

TERMS OF BUSINESS AGREEMENT

Please read this Agreement carefully as it sets out our respective obligations. It also contains information that the Financial Conduct Authority (FCA) requires us to provide to you.

We draw your particular attention to the following clauses:

- 3. Our status
- 4. Our relationship with you
- 10. How we hold client money
- 13. How we are remunerated and our fees and charges
- 33. How to complain

1. **Commencement.** This Agreement shall apply with effect from **25.05.2018** and replaces any previously issued Agreement. We reserve the right to amend or alter these terms from time to time by notifying you accordingly.
2. **Definitions.**
 - a) "We/us" means Hamilton Leigh Ltd including trading name Surgery Protect
Correspondence address: Unit 1 Capital Business Park, Manor Way, Borehamwood, Hertfordshire WD6 1GW
Tel: 020 8236 5350 E-mail: info@hamiltonleigh.com Web: www.hamiltonleigh.com & www.surgeryprotect.com
Registered Office: 30 City Road London EC3Y 2AB
 - b) A "consumer" shall mean any natural person who is acting for purposes which are outside his trade, business or profession. A "commercial customer" is a customer who is not a "consumer".
 - c) "You/your" means a customer or potential customer whether a consumer or commercial customer.
 - d) Reference to "insurer" or "insurers" shall be construed to include insurers, reinsurers, underwriters, markets or managing general agents with whom we place insurance business.
3. **Regulation.** We are an independent insurance intermediary (broker). We are authorised and regulated by the Financial Conduct Authority (FCA) and our permitted business is introducing, advising, arranging, dealing as agent and assisting in the administration of general non-investment insurance contracts and credit broking in relation to insurance premium instalment facilities, limited to debt adjusting with no debt management and debt counselling with no debt management.
Our Firm Reference Number is 310424 and you can check this on the Financial Services Register by visiting their website www.fca.org.uk/register or by contacting the FCA on 0800 111 6768
4. **Relationships.** We will act as your agent and are subject to the law of agency, which imposes various duties on us. In certain circumstances, however, we may act for and owe duties of care to other parties. We will advise you when such circumstances occur so that you will be aware of any possible conflicts of interest.
5. **Professional Indemnity Insurance.** We conform to the FCA Rules in respect of Professional Indemnity Insurance.
6. **Financial Services Compensation Scheme (FSCS).** Our mediation activities are covered by the FSCS. You may be entitled to compensation from the scheme if we are in default and cannot meet our obligations. Full details and further information about the compensation scheme is available from the FSCS on 0800 678 1100 / 020 7741 4100 or their website: www.fscs.org.uk
7. **Our Service to You.** Our service includes providing advice and, after we have assessed your needs, making suitable recommendations, arranging your insurance cover with insurers directly or via other authorised intermediaries to meet your requirements and assisting you with any subsequent event or alteration to the insurance/s arranged on your behalf. We may issue policies and handle claims on behalf of some insurers. We will advise you of any inability to place your insurance.

When approaching insurers to provide quotations we will base our selection on a fair market analysis, unless we tell you otherwise.

We have arrangements with some insurers allowing us to offer you preferential terms and conditions for certain products.

We may place your business under one of these limited insurer arrangements if:

- (i) We feel one of these arrangements best meets your needs; or
- (ii) We are providing terms exclusively from those insurers for the type of cover that you require.

In this event, we will specifically advise you at the time of providing the quotation. The panel of insurers is updated regularly.

We also have some arrangements that allow us to select only from a single insurer for certain insurance products. Where these arrangements exist we will advise you at the time of providing a quotation. The choice of single insurer is reviewed regularly.

8. **Insurance Quotations.** You will receive a quotation, in accordance with the FCA requirements, outlining your demands and needs, including an insurance product information document, the total price to be paid for the policy, identifying any fees, taxes and charges separately from the premium, before your insurance arrangements are concluded. Unless otherwise agreed, any quotation given will remain valid for a period no more than thirty (30) days from the date of issue of the quotation.
9. **Financial Security of Insurers.** We regularly review the financial status of the insurers with whom we place business. To do so, we use publicly available information including that produced by credit rating agencies. **Under no circumstances do we guarantee or warrant the solvency of any insurer. In the event of an insurer's insolvency, you may still have a liability to pay the premium.**

10. **Client Money.** This is money of any currency which we hold on behalf of our customers. The FCA Rules require us to hold client money:
- In a Statutory Client Money Trust; or
 - In a Non-Statutory Client Money Trust; or
 - In accordance with the FCA client assets sourcebook (CASS 5)

Both types of trust account must be held with an FCA approved bank and we must keep client money entirely separate from our own money.

We will hold all monies received from you or for payment to you on one of the following bases:

- as agent of the insurer concerned under Risk Transfer arrangements. This means, for example, that if you pay a premium to us, it is treated as having been received by the insurer and you cannot be asked to pay it again;
or
- on your behalf within a Non-Statutory Client Money Trust account and will be governed by the FCA Client Money Rules. We co-mingle Risk Transfer and Client Monies in this trust account.

The aim of the trust is to protect you, the customer, in the event that we, the bank or a third party at which the money may be held fails. In such a circumstance, the firm's general creditors should not be able to make claims on client money, as it will not form part of our property. The fact that we hold money on trust gives rise to fiduciary duties which will be owed to you until the client money reaches the insurer or product provider. As we will hold client money subject to a non-statutory client money trust we are entitled to and may, in certain circumstances, use money held on behalf of one customer to pay another customer's premium before the premium is received from that other customer, or to pay claims or premium refunds to another customer before we receive payment from the insurer. We are not, however, entitled to use client money to pay any commissions due to us before we receive the relevant premium in cleared funds from a customer.

If you object to your money being held in a Non-Statutory Trust account, you should advise us immediately. Otherwise, your agreement to pay the premium together with your acceptance of these Terms of Business will constitute your informed consent to our holding your money in a Non-Statutory Trust account.

11. **Interest on Client Money.** Any interest earned on client money held by us will be retained by us for our own use, rather than paid to you.
12. **Payment to Third Parties.** For the purpose of effecting a transaction on your behalf, we may transfer client money through another party, such as another authorised broker or settlement agent, before it is paid to the insurer. This may include brokers and settlement agents outside the UK. The legal and regulatory regime applying to a broker or settlement agent outside the UK may be different from that of the UK and in the event of failure of the broker or settlement agent, this money may be treated in a different manner from that which would apply if the money were held by a broker or settlement agent in the UK. You may notify us if you do not want your money to be passed to a party in a particular jurisdiction.
13. **Fees & Charges.** Details of the specific commission earned on your account are available on request, at any time. We reserve the right to charge a fee in lieu of commission, or to make charges in addition to any insurance premiums, where commission levels are inadequate to meet the costs of servicing your account or for the arranging, amending, renewing and or cancellation of any policy of insurance. These charges will always be shown separately. In addition to customer fees and/or brokerage, we may receive remuneration by way of administrative fees or commissions for services provided to underwriters. Sometimes we receive profit share or over-ride payments from insurers and/or premium finance providers. These payments are subject to the overall profitability of the business placed with the insurer and/or premium finance provider (taking claims and bad debts into consideration) and are, therefore, not guaranteed.
14. **Insurance Documentation.** All policy documents will be issued in a timely manner. In line with insurer requirements, we reserve the right to retain certificates or other policy documents at this office until all payments due under the policy have been made. Where premium finance is arranged and you default you will be responsible for payment to the lender of any outstanding fees and charges and we will ask you to return the policy documents and any certificates issued. Time on risk charges for which you are liable will accrue until the documents are returned.
By accepting this agreement, you agree that delivery of any certificates of insurance to us shall constitute delivery to yourself in accordance with statute law. Should we withhold any documents we will ensure you receive full details of your insurance cover. Your policy documentation will confirm the basis of the cover and give details of the insurers. Prior to the conclusion of the contract you will be given a contract certain quotation to satisfy your demands and needs as we have understood them, which you should read carefully. Where a particular contract is being specifically recommended, this will be shown in the quotation together with the reasons for the recommendation.
15. **Policy Renewals.** In good time before renewal we will provide you with the insurer's renewal terms based on your updated demands and needs. You will be given an explanation of any changes in your policy cover from renewal and you will be advised of your right to request a new policy document. We must have your informed consent to renew prior to your renewal date. Unless expressly agreed otherwise, if your confirmation is not received, we have the right to lapse your cover.
16. **Cooling Off Period (Consumers only).** We will give you enough information to enable you to make an informed decision before you make a final commitment to buy your insurance policy. If you change your mind, you have the right to cancel the insurance contract, without penalty, within fourteen (14) days from the date the contract was concluded or the date you receive the policy documentation. In some circumstances there may be a cancellation charge and this will be made clear at the time.
The right to cancel does not apply to commercial customers nor does it apply to a travel and baggage policy or a similar short term policy of less than one month's duration.
17. **Claims Notification.** If you have occasion to claim on your policy please notify us immediately. We will guide you through the claims notification process and, if appropriate, issue you with a claim form and pass all details to your insurer. You should not admit liability nor agree to any course of action, other than emergency measures carried out to mitigate the loss, until you have

agreement from your insurer. Failure or delay to report claims properly may prejudice your insurer's position and lead to your insurer repudiating your claim. Please refer to your policy documentation as this will confirm the procedures you are expected to follow in the event of a claim.

18. **Assignment of Claims.** In the event that any of the conditions of this agreement are breached, you hereby agree that any claims payments or return premiums due from insurers may be assigned to Hamilton Leigh Ltd to offset any monies owed to Hamilton Leigh Ltd.

19. **Confidentiality & Data Protection**

We accept the importance of maintaining your privacy, keeping your personal information secure and complying with the Data Protection laws. All personal data you supply will be kept confidential to us and the parties involved in the normal course of arranging and administering your insurance unless we are required to disclose such data by law or where requested or required to do so by a regulator.

In your dealings with us you may provide information that includes data known as personal data.

If you provide us with, or make available to us, any information which constitutes 'personal data', including any 'sensitive personal' data or 'special category' data, we will at all times process this information in compliance with the statutory data processing requirements and the General Data Protection Regulation requirements and UK Data Protection legislation.

Your request for a quotation will be deemed explicit consent for any personal data provided by you and processed by us, to be used to enable us to provide our services, as your insurance broker, in quoting for, arranging and administering your insurance policies. We will ensure the processing of your personal data is necessary, proportionate, adequate and relevant for the provision of insurance, detection of fraud and the payment of claims.

Our Privacy Notice includes key information for individuals whose data is being processed including the identity of the data controller, the purposes of the processing, the legal basis of the processing, the recipients of that data and other important information.

20. **Your Responsibilities.** If you are a **consumer**, as defined in Clause 2 (b), you are responsible for answering any questions in relation to any proposal for insurance cover honestly and to the best of your knowledge, providing complete and accurate information which insurers will require. This also applies to your responses in relation to any assumptions you may agree to in the process of applying for insurance cover. This is particularly important before taking out a policy, also at renewal or if you make a mid-term amendment to your policy.

You must check all details on any proposal form or Statement of Facts and pay particular attention to any declaration you may be asked to sign.

If you fail to disclose relevant information, or misrepresent any fact which may influence the insurer's decision to accept the risk or the terms offered, this could invalidate the policy and mean that claims may not be paid.

If you are a **commercial** customer, as defined in Clause 2(b), and to comply with the requirements of the Insurance Act 2015, you are responsible for providing complete and accurate information which insurers require in connection with any proposal for insurance cover. You have a duty to give a fair presentation of risk to the insurer. This means that you should disclose every material circumstance relevant to the risk being insured, following a reasonable search within your business to identify and verify such information. This should include information which you and, where applicable, your senior management, persons responsible for arranging your insurance or other relevant third parties, know or ought to know and should include all information that would influence the judgement of the insurer or that would put the insurer on notice that it needs to make further enquiries.

Examples of material circumstances are:

- Special or unusual circumstances relating to the risk;
- Any particular concerns which led you to seek insurance cover for the risk; and
- Anything which those concerned with the class of insurance and field of activity in question would generally understand as being something that would be dealt with in a fair presentation of risks for this type of insurance.

The information must be presented in a way which would be reasonably clear, concise and accessible to a prudent insurer. You need to take into account the size & complexity of your business, and allow yourself sufficient time before your renewal date to consider and / or assess your insurance requirements. For our part, we will work closely with you to understand your business and who forms your senior management team, so that you can ensure you have consulted with all parties who may have information relevant to the insurance being arranged, both within your organisation and externally. We will help you understand the type of information relevant to disclose to ensure the 'fair presentation' requirements are met and include any relevant information which is held by us as your broker.

Failure to provide a 'fair presentation' may result in a number of remedies by the insurer. If the breach was deliberate or reckless the insurer can void the contract and keep the premium. If the breach was not deliberate or reckless the insurer can void the contract, proportionately reduce a claim settlement or amend the insurance policy terms and conditions, then review the merits of a claim on this basis.

You should always provide complete and accurate information to us when we ask you about the insurance risks your business faces before taking out a policy, at renewal and throughout the life of the policy. This also applies to your responses in relation to any assumptions you may agree to in the process of applying for insurance cover.

You are advised to keep copies of documentation sent to or received from us for your own protection.

If any insurer approached to provide a quotation, on your behalf, wishes to exclude certain provisions of the Insurance Act 2015, by contracting out, we will make this clear to you, at the time.

21. **Exchange of Information.** Insurers pass information to the Claims and Underwriting Exchange run by Insurance Database Services Ltd and the Motor Insurance Anti-Fraud and Theft Register run by the Association of British Insurers. The aim is to check information provided and also prevent fraudulent claims.

Motor vehicle insurance details are added to the Motor Insurance Database (MID) run by the Motor Insurers' Information Centre (MIIC), which has been formed to help identify uninsured drivers and may be used by the DVLA and DVLNI for the purpose of Electronic Vehicle Licensing and searched by the Police to help confirm who is insured to drive and/or for preventing and detecting

crime. In the event of an accident, the database may be used by insurers and the Motor Insurers' Bureau to identify relevant policy information.

Insurers issuing commercial employers' liability (EL) policies are obligated to record policy data including the Employer Reference Number (ERN) commonly referred to as Employer PAYE Reference on the Employers' Liability Database (ELD). The Employers' Liability Tracing Office is an independent industry body comprising of members who are employers' liability insurers and affords access through the ELD to enable claimants to trace EL policies.

22. **Sums Insured/Declarations.** It is your responsibility to ensure that your sums insured are adequate and accurate. Under the terms of your insurance policy, insurers are able to reduce or even refuse to meet a claim payment where it is discovered that sums insured declared to them are inadequate. Similarly, insurers may also be able to void policies where declarations submitted are inaccurate. We are unable to accept any liability arising from the inadequacy of your sums insured or any financial information that you have provided.
23. **Awareness of Policy Terms.** When a Policy is issued, you are strongly advised to read it carefully, as it is this document, the Schedule, Statement of Fact and any certificate of insurance which forms the basis of the insurance contract you have purchased. Please pay special attention to the claims notification provisions and to any warranties and conditions, taking care not to breach warranties, as any failure to comply may invalidate or compromise your cover. If you are in doubt over any of the policy terms or conditions, please seek our advice promptly.
24. **Consumer Credit.** We have permission from the FCA to conduct credit broking activities, limited to debt adjusting with no debt management and debt counselling with no debt management. To clarify, we are not the lender and we do not make any charge for introducing any customer to the premium finance provider.
25. **Credit Checks.** Where premiums are being paid by instalment or are significant, we, the insurer or the premium finance company may conduct credit checks, which may include information held by credit reference agencies. This information is used to assess affordability, to ascertain the most appropriate payment options for you and help to prevent fraud. Any credit reference search may appear on your credit report whether or not your application proceeds.
26. **Payment Terms.** Unless otherwise agreed in writing, premiums must be settled in accordance with the terms specified in the relevant invoice. We accept no liability to pay premiums on your behalf to insurers unless cleared funds have been received. Any delay or failure to make payment within the prescribed time may jeopardise your insurance cover. Any return premiums due to you will be paid on receipt from the insurer or third party intermediary. This normally takes between 4 to 8 weeks. In the event of non-payment, insurers may instruct us to cancel the insurance policy arranged on their behalf or we may instruct insurers to cancel the insurance policy arranged on your behalf. Should this be necessary, we will write to you giving you seven (7) days notice. In this instance, we reserve the right to retain any return premiums, commissions or fees that have been received on your account. Where you are paying premiums by instalment and payments have not been collected by the third party finance provider, you will be fully responsible for all outstanding payments due, any interest accrued and/or costs incurred. We also reserve the right to pursue payment of any time on risk charges incurred.
27. **Cancellation.** Cancellation of your insurance policies in no way reduces the requirement to meet your obligations under this agreement. Insurance contracts are for 12 months (unless specifically agreed otherwise) and return premiums may not reflect the entire unexpired period of insurance and, in some cases, return premiums may not be available. For the avoidance of doubt, our fees and/or charges are non-refundable. You should make any request for the cancellation of your policy/ies in writing and any relevant Certificate of Insurance must be returned to us or to the insurer concerned immediately, as directed. In the event of policy cancellation, we reserve the right to make a charge of up to 15% of the refund allowed by your insurers.
28. **Conflicts of Interest.** Occasions can arise where we, one of our customers or product providers, may have a potential conflict of interest with business being transacted for you. If this happens and we become aware that a potential conflict exists, we will let you know and agree the steps we will take to ensure fair treatment.
29. **Proceeds of Crime Act 2002 (Money Laundering & Fraud) and Terrorism Act 2000.** You agree to provide such evidence of your identity and that of any of your associates, as we may reasonably require, in order for us to comply with our obligations under money laundering and terrorism legislation and regulations. 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.
30. **UK Financial Sanctions Regime.** Financial sanctions orders prohibit us from carrying out transactions with a person or organisation listed as a target on the UK Consolidated Financial Sanctions List. We are obliged to check our customers against the sanctions list and if we find a prospective customer or an existing customer is on the list, we cannot provide any service/s to that prospective customer and cease to provide services, if an existing customer. In either of the latter circumstances we are obliged to inform Financial Sanctions at HM Treasury.
31. **Anti-Bribery and Corruption.** We are required to have adequate procedures in place, which are strictly followed, to prevent bribery being committed. We aim to conduct our business with honesty and integrity, at all times, and will not participate in initiatives designed to provide an 'unfair' advantage to our firm or any third parties. We prohibit the offering, giving, solicitation or acceptance of any bribe, whether cash or other inducement, to or from any person, company or other organisation, by any employee, officer, beneficial owner, agent or other person or body acting on our behalf in order to gain any commercial, contractual or regulatory advantage for us in a manner which is unethical, to the detriment of a customer or in order to gain any personal advantage, financial or otherwise, for the individual or anyone connected with that individual.
32. **Monitoring of Calls.** We reserve the right to monitor and record telephone calls for the purpose of training and to monitor the fulfilment of our regulatory obligations.
33. **Complaints.** We aim to provide you with a first class service at all times. Should you have any cause for complaint, you should, in the first instance, contact a company director either:
 - by telephone on 020 8236 5350 or
 - in writing to: Hamilton Leigh Limited Unit 1 Capital Business Park Manor Way Borehamwood Hertfordshire WD6 1GW

When dealing with your complaint, we will follow our complaint handling procedures and a summary of these procedures is available on our website: www.hamiltonleigh.com

If you are still not satisfied, you may be entitled to refer the matter to the Financial Ombudsman Service (FOS) if you are an eligible complainant. For further information you can visit the FOS website: www.financial-ombudman.org.uk

Your insurer also operates a complaints procedure, details of which are outlined in your policy document.

34. **Ending your relationship with us.** Subject to your immediate settlement of any outstanding premiums and fees, you may instruct us to stop acting for you and we will not impose any penalty. Your instructions must be given in writing and will take effect from the date of receipt.
In circumstances where we feel we cannot continue providing services to you, we will give you a minimum of 7 days' notice. Valid reasons may include but are not limited to non-payment where instructions are given to another party to handle your insurance/s, your failure to provide requested documentation or information, deliberate failure to comply with terms set out in this agreement or insurer's documentation, deliberate misrepresentation or non-disclosure or attempted fraud, use of threatening or abusive language, or intimidation or bullying of our staff or suppliers.
Unless otherwise agreed in writing, if our relationship ends, any transactions previously initiated will be completed in accordance with this agreement. You will be liable to pay for any transaction/s concluded prior to the end of our relationship and we will be entitled to retain any commission received for conducting these transactions, together with all fees chargeable by us for the services provided.
Where you have instructed another party to handle your insurance/s and there are outstanding claims, we will cease to administer these. Your new insurance agent must take responsibility for handling such claim/s and any new claim notifications should be reported to them.
35. **Transfer of our Business.** In the event the business is sold to a firm subject to the Insurance Distribution Directive, we must agree how Client Money is to be transferred to the transferee firm and notify you of this within 7 days of the transfer, giving you the opportunity to request the return of your money.
36. **Rights of Third Parties.** A person who is not party to this Agreement has no rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any terms of the Agreement but this does not affect any right or remedy of a third party which exists or is available apart from that Act.
37. **Force Majeure.** We shall not be liable for any delay or non-performance of our obligations under this Agreement if the failure or delay is due to causes outside our reasonable control, including but not limited to, act of God or governmental act, flood, accident, civil commotion or industrial dispute ('Force Majeure'). In the event of a 'Force Majeure' arising we will notify you as soon as reasonably practical.
38. **Governing Law.** This Agreement shall be governed and construed in accordance with the laws of England and any disputes arising under it shall be determined in the English Courts.

Note: Your acceptance of these Terms of Business does not affect your normal legal rights.

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