

# Terms of Business

## 1. Scope of these terms

- 1.1 These Terms of Business set out the terms and conditions on which the Prudential Group of Companies (meaning any UK or Republic of Ireland based insurance or life assurance company (the "Company") which has Prudential plc as its ultimate holding company) will accept business from an Independent Financial Adviser or Financial Adviser Firm (each a "FA") authorised under the Financial Services and Markets Act 2000 ("FSMA"). The "Company" does not include Prudential Health Limited for which separate terms of business apply.
- 1.2 The Company reserves the right, at its discretion, not to accept business from a FA. Under normal circumstances, and subject to the need to respect confidentiality and to comply with applicable law and regulation, reasons for such a refusal will be given by the Company. The Company will not accept business from a FA which ceases to be authorised under FSMA or which does not, or ceases to, hold the appropriate Part IV FSMA permission(s) granted by the Financial Services Authority ("FSA") to provide clients with services which are regulated under FSMA and/or any other services (the "Regulated Services") and introduce business to the Company in accordance with applicable law and regulation and these Terms of Business. Where a FA commits a material breach of any of these Terms of Business, the Company reserves the right (in its absolute discretion) to terminate these Terms of Business on written notice to the FA.

- 1.3 The FA acts as the agent of the client in relation to all aspects of the business it introduces to the Company except where it is necessary to give effect to the personal responsibilities of the FA to the Company as set out in these Terms of Business.

## 2. Commission

- 2.1 Unless instructed otherwise by the FA and no other person has a valid claim to such commission, the Company will credit or pay commission on business introduced to the Company by the FA and accepted by the Company by transfer to the bank account notified by the FA to the Company (an exception to this is the commission paid on business accepted by Prudential Unit Trusts Limited where commission payments will be made by cheque). The Company will also credit or pay commission to the FA on business introduced by another FA where that other FA has relinquished his right to the commission in respect of that business in favour of the FA and no other person has any valid claim to such commission. All commission is due from the Company and will be paid by the Company to the FA, and the FA shall disclose the level of all such commission payments to its clients in accordance with applicable law and regulation (in particular the provisions of the FSA Handbook of rules and guidance (the "FSA Rules")). With the agreement of the Company, on the instruction of the FA commission can be paid to a firm that is not a FA on terms which

will be set out from time to time in an addendum to these Terms of Business. All commission payments are subject to the servicing FA still being authorised by the FSA to transact regulated business and the FA still holding an agency with the Company.

- 2.1.1 Subject to the provisions of Paragraph 2.1, for the avoidance of doubt the following will apply:
- (A) The Company will pay commission to the servicing FA in respect of increments to existing policies received directly by the Company from clients unless the Company is instructed not to do so by any client.
  - (B) The Company reserves the right not to pay commission to the servicing FA on the vesting of existing pension contracts. Commission will be paid if the Company receives evidence that the servicing FA was involved in the transaction made by the client.
  - (C) The Company will not commute future renewal, level or fund related commission payments.
  - (D) For any renewal, level or fund related commission to be paid, the policy must be in force on the day the commission is due. No proportionate payments will be made in respect of the time the policy is in force if the policy is terminated for any reason (including a claim on the policy) prior to the commission payment becoming due.

- (E) The Company will pay renewal commission where applicable for the ongoing servicing of the business introduced. The FA acknowledges that any commission in respect of ongoing servicing provided by the FA shall be due only from the Company.
- (F) The Company reserves the right not to pay commission on policies that were originally sold by the Company's Direct Sales Force and the Company has subsequently received notification from the client that the client has changed his servicing adviser to a FA.
- (G) Any commission paid in respect of pension policies should be in respect of pension advice only and not in relation to any other product advice.
- 2.2 Commission will be credited or paid at the rates published by the Company from time to time. The published rates of commission may be amended from time to time. Any variation in the rates of commission payable from our published rates will be notified to the FA in writing.
- 2.3 If any commission is credited or paid on the basis that a premium or premiums has been, or will be, received by the Company and that premium or those premiums are not received, or are received, but are subsequently returned by the Company, the relevant portion of commission credited or paid will be due to the Company from the FA. The Company reserves the right not to pay commission to the FA in respect of, and to reclaim from the FA commission paid on, any policy where the relevant client has surrendered, partially surrendered, lapsed or taken a withdrawal from a similar policy sold by the Company or has a similar policy in arrears with the Company. With respect to single premium policies, if the amount invested into the new or existing policy is greater than the surrender or withdrawal payment made, commission will be paid on the amount by which the amount invested exceeds the surrender or withdrawal payment made by the Company. The Company also reserves the right not to pay commission to the FA in respect of, and to reclaim from the FA commission paid on, policies that are surrendered or partially surrendered within 12 months of the policy being issued or in respect of increments to existing policies within 12 months of the increment being accepted by the Company. This period of 12 months may be altered by the Company for specific products, details of which will be published from time to time.
- 2.4 The Company's statement of account (which may be contained in writing, tape, direct on line communication to computer terminal or any other method of communication determined by the Company) shall be the conclusive proof of commission due to the FA, in the absence of manifest error.
- 2.5 If the Company receives notification, either from the client or the previous financial adviser of the client (the "Original FA"), that the client has changed his servicing adviser, the following will apply (for the purposes of this paragraph 2.5 an increment to an existing policy shall be treated as a new policy):
- 2.5.1 For business commenced by the Company (excluding Prudential International products) on or after 17 July 2005, any outstanding initial or fee based commission will be paid to the Original FA. All other commission will be payable to the new servicing FA. For this purpose the first five years' commission payable on the Company's Premium Option range of pension products will be treated as initial commission. For Prudential International products, in respect of business commenced by the Company on or after 17 July 2005, any outstanding initial commission will be paid to the Original FA. All other commission will continue to be paid to the Original FA for a period of five years from commencement. Thereafter it will be paid to the new servicing FA.
- 2.5.2 For products which were sold through the Prudential Group of Companies prior to its acquisition of the Scottish Amicable Group of Companies and commenced by the Company prior to 17 July 2005:
- (A) Any level or fund related commission and any outstanding initial commission will continue to be paid to the Original FA unless instructed otherwise by the Original FA.
- (B) All other commission will be payable to the new servicing FA.
- 2.5.3 For products which were sold through the Scottish Amicable Group of Companies prior to its acquisition by the Prudential Group of Companies:

- (A) Any renewal, level or fund related commission on policies effected after 30 June 1995 but prior to 17 July 2005 which is payable in the first five years of the policy (and any outstanding initial commission) will continue to be paid to the Original FA with the exception of all commission on new business, and increases to existing business, for unit trusts, PEPs and ISAs (including transfers of any such products) effected after 12 July 2002, fund-related commission on Flexible Retirement Portfolios and renewal, level and fund related commission on Premier pension policies.
- (B) Any renewal commission on non-pension policies effected before 1 September 1992 will continue to be paid to the Original FA owing to pre-existing terms of business from that time, which guarantee this continuation.
- (C) All other commission will be payable to the new servicing FA.
- (D) For the avoidance of doubt, the practice set out in Paragraphs 2.5.3. (A), 2.5.3. (B) and 2.5.3. (C) shall also apply in respect of the relevant products (including Prudential International products) even where such products were sold after the acquisition of the Scottish Amicable Group of Companies by the Prudential Group of Companies.
- 2.5.4 In the event of the FA ceasing to hold the appropriate Part IV FSMA permission(s) required by the FSA in order to provide Regulated Services to clients and introduce business to the Company in accordance with applicable law and regulation, the Company may, at its sole discretion, terminate these Terms of Business on written notice to the FA.
- 2.5.5 In the event a FA or a client notifies the Company that the FA is no longer to be the agent of the client or in any other circumstances where the FA is no longer able to act for the client in its dealings with the Company and/or to advise on the Company's products, the Company reserves the right to cease paying renewal, level and fund related commission to the FA.
- 2.6 Where indemnity commission terms have been requested and agreed, this paragraph 2.6 sets out the terms on which the Company is prepared to make such commission payments:
- 2.6.1 The full amount of such commission shall be due and owing to the FA upon receipt by the Company of the first premium due in relation to business introduced by the FA and accepted by the Company.
- 2.6.2 Indemnity commission is calculated by discounting the corresponding commission which would have been payable on non-indemnity terms.
- 2.6.3 If an agreement is terminated, other than because of a valid claim on the policy, by reason of failure to pay a premium, the Company will require prompt repayment of commission from the date of termination to the date on which the premium or other sum in respect of which commission was paid would have been due had the agreement not been terminated. The discount rate for this purpose is the discount rate as at the date the agreement was made or the date the increase in premiums became payable. No discounting shall be applied in respect of fee based commission. "Termination" in this context means termination of the agreement as originally made and includes reductions in premiums and policies being made paid-up. Any such repayment will be due upon notice being given to the FA by the Company that the premium has not been paid. The Company shall give such notice as soon as is reasonably practicable after becoming aware that a premium has not been paid when due.
- 2.6.4 If the FA is a partnership and that partnership is dissolved, the FA shall notify the Company immediately. As at the date of dissolution, at the Company's sole discretion:
- (A) the indemnity commission arrangement shall cease;
- (B) agreements in respect of which indemnity commission has been agreed shall be deemed to have been terminated in accordance with paragraph 2.6.3;

- (C) the partners of the FA immediately before dissolution shall owe and shall promptly repay the Company commission calculated in accordance with paragraph 2.6.3 (such liability shall be joint and several); and
  - (D) the Company will consider its agency account with the FA to be closed and will no longer accept further business from the FA in accordance with these Terms of Business.
- 2.6.5 The FA shall notify the Company immediately upon any insolvency proceedings being taken against the FA, or against any of its directors or partners. As at the date of receipt of such notification by the Company, at the Company's sole discretion:
- (A) the indemnity commission arrangement shall cease;
  - (B) agreements in respect of which indemnity commission has been agreed shall be deemed to have been terminated in accordance with paragraph 2.6.3;
  - (C) the FA shall owe and shall promptly repay the Company commission calculated in accordance with paragraph 2.6.3; and
  - (D) the Company will consider its agency account with the FA to be closed and will no longer accept further business from the FA in accordance with these Terms of Business.

- 2.6.6 The Company reserves the right not to pay indemnity commission terms for identified policies from time to time, and in particular, policies on the lives of the principals, directors, partners or associates of the FA.
- 2.7 If commission is credited to an account held in respect of the FA, the Company shall arrange payment of any amount due by the FA by debiting that account with the amount due. If this results in a debit balance, the FA will be required to pay the Company the balance due. If the FA is a branch or subsidiary of a FA, the Company will require payment of any amount due from the parent FA in the event of the branch or subsidiary not making such payment. The Company charges interest from the outset on debit commission balances which have been outstanding for three months and notifies the FSA and any other relevant regulatory body of any such outstanding balances in accordance with applicable law and regulation. The interest rate applicable may vary and any variations will be notified to the FA by the Company as appropriate.
- 2.7.1 Where the FA holds more than one account with the Company, the Company reserves the right to deduct the amount due from any account held by the FA.
- 2.7.2 Where commission payments are split between more than one party or paid to another party the FA is responsible for any debts owing to the Company.

### 3. Documentation and intellectual property

- 3.1 The FA acknowledges that it must pass on immediately without amendment any documentation which is either supplied by the Company for the benefit of, or completion by, the client, or is provided by the client in relation to an agreement (whether existing or prospective) between the client and the Company.
- In addition, the Company may from time to time supply the FA with marketing or other promotional material in relation to its products and services which the FA shall pass on to its clients in a timely manner without amendment. The addition of the FA's name and address to any such documentation or material shall not constitute an amendment.
- 3.2 The FA shall not, on the Company's behalf, vary any plan, policy, application form, endorsement, contract note, certificate of receipt or any other document relating to an agreement with a client unless the Company has previously given the FA written permission to do so.
- 3.3 All correspondence, documentation, papers, records, computer software and hardware and other items of property belonging to the Company and in the possession of the FA (the "Company Documentation") must at all times be available to the Company for inspection and be delivered promptly to the Company on request or in any event upon termination or cessation of the relationship between the FA and the Company set out in these Terms of Business.

Where such inspection or request for delivery of any Company Documentation is made by the Company as a result of a request by the FSA and/or any other relevant regulatory body, the FA acknowledges that it may be necessary for it to allow employees and/or representatives of the FSA and/or such other relevant regulatory body to have access to its premises for the purposes of conducting an inspection of the Company Documentation.

- 3.4 The Company reserves the right to send communications direct to the client in relation to existing agreements, but will not issue a direct mailshot to clients if the FA has indicated in writing otherwise. For the purposes of this paragraph 3.4, a "direct mailshot" shall include promotional and marketing materials but will not extend to the Company's client magazine or any communications which relate to an existing agreement between the Company and a client. For the avoidance of doubt, the Company reserves the right to issue a direct mailshot to clients if a client or a FA notifies the Company that the FA is no longer to be the agent of the client or if the FA is no longer able to act for the client in its dealings with the Company and/or to advise on the Company's products.

- 3.5 In providing regulated services to clients and introducing business to the Company in accordance with these Terms of Business, the FA acknowledges that it is solely responsible for, and shall provide clients with, such information, documentation and other materials as are required in order to satisfy its obligations under applicable law and regulation, including the FSA Rules (the "FA documentation"). The Company bears no liability for the content of the FA documentation and expresses no opinion as to its compliance with applicable law and regulation.

- 3.6 The FA may not use any intellectual property (which shall include without limitation, the Prudential brand) owned by the Company except as expressly set out in these Terms of Business. Nothing in these Terms of Business shall operate to transfer the ownership of any intellectual property rights from the Company to the FA. In the event that ownership of any intellectual property rights is so transferred, the FA shall do all things and execute all documents necessary from time to time in order to assign those intellectual property rights to the Company.

#### **4. Collection of premiums by the FA**

The FA is not authorised by the Company to collect monies on behalf of the Company. If the FA undertakes to the client to pass monies to the Company it must do so promptly.

#### **5. Death of sole trader**

In the event of the death of a sole trader FA, the Company will consider its agency account with that sole trader FA to be closed with effect from the date the Company is notified of the death. If all the initial commission has been settled, any commission at credit in the account but not yet paid, as at the date the Company is notified of the death, will be paid to the executor of the estate and the agency account will be closed. If there are instalments of non-indemnity initial commission still to be paid, these will be paid to the executor as premiums are received and all other commission will also continue to be paid until all initial commission instalments are settled. The agency account will then be closed. For an indemnity agency account, any commission due but not yet paid, as at the date the Company is notified of the death, will be paid to the legal personal representatives of the estate and any amounts due to the Company will be payable by the legal personal representatives to the Company. The agency account will then be closed.

## 6. Third party taking over business and restructures

If the Company is advised that another FA has taken over the business of a FA with whom the Company has contracted to accept business under these Terms of Business or the FA has undergone a material restructure of its business, then, subject to that other FA or the restructured FA business being authorised with the appropriate Part IV FSMA permission(s) to carry on the business in accordance with applicable law and regulation, the Company may at its sole discretion transfer the relevant agency account to the FA taking over the business or continue the agency account with the restructured FA business. In the case of an indemnity agency where there is unearned initial commission, the Company will require written confirmation (in a form satisfactory to the Company) from a FA taking over the business that it accepts liability for such unearned commission. If the FA taking over the business is unwilling or unable to provide such written confirmation, the Company may, at its sole discretion, terminate these Terms of Business on written notice to the FA. The Company will not request individual letters of authority from clients affected by the takeover of a FA's business on the understanding that either the FA whose business has been taken over or the FA taking over that business will inform all affected clients of the transfer in a timely fashion and in accordance with applicable law and regulation.

If the Company, at its sole discretion, does not wish to transfer the relevant agency account to the FA taking over the business or to continue the agency account with the restructured FA business, as the case may be, the Company may terminate these Terms of Business on written notice to the FA.

If the Company is advised or becomes aware that a FA has entered into a single-tie arrangement with a third party or any other arrangement where the FA is no longer able to introduce business to the Company, the Company may at its sole discretion, terminate these Terms of Business on written notice to the FA.

## 7. Open-Ended Investment Companies (OEICs), Unit Trusts and ISAS

Please note that from 17 January 2011, these terms will cease in relation to unit trusts. Terms relating to unit trusts will be published separately.

- 7.1 The terms of dealing and unit pricing for OEICs, unit trusts and ISAs are set out in the relevant OEIC or unit trust Prospectus and ISA Customer Agreement in issue from time to time. It is the responsibility of the FA to ensure these terms are adhered to.
- 7.2 The Company reserves the right to rescind an agreement in cases of investment non-payment within one month of the bargain date. In such circumstances, the FA will be deemed not to have given any indemnity and will not therefore be liable for any outstanding investment amount.

- 7.3 The FA shall, in the case of repurchases, inform the Company whether the cheque should be made payable to the FA's Client Account or to the client. Unless advised to the contrary and evidenced in writing by the client, the Company will make all cheques, issued in settlement of repurchases payable to the client.
- 7.4 When initiating a bargain the FA must disclose to the Company the name(s) of the principal(s) for whom it is acting and all other information which may be required under applicable law and regulation (including the FSA Rules).
- 7.5 If the FA cannot give the Company the information required in paragraph 7.4, it acknowledges that this may impact upon the FA's timely execution of the transaction.
- 7.6 When dealing, the FA should also give the number of units or amount to be invested or realised as the case may be, the name of the trust and either the FA's FSA Firm Reference Number or account number as appropriate.  
  
If the order is being placed by telephone, the Company will then repeat back to the FA full details of the order whereupon the order shall become a binding agreement.
- 7.7 In all circumstances the FA's involvement in any bargain will be confirmed by the issue by the Company of the client's contract note (a copy of which is issued to the FA) which, inter alia, will confirm the amount of commission due to the FA.

## 8. Termination

- 8.1 In addition to any other termination rights under these Terms of Business from time to time, either the Company or the FA may terminate these Terms of Business by giving not less than one week's written notice to the other.
- 8.2 Upon termination of these Terms of Business for any reason, the Company reserves the right to close the account the FA holds with the Company and to cease payment of any renewal, level and fund related commission payable on existing policies introduced to the Company by the FA. The Company also reserves the right not to pay commission to the FA on any future increments to existing policies received by the Company.
- 8.3 Following termination of these Terms of Business for any reason, the Company reserves the right to communicate directly with clients and such communication may include promotional and marketing materials.
- 8.4 Where:
- (A) a FA is a partnership, and that partnership is, or is to be, dissolved; or
  - (B) any insolvency proceedings are taken against any of its directors or partners, the FA shall notify the Company immediately and the Company may, at its sole discretion, terminate these Terms of Business on written notice to the FA.

- 8.6 Unless otherwise specified, termination of these Terms of Business under this paragraph 8 or any other relevant provision of these Terms of Business shall not affect the rights and obligations of the Company and the FA which have accrued or arisen under these Terms of Business prior to termination.

## 9. Miscellaneous

- 9.1 The FA will indemnify the Company against any loss sustained by the Company arising from the introduction of business by the FA outside the scope of its Part IV FSMA permission(s) or arising from any breach of applicable law and regulation or any provision of these Terms of Business. The FA will be responsible for any loss incurred by the Company due to reputational damage caused by a dispute with the FA. The FA shall have in place such level of professional indemnity insurance cover as shall be necessary to comply with the requirements of any relevant regulatory body (including the FSA) in accordance with applicable law and regulation.
- 9.2 The FA agrees that the Company may copy, scan and electronically store all correspondence with the FA and may record or monitor telephone conversations between the FA and the Company.
- 9.3 Both the Company and the FA shall have due regard for the confidentiality of this agreement and shall not disclose to any third party any information of a confidential nature relating to the business or affairs of either party.

- 9.4 The Data Protection Act 1998 (the "Act") places legal obligations on all organisations to process personal data in conjunction with 8 principles. The Company reminds the FA these principles are likely to apply to their organisation and may affect how they/it process personal data.

The FA and/or the FA and the Company agree,

- (A) Both the FA and the Company are data controllers of the personal data processed in respect of their clients. The expressions "data controller", "processing", "personal data", "data processor", "data subject" and "subject access request" shall bear their respective meanings given in the Act 1998 (the Act), and any other grammatical forms of those expressions shall be interpreted accordingly. Both the FA and the Company are responsible for complying with the requirements of the Act and any amendments made to it. If the FA is unsure what their obligations are or how the Data Protection Act applies to the FA or their organisation, they can seek further guidance from the Information Commissioner's website [www.ico.gov.uk](http://www.ico.gov.uk) and/or seek professional legal advice. Please note the Company is not able to advise the FA on its obligations under the Act.

- (B) As part of the FA's and the Company's relationship, the Company will need to collect personal data about the FA or any person employed by the FA. The Company will use this information to manage the ongoing relationship, to provide the FA with information and to administer the FA's account with the Company. The Company may carry out a credit and/or reference checks on the FA or any other director, partner or member of the FA. By accepting a relationship with the Company, the FA and any other director, partner or member of the FA agree to these checks taking place throughout the duration of the relationship where the Company, in its sole opinion, feels it is necessary to do so. To provide the services under this agreement, it may be necessary to transfer the information to countries that provide a different level of data protection from the UK. In such circumstances, the Company will protect the personal information at all times by contract.
- (C) The Company will use and share with their business partners any information about the FA, any other director, partner or member of the FA in order to provide services. The Company will make disclosures of the personal information of the FA, any other director, partner or member of the FA and/or the client to protect the Company and its clients from any act of money laundering and for fraud prevention purposes. The Company will additionally pass the information of the FA and that of any director, partner or member of the FA to any legal, regulatory, credit reference agency and fraud prevention body if required to do so and this may include the ELIXIR database maintained by CRIF Decision Solutions on behalf of Insurers.
- (D) The FA and the Company each warrants that it has made the appropriate notifications and has complied with the notification provisions under the Act in respect of its respective obligations under the Agreement and that performance of its respective obligations hereunder shall not breach or otherwise contravene such notification; nor cause the other party to breach the requirements of the Act.
- (E) The Company will also use the FA's personal information to keep them informed about new products and services which the Company thinks may interest the FA and its clients. This may include tracking which of the Company's web pages the FA's employees or associates visit in order for the Company to provide the FA with a more individual service and to help the Company to understand the FA's interests. The Company may contact the FA by email, telephone, mail and facsimile. If the FA would prefer not to be contacted for marketing purposes, please inform the Company's Account/ Relationship Manager.
- (F) The FA must keep secure all security information which they use to access information provided by the Company, both on its systems and a third party's. Security information may include, but is not limited to passwords, digital identifiers/ certificates. The FA must inform the Company as soon as it becomes aware of anyone ceasing to be eligible to access any of the Company's or a third party's system to which they have access.

- 9.5 The Company shall be entitled to use, without identifying any client, and the FA consents to the Company's use of, any information or data supplied by the FA to the Company for the purposes of exchanging information with any other contracting parties of the Company, conducting market research (either alone or in conjunction with any other party), for preparing strategic or other marketing plans (either alone or in conjunction with any other party), or for the purposes of gauging product sales or product performance (either alone or in conjunction with any other party) and furthermore the Company shall be entitled to disclose, and the FA approves such disclosure, any information or data supplied by the FA to the Company to any party contracting with the Company or otherwise to any party as is consistent with the effecting of the aforementioned approved uses of such information.
- 9.6 In providing regulated services to clients and introducing business to the Company, the FA is responsible for compliance with applicable legislation and regulation governing the prevention of money laundering and terrorist financing (including the FSA Rules, the Money Laundering Regulations 2007, the Proceeds of Crime Act 2002 and the Terrorism (United Nations Measures) Order 2009 or other applicable money laundering or terrorist financing legislation) and with the Joint Money Laundering Steering Group's Guidance Notes for the Financial Sector. In accordance with such legislation and regulation the FA shall operate effective screening processes to guard against making economic resources available to sanctioned individuals or entities. In addition, the FA shall obtain and accurately record appropriate evidence of the identity of all clients and any other third parties introduced to the Company by the FA. The FA will forward to the Company a confirmation of verification of identity for all relevant parties, in order to satisfy its own and the Company's obligations under applicable legislation and regulation governing the prevention of money laundering and terrorist financing. In accepting a confirmation of verification of identity, the Company, for the purposes of Regulation 17(1)a of the Money Laundering Regulations 2007, is placing reliance on the FA to undertake the client due diligence. Further, the Company reserves the right to carry out random checks on client identity evidence and other client information held by the FA. The FA should on request and as soon as practicable, forward to the Company relevant copies of any identification and verification data and other relevant documents on the identity of the client and other third parties, which the FA obtained when undertaking client due diligence.
- 9.7 It is the policy of the Company to comply with the all legal obligations imposed on it in connection with bribery and corruption (including but not limited to the Bribery Act, Foreign Corrupt Practices Act, Organisation for Economic Co-operation and Development Convention). To the extent that any such applicable obligations apply to the FA, the FA's business officers or employees in any relevant jurisdiction, in providing regulated services to clients and introducing business to the Company the FA represent that they, their business (its officers and employees) are compliant and will remain compliant with such obligations and that they will regularly audit and test such compliance and report promptly to the Company in writing any breaches of such compliance which are or may be relevant to this Agreement and its performance.
- 9.8 The Company reserves the right to amend or vary, or to withdraw any rights conferred by, these Terms of Business from time to time, including to reflect any change in applicable law and regulation (including the FSA Rules), subject to at least one week's notice being given to the FA, except as otherwise required under applicable law and regulation. Any such amendment, variation or withdrawal will not affect agreements in force before the effective date of such amendment, variation or withdrawal, unless a relevant statutory or regulatory body so dictates.

9.9 Where, under paragraph 9.8, the Company withdraws the FA's right to receive indemnity commission in accordance with paragraph 2.6:

- (A) agreements in respect of which indemnity commission has been agreed shall be deemed to have been terminated in accordance with paragraph 2.6.3; and
- (B) the FA shall owe and shall promptly repay the Company commission calculated in accordance with paragraph 2.6.3.

9.10 The Company is entering into these Terms of Business with the FA on the understanding that (i) all business will be introduced to the Company following the provision of advice regulated under FSMA to clients by the FA, and (ii) the provision of such advice and other regulated Services to clients and then introduction of business to the Company, will be carried out by the FA in accordance with applicable law and regulation (in particular the FSA Rules). In providing regulated services to clients and introducing business to the Company, the FA shall ensure that only those employees who have been adequately and suitably trained by the FA and who have been granted appropriate approval or other consents by the FSA shall provide advice to clients and introduce business to the Company. The FA hereby confirms that all such employees are and shall continue to be subject to the FA's internal training and competence regime and shall be appropriately

and regularly monitored, assessed and supervised by the FA in accordance with applicable law and regulation and as may be necessary from time to time for the purposes of ensuring compliance by such employees with these Terms of Business and with applicable law and regulation. The FA also hereby confirms that, in accordance with applicable law and regulation, it will at all times remain responsible for the advice it provides to its clients and that any information it provides to its clients in respect of products provided by the Company will be appropriate and accurate at the time the information is provided. Should any information be provided to clients that is not appropriate and accurate in the circumstances, the Company reserves the right to inform any relevant regulatory bodies and to reclaim any loss the Company may experience.

9.11 Without prejudice to the generality of paragraph 9.10, where the means by which the FA provides regulated services to a client and/or introduces business to the Company is or are such that the resulting agreement constitutes a "distance contract" as defined under applicable law and regulation, the FA shall ensure that, in addition to the FA documentation referred to at paragraph 3.5, it shall provide the client with such pre-sale and other specified information as is required in respect of distance contracts in order to comply with the provisions of applicable law and regulation, including the FSA Rules.

The FA shall also ensure that the client has sight of and consents to the Company's processing of their personal data as defined in the Company's data protection notice (provided in the application form) where the application is submitted on line and not signed by the client.

- 9.12 These Terms of Business are enforceable by the Company and the FA and by their successors in title and permitted assignees. No other person shall have any rights under The Contracts (Rights of Third Parties) Act 1999 to enforce any provision of these Terms of Business.
- 9.13 The Company's terms of business for electronic trading are set out in its Electronic Services Agreement and its Commercial and Technical Agreement which will be published from time to time. The FA shall comply with the provisions of such terms of business where necessary in order to provide regulated services to clients and/or introduce business to the Company.
- 9.14 The FA is not required to sign or acknowledge these Terms of Business but the FA accepts that the introduction of business by it to the Company following its receipt of these Terms of Business will indicate acceptance by it of the terms and conditions herein.
- 9.15 These Terms of Business are governed by, and shall be construed in accordance with, English law and are subject to the exclusive jurisdiction of the courts of England and Wales.



[www.pru.co.uk](http://www.pru.co.uk)

Prudential is a trading name of Prudential Distribution Limited. Prudential Distribution Limited is registered in Scotland. Registered Office at Craigforth, Stirling FK9 4UE. Registered number SC212640. Authorised and Regulated by the Financial Services Authority.

GEM16869 11/2010