with the subject matter of this Agreement as may be required by Applicable Law and Regulation (or which we shall reasonably require) and all such books, records and accounts shall be available during normal business hours for inspection by us and the Relevant Regulator.

13.7 Your obligations to us under clauses 13.3 to 13.6 inclusive shall continue for a period of six years after the Agreement is terminated.

14. ANTI-BRIBERY AND MONEY LAUNDERING COMPLIANCE

- 14.1 Without limiting any other obligation under this Agreement, you agree to ensure that you and your Authorised Third Parties, your Appointed Representatives and members of your Group, in the conduct of your or their businesses generally and not solely in relation to the subject matter of this Agreement, comply with requirements of Applicable Law and Regulation relating to bribery, corrupt business practices, money laundering and financial crime including but not limited to:
- 14.1.1 the Money Laundering Regulations;
 - 14.1.2 the Proceeds of Crime Act 2002;
 - 14.1.3 the Criminal Finances Act 2017; and
 - 14.1.4 the Bribery Act 2010.
- 14.2 In performing your obligations under this Agreement, you shall:
- 14.2.1 comply with and implement any of our policies and procedures of which we make you aware; and
 - 14.2.2 follow appropriate industry guidance including the JMLSG.
- 14.3 You shall maintain policies and procedures relating to the subject matter of this clause 14 and shall make these available to us on our request.

15. DATA PROTECTION

Intermediary Personal Data

- 15.1 We are the Controller of Intermediary Personal Data (as defined below) and the details on how we collect, process and retain the Intermediary Personal Data, as well as the specific legal bases on which we process such Personal Data, is set out in the Intermediary Privacy Policy. The provisions set out below should be read in conjunction with our Intermediary Privacy Policy and the Intermediary Privacy Policy is incorporated by reference.
- 15.2 We collect and process Personal Data from or relating to you, your Authorised Third Parties and your or their Staff ("**Intermediary Personal Data**"), for the purposes of :
- 15.2.1 communication with you or them;
 - 15.2.2 performing our obligations under this Agreement
 - 15.2.3 for ongoing assessment of the appropriateness of you or any Authorised Third Parties,
 - 15.2.4 for the detection and prevention of fraud or other breach of Applicable Law and Regulation; and
 - 15.2.5 for other business or administrative purposes in connection with this Agreement.

- 15.3 The Intermediary Personal Data which we process is set out in our Intermediary Privacy Policy but in particular includes:
- 15.3.1 names, addresses and contact details of any person referred to in clause 15.1;
 - 15.3.2 financial details we consider necessary for any payments to be made under this Agreement;
 - 15.3.3 the Personal Data required on the AFI Questionnaire; and
 - 15.3.4 the Personal Data notified by you to us in relation to this Agreement, including under clause 10 of this Agreement.
- 15.4 You warrant that you have all necessary and appropriate consents and documents in place to enable the lawful transfer and processing of any Intermediary Personal Data as set out in this Agreement and our Intermediary Privacy Policy.
- 15.5 We may share Intermediary Personal Data as set out in our Intermediary Privacy Policy and in particular with:
- 15.5.1 our Permitted Recipients;
 - 15.5.2 third parties to verify the Intermediary's identity in accordance with the Money Laundering Regulations and other Applicable Law and Regulation;
 - 15.5.3 credit reference or fraud prevention agencies; and
 - 15.5.4 Relevant Regulators where we reasonably believe that this is required under Applicable Law and Regulation or in accordance with good industry practice.
- 15.6 We will only transfer Intermediary Personal Data outside the EEA in circumstances set out in our Intermediary Privacy Policy.
- 15.7 We shall keep Intermediary Personal Data secure and shall implement appropriate security measures and systems to protect against any unauthorised access, disclosure, alteration or deletion of Intermediary Personal Data.
- 15.8 The Data Subject's legal rights in respect of the Intermediary Personal Data is set out in the Intermediary Privacy Policy.

Client Personal Data

- 15.9 We acknowledge that you will regularly disclose to us Client Personal Data collected by you for the Agreed Purpose, which is the Application for, and provision of Products to Clients and thereafter the administration and management of the Products.
- 15.10 Each of the parties acknowledges that, in relation to its obligations under this Agreement in relation to Client Personal Data, they will act as independent Data Controllers. For the avoidance of doubt, it is not contemplated that either party will act as Data Processor for the other party.
- 15.11 The types of Client Personal Data are set out in more detail in our Privacy Notice at <https://intermediary.shepherdsfriendly.co.uk/privacy-notice/>

- 15.12 Each party agrees that it shall (and you will procure that any Authorised Third Parties shall), in relation to Client Personal Data processed in connection with this Agreement, process such Data only so far as is necessary for the purpose of performing its obligations under this Agreement and in accordance with Data Protection Law. Each party shall comply with all the obligations imposed on a Controller under the UK Data Protection Legislation
- 15.13 You shall (and will procure that your Authorised Third Parties shall) transfer Client Personal Data to us, where required as envisaged by this Agreement. Furthermore you shall:
- 15.13.1 ensure that you have all necessary notices and consents in place to enable lawful transfer of the Client Personal Data to our Permitted Recipients for the Agreed Purposes;
 - 15.13.2 give full information to any Data Subject whose Data may be processed under this Agreement of the nature such processing. This includes giving notice that, on the termination of this Agreement, Data relating to them may be retained by or, as the case may be, transferred to one or more of our Permitted Recipients, their successors and assignees; and
 - 15.13.3 ensure that you have in place appropriate technical and organisational measures, reviewed and approved by us, to protect against unauthorised or unlawful processing of Data and against accidental loss or destruction of, or damage to, Data.
- 15.14 In relation to Client Personal Data, we shall:
- 15.14.1 process the Client Personal Data only for the Agreed Purposes;
 - 15.14.2 not transfer any Client Personal Data received from you outside the EEA unless we:
 - 15.14.3 comply with the provisions of Articles 26 of the GDPR (in the event the third party is a joint controller); and
 - 15.14.4 ensure that (i) the transfer is to a country approved by the European Commission as providing adequate protection pursuant to Article 45 of the GDPR; or (ii) there are appropriate safeguards in place pursuant to Article 46 GDPR; or (iii) binding corporate rules are in place or (iv) one of the derogations for specific situations in Article 49 GDPR applies to the transfer; and
 - 15.14.5 where so required by Applicable Law and Regulation, at your written direction delete or return the Client Personal Data on termination of this Agreement unless we have to retain it for a longer period of time as a result of Applicable Law and Regulation.
- 15.15 To ensure that Data Protection Law is complied with, you agree to allow us to approve and, if we deem necessary, to amend any notices given by you or your Authorised Third Parties to Data Subjects in relation to the Client Personal Data transferred from you to us in accordance with this Agreement.

- 15.16 Each party shall (and you will procure that your Authorised Third Parties shall) maintain, in accordance with Data Protection Law, written records of all categories of processing activities carried out by each party in relation to the Client Personal Data and shall permit for audits by the other party or the other party's designated auditor of such records.
- 15.17 You agree to use all reasonable efforts to assist us to comply with such obligations as are imposed on us as Controller by Data Protection Law. This includes the obligation to:
- 15.17.1 provide reasonable assistance in complying with and responding to any request made by a Data Subject to exercise any rights of Data Subjects under Data Protection Law (Data Subject Requests);
 - 15.17.2 promptly inform us about the receipt of any Data Subject Requests, and in any event within three (3) Business Days of the receipt of such request;
 - 15.17.3 not disclose or release any Client Personal Data in response to a Data Subject Request without first consulting with us;
 - 15.17.4 provide reasonable information and assistance to enable us to comply with our obligations to report and communicate data breaches involving Client Personal Data, carry out data impact assessments and engage in consultations relating to Agency Data;
 - 15.17.5 notify us without undue delay on becoming aware of any breach of the UK Data Protection Legislation by you;
 - 15.17.6 use compatible technology for the processing of Client Personal Data to ensure that there is no lack of accuracy resulting from Data transfers; and
 - 15.17.7 provide us with contact details of at least one employee as point of contact and responsible manager for all issues arising out of the UK Data Protection Legislation, including the joint training of relevant Staff, the procedures to be followed in the event of a data security breach, and the regular review of the parties' compliance with the UK Data Protection Legislation.
- 15.18 In the event of a dispute or claim brought by a Data Subject or the Supervisory Authority concerning the processing of Client Personal Data against either or both parties, the parties will inform each other about any such disputes or claims, and will cooperate with a view to settling them amicably in a timely fashion.
- 15.19 The parties agree to respond to any generally available non-binding mediation procedure initiated by a Data Subject or by the Supervisory Authority. If they do participate in the proceedings, the parties may elect to do so remotely (such as by telephone or other electronic means). The parties also agree to consider participating in any other arbitration, mediation or other dispute resolution proceedings developed for data protection disputes.
- 15.20 Each party shall abide by a decision of a competent court in England and Wales or of the Supervisory Authority in relation to any such dispute or claim as is referred to in clause 15.188.

Data Processing Indemnity

- 15.21 You shall indemnify us against all claims and proceedings and all liability, loss, damages, costs and expenses incurred by us as a result of any claim made or brought by a Data Subject or other legal person in respect of any loss, damage or distress caused to them as a result of your failure (or the failure of any of your Authorised Third Parties) to notify the Data Subject and/or obtain consent from the Data Subject in accordance with clauses 15.4 and 15.12 above, or otherwise resulting from your failure (or the failure of any of your Authorised Third Parties) to comply with relevant Data Protection Law.

16. INDEMNITY

You shall indemnify and hold us, our employees and officers, harmless from and against any cost, losses, liabilities and expenses (including reasonable legal costs) arising directly or indirectly from breach of this Agreement or any breach of Applicable Law and Regulation by you or your Authorised Third Parties.

17. LIMITATION OF LIABILITY

17.1 Unlimited liability

Nothing in this Agreement shall limit or exclude the liability of either party for:

17.1.1 Death or personal injury

Death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors (as applicable).

17.1.2 Fraud

Fraud or fraudulent misrepresentation or wilful default.

17.1.3 Liability under indemnities etc.

Liability under the indemnities contained in clause 15.21 and 16.

17.1.4 Unlawful liability restrictions

Any matter in respect of which it would be unlawful to exclude or restrict liability under Applicable Law and Regulation.

17.2 Limitation of liability

- 17.3 Subject to clause 17.1 above:

17.3.1 Loss of profit, revenue, goodwill, or anticipated savings

We shall not shall under any circumstances whatever be liable to you, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, revenue, goodwill, or anticipated savings.

17.3.2 Loss on termination and indirect loss

We shall not under any circumstances whatever be liable to you, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for:

17.3.2.1 any loss arising out of the lawful termination of this Agreement or any decision not to renew its term; or

17.3.2.2 any loss that is an indirect or secondary consequence of any act or omission of ours.

18. TERMINATION

18.1 Termination on notice

Either party may terminate this Agreement by 30 days written notice to the other.

18.2 Termination on breach of this Agreement

Without affecting any other right or remedy available to us, we may terminate this Agreement with immediate effect by giving written notice to you if:

18.2.1 you fail to pay any amount due under this Agreement on the due date for payment (and where any sum is repayable on demand, the due date for repayment shall be when you have received or are deemed to have received our written demand for repayment in accordance with the terms of this Agreement);

18.2.2 you commit a material breach of any other term of this Agreement which breach is in our opinion irremediable or (if such breach is remediable) you fail to remedy that breach within a period of 14 days after being notified in writing to do so;

18.2.3 you repeatedly breach any of the terms of this Agreement in such a manner as to reasonably justify the opinion that your conduct is inconsistent with your having the intention or ability to give effect to the terms of this Agreement;

18.2.4 any information which you have provided to us in connection with this Agreement (including in the AFI Questionnaire) is false, inaccurate or materially misleading;

18.2.5 any action is taken for or with a view to your winding-up or you become insolvent or are unable to pay your debts or enter into a composition or arrangement with any of its creditors with a view to avoiding, or in expectation of, insolvency or you stop or threaten to stop payments generally or any encumbrancer takes possession or a receiver is appointed of the whole or any material part of your assets or documents are filed for the appointment of an administrator in respect of you or notice of intention to appoint an administrator is given by you or your directors or by a qualifying floating charge holder (as defined by paragraph 14 of Schedule B1 of the Insolvency Act 1986).

- 18.2.6 you (if you are a sole trader) or any of your partners or Principals (if you are a partnership) is the subject of a bankruptcy petition, application or order;
- 18.2.7 we reasonably believe that to continue the relationship would entail breach of Applicable Law or Regulation;
- 18.2.8 you cease to be authorised or regulated to carry on any activities which are relevant to the subject matter of this Agreement.
- 18.2.9 you, any of your Authorised Third Parties or any of your or their Principals or senior Staff are convicted of a criminal offence of a kind referred to in clause 10.2.1 in circumstances where we reasonably conclude that to continue with the relationship would involve significant and adverse damage to our commercial reputation;
- 18.2.10 you or any of your Authorised Third Parties or any of your or their Principals or senior Staff have been subject to any regulatory or administrative sanction or penalty which we regard to be significant, including but not limited to any financial penalty, censure or suspension of authorisation or approval by any Relevant Regulator;
- 18.2.11 any of your Principals or senior Staff (or those of your Authorised Third Parties) have been subject to any disqualification, prohibition or suspension from holding any office or performing any function imposed by any public, professional, administrative or regulatory body (whether or not such disqualification or prohibition arose in relation to their employment or engagement by you or by some other person) or been publicly criticised, censured, disciplined, suspended, expelled, fined or been the subject of any other disciplinary or interventional action by any such body;
- 18.2.12 in our assessment, you regularly fail to meet the standards set down in the Business Lapse Rate described in clause 5.2;
- 18.2.13 you or any of your Authorised Third Parties, or any of your or their Principals or senior Staff has behaved in a way which we reasonably regard to be dishonest, unethical or contrary to good industry practice in relation to any Application or with regard to the Products or with regard to the subject matter of this Agreement.

19. CONSEQUENCES OF TERMINATION

19.1 Clauses to remain in force on termination

On termination of this Agreement, the following clauses shall continue in force: clause 1, clauses 11 to 17 inclusive, this clause 19, clause 20 and such other rights as are expressed to survive termination or do so by necessary implication.

19.2 Accrued rights

- 19.2.1 Subject to clause 19.2.2, termination of this Agreement shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination, including the right to claim damages in respect of any breach of the Agreement which existed at or before the date of termination.

19.2.2 We may in our discretion cease to pay further Commission after termination.

19.2.3 On termination, we shall (if we consider it appropriate in our absolute discretion) exercise our rights of set off in accordance with clause 9.

20. MISCELLANEOUS

20.1 Entire Agreement

This Agreement constitutes the entire agreement between the parties and supersedes all prior oral or written agreements, understandings or arrangements between them relating to the subject matter of this Agreement.

20.2 Severance

If any provision of this Agreement shall be found by any court or administrative body of competent jurisdiction to be invalid or unenforceable the invalidity or unenforceability of such provision shall not affect the other provisions of this Agreement and all provisions not affected by such invalidity or unenforceability shall remain in full force and effect.

20.3 Costs

Each of the parties shall pay any costs and expenses incurred by it in connection with the preparation, negotiation and implementation of this Agreement.

20.4 Receipts

The receipt of money by either of the parties shall not prevent either of them from questioning the correctness of any statement in respect of such money.

20.5 No Partnership

Nothing in this Agreement shall create or deem to create a partnership or the relationship of employer and employee between the parties or constitute either party the agent of the other.

20.6 Third Party Rights

Notwithstanding any provision to the contrary, 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 but this does not affect any right or remedy of any third party which exists or is available apart from that Act.

20.7 Assignment

This Agreement may not be assigned transferred, mortgaged or otherwise encumbered or dealt with in any other manner (including a declaration of trust over it or any of the rights or obligations) by either party without the prior consent in writing of the other party.

20.8 Waiver

The waiver by either party of any breach or default of any of the provisions of this Agreement by the other party shall not be construed as a waiver of any succeeding

breach of the same or other provisions nor shall any delay or omission on the part of either party to exercise or avail itself of any right power or privilege that it has or may have hereunder operate as a waiver of any breach or default by the other party.

20.9 Successors

This Agreement shall be binding upon and enure for the benefit of the successors in title of the parties hereto.

20.10 Survival

All provisions of this Agreement intended to survive or capable of surviving termination shall so survive the expiry or termination of this Agreement and remain in full force and effect.

20.11 Other Rights

No exercise by either party shall restrict or prejudice the exercise of any other right granted by or under this Agreement or otherwise available to it.

20.12 Cumulative Remedies

Subject to the specific limitations set out in this Agreement, no remedy conferred by any provision of this Agreement is intended to be exclusive of any other remedy except as expressly provided for in this Agreement and each and every remedy shall be cumulative and shall be in addition to every other remedy given thereunder or existing at law or in equity by statute or otherwise.

20.13 Sub-Contractors

We shall be entitled to perform any of our obligations under this Agreement through agents or sub-contractors without your prior written consent.

20.14 Conflicts

In the event of conflict between the provisions of this Agreement and any schedules, the provisions of this Agreement shall prevail.

20.15 Joint Liability

All representations, indemnities, covenants, agreements and obligations given or entered into by a party (comprising more than one person) in this Agreement are given or entered into jointly and severally. We may be entitled to pursue any claim (whether arising in contract, tort or otherwise) arising out of the substantially the same subject matter of this Agreement against any of your Authorised Third Parties. Where we are so entitled, we may in our discretion pursue any such claim either against you or the relevant Authorised Third Party or against both of you (concurrently or otherwise) and your liability with any such Authorised Third Party shall be joint and several.

21. GOVERNING LAW AND JURISDICTION

- 21.1 This Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.
- 21.2 Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Agreement or its subject matter or formation (including non-contractual disputes or claims).

22. VARIATION

- 22.1 Subject to clause 22.1 and 22.2, we may vary the terms of this Agreement by 45 days' notice in writing to you.
- 22.2 We may vary rates of Commission with immediate effect by giving you a Commission Notice in writing in accordance with clause 7.1.
- 22.3 We may vary the terms of this Agreement by immediate notice in writing where we reasonably consider that we are obliged to do so by Applicable Law or Regulation regulatory requirement and such variation shall take effect on the date such notice is deemed served in accordance with clause 23 or such later date as is specified in the notice.

23. NOTICES

23.1 Form of notices

Any notice or other communication given to a party under or in connection with this Agreement shall be in writing, addressed to that party at its registered office or such other address as that party may have specified to the other party in writing in accordance with this clause, and shall be delivered personally, or sent by pre-paid first class post or other next working day delivery service, or by commercial courier, fax or email.

23.2 Deemed receipt of notices

A notice or other communication shall be deemed to have been received:

- 23.2.1 if delivered personally, when left at the address referred to in clause 23.1;
- 23.2.2 if sent by pre-paid first class post or other next working day delivery service, at 9.00 am on the second Business Day after posting;
- 23.2.3 if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed; or
- 23.2.4 if sent by fax or email, one Business Day after transmission.

23.3 Exclusions from notice provisions

This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

Schedule 1

Details of Commission Arrangements

NOTE THAT IF NO SPECIFIED COMMISSION ARRANGEMENTS ARE SET OUT IN THIS SCHEDULE, COMMISSION SHALL BE PAYABLE AT SUCH RATES AS ARE SPECIFIED ON THE WEBSITE. WE MAY AT ANY TIME GIVE YOU A COMMISSION NOTICE IN WRITING IN ACCORDANCE WITH CLAUSE 7.1 AND IF WE DO SO, THE RATES SPECIFIED IN SUCH COMMISSION NOTICE SHALL TAKE PRECEDENCE OVER ANY RATES SET OUT IN THIS SCHEDULE OR THE WEBSITE.

1. Indemnity Commission

Indemnity Commission is payable in our discretion and in accordance with the Agreement and is subject to repayment on demand in accordance with the Agreement. Where we are prepared to pay Indemnity Commission, we will (without limiting our discretion) normally do so after the time when we consider a Product is on-risk.

1.1 Over 50's Plan

1.2 Income Protection Plan

2. Non-indemnity commission

Non-Indemnity Commission is payable in accordance with the Agreement as soon as reasonably practicable after receipt of the relevant amount from the Client (subject to the terms of the Agreement). We may cease to pay Non-Indemnity Commission in accordance with the Agreement.

2.1 Over 50s

2.2 Income Protection Plan

3. Other Products (specify)