

## TERMS OF BUSINESS FOR FIRMS effective from 14 November 2016

**These Terms of Business replace the existing Aviva Terms of Business for Firms dated 31<sup>st</sup> March 2014 and the existing Friends Life Terms of Business for Intermediaries (UK) dated 31st December 2012.**

Please read these Terms of Business (the “**Terms**”) carefully. They set out the agreement between you and Aviva for Business conducted with us on or after 14 November 2016. By submitting Business to us after this date, you agree to these Terms.

In these Terms “**Aviva**”, “**we**”, “**us**” or “**our**” means each of the Aviva group companies listed at the end of this document and such companies apply as relevant throughout these Terms. Aviva Insurance Limited is included in the definition of Aviva in relation to private medical insurance contracts only. Separate terms of business apply with Aviva Insurance Limited for general insurance contracts.

References in these Terms to “**you**” or “**your**” shall mean the party to these Terms other than Aviva.

**For ease of reference, the content of these Terms is as follows;**

### CONTENTS

Clause 1	Introduction
Clause 2	Definitions
Clause 3	Authorisation
Clause 4	Commission
Clause 5	Adviser Charges
Clause 6	Interest
Clause 7	Re-Direction of Remuneration
Clause 8	Offsetting
Clause 9	Ceasing to Pay Remuneration
Clause 10	Statements
Clause 11	Method of Payment
Clause 12	Disclosure
Clause 13	Adviser Account Transfers
Clause 14	Use of the Aviva Platform
Clause 15	Dealing Terms - Aviva Platform
Clause 16	Contact with Customers
Clause 17	Documentation and Communications
Clause 18	Online Communications
Clause 19	Electronic Services
Clause 20	Intellectual Property Rights
Clause 21	Termination and Consequences of Termination
Clause 22	Data Protection
Clause 23	Confidentiality
Clause 24	Financial Crime: Money Laundering, Bribery & Corruption and Fraud
Clause 25	Value Added Tax and Insurance Premium Tax
Clause 26	Variation
Clause 27	Indemnity
Clause 28	Miscellaneous
Schedule	Electronic Services

## 1. INTRODUCTION

1.1 These Terms explain how Business can be placed with us on or after 14 November 2016.

1.2 You warrant that you are acting with the Customer's full authority at all times.

1.3 Aviva will treat Customers as follows:

- a. for individual Business subject to COBS, your Customers will be treated as retail clients;
- b. for individual Business subject to ICOBS, your Customers will be treated as consumers;
- c. for group protection Business and group health Business subject to ICOBS, your Customers will be treated as commercial customers.

Retail client, consumer and commercial customer are as defined in the Glossary.

1.4 You confirm that all Business introduced under these Terms has resulted from a face to face meeting with the Customer or if not you confirm you have complied with the Financial Services (Distance Marketing) Regulations 2004.

1.5 You confirm you will only introduce business to Aviva for which you have the necessary authorisation in accordance with Clause 3 below.

1.6 For Business written through the Aviva Platform, you must confirm whether or not you act as a discretionary investment manager for a particular Customer.

1.7 For Business written through the Aviva Platform, you will be classified as a retail client, professional client or market counterparty as defined in the Glossary.

1.8 We have discretion to decline an Application, offer different terms on which we accept Applications, withdraw Business, change Business or vary conditions on which Business is sold.

1.9 These Terms only operate between you and us and do not create any contractual relationship between us and any director, partner, member, employee, Adviser, Appointed Representative, agent or Customer of yours.

1.10 We assume that any Person purporting to give instructions to us on your behalf has authority to do so but we reserve the right to ask for evidence of such authority or confirmation of instructions.

1.11 These Terms do not create any agency, partnership or joint venture between you and us. Except as described in Clause 16.3, we do not act as your agent or the Customer's agent under any circumstances.

1.12 We and you both undertake to comply with the Regulations at all times.

1.13 If there is any conflict between the Regulations and these Terms, the Regulations take precedence.

## 2. DEFINITIONS

2.1 In these Terms, the following terms shall have the meaning given below.

**Accredited Body** means the bodies listed in the Glossary;

<b>Act</b>	means the Financial Services and Markets Act 2000;
<b>Advice Charge Payment</b>	means a charge that a Customer has agreed to pay to you for advice and/or services you have or will provide to such Customer in connection with an Aviva Individual Personal Pension Plan or an Aviva Income Drawdown Plan;
<b>Adviser</b>	means any financial adviser employed or engaged by you, any Appointed Representative of yours or if you are a Service Provider, any of your member Firms;
<b>Adviser Account</b>	means any account set up by us with you and through which Business is submitted to or transacted with us;
<b>Adviser Charge</b>	means a charge (which may be an Initial or Ongoing Adviser Charge, an Advice Charge Payment or a Fund Value Advice Charge Payment) due to you from a Customer in relation to the provision of advice and/or services;
<b>Adviser Charge Agreement</b>	means the agreement entered into between us and a Customer to pay Adviser Charges to you on behalf of a Customer from such Customer's Aviva Policy;
<b>Affiliate</b>	means in relation to any body corporate, the ultimate parent undertaking of that body corporate and any subsidiary of such parent undertaking for the time being ("subsidiary" and "parent undertaking" shall have the meanings given in the Companies Act 2006);
<b>Application</b>	means an application for new Business or an application to vary, amend or renew existing Business;
<b>Appointed Representative</b>	has the meaning set out in section 39 of the Act;
<b>Aviva Platform</b>	means the adviser facilitated online portfolio management service provided by Aviva;
<b>Aviva Policy</b>	means any policy, plan, product or investment held by a Customer or Member with us or any service arrangements entered into to by a Customer or Member with us;
<b>Bribery and Corruption</b>	means including but not limited to the Bribery Act 2010, previous relevant UK laws, the United Nations Convention against Corruption, the US Foreign Corrupt Practices Act of 1977 as amended, OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and related implementing legislation, any anti-bribery or anti corruption related provisions in criminal and anti-competition laws and/or anti-bribery or anti-corruption laws in any other jurisdiction relevant to your activities;
<b>Business</b>	means the referral of Customers by you to Aviva (by way of lead generation, introductions, execution only, direct offer, advised or non-advised sales) in respect of any of the private medical insurance, Pure Protection Contracts, Designated Investments and Equity Release Transactions offered from time to time by Aviva and shall include the transaction of business using the Aviva Platform;

<b>Business Day</b>	means a day on which the London Stock Exchange is open for business;
<b>COBS</b>	means the Conduct of Business sourcebook from 1 November 2007, as referred in the Glossary;
<b>Collective Investment Scheme</b>	has the meaning given in the Glossary;
<b>Commission</b>	means both Initial Commission and Trail Commission;
<b>Confidential Information</b>	means information relating to our products or future product developments, personal data relating to Customers, Advisers and employees of you or us and strategic business information concerning our or your future marketing and business plans;
<b>Customer</b>	means a Person, including an Employer or a Member of a Scheme on behalf of whom you act;
<b>Data Protection Legislation</b>	means the Data Protection Act 1998, the EU Data Protection Directive 95/46/EC, the Regulation of Investigatory Powers Act 2000, the Telecommunications (Lawful Business Practice) (Interception of Communications) Regulations 2000 (SI 2000/2699), the Electronic Communications Data Protection Directive 2000/58/EC, the Privacy and Electronic Communications (EC Directive) Regulations 2003 and all applicable laws and regulations relating to processing of personal data (as defined in Clause 22) and privacy, including where applicable the guidance and codes of practice issued by the Information Commissioner;
<b>Designated Investments</b>	has the meaning given in the Glossary;
<b>Electronic Services</b>	has the meaning set out in Paragraph 1.2 of the Schedule to these Terms;
<b>Employer</b>	means an employer receiving advice and/or services from you in respect of a group personal pension scheme or group stakeholder pension scheme;
<b>Equity Release Transactions</b>	has the meaning given in the Glossary;
<b>Execution Only Transaction</b>	has the meaning given in the Glossary;
<b>Facilitate</b>	means the process of deduction from the Customer's Aviva Product of an Adviser Charge and the payment of it to you according to an Adviser Charge Agreement and "Facilitating" shall be construed accordingly;
<b>FCA</b>	means the Financial Conduct Authority or any successor or replacement body or bodies;
<b>Firm</b>	means a "firm" or an "authorised professional firm" as defined in the Glossary. A Firm may be a sole trader, partnership, limited liability partnership or company;
<b>Fraud</b>	means offences of fraud by false representation, fraud by failing to disclose information and fraud by abuse of position, as

defined in the Fraud Act 2006 and includes the Fraud Act 2006 itself and previous relevant UK laws;

<b>Fund Value Advice Charge Payment</b>	means a charge a Customer has agreed to pay to you in respect of on-going advice and/or services that you have or will provide to such Customer in connection with an Aviva Individual Personal Pension Plan or an Aviva Income Drawdown Plan;
<b>Generic Marketing</b>	means the generic promotion and sale of products and services offered by or through us or our Affiliates or the promotion of the brands or sponsorship for which ownership falls within the Aviva group of companies;
<b>Glossary</b>	forms part of the Rules;
<b>ICOBS</b>	means the Insurance: New Conduct of Business sourcebook;
<b>Initial Commission</b>	means any payment due from us to you in respect of new Business submitted to us. Initial Commission may include indemnity or non indemnity commission, funded or fund based commission, payable as a lump sum or on a regular basis, a lead generation fee or payment made in respect of an introduction to us;
<b>Intellectual Property Rights</b>	means patents (including rights in, and/or to inventions), trade marks, service marks, trade names and business names (in each case including rights in goodwill attached thereto), design rights, rights in and/or to internet domain names and website addresses, semi-conductor topography rights, copyright (including future copyright), database rights, rights in and to confidential information (including know how and trade secrets) and all other intellectual property rights in each case subsisting at any time in any part of the world (whether registered or unregistered) and (i) any pending applications or rights to apply for registrations of any of these rights that are capable of registration in any country or jurisdiction, and (ii) any similar or analogous rights to any of these rights, whether arising or granted under the laws of England and Wales or in any other jurisdiction;
<b>Member</b>	means an employee who is member of a Scheme;
<b>Network</b>	has the meaning given in the Glossary;
<b>Offshore Territory</b>	means the Bailiwicks of Jersey or Guernsey, the Isle of Man or Gibraltar;
<b>Person</b>	means a natural or legal person;
<b>Plan</b>	means a group personal pension plan written under a Scheme;
<b>Policy Event</b>	means an event that is directly or indirectly connected to Business that in our reasonable view should be communicated to relevant Customers. Policy Events include, but are not limited to, maturity of Business, enhancements to Aviva Policies, information concerning application of terms and conditions relating to Aviva Policies, changes to Regulations or taxation that may affect a Customer and changes to Aviva plc's corporate structure;

<b>PRA</b>	means The Prudential Regulation Authority or any successor;
<b>Pure Protection Contracts</b>	has the meaning given in the Glossary;
<b>Regulations</b>	means any law, enactment, order, regulation or rule which is applicable to the performance of the obligations set out in these Terms from time to time including where applicable, but not limited to, the Act, the Rules including TCF, together with any rules and guidance or statement of professional standing issued by an Accredited Body with which you are expected to comply;
<b>Regulated Activities</b>	means the activities specified as such in the Financial Services and Markets Act 2000 (Regulated Activities) Order as amended from time to time;
<b>Remuneration</b>	means Commission and Adviser Charges;
<b>Rules</b>	means the rules and guidance set out in the FCA's Handbook as in force from time to time including the Principles for Business and TCF (the "Principles") together with the rules and guidance set out in the PRA Handbook;
<b>Secure Information</b>	has the meaning set out in Paragraph 2.2.1 of the Electronic Services Schedule to these Terms;
<b>Service Provider</b>	means a Firm or non-regulated firm that provides services to Firms on a membership basis;
<b>Scheme</b>	means a group personal pension scheme taken out with Aviva;
<b>TCF</b>	means the Treating Customers Fairly outcomes in accordance with relevant FCA Rules and Principles;
<b>Trail Commission</b>	means a payment or payments due from us to you for on-going advice or services provided by you to a Customer for Business submitted to us where Trail Commission is permitted according to the Rules. Trail Commission may include funded or fund based commission, payable as a lump sum or on a regular basis for such on-going services;
<b>User</b>	means any Person nominated by you to have access rights on your behalf to the Aviva Platform and any Electronic Services specified in the Schedule to these Terms offered by us from time to time;
<b>VAT</b>	means Value Added Tax as provided for in the Value Added Tax Act 1994;
<b>Virus</b>	means (i) program code, programming instruction or set of instructions intentionally constructed with the ability to damage, destroy, disable, interfere with or otherwise adversely affect computer programs, data files or operations; or (ii) other code typically designated to be a virus, trojan horse, time lock or time bomb or anything similar.

2.2 The headings in these Terms are for convenience only and do not affect interpretation.

- 2.3 Any reference in these Terms to statutory or regulatory provisions shall include any subsequent consolidation, modification, re-enactment or replacement of any such provisions and all secondary legislation made under such statute or regulatory provisions.
- 2.4 The Schedule is incorporated as part of these Terms and references to “the Terms” includes the Schedule.
- 2.5 If there is any conflict between the terms of the main body of these Terms and those contained in the Schedule, the terms of the main body of these Terms shall prevail to the extent of that conflict except in the case of Electronic Services Schedule, in which case the provisions of that Schedule shall prevail.

### **3. AUTHORISATION**

- 3.1 To conduct Business with us, you will fall into one of the following categories:
- 3.1.1 you are a Firm and hold relevant permissions for the appropriate Regulated Activities, appropriate equivalent permissions under the regulatory regime of your host state and/or passporting rights relevant to the Business to be conducted with us; or
- 3.1.2 you are a Service Provider and your member who wishes to conduct Business with us is a Firm and it holds relevant permissions for the appropriate Regulated Activities, appropriate equivalent permissions under the regulatory regime of a member’s host state and/or passporting rights relevant to the Business to be conducted with us.
- 3.2 If you appoint a Person to conduct Business pursuant to these Terms, you acknowledge that we will not have any direct contractual relationship with them under these Terms. You will be responsible at all times for the conduct, actions, omissions or breach of the Regulations by such Persons and anyone who represents you and you will procure and monitor their compliance with these Terms as if directly binding on them. You will ensure that such Persons are properly trained, competent and at all relevant times, hold a statement of professional standing as is appropriate to their role as an Accredited Body. You further agree that you will notify us in writing as soon as reasonably possible if any Person ceases to be exempt or approved to carry out Regulated Activities or has such approval withdrawn or suspended. We reserve the right to put in place such procedures as we consider are appropriate to ensure that any such Person cannot transact further Business with us.
- 3.3 We will carry out checks against your Firm’s status including regulatory authorisation and the scope of your permissions to conduct Regulated Activities or if you are based in an Offshore Territory other applicable regulatory authorisations and permissions. We will not conduct Business with you if you do not hold relevant authorisation or permissions.
- 3.4 You agree to notify us without delay if you cease to be regulated and authorised by the FCA or PRA, the scope of your permissions to conduct Regulated Activities is changed or you are censured, fined or disciplined by the PRA or FCA.
- 3.5 We will carry out credit checks on you and we reserve the right not to conduct further Business with you, to only offer Commission (where applicable) on a non indemnity basis or to stop the payment of Remuneration if we have any concerns about your credit status.
- 3.6 We place particular importance on ensuring that Business is conducted having due regard at all times to TCF. We will not conduct further Business with you where we believe that there would be a breach of TCF. In order to meet our TCF obligations we may from time to time request information from you concerning your approach to, and compliance with, TCF. You agree to supply us with information that we reasonably request without delay.
- 3.7 At no time will you act as our agent. In addition, you have no authority to do any of the following:
- 3.7.1 sign or amend any documents, or any policies on our behalf;

- 3.7.2 bind us to any contract with any third party;
  - 3.7.3 accept premiums or contributions for Business on our behalf or represent yourself as being entitled to do so;
  - 3.7.4 collect information from a Customer on our behalf as our agent;
  - 3.7.5 make any statements or promises or representations of any kind which bind or purport to bind us and you will not hold yourself out as having authority to make such representation.
- 3.8 You will always act in the Customer's best interests and comply with the Rules on suitability and ensure all communications with Customers are clear, fair and not misleading in compliance with the FCA Rules (particularly Principle 6 in the FCA Rules).
- 3.9 You will ensure that all communications from you and actions you take on behalf of the Customer and all data submitted to Aviva are accurate and, where applicable, issued in accordance with the Customer's wishes and instructions.
- 3.10 It is your responsibility as agent of the Customer to ensure that the Customer is aware of the need to inform Aviva immediately of any change in their answers to any health or other questions which they have provided before Aviva assumes risk for any Business.
- 3.12 You will maintain professional indemnity insurance in accordance with the requirements of the FCA, PRA or the Accredited Body you belong to and will provide a copy of your policy to us on request.

#### **4. COMMISSION**

- 4.1 We may pay Commission in such circumstances and only for as long as we are able to do so in accordance with the Rules.
- 4.2 If you are entitled to Commission, such payment will not become due until we receive the relevant premium or contribution due for the Business from the Customer.
- 4.3 We will credit or pay you Initial Commission on Business submitted by you at rates advised to you from time to time if all the following terms are met:
- 4.3.1 you have an Adviser Account with us; and
  - 4.3.2 Initial Commission is payable on the Business; and
  - 4.3.3 we have accepted risk in relation to an Application; and
  - 4.3.4 the Business remains in force on the date the Initial Commission payment or payments fall due.
- 4.4 We will credit and pay you Trail Commission in the following circumstances:
- 4.4.1 the Business is of a type in relation to which Trail Commission is payable and you have selected an appropriate Commission option; and
  - 4.4.2 the Business in relation to which Trail Commission is payable remains in force or is renewed and is in your Adviser Account; and
  - 4.4.3 at the time a Trail Commission payment becomes due you are providing on-going services to the Customer in respect of whom Trail Commission is being paid (but excluding where such services are being paid for by any Adviser Charges).

- 4.5 Unless otherwise advised by us in writing, Initial Commission will not be paid to you in respect of a private medical insurance or an income protection policy taken out by a Customer of yours where such Customer has taken out Business of the same type with us in the previous 12 months. The provisions of this Clause 4.5 do not apply to separate new income protection “top up” policies issued to supplement existing income protection policies held with us.
- 4.6 You will not be entitled to any Commission if you are in breach of these Terms.

### **Commission Options**

- 4.7 Commission will be payable in accordance with any one or more Commission options made available to you by Aviva from time to time.
- 4.8 For some Business you may, subject to our consent, elect to receive a reduced rate of Commission in return for Aviva enhancing benefits under particular policies.
- 4.9 We may, at our discretion, pay you Initial Commission on an indemnity basis. Payment of Initial Commission on an indemnity basis represents a discounted, advanced payment of Commission that is earned over a period of months or years (the “**Indemnity Period**”).

### **Repayment of Commission**

- 4.10 Commission is repayable in the following circumstances:
- 4.10.1 in full if no premium is received for an Aviva Policy in relation to which Commission has been paid; or
  - 4.10.2 in full if an Aviva Policy is cancelled in the regulatory or contractual cancellation or cooling off period; or
  - 4.10.3 in full or in part if you receive more Commission than you are due, repayment being limited to the excess Commission payment; or
  - 4.10.4 in full or in part, where you have been notified by Aviva prior to Business being written of any other circumstances where Commission is or could be repayable. Such notification may be set out in formal correspondence between you and us or it may appear in formal documentation issued by us from time to time to more fully detail the operation of Commission options in relation to one or more types of Business; or
  - 4.10.5 in full or in part where Commission has been paid in circumstances where Commission should not be paid under the Rules; or
  - 4.10.6 in full or in part if an Aviva policy written through your Adviser Account is rewritten (either through your Adviser Account or an account for another Firm).
- 4.11 In addition to the circumstances set out in Clause 4.10 above, Commission paid on an indemnity basis will be repayable if following the end of the regulatory or contractual cancellation or cooling off period, Business is cancelled or premiums are reduced. The amount due for repayment will, except for income protection policies and private medical insurance, be the present value of Commission for the remaining Indemnity Period at the date the Business is cancelled or the premiums are reduced. For income protection policies and private medical insurance reclaims of Commission will be the proportion of the indemnified Commission that at the date the Business is cancelled or the premiums are reduced remains unearned.
- 4.12 You will remain liable at all times for reclaims of Commission made by us in respect of Business submitted through your Adviser Account by you or by your Advisers, or where you have instructed us to redirect Commission due to you to a third party.

- 4.13 In accordance with Clause 8.1, we will offset any reclaimed Commission from any other Remuneration due to you from us. If we cannot offset such reclaimed Commission, you will be liable to repay reclaimed Commission within 28 days of us notifying you of the amount due. If any monies remain owing to us at the end of the 28 day period, we will charge interest on the outstanding balance at the rate pursuant to Section 69 of the County Courts Act 1984 with such interest being chargeable with effect from the date that we notified you that the monies were due to us.

### **Changes to Commission**

- 4.14 We reserve the right to amend the rates or basis of Commission, method of calculation or options for payment available to you at any time on five Business Days' notice. Such changes will apply to Applications received by us after the date notified to you and for these purposes, Applications will include the payment by a Customer of additional premiums or contributions, whether or not selected at outset, to existing Business and the inclusion of new members to group life, pension, private medical insurance and income protection schemes.
- 4.15 If we agree to pay you Commission on an indemnity basis, we reserve the right at any time up to the payment of Commission to switch payment of Commission to non-indemnity commission on a case by case basis, in relation to a type of Business or all types of Business.
- 4.16 Commission will be paid on a non-indemnity basis where Business is taken out by you for your own benefit or taken out by one of your Advisers for their own benefit.

### **Execution Only Transactions**

- 4.17 We will only accept Execution Only Transactions from you by agreement on a case by case basis and if we accept such business, we may choose to do so without paying you Commission.

## **5. ADVISER CHARGES**

- 5.1 We may Facilitate the payment of Adviser Charges to you (or to any third party at your request in accordance with Clause 7) on behalf of a Customer. Any such payment will, at all times, be made in accordance with the Adviser Charge Agreement entered into between us and the relevant Customer and the Regulations.
- 5.2 Except as described in Clause 5.3, we will only act on the Customer's instruction in connection with any increases or changes to the nature of Adviser Charges to be paid.
- 5.3 We will only accept instructions from you where Adviser Charges are being cancelled or reduced.
- 5.4 If there are insufficient funds to pay an Adviser Charge in full we will take the following action;
- 5.4.1 For Customers invested in the Aviva Platform, if there are insufficient funds to pay an Adviser Charge in full from the Customer's cash account, we will sell the Customer's available investments to cover these payments in accordance with the Aviva Platform Terms & Conditions. If a Customer's Aviva Platform investments are not readily realisable, we will request that the Customer rectifies the shortfall. In these circumstances we may be unable to rectify the shortfall or there may be a delay in rectification. At no time shall we be responsible to you for the non-payment of or shortfall in any Adviser Charges due to you; or
- 5.4.2 In cases other than those covered by Clause 5.4.1 above, we will take a partial payment to the extent possible. In the case of an Advice Charge Payment or Fund Value Advice Charge Payment, we will seek to pay any shortfall in payment from any fund value accruing to the relevant Aviva Policy as a result of future contributions. For Initial or Ongoing Adviser Charges, any deficiency in payment will not be

collected from any subsequent fund value accruing to the relevant Aviva Policy as a result of future contributions.

At no time shall we be responsible to you for the non payment of or shortfall in any Adviser Charges due to you.

- 5.5 In addition to the provisions set out in Clause 9, we will not pay out Adviser Charges:
- 5.5.1 over a materially different time period or on a materially different basis to that in which we collect the Adviser Charge from the Customer; or
  - 5.5.2 if we cannot collect an Adviser Charge from the Customer; or
  - 5.5.3 to the extent that, subject to maintaining any required minimum balance, there are insufficient monies within the Customer's Aviva Policy; or
  - 5.5.4 if we are instructed by the FCA or PRA to do so.

In addition, we will not make any advance payment of Adviser Charges.

- 5.6 If despite reasonable effort on our part, we are unable to contact you or trace your bank account in order to pay you an Adviser Charge, we will stop the payment of any future Adviser Charges to you and any Adviser Charges already deducted from a Customer's Aviva Policy but not yet paid to you will be re-credited back to such Customer in accordance with the relevant Adviser Charge Agreement.
- 5.7 We may ask Customers from time to time if the terms of their Adviser Charge Agreement still accurately reflect the nature of the continuing services provided to them by you.
- 5.8 You agree to inform us without delay if you cease to provide a Customer with on-going services.
- 5.9 In the circumstances set out in Clause 9, any cessation in the payment of Adviser Charges will not apply to Initial Adviser Charges but will apply to Ongoing Adviser Charges only.
- 5.10 We reserve the right to determine the type and level of Adviser Charge that we may offer to Facilitate and the type of Business from which an Adviser Charge can be Facilitated by us in the future.

## 6. **INTEREST**

- 6.1 We will not pay interest to you for the late or non payment of Commission.
- 6.2 We will not pay nor will we Facilitate on behalf of a Customer or Employer the payment of interest for the non or late payment of an Adviser Charge due to be paid to you under an Adviser Charge Agreement.

## 7. **RE-DIRECTION OF REMUNERATION**

- 7.1 You may ask us to re-direct all or a proportion of your Remuneration to a third party on your behalf. If we agree to do so, we will endeavour to ensure a correct payment is made to the requested third party, but we cannot accept any responsibility for non-payment (which may be the case if your Adviser Account holds insufficient credit) or an incorrect payment.
- 7.2 If we exercise our right to reclaim any Remuneration from you, we will reclaim from both you and the third party to whom you have requested payment, in the same proportion as the then prevailing split for such re-direction of Remuneration. However, if in our sole discretion we conclude that we cannot recover any reclaimed monies from the third party, you will repay to us the full amount of any reclaimed Remuneration.

- 7.3 If your Adviser Account with Aviva is in debt for any consecutive period of two months or more, you shall be deemed to have given us your express consent to inform the third party to whom you have requested us to re-direct any Remuneration accordingly.
- 7.4 Any re-direction of Remuneration by you to a third party pursuant to these Terms is solely as a result of an agreement made between you and such third party. Aviva cannot be deemed to be making any payment itself by way of commission, remuneration, reward or otherwise to such third party in respect of the Business to which the re-directed Remuneration relates.

## **8. OFFSETTING**

- 8.1 In the event that you have a debt due to us or any company that at any time is in the Aviva group of companies, you will settle that debt immediately or by offsetting as follows. You agree that We have the right to offset any Remuneration or any other monies due to you from us under these Terms or any other agreement or arrangement with you against any debt howsoever arising that you owe to us or any company that at any time is in the Aviva group of companies (whether listed at the end of these Terms or not), the ultimate holding company of which is Aviva plc, and in respect of any one or more Adviser Accounts that you hold with us.
- 8.2 You further agree that you will not seek to recover from a Customer, Employer or Member (by way of legal proceedings or through any other means) any or part of any Adviser Charge they requested us to pay to you but which has been used to offset any debts pursuant to Clause 8.1.
- 8.3 Exercising our rights under this Clause 8 will be without prejudice to any other rights or remedies available to us or that we may have.

## **9. CEASING TO PAY REMUNERATION**

- 9.1 Subject to the provisions of Clauses 5.9, we reserve the right to cease paying Remuneration to you in relation to any or all Business or in respect of certain types of Business or particular Business in the following circumstances:
- 9.1.1 if you or we terminate these Terms; or
- 9.1.2 if you cease to be the adviser to or agent of the Customer, including due to an Adviser Account Transfer as defined in Clause 13 below, or in our reasonable opinion you are not providing services to the Customer; or
- 9.1.3 if we have concerns regarding the authority of a partner, director, principal, Adviser, member or other representative of yours to represent you or to give us instructions with regard to the operation of your Adviser Account; or
- 9.1.4 if there is a dispute between you and another adviser or a Customer regarding entitlement to Remuneration; or
- 9.1.5 if business is submitted to us in breach of the Regulations including TCF or authorisation and permissions to undertake Regulated Activities; or
- 9.1.6 if there are material changes in your legal identity or constitution; or
- 9.1.7 if you or any of your partners, directors, principals, Advisers, members or other representatives of yours have been charged with, or convicted of, an offence involving fraud or dishonesty, or
- 9.1.8 if, in the case of an Adviser Charge, there are insufficient funds to make the relevant payment; or
- 9.1.9 if a Customer advises us to cease paying Trail Commission on the basis that you no longer act for the Customer; or

- 9.1.10 if a Customer advises us to cease paying any Adviser Charges to you; or
- 9.1.11 where we reasonably believe that the Adviser Charge varies in any material way from your standard charging structure or if the Adviser Charge appears to be unreasonable in relation to our understanding of the advice given or services provided; or
- 9.1.12 where we believe that the collection of an Adviser Charge may have a material adverse impact on an Aviva Policy or funds held by a Customer or Member of a Plan; or
- 9.1.13 where we believe that the payment of Commission and/or Adviser Charges would be in breach of Regulations or such payment would constitute an unauthorised payment for the purposes of Chapter 3 of Part 4 of the Finance Act 2004; or
- 9.1.14 your entry into voluntary arrangements or any other arrangement whether formal or informal with your creditors, the commencement of bankruptcy or winding up proceedings against you, the appointment of a receiver or of an administrative receiver over your assets, or your entry into liquidation (whether voluntary or compulsory); or
- 9.1.15 you are in breach of these Terms.

## **10. STATEMENTS**

- 10.1 We will provide you with statements setting out details of Remuneration due to you together with details of any sums which may be reclaimed from you.
- 10.2 We may provide statements in whatever medium as advised to you from time to time. If you request additional copies of statements, we may charge you a reasonable fee for such copies.
- 10.3 You will check your statements and bring to our attention as soon as reasonably practicable any errors or queries that you may wish to raise with us. We will aim to investigate and provide you with a response as soon as reasonably practicable. In the absence of agreement, our statement will be the prime record of Remuneration due to you and will be final and binding.

## **11. METHOD OF PAYMENT**

- 11.1 We will pay Remuneration due to you ("**Payments**") on a weekly or monthly basis ("**Payment Periods**") by BACS or such other methods as we may determine from time to time.
- 11.2 We may defer making any Payment to you until such accumulated Payments (less reclaims) reach the minimum amount that we may set from time to time.
- 11.3 If you hold more than one Adviser Account with us, we may aggregate all Payments due against all reclaims made across all our Adviser Accounts during the Payment Period. If at the end of a Payment Period the aggregate amount is a credit, subject to Clause 11.2 we will pay you the credit balance. If the aggregate amount is a debt owing to us, you will be liable to repay us.

## **12. DISCLOSURE**

- 12.1 We and you will act in accordance with the Regulations in respect of disclosure of any Remuneration and other prescribed information to Customers. We and you will comply with our regulatory obligations which may include providing Customers with details of any Remuneration due to you.

### **13. ADVISER ACCOUNT TRANSFERS**

- 13.1 For the purposes of these Terms an “**Adviser Account Transfer**” is the transfer of some or all Business from an Adviser Account of a Firm to an Adviser Account of another Firm.
- 13.2 On an Adviser Account Transfer, we will pay all further Remuneration in respect of the Business transferred to the new adviser firm.
- 13.3 If another Firm requests an Adviser Account Transfer from your Adviser Account to its Adviser Account we will only arrange an Adviser Account Transfer if you have agreed in writing to such a transfer.
- 13.4 Where a Customer requests that his or her Business in your Adviser Account is transferred to another Firm’s Adviser Account, we reserve the right to act upon the Customer’s instruction even where this may be contrary to your instructions to us. We will pay all further Remuneration in respect of the Business transferred to the other Firm’s Adviser Account except for Initial Adviser Charges or Initial Commission due to you at the date of such transfer.
- 13.5 Where you request an Adviser Account Transfer to your Adviser Account we will only consider making an Adviser Account Transfer if the transferring Firm consents and you agree to accept liability for any Remuneration that may be reclaimed by us (including but not limited to unearned Indemnity Commission paid on the Business transferred). If a Customer objects to such a transfer, we will not re-register that Customer to you.
- 13.6 We reserve the right to refuse an Adviser Account Transfer request or alternatively we may apply such conditions as we believe appropriate to an Adviser Account Transfer.
- 13.7 Where an Adviser Account Transfer is requested under Clauses 13.3 and 13.5, you agree to provide us with such information and documents as we may reasonably request concerning the transfer and the giving of information about the transfer to the relevant Customers.

### **14. USE OF THE AVIVA PLATFORM**

- 14.1 If you have access to the Aviva Platform, you agree to comply at all times with these Terms and any terms we may issue to Users from time to time (“**User Guidance**”).
- 14.2 You will give us written notice of the Persons whom you wish to be Users. We reserve the right, at any time and without providing reasons, to change a User’s access rights. We will notify you as soon as reasonably practicable of such action.
- 14.3 You will be responsible for the activities of the Persons that you have nominated as your Users and you will use all reasonable endeavours to ensure your Users comply with these Terms and any User Guidance.
- 14.4 If, at any time you cease to act for a Customer, we may continue to provide such Customer with access to the Aviva Platform.
- 14.5 You will retain sole responsibility to a Customer for investment advice and for advising a Customer as to the suitability of the Aviva Platform. We cannot be construed in any way as providing investment advice and/or advising on the suitability of the Aviva Platform to a Customer or of any investment made through the Aviva Platform.
- 14.6 Where you advise us that a particular Customer does not require direct access to the Aviva Platform, you will provide such Customer with all information that would otherwise have been available to such Customer through the Aviva Platform.

## **15. DEALING TERMS - AVIVA PLATFORM**

- 15.1 All contributions for investment through the Aviva Platform will be payable to us and you will forward all such contributions, or the authority for the collection of contributions to us as soon as reasonably practicable and without deduction (unless required by Regulations). You have no authority to accept contributions on our behalf.
- 15.2 Where we receive instruction directly from a Customer, we will act on such instructions.
- 15.3 When buying or selling investments for a Customer, we will deal as agent for the Customer. All investments purchased will be registered in our name or the name of our nominee or Affiliates

## **16. CONTACT WITH CUSTOMERS**

- 16.1 We reserve the right to contact Customers in the following circumstances:
- 16.1.1 to carry out research into purchasing preferences, attitude to risk and product performance, service expectations, attitudes and opinions to government and regulatory initiatives and other areas of interest in or connected to the financial services industry as we may decide from time to time; or
  - 16.1.2 with your consent, to provide advice and/or provide services to Customers introduced by you; or
  - 16.1.3 to deal with the issue of Business and the on-going administration of Business including the collection of premiums and the provision of information to Customers on product features such as, but not limited to, the exercise of options and notifying Customers of Policy Events; or
  - 16.1.4 as required by this Agreement or the Regulations; or
  - 16.1.5 to resolve any complaint initiated by a Customer relating to Business; or
  - 16.1.6 at the request of the Customer; or
  - 16.1.7 in relation to private medical insurance, to notify customers of changes in policy conditions or replacement policy terms and conditions to apply at the renewal of such Business or of product closures.
- 16.2 Nothing in in this Clause 16 will prevent us from contacting Customers for any purpose whose details we acquire or have acquired from any source other than by virtue of our relationship with you.
- 16.3 Except as provided in Clauses 16.1.2, 16.1.7 and 16.2 above, we will endeavour not to initiate contact directly with Customers in order to promote and sell Business without your consent except where:
- 16.3.1 the Customer:
    - (i) has contacted us to ask us to provide information, financial advice or other services; or
    - (ii) indicates to us that he or she no longer receives financial advice or services from you; or
    - (iii) can no longer receive advice from you due to you no longer holding the required permissions to conduct Regulated Activities, other relevant regulatory permissions or by reason of this Agreement being terminated; or

16.3.2 we conduct Generic Marketing. .

## **17. DOCUMENTATION AND COMMUNICATION**

- 17.1 You must pass on without delay and without amendment any documentation or communication from us for the attention of, or completion by, the Customer or which the Customer wishes you to forward to us. If we send you any documentation or communication which is found to contain an error, it should be returned to us as soon as possible.
- 17.2 You must retain all correspondence, documentation, papers, records, relating to an Aviva Policy in your possession for a period of six years from the date of the inception of the Aviva Policy.
- 17.3 Where you continue to act on behalf of a Customer, we will endeavour to keep you informed of relevant events such as unpaid premiums and claims or changes to Adviser Charges.
- 17.4 All books, documents (held in whatever media) and computer hardware and software belonging to us and in your possession must at all times be available to us for inspection and be delivered to us at our request. Computer software must be readily accessible at all reasonable times.
- 17.5 We may, send documents directly to a Customer. If you request, we will endeavour to keep you informed of such communications.

## **18. ONLINE COMMUNICATION**

- 18.1 Your communications to us will be deemed to have been received by us when the communication is accessible by us.
- 18.2 You accept responsibility and liability for the completeness and accuracy of any communication sent to us through the Electronic Services and we will not be liable for any consequence of any inaccurate or incomplete communication.
- 18.3 You authorise us to accept any electronic communication as a valid instruction without the need for further written confirmation from you or verification that such communication was generated by you. We reserve the right in relation to all instructions received through the Electronic Services, to require ratification of the instruction from the Customer before effecting any such instruction. We will not effect instructions where any provisions in an Aviva Policy do not permit instructions to be accepted and/or authorised electronically.
- 18.4 In the event that a communication is corrupted, you shall re-transmit the communication as soon as possible to us, together with an indication that it is a corrected communication.
- 18.5 If you do not receive acknowledgement of your instruction, or if the acknowledgement does not accurately reflect your instruction, you shall immediately notify us. If you do not immediately notify us of the inaccuracy, you will be deemed to have accepted the acknowledgement as an accurate reflection of your instruction.
- 18.6 We accept no liability for any failure to carry out any instructions received through the Electronic Services, and you acknowledge that it is your responsibility to ensure that you have viewed an acknowledgement confirming acceptance of each instruction.
- 18.7 You agree to afford the same status to all communications and information received or sent through the Electronic Services as would be applicable to communications and information sent otherwise than by electronic means, unless such communications and information can be shown to have been corrupted as a result of technical failure on the part of machine, system or transmission line.
- 18.8 Any instructions you receive from us in relation to Business that you transact with us will be subject to the terms and conditions applicable to that Business.

## **19. ELECTRONIC SERVICES**

- 19.1 The terms which will apply between us in relation to Electronic Services are set out in the Schedule to these Terms.

## **20. INTELLECTUAL PROPERTY RIGHTS**

- 20.1 The “Aviva”, “Aviva Investors”, “Aviva Platform” and “Friends Life” names and logos (the “Marks”) together with all associated goodwill and trade mark registrations in respect of them, belong to Aviva and/or our Affiliates.

20.1.1 You may only use the Marks for the purposes of advising on, selling or administering and dealing with Business or services except where in individual cases we give permission in writing for use for other purposes;

20.1.2 The Marks may only be used on material and documents provided by us except where in individual cases permission is given in writing for their use on documents and/or materials produced by or for you;

20.1.3 If permission is given to use a Mark and this permission is later withdrawn, you will stop reproducing or using the Mark and return or destroy at our request all stocks of relevant material;

20.1.4 You will not do, or authorise any third party to do, any act that would or might invalidate or be inconsistent with any Intellectual Property Right that we or any Aviva Affiliates hold in such Marks or which would damage or dilute the value or reputation of the Marks (or any goodwill therein) or that of Aviva or our Affiliates;

20.1.5 On termination of these Terms, you may use the Marks solely for the purpose of concluding any Business submitted to us but which has yet to be completed.

- 20.2 Intellectual Property Rights in all materials, documentation and data (including personal data) we make available to you, or which you access from or via us electronically, whether for your use or the use of Customers belong to Aviva or our Affiliates or licensors. You may not reproduce such materials in part or as a whole without our consent except where it is necessary to do so for regulatory or other legal purposes.

- 20.3 You acknowledge that all Intellectual Property Rights contained in our websites (and content thereof) and other systems through which you access our Electronic Services belong to us or our licensors. Either during or after the expiry or termination of these Terms you will not attempt to replicate the appearance of our website or replicate any of the other systems or adopt a trade mark, business name, domain name or other name that is the same as or similar to the domain names or the marks of Aviva or our Affiliates (including the Marks).

- 20.4 You may not remove, suppress, modify, reverse engineer, disassemble, copy, enhance, sublicense, assign, novate, distribute or decompile (whether for error correction or any other reason) in any way any marks, software, text graphics, files, scripts or other content or materials on any of our websites or systems through which you access Electronic Services or in any related documentation save to the extent expressly permitted by Clause 20.1.

- 20.5 Your use of the software in the Electronic Services shall be restricted to the use of such software in object code form for the purpose of performing your obligations under these Terms.

## **21. TERMINATION AND CONSEQUENCES OF TERMINATION**

- 21.1 These Terms may be terminated immediately by you or us serving written notice on the other. No reason need be given for such termination.

- 21.2 These Terms will terminate with immediate effect in the following circumstances:
- 21.2.1 you commit a material breach of these Terms and either such breach is not capable of remedy, or, if capable of remedy has not been remedied within 10 Business Days of the breach; or
  - 21.2.2 you enter into a voluntary arrangement with your creditors, if bankruptcy or winding-up proceedings are started against you or if a receiver or an administrative receiver is appointed in respect of your assets or you enter into liquidation (whether voluntary or compulsory); or
  - 21.2.3 you are no longer a Firm or the FCA or PRA suspends or revokes your authorisation under the Act; or
  - 21.2.4 you are no longer a Service Provider or Network;
  - 21.2.5 you cease trading;
  - 21.2.6 you are subject to disciplinary proceedings brought by any competent authority or regulatory body or Accredited Body;
  - 21.2.7 you submit your resignation to the FCA, PRA or to the regulatory authority in the Offshore Territory in which you are regulated.
  - 21.2.8 if, in our reasonable opinion, you breach any User Guidance or any generally accepted guidelines on internet use and etiquette (including but not limited to restrictions on pirating or copying software or attempts to violate security);
  - 21.2.9 any insolvency proceedings are taken against any of your directors, members or partners;
  - 21.2.10 if you are a partnership, that partnership is or is to be dissolved;
  - 21.2.11 the charging or conviction of any partner, director, member, Appointed Representative of you of any criminal offence (other than a minor traffic offence) which in our reasonable opinion has a material adverse effect on our business or reputation;
  - 21.2.12 the withdrawal of a personal guarantee which has been provided to the Aviva Group by a director if you are a company or a partner if you are a partnership, or such personal guarantee ceases to be enforceable for any reason.
- 21.3. You agree to notify us promptly in writing of any facts known to you within the scope of Clause 21.2 of these Terms.
- 21.4 As soon as reasonably practicable you will immediately repay all monies owing to us at the date of termination or arising thereafter.
- 21.5 Termination of these Terms will be without prejudice to any accrued rights or obligations existing at the date of termination or any rights or obligations contained in these Terms which expressly or by implication are intended to survive the termination of these Terms.

## **22. DATA PROTECTION**

- 22.1 The words "personal data", "data subject", "data controller" and "data processor" in this Clause 22 shall have the meaning given to them in the Data Protection Act 1998.
- 22.2 In the performance of obligations under these Terms, to the extent that either we or you are a data controller, we and you will comply at all times with the Data Protection Legislation.
- 22.3 We will hold personal data about you and your dealings with us including personal data supplied by you to us when applying to open an Adviser Account with us. If you or your Users access the Aviva Platform or Electronic Services we may gather personal data relating to the identity of the User, time and type of use.
- 22.4 You must, at all times, hold the User's and the Customer's informed consent regarding access to, use of and processing of personal data relating to that Customer or User in order that such personal data can be accessed used or processed by you, your Users or us. We reserve the right to verify that you have such consent at any time and, if we have reason to believe that you do not have such consent, we will not accept any personal data from you or supply you with any personal data
- 22.5 We warrant to you, and you warrant to us, that, where either you or us collects personal data from the Customers and the Users, which it subsequently transfers or makes available to the other, that we or you (as applicable) have:
- 22.5.1 collected such personal data fairly and lawfully;
  - 22.5.2 ensured that the disclosure of such personal data to the other party is fair and lawful; and
  - 22.5.3 ensured that the receiving party's use of such personal data in accordance with the Terms for the purposes of carrying out its obligations under these Terms will not breach the Data Protection Legislation.
- 22.6 You shall:
- 22.6.1 not act in any way in relation to the Customer's personal data which might reasonably damage the reputation or goodwill of Aviva or its relationship with Customers;
  - 22.6.2 promptly provide to us all information in your possession concerning any unauthorised or accidental disclosure of, or access to, the personal data of Customers including as a result of any unauthorised access to the Electronic Services under Paragraph 2.2.2 of the Schedule (Electronic Services);
  - 22.6.3 if we agree with you to undertake any direct marketing of your Customers, obtain and maintain appropriate consents from your Customers in order for us to contact them. If any of your Customers have objected to such use of their details, you will notify us immediately; and
  - 22.6.4 notify us immediately of any complaints you receive from Customers or the Information Commissioner in relation to your processing of the Customer's personal data.
- 22.7 In addition to your obligations under Clause 22.6, to the extent that either we or you are a data processor of any of the Customer's personal data made available or transferred to us by the other party under these Terms, we and you shall:
- 22.7.1 only act on the instructions of the data controller;

- 22.7.2 restrict the disclosure of the Customer's personal data to those of its employees who may be required by it to assist it in meeting its obligations under these Terms and ensure that such employees used by it to perform its obligations under these Terms as they relate to personal data shall have undergone reasonable levels of training in the law of data protection and in the care and handling of personal data;
- 22.7.3 assist the data controller promptly with all subject access requests which may be received from the data subjects of the personal data;
- 22.7.4 only process such personal data lawfully and after having taken, and continuing to take, appropriate technical and organisational measures to guard against unauthorised or unlawful processing of such personal data and against accidental loss or destruction of, or damage to, such personal data. In doing so, the data processor (as appropriate) shall provide a level of security appropriate to:
- (i) the harm that might result from any unauthorised or unlawful processing or accidental loss, destruction or damage to the Customer's personal data;
  - (ii) the nature of the Customer's personal data being protected; and
  - (iii) having regard to the state of technological development and to the cost of implementing such measures.
- 22.8 You agree that where you act as a data processor under these Terms you shall not transfer any of the Customer's personal data outside the European Economic Area unless authorised in writing to do so by us.
- 23. CONFIDENTIALITY**
- 23.1 For the duration of these Terms and following their termination, Confidential Information in our or your possession will not be disclosed to third parties except:
- 23.1.1 where the information is in or enters the public domain other than by way of breach of these Terms;
  - 23.1.2 where required to do so by the Regulations;
  - 23.1.3 where we need to disclose such Confidential Information to any of our Affiliates, sub-contractors or agents in order to administer the Business or for training purposes; or
  - 23.1.4 where otherwise provided under this Clause 23.
- 23.2 In the event that a Customer or Employer appoints a new Firm to provide advice and services, you agree that we can confirm that you have previously provided advice and/or services to the Customer and that we may provide details of Adviser Charges previously paid to you in connection with the relevant Customer or Scheme.
- 23.3 We may also disclose data relating to the Business to market research organisations for the purpose of analysing such data and preparing strategic or other marketing plans. Data and the resulting analysis may be shared with other product providers.
- 23.4 In the event that you seek to promote products of other Aviva group companies we may share information about you and your dealings with us to these other Aviva group companies.
- 23.5 In the event of a breach of these Terms and, in particular, if you incur an FCA or PRA reportable debt, we reserve the right to share this information with other financial institutions,

credit reference agencies and appropriate regulatory authorities. We will supply details to the Elixir 2000 Database maintained by CRIBISNET SpA on behalf of insurers.

- 23.6 Data about you or your dealings with us disclosed in accordance with this Clause 23 may involve disclosure of data to third parties or Aviva group companies operating outside the European Economic Union.

## **24. FINANCIAL CRIME: MONEY LAUNDERING, BRIBERY & CORRUPTION AND FRAUD**

### **Money Laundering**

- 24.1 In providing regulated services to a Customer and introducing business to us, you are responsible for compliance with the Regulations governing the prevention of money laundering and terrorist financing (including the 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.
- 24.2 In accordance with such legislation and regulation, you shall operate effective screening processes to guard against making economic resources or financial services available to sanctioned individuals or entities and take appropriate measures should your screening identify such sanctioned individuals or entities.
- 24.3 You shall obtain and accurately record appropriate evidence of the identity of all Customers, beneficial owners and any other third parties introduced to us by you. This must include, but is not limited to Enhanced Customer Due diligence on Politically Exposed Persons and other customers that represent high risk from a money laundering perspective. You will forward to us on request and as soon as possible, a confirmation of verification of identity for all relevant parties, in order to satisfy your own and our obligations under applicable legislation and regulation governing the prevention of money laundering and terrorist financing. For the Aviva Platform only, if you do not forward such confirmation of verification of identity to us, we will suspend the account for the applicable Customer and will not resume activity in connection with that Customer (including, for the avoidance of doubt any payment of remuneration) until acceptable confirmation is received by us. You acknowledge that we place reliance on you to undertake Customer due diligence, and in accordance with Regulation 17(1)(a) of the Money Laundering Regulations 2007 by entering into these Terms you consent for us to place such reliance on you.
- 24.4 We reserve the right to carry out random checks on Customer identity evidence and other Customer information held by you. You should on request and as soon as practicable, forward to us relevant copies of any identification and verification data and other relevant documents on the identity of the Customer, beneficial owners and other third parties, which you obtained when undertaking Customer due diligence.
- 24.5 Where an exemption to or waiver from the requirement to verify identity applies, you will give us written details of the exemption or waiver used and rationale for using that exemption or waiver. We may also decide to perform our own customer due diligence and identity verification whether or not we are legally obliged to do so and you agree to provide all reasonable assistance if we decide to do this.

### **Bribery & Corruption**

- 24.6 It is our policy to comply with all Regulations imposed on us in connection with Bribery & Corruption. To the extent that any applicable Bribery & Corruption obligations apply to you, your business or your officers, agents, sub-contractors, or employees in any relevant jurisdiction, in providing regulated services to Customer and introducing Business to us, you represent that you, your business and your officers and employees are compliant and will remain compliant with such Bribery & Corruption obligations.

- 24.7 You agree that you will have in place adequate and effective procedures for detecting and monitoring Bribery & Corruption and will regularly audit and monitor such procedures to prevent a breach of any such compliance. You agree to report promptly to us in writing any breaches of such compliance (including where there is a suspicion of a breach or an allegation of a breach) which are or may be relevant to these Terms. We reserve the right to perform our own investigation if we suspect there has been activity which may contravene Bribery & Corruption obligations and you agree to provide all reasonable assistance if we decide to do this.

#### **Fraud**

- 24.8 It is our policy to comply with Regulations imposed on us in connection with Fraud. To the extent that any applicable Fraud Regulations and/or obligations apply to you, your business or your officers, agents, sub-contractors, or employees in any relevant jurisdiction, in providing regulated services to Customer and introducing Business to us, you represent that you, your business and your officers and employees are compliant and will remain compliant with such Regulations and/or obligations and that shall include ensuring that your officers and employees undertake reasonable levels of training in relation to Fraud.
- 24.9 You agree that you will have in place adequate and effective procedures for detecting and monitoring Fraud and will report promptly to us in writing any breaches of compliance which are relevant to these Terms. We reserve the right to perform our own investigation if we suspect there has been fraudulent activity and you agree to provide all reasonable assistance if we decide to do this.

#### **25. VALUE ADDED TAX AND INSURANCE PREMIUM TAX**

- 25.1 Except in relation to Equity Release Transactions that are classified as home reversion plans, payments of Commission are inclusive of any applicable Value Added Tax (“VAT”) or any similar or replacement tax, duty, levy or impost. In the event that Insurance Premium Tax or any similar tax is applied to premiums for Business, Commission rates and payments will at our discretion be calculated on the net premium prior to imposition of the tax.
- 25.2 We will treat all payments of Adviser Charges Facilitated by us to you as if they were VAT exempt. However, in the event that any service provided by you to the Customer carries VAT, we will treat any payment of Adviser Charges Facilitated by us to you as inclusive of any such VAT (and we will not, therefore, add any amount in respect of such VAT to the Adviser Charges).
- 25.3 You should ensure the Customer is aware of the provisions of this Clause 26~~5~~ and keep your own records and evidence to support the VAT treatment of your services provided to the Customer and we will not provide any such records or evidence to you. Assessment of the VAT status of any Adviser Charges is your responsibility and we will not in any circumstances be responsible for any error or mistake made in relation to such assessment.
- 25.4 We will treat all instructions from the Customer to pay an Adviser Charge to you as including VAT where applicable at the rate prevailing at the time of the payment and taking into account any changes to the rate of VAT however occurring. Therefore, you should arrange your services to ensure that no further instructions from the Customer are required where the rate of VAT has changed and there is a change to the amount of Adviser Charges Facilitated by us.

#### **26. VARIATION**

- 26.1 We reserve the right to vary the terms of these Terms without notice. We will endeavour to give you notice of any variation as soon as reasonably practicable. Such variation will not affect Business in force with us before the variation take place.

#### **27. INDEMNITY**

- 27.1 You agree to indemnify us for any loss, cost, damage, expense, liability action, proceedings, claims or demands however arising that we may suffer arising from:
- 27.1.1 any omission or breach of these Terms by you or your failure to comply with Regulations or otherwise by your negligence, wilful default, fraud or breach of duty on your part (including a failure to correct assess the VAT status of any Adviser Charges); or
  - 27.1.2 any omission or breach by your employees, Advisers or agents to comply with these Terms or their failure to comply with the Regulations or otherwise by their negligence, wilful default, fraud or breach of duty on their part (including a failure to correctly assess the VAT status of any Adviser Charges); or
  - 27.1.3 the inaccuracy or omission of any information, statement or instruction made or given to Aviva or to Customers by you, your employees, Advisers, directors, officers or agents pursuant to these Terms; or
  - 27.1.4 in the case of Collective Investment Scheme Business, failure to provide cleared funds on or before the relevant settlement date; or
  - 27.1.5 a decision by the FCA, PRA, the Financial Ombudsman Service (or any successor or replacement from time to time), any other regulatory body or court that we are liable to pay a claim to a Customer arising as a result of any omission or breach of these Terms by you or your failure to comply with Regulations or otherwise by your negligence, wilful default, fraud or breach of duty in disclosing pre-contractual information from a Customer in relation to his or her Application to us; or
  - 27.1.6 any claim by a Customer that you should not have received an Adviser Charge or you have been overpaid an Adviser Charge; or
  - 27.1.7 any tax liability that an Employer or Member seeks to reclaim from us including but not limited to VAT and any unauthorised payment under a Scheme arising from a payment of an Adviser Charge; or any tax liability incurred by Aviva in connection with an unauthorised payment; or
  - 27.1.8 if you take Commission payments to which you were not entitled.

## **28. MISCELLANEOUS**

- 28.1 We place reliance on the accuracy and completeness of the information supplied by you when applying to open an Adviser Account. You agree to notify us immediately if;
- 28.1.1 you cease to be regulated and authorised by the FCA, PRA or any other regulatory authority, or your permission to conduct any class of Business is revoked or suspended by the FCA, PRA or other regulatory authority; or
  - 28.1.2 there are any material changes or inaccuracies in the information you supplied to support your application for an Adviser Account; or
  - 28.1.3 if there are changes to your bank details.
- 28.2 On request you will provide the names, addresses and business details of Advisers, employees or agents you have engaged to conduct Business through any Adviser Account you hold with us. We reserve the right not to deal with such Firms, Advisers or employees and we will notify you accordingly.
- 28.3 You will not sub-licence, transfer assign or sub-contract the benefits or obligations under these Terms without our prior written consent. We reserve the right to transfer or assign any of our obligations under these Terms to any Aviva Affiliate.

- 28.4 If any provision or part of any provision is declared void, voidable, illegal or unenforceable then it will be deemed to be deleted from these Terms and the remaining provisions will continue to be valid and enforceable.
- 28.5 If you sell and redeem units or shares in an Aviva Policy on behalf of Customers, including such trading through the Aviva Platform, you warrant and represent that you will not engage in the activity of market timing. Short term or excessive trading into and out of collective investment or life fund schemes may harm performance of the schemes by disrupting portfolio management strategies. We may refuse to accept your instructions if in our reasonable opinion they are deemed to be disruptive. For these purposes, we may consider your trading history.
- 28.6 These Terms, your Adviser Account application together with formal documentation issued by us from time to time that refer to the documentation having legal force or can reasonably be construed as having legal force sets out the entire agreement and understanding between you and us in relation to submission of Business to us through your Adviser Account. Nothing in these Terms is intended to limit or exclude your liability for fraud or misrepresentation.
- 28.7 No delay by either party in enforcing any rights under these Terms prevents the relevant party from enforcing such rights.
- 28.8 The rights and remedies provided by these Terms are cumulative and except as otherwise provided in these Terms) are not exclusive of any rights or remedies provided at law or in equity.
- 28.9 You agree that you do not rely on and will have no remedy in respect of any statement, representation, warranty or understanding (whether negligently or innocently made) by us other than as expressly set out in these Terms.
- 28.10 A third party shall have no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any provision of these Terms and no consent of any third party shall be required under the Contracts (Rights of Third Parties) Act 1999 Act to any termination or variation of these Terms.
- 28.11 These Terms are subject to the laws of England and the English courts have sole jurisdiction. Without prejudice to the foregoing, we and you undertake to act in good faith in relation to each other and to discuss any dispute that may arise and to seek an amicable settlement. For the avoidance of doubt, these undertakings will not prejudice the rights of either you or us to take legal proceedings against the other.

For the purposes of these Terms Aviva means each of the following Aviva group companies:

Aviva Annuity UK Limited (03253948)

Aviva Investors UK Fund Services Limited (01973412)

Aviva Equity Release UK Limited (03286484)

Aviva Health UK Limited (02464270)

Aviva Insurance Limited (SC002116)

Aviva Investors UK Funds Limited (02503054)

Aviva Life & Pensions UK Limited (03253947)

Aviva Life Services UK Limited (02403746)

Aviva Pension Trustees UK Limited (02407799)

Aviva Wrap UK Limited (04470008)

Aviva Insurance Limited is registered in Scotland and at Pitheavlis, Perth PH2 0NH

Aviva Health UK Limited is registered in England at 8 Surrey Street, Norwich NR1 3NG.

Aviva Investors UK Fund Services Limited and Aviva Investors UK Funds Limited are registered in England at No.1 Poultry, London, EC2R 8EJ

Friends Life Limited (4096141) registered in England at Pixham End, Dorking, Surrey, RH4 1QA

Friends Life and Pensions Limited (475201) registered in England at Pixham End, Dorking, Surrey, RH4 1QA

Except where expressly stated otherwise, the companies named above are registered in England and their registered offices are at Wellington Row, York YO90 1WR.

All the above companies are authorised and regulated by the FCA. In addition, Aviva Life & Pensions UK Limited, Aviva Insurance Limited, Aviva Health UK Limited, Aviva Annuity Limited, Friends Life Limited and Friends Life and Pensions Limited are regulated by The Prudential Regulation Authority.

## ELECTRONIC SERVICES

### SCOPE

This Schedule is supplemental to the Terms and forms part of the Terms. Words and expressions used in this Schedule shall bear the same meanings as set out in Terms unless otherwise set out herein. In the event of any conflict between the Terms and this Schedule as it relates to the Electronic Services, the terms of this Schedule shall prevail.

We may make information and services available to you by electronic means either directly or through a third party ("**Electronic Services**"). This Schedule will apply specifically to all such Electronic Services save for the secure electronic messaging services which are, unless otherwise agreed in writing with you, set out in the following Origo Legal Framework ("**CELF**"). [LINK TO CELF v 3](#). You will comply with and be bound by the respective terms and conditions in the CELF with effect from the first use of the secure electronic messaging service by you or any of your employees, agents or subcontractors.

You undertake to comply and to ensure that your Users comply with all terms and conditions in this Agreement relating to Electronic Services and any additional terms and conditions, security policies and guidance we issue from time to time in relation to the Electronic Services.

### SECURITY

Where Users access our Electronic Services directly by arrangement with Aviva, each User of the Electronic Services will be granted a unique online Adviser Account number and password or, in respect of certain of our Electronic Services, a user name or user ID. For some of our Electronic Services, you may also require an approved digital certificate, being a device that verifies the identity of a User communicating with us electronically.

You will:

2.2.1 ensure that your Users do not share online Adviser Account numbers, passwords, digital certificates, User IDs or any other security identification ("**Secure Information**") with any other person and you will be liable for all access to the Electronic Services by the Users and their subsequent usage that is gained by the use of the Secure Information issued to your Users by us whether you have authorised the usage or not;

2.2.2 promptly notify us when a User leaves your employment or should no longer have access to our Electronic Services for any reason so that in appropriate cases we can take steps to disable access to the Electronic Services and we will not be liable for any losses, costs or damages to you or your Customers that may be incurred as a result of any unauthorised use of the Electronic Services

2.2.3 notify us immediately if you become aware that security of our Electronic Services may have been compromised by reason of unauthorised access to Electronic Services;

2.2.4 ensure that the software you or your Users use to access Electronic Services has adequate security features to prevent unauthorised access to the Electronic Services;

2.2.5 ensure that when using the Electronic Services you and your Users only access information to which you are entitled. In the event that you can access information to which you are not entitled you will notify us as soon as possible; and

2.2.6 ensure that the information accessed through Electronic Services is securely stored.

Please note that password sharing is an offence under the Computer Misuse Act 1990. You acknowledge that you will remain liable to us for the safekeeping and security of all passwords provided by us to the Users.

## **VIRUS PROTECTION**

You will maintain up to date anti-virus software on all your systems used by the Users.

You will ensure that no Virus is coded or otherwise introduced into our systems, or any systems used and / or owned by any member of the Aviva Group, as a result of the acts or omissions of you or your Users. If a virus is found to have been coded or otherwise introduced as a result of the action or inaction of you or any of your Users you shall immediately and at your own cost:

take all necessary remedial action to eliminate the Virus; and

if the Virus causes a loss of operational efficiency and/ or any loss of data, take all steps necessary and provide all assistance required by Aviva to mitigate the loss of or damage to such data and to restore the efficiency of such data.

## **AVAILABILITY**

Availability of Electronic Services depends on the availability of our systems, services operated by third parties and normal internet availability. We will not accept liability for unavailability of the Electronic Services for any reason.

We may extend, amend, suspend or withdraw any Electronic Service at any time for any reason.

## **ERRORS AND OMISSIONS**

We endeavour to keep records accessed through the Electronic Services up to date and accurate at all times. We will not accept liability for claims by you, your Users or your customers for damages or loss arising from inaccurate or incomplete records.

We do not accept responsibility and will not be liable for the inaccuracy or incompleteness of information or responses you or your Users receive through the Electronic Services where the inaccuracy or incompleteness arises out of or in connection with data transmission, machine or software malfunction, services provided by a third party or from you or your Users operator error.

You accept responsibility for ensuring that any data transmitted to us is accurate and complete.

## **REMOVAL OF ELECTRONIC SERVICES**

We may revoke your authority and that of your Users to use our Electronic Services if:

these Terms are terminated for any reason; or

if you fail to ensure that Users comply with the terms of this Agreement or any other additional terms and conditions, security policies or guidelines issued to you in relation to the use of Electronic Services.

We may revoke the authority of a particular User to use some or all our Electronic Services if:

we receive notice from you that the User no longer requires access to some or all of our Electronic Services; or

we have reasonable grounds for believing that a User has gained unauthorised access to one or more of our Electronic Services or has enabled any other person to gain unauthorised access to Electronic Services; or

a User fails to comply with the terms of this Agreement or any additional terms and conditions, security policies or guidelines issued in relation to the use of the Electronic Services, or

a User is convicted or charged with fraud, money laundering offences or any other criminal offence connected with computer crime.

Where you or your Users access the Electronic Services through a service provided by a third party we reserve the right to block your access or the access of particular users to our Electronic Services in the circumstances set out in Paragraphs 6.1 and 6.2 above.

### **USE OF ELECTRONIC SERVICES**

You agree that you shall procure that the Users will:

use the Electronic Services for your own internal and proper business purposes and not to use it in the operation of any services in respect of any third party except with our prior written agreement;

comply with all laws, regulation and duties applicable to use of the Electronic Services.

### **DOWNLOADS**

Any software is downloaded at your own risk. We do not warrant the suitability of any such software that is downloaded and accept no liability for any problems with your computer that may arise as a result. In no event shall we be liable for any special, indirect, consequential damages including without limitation loss of business, loss of profit, loss of goodwill or reputation, loss of corruption of data or wasted management time which may be incurred or experienced as a result of the use, inability to use, or reliance on the Electronic Services.