



**barbon**  
insurance group

# **Terms of Business Agreement**

## INTERMEDIARY

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## INTERMEDIARY TERMS OF BUSINESS AGREEMENT

This *Agreement* is entered into between the following parties:

HomeLet which is a trading name of Barbon Insurance Group Limited, whose registered address is Hestia House, Edgewest Road, Lincoln, LN6 7EL, Registered in England under number 03135797.

And

The party named under this Agreement  
(Hereinafter referred to as the "*Intermediary*")

### 1. Interpretation and Definitions

1.1 Within this *Agreement*, unless otherwise stated, the following words or expressions shall have the meaning set against them:

**We, Us** and **Our** refers to HomeLet a trading name of Barbon Insurance Group Limited  
**You** and **Your** refers to the *Intermediary* specified in this *Agreement*.

Together **We** and **You** are referred to as **Both Parties** or **Us Both** and either of us may be referred to as a **Party**.

**Act** means the Financial Services and Markets Act 2000, as amended by the Financial Services Act 2012, and all delegated, subordinated or secondary legislation made under it.

**Agreement** refers to this Terms of Business Agreement hereunder signed and agreed by *Both Parties* and any attached schedules and special conditions hereunder signed and agreed by *Both Parties*.

**Appointed Representative** means a person appointed to act as an agent for an FCA directly authorised firm.

**Business Day** means Monday to Friday inclusive, excluding any bank or public holiday in England.

**Business Hours** mean 9.00am to 5.00pm on any Business Day.

**CASS** means the Client Asset Sourcebook section of the *FCA Handbook*.

**Client** means a person who is a policyholder or prospective policyholder.

**Client Money** shall have the same meaning set out in the *Act* and/or the *Rules* and shall include without limitation money (including premiums, claims money and/or premium refunds) of a client or prospective client introduced to *Us* relating to *Insurance Business*.

**Exempt** means any person or firm as defined in the *FCA Handbook* as an 'Exempt Person' or 'Exempt Professional Firm'.

**FCA** means the Financial Conduct Authority or any successor regulatory body.

**Gross Premium** means the gross amount before any deduction of commission payable by the policyholder to the *Insurer* in consideration for the cover afforded by the *Policy* and shall include any additional, return or adjustment amounts

**Improper performance** means performance of a function or activity in breach of a relevant expectation i.e. that the function or activity should be performed in good faith, impartially, or by a person in a position of trust.

**Insurance Business** means any insurance falling within the definition of "contract of insurance" in article 3(1) of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 or as amended by the Financial Services Act 2012.

**Insurer** means the Insurance Company or Lloyd's Underwriter with whom the *Policy* is placed.

**Net Premium** means the *Premium* after deduction of commission.

**Nominated Person** means in the case of HomeLet, **Chief Risk Officer**, and in the case of the *Intermediary* means the signatory named at the end of this *Agreement*, or such other person as the relevant party may notify to the other for this purpose.

**Policy** means any Policy of Insurance issued by the *Insurer* or *Us* on behalf of the *Insurer* in accordance with this *Agreement*.

**Regulated Activity** means any regulated activity under the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001

**Relevant function or activity** means any public function, and any business or employment activity, whether within or outside the UK.

**Rules** means the *FCA Handbook* and any *Rules*, guidance or regulations issued by the *FCA* and all other *Rules* which the parties are subject to in undertaking *Insurance Business*.

remove a majority of its board of directors; and any company which is a *Subsidiary* of another company is also a *Subsidiary* of that company's holding company.

### 2. Commencement and Term

2.1 This *Agreement* comes into effect once signed by *Both Parties* and will remain in force unless cancelled in accordance with the provisions of section 13.

2.2 *Both Parties* agree that the terms of this *Agreement* will apply to and govern any and all dealings between *Both Parties*. This *Agreement* shall not override the terms of any underlying contract for or of *Insurance Business* or the terms of any *Policy*.

2.3 Nothing in this *Agreement* overrides *Your* duty to place the interests of *Your Clients* above all other considerations nor shall this *Agreement* override any legal or regulatory requirements which may apply to *Us Both*, for the placing of any *Insurance Business*.

2.4 *Both Parties* agree that the terms herein shall apply to the conduct of any *Insurance Business* which has been or may be transacted between *Us* on or after the date of this *Agreement*. The terms of this *Agreement* supersede the terms of any other terms of business agreement already in place between *Both Parties*.

### **3. Regulatory Status**

3.1 *Both Parties* warrant that they are authorised by the *FCA* or are *Exempt* (as declared by *You* to *Us* prior to entering into this *Agreement*) to conduct *Insurance Business* from the date of this *Agreement* and each *Party* undertakes to the other that it shall remain so authorised or *Exempt* for the duration of this *Agreement*.

3.2 *You* shall inform *Us* immediately in writing if at any time during the period of this *Agreement*:

3.2.1 there are any changes to the details advised by *You* to *Us* prior to entering into this *Agreement* or in subsequent communications with *Us*;

3.2.2 there are changes to the legal entity of *Your* business, including without limitation any change of control in the management or ownership of *Your* business;

3.2.3 there is any matter that could have a significant impact on *Your* reputation or *Ours*;

3.2.4 any disciplinary measures are imposed on *You* by an organisation (including without limitation the *FCA*), or there is an investigation into *Your* affairs by any person or entity (including without limitation the *FCA*);

3.2.5 *You* are prosecuted or convicted or any of *Your* directors are prosecuted or convicted for any offence (other than a driving offence) or any act of fraud or dishonesty;

3.2.6 if *You* believe or suspect (or should reasonably have believed or suspected) that *You* have breached or that *You* may breach the *Act* and/or the *Rules*;

3.2.7 if any regulatory approval or authority given to *You* is removed, suspended, withdrawn, qualified, impaired or modified or if *You* are no longer *Exempt*;

3.2.8 *You* become insolvent

3.2.9 *You* believe or suspect (or should reasonably have believed or suspected that) there has been a breach of data security.

3.3 *We* shall inform *You* immediately in writing if at any time during the period of this *Agreement*:

3.3.1 the *FCA* suspends or withdraws *Our* authorisation;

3.3.2 *We* otherwise cease in any way to be authorised by the *FCA* to undertake any activities in relation to any *Insurance Business* subject to this *Agreement*;

3.3.3 *We* become insolvent.

### **4. Regulatory Requirements**

4.1 *Both Parties* must comply with all applicable legal and regulatory requirements in undertaking *Insurance Business*.

4.2 *You* acknowledge and accept that *We* are not responsible for *Your* compliance with and/or acts or defaults in connection with the *Act* and/or the *Rules* relating to *Your* activities in connection with this *Agreement* and *Your Clients*.

### **5. Relationship**

5.1 Nothing in this *Agreement* shall be construed as creating any partnership or joint venture between *Both Parties* or the relationship of principal and agent or employer and employee.

5.2 Neither *Party* shall represent that it or its employees are in partnership with or an agent or employee of the other *Party*.

5.3 *We* act as the agent of the *Insurer*.

### **6. Your Obligations**

6.1 *You* shall act with utmost good faith towards *Us* and *Insurers* at all times, and with all due care, skill and diligence, and in accordance with any legal and/or regulatory requirements.

6.2 *You* shall provide *Us* with accurate, complete and timely information to enable *Us* to fulfil *Our* obligations under this *Agreement* and *Our* obligations to *Insurers* to make a fair presentation of the risk.

- 6.3 You shall pay all *Net Premiums* or *Gross Premiums* (as the case may be) and any other charges on or before the due date as set out in *Our* credit terms as specified in clause 18, debit note, renewal invitation or new business quotation as applicable.
- 6.4 You shall ensure that *Your Client* is fully aware of and accepts the terms of this *Agreement* in so far as they affect their rights, liabilities and obligations.
- 6.5 You shall ensure that *Your Client* receives the correct certificates and *Policy* documentation.
- 6.6 You shall not confirm to *Your Clients* that cover is bound until written confirmation of this is received from *Us*.
- 6.7 You shall ascertain the *Client's* insurance requirements, *We* will then endeavour to satisfy these requirements or offer suitable alternatives for *You* to pass these on to the *Client*.
- 6.8 You shall ensure that *Your Clients* receive a clear, accurate explanation of the insurance cover being provided and the applicable conditions and exclusions as set out in the *Policy*.
- 6.9 You shall ensure that *Your Clients* are charged the correct *Gross Premium* for the insurance purchased and that *You* collect the same from them.
- 6.10 You shall perform *Your* obligations at all times in connection with the *Agreement* in accordance with the *Act* and/or *Rules*.
- 6.11 *Both Parties* agree that Bribery, as defined under the Bribery Act 2010, is prohibited. *You* will therefore:
- 6.11.1 Not offer or provide a financial or other advantage to another person, where the advantage is intended to induce a person to perform improperly a *Relevant function or activity* or reward them for *that Improper performance*.
- 6.11.2 Not request or accept a financial or other advantage, with the intention that, as a consequence, a *Relevant function or activity* should be performed improperly.
- 6.11.3 Not offer or provide a financial or other advantage to a foreign official with the intention of obtaining or retaining business or an advantage in the conduct of business.
- 6.11.4 Have in place adequate procedures designed to prevent associated persons from committing bribery offences.
- 6.12 You shall:
- 6.12.1 give representatives or appointees of the *FCA* and/or *Us* reasonable access to any records, files, tapes or computer systems, which are within *Your* possession or control, and provide any facilities which the *FCA* and/or *Our* representatives or appointees may reasonably request in so far as they relate to *Your* activities pursuant to or in connection with this *Agreement*;
- 6.12.2 produce to representatives or appointees of the *FCA* and/or *Us* specified documents, files, tapes, computer data or other material in *Your* possession or control as reasonably requested in so far as they relate to *Your* activities pursuant to or in connection with this *Agreement*;
- 6.12.3 permit representatives or appointees of the *FCA* and *Us* to copy documents or other material on *Your* premises at *Your* reasonable expense and to remove copies and hold them elsewhere, or provide any copies, as reasonably requested in so far as they relate to *Your* activities pursuant to or in connection with this *Agreement*;
- 6.12.4 permit *Our* representatives to have access, with reasonable notice, during normal *Business Hours* to *Your* business premises which have been used by *You* to discharge *Your* activities and obligations under this *Agreement*.
- 7. Our Obligations**
- 7.1 *We* shall, subject to *You* complying with *Your* obligation under clause 6.2, assimilate all underwriting information relating to the placement of insurance and for presentation of any claims.
- 7.2 *We* shall prepare any documentation required by *Insurers* for the placement of insurance.
- 7.3 *We* shall advise *You* of any warranties and conditions attached to the insurance before conclusion in order for *You* to inform *Your Client*.
- 7.4 *We* shall present quotations based on the terms submitted by *You* to *Us*.
- 7.5 *We* shall supply *You* with the appropriate documentation to forward to *Your Client*.
- 7.6 *We* shall not place insurance on cover until instructions are received from *You*.

7.7 We shall not agree any midterm variations except with *Your* confirmation.

## **8. Disclosure of Information**

8.1 *You* and *Your Clients* are under a duty to take reasonable care not to make a misrepresentation to *Us* or *Insurers*, before the insurance contract is concluded or at any other time when providing information as required by the *Policy* or when making a claim. *You* and *Your Clients* must ensure that *You* and *Your Clients* respond to requests for information honestly and must take reasonable care to ensure *You* and *Your Clients'* replies are accurate. Making a misrepresentation may mean that the policy will not give the protection required, or perhaps might lead to the *Policy* being avoided by *Insurers*.

## **9. Claims**

9.1 If *Your Client* needs to make a claim *You* or *Your Client* must notify *Us* immediately. *We* will advise *You* of the action that needs to be taken. Neither *You* nor *Your Client* should admit liability nor agree to any course of action, other than emergency measures carried out to minimise the loss, until this has been agreed with *Us* or the *Insurer*.

## **10. Commission**

10.1 Your commission levels will be as follows:

For new business incepted Your commission will be paid at 25% of the Gross Premium

For renewal business commission will be paid at 20% of the Gross Premium

10.2 *You* may deduct *Your* commission upon receipt of the *Gross Premium* in cleared funds and therefore send to *Us* the *Net Premium*.

10.3 Should there be a refund of *Gross Premiums* (for whatever reason and whether in whole or in part) *You* will repay the commission upon the amount refunded not later than 30 days following a request from *Us* for the same. *We* shall be entitled to set off any moneys owed to *Us* by *You* from any moneys owed by *Us* to *You*.

10.4 Should there be a cancellation of a *Net Premium* paid policy you will ensure that monies are repaid to the *Client* for any commission taken at the point of sale.

10.5 Where sales are made via a referred third party, commission will be paid to *You* at the agreed level, within 28 days of *Us* receiving payment from the third party.

10.5 Any *Policy* fee, service fee or any other fee or charge whatsoever made by *You* or *Us* must be shown separately on documentation provided to the *Client*. *We* may charge a fee to *You* in respect of *Policies* cancelled through failure to settle the *Policy Premium* on the due date (after due notice is provided). The fee amount will be notified by *Us* to *You* in writing.

10.6 *You* acknowledge and accept that it is your responsibility in accordance with the *Act* and the *Rules* to seek permission and/or to declare to *Your* clients and prospective clients, upon request, that as part of the insurance arrangements that they may enter into *You* do receive a commission and *You* undertake to *Us* that you will comply with those requirements. Neither *We* nor any members of *Our Group* shall have any responsibility or liability to *You* or any third party in this respect.

## **11. Client Money**

11.1 In most circumstances, *We* have written *Agreement* from *Insurers* that *Client Money* will be held on their behalf when received by *Us* (Risk Transfer). *We* will retain any interest earned on *Client Money*.

11.2 Unless otherwise confirmed to *You* in writing risk transfer does cascade to *You* and *Client Money* held by *You* will be held as agent of the *Insurers*.

11.3 *You* shall ensure adherence with the *CASS* rules at all times when handling *Client Money*

## **12. Client Contact**

12.1 Subject to the provisions of this clause, the policyholder remains *Your Client* and *We* undertake not to directly contact the *Client* without *Your* prior consent.

12.2 *We* shall contact *Your Client* if money or documents are outstanding and *We* are forced to cancel the *Policy* or where this *Agreement* has been terminated by *Us* under section 13.

12.3 *We* reserve the right to contact *Your Clients* directly if *We* deem it in their best interests to do so and/or for the purposes of satisfying our obligations to them under the *Act* and/or the *Rules*.

### **13. Termination**

- 13.1 This *Agreement* may be terminated at any time by mutual agreement or by either *You* or *Us* if:
- 13.1.1 either *You* or *Us* serves the other with not less than 30 calendar days' notice of termination;
  - 13.1.2 the other is in material breach of a term of this *Agreement*, and if such breach is capable of remedy, fails to remedy the breach within 70 calendar days of receiving notice specifying the breach to be remedied;
  - 13.1.3 the other shall become insolvent, or enter into receivership, liquidation, provisional liquidation or voluntary arrangement with its creditors;
  - 13.1.4 the other has its authorisation withdrawn or suspended by the *FCA* or ceases in any way to be authorised or *Exempt* to undertake any *Insurance Business* subject to this *Agreement*.
  - 13.1.5 no referencing or new *Insurance Business* is transacted by *You* with or through *Us* over a consecutive 6 month period.
- 13.2 This *Agreement* may be terminated immediately on notice by *Us* where any of those matters referred to in clause 3.2 have occurred.

### **14. Consequences of Termination**

- 14.1 Following termination of this *Agreement* *We* shall not accept any new business proposed by *You* and shall not issue any renewal invitation to *You*. *We* shall prepare a statement of account between *You* and *Us*. Settlement of this account shall be made by either *Party* paying the balance due as shown immediately.
- 14.2 Following termination of this *Agreement* *You* will cooperate fully with *Us* in *Our* seeking to comply with *Our* and the *Insurer's* obligations to *Clients* whether before or after the date of termination of this *Agreement*.
- 14.3 Termination of this *Agreement* shall not in any circumstances give rise to a claim for compensation by *You*.
- 14.4 Any provision of this *Agreement* which expressly or by implication is intended to come into or continue in force on or after termination of this *Agreement* shall remain in full force and effect.

### **15. Indemnity**

- 15.1 You shall indemnify *Us*, keep *Us* indemnified and hold *Us* harmless against any liability, claims, loss, damage, fines, costs and expenditure incurred in respect of, arising out of, other otherwise connected with:
- 15.1.1 any breach or non-performance of *Your* obligations contained in this *Agreement*;
  - 15.1.2 *Your* misrepresentation, negligence, dishonesty, misconduct or fraud, or that of *Your* employees or representatives;
  - 15.1.3 *Your* appointment as an *Appointed Representative* of any third party;
  - 15.1.4 *You* undertaking any *Regulated Activity* outside the scope of this *Agreement*.
- 15.2 Without prejudice to clause 15.1 above, *Our* entire liability to *You* in respect of all losses arising under or in connection with this *Agreement* whether in contract, tort (including negligence), breach of statutory duty or otherwise shall not exceed (i) the aggregate Commission paid to *You* by *Us* in the 12 month period immediately preceding the date of the event giving rise to such claim; or (ii) £50,000, whichever shall be the lower amount.

### **16. Rights of Third Parties**

- 16.1 A person who is not party to this *Agreement* has no rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any terms of this *Agreement* but this does not affect any right or remedy of a third party which exists or is available apart from that act.

### **17. Quotations**

- 17.1 Unless otherwise stated, quotations will be valid for a period of 30 days from the date of the quotation.

### **18. Credit Terms**

- 18.1 Unless otherwise agreed in writing by *Us*, *We* require full payment to *Us* of *Net Premiums* and *Gross Premiums* (as appropriate) within 30 days of the date of *Policy* inception or renewal date.



## **19. Sub Agency Agreement**

19.1 *You* must obtain *Our* prior written permission for the appointment of any sub agent *You* wish to deal with in connection with any *Policy We* arrange for *You*.

## **20. Data Protection and Security**

20.1 *Both Parties* agree to duly observe all the requirements of the Data Protection Act 1998 as amended from time to time and the Privacy and Electronic Communications (EC Directive) Regulations 2003 as amended from time to time.

20.2 *You* undertake to procure all necessary consents prior to the transfer of contact details and other information relating to clients and prospective clients to *Us and by Us to any Insurer*.

20.3 *Both Parties* must take reasonable care to ensure that effective systems and controls are in place to manage risks relating to the security of confidential customer information.

## **21. Assignment and Variation**

21.1 This *Agreement* may be assigned only if agreed in writing by *Both Parties*. *We* reserve the right to vary this *Agreement* at any time, by giving no less than 30 days written notice.

## **22. Professional Indemnity Insurance**

22.1 *Both Parties* will have in place and maintain Professional Indemnity Insurance and shall, when requested, produce to the other *Party* confirmation of such insurance. Your Professional Indemnity Insurance shall provide a minimum of £1million limit of indemnity with a maximum excess of £10,000. Professional Indemnity Insurance held by *Both Parties* to be compliant with FCA requirements current at each renewal of the cover.

## **23. Complaints**

23.1 *Both Parties* will keep each other advised of any complaints in connection with any insurance mutually arranged.

## **24. Confidentiality**

24.1 *Both Parties* shall treat any information relating to the other *Party* and its business as confidential, except as may be necessary to fulfil their respective obligations in the conduct of *Insurance Business* and except as may be required by law or regulatory authority.

24.2 This clause will not apply to information which was rightfully in the possession of such *Party* prior to this *Agreement*, which is already public knowledge or becomes so at a future date (otherwise than as a result of a breach of this clause) or which is trivial or obvious.

## **25. Enforceability**

25.1 In case any one or more of the provisions contained in this *Agreement* shall, for any reason, be held to be unenforceable, such provision or provisions shall be ineffective only to the extent of such unenforceability, without invalidating the remainder of such provision or provisions of this *Agreement*. This *Agreement* shall be construed as if such invalid, illegal or unenforceable provision or provisions had never been contained herein, unless such a construction would be unreasonable.

25.2 No failure or delay by *Us* to exercise any right or remedy provided under this *Agreement* or otherwise shall constitute a waiver of that or any other right or remedy nor shall it prevent or restrict the further exercise of that or any other right or remedy.

## **26. General Interpretation of this Agreement**

26.1 In this *Agreement*, words importing the singular shall include the plural and vice versa. Headings are included for ease of reference and convenience only and shall not affect the interpretation of this *Agreement*.

## **27. Governing Law and Jurisdiction**

27.1 The construction, validity and performance of this *Agreement* shall be governed in all respects by English Law and any proceedings arising out of or connected with this *Agreement* shall be subject to the exclusive jurisdiction of the English Courts.

## **28. Service of Notices**

28.1 Any notices to be given under this *Agreement* shall be sent by first class recorded delivery post, by hand, by email or facsimile to the *Nominated Person* at the registered office of the party to be served or such other address as shall be notified by a party for this purpose.

28.2 Any notice, account or other written communication posted shall be deemed to have been received 48 hours after it shall have been posted, any notice sent by email will be deemed to have been received upon receipt of a read receipt and any notice sent by fax shall (if transmitted during *Business Hours*)



be deemed to have been received within one hour and if not transmitted during *Business Hours* shall be deemed to have been received at the commencement of *Business Hours* on the next *Business Day*. Any notice sent by fax shall be confirmed by forwarding a hard copy to the addressee in one of the manners provided above.

**29. Force Majeure**

29.1 Neither *Party* shall be liable for any delay or non-performance of its obligations under this *Agreement* caused by an event beyond its control (a "*Force Majeure Event*") provided that the *Party* affected gives prompt notice in writing to the other *Party* of such *Force Majeure Event* and uses all reasonable endeavours to continue to perform its obligations under this *Agreement*.

**30. Entire Agreement**

30.1 This *Agreement* sets out the entire agreement between *Us Both* in connection with the subject matter referred to in it and supersedes all prior discussions, statements, representations, terms and conditions, proposals, communications and understandings whenever given and whether orally or in writing.

**Signed for and on behalf of Barbon Insurance Group Limited**

*\*Delete as required*

<b>Signed</b>	
<b>Name of Signatory</b>	
<b>Position</b>	
<b>Date</b>	

**Signed for and on behalf of the Intermediary**

<b>Full Name of Company</b>	
<b>Signed</b>	
<b>Name of Signatory</b>	
<b>Position</b>	
<b>Date</b>	