

# TERMS OF BUSINESS

# utmost™

## STATEMENT AND APPLICATION FORM FOR INTERMEDIARIES

### A TERMS OF BUSINESS

These Terms of Business regulate the relationship between:

1) Utmost PanEurope dac (a company incorporated in Ireland. Registered No: 311420)

2) the Intermediary whose details are set out on the signatory page of these Terms of Business

The Terms of Business are effective from the date that they are signed by the Intermediary.

#### 1 DEFINITIONS AND INTERPRETATIONS

1.1 **'Adviser Charge'** means, where applicable, the amount which a Customer has agreed to pay to the Intermediary for advice and related services, the payment of which may be facilitated by the Company on the Customer's instructions and either deducted from their Policy or paid separately with money paid by the Customer in addition to the Policy premium. **'Adviser Charging'** shall be used accordingly.

1.2 **'Applicable Laws and Regulations'** means all applicable laws and regulations, be they of the United Kingdom, Ireland or elsewhere, and all relevant codes, guidelines and requirements issued by any relevant competent Regulator or governmental authority from time to time.

1.3 **'Appointed Representative'** means any company, partnership or person who is exempt from the requirement to be Authorised in the United Kingdom in accordance with section 39 of the UK Financial Services and Markets Act 2000 and for whom the Authorised Firm acting as principal has accepted responsibility in the conduct of Business.

1.4 **'Authorised' or "Authorisation"** as the context requires means authorised by or registered with the appropriate competent authorities in the United Kingdom, Ireland or in such other jurisdictions as the Company may from time to time agree where the Intermediary carries on its business, under any relevant Applicable Laws and Regulations.

1.5 **'Authorised Firm'** means an individual, partnership, company or other person holding the relevant permission from a Regulator to advise on or arrange Policies in the United Kingdom.

1.6 **'Authorised Payment'** means a payment as defined by the UK Finance Act 2004 and prescribed in regulations made under this Act, as amended from time to time.

1.7 **'Utmost Group'** means the Company, its holding company, its subsidiaries and their ultimate holding company or any subsidiary thereof ('holding company' and 'subsidiary' having the meanings given in Section 155 of the Companies Act 1963 of Ireland as amended from time to time).

1.8 **'Business'** means any business relating to whole life assurance as defined by the FCA rules or where applicable, as defined in the Irish Insurance Act 1989, as amended from time to time, which is acceptable to the Company.

1.9 **'Company'** means Utmost PanEurope dac, or its successors in title.

1.10 **'Customer'** means any person, corporation, partnership or trustee who is the policyholder or assignee of a Policy with the Company.

1.11 **'Intermediary'** means the Authorised Firm which is a party to these Terms of Business.

1.12 **'Policy/Policies'** means an insurance policy or insurance policies issued by the Company as a result of Business introduced by the Intermediary.

1.13 **'Regulator'** means any financial regulator with jurisdiction over either party, including the Central Bank of Ireland in Ireland and the Financial Conduct Authority and the Prudential Regulation Authority in the United Kingdom, and any successor or replacement body.

1.14 **'Retail Client'** has the meaning given in the UK Financial Conduct Authority's handbook.

1.15 **'Suitably Certified'** means certified by an individual who, either by appropriate and relevant personal qualification, the position they hold within their organisation or approval by the Company, is deemed suitable to certify any copy documents provided to the Company as part of the requirements specified in 2.9. Suitable certifiers may be:

- › An employee of the Intermediary designated as approved persons under applicable regulations in the United Kingdom.
- › An authorised representative of an embassy or consulate of the country which issued the identification document.
- › A notary public, solicitor, barrister or advocate practising in any part of the United Kingdom.
- › A member of a recognised UK accounting professional body. (Providing that the certifier's membership of that body can be independently verified, e.g. a qualified chartered accountant as a member of the Institute of Chartered Accountants in England and Wales.)

1.16 Any reference in these Terms of Business to an agreement or document shall be construed as a reference to that other agreement or document as the same may have been or may from time to time be amended, varied, supplemented or notated.

1.17 The headings used in these Terms of Business are for reference purposes only.

#### A WEALTH *of* DIFFERENCE

[www.utmostgroup.com](http://www.utmostgroup.com)

Utmost PanEurope dac is registered in Ireland, registered number 311420. Registered Office address: Navan Business Park, Athlumney, Navan, Co. Meath, C15 CCW8, Ireland.

Utmost PanEurope dac is regulated by the Central Bank of Ireland as a Life Insurance Undertaking. Utmost PanEurope dac is a Category A Insurance Permit holder with the Jersey Financial Services Commission.

Utmost is registered in Ireland as a business name of Utmost PanEurope dac.

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## 2 SCOPE

2.1(a) If the Intermediary enters into these Terms of Business on its own behalf and on behalf of its Appointed Representatives for the time being, the Authorised Firm shall procure and be responsible for the compliance of its Appointed Representatives with these Terms of Business.

(b) By agreeing to these Terms of Business the Intermediary warrants that it has in place and will maintain a written contract which covers all Business to be conducted by its Appointed Representatives and the agents and employees of its Appointed Representatives with the Company which complies with all Applicable Laws and Regulations.

2.2(a) By placing Business with the Company following receipt of these Terms of Business the Intermediary will be deemed to have accepted them as applying to that Business, and they will take precedence over any terms of business of the Intermediary that the Intermediary may have sent to the Company. The Company will not accept Business for the United Kingdom on any other basis other than these Terms of Business.

(b) These Terms of Business shall supersede any previous agreement made between the Company and the Intermediary relating to the Business in the United Kingdom.

(c) The Intermediary acknowledges that it is not authorised to sub-delegate any of its rights or obligations described herein without the prior written consent of the Company or as contemplated in these Terms of Business.

(d) Nothing in these Terms of Business shall be deemed to constitute an agency, partnership, joint venture or other co-operative enterprise between the Company and the Intermediary.

(e) Nothing herein shall in any way restrict the Company from appointing other intermediaries or agents to distribute or market Business of the Company in the United Kingdom or elsewhere or restrict the Intermediary from entering into terms of business arrangements with other insurance undertakings to distribute products of a similar nature to those of the Company.

(f) The Intermediary shall organise its operations and activities, and determine the number and identity of its staff it proposes to deploy to perform its duties under these Terms of Business, without recourse to the Company.

(g) The Company may appoint one or more third party administrators (whether Utmost Group entities or otherwise) from time to time to administer the Policies and the Company may require the Intermediary to engage directly with such third party administrators in relation to that administration.

2.3 In entering into these Terms of Business, the Company does not undertake to accept all Business introduced and reserves the right at its discretion not to accept Business. The Intermediary acknowledges that the Company (or its appointed third party administrator) is the only person entitled to accept an application for a Policy from a Customer or to make a decision to enter into a contractual relationship with a Customer. For the avoidance of doubt, the Intermediary is not authorised to give or renew cover for any risks on behalf of the Company nor incur any liability on behalf of the Company or bind the Company in any way by any statement whether oral or written to any arrangement or contract including without limitation a Policy. Furthermore, the Intermediary shall not be entitled to make a final determination on behalf of the Company in response to any instruction, request or enquiry received from a Customer in relation to a Policy including without

limitation in relation to any claim or surrender request. The Company will not accept Business from an Intermediary who ceases to be Authorised.

2.4 The Intermediary shall comply at all times with all Applicable Laws and Regulations including without limitation, applicable anti-money laundering requirements, counter terrorist financing, data protection requirements, UK conduct of business rules and the UK Bribery Act 2010. The Intermediary warrants that it is Authorised and carries out its operations in accordance with the Insurance Distribution Directive as implemented in the United Kingdom and all other legal or regulatory requirements applicable to insurance intermediaries operating in the United Kingdom. The Intermediary shall be responsible for ensuring that the distribution of the Policies in the United Kingdom is carried out at all times in compliance with Applicable Laws and Regulations including without limitation, applicable UK consumer protection requirements and Financial Conduct Authority conduct of business rules. The Intermediary shall do all things necessary to assist the Company to comply with its obligations under Applicable Laws and Regulations. The Intermediary shall maintain a disaster recovery plan for the prompt and efficient handling of any occurrence which would impair its ability to perform the duties required of it herein.

2.5 The Intermediary has no authority to act in any way on behalf of the Company. In particular the Intermediary has no authority to collect premiums on behalf of the Company or to advertise any of the Company's products. To the extent the Intermediary provides advice to Customers, the Intermediary alone is responsible for the provision of that advice.

2.6 The Company will treat the Intermediary's customers as Retail Clients unless the circumstances require otherwise. An Intermediary who wants the Company to treat their customer other than as a Retail Client, must make a written request to the Company.

2.7 The Intermediary confirms that all Business introduced under these Terms of Business has resulted from a face to face meeting with the Customer. To the extent that Business introduced under the Terms of Business has not resulted from a face-to-face meeting with the Customer, the Intermediary undertakes to ensure that the requirements of the Distance Marketing Directive 2002/65/EC or any other Applicable Laws and Regulations have been satisfied in relation to that Business.

2.8 The Intermediary confirms that it will only introduce Business, and undertake subsequent activities in connection with that Business, for which it is Authorised and has all relevant permissions from any Regulator. The Intermediary agrees to place Business with the Company only in respect of customers ordinarily resident in the United Kingdom.

2.9 (a) The Intermediary warrants that evidence of the identity and address of all Customers and beneficial owners introduced by the Intermediary will have been obtained and recorded under procedures maintained by the Intermediary in accordance with applicable anti-money laundering requirements and any requirements of the Company from time to time notified to the Intermediary. Specifically, the Intermediary will provide all necessary, original or Suitably Certified copy documents, in order to verify the identity and address of all Customers and beneficial owners in accordance with all applicable anti-money laundering requirements. The Company reserves the right in its sole discretion to request additional information

to the requirements stated above and the Company shall advise the Intermediary accordingly if this is the case.

(b) The Intermediary will identify the immediate and ultimate source of wealth for all contributions paid or intended to be paid in relation to a Policy together with a complete audit trail to such standard as shall be specified by Applicable Laws and Regulations, and will without detracting from the obligations referred to above, forward to the Company before the contract for the Policy is completed such duly completed form(s) relating to source of funds/wealth and Suitably Certified copies of identification documents for any third party as the Company shall require from time to time. The Company shall not be responsible for any errors or omissions of the Intermediary in the provision of this information. Upon request, the Company may view or be provided with copies of documentation obtained by the Intermediary to verify the identity of any beneficial owner, third party and/or the source of wealth.

(c) The Intermediary when submitting Business will notify the Company in all instances where it has not been possible to verify the Customer's identity or obtain information on the source of wealth in accordance with applicable anti-money laundering requirements, and supply an explanation for why verification was not possible.

(d) The Intermediary shall maintain for each Customer all documentation required under clause 2.9(a) and 2.9(b) for a period of 6 years after termination of all Policies issued to that Customer, or such period as may be required by Applicable Laws and Regulations, whichever is the longer.

(e) When submitting Business, the Intermediary shall notify the Company if during the preceding 12 month period the Customer or their relatives or known close associates were a Politically Exposed Person as defined under applicable anti-money laundering requirements.

(f) The Company reserves the right to conduct periodic due diligence or to obtain periodic written recertification to ensure compliance with these terms.

### 3 ADVISER CHARGES

3.1(a) All contractual obligations in relation to a personal recommendation and Adviser Charges are between the Customer and the Intermediary. However, the Customer may request that the Company facilitate payment of an Adviser Charge to the Intermediary on the Customer's behalf by providing a Customer instruction to the Company in writing.

(b) The 'Adviser Charge' section of the Company's Application Form and/or other supplementary form(s) must be completed and signed by the Customer in every case.

(c) Facilitation of Adviser Charges or the scope of Adviser Charges or related services shall be at the discretion of the Company and the Company can refuse to facilitate an Adviser Charge for reasonable cause shown. Adviser Charges will usually be facilitated through withdrawals from the Customer's Policy and not otherwise. Adviser Charges may be paid from funds supplied by the Customer in addition to the Policy premium subject to the Company's written agreement. The Adviser Charge will usually be made following the formal issue of the Policy, the acceptance of an additional premium to an existing Policy and in such other circumstances where a written Customer instruction is accepted by the Company.

(d) In order for the Company to consider whether it will facilitate any Adviser Charge, the Intermediary and the Customer must agree to provide the Company with any reasonable information it may request.

3.2(a) Subject to paragraph 3.3 below, the Company will facilitate an Adviser Charge at the rate, frequency and duration contained in the Customer instructions. If the Company should not receive a Customer instruction confirming the rate, frequency and duration of the required Adviser Charge, such Business shall be deemed to have been accepted on terms that do not include the facilitation of any Adviser Charge.

(b) In facilitating the Adviser Charges requested, the Company will abide by any Applicable Laws and Regulations that it considers are appropriate to the Business written.

(c) Where the Company has appropriate and acceptable written instructions to pay an Adviser Charge from the Customer's Policy, Adviser Charge deductions may not be made by the Intermediary in respect of that Adviser Charge before forwarding any premium to the Company.

(d) The Company's Policy charges in relation to the Policy will be deducted from the value of the Policy before any Adviser Charge is payable.

(e) The Intermediary may request to the Company that payment is made in a different currency to the Policy currency link. Such requests will be agreed at the discretion of the Company. If payment is made in a different currency the exchange rate risk rests with the Intermediary.

(f) The Intermediary must disclose to the Customer, in accordance with the Applicable Laws and Regulations, the actual amount of Adviser Charges to be paid by the Customer. The Intermediary must secure the Customer's agreement to the rate, frequency and duration of the Adviser Charge before obtaining the Customer's authorisation for the Company to facilitate payment of the Adviser Charge.

3.3(a) The Company will facilitate the Adviser Charge promptly. The Company will only pay the Adviser Charge provided it is in accordance with the Customer's instructions, these Terms of Business, Applicable Laws and Regulations including the Retail Distribution Review (RDR) and where there are sufficient funds in the Policy or premiums received to allow the Company to facilitate payment. The Adviser Charge will not be paid to the Intermediary before the Policy is issued.

(b) In the event of the following, the Company will cease to facilitate the Adviser Charge:

- i) the Customer instructing the Company to stop facilitating payment of the Adviser Charge; or
- ii) the Intermediary ceasing to be Authorised; or
- iii) If these Terms of Business are terminated pursuant to clause 9 of these Terms of Business. For the avoidance of doubt, if the Company receives an instruction from the Customer pursuant to clause 3.3(b)(i) above, the Company shall use its best endeavours to promptly notify the intermediary of the same.

(c) The Company has no liability for outstanding Adviser Charge payments owed by the Customer to the Intermediary as the obligation to make such payments remains a matter between the Customer and the Intermediary. Whilst the Company will endeavour to

facilitate payment of Adviser Charges where it agrees to do so, it is acknowledged that there may be circumstances where it is not possible for the Company to carry out the agreed payment instructions or effecting such payment instructions is delayed (as a result of, for example, insufficient liquidity of an investment within the Policy, court orders and legislative or regulatory requirements). In such circumstances, it is acknowledged that the Company will not be responsible for such delay or non-payment and the Customer shall remain liable to the Intermediary.

3.4 The Company reserves the right to cease facilitating Adviser Charge payments in the following circumstances, including, but not limited to where:

- a) the Company decides that, the payment becomes contrary to the general principle of investor protection or treating customers fairly in the context of the Applicable Laws and Regulations and the general regulatory environment within which the Business is carried on;
- b) the Intermediary goes into liquidation or receivership or becomes subject to an administration order other than for the purposes of a solvent amalgamation or reconstruction;
- c) the Policy is terminated, paid up or contributions are reduced for any reason whatsoever.

Notwithstanding the above, the Company reserves the right to cease facilitating the Adviser Charge at any time for reasonable cause shown. For the avoidance of doubt, the Company will have no liability for outstanding Adviser Charge payments owed by the Customer to the Intermediary.

In such circumstances as detailed above, the Company and the Intermediary acknowledge that the Company may be required to report to a relevant competent regulatory or governmental authority on the reasons why facilitation of Adviser Charges have ceased and will include any details that are deemed necessary within the report. Such action should not suggest or imply that the Company has responsibility for assessing or supervising the appropriateness or reasonableness of the Adviser Charge.

3.5(a) In the event the Customer appoints a third party adviser as a replacement Intermediary at any time, the Company may cease to facilitate Adviser Charges and shall have no liability for outstanding Adviser Charge payments which may be owed by the Customer to the Intermediary.

(b) Where there is a change of adviser from the Intermediary, the Company will in the absence of clear existing instructions by the Customer with regard to this circumstance, require a new Customer instruction to facilitate further Adviser Charges to the new adviser.

3.6 It is the responsibility of the Intermediary to ensure it is appropriately Authorised and has the appropriate permissions to carry out the services in their contract with the Customer and receive the Adviser Charges facilitated by the Company. Furthermore, it is the Intermediary's responsibility to ensure that the Adviser Charge is in accordance with Applicable Laws and Regulations. In the event of breach of this paragraph by the Intermediary, the Company shall not be liable for refunding any Adviser Charge to the Customer, as the Intermediary agrees it will be responsible to refund or in any way make good a payment which may thereby be owed to a Customer.

It is acknowledged and agreed that the Company will not be liable for refunding to the Customer any Adviser Charge that it has facilitated on the Customer's behalf as this is the sole responsibility of the Intermediary.

3.7 The Intermediary agrees and acknowledges that no Adviser Charge may be paid until the Policy is issued. The right of an Intermediary to retain any Adviser Charge paid by the Company to the Intermediary is subject to the terms of the agreement between the Customer and the Intermediary and not this Agreement. The Company will not be responsible for handling refunds of Adviser Charges arising as a result of the terms reached between the Intermediary and the Customer (for example in the event the Customer exercises his right to cancel) unless as a result of manifest error on the part of the Company.

3.8 In the event of an overpayment being made in error on the part of the Company in paying the Adviser Charge such overpayment is a debt owing to the Company. The Intermediary shall repay the whole or part of such Adviser Charge overpayment to the Company within 10 business days of receipt of the Company's written request for repayment. Unless the Adviser Charge overpayment is repaid within three months of the date of receipt of the written request, the Intermediary shall pay interest from the date of the written request on the Adviser Charge overpayment (until it is repaid) at the rate of two percent above the Royal Bank of Scotland base rate. In addition, should any Adviser Charge debt not be repaid within four months it may be reported to the appropriate authorities in accordance with any Applicable Laws and Regulations.

3.9 The Company shall have the right to off-set any money owed by the Intermediary to the Company against any money owed by the Company to the Intermediary whether in the form of Adviser Charges, commission or otherwise.

3.10 The Company shall not be required to make any payment in respect of sums owed to the Intermediary until they reach a value of £100 in respect of both Adviser Charges and any other payments payable by the Company, unless otherwise agreed in writing. In any event, the Company shall pay out any sums accumulated which are less than the £100 threshold at a frequency of not less than once a year.

3.11 The Company will normally only make Adviser Charging payments to a party who has a written agreement with us. The Company will permit Adviser Charging payments to a third party subject to:

- a) the Customer providing express written permission to the third party payment; and
- b) the third party being the agent of the Intermediary in accordance with the Applicable Laws and Regulations.

#### 4 DOCUMENTATION

4.1 The Intermediary must pass on immediately, without amendment, any documentation, information or requests which are either supplied by the Company for the benefit of or completion by the Customer, or provided by the Customer in relation to the Policy.

4.2 When required by the Company, the Intermediary must inform the Company of the name of any Regulator by which he is Authorised, the scope of his permissions and any limitations on his authorisation or registration number and his location at the time of negotiation and providing advice to the Customer.

4.3 Any property or information provided by the Company to the Intermediary in the context of these Terms of Business shall remain the sole property of the Company and shall be used by the Intermediary for the sole purpose of performing its obligations hereunder and held by the Intermediary at the absolute disposal of the Company in all circumstances.

4.4 The Company reserves the right to send communications directly to the Customer.

4.5 The Intermediary must produce to the Company on demand such records, books and accounts maintained by the Intermediary in relation to the Policies and these Terms of Business as the Company may reasonably require.

4.6 All books and documents and computer software and hardware belonging to the Company and in the possession of the Intermediary must at all times be available to the Company for inspection and be delivered to the Company by the Intermediary on demand.

4.7 Unless authority is given in writing by the Company, no Intermediary shall publish, issue, circulate or in any other way authorise or sponsor any advertisement, advertising matter, circular letters, forms or other literature relating to the Business of the Company, printed or otherwise, other than that supplied by the Company or make use of the Company's name in similar promotional activity. The Intermediary agrees that it shall not use the intellectual property of the Company without the express written permission of the Company and then only in strict accordance with the terms of that permission. The Intermediary agrees that this clause in no way implies that the Intermediary is entitled to use the name, brand or intellectual property of any entity other than the Company in any way whatsoever.

4.8 No Intermediary may sign or amend documents or Policies on behalf of the Company.

For the avoidance of doubt, the Intermediary is in no way entitled to bind the Company to any arrangement or contract including without limitation any insurance contract.

4.9 The Company and the Intermediary shall treat as strictly confidential, all information received from the other party which has been designated as confidential or which should reasonably be considered as such given the conditions under which it was provided, regardless of the medium or the form of such information

4.10 The Intermediary shall maintain appropriate records required under Applicable Laws and Regulations in relation to its obligations as a result of these Terms of Business. The Intermediary shall afford access, upon being in receipt of reasonable notice, to the Company, its auditors and advisers and any Regulator, to its records and information maintained in respect of the Policies or these Terms of Business and shall permit such persons to take copies of any relevant documents.

## 5 PAYMENT OF PREMIUM THROUGH THE INTERMEDIARY

5.1 No Intermediary is authorised to collect initial, additional, renewal or any other premiums on behalf of the Company.

5.2 If the Intermediary undertakes to the Customer to pass premium or other monies to the Company they must do so promptly. For the avoidance of doubt, the Intermediary is not authorised to transmit Customer premiums to the Company via the Intermediary's own account.

## 6 ELECTRONIC DATA INTERCHANGE

6.1 Where the Company transacts Business with the Intermediary through the medium of an Electronic Data Interchange ('EDI') (such as the "Common Trading Platform" or other similar service) the Intermediary agrees to abide strictly by the terms of its contract with the service provider of that facility and such other terms that the Company may issue to the Intermediary from time to time in writing.

## 7 VARIATION

7.1 The Company reserves the right to vary these Terms of Business from time to time, and may do so upon giving reasonable notice to the Intermediary except in circumstances where changes in Applicable Laws and Regulations make this, in the opinion of the Company, inappropriate. The Company reserves the right to request Customer details for existing Policies where needed to comply with Applicable Laws and Regulations.

7.2 Any failure by the Company at any time to enforce its rights or entitlements under these Terms of Business shall not be interpreted so as to waive or in any way forfeit the Company's ability to insist on those strict rights and entitlements subsequently, or waive or forfeit any other rights contained herein. In the event that any one or more of the provisions of these Terms of Business shall be deemed to be invalid or unenforceable, the validity and enforceability of the remaining provisions shall not in any way be affected and the Terms of Business shall apply as if the invalid/unenforceable provisions had not been included. Neither the Company nor the Intermediary shall be held to be in breach of these Terms of Business to the extent that its performance was prevented or delayed due to a force majeure event.

7.3 These Terms of Business are personal to the Intermediary and are not capable of assignment by the Intermediary without the consent of the Company.

7.4 The Intermediary shall notify the Company as soon as practicable of:

- a) any change in the name or form of the Intermediary;
- b) any change in the business address, telephone or fax number, email address or other contact details of the Intermediary;
- c) any change in the ownership, partners, directors or control of the Intermediary or any material change in its capital structure or any substantial disposal or diminution of its assets;
- d) if the Intermediary's appointment with any other insurance undertaking is terminated or otherwise ceases;
- e) if the Intermediary is in breach of any of its obligations under these Terms of Business;
- f) if the Intermediary's Authorisation is revoked, suspended or varied or a condition or limitation is imposed or notice is received by the Intermediary of the possibility of any such step;
- g) if the Intermediary or any owner, director, partner, manager or employee or agent of the Intermediary is sanctioned as a result of disciplinary action instituted by any relevant competent Regulator or governmental authority or is subject to any formal regulatory investigation or is convicted of any offence under Applicable Laws and Regulations;

- h) if the Intermediary goes into liquidation or enters into a composition or arrangement with its creditors or has a receiver or administrator (or equivalent) appointed in relation to it.

## 8 SERVICE OF DOCUMENTS

8.1 Any letter or other document shall be deemed to have been duly served on the Intermediary if it is sent by post to the last known address of the Intermediary held in the Company's records or if it is left at the offices of the Intermediary.

8.2 Any letter or other document shall be deemed to have been duly served on the Company if it is sent by post to, or left at the registered office for the time being of, the Company. However, the Company may advise the Intermediary from time to time of the relevant address or addresses at which to send correspondence or documents, which may differ depending on the type of product in question.

8.3 Any letter or other document sent by post shall be deemed to have been served within five working days from the date on which it was posted.

## 9 TERMINATION

9.1 These Terms of Business may be terminated by either the Company or the Intermediary upon giving immediate notice to the other party. Save as herein provided (and subject to the terms of these Terms of Business and in particular, the Schedules to these Terms of Business) no such termination will affect any liability of the parties to pay any sum for which they are liable under any of the provisions of these Terms of Business which shall continue for these purposes. Termination of the Terms of Business shall be without prejudice to any other accrued rights and obligations of the parties which shall survive termination.

9.2 Notice of termination must be in writing to the last known address of the other party.

9.3 Notwithstanding anything stated to the contrary elsewhere in these Terms of Business, the following events will cause these Terms of Business to cease immediately without liability on the Company's part:

- a) the Intermediary becomes insolvent or bankrupt or enters into liquidation or bankruptcy proceedings are commenced or it enters into a composition or arrangement with its creditors or has a receiver or administrator (or equivalent) appointed in relation to it or any part of its assets; or
  - b) the Intermediary being in breach of any of the terms of these Terms of Business and the Intermediary has not remedied such breach to the satisfaction of the Company (if such breach is capable of remedy) within twenty days of the date of the breach; or
  - c) the suspension, or cancellation, of the Intermediary's Authorisation or the Intermediary not being duly Authorised to carry on regulated activities in respect of the Business or the exercise by any relevant competent Regulator or governmental authority or body of any powers of intervention or restriction on the nature of the regulated activities the Intermediary may carry on; or
  - d) any event occurs or is likely to occur as a result of an act or omission of the Intermediary that results in or is likely to result in potential or actual damage to the Company or the Utmost Group; or
- e) if either the Company or the Intermediary receives a formal direction from a Regulator requiring it to terminate this arrangement; or
  - f) as a result in a change to Applicable Laws and Regulations, the performance of these Terms of Business would be unlawful or impracticable.
- 9.4 In the event of any debt due to the Company being outstanding for a period of four months or more, the Company reserves the right to terminate these Terms of Business immediately.
- 9.5 Upon termination of these Terms of Business, for whatever reason, the Intermediary will immediately cease to be authorised to distribute or market the Business of the Company and shall immediately:
- a) pay to the Company all monies properly due to the Company; and
  - b) inform all Customers holding a Policy that it no longer holds an appointment from the Company; and
  - c) cease to use any of the Company's property and return all such property to the Company; and
  - d) forward to the Company the original or Suitably Certified copies of all identification documentation for any existing cases where the Company relied on the Intermediary's introducer certificate (or equivalent) for the formation of the business relationship with the Customer.
- 9.6 The Company may make alternative arrangements in the interests of Customers holding a Policy and the Intermediary shall provide all reasonable assistance and co-operation required to effect such alternative arrangements.
- 9.7 The Intermediary acknowledges that it shall have no claim whatsoever for compensation arising out of termination of these Terms of Business.

## 10 DATA PROTECTION

10.1 In these Terms of Business, the following terms shall have the following meanings:

**"Applicable Data Protection Legislation"** means the General Data Protection Regulation (Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC) (the **"Regulation"**), and includes, without limitation, the Irish Data Protection Acts 1988 to 2018, the ePrivacy Regulation; and the European Communities (Electronic Communications Networks and Services) (Privacy and Electronic Communications) Regulations 2011, as same may be amended, replaced or re-enacted from time to time, and any other statutory instruments and regulations that may be made pursuant thereto from time to time, and including any amendments to any of the foregoing; and

**"Personal Data"**, **"Data Controller"**, **"Data Processor"** and **"Processing"** shall have the same meanings as in the Applicable Data Protection Legislation.

10.2 The parties intend that this clause 10 shall govern their relationship as Data Controllers of the Personal Data for the purposes of the Regulation, acting independently of each other to determine the purposes and means of the processing of the Personal Data, in the context of the Business; and in accordance with the Regulation and Applicable Data Protection Legislation.

10.3 In connection with the Business, the Intermediary provides services to the Company and, in connection with such services; the Intermediary and the Company each independently determine the purposes and means of the processing of the Personal Data, and each of the parties is therefore a Data Controller.

10.4 The Intermediary represents and warrants that it shall only determine the purposes and means of the processing of the Personal Data in connection with the Business for the purpose of providing services, and performing its obligations as described in these Terms of Business; or in accordance with the Company's written instructions from time to time.

10.5 The Company therefore agrees to share the Personal Data with the Intermediary, and the Intermediary agrees to use the Personal Data; in accordance with the terms of this clause

10.6 For the purposes of providing services to the Company and/or to comply with its own legal obligations, the Intermediary requires access to certain Personal Data relating to individuals which is in the possession of the Company; and in respect of which Personal Data, the Company acts as a Data Controller. The parties hereby acknowledge that access to this Personal Data is essential, in order to enable the Intermediary to perform the services contemplated under these Terms of Business; and further acknowledge that these Terms of Business shall be mutually commercially beneficial to the parties.

10.7 The sharing of Personal Data under this clause 10 is necessary in connection with the Business to support the services and/or to enable the Intermediary to comply with its legal obligations, which cannot be adequately or satisfactorily performed otherwise.

10.8 The parties shall not share the Personal Data in a manner which is in conflict or incompatible with the terms of this clause 10.

10.9 When the Intermediary accesses the Personal Data, such access will at all times comply with Applicable Data Protection Legislation. In addition, in its capacity as a Data Controller; the Intermediary is responsible for ensuring that use of the Personal Data, accessed in accordance with the terms hereof, is in compliance with Applicable Data Protection Legislation.

10.10 The parties hereby agree that for the purposes of this clause 10, the following types of Personal Data may be shared between the parties during the term hereof, namely:

- › Title
- › First and last name
- › Address
- › Date of birth
- › Place of birth
- › Gender
- › Marital status
- › Job title
- › Salary
- › Nature/place of employment
- › National Insurance Number
- › Tax Identification Number
- › Policy number

- › Physical signature
- › Nationality; and
- › Identification documentation when required by the Intermediary in connection with the Business, namely:
  - Driver's license and/or passport and proof of address, which forms of identification documentation may include the aforementioned types of Personal Data, in addition to:
  - Photograph; and
  - Applicable document identification number.

Note similar information in relation to spouses, dependents and beneficiaries may also be shared between the parties.

10.11 The Intermediary will, as far as is reasonably practical, or as required by Applicable Data Protection Legislation; anonymise or pseudoanonymise all Personal Data so as to minimise, wherever possible, the amount of Personal Data shared hereunder. Where a risk remains that a data subject may be identified from the Personal Data shared under this clause 10, the Intermediary shall deal with such data in accordance with (i) the highest standards of confidentiality; and (ii) Applicable Data Protection Legislation. For the avoidance of doubt, the Personal Data shared under the terms of this clause 10 must be sufficient so as to enable the Intermediary to perform the services contemplated under these Terms of Business; but must not be excessive, or irrelevant.

10.12 The Company shall, when disclosing the Personal Data to the Intermediary, take all reasonable measures to ensure that such Personal Data is accurate.

10.13 If a party becomes aware that the Personal Data shared under the terms of this clause 10 is inaccurate in any regard, such party shall immediately notify the other party, and provide such information as is necessary to rectify such inaccuracy; if the first party is in possession of such information.

10.14 The parties agree that data subjects have the right to obtain certain information about the processing of their Personal Data through a data subject access request in accordance with Art. 15(1) of the Regulation; in addition to the rights to request rectification, erasure or blocking of their Personal Data, in accordance with applicable provisions of the Regulation.

10.15 The parties shall maintain a record of such access requests, the decisions made in respect thereof, and any Personal Data that was exchanged between the parties in the fulfilment of same. Such a record shall include copies of the request, details of the data accessed and shared; and, if relevant, a record of any handwritten, telephonic or electronic communications pertaining thereto.

10.16 For the avoidance of doubt, the responsibility for complying with a data subject access request in accordance with the terms of this clause shall devolve upon the party who is in initial receipt of a data subject access request, and which relates to Personal Data held by that party.

10.17 The parties nevertheless agree to provide such reasonable and prompt assistance to each other (which shall be rendered within 5 business days of such a request for assistance) as is necessary to enable a party to comply with any such data subject access request; and as may be necessary to respond to any other enquiries or complaints received from data subjects.

The Intermediary shall not retain the Personal Data accessed under this clause 10 for longer than is necessary to carry out the services contemplated under these Terms of Business and/or to meet its own legal obligations. However, the Intermediary shall continue to retain the Personal Data in accordance with Applicable Data Protection Legislation and/or any statutory or professional retention periods, as applicable.

10.18 The Intermediary shall not share the Personal Data, which has been shared with the Intermediary by the Company, with a third party without the express written permission of the Company, save that the Intermediary shall be permitted to share the Personal Data with its subsidiaries, parents, and companies which are members of the same group of companies as the Intermediary and/or under common control with it. If written permission has been granted, the Intermediary shall not share or transfer the Personal Data outside of the European Economic Area, unless the Intermediary has ensured that adequate and equivalent protections will be afforded to the Personal Data.

10.19 The parties agree to implement appropriate technical and organisational measures to protect the Personal Data in their possession against unauthorised or unlawful processing and against accidental loss, destruction, damage, alteration or disclosure. The parties are under an obligation to notify any potential or actual losses of the Personal Data shared under this clause 10 to the other party as soon as possible, and, in any event, within 1 business day of the identification of any potential or actual loss, so as to enable the parties to consider what action, if any, is required in order to resolve the issue in accordance with Applicable Data Protection Legislation. The parties therefore agree to provide any reasonable assistance, as is necessary, to each other to enable the handling and resolution of any data security breaches in an expeditious manner, and which is in compliance with Applicable Data Protection Legislation.

10.20 In the event of a dispute or claim brought by a data subject or the supervisory authority concerning the processing of the Personal Data against either or both parties, the parties will inform each other about any such disputes or claims, and will cooperate with a view to settling them amicably and expeditiously. The parties warrant and undertake to, as necessary:

- i) respond to data subject access requests in accordance with the terms of this clause 10 and Applicable Data Protection Legislation;
- ii) respond within a reasonable period, and as far as is reasonably possible, to enquiries from the supervisory authority in relation to the Personal Data; and
- iii) in the case of the Company, take reasonable measures to ensure that the Personal Data shared with the Intermediary under this clause 10 is accurate.

## 11 INDEMNITY

11.1 The Intermediary hereby indemnifies and holds the Company harmless from and against all reasonable liabilities, damages, claims, taxes, costs and expenses including without limitation, legal fees which as directly or foreseeably incurred by the Company in relation to Business introduced by the Intermediary arising out of:

- a) any failure by the Intermediary to comply with the provisions of the UK Financial Services and Markets Act 2000 or any rules or regulations made thereunder; and
- b) any failure by the Intermediary to comply with the provisions of Applicable Laws and Regulations; and
- c) any material breach by the Intermediary of any of these Terms of Business or, any failure to provide promptly and accurately, the information required to be provided to the Company as described herein; and
- d) the introduction of Business by the Intermediary outside the scope of business for which the Intermediary is Authorised (or, in the case of business introduced through an Appointed Representative, outside the scope of business for which that Appointed Representative is exempt) or the Intermediary acting outside the scope of these Terms of Business or from the materially incorrect provision to the Company or a Customer of any information.

## 12 GOVERNING LAW

The Intermediary and the Company agree that these Terms of Business are subject to the laws of England and Wales and the parties hereby submit to the exclusive jurisdiction of the English courts.

**B APPLICATION FORM**

**Please complete all sections (in Black ink & BLOCK CAPITALS)**

I/We apply for Terms of Business Appointment for the purpose of introducing Assurance and Investment business to:  
 Utmost PanEurope dac, Navan Business Park, Athlumney, Navan, Co. Meath C15 CCW8, Ireland.

**1** Name of Company  
 (in full)


**2** Registered Address

Postcode	Country

**3** Address for communications  
 (if different from above)

Postcode	Country

**4** Telephone number  
 (Including international dialling code)

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**5** Fax number  
 (Including international dialling code)

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**6** Email address

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**7** Please indicate which of the following applies:

a) Is this a private Limited Company?	<input type="checkbox"/>	Yes	<input type="checkbox"/>	No
b) Is this a Public Limited Company?	<input type="checkbox"/>	Yes	<input type="checkbox"/>	No
c) Is this a Limited Liability Partnership?	<input type="checkbox"/>	Yes	<input type="checkbox"/>	No
d) Is this a Partnership?	<input type="checkbox"/>	Yes	<input type="checkbox"/>	No
e) Are you a Sole Trader?	<input type="checkbox"/>	Yes	<input type="checkbox"/>	No

**8** If a Company, LLP or Partnership, specify full names of all Directors, Members or Partners


**9** (i) Have you (or any of your fellow Directors, Members or Partners) been declared bankrupt or undergone an act of insolvency such as compounding with your creditors, or have you (or any of your fellow Directors, Members or Partners) been associated with any Companies which have gone into liquidation or receivership?  Yes  No

(ii) Have you (or any of your fellow Directors, Members or Partners) been the subject of any court action relating to financial misconduct or any act of dishonesty?  Yes  No

**If YES, to any of the above please provide full details using a separate sheet.**

**10** Please provide details of authorisation for each jurisdiction where you are authorised.

<b>a)</b> Name of regulatory body	
<b>b)</b> Membership number	
<b>c)</b> Name of regulatory body	
<b>d)</b> Membership number	
<b>e)</b> Name of regulatory body	
<b>f)</b> Membership number	



**D DECLARATION**

**IMPORTANT** - This agreement is personal to the business organisation/individual named in B1 and any change to this should be notified to Utmost PanEurope dac immediately. Persons signing this application should ensure they are properly authorised to sign on behalf of the business organisation concerned. If other persons are authorised to sign on behalf of the Intermediary, please enclose an up to date certified copy of the authorised signatory list including the full names, and specimen signatures of such persons.

The Intermediary and Company each have independent purposes and means for processing the Relevant Personal Data and that accordingly each party acts as an independent Controller in relation to its own respective processing. It is further acknowledged by the parties that in relation to the Relevant Personal Data the parties are not joint Controllers and neither party is a Processor on behalf of the other.

The Intermediary shall be responsible for ensuring that, in accordance with the Applicable Data Protection Laws, it has provided all necessary fair processing information, including, but not limited to, the Company's data protection notice, to all relevant Data Subjects and has taken appropriate steps to legitimise the sharing of the Relevant Personal Data to enable the Company to process the Relevant Personal Data for purposes compatible with the lawful purposes under the legislation.

**Before you give us your personal information please note that Utmost PanEurope dac has a Data Privacy Notice. This explains what your data protection rights are and how and why we use your personal information.**

I/we understand and agree that the Personal Data of individuals (the "Data Subjects") supplied by us in connection with this application or under these Terms of Business will become part of the Personal Data held by the Company in accordance with the provisions of the Applicable Data Protection Legislation, including any subsequent amendments to such legislation and other applicable data protection related legislation or regulations as enacted from time to time.

The information supplied in relation to Data Subjects, including Sensitive Personal Data will be used by the Company for the purpose of setting up our/my Terms of Business and continuing administration. Note, however that it may no longer be possible for the Company to provide the Services/Business without the required consent.

I/We agree that the Personal Data supplied by me/us may be transferred to the Company's associated companies within the Utmost Group or other organisations acting on the Company's instructions, including those located inside or outside the EEA, for analysis, management purposes and statutory returns. This data may be anonymously used for business reporting, statistical and business research, however Anti-Money Laundering personal data will not be used in this manner.

I/We also understand (and I/we have explained to all Data Subjects) that where any Personal Data is being transferred to any third party mentioned here, the data may be transmitted electronically by email.

I/We confirm that that information and answers given above are true to the best of my/our knowledge, and that I/we authorise Utmost PanEurope dac to seek any references which may deem appropriate in order to evaluate this application.

In signing the declaration I/we confirm that I/we have obtained or will obtain the consent of all Data Subjects to allow the Company to process my/our application using the Personal Data that I/we have provided or will provide.

BY SIGNING THIS DECLARATION I/WE CONFIRM THAT I/WE HAVE READ, UNDERSTOOD AND AGREE TO THE TERMS OF BUSINESS SET OUT IN SECTION A ATTACHED, IN PARTICULAR SECTION 10 (DATA PROTECTION).

**Note: If more than one person is authorised to sign on behalf of the Intermediary, please send a full list of authorised signatories (including specimen signatures)**

	Authorised signatory 1	Authorised signatory 2	
<b>SIGNATURE</b>	<input type="text"/>	<input type="text"/>	<b>SIGNATURE</b>
Print full name (BLOCK CAPITALS)	<input type="text"/>	<input type="text"/>	<p>If there are more than two authorised signatories please photocopy this page and after signing the additional copies attach it securely to the form.</p> 
Title	<input type="text"/>	<input type="text"/>	
Date	<input type="text" value="d"/> <input type="text" value="d"/> <input type="text" value="m"/> <input type="text" value="m"/> <input type="text" value="y"/> <input type="text" value="y"/> <input type="text" value="y"/> <input type="text" value="y"/>	<input type="text" value="d"/> <input type="text" value="d"/> <input type="text" value="m"/> <input type="text" value="m"/> <input type="text" value="y"/> <input type="text" value="y"/> <input type="text" value="y"/> <input type="text" value="y"/>	

Post this form to: **Utmost PanEurope dac, Navan Business Park, Athlumney, Navan, Co. Meath C15 CCW8, Ireland.**