



October 2024



# KBIS TERMS OF BUSINESS AGREEMENT

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The purpose of this document is to set out the basis of the way in which we conduct our business. What follows is a summary of the principles and practices which govern the way we operate. By asking us to quote for, arrange or handle your insurances, you are providing your informed agreement to these terms of business.

KBIS is authorised and regulated by the Financial Conduct Authority (FCA). This can be checked on the FCA register at <https://register.fca.org.uk/> or telephone 0800 111 6768.

The principles of utmost good faith and integrity have been enshrined within the London insurance market for over 300 years. These same principles form the basis of our business culture.

This document contains important information regarding our relationship, our services and how we will meet these responsibilities. We specifically draw your attention to the following sections:

- (a) Our service
- (b) How we handle your money
- (c) How we are paid for our services
- (d) Cancellation of your insurance
- (e) Conflicts of interest
- (f) Claims
- (g) Complaints
- (h) Limitation of liability

## OUR SERVICE

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We are an insurance intermediary and the permissions granted to us by the FCA allow us to deal with non-investment insurance contracts. We deal with both advised and non-advised sales. We shall let you know in writing if we arrange insurance for you but do not offer advice. We aim to treat our customers fairly at all times. In providing our service, we may sometimes act as an agent of the insurer. We will inform you if this situation arises.

In the event that our interests conflict with a duty we owe to you, we shall refrain from taking any action until we have received your informed consent to our intended course of action.

If you are unsure about any aspect of our terms of business or have any questions regarding our relationship with you, please contact us.

## INSURERS

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In finding an insurance solution that meets your demands and needs, we may either conduct a market analysis of potential insurers, or we may only consider a specific product from a single insurer, or products from a panel of insurers. We may also place your insurance using alternative access to insurers, including through our managing general agents, which may include our group managing general agent, or other group companies who may have similar arrangements with insurers. We use publicly available information, including information produced by credit rating agencies, to identify insurers with whom we will consider placing your business. We do not guarantee the financial status of any insurer. You may require us to use an insurer that we would not ordinarily recommend due to their credit rating. In the event of an insurer experiencing financial difficulties, you may still have a liability to pay any outstanding premium and we are not responsible for any shortfall in amounts due to you in respect of any claims. We are available to discuss with you any concerns you have with the insurer you have chosen for your insurance policy(ies).

## DOCUMENTATION

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We will confirm in writing details of all the insurance coverage taken out through us including the identity of the insurer.

It is important that you read all insurance documents issued to you and ensure that you are aware of the cover, limits, exclusions and other terms that apply.

Particular attention must be paid to any warranties and conditions as failure to comply with them could invalidate your policy and claims may not be paid. In the event of any remaining areas of uncertainty, please contact us. Our staff are always happy to clarify the cover provided.

You must check the documentation sent to you in relation to each insurance contract and satisfy yourself that it is entirely in accordance with your understanding and instructions. You should advise us promptly of any incorrect points or changes required. Otherwise, we will assume that the documentation and insurance contract once received by you, satisfies your requirements.

We recommend that you retain all paperwork relevant to your insurance, as this may be useful for future reference.

## PAYMENT

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We will provide you with a quotation before your insurance arrangements are concluded. This will tell you the total price to be paid and identifies any fees, taxes and charges separately from the premium. We will provide you with a debit note detailing the amounts due and the terms of payment.

Some insurers include terms of settlement on certain contracts; others require that the premium be paid within certain strict guidelines. This is a condition of the policy and must be complied with to ensure that payment schedules are met in full. Failure to meet deadlines can lead to a policy being cancelled and render the contract void.

## STATEMENT OF ACCOUNT

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It is our practice to send a statement to our clients on a regular basis with details of debit and credit notes included. All balances must be settled within the terms of credit. In the event of any uncertainty with regard to any item, please notify us as soon as possible to allow such matters to be resolved.

## HANDLING MONEY

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### **How do we handle your money?**

In our role as an intermediary between you and your insurers we may hold money:

- paid by you to be passed on to insurers
- paid to us by your insurers, to be passed on to you
- paid by you to us for our services, but which we have not yet reconciled.

For your protection, the way that we handle your money is designed to protect your interests in the event of our financial failure.

### **Insurer Money (money we hold as agent of an insurer):**

Where we have an agreement with your insurer to hold money as their agent, any premiums you pay to us are treated as having been received by the insurer as soon as they are received by us. Claims payments and/or premium refunds are treated as received by you when they are actually paid to you. Where we receive monies as agent of your insurer, we can only deal with that money in accordance with the instructions of the insurer.

This means that, for example, if you want us to return such monies to you, we can only do so with the agreement of the insurer.

**Payment to third parties:**

When acting for you Specialist Risk Insurance Solutions (SRIS) may transfer Client Money to another person, such as another broker or settlement agent, for the purpose of carrying out a transaction on your behalf through that person, this could also be outside the United Kingdom. The rules regarding your money outside the United Kingdom may be different. You may notify us if you do not wish us to pass your money to a person in a particular jurisdiction.

To improve the efficiency of our business we may wish to transfer your policy between companies within the Specialist Risk Group of companies. In such circumstances, we may transfer any money we hold on your behalf to a new bank account with the same trust protections as the existing account to ensure that the protection afforded to your money remains in place at all times. We will retain any interest or income accrued.

## REMUNERATION AND OTHER EARNINGS

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We are paid for our services by receiving a percentage of the insurance premium by way of commission or brokerage or fee. Our commission is paid after payment of your premium.

We may earn income in a number of other ways, such as lump sums for providing additional services, or sharing in insurer profits. We can also earn interest on the client money we hold from customers. On request we will be pleased to provide information about any remuneration and other earnings received by us in the handling of your insurances.

Where we arrange premium finance (i.e. you are provided credit for taking out the insurance policy) on your behalf we may be remunerated for our assistance in putting this financing in place. We can provide details of our remuneration on request. Our preferred provider of premium finance is Close Brothers Limited (trading as Close Brothers Premium Finance). However, whilst we may recommend a provider to you, you remain free to make your own choice of premium finance provider and insurer's own credit facilities may be available.

## CANCELLATION OF YOUR INSURANCE AND REFUNDS

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Your insurance contract may include a cancellation clause. The terms of your policy may allow insurers to retain the premium in full or in part in the event of cancellation before the policy expires. In the event of a refund of premium due to cancellation or otherwise when our remuneration has been earned, our brokerage or fees will not normally be returnable but are always in line with our remuneration policy detailed above.

If you cancel your insurance, we reserve the right to charge an additional or separate fee, agreed with you in advance and/or retain any fees charged by us for the arrangement of your insurance and the work undertaken in doing so.

We would also draw your attention to the section headed 'Ending your relationship with us', which you will find towards the end of the document.

## CONFLICT OF INTERESTS

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Sometimes an occasion can arise where we, one of our associated companies, clients, or insurers, may have a potential conflict of interest with business being transacted for you, such as where we act for more than one person or firm at the same time. If this happens, and we become aware that a potential conflict exists, we will advise you of the potential conflict and explain how it has arisen. We will also take appropriate action to avoid any detriment to you.

We may arrange insurance for you through another company in the Specialist Risk Group which acts on behalf of one or more insurers. In arranging an insurance solution that meets your demands and needs, we will ensure that our duty to you does not conflict with the duties that a Specialist Risk Group company owes to the insurers that it represents.

## CONFIDENTIALITY AND DATA PROTECTION

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This is a summary of how we use relevant information about you to arrange and administer your insurance. This information includes details such as your name, address and contact details and other information that we collect about you in connection with arranging and administering your insurance. This information may also include more sensitive details such as information about your health and any criminal convictions you may have and other sensitive information. Our full privacy statement can be found on our website [www.kbis.co.uk](http://www.kbis.co.uk), or can be provided on request. You should review our privacy statement to ensure that you understand how we use data and your rights in respect of that data.

We will process any personal information we obtain in the course of providing our services in accordance with Data Protection Law and we have policies and procedures in place to protect and manage that information. We treat all information provided by our clients as private and confidential and we will always work to ensure that personal data is processed lawfully, fairly and in a transparent manner and in compliance with Data Protection Law. This may require us to enter into other written agreements with you to enable us to comply with Data Protection Law.

Personal data that we collect will only be disclosed in the normal course of negotiating insurance transactions undertaken on behalf of our clients and administering insurance. We will however need to use and disclose information provided by our clients which may include personal and sensitive personal data in order to obtain insurance quotations and in the course of arranging, placing or administering insurance. This may involve passing information on to insurer(s), other intermediaries and other product or service providers which supply us with business and compliance support in relation to such insurance. We may also need to pass such information on to industry regulators, auditors or in the event that the information is requested by a court of competent jurisdiction. The use and disclosure of your personal data by various insurance market participants such as intermediaries, insurers and reinsurers is further explained in The Lloyds and London Insurance Market Core Uses Information Notice. Our core uses and disclosures are consistent with this notice and we recommend you review this document which can be accessed via a link in our privacy notice.

Depending on the circumstances or nature of the insurance we may need to transfer personal data out of the jurisdiction of the European Economic Area. If this is necessary, we will always ensure that the data is protected as required by Data Protection Law.

We may use personal data for research, statistical analysis and crime prevention including the investigation of fraud. Sometimes we will also contact you or pass your details to other companies associated with us in order to promote products or services which may be of interest to you. We will only do this however in accordance with our obligations under Data Protection Law.

In some circumstances, we will need to pass information about you on to credit reference agencies and premium finance providers in connection with the assessment of your financial standing generally and in particular where you have requested a premium instalment plan. This may include details of your payment record to us.

Where using personal data relies on the consent of individuals, we will obtain that consent or ensure that the consent is obtained in accordance with Data Protection Law. Where this is the case, individuals will be entitled to withdraw that consent. That may mean however that we are unable to arrange, place or administer your insurance properly.

If you have supplied us with personal or sensitive personal information relating to another individual or a third party, you must ensure that you have done so in compliance with Data Protection Law and provide the information to them which is required to be provided to individuals under Data Protection Law. This includes making them aware of their rights and of how we use their data and obtaining their consent where it is required in accordance with Data Protection Law.

In some cases, individuals will have the right to ask us to stop using their data, to tell us that they no longer want to receive information from us, to ask us to correct information we have about them or to ask us for the information we hold about them. Full details of these rights under Data Protection Law and how to enforce those rights are set out in our privacy statement on our website.

If at any time an individual wants us, or any company associated with us, to cease processing any personal data or sensitive personal data we hold, or to cease contacting them about products and services, they should write to our Compliance Officer.

'Data Protection Law' means all applicable statutes and regulations in any jurisdiction pertaining to the processing of Personal Data, including but not limited to the privacy and security of Personal Data.

## YOUR PREMIUM PAYMENT OBLIGATIONS

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Insurers require you to pay premium at or before the start date of each policy, or as otherwise specified under the policy terms. You must pay all monies due in cleared funds in accordance with the amounts and on or before the dates specified in our invoice(s).

If you do not make payment within that period, insurers may cancel your policy and may also require that you pay a premium in relation to the time that you have been on risk. It is therefore very important that you meet all payment dates.

Where you have instructed us to obtain insurance on your behalf, to the extent that we are required to meet your premium payment obligations, we reserve the right to recover those monies from you.

You may be offered the opportunity to pay premiums by instalments by bank transfer. Once established we are not permitted to change any schedule unless previously advised in writing. All premiums notified as part of an instalment plan must be completed as per the contract. Any failure to meet the financial requirements can prejudice the contract and render it voidable.

## CLAIMS

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To assist us to process any claim made by you it is vital that you notify us promptly when an incident, which may give rise to a claim, occurs. Delays may prejudice negotiations and entitle the insurer to repudiate the claim. In the event of uncertainty, the incident should always be reported.

At the conclusion of any claim we will issue confirmation notices to you detailing the settlement sum and any excess deducted. Should this amount appear on any statement of account in lieu of payment we will endeavour to settle this without delay. Any credit should not be taken until it is shown on the statement of account.

Our claims handling services include, upon receiving the required information from you, the notification of the claim or circumstances to insurers, the communication of reports and correspondence in connection with the claim between appropriate parties and arranging the collection and/or settlement of the claim in accordance with market practice and the terms and conditions of your contract.

We will provide claims handling services for the period of our appointment as your Broker. These services can be continued beyond that point by mutual agreement but will be subject to additional fee. If we are unable to reach mutual agreement for ongoing claims handling services, any open claims files will be transferred to your newly appointed broker to service from the date of their appointment.

## COMPLAINTS

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In the event that our service does not meet your expectations, we ask you to make a complaint to us by contacting our Complaints team, by email at [complaints@specialistrisk.com](mailto:complaints@specialistrisk.com), or by telephone. We will

acknowledge your complaint promptly, explain how we will handle it, and tell you what you need to do. We will keep you informed of the progress of your complaint.

We will handle your complaint fairly and, as part of our quality procedures, we will use it to maintain and improve our client service.

Should you remain dissatisfied with our handling of your complaint, or its outcome, you may have the right to refer the matter to the Financial Ombudsman Service (FOS). We enclose documentation detailing our Complaints Procedure. Their address and contact details are;

### **The Financial Ombudsman Service**

Exchange Tower

London

E14 9SR

Telephone: 0800 0234 567 (from landline)

Telephone: 0300 123 9 123 (from mobile)

Email: [complaint.info@financial-ombudsman.org.uk](mailto:complaint.info@financial-ombudsman.org.uk)

Website: <http://www.financial-ombudsman.org.uk>

Whether or not you make a complaint to us and/or refer your complaint to the Financial Ombudsman Service, your right to take legal action will not be affected.

We enclose documentation detailing our Complaints Procedure.

## **FINANCIAL SERVICES COMPENSATION SCHEME**

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We are a member of the Financial Services Compensation Scheme (FSCS), which means you may be entitled to compensation if we cannot meet our liabilities. Further information about the compensation scheme arrangements is available from the FSCS at [www.fscs.org.uk](http://www.fscs.org.uk).

## **YOUR DUTY TO MAKE A FAIR PRESENTATION OF THE RISK**

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Your insurance is based upon the information provided to the insurance company and you are required to present the risk (i.e. the subject matter of the proposed insurance) fairly. This means that you must disclose to insurers, before the setting up or renewal of your insurance policy is concluded, anything that might influence the judgement of an insurer in fixing the premium, setting the terms or determining whether they would take the risk. If you are uncertain whether anything is material, you should disclose it.

In order to identify what must be disclosed, you are obliged to carry out a reasonable search before presenting the risk to insurers. This includes (but is not limited to) consulting with all senior managers. A senior manager is anyone who plays a significant role in the making of decisions about how your activities are to be managed or organised, regardless of whether or not that individual is a member of your board or is formally in a management role. You must also consult with anyone who has particular knowledge about the risk to be insured.

If you deliberately or recklessly (i.e. without care) fail to comply with your obligations to present the risk fairly, insurers may avoid the policy. This means they can retain all premiums and treat the policy as if it never existed and refuse to make any claims payments. You could also be obliged to repay any claims payments that had already been made.

If you fail to present the risk fairly, but your failure was neither deliberate nor reckless, insurer's response will depend upon what would have happened if you had complied with your obligations:

- a) if insurers would not have provided the policy, they may treat the policy as if it never existed, refuse to make any claims payments and demand the return of any claims payments already made. However, insurers would have to return any premium payments already made;
- b) if insurers would have provided the policy but on different terms, the policy will remain in force but will be treated as if those different terms applied from the start of the policy. This could result in a claim not being met in part or in full;
- c) if insurers would have provided the policy but charged a higher premium, insurers may reduce any payment in proportion to the difference between the premium charged and the premium that would have been charged if you had fairly presented the risk. This could result in a significant reduction to the amount of any payment under the policy.

All statements and facts disclosed on proposal forms, statement of facts, claim forms and other documents should be full, true and accurate and must be given after undertaking a reasonable search, including consulting with your senior management.

It is your responsibility to make sure that the information to be submitted to the insurer is presented in a way that the insurer will find reasonably clear and accessible. Where a large amount of information is provided you will need to ensure that it is organised in a structured way with appropriate indexing and signposting to enable the insurer to navigate to what is important.

## **THIRD PARTY (RIGHTS AGAINST INSURERS) ACT 2010**

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Where an insured becomes insolvent and has incurred a liability to a third party, the third party may be entitled under the Third Party (Rights Against Insurers) Act 2010 ('the Act') to make a claim against the relevant insurer directly. Pursuant to this right the third party will be entitled under the Act to obtain policy information from any party it believes holds that information including the insured's broker. That party has twenty-eight days in which to comply with the request for information. Where we receive a request under the terms of the Act we will contact you and discuss the request before releasing any information.

If we are unable to make contact with you we will not be in breach of our duty of confidentiality to you by releasing information in response to such request, even where it transpires that you are not insolvent, nor have you incurred a liability to the third party, provided we have made reasonable efforts to establish the facts.

## **ENDING YOUR RELATIONSHIP WITH US**

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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 seven 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 the commission received for conducting these transactions, together with all fees charged by us for services provided.

## **LIMITATION OF LIABILITY**

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This section shall apply to all services which we provide to you pursuant to this agreement. If we or any of our group companies are liable to you in respect of any losses, liabilities, damages, costs, expenses or claims arising out of or in connection with the services (collectively 'Losses') and (subject to the following paragraph) any other person is liable to you in respect of some or all of the same Losses (on any basis), our liability and that of our



group companies in respect of such Losses shall be limited so as to be proportionate to the relative contribution of ourselves and our group companies having regard to the extent of responsibility of such other person for those Losses.

In determining the existence and extent of the responsibility of such other person for Losses for the purposes of the preceding paragraph, no account should be taken of any agreement limiting the amount of damages payable by such person or of any actual or possible shortfall in recovery of this amount (whether this is due to settling or limiting claims, or any other reason).

To the extent permissible under applicable laws, regulations or rules, the aggregate liability of ourselves and our group companies to you and your group companies in respect of all Losses however caused, including arising as a result of breach of contract or statutory duty, negligence or any other act or omission or breach of duty shall be limited to £5 million, or such other amount in US \$ or any other currency that is specifically agreed with you in writing.

Notwithstanding the preceding paragraph, we and our group companies shall not be liable to you and your group companies, whether as a result of breach of contract or statutory duty, negligence or any other act or omission or breach of duty, for any loss of profit or any special, indirect or consequential Losses arising under or in connection with the services provided.

You agree that we and our group companies have a legitimate interest in limiting the exposure of our and our group companies' directors, officers and employees to litigation and that you will not bring or assist in bringing any claim against any of our or our group companies' directors, officers or employees in their personal capacity arising out of or in connection with the services provided.

The limitations of liability and exclusions contained in this section shall not apply to:

- any Losses or liabilities arising as a result of (a) fraud, wilful default or gross negligence by us or any of our group companies; or (b) death or personal injury, in each case in jurisdictions where such limitations or exclusions would not be permitted under applicable laws, regulations or rules; or
- any of our (or our group companies') Losses or liabilities to the extent that the limitation or exclusion of such Losses or liabilities would not otherwise be permissible under applicable laws, regulations or rules.

For the avoidance of doubt this section shall be for the benefit of ourselves and our group companies and any of our or their respective directors, officers, employees or consultants involved in the provision of the services. Any such person shall be entitled to rely upon and enforce its terms.

## GOVERNING LAW AND JURISDICTION

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The law of England and Wales will apply to this agreement unless, at the date of this agreement, your registered office or principal place of business is situated in Scotland, Northern Ireland, the Channel Islands or the Isle of Man, in which case the law of that jurisdiction will apply.

The parties irrevocably agree that the courts of England and Wales will have the necessary jurisdiction to settle any dispute or claim that arises out of or in connection with this agreement or its subject matter.



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KBIS Limited is part of the Specialist Risk Group.

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