

## **TERMS OF BUSINESS**

### **Accepting our Terms of Business**

Please read this document carefully. It sets out the terms and conditions on which we agree to act for you and contains details of our respective responsibilities. By asking us to quote for, arrange or handle your insurance you are providing your informed agreement to these Terms of Business. Please contact us immediately if there is anything in these Terms of Business which you do not understand or with which you disagree

### **Our status**

'NDML' is a trading style of Club Insure Ltd who are authorised and regulated by the Financial Conduct Authority with FCA Register number 304875. We are an insurance intermediary and our permitted business is arranging, advising, dealing as agent and assisting in the administration and performance of general insurance contracts and credit broking. You may check this on the Financial Services Register by visiting, <https://register.fca.org.uk/> or by contacting the FCA on 0800 111 6768. Our registered office address is Romero House, 8 Airport West, Lancaster Way, Yeadon, Leeds LS19 7ZA, registered number: 03535054

### **Who do we act for**

When we make a recommendation and give you advice we are acting as your agent, when we collect premiums or issue documentation, we are acting as agent of the insurer or finance provider.

### **Our Service**

Having assessed your needs we will make a personal recommendation or make a recommendation on the basis of either: -

- a "fair analysis" of the market or, in other words, on the basis of an evaluation of a sufficiently large number of contracts available in the relevant sector or sectors of the insurance market to enable us to give advice or provide information to you on your insurances which is adequate to meet your needs; or
- an evaluation of a limited number of insurers (we will provide you with a list if this is the case, before cover is placed); or
- the terms offered by a single insurer (we will tell you if this is the case, before cover is placed).

Your specific circumstances will dictate which of these bases is the most appropriate for you. The approach which we adopt will be based on our knowledge of the market, the quality of an insurer's policy terms and claims service and the insurer's ability to provide definitive contract terms at inception of insurance. We will tell you which of these approaches we have adopted in placing or renewing your insurances. We will also tell you if we are contractually obliged to place any particular policies with one or more undertakings.

Where we advise you on an evaluation of a limited number of insurers, we will provide you with a list of the insurers we have approached. These will be rated insurers whose financial strength has been assessed by specialist rating agencies and please see further under the heading Market Security. We will not obtain in the course of our normal duties quotations for your insurances from any unrated insurer unless we have written confirmation from you that this your instruction; this will then be referred to our Broking Director for permission to proceed and please see further under the heading Market Security.

### **Conflict of interests**

Occasions can arise where we, or one of our associated companies clients or product providers, may have a potential conflict of interest with business being transacted for you. If this happens, and we become aware that a potential conflict exists, we will write to you and obtain your consent before we carry out your instructions and we will detail the steps we will take to ensure your fair treatment.

### **Payment for our services**

We receive a commission from the insurer which is a percentage of the annual premium. We may charge you an administration fee when taking out a policy with us and on mid-term adjustments and policy cancellations. Where we charge a fee full details will be advised to you. If the type of policy we sell and/or overall account with the insurer reaches specific profit targets we may receive an additional payment from the insurer.

Where we undertake work on behalf of the insurer, such as issuing quotations and policy documents on their behalf we may receive an additional payment from them for the work undertaken. Where you pay your premiums by monthly instalments we receive a payment from the finance provider for introducing you, which is a percentage of the premium financed. You can ask us at any time for full details of the income earned by us in handling your insurances.

Invoices are payable in accordance with the terms set out on the invoice. If you have not entered into a premium finance arrangement, payment will normally be due within 15 days of invoice. We reserve the right to charge interest on overdue accounts at the current rate under the Late Payment of Commercial Debts (Interest) Act 1998. You must pay your premiums on or prior to inception of policy or within the timescale specified on the debit note we send you. Failure to pay premiums by the date specified may lead to cancellation of your insurance by

insurers. In addition, where a premium payment warranty applies failure to pay the premiums in accordance with the warranty will result in the automatic suspension of your policies until payment is made even if the insurer chooses not to issue cancellation of your insurances. The insurer will not be liable for any loss suffered during any period of suspension

### **Handling client money**

Our financial arrangements with most insurance companies are on a 'Risk Transfer' basis. This means that we act as agents of the insurer in collecting premiums and handling refunds due to clients. In these circumstances such monies are deemed to be held by the insurer(s) with which your insurance is arranged. If Risk Transfer does not apply, such monies will be held by us in a Non-Statutory Trust account pending payment.

The establishment of the Non-Statutory Trust Account follows the rules to protect money held by authorised intermediaries. However, you should be aware that, under the Non-Statutory Trust account rules, we are permitted to use such monies temporarily held to advance credit to clients generally. A copy of the Deed of Trust is available on request or may be inspected at our premises during normal office hours. If you object to your money being held in a Non-Statutory Trust account, you should advise us immediately. Otherwise, your agreement to pay the premium together with your acceptance of these Terms of Business will constitute your informed consent to our holding your money in a Non-Statutory Trust account. Interest earned on monies held in such a Non-Statutory Trust account will be retained by us.

### **Cancellation of insurances**

In the event of cancellation, charges for our services will apply (see Payment for Services above) The terms of your policy may allow insurers to retain the premium in full or to charge short-period premiums in the event of cancellation before the policy expires

Commission and fees are earned are non-refundable. This entitles NDML to retain all commissions or fees in relation to policies and finance contracts placed through us even if the policy or finance contract is cancelled or transferred during the period of cover. If you instruct us to cancel or transfer your business within the period of a valid signed Long Term Agreement a cancellation charge of £500 will be payable to NDML. Insurers may impose separate charges in respect of cancelling or transferring your contract of insurance within the period of a valid signed Long Term Agreement.

### **Complaints**

We aim to provide you with a high level of customer service at all times but, if you are not satisfied, please contact the Complaints Director at the address shown above, telephone 0113 281 8110. When dealing with your complaint, we will follow our complaint handling procedures; a summary of these procedures is available on request. If you are still not satisfied, you may be entitled to refer the matter to the Financial Ombudsman Service (FOS). Further information about the service can be obtained from the FOS on 0800 023 4567 or [www.financial-ombudsman.org.uk](http://www.financial-ombudsman.org.uk). You may make your complaint either orally or in writing. We will acknowledge receipt of your complaint promptly in writing and give you our response at the time if we can.

### **Compensation**

We are covered by the Financial Services Compensation Scheme (FSCS). You may be entitled to compensation from the scheme if we cannot meet our obligations. This depends on the type of business and the circumstances of the claim. Insurance advising and arranging is covered by the FSCS for 100% of your claim if it relates to compulsory insurance. For other cases, it is covered for 90% of the claim with no upper limit. Further information about compensation scheme arrangements is available from the FSCS, via their website, [www.fscs.org.uk](http://www.fscs.org.uk) or calling them on 0800 678 1100

### **Governing law and language**

The relationship between us as broker and you as a customer is governed by English law. If there is a dispute which cannot be resolved under our complaints procedure it will only be dealt with in the courts of England and Wales.

### **Credit and HM Treasury Sanctions List Checks**

UK law requires us to check whether our customers appear on the Consolidated List of Sanctions Targets maintained by HM Treasury. Checks will be performed on the commencement of our business relationship with you and periodically whilst this relationship continues. Insurance and finance providers may complete a credit check before providing quotations or facilities; such checks may leave a footprint on your credit records. If you do not want this to happen you must tell us before we start to research insurance costs for you.

### **Claims**

In the event of an incident occurring which could give rise to a claim under your policy, you should notify us as soon as possible in accordance with your policy conditions. Failure to do so could prejudice your insurer's position and lead to the claim being repudiated or not paid in full,

When we receive notification of an incident that could give rise to a claim we will respond promptly, explain how we will handle your claim and tell you what you need to do. We will give you reasonable guidance to help you make a claim under your policy.

If there is a conflict of interest, we shall only handle a claim on your behalf after we have disclosed to you all information you require, to enable you to decide whether to give your informed consent and you have given that consent.

### **Claims Handling Charges**

We will offer you Loss Recovery insurance via our approved suppliers at each renewal. This will provide you with assistance on claims for material damage to property or business interruption in return for the premium charged. Should you opt not to take such insurance as offered, then we fully reserve the right to submit charges for the provision of our own assistance in settling losses in relation to material damage to property or business interruption (that exceed GBP25,000 in value). We will not make any charges for claims that are not covered under your underlying policy of insurance. The maximum charge for our assistance any one claim is GBP50,000.

Where your insurance policy provides a 'claims preparation costs' endorsement, our charges will be pre-agreed with your insurers at the outset of a qualifying claim and once invoiced to you and paid will be recoverable under the claim against your policy (subject to the Terms & Conditions of your underlying policy of insurance).

Where no claims preparation costs endorsement applies, our claims assistance will be charged, where applicable, at 5% of the total loss value.

### **Limit of Liability**

Our liability for losses suffered by you as a direct consequence of any negligent performance of our services shall be limited in all circumstances to £2,000,000 per claim. In respect of any other claim arising out of our performance or non-performance of the services hereunder our liability shall be limited to the amount of commission and fees which we have received for arranging your insurance cover during the 12 month prior to such claim arising.

We shall not be liable to you for any pure economic loss, loss of profit or loss of business, in each case whether direct, indirect or consequential, or any claims for consequential compensation whatsoever (such as that listed above and howsoever caused) which arise out of or in connection with our services or this agreement. Nothing in this paragraph excludes or limits our liability for death or personal injury caused by our negligence, or for loss caused by or fraud, wilful misrepresentation or breach of regulatory obligations owed to you. You are welcome to contact us to discuss increasing the limitations of our liability and/or varying the exclusions set out above. Please note however that an additional charge and other terms may apply should we agree to amend this clause.

### **Market Security**

We check the financial strength of the insurers with whom we place your business using specialist rating agencies. We do not undertake any checks of financial strength of insurers beyond this. We cannot guarantee that any insurer will be solvent and so able to pay any claim you make on a policy issued by them. We shall have no liability to you to pay any claim that an insurer is unable to pay due to insolvency. Further, you may still be liable for any premium due to an insurer who becomes insolvent and also not able to recover any premium paid to an insurer who becomes insolvent depending on your eligibility under the FSCS compensation scheme. Where premium is held by us but deemed held by an insolvent insurer we are not entitled to return that premium to you and we will have no liability to you in respect of the amount of premium so held.

### **Duty of Disclosure (Consumer Customers)**

If you are a consumer (an individual buying insurance wholly or mainly for purpose unrelated to your trade, business or profession) you have a duty to take reasonable care to answer the insurer's questions fully and accurately and to ensure that any information that you volunteer is not misleading. This duty exists before your cover is placed, when it is renewed and any time that it is varied, and your policy wording may provide that it continues for the duration of the policy. If you do not do this, your insurer may be able to avoid your policy from inception and any claims under it would not be paid.

### **Insurance Act 2015 – Fair Representation (Commercial Customers)**

The Insurance Act 2015 imposes a duty on you to make "a fair presentation of the risk". To meet this duty you still need to disclose all material information to insurers that is known to you (or which ought to be known to you). Information is material if it would influence the judgment of a prudent insurer in establishing the premium or determining whether to underwrite the risk and, if so, on what terms. Material information does not necessarily have to increase the risk of the insurance under consideration.

Under the Act you will be deemed to know information if it is known to any individuals in either of the categories below:

- Anyone within your business in a senior management or decision making role, and
- Anyone responsible for arranging the insurances,

Furthermore, under the Act, you “ought to know” what should reasonably have been revealed by a reasonable search for information held internally or externally (including by any third parties to whom services are outsourced, including insurance agents). In order to be able to argue that you have satisfied the duty, should an insurer allege that you have not, in the future, you should do the following:

- Carefully consider who are the individuals who may fall into categories above, record this in writing and explain your reasoning;
- Make enquiries of those individuals as to whether they are aware of any material information (having explained to them what this means);
- Record the results of these enquiries in writing; and
- Consider whether any material information could be held anywhere other than with the individuals identified. If so, you will need to carry out a reasonable search. This could mean making enquiries of individuals or may in some circumstances mean having to carry out an electronic and/or physical search of records.

It is important to bear in mind that if material information is held by third parties such as accountants or lawyers, or internally by branch offices, even if it is not known to the individuals you have identified, it may need to be disclosed. Your enquiries must cover all relevant group companies, branch offices etc. and the relevant personnel within them. You must ensure you make a full written record of the search made and the responses provided to ensure that you have evidence in the event of any claim being made. In completing an application for insurance, mid-term change to your insurance or renewal of insurance, the accuracy and completeness of all answers, statements and /or information is your responsibility and it is of paramount importance that all relevant information is provided and that it is accurate. If you become aware of any material information that you supplied before the contract of insurance is finalised is incorrect or has been omitted, you should inform us immediately. If you are unsure if information is material you should disclose it. Under the Act, in the event that there is a breach of duty to make a fair presentation of the risk, the remedies available to insurers will vary dependent on whether the breach is deliberate or reckless or otherwise. For deliberate or reckless breaches, the insurer may avoid the contract, refuse all claims and retain the premium paid.

For other, non-fraudulent or non-reckless, breaches the remedy will depend on what the insurer would have done had a fair presentation of the risk been made. Here are the main examples.

- If the insurer would not have accepted the risk it can avoid the contract entirely, but must refund premiums paid.
- If the insurer would have accepted the risk on other terms, the contract is treated as if those terms applied.
- In the event that a higher premium would have been charged, any claims payments can be reduced proportionately. This provision is especially important because if insurers can show that they would have charged only a modest additional premium, the impact on a claim could be disproportionately large.

Please answer all questions on any proposal form fully and avoid answers such as “As last year”, or “See survey”.

#### **Warranties and Conditions Precedent**

Warranties are important provisions contained in your policy and must be exactly complied with at all times. Breach of a warranty may suspend your policy. Insurers may have no liability to pay losses occurring or attributable to something happening during any period of suspension. The period will continue until the breach has been remedied (if it is capable of remedy). A warranty may exist in the policy using other terminology and without reference to the word ‘warranty’.

Please also take particular note of any conditions precedent that appear in the policy. If a condition precedent to the validity of this policy or to the commencement of the risk is not complied with, the insurer will not come on risk. If a condition precedent to the insurer’s liability under this policy is not complied with, the insurer may not be liable for the loss in question. A condition precedent may exist in the policy using other terminology and without reference to the words ‘conditions precedent’.

It is very important that you read the full policy carefully and if you are unsure of, or are unable to comply with, any provisions please contact us immediately.

#### **Instructions Corporate Customers**

We will take instructions from any individual who purports to be authorised by you and we reasonably believe this to be the case. If you wish to restrict the individuals from whom we may take instruction then you must inform us in writing and we will act accordingly.

#### **Severability**

If any provision of these Terms of Business is found to be invalid or unenforceable in whole or in part, the validity of the other provisions of these Terms of Business and the remainder of the provision in question will not be affected.

#### **Rights of third parties**

No provision of these Terms of Business will be enforceable, by virtue of the Contracts (Rights of Third Parties) Act 1999, by any other person other than you or us.

#### **Termination of the Agreement**

Subject to your immediate settlement of any outstanding premiums and fees, you may instruct us to stop acting for you and we will not impose a penalty. Your instructions must be given in writing and will take effect from the date of receipt. In circumstances where we feel we cannot continue providing services to you, we will give you a minimum of 7 days' notice. Unless otherwise agreed in writing, if our relationship ends, any transactions previously initiated will be completed according to these Terms of Business.

You will be liable to pay for any transactions concluded prior to the end of our relationship and we will be entitled to retain commission received for conducting these transactions, together with all fees charged by us for services provided. When you leave us, we will no longer act on your behalf in respect of any claims that are unsettled at the date our relationship is terminated.

#### **Assignment**

We may assign any or all of our rights under any agreement on giving you not less than one week's written notice. You may not assign, subcontract or encumber any rights or obligation under any agreement, in whole or in part without our prior written consent, at our sole discretion.

#### **Use of Personal Data**

We are committed to protecting your personal information. We will use personal information about you fairly and lawfully, primarily in connection with the provision of insurance. Full details can be found in our Privacy Notice at [www.ndml.co.uk/privacy-policy/](http://www.ndml.co.uk/privacy-policy/) which specifies the information we may collect on you and from whom, how and why we use this information, how we may share and disclose the information and the retention of your data. In some instances, we may need to seek your consent before processing such data. We will always make it clear to you when and why we are seeking your consent. A hard copy of the Privacy Notice is available on request.

You have a number of rights (including the right of access to see personal information about you that is held in our records) and these are detailed in the Privacy Policy but for any questions or concerns relating to the Privacy Policy or our data protection practices, or to make a subject access request, please contact us at:

Romero House, 8 Airport West, Leeds LS19 7ZA

For any queries about Data Protection please contact.

Contact Email: [dataprotection@ndml.co.uk](mailto:dataprotection@ndml.co.uk)

Telephone: 0113 281 8110 Web: [www.ndml.co.uk](http://www.ndml.co.uk)