

Terms of Business Agreement

The Baltic Exchange
38 St Mary Axe London
EC3A 8BH
Tel +44 (0) 207 398 9000

AquaMercantile Limited Terms of Business – Wholesale
January 2014

Terms of Business - Wholesale

1. Introduction

- 1.1 AquaMercantile Limited ("AqM") is an Insurance and Reinsurance Broker partnered at Lloyd's of London and incorporated in England and Wales.
- 1.2 AqM is authorised and regulated by the Financial Conduct Authority ("FCA"). We are permitted to advise on and arrange general insurance contracts: our FCA Reference Number is 311727, and our regulatory details can be verified by visiting the Financial Services Register website at www.fca.org.uk/register, or by telephoning the FCA on +44 (0) 207 066 100.
- 1.3 Our aim is to meet your, and your client's, needs in the most effective and efficient manner in fulfilling that objective, we will exercise the skill and care to be expected of a prudent and professional insurance broker in providing independent advice, placing insurance business and collecting claims. Our dealings with you will be open and fair, and we will be conducted to the highest standards of integrity.
- 1.4 This document sets out the terms upon which AqM agrees to act for you, and is intended to have contractual effect between us:

please, therefore, read the document carefully, since if you instruct us to act on your behalf, these terms will define our respective obligations in the absence of any written variation to them, or the existence of any other written agreement between us.

2. Terminology

- 2.1 In order to avoid repetition of words used in this document, the term "insurance" includes Reinsurance and other risk transfer products and the term "Insurers" includes any insurer, reinsurer or other category of risk bearer, as appropriate to your requirements.

3. Insurance Requirements and The Duty of Disclosure

- 3.1 We will rely on you to provide such information about your client's circumstances and objectives as might reasonably be expected to be relevant to enable us to place insurance to meet their requirements.
- 3.2 It is your responsibility to ensure that the information provided by you, including that in any proposal form, is accurate and discloses all 'material facts'. Material facts are those which would influence any prudent underwriter's decision as to whether to underwrite the policy or the terms and conditions to impose.

- 3.3 Failure to disclose material facts or circumstances known to you or to your client (or which ought to be known to you or your client) may invalidate the cover in whole or in part or enable insurers to repudiate liability to pay claims. The duty to disclose continues during the policy period and at any subsequent renewal. Any such changes to material information must be notified immediately.
- 3.4 The terms and conditions of any policy of insurance may also contain express disclosure conditions or warranties which must be strictly complied with.
- 3.5 If you are in any doubt as to whether information is material, you should disclose it.

4. Information About The Proposed Insurance

- 4.1 We will take diligent and timely steps to implement your instructions and we will place insurance at the best available terms and price with one or a number of insurers selected on the basis of our knowledge and experience of the market. In the interests of obtaining a competitive quote we may also place the whole or a proportion of the insurance on the basis of a particular facility we have with insurers, known as a "Lineslip", which may include a commission payable to AqM according to the profitability of the business. If any inability to fulfil your instructions becomes clear to us, we will bring this to your immediate attention.
- 4.2 As an insurance professional, we shall assume that you understand the terms, scope and effect of the proposed insurance unless you inform us to the contrary. We will expect you to explain to your client the key features of the insurance proposed, including the essential cover and benefits, any significant or unusual restrictions, exclusions, conditions or obligations and the period of the cover, and the consequences of non-compliance with them. This shall not be our responsibility, even in situations where we may have direct contact with your client.
- 4.3 It is particularly important that you explain to your client the obligations imposed on them by terms expressed as warranties or conditions precedent or similar terms, and that failure to comply strictly with them may result in a claim being rejected, even if the breach of warranty or condition precedent or like terms does not cause any prejudice to the insurers.
- 4.4 When we put up insurers' terms to you, we will ensure that they are accurately presented, but we cannot guarantee that the insurers will ultimately write the risk on those terms since, under some systems of law, including English Law, the quotation does not constitute an "offer".

5. Placement and Confirmation of Cover

- 5.1 Instructions to bind cover must be received in writing.
- 5.2 We will only place insurance with Insurers who satisfy certain minimum criteria assessed by the leading rating agencies, or for whom you have given us specific approval to use. Whilst the information upon which we rely is obtained from sources considered to be reliable, and we use all reasonable endeavors to review accurately that information in order to protect the interests of our clients, predictability of solvency cannot be, and is not, guaranteed by us. The financial standing of any Insurer can, of course, change after the insurance contract has been incepted. We do not guarantee the ongoing ability of any insurer to meet their contractual obligations.
- 5.3 When we have bound cover, we will notify you in writing to that effect, and confirm the names of the insurers with whom it has been placed.

- 5.4 You should not assume that any cover has been placed, or any amendment agreed to (even if the intended inception date has passed), unless and until you have received written confirmation from us to that effect. In the event that the complete placement of a risk takes place over a number of days, we shall endeavor to report to you from time to time on the exact status of the placement.

6. Client Documentation

- 6.1 **Evidence of Cover**
We will provide to you in writing, in a timely manner, confirmation of (1) the terms of the insurance contract we have arranged and (2) the Insurer(s) with whom it has been placed. Such confirmation may, according to the type of business placed, be in the form of a Broker Insurance Document prepared by us as your agent, or a certificate, policy of insurance or insurer contractual documentation issued by or on behalf of the Insurer(s).
- 6.2 You should check the evidence of cover and satisfy yourself that it is entirely in accordance with your understanding and instructions; your review should include checking that use of the insurer(s) is acceptable having regard to local taxation and permitted by the relevant regulatory authorities. Anything at variance with your understanding and instructions should be advised to us immediately and any correspondence should quote our insurance reference.

Amendments

- 6.3 Any amendments to the insurance contract will be confirmed by the issue of an Addendum to Broker Insurance Document or endorsement to the certificate, policy of insurance or insurer contractual documentation, as appropriate, unless such amendment is reflected within the documentation already issued. A debit or credit note will also be issued where the amendment results in a change of premium.

Retention of Evidence of Cover

- 6.4 Evidence of cover documents are important documents and your client should keep them, and any amendments to them, in a safe place, since claims may arise under insurance contracts long after their expiry date.

Debit Note

- 6.5 The Debit Note will show the gross premium, any commission or discount to you and the net amount of premium payable to us. We will also notify you if Insurers require the net premium to be paid directly to them.
- 6.6 Where relevant, any tax(es) to be remitted to appropriate authorities through us and/or tax(es) which may be deducted from the premium payable will also be shown on the Debit note.
- 6.7 Payment must be made in the currency invoiced. This includes, where we have been able to identify them, any taxes and/or other similar charges which insurers are obliged to collect or your client is required to pay in respect of the contract of insurance. Responsibility for accounting for taxes and/or other similar charges is a matter for your clients and their insurers. We do not accept such responsibility unless there is a legal requirement for us to do so in a specific jurisdiction or where there is specific agreement in advance with a particular client or their insurers as appropriate.

7. Terms of Premium Payment

- 7.1 In order for us to meet the premium payment terms of the insurers, premiums must be settled to us in cleared funds by the payment date(s) which we will notify to you.

- 7.2 In certain circumstances, Insurers may stipulate special premium payment terms or warranty which, if not strictly met, may result in the cover being cancelled with immediate effect.
- 7.3 The terms may also contain a "Broker's Cancellation Clause" which gives us independent right enabling us to cancel the policy if there has been any breach of the payment terms.
- 7.4 You are responsible for paying promptly without deduction (even if there may be claims due on the account in question or other accounts) all of our invoices for premiums, duties, fees and the like to enable us to make the necessary payments to Insurers in respect of your clients insurances. For the avoidance of doubt, we have no obligation to fund any such monies on your behalf, and have no responsibility for any loss which may be suffered as a result of Insurers cancelling the policy or taking any other prejudicial steps as a result of the late payment of any money due, if such delay is substantially attributable to you or your client.

8. Methods of Payment

- 8.1 Insurance contract monies should be and normally are settled on an individual Debit Note or Credit Note basis. Statements of Account are issued periodically where there are monies due for payment to us we may have monies in account which are owing to you.
- 8.2 Payments should be made in the same currency in which they have been invoiced to you where possible.

Wire Transfer

- 8.3 All payments to us should be made by wire transfer to our appropriate Bank Accounts in accordance with the details set out on our Debit Notes and Statements, together with a remittance advice transmitted promptly to your usual AqM accounts contact showing the item(s), our transaction number(s) and the amount(s) being paid. This will enable us to identify, upon receipt of the payment, to which Insurers we are to remit funds. Wire transfers should be payable to AquaMercantile Limited and the relevant bank account number quoted.

Cheques/Bankers Drafts

- 8.4 Where a wire transfer is not appropriate or available, alternative payment methods, such as a cheque or bankers draft, will be agreed with you upon application to your usual AqM contact.

9. Client Money

- 9.1 The FCA requires us to hold all client monies, including your client's, in a trust fund, the purpose of which is to protect the client in the event of our financial failure, since in such a circumstance, our general creditors should not be able to make claims on client money as it will not form part of our assets.
- 9.2 We will hold monies in a Non Statutory Client Money Trust in accordance with CASS 5.4 as defined in the rules of the UK Financial Conduct Authority. Under these arrangements, we assume responsibility for such monies and are permitted to, and may:-
- 9.3 Use such monies to cross fund clients' premiums and claims. However, we are not entitled to use client monies to pay ourselves commissions before we receive the relevant premium from the client.
- 9.4 For the purpose of effecting a transaction on your behalf, pass your money to another Intermediary, including those residents outside the United Kingdom who would therefore be subject to different legal and regulatory regimes. In the event of a failure of the intermediary, this money may be treated in a different manner from that which would apply if the money were held by an intermediary in the United Kingdom. Please inform us if you do not agree to this.
- 9.5 Retain for our own use, any interest earned on client money held by us and any

investment returns on any segregated designated investments.

- 9.6 Your client's money will be held either as agent of the insurer or agent of the client, depending on which insurer(s) your client's insurance has been placed with.
- 9.7 Where we hold money as agent of the insurer, this means that when we have received your cleared premium, it is deemed to have been paid to the insurer.

10. Claims

- 10.1 It is imperative that you familiarise yourself with the terms of all claims requirements, and advise your client accordingly.
- 10.2 If the notification requirement is expressed in terms of a condition precedent or warranty, it must be strictly complied with. We are not the agents of Insurers for this purpose: it is the date when insurers themselves receive notification of the claim that determines whether a time limit had been complied with, and we must therefore be advised by you in good time to enable us to comply with such time limits on your client's behalf.
- 10.3 It is essential that you notify us immediately in writing of any claim, or circumstance likely to give rise to a claim, as failure to do so may entitle Insurers to deny liability for the claim. Even if the likelihood of a "circumstance" giving rise to a claim is considered to be remote, it should still be advised to us. Notification should be either to your usual AqM contact; alternatively, should be marked for the attention of "The Claims Department".
- 10.4 We will not pay claims to you or your client until such time as they have been paid to us by Insurers.
- 10.5 You should be aware that we may perform a limited service for Insurers in relation to Insurers' claims advisers (e.g. surveyors, adjusters and lawyers) by relaying instructions, disseminating reports and collecting fees or other disbursements, where we consider this should not create a conflict of interest.
- 10.6 Where the client of their representative request AqM pursue a claim against (re)insurers, AqM is entitled to charge a discretionary fee of 5% of the sums recovered (+VAT if applicable). This fee corresponds to the additional time and effort deployed by AqM to discuss and negotiate with (re)insurers that the whole or part of the claim should be paid. This fee is immediately offset from the collected funds, with the balance urgently paid to the client or its representative. If claims services are required on policies issued before our appointment, we also reserve the right to charge a fee of 5% of the sums recovered (+VAT if applicable).

11. Conflicts of Interest

- 11.1 As your agent we will always endeavor to act in you and your clients best interests. However, circumstances may arise where there is a potential for the interests of two or more of our clients to be in conflict or where the interests of AqM may conflict with those of a client or other party to whom we have obligations.
- 11.2 Should this situation arise we will advise you and seek your further instructions with regard to the basis of our appointments by you.

12. Use of Sub-Agents

- 12.1 Where we consider it to be appropriate and for your benefit, it may be necessary for us to request another more localised or specialist insurance broker or intermediary to act as our sub-agent and assist us in the placement of an insurance contract. For example, many countries require the use of local intermediaries to access local insurance markets. In such cases, we will provide specific instructions to such sub-agents so as to meet your client's insurance requirements.

13. Remuneration & Other Income

- 13.1 We receive remuneration for our insurance broking services by way of brokerage or commission which is a proportion of the premium determined by Insurers on the insurance placed, and is included within it; or by way of a fee negotiated and agreed with you. If we receive both, we will firstly obtain your written permission.
- 13.2 In the handling of our clients' premiums, or in the process of collecting claims for them, we may earn interest or benefit from investment income or from foreign exchange differentials. Any such interest or benefit will accrue to AqM.
- 13.3 We may also receive expense allowances from Insurers for managing and administering certain lineslips, covers, binding authorities and other similar facilities, including claims which may arise thereunder, all of which we believe enables a more efficient service to be provided to those clients for whom we consider the use of such facilities appropriate. Such Insurers may also allow us a commission according to the profitability of the business which we are placing with them, or administering on their behalf.
- 13.4 Insurers with whom we effect insurance on your clients behalf may on occasions request us to purchase facultative reinsurance for their account. This reinsurance is a separate and distinct contract with those insurers, for which remuneration may be paid separately by insurers or reinsurer(s).
- 13.5 If you wish to know precisely what our remuneration is in respect of any particular placement which we make on your behalf, please let us know and we will provide that information to you including, if applicable in respect of certain specialist business lines, commission earned based on the productivity of the business, and the basis of calculation.
- 13.6 In the event of a return of premium being due to you for whatever reason (including insurers purported to avoid the insurance, or your cancellation mid-term) then, as our brokerage or fee is earned at placement, we reserve the right to return such premium to you net of the whole or part of our brokerage or fee if we consider that it is reasonable in the circumstances to do so, for example because the return premium does not arise by reason of any act or omission attributable to AqM.

14. Money Laundering, Know Our Client and sanctions

- 14.1 We are subject to UK legislation and regulations which require us to obtain evidence of the identity of clients for whom we act at the start of a business relationship or in respect of certain transactions. In order to meet our obligations in this respect and to provide a safeguard for our company and our clients against the risk of financial crime, we ask you to let us have a completed AqM Producing Agent Questionnaire, and provide us with a copy of your most recent audited accounts and evidence of state or government regulation. We may also ask you to update such information from time to time.
- 14.2 Any insurance transaction or payment to or from a country subject to any form of Sanction may be prohibited or subject to restriction.
- 14.3 We are obliged to report to the National Crime Agency (NCA) any evidence or suspicion of money laundering at the first opportunity and we are prohibited from disclosing any such report.

15. Bribery and Corruption

- 15.1 AqM has no tolerance for bribery and corruption and this policy extends throughout the company for all of its dealings and transactions in all countries in which we operate. Our anti-bribery programme is constantly updated in line with changes in the law, changes in our

business and our reputational demands. All employees are required to comply with this policy.

- 15.2 We expect that you shall be conscious of AqM position on Bribery and take reasonable steps to maintain an anti-bribery programme which is consistent with your law and jurisdiction.

16. Confidentiality

- 16.1 Information which you pass to us will be treated in strict confidence and will only be disclosed for the purpose of negotiating, maintaining or renewing the insurance which we have been instructed to place, unless you have consented otherwise.
- 16.2 AqM agrees that it shall not use any such confidential information except in connection with the performance of its services under this Agreement and that it shall not disclose such confidential information to third parties (whilst such information remains confidential and is not within the public domain).
- 16.3 In some circumstances the information you disclose to us may be commercially or price sensitive, the disclosure of which may be regulated or subject to certain specified processes as a matter of law. We rely upon you to advise us where this is the case so that we can put in place appropriate additional safeguards to ensure our compliance with such laws and regulations.
- 16.4 Disclosure may also be made to our regulator to fulfil its regulatory function; or where we are otherwise legally obliged to disclose the information.
- 16.5 We may disclose such confidential information as may be required under any applicable law or directive to disclose such confidential information or pursuant to any order of any court of competent jurisdiction or governmental / regulatory authority.
- 16.6 We are registered under the UK Data Protection Act 1998, and will handle you and your personal data in accordance with the provisions of that Act. Depending on the circumstances of the insurance, the disclosure of personal information to any of the above may involve a transfer outside the jurisdiction of the European Economic Area.

17. Complaints Procedure

- 17.1 If, at any time, you have a complaint regarding a contract of insurance or our service, you should, in the first instance, contact the AqM Compliance Officer by post or telephone or by emailing jmh@aqmltd.com quoting the relevant policy number.
- 17.2 If possible we will endeavor to rectify the problem immediately. If we are unable to deal with the problem immediately, your complaint will be dealt with as outlined.
- 17.3 Your complaint will be acknowledged, in writing and we will tell you who will be dealing with your complaint and how long it should take to provide a final response. If we are unable to respond with a final response within the stated time frame, we will keep you informed of the situation.
- 17.4 If, having received our final response you are unhappy with the outcome of the complaint or you are unhappy with the way we handled it, you may be entitled to refer the matter to the Financial Ombudsman Service (FOS). Further information on the Financial Ombudsman Service can be found at www.financial-ombudsman.org.uk or alternatively you can write to FOS at: Financial Ombudsman Service, Exchange Tower, Harbour Exchange Square, London, E14 9SR, United Kingdom.

18. Compensation Schemes

- 18.1 We are covered by the Financial Services Compensation Scheme (FSCS). Your client

may be entitled to compensation from the FSCS if we cannot meet our obligations. Eligibility for the FSCS will depend upon the type of business and the circumstances of the claim.

- 18.2 You can contact the FSCS at: Financial Services Compensation Scheme, 7th Floor, Lloyds Chambers, Portsoken Street, London E1 8BN, United Kingdom, alternatively full details and further information on the scheme are available at www.fscs.org.uk.

19. Force Majeure

- 19.1 We shall not be liable for any delay or non-performance of our obligations under these Terms of Business, if the delay or non-performance is caused by an event beyond our control (a "Force Majeure Event"). In the event of a Force Majeure arising we will notify you as soon as reasonably practicable.

20. Termination, Cancellation and Transfer

- 20.1 Our agreement may be terminated by either of us giving 30 days' notice in writing to the other.
- 20.2 If our services are terminated or involvement with a particular policy placement ceases because it is cancelled or it is transferred midterm or at renewal to a new broker, we reserve the right to retain any fees or brokerage received or to claim any that are still payable as due for placing and arranging the policy.
- 20.3 Relevant files and claims files for the run-off will be transferred to the new broker as appointed by you.

21. Law and Jurisdiction

- 21.1 These Terms of Business shall be construed in accordance with the law of England and Wales, and any dispute between us shall be subject to the exclusive jurisdiction of the Courts of England and Wales.

www.AqMltd.com

AquaMercantile Limited is authorised and regulated by the Financial Conduct Authority

The Baltic Exchange
38 St Mary Axe London
EC3A 8BH

The information contained in this Document is selective and is subject to updating, expansion, revision and amendment.

Neither AqM nor its affiliated partnerships or bodies corporate, nor the directors, shareholders, managers, partners, employees or agents of any of them, represent or warrant and expressly disclaim any and all liability in relation to or based on the accuracy or completeness of this Document or any other written or oral information made available to the Recipient or their advisers, including (without limitation) in respect of their use of such information.

By publication of this Terms of Business Agreement, it is deemed they are acceptable to our Clients unless expressly communicated to us prior to our conducting business on their behalf

