



TERMS OF BUSINESS AGREEMENT

AN AGREEMENT dated **XX/XX/XXXX** governing the conduct of Insurance Business.

BETWEEN:

(1) **Plum Underwriting Limited** (hereafter the "Company") Registered office Buzzards Hall, Sudbury, Suffolk, CO10 2AA

and

BROKER COMPANY NAME
BROKER COMPANY ADDRESS
Agency Ref: **XXXXXX**
(the "Intermediary")

(collectively the "Parties")

1. DEFINITIONS AND INTERPRETATION

- 1.1 **Insured** : any party (not being the Parties to this Agreement or any insurance agent of the Parties to this Agreement) entering into contracts of insurance which are subject to this Agreement. Wherever the word "Insured" appears in this Agreement it shall also be deemed to read "Assured".
- 1.2 **Insurance Business** : any insurances falling within the definition in the Financial Services and Markets Act 2000, which have been and may be transacted between the Intermediary and the Company or where there continue to be obligations owed by the Company to the Insured or vice versa. For the avoidance of doubt, Insurance Business does not include any outwards (re) insurance business placed by the Intermediary as agent of the Company.
- 1.3 **Group** : any group which is a holding company of the Parties or a subsidiary of any holding company of the Parties where "holding company" and "subsidiary" shall have the same meaning as given by sections 736 and 736a of the Companies Act 1985 of Great Britain (as amended).
- 1.4 **FSA** : the United Kingdom Financial Services Authority or any successor regulatory body.
- 1.5 **FSA Handbook** and **ICOBS** : the FSA Handbook and the Insurance Conduct of Business Rules promulgated and issued from time to time by the FSA.
- 1.6 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.
- 1.7 For the purposes of this Agreement the Intermediary will be deemed to be the agent of the Insured except as stated otherwise herein.

2. SCOPE

- 2.1 The purpose of this Agreement is solely to set out the rights and obligations of the Parties only in respect of the matters specifically addressed in this Agreement. To the extent that any matters relating to the relationship between the Intermediary and the Company are not expressly addressed in this Agreement, they remain unaffected and unaltered by this Agreement. This Agreement shall not override the terms of any underlying contract for or of Insurance Business.
- 2.2 Nothing in this Agreement overrides the Intermediary's duty to place the interests of its client before all other considerations nor shall this Agreement override any legal or regulatory requirements (whether obligatory or advisory) which may apply to the Intermediary, the Company, or the placing of any Insurance Business.
- 2.3 Subject to clause 2.5 below, the Parties agree that the terms herein shall apply to the conduct of any Insurance Business which has been or may be transacted between the Parties on or after the day of this Agreement. The terms of this Agreement shall replace any previous Terms of Business Agreement between



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the Company and the Intermediary as from the date this Agreement is entered into. As from the date of this Agreement, this Agreement shall apply to any Insurance Business conducted under any earlier Terms of Business Agreement.

- 2.4 Each proposal for Insurance Business, renewal of existing Insurance Business or continuation of cover in respect of any existing Insurance Business will be accepted or declined by the Company at its sole discretion. The Intermediary is under no obligation to offer any proposal for Insurance Business or renewal of any existing Insurance Business to the Company.
- 2.5 Prior to or at the time of placement of any Insurance Business (or as otherwise agreed separately in writing between the Parties), the Intermediary and the Company may agree provisions relating to the conduct of that Insurance Business. These provisions may include (but are not limited to) roles and responsibilities relating to administration of the Insurance Business and the handling of claims and processes by which amendments to the risk may be agreed, and so forth. This Agreement shall be subject to any provisions so agreed and does not seek to address such provisions.
- 2.6 The terms of this Agreement supersede the terms of any other terms of business agreement (TOBA) already in place between the Parties. The terms of this Agreement shall apply from the date of the Agreement.

3. FINANCIAL MATTERS

- 3.1 The Intermediary shall act as the agent of the Company for the purpose of receiving and holding premiums due to the Company from Insureds ("Risk Transfer") and for the purpose of receiving and paying claims monies to Insureds. The Intermediary shall also act as the agent of the Company for the purpose of holding and paying return premiums due to Insureds on the Company's behalf. The Intermediary has no authority to permit any third party, sub-agent, or appointed representative to receive, hold, or pay any money on behalf of the Company.
- 3.2 The Intermediary shall advise the Company when it has received any premiums within 7 days of receipt of any request by the Company to do so. The Intermediary shall pay the net premiums plus any applicable taxes/charges received by the Intermediary to the Company within the periods set out in item 1 of the Schedule. The Intermediary shall establish and maintain in accordance with all applicable legal and regulatory requirements a statutory or non-statutory trust account for the receipt, holding and payment of all monies held by the Intermediary as agent for the Company.
- 3.3 The Company shall pay the Intermediary commissions on all Insurance Business introduced and placed by the Intermediary with the Company. The commission payable by the Company shall be as shown under Item 2 of the Schedule or shall otherwise be agreed on a risk by risk basis. Commission rates may be adjusted from time to time at the Company's discretion by giving the Intermediary one month's written notice of any change. Until such time as the commissions are transferred to the Intermediary's own bank account the commissions element of the gross premiums will be held by the Intermediary as agent and trustee of the Company.
- 3.4 Such commission will become due and payable to the Intermediary only once the Intermediary or the company has received:
- (a) the gross annual premium in full from the Insured, or
 - (b) the gross annual premium in full from a third party finance company on behalf of the Insured
- 3.5 The Intermediary shall repay commission owed to the Company in respect of return premiums on a pro-rata basis unless agreed otherwise between the Parties.
- 3.6 The Company does permit the Intermediary to co-mingle any monies it holds as agent for the Company with monies held on trust for its clients and other insurers provided adequate controls are maintained to ensure all insurers' liabilities can be settled.



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3.7 The Company consents to the interests of the Insurers with regard to monies held by the Intermediary being subordinated to the interests of the Insured.

3.8 The intermediary shall be entitled to interest on any sum standing to the credits of the Trust Account which relates to business transacted with the Company up to the due date for payment of such sum to the Company.

4. TAXES

4.1 Except where required by law or Regulatory Authority or by the terms of this Agreement, the parties agree that the Intermediary will not be expected to act as guarantor to the Company with regard to the payment of any taxes relating to any Insurance Business. Where at the date of this Agreement it is market practice that the Intermediary administratively arranges payment of taxes, that practice shall continue.

4.2 Where the Intermediary processes and pays taxes on behalf of the Company related to premium in respect of any Insurance Business, the Intermediary will hold such monies on trust for the Company and account to the Company for amounts received by the Intermediary in respect of such liability for tax which the Company may have in respect of that Insurance Business.

5. RELATIONSHIP WITH CLIENTS

5.1 Insofar as the policyholders have chosen to appoint the Intermediary to advise upon and arrange their insurance, the policyholders remain the clients of the Intermediary. The Company undertakes that it will not directly and knowingly solicit the Insurance Business dealt with under this Agreement away from the Intermediary during the currency of this Agreement, and for a period of 36 months following termination.

6. REGULATORY STATUS

6.1 The Intermediary warrants that it is authorised by the FSA to conduct all the insurance mediation activities contemplated by this Agreement. The Intermediary will tell the Company immediately in writing if at any time during the term of this Agreement the FSA suspends or withdraws the Intermediary's authorisation or the Intermediary otherwise ceases in any way to be authorised by the FSA to conduct any business in accordance with this Agreement.

6.2 The Intermediary will tell the Company immediately in writing if any of the permissions it holds under Part IV of the Financial Services and Markets Act 2000 are suspended, withdrawn or otherwise cease at any time during the term of this Agreement.

6.3 The Intermediary will tell the Company immediately in writing if it becomes subject to investigation or enforcement action by the FSA at any time during the term of this Agreement.

6.4 The Intermediary does not act as the Company's appointed representative.

6.5 The Intermediary will notify the Company immediately it suspects that:

- (a) it is insolvent
- (b) it is not suitable to act for the Company in the capacity outlined in this agreement (i.e., the Intermediary or its servants or agents are no longer fit and proper to conduct insurance business)
- (c) the Intermediary has close links which would be likely to prevent the Company from effectively dealing with the Intermediary
- (d) The Intermediary is prevented from satisfying and continuing to satisfy the threshold conditions set out in the FSA Handbook;



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- 6.6 The Intermediary must not conduct insurance mediation activity until and unless it is included on the FSA Register as carrying on the above activities;
- 6.7 The Intermediary will advise the Company us of any potential or actual breaches of the rules in the FSA Handbook as it applies to your carrying on regulated activities.
- 6.8 The Intermediary will carry out regular checks to ensure its sub-agents are and remain authorised by the FSA to carry out the regulated activities.

7. COMPLIANCE

7.1 Each Party will comply with its respective legal, licensing and regulatory requirements applicable to the production, placing, claims handling and premium and claims accounting of any Insurance Business which the Intermediary places with the Company.

7.2 Without prejudice to the generality of Clause 7.1 above:

- (a) The Intermediary shall ensure that it complies with all regulatory and legal requirements in relation to disclosure to its clients and / or the Insureds, if different, of all commission, fees, overrides or other income of any nature which the Intermediary receives from the introduction, placing, arranging, concluding, administration or performance of any Insurance Business or from any claims handling in respect of any Insurance Business;
- (b) The Intermediary shall not issue or approve any financial promotion regarding any Insurance Business or any potential Insurance Business involving the Company which identifies the Company as a potential Insurer for such product unless such financial promotion complies with the provisions of Chapter 2 of the FSA's ICOBS rules, and the Company has given prior approval;
- (c) The Intermediary shall issue or provide to Insureds all documents or information required to be issued or provided to an Insured by the Company or the Intermediary in compliance with the FSA's ICOBS rules;
- (d) The Intermediary will only deal with third parties authorised or permitted by law or appropriate regulatory authority to be involved in the introduction, arranging, concluding, administration or performance of the relevant Insurance Business in the jurisdiction applicable to the third party, the Insured or the risk;
- (e) The Intermediary shall not be involved in introducing, arranging, concluding, administering or performing any Insurance Business where to do so would be a breach of any sanction or similar restriction imposed by the United Nations or other similar International body or any government that has jurisdiction over the relevant Insured, the Intermediary or the Company.

7.3 The Intermediary shall ensure where it is dealing with another intermediary or intermediaries in a chain rather than directly with the Insured, that the Intermediary has in place with that intermediary or those intermediaries a valid and enforceable written agreement by which that intermediary or those intermediaries undertake to comply with Clauses 7.1 and 7.2 above as if they were a party to this Agreement.

7.4 The Intermediary shall immediately notify the Company on receiving a complaint from a client which relates to the Company's regulated activities and will promptly provide copies of all relevant information and documentation to the Company.

8. DATA PROTECTION

8.1 The Intermediary and the Company shall comply with all applicable obligations imposed by, or made under requirements of the Data Protection Act 1998 ("DPA"), together with any Regulations and Orders made under it from time to time and any applicable Codes of Practice.



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8.2 Without prejudice to the generality of clause 8.1, whether the Intermediary or the Company (the "Disclosing Party") discloses data to the other (the "Recipient") in connection with the operation of this Agreement:

- (a) the Disclosing Party will ensure that it obtains all necessary consents so that the personal data that it provides to the Recipient can be lawfully used or disclosed by the Recipient in the manner and for the purposes anticipated by this Agreement; and
- (b) the Recipient will ensure that such personal data is only used for purposes anticipated by this Agreement.

8.3 Each Party shall co-operate with the other in respect of requests for subject access which relate to personal data which it holds and has received under or in accordance with this Agreement.

8.4 If either Party holds any information collected pursuant to this Agreement as a data processor, it undertakes to protect that data as if it were a data controller for the purposes of the seventh data protection principle in Schedule 1 to the DPA.

8.5 For the purposes of Clauses 8.1 to 8.4 above, "personal data", "data processor", "data controller" and "data subject" shall have the meanings given to them in the DPA.

9. CONFIDENTIAL INFORMATION

9.1 Unless the Parties in writing consent to disclosure and subject to Clause 8 above, both Parties shall during the term of this Agreement and thereafter observe strict confidentiality as to any information concerning:

- (a) any of the Parties' respective rights, duties and obligations under this Agreement;
- (b) the Insurance Business carried on pursuant to the Agreement and the Schedules attached to this Agreement;
- (c) the contents of this Agreement; and
- (d) the business affairs or confidential information of the other Party that may come within its knowledge during the currency of this Agreement.

9.2 Clause 9.1 shall not apply to:

- (a) communications between the Parties and their respective professional advisers and bankers;
- (b) disclosures required to be made by either Party by law;
- (c) information which has come into the public domain otherwise than by reason of the default of the relevant Party or its advisers; and
- (d) disclosure of information or documentation to a third party to which that third party is entitled by law.

10. CONFLICTS OF INTEREST

10.1 The Parties will adopt and / or maintain procedures to ensure that each has in place arrangements for the identification and management of any conflicts of interest that may arise in relation to any insurance business.



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11. TERMINATION

11.1 This Agreement may be terminated:

- (a) by either Party serving on the other Party notice in writing of the termination no less than one month before the termination is to take effect;
- (b) immediately without notice should the Intermediary or the Company become the subject of voluntary or involuntary rehabilitation or liquidation proceedings or become the subject of an action in bankruptcy or make or propose any composition with its creditors or otherwise acknowledge its insolvency;
- (c) by either Party serving notice on the other Party following material breach of the Agreement which, after request, has not been remedied by the Party in default;
- (d) immediately without notice in the event that the Intermediary:
 - (i) ceases to be authorised by the FSA or has any consents withdrawn and is thereby unable to transact any Insurance Business contemplated by this Agreement;
 - (ii) undergoes a material change in its ownership; or
 - (iii) any director of the Intermediary is convicted of a criminal offence involving dishonesty or is otherwise disqualified from holding office as a company director.

11.2 Following termination:

- (a) the Company and the Intermediary will agree the procedure for administering Insurance Business current at the time of termination;
- (b) should the Intermediary have become subject to insolvency proceedings or should this Agreement have been terminated by the Company for breach by the Intermediary or should this Agreement have been terminated by operation of Clause 11.1(d), the Intermediary will make all reasonable efforts to provide the Company with contact details for any Insured or other party with which the Company has contracted in the conduct of Insurance Business and for whom the Intermediary has acted as agent;
- (c) the Company and the Intermediary will remain liable to perform their obligations in accordance with the terms of this Agreement in respect of all Insurance Business subject to this Agreement until all Insurance Business has expired or has otherwise been terminated.

12. ACCESS TO DOCUMENTS

12.1 In respect of the Insurance Business conducted under this Agreement, the Intermediary agrees to allow the Company, on reasonable notice, to inspect and to take copies of the following:

- (a) the accounting records appurtenant to any Insurance Business including information relating to the receipt and payment of premiums and claims and documentation such as any insurance contract, addenda or ledger in the possession of the Intermediary relating to the Insurance Business;
- (b) documents as may be in the possession of the Intermediary which were disclosed to the Company by the Intermediary in respect of any Insurance



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Business including, but not limited to, documentation relating to the proposal for the Insurance Business, the placing thereof (including endorsements and reinstatements) and any claims thereunder.

12.2 In the event that the Company requests the Intermediary to carry out any functions or duties on its behalf, such as the appointment of loss adjusters, lawyers or others, or the Intermediary otherwise acts as an intermediary between the Company and its agents:

- (a) all documentation and records created or received by the Intermediary in the performance of such functions or duties shall be and remain the property of the Company, other than documents over which the Intermediary has a proprietary commercial interest;
- (b) the Intermediary will take reasonable steps to retain, maintain and safeguard any of the Company's documents in the Intermediary's possession in accordance with any regulatory requirements which apply to the Company and of which the Intermediary has notice;
- (c) on termination of this Agreement for whatever reason and on reasonable notice the Intermediary will deliver up to the Company such documentation if requested.

12.3 The Intermediary will maintain for seven years copies of all claims documentation relating to claims handled by the Intermediary. The Company will be entitled to inspect such records on reasonable notice.

13. PROFESSIONAL INDEMNITY COVER

13.1 The Intermediary will maintain professional indemnity insurance to the level required by the FSA.

14. PREMIUM FINANCE CONTRACTS

14.1 Except with specific authority from the Company, the Intermediary shall not enter into or get others to enter into premium finance arrangements in the Company's name.

14.2 For the avoidance of doubt, if the Intermediary enters into premium finance arrangements in respect of premiums for Insurance Business subject to the terms of this Agreement, unless such premium finance arrangements are authorised by the Company, the arrangements shall neither be in the Company's name nor for the Company's account.

15. CLAIMS

15.1 The Intermediary will notify the Company of all claims. Payment of claims will be made by the Company to the Intermediary or to the Insured direct or to a third party claimant as appropriate. The Intermediary has no authority to act on behalf of the Company in respect of claims, and in particular, is not authorised to commit the Company in any way or to arrange a claim settlement.

16. SERVICE OF NOTICES

16.1 All notices to be given under this Agreement shall be in writing and shall either be delivered personally to the place of business of the Party being served or sent by first class prepaid post or by facsimile or electronic mail transmission to that place of business and shall be deemed duly served:

- (a) in the case of a notice delivered personally, at the time of delivery; or



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- (b) in the case of a notice sent inland by first class prepaid post two clear business days after the date of dispatch; or
- (c) in the case of a notice sent by facsimile or electronic mail transmission on the business day after the day on which it is transmitted.

17. RIGHTS OF THIRD PARTIES

- 17.1 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. This Clause shall not affect any right or remedy of a third party which exists or is available apart from that Act.

18. ASSIGNMENT AND DELEGATION

- 18.1 The Intermediary's obligations under this Agreement may not be sub-contracted, delegated or assigned without the express written permission of the Company.

19. FORCE MAJEURE

- 19.1 Neither Party shall be liable for any delay or non-performance of its obligations under this Agreement caused by any 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 the Agreement. Either Party may terminate this Agreement if such Force Majeure Event continues and has continued for more than three months.

20. ENFORCEABILITY

- 20.1 In the event that any portion of this Agreement is found to be invalid or unenforceable, the remainder shall remain in full force and effect.

21. DISPUTE RESOLUTION

- 21.1 The Parties to this Agreement are committed to resolving all disputes arising under it (and whether such dispute arises before or after termination of this Agreement) without the need for litigation and to allow as far as possible for commercial relationships to remain unaffected by disputes and therefore the Parties:

- (a) will attempt in good faith to resolve any dispute or claim promptly through negotiations between their respective senior executives who have authority to settle the same;
- (b) will attempt in good faith, if the matter is not resolved through negotiation within three months of the dispute arising, to resolve the dispute or claim through mediation with the assistance of a mediator agreed between the Parties or as recommended to the Parties by the Centre for Dispute Resolution or such similar organisation as the Parties may agree; or
- (c) if the matter has not been resolved by mediation within six months of the dispute arising, or if either Party will not participate in a mediation procedure, the Parties will refer the dispute in accordance with Clause 22 below.

- 21.2 Notwithstanding the above, either Party may seek the immediate protection or assistance of the High Court of England and Wales if appropriate.



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22. JURISDICTION AND GOVERNING LAW

- 22.1 This Agreement is governed by English law and any disputes under it shall, subject to the provisions of Clause 21 above, be determined by the exclusive jurisdiction of the Courts of England and Wales.



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SCHEDULE

Item 1: Terms of Trade

Thirty days from the end of the month in which the inception, renewal or amendment date of any Insurance Business transaction falls.

Item 2: Commission rates

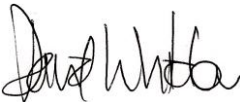
Unless agreed otherwise on an individual risk, the Company agrees to pay the Intermediary the following levels of commission in respect of each product purchased through the Company by the Intermediary on behalf of the Intermediary's policyholder.

Please note that this schedule does not automatically infer that you have access to these products, only that these are the commissions that are payable if you have.

Elite (manual presentations)	XX%
Elite (PUL online quote facility presentation)	XX%
Flex (manual presentations)	XX%
Flex (PUL online quote facility presentation)	XX%
HomeWorks (manual presentations)	XX%
HomeWorks (PUL online quote facility presentation)	XX%

Signed for and on behalf of:-

The Company

By 

Print name DAVID WHITAKER

Position Managing Director

Date 25 November 2011

The Intermediary	
Agency Ref: XXXXXXXX	
BROKER COMPANY NAME	
Signature
Print name
Position
Intermediary's FSA Auth No.:
Date

PLEASE SIGN, KEEP A COPY AND THEN SCAN AND EMAIL THIS AGREEMENT TO underwriting@plum-underwriting.com