



TERMS & CONDITIONS

Relating to the Provision of Omni Protect Services



These Terms and Conditions ("Terms and Conditions") govern the Agreement between Participating Member and Omnicore Services Limited ("Omnicore") in relation to Omni Protect Services.

1. DEFINITIONS AND INTERPRETATION

1.1 In these Terms and Conditions the following words have the following meanings:

"Adviser" means any adviser entitled under its binding contract with a Participating Member to advise Customers in relation to Products.

"Adviser Data" means personal data of Adviser.

"Agreement" means these Terms and Conditions, together with Participating Member's written acceptance of these Terms and Conditions, as well as any commercial terms agreed between Omnicore and Participating Member (as amended, varied or supplemented from time to time) in respect of Omni Protect Services.

"Applicable Laws" means any applicable law, statute, regulation, by-law, subordinate legislation, all binding court orders, judgments or decrees, all applicable direction, policy, guidance, industry codes of practice or standard, rule or order made or given by any relevant regulator or relevant authority having jurisdiction over that party or any of the party's assets, resources, or business in any jurisdiction, from time to time, in each case applicable to or binding upon that party.

"Business Day" means any day other than a Saturday or Sunday, on which banks are open for business in London.

"Clawback" means the repayment to Provider Partner of Commission that (a) should not have been paid; (b) is repayable under clause 7; and/or (c) is repayable under any terms of business between a Participating Member with a Provider Partner.

"Commission" means Initial Commission and /or Trail Commission payable in accordance with clause 5 and any terms of business between a Participating Member with a Provider Partner. Commission is deemed to be inclusive of any Taxes that may be payable.

"Complaint" means any expression of dissatisfaction, whether oral or written, and whether justified or not, by or on behalf of a complainant, which arises in connection with any Policy, or the provision of any activity provided for by the Agreement and involves an allegation that the complainant has suffered, or may suffer financial loss, material distress or material inconvenience.

"Confidential Information" means any and all information of a confidential or sensitive nature (whether or not marked as such) relating to the other party, which may come into a party's possession or into the possession of any of its employees or agents (whether in writing, orally or by another means), as a result of or in connection with the Agreement and any and

all information which has been and which may be derived or obtained from any Confidential Information.

"Customer" means an individual who has been introduced to any Product following a consultation with an Adviser.

"Customer Data" means personal data of Customer.

"Data Protection Legislation" means all applicable data protection, privacy and electronic marketing legislation (as amended, consolidated or re-enacted from time to time), including the Data Protection Act 2018, the Privacy and Electronic Communications (EC Directive) Regulations 2003, UK GDPR, any codes of practice relating to the same, and any guidance published by the UK Information Commissioner's Office ("ICO") from time to time.

"Date of Termination" means the date upon which the Agreement ends.

"Earned": Commission is "earned" when the relevant instalments or Premiums are treated by Provider Partner as earned.

"Engagement Form" means the Omnicore document titled "Engagement Form (Application for Membership)", (as amended, varied or supplemented from time to time), which inter alia is (a) an application form for Omnicore membership; and (b) a request for additional services, including Omni Protect Services, to be supplied by Omnicore.

"FCA" means the Financial Conduct Authority and/or any successor body and their officers and agents.

"Force Majeure Event" means any event or sequence of events beyond a party's reasonable control (after exercise of reasonable care to put in place robust back-up and disaster recovery arrangements) preventing or delaying it from performing its obligations under the Agreement.

"FSMA" means the Financial Services and Markets Act 2000, as amended from time to time and the rules and regulations made or having effect under it.

"Group Companies" means in respect of a person, its Holding Companies, its Subsidiaries and the Subsidiaries of any of its Holding Companies from time to time "Holding Company" and "Subsidiary" having the meanings set out in section 1159 Companies Act 2006.

"Indemnity Basis": Commission paid on an indemnity basis means an advance payment paid or payable under clause 5, and any terms of business between a Participating Member and a Provider Partner and in respect of Initial Commission, to be Earned in relation to Products by payment by the Customer of instalments or Premiums due during the Initial Commission Period.

"Initial Commission" means a type of Commission payable under clause 5, any terms of business between a Participating Member with a Provider Partner, and on the Premiums or instalments paid or payable by a Customer in respect of a Product during the Initial Commission Period.

"Intellectual Property Rights" means all intellectual property rights of any nature including patents, rights to inventions, copyright and related rights, trade marks, business names and domain names, rights in get-up, moral rights, goodwill and the right to sue for passing off, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of confidential information (including know-how and trade secrets) and proprietary knowledge, and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

"Liability" and **"Liabilities"** means all costs and expenses, losses, liabilities, obligations, damages, deficiencies, penalties, interest and expenses, (including reasonable fees and expenses of solicitors and other professionals and specialists) and other adverse effects resulting from any and all allegations, claims, judgments or causes of action. **"Liable"** shall be interpreted accordingly.

"Member" means a member firm of Omnicore or of an Omnicore Group Company.

"Omni Protect" is a trading style of Omnicore.

Omni Protect Panel is the panel of Provider Partners appointed by Omnicore to offer Products to Participating Members through which Participating Member receives enhanced Commission on Products purchased by Participating Member's Customers.

"Omni Protect Services" means the services, (including access to the Omni Protect Panel, Omni Protect Roadshows, the Omni Protect helpdesk, as well as training and development), supplied under the Agreement and which enable Participating Members to, amongst other things, receive enhanced Commission on Products purchased by Participating Member's Customers from Provider Partners.

"Participating Member" means a Member that is directly authorised by the Financial Conduct Authority to sell contracts of insurance and that enters into an Agreement with Omnicore for Omni Protect Services.

"Participating Member Data" means data provided by Participating Member to Omnicore pursuant to clause 9.1, including any Customer Data and Adviser Data.

"Policy" means a policy sold by a Provider Partner to a Customer as a result of the provision of information by an Adviser.

"Policyholder" means anyone who, for the time being is the legal holder of a Policy including any person to whom, under the Policy, a sum is due, a periodic payment is payable or such other benefit is to be derived.

"PRA" means the Prudential Regulation Authority.

"Premium" means the premium (or any other sum) paid by a Customer for a Products.

"Product" means any long-term, non-investment insurance contract administered by a Provider Partner from time to time, including, but not limited to life cover, serious illness cover, income protection cover, disability cover, business protection, relevant life policy, education cover and family income cover.

"Provider Partner" means a party that has entered into an agreement with Omnicore to offer Products to Participating Members through the Omni Protect Panel, paying Commission to both Participating Members and to Omnicore.

"Regulatory Authority" means any regulator or governmental or regulatory body, including but not limited to the FCA, the PRA and the ICO which has responsibility for regulating the parties, or either of them and/or either party's activities under this Agreement.

"Regulatory Requirements" means all applicable statutes, statutory instruments, orders, regulations and codes of practice (whether or not having the force of law) in force from time to time, and in particular but without limitation the requirements, rules, regulations, guidance and codes of practice of FSMA and the FCA.

"Representatives" in respect of a party means any of that party's and any of its Group Companies' respective officers, directors, employees, consultants, sub-contractors, agents and professional advisers and **"Representative"** means any of them.

"Service Commencement Date" means the date upon which Participating Member is first provided with access to the Omni Protect Panel by Omnicore, subsequent to Participating Member accepting these Terms and Conditions and Participating Member's Omni Protect agency being set up.

"Taxes" means value added tax or any equivalent, or other applicable tax chargeable in the UK.

"Term" has the meaning set out in clause 11.1.

"Trail Commission" means a type of Commission which is linked to the value of a Product and paid at regular intervals where an Adviser of a Participating Member has sold a Product to a Customer. Also known as **"Renewal Commission"**.

"UK GDPR" means Regulation (EU) 2016/679 as it forms part of the law of England and Wales by virtue of s.3 of the European Union (Withdrawal) Act 2018.

- 1.2 Any reference in the Agreement to a statute, statutory instrument, rule, or regulation shall be construed as a reference to such statute, statutory instrument, rule, or regulation as amended, re-enacted or replaced from time to time.
- 1.3 Any reference in the Agreement to another agreement, schedule or document shall be construed as a reference to that other agreement, schedule or document as amended or supplemented from time to time.
- 1.4 Any reference in the Agreement to a clause, sub-clause or paragraph shall be construed as a reference to a clause, sub-clause or paragraph of the Agreement.
- 1.5 The headings used in the Agreement are for reference purposes only and do not affect its interpretation.
- 1.6 A reference to a "person" includes a natural person, corporate or unincorporated body (in each case whether or not having separate legal personality) and any other legal or commercial entity or undertaking and its personal representatives, successors and permitted assigns.
- 1.7 1A reference to a "company" shall include any company, corporation or other body corporate, wherever and however incorporated or established.
- 1.8 1Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular. Words denoting any gender will include a reference to each other gender
- 1.9 A reference to "writing" or "written" includes e-mail.
- 1.10 Any words following the terms "including", "includes", "include", "in particular", "for example", or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.

2. GENERAL

- 2.1 Omnicore and Participating Member each warrant and undertake that:
 - 2.1.1 it has full power and authority to enter into the Agreement and to perform its obligations thereunder;
 - 2.1.2 it shall perform its obligations under the Agreement in compliance with all Applicable Laws and Regulatory Requirements; and
 - 2.1.3 it will comply with all Applicable Laws, including:
 - 2.1.3.1 all applicable requirements of the Data Protection Legislation and UK GDPR;
 - 2.1.3.2 all Applicable Laws relating to anti-bribery and anti-corruption, including without limitation, the Bribery Act 2010;

- 2.1.3.3 all Applicable Laws relating to anti-slavery, including without limitation, the Modern Slavery Act 2015; and

- 2.1.3.4 all Applicable Laws relating to money laundering and anti-tax evasion facilitation.

- 2.2 Breach of clause 2.1 shall be deemed a material breach of the Agreement entitling the non-defaulting party to terminate the Agreement immediately without prejudice to any other rights or remedies it may have in respect of such breach.

3. PROVISION OF OMNI PROTECT SERVICES

- 3.1 Subject to Participating Member complying with its obligations under the Agreement and in particular agreeing to clause 3.2 below, Omnicore shall provide Omni Protect Services to Participating Member in accordance with the Agreement, with effect from the Service Commencement Date until the Date of Termination.
- 3.2 Participating Member acknowledges and agrees that in consideration for Omnicore providing Omni Protect Services to Participating Member, including facilitating enhanced commission for Participating Member from Provider Partners, Omnicore shall receive a share of Commission, as set out in clause 5, below.
- 3.3 Participating Member acknowledges and agrees that these Terms and Conditions supersede any previously agreed terms and conditions between Omnicore and Participating Member relating to the supply of Omni Protect Services.
- 3.4 For the avoidance of doubt, any marketing and other promotional materials relating to Omni Protect Services are for illustrative purposes only and do not form part of the Agreement.

4. PROVIDER PARTNERS

- 4.1 The parties agree that:
 - 4.1.1 Provider Partners shall not be obliged to accept business from Participating Member;
 - 4.1.2 The terms of the Agreement shall not create a direct contractual relationship between Provider Partner and Participating Member;
 - 4.1.3 the contractual relationship between Provider Partner and Participating Member shall be governed by separate and distinct terms of business between Provider Partner and Participating Member;
 - 4.1.4 Omnicore shall have no involvement in the terms of business between Provider Partner and Participating Member;
 - 4.1.5 Provider Partners may share with Omnicore, data relating to Participating Member Commission Share, Clawbacks and lapsed Policies for the purpose of

Omnicores checking the accuracy of Participating Member's Audit Documents and its compliance with the Agreement; and

- 4.1.6 Omnicores has no authority to bind any Provider Partner in any way and may not make or enter into any contracts or commitments or incur any liability for or on behalf of any Provider Partner, including in connection with Omni Protect Panel, Participating Member or enhanced commission.

5. COMMISSION

- 5.1 Any and all Commission in connection with the Agreement shall be permissible commission and shall be charged and paid in accordance with all Regulatory Requirements and Applicable Laws, as amended from time to time.
- 5.2 Clause 27 shall apply in the event that any Commission is or becomes invalid, illegal or unenforceable.
- 5.3 Clause 22 shall apply in the event that a dispute arises concerning the validity, legality and/or enforceability of a Commission.
- 5.4 Omnicores and Participating Member agree that from the Service Commencement Date, where a Customer purchases a Product from a Provider Partner, and that Product purchase was submitted via the Omni Protect Panel by Participating Member, both Participating Member and Omnicores shall be entitled to receive a share of any and all Commission(s) payable by Provider Partner in respect of that Product ("**Commission Share**"). Commission Share shall be as follows:
- 5.4.1 97.5% of total Commission(s) payable on Product to Participating Member ("**Participating Member Commission Share**"); and
- 5.4.2 2.5% of total Commission(s) payable on Product to Omnicores ("**Omnicores Commission Share**").
- 5.5 Participating Member acknowledges and accepts that any Provider Partner may from time to time change the Indemnity Basis Initial Commission Rate, Non-Indemnity Basis Initial Commission Rate and/or Monthly Trail Commission Rate.
- 5.6 Omnicores acknowledges and agrees that any change of Indemnity Basis Initial Commission Rate, Non-Indemnity Basis Initial Commission Rate and/or Monthly Trail Commission Rate by Provider Partner shall not permit, cause or result in the reduction of Participating Member Commission Share under the Agreement.

6. PAYMENT OF PARTICIPATING MEMBER COMMISSION SHARE

- 6.1 Provider Partner shall pay Participating Member Commission Share due to Participating Member to such bank account as is notified by Participating Member to Provider Partner from time to time and such bank account shall be in the name of Participating Member.

- 6.2 Participating Member shall be solely responsible for its Commission payment arrangements with Provider Partners. Omnicores shall have no obligations in respect of, nor any involvement in the payment of Participating Member Commission Share by Provider Partners to Participating Member.

7. CLAWBACK OF INITIAL COMMISSION

- 7.1 Participating Member acknowledges and accepts that Commission paid by Provider Partner and received by Participating Member may be subject to Clawback by Provider Partner under certain conditions and in particular pursuant to any terms of business entered into by and between Participating Member and Provider Partner.
- 7.2 Omnicores and Participating Member agree that:
- 7.2.1 Omnicores shall not be liable for any repayment of Commission due to Provider Partner by Participating Member; and
- 7.2.2 Participating Member shall not be liable for any repayment of Commission due to Provider Partner by Omnicores.
- 7.3 Omnicores and Participating Member agree that:
- 7.3.1 Omnicores shall have no obligations in respect of, nor any involvement in the Clawback of Commission by Provider Partner from Participating Member; and
- 7.3.2 Participating Member shall have no obligations in respect of, nor any involvement in the Clawback of Commission by Provider Partner from Omnicores.

8. TRAINING AND SUPPORT

- 8.1 Provider Partner may provide Participating Member with training on Provider Partner Products ("**Provider Partner Product Training**"). Omnicores and Participating Member agree that Omnicores shall have no obligations in respect of, nor any involvement in Provider Partner Product Training.
- 8.2 The provision of Provider Partner Product Training to Participating Member and its Advisers does not in any way alter, minimise or negate Participating Member's obligation to sell Products in an accurate and competent manner.
- 8.3 Omnicores shall provide Participating Members with access to training and development, the Omni Protect helpdesk and agency support.

9. PARTICIPATING MEMBER OBLIGATIONS AND PROVISION OF INFORMATION

- 9.1 Participating Member shall have the following obligations:
- 9.1.1 maintain complete, up to date, accurate and reproducible backup copies of all relevant data, programs and electronic records held, including Customer Data;

- 9.1.2 provide to Omnicore all necessary access to such data, information and records to enable Omnicore to comply with its obligations and exercise its rights under the Agreement; and
- 9.1.3 ensure that all Customer Data and all other information (including electronic records) which it provides or makes available (or is provided or made available on its behalf) to Omnicore is accurate and complete and provided in compliance with Data Protection Legislation.
- 9.2 Participating Member acknowledges and agrees that use of any software, platforms and/or systems provided or facilitated by Omnicore pursuant to the Agreement is subject to and governed by the relevant licence terms and acceptable use policies applicable to such software, platforms and/or systems (as updated, amended and replaced from time to time) ("**Usage Terms**"). In that respect, Participating Member agrees to comply with all applicable Usage Terms.
- 9.3 During the Term, Omnicore will monitor the activities and performance of Participating Member in connection with the Agreement, including, but not limited to the following:
 - 9.3.1 Participating Member's compliance with its obligations;
 - 9.3.2 volume and percentage of Customer Policies lapsing;
 - 9.3.3 Clawback rates for Participating Member and Omnicore;
 - 9.3.4 volume, type and handling of Complaints;
 - 9.3.5 new business levels;
 - 9.3.6 amendment of terms of business between Participating Member with Provider Partners; and
 - 9.3.7 termination of relationship between Participating Member and Provider Partners.
- 9.4 Participating Member acknowledges and accepts that in the event that Omnicore has knowledge of any improper or fraudulent behaviour by Participating Member relating to a Provider Partner's Products, Omnicore may, unless prohibited by Applicable Laws or Regulatory Requirements, notify the relevant Provider Partner.
- 10. SUSPENSION**
- 10.1 Without prejudice to the other provisions of the Agreement, Omnicore reserves the right to suspend Participating Member's access to Omni Protect Panel if:
 - 10.1.1 at any time Participating Member is in breach of the Agreement;
 - 10.1.2 Participating Member does not comply with all applicable Usage Terms;
 - 10.1.3 in the reasonable opinion and at the sole discretion of Omnicore, there has been a high lapse rate in Participating Member's Customer's Policies for six (6) months continuously, ("**High Lapse Rate**") and the Commission paid in connection with the lapsed Policies is subject to Clawback;
 - 10.1.4 in the reasonable opinion and at the sole discretion of Omnicore, the number of Complaints received by one or more Provider Partners over a continuous period of six (6) months, in relation to activities of Participating Member, from either Customers, Policyholders and/or prospective policyholders, becomes unacceptably high ("**High Complaint Rate**");
 - 10.1.5 Participating Member has not paid its Member fees, including subscription charges, to Omnicore for the preceding one (1) month; or
 - 10.1.6 at any time Omnicore is required to do so by any competent Regulatory Authority or governmental body.
- 10.2 Omnicore shall as soon as reasonably practicable (i) notify Participating Member of the suspension, the reason for the suspension, and its expected duration; and (ii) reinstate access to Omni Protect Panel, once the ground(s) for suspension no longer exist.
- 10.3 In the event that Participating Member is in breach of the Agreement or applicable Usage Terms, Participating Member shall remedy that breach within a period of thirty (30) days after being notified in writing to do so by Omnicore.
- 10.4 In the event that there is a High Lapse Rate:
 - 10.4.1 Omnicore shall send written notification to Participating Member of the number and percentage of lapsing Policies resulting in Clawback of Commission in the previous six (6) months ("**Lapsing Policy Notification**");
 - 10.4.2 the parties shall arrange to meet either in person or online, at a mutually agreeable time on a mutually agreeable date, not more than fourteen (14) days after the date of the Lapsing Policy Notification ("**Lapsing Policy Meeting**") and agree upon a course of action to reduce the number of Participating Member's Customers' Policies that lapse;
 - 10.4.3 where agreement cannot be reached under 10.4.2, clause 22 will apply; and
 - 10.4.4 in the event that High Lapse Rate continues for the duration of the three (3) months immediately following Lapsing Policy Meeting, Omnicore may, at its sole discretion either suspend Participating Member's access to Omni Protect Panel, or terminate the Agreement, as set out in clause 11, below.
- 10.5 In the event that there is a High Complaint Rate:
 - 10.5.1 Omnicore shall send written notification to Participating Member of the number of Complaints received in

connection with Participating Member, its Customers and/or Policies in the previous six (6) months ("**Complaints Notification**");

10.5.2 the parties shall arrange to meet either in person or online, at a mutually agreeable time on a mutually agreeable date, not more than fourteen (14) days after the date of the Complaints Notification ("**Complaints Meeting**") and agree upon a course of action to reduce the number of Complaints;

10.5.3 where agreement cannot be reached under 10.5.2, clause 22 will apply; and

10.5.4 in the event that High Complaint Rate continues for the duration of the three (3) months immediately following Complaints Meeting, Omnicore may, at its sole discretion either suspend Participating Member's access to Omni Protect Panel, or terminate the Agreement, as set out in clause 11, below.

10.6 Omnicore shall not be in breach of the Agreement if and to the extent it is exercising its rights of suspension in accordance with this clause 10 or as otherwise provided in the Agreement. Suspension in accordance with this clause 10 shall be without prejudice to any other rights and remedies that Omnicore may have.

10.7 During the period of suspension of Participating Member, Omnicore and Participating Member shall continue to be entitled to any and all Commission due and payable from Provider Partners in connection with the purchase of Product by Customers.

11. TERM AND TERMINATION

11.1 The Agreement shall commence on the Service Commencement Date and, unless terminated as provided in this clause 11, shall continue. The period from the Service Commencement Date to the Date of Termination of the Agreement shall be the "**Term**".

11.2 The parties may mutually agree in writing to terminate the Agreement on a specified date.

11.3 Either party may terminate the Agreement by providing no fewer than thirty (30) days' written notice to the other.

11.4 Without affecting any other rights or remedies available to it, a party may terminate the Agreement with immediate effect by giving written notice to the other party if:

11.4.1 the other party commits a material breach of any term of the Agreement which breach is irremediable or (if such breach is remediable) the other party fails to remedy that breach within a period of thirty (30) days after being notified in writing to do so;

11.4.2 the performance of the Agreement becomes illegal under Applicable Laws, or if termination is required by any competent Regulatory Authority;

11.4.3 the other party has its regulatory permissions withdrawn or amended so it ceases to be appropriately authorised under Regulatory Requirements and is no longer able to carry out its business as foreseen by the Agreement; or

11.4.4 there is evidence of improper or fraudulent behaviour by the other party.

11.5 Omnicore may terminate the Agreement with immediate effect in the event that:

11.5.1 Participating Member has not paid its Member fees, including subscription charges, to Omnicore for the preceding three (3) months.

11.5.2 the High Complaint Rate continues for the duration of the three (3) months immediately following Complaints Meeting; or

11.5.3 the High Lapse Rate continues for the duration of the three (3) months immediately following Lapsing Policy Meeting.

11.6 Participating Member acknowledges and accepts that Omnicore shall as soon as reasonably practicable, notify Provider Partners of the termination of the Agreement.

12. CONSEQUENCES OF TERMINATION

12.1 Upon termination of the Agreement:

12.1.1 all rights to use Omni Protect Services pursuant to the Agreement shall immediately and automatically terminate; and

12.1.2 Participating Member shall no longer have any right to promote and sell Products offered by Provider Partners through Omni Protect Panel to Customers and receive enhanced Commission.

12.2 Termination of the Agreement shall not affect either party's rights, remedies, obligations or Liabilities that have accrued up to the Date of Termination under or in relation to the Agreement.

12.3 In the event that Participating Member is a Member solely for the purposes of being a Participating Member and receives no other services pursuant to the Engagement Form, then upon termination of the Agreement for any reason, Participating Member shall also automatically and immediately cease to be a Member and no further membership fees, or other charges, shall be billed by Omnicore from the Date of Termination of the Agreement and membership.

13. COMPLAINTS

13.1 In relation to Complaints connected with this Agreement, each party shall (i) notify the other party as soon as practicable of any Complaint that it receives; and (ii) notify the other party as soon as practicable of any Complaint received by Provider Partner and of which the notifying party has been made aware; and such notification shall be in accordance with applicable FCA and PRA guidelines for notification periods.

13.2 The parties shall:

- 13.2.1 ensure that all Complaints are handled in accordance with any and all Regulatory Requirements;
- 13.2.2 cooperate in the handling of any Complaints, including in the provision of relevant information to one another; and
- 13.2.3 provide any other reasonable assistance requested by one party to the other party, in order that the requesting party may comply with all its obligations under the Agreement and/or Regulatory Requirements.

14. AUDIT

- 14.1 Participating Member shall keep separate accounts and records in relation to and in connection with the Agreement, giving correct and adequate details of (a) all Commissions received; (b) any and all Clawbacks; and (c) any and all lapsed Policies (the **"Audit Documents"**).
- 14.2 Upon receiving a written request from Omnicore, Participating Member shall, as soon as practicable, allow Omnicore, its Representatives and any auditors of, or other professional advisers to Omnicore, to access Participating Member's Audit Documents, to the extent reasonably required in order to check (a) the accuracy of the Commissions and/or Clawbacks; (b) the number of lapsed Policies; and (c) Participating Member's compliance with the Agreement.
- 14.3 Participating Member shall provide Omnicore, its Representatives and its auditors and other professional advisers with all reasonable co-operation and assistance in relation to each audit.

15. DATA PROTECTION

- 15.1 Each party and its respective Representatives shall comply with all applicable requirements under the Data Protection Legislation.
- 15.2 For the purposes of this clause 15, "controller", "processor", "data subject", "personal data" and "processing" (and cognate terms) shall have the meanings given to them in Article 4 of the UK GDPR.
- 15.3 The parties hereby acknowledge that, to the extent that Omnicore processes any Adviser Data, Customer Data and/or Participating Member Data in connection with providing the Omni Protect Services and the Agreement, Participating Member shall be the controller and Omnicore shall be the processor.
- 15.4 In respect of Customer Data and Adviser Data, Participating Member acknowledges and agrees that it is responsible for:
 - 15.4.1 ensuring that all necessary clearances, consents and/or permissions are obtained, or that suitable conditions are satisfied (as set out in Data Protection Legislation) to enable the processing of Customer Data and/or Adviser

Data under and/or in connection with the Agreement; and

- 15.4.2 providing data subjects with any necessary notifications and any other information required under Data Protection Legislation in respect of Participating Member's and Omnicore's use of Customer Data and/or Adviser Data under and/or in connection with the Agreement.

15.5 Participating Member warrants and undertakes that:

- 15.5.1 it shall comply with all its obligations under Data Protection Legislation;
- 15.5.2 the clearances, consents, permissions and/or conditions and notifications and/or information referred to in clauses 15.4.1 and 15.4.2 above have been or shall in any event be obtained and/or satisfied and/or provided (as applicable) in advance of the date on which any Customer Data and/or Adviser Data is provided to a third party, including Omnicore, in connection with the Agreement; and
- 15.5.3 Participating Member shall not be in breach of any agreement with a Customer by making available Customer Data to Omnicore and/or the Omni Protect Panel via Omni Protect Services.

15.6 Participating Member acknowledges that Omnicore has no control over or responsibility for the processing of Customer Data, Adviser Data or Participating Member Data by Provider Partners in connection with the Agreement and it is Participating Member's responsibility to agree terms directly with Provider Partners in respect of any processing of such data.

15.7 Where Omnicore processes Participating Member Data, Omnicore shall:

- 15.7.1 only process such data as is necessary to provide Omni Protect Services and fulfil its obligation under the Agreement;
- 15.7.2 not appoint a sub-processor without Participating Member's written consent and in the event that Participating Member does provide such consent, Omnicore shall ensure that such sub-processor is bound by terms similar to those provided in this clause 15 and Omnicore shall be responsible for any breach by such sub-processor of any of the obligations under this clause 15;
- 15.7.3 not transfer Participating Member Data outside the UK or the European Economic Area (EEA) without Participating Member's written consent and in the event that Participating Member does provide such consent, Omnicore shall ensure that there are adequate measures in place to ensure that Participating Member's Data is protected;

- 15.7.4 provide reasonable assistance to Participating Member in Participating Member complying with its obligations under Data Protection Legislation in respect of the exercise of data subject's rights;
- 15.7.5 at the end of the Term, promptly delete or return to Participating Member (at Participating Member's discretion) all Participating Member Data, save to the extent that Omnicore is legally required to retain any Participating Member Data;
- 15.7.6 promptly comply with any reasonable request from Participating Member requiring Omnicore to amend, transfer or delete Participating Member Data;
- 15.7.7 in the event that Omnicore receives any complaint, notice or communication (from either the ICO or a data subject) which relates directly to the processing of Participating Member Data or to Participating Member's compliance with Data Protection Legislation, Omnicore shall notify Participating Member without undue delay and it shall provide Participating Member and the ICO (if applicable) with reasonable co-operation and assistance in relation to any such complaint, notice or communication;
- 15.7.8 save as otherwise permitted under the Agreement, not disclose Participating Member Data to a third party other than at the request of Participating Member;
- 15.7.9 notify Participating Member without undue delay upon becoming aware of any unauthorised or unlawful processing, loss of, damage to, or destruction of any Participating Member Data;
- 15.7.10 maintain records of processing carried out in respect of Participating Member Data as required by Data Protection Legislation;
- 15.7.11 co-operate with Participating Member's reasonable requests for Omnicore to demonstrate its compliance with its obligations under this clause 15 and do so without undue delay;
- 15.7.12 ensure that Omnicore's Representatives authorised to process Participating Member Data are bound by industry standard confidentiality obligations, which include keeping Participating Member Data confidential; and
- 15.7.13 take appropriate technical and organisational measures against the unauthorised or unlawful processing of Participating Member Data and against the accidental loss or destruction of, or damage to Participating Member Data.
- 15.8 Participating Member acknowledges and agrees that Omnicore is entitled to anonymise Participating Member Data and Provider Partner commission reports (which may include Customer Data), for the purpose of generating Data Insight

Reports subject to all Applicable Laws and in particular the requirements concerning the consolidation, anonymisation and use of data.

- 15.9 Each party shall indemnify the other against all Liabilities, costs, expenses, damages and losses suffered or incurred by the indemnified party arising out of or in connection with the breach of Data Protection Legislation by the indemnifying party or its Representatives, provided that the indemnified party gives to the indemnifying party prompt notice of such claim, full information about the circumstances giving rise to it, reasonable assistance in dealing with the claim and sole authority to manage, defend and/or settle it. Each party's total aggregate Liability in respect of a claim under this indemnity shall be limited to one million pounds sterling (£1,000,000).

16. DATA INSIGHT REPORTS

- 16.1 Participating Member hereby grants to Omnicore a non-exclusive, sub-licensable, worldwide, royalty-free, irrevocable licence to use the Participating Member Data for the purpose of generating and distributing Omnicore anonymised and aggregated data insight reports ("Data Insight Reports") including to Participating Members, Provider Partners and to Omnicore's other third party customers. In distributing such Data Insight Reports, Omnicore shall ensure that the Data Insight Reports are not capable of identifying Participating Member, Advisers or Customers.
- 16.2 Participating Member hereby acknowledges and agrees that any and all Data Insight Reports generated pursuant to clause 16.1 above (and the Intellectual Property Rights subsisting therein) shall be owned by Omnicore with full title guarantee and free from all third party encumbrances.

17. FORCE MAJEURE

- 17.1 A party shall not be in breach of the Agreement nor Liable for delay, prevention or hindrance in performing or failure to perform its obligations under the Agreement if such delay or failure is caused by a Force Majeure Event, provided that it:
 - 17.1.1 notifies the other party in writing as soon as reasonably practicable specifying the nature of the Force Majeure Event and stating the anticipated delay in the performance of the Agreement; and
 - 17.1.2 uses best endeavours to mitigate the effect of such Force Majeure Event on the performance of its obligations.
- 17.2 For the avoidance of doubt, any failure or delay by Omnicore in performing its obligations under the Agreement which results from a failure or delay by Provider Partner and/or any other third party shall be regarded as due to a Force Majeure Event.

18. CONFIDENTIALITY

- 18.1 Each of the parties shall ensure that Confidential Information of the other party is kept confidential and shall not make or

cause or permit to be made any use of, or disclose of any such Confidential Information except to the extent necessary to perform its obligations under the Agreement, or as expressly permitted by the Agreement.

- 18.2 Each party shall be permitted to disclose Confidential Information of the other party to the extent that it is required to do so by law or by any public, governmental, supervisory or Regulatory Authority or by any legally binding order of any court or tribunal given in any such case, provided that:
- 18.2.1 it shall give the other party prompt notice of the disclosure (where lawful and practical to do so) so that the other party has sufficient opportunity, where possible, to prevent or control the manner of disclosure by appropriate legal means;
 - 18.2.2 the disclosure or use is limited strictly to those parts of the other party's Confidential Information which are required to be disclosed pursuant to 18.2; and
 - 18.2.3 each party shall use reasonable endeavours to ensure the recipient of such Confidential Information is made aware that such information is confidential.
- 18.3 The obligations and restrictions contained in this clause 18 shall not apply to any information which:
- 18.3.1 the recipient can show had entered the public domain at the time Confidential Information was disclosed to them, or at any time thereafter, not as a result of any breach of clause 18;
 - 18.3.2 the recipient can show was in its lawful possession at the time Confidential Information was disclosed to them and was not acquired by it under an obligation of confidence to the disclosing party or a representative of the disclosing party;
 - 18.3.3 the recipient can show was received by it, after the time Confidential Information was disclosed to it, from a third party (other than the disclosing party or a representatives of the disclosing party) who could lawfully do so and who did not derive it from Confidential Information disclosed by the disclosing party or a representative of the disclosing party;
 - 18.3.4 the parties have agreed in writing shall not be subject to the obligations and restrictions contained in this clause 18; or
 - 18.3.5 can be demonstrated to have been developed by the recipient independently of the Confidential Information disclosed to it by the disclosing party.
- 18.4 Each party may disclose Confidential Information to any of its Representatives or to its Group Companies or their respective Representatives, ensuring that any and all recipients of Confidential Information are aware of the duty of confidentiality under this clause.

19. INTELLECTUAL PROPERTY RIGHTS

- 19.1 Each party shall retain all interest, rights and entitlement to its own Intellectual Property.
- 19.2 Each party represents and warrants to the other that:
- 19.2.1 it owns or is licensed to use all Intellectual Property Rights which it uses or exploits in the performance of its obligations under the Agreement;
 - 19.2.2 it has obtained all necessary permissions, consents, waivers and licences required from any third party (including all necessary or appropriate regulatory consents) in order for it to lawfully perform its obligations under the Agreement: and
 - 19.2.3 the use by the other party in accordance with the Agreement of any Intellectual Property Rights licensed by it in the performance of its obligations under the Agreement shall not breach the rights, including Intellectual Property Rights, of any third party.
- 19.3 Neither party shall use any Intellectual Property Rights of the other party or that party's Group Companies without prior written consent. In the event that a requested party grants written consent to use its Intellectual Property Rights to the requesting party, the requested party may stipulate the terms upon which the requesting party may use the relevant Intellectual Property Rights and may require that a separate and distinct agreement be entered into by the parties to govern the use of those Intellectual Property Rights.
- 19.4 Notwithstanding any other provision of the Agreement, Participating Member acknowledges and accepts that Omnicore does not and does not purport to grant to Participating Member any rights, including Intellectual Property Rights, in or to any of the information supplied by Provider Partners. Participating Member acknowledges that to the extent that it requires any licence in respect of such information, it must obtain it from the relevant Provider Partner.
- 19.5 Each party shall indemnify the other against all Liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs, calculated on a full indemnity basis, and all other reasonable professional costs and expenses) suffered or incurred by the indemnified party arising out of or in connection with any claim by a third party that any use by the indemnified party of the indemnifying party's Intellectual Property Rights infringe the intellectual property rights or other proprietary rights of any third party or constitute a breach of any other rights held by or obligations owed to any third party. Each party's total aggregate Liability in respect of a claim under this indemnity shall be limited to one million pounds sterling (£1,000,000).

19.6 Indemnification under clause 19.5 is contingent upon:

- 19.6.1 the indemnified party promptly notifying the indemnifying party of a claim;
- 19.6.2 the indemnifying party having sole control of the defence and settlement of any such claim; and
- 19.6.3 the indemnified party providing prompt cooperation and assistance to the indemnifying party in defence of such claim.

20. LIABILITY

20.1 Nothing in the Agreement will exclude or limit either party's Liability in respect of: (a) death or personal injury caused by the negligence of that party; (b) fraud (including fraudulent misrepresentation); or (c) any Liability which may not otherwise be lawfully excluded or limited.

20.2 Subject always to clause 20.1 and any indemnities expressly provided in the Agreement, neither party shall be Liable to the other in contract, tort (including negligence and breach of statutory duty) or otherwise for: (a) any loss of revenue, profit, business, anticipated savings, goodwill, reputation, contract, data, use of equipment or process or any wasted management time; or (b) any indirect, economic, special or consequential loss whatsoever.

20.3 Subject always to clause 20.1 and any indemnities expressly provided in the Agreement, each party's Liability to the other party in contract, tort (including negligence and breach of statutory duty) or otherwise shall be limited to five thousand pounds Sterling (£5,000) per year, regardless of the number of events giving rise to Liability.

20.4 Omnicore shall have no Liability for third party services, information, materials, the content of websites, or the accuracy or fitness for purpose of any Product.

20.5 As provided in clause 17 above, neither party shall be Liable for any failure or delay in performing its obligations under the Agreement if and to the extent that such failure or delay is the result of a Force Majeure Event.

21. ASSIGNMENT AND OTHER DEALINGS

Save with the other party's prior written consent, neither party shall assign, transfer, mortgage, charge, sub-licence, sub-contract, delegate, declare a trust or deal in any other manner or otherwise dispose of or encumber the Agreement or any of its rights or obligations under it.

22. DISPUTE RESOLUTION PROCEDURE

22.1 Save that nothing in this clause 22 will prevent a party from taking any actions in relation to the recovery of debts, in the first instance, disputes which may arise between the parties in connection with the Agreement shall, be dealt with and determined as follows:

22.1.1 each party shall nominate a representative who will be authorised to deal with the management, negotiation and settlement of any dispute arising under or in connection with the Agreement ("**Nominated Representative**"). Each party may change the identity of its Nominated Representative at any time during the Term of the Agreement;

22.1.2 each party shall refer any dispute that arises under or in connection with the Agreement to its Nominated Representative appointed in accordance with clause 22.1.1, who shall be responsible for the escalation of the dispute within that party's organisation and shall notify the other party's Nominated Representative in writing of the reason for the dispute. Any such notifications shall include a summary of the salient details of the relevant dispute ("**Dispute Notice**");

22.1.3 the Nominated Representatives shall meet in person or online within fourteen (14) days of the date of a Dispute Notice from the relevant Nominated Representative in order to agree a resolution or action(s) required by each party in order to resolve the dispute;

22.1.4 if any dispute has not been settled and/or a course of action for its settlement has not been agreed within twenty-eight (28) days of the date of the Dispute Notice, each Nominated Representative shall procure that an alternative senior representative ("**Alternative Senior Representative**") shall meet in person or online with an Alternative Senior Representative of the other party in order to seek a resolution of such dispute on one separate, further occasion. The parties shall procure that such meeting between each party's Alternative Senior Representative takes place as soon as reasonably practicable, taking into account the timescale in which the matter in dispute should be resolved so as not to impede the performance of the Agreement and in any event within forty-two (42) days of the date of the Dispute Notice;

22.1.5 if a settlement does not result from the meeting held between the parties' Alternative Senior Representatives and in any event within fifty-six (56) days of the Dispute Notice, the parties shall attempt to settle their dispute by mediation, in accordance with the Centre for Effective Dispute Resolution (CEDR) Model Mediation Procedure, by an independent mediator appointed by CEDR unless otherwise agreed between the parties. To initiate the mediation, a party will (a) serve notice in writing ("**ADR Notice**") to the other party, requesting a mediation; and (b) send a copy of the ADR Notice to CEDR. The mediation will start no later than thirty (30) days after the date of the ADR Notice. The costs of mediation shall be shared equally between the parties;

22.1.6 neither party will commence any court proceedings under clause 31 in relation to the whole or part of the dispute until ninety (90) days after service of the ADR

Notice, provided that the right to issue proceedings is not prejudiced by a delay; and

- 22.1.7 if the dispute is not resolved within sixty (60) days after service of the ADR Notice, or either party fails to participate or to continue to participate in the mediation before the expiration of the said period of sixty (60) days, or the mediation terminates before the expiration of the said period of sixty (60) days, the dispute shall be finally resolved by the courts of England and Wales in accordance with clause 31.

22.2 All periods specified in clause 22.1 shall be extendable by written agreement of the parties.

22.3 Each party shall act in good faith in its attempts to resolve its dispute with the other party.

23. NOTICE

23.1 Any notice or other document required or permitted to be given under the Agreement shall be in writing.

23.2 Any notice or other document required or permitted to be given under the Agreement may be hand delivered, sent by post or other next working day delivery service, or e-mailed. Unless notice is sent by e-mail, it shall be addressed to a director or partner of the recipient party and sent to the address stated in the Engagement Form or to such other address that the recipient has notified to the other party in writing from time to time.

23.3 Written notice to Omnicore may be given by e-mail to: support@omni-protect.co.uk

23.4 Every notice, request, demand or other communication under the Agreement shall, in the case of a letter, be deemed to have been received when hand delivered or on the second Business Day after it has been posted; and in the case of an e-mail, on the day of transmission, unless an "out of office" reply is received, in which case, receipt shall be deemed to be on the second Business Day after the day of transmission.

23.5 This clause 23 does not apply to the service of any legal proceedings, or where applicable any other method of dispute resolution.

23.6 Nothing in this clause 23 shall prevent the use of e-mail for day-to-day communication between the parties, or for matters not requiring formal notice.

24. RIGHTS AND REMEDIES

Except as expressly provided in the Agreement, the rights and remedies provided under the Agreement are in addition to, and not exclusive of, any rights or remedies provided by law.

25. VARIATION

No variation of the Agreement shall be effective unless it is in writing and signed by the parties or their authorised representatives.

26. WAIVER

26.1 A waiver of any right or remedy under the Agreement or by law, or any consent given under the Agreement is only effective if given in writing by the waiving or consenting party and shall not be deemed a waiver of any other breach or default. The waiver shall only apply in the circumstances for which it is given and shall not prevent the party giving it from subsequently relying on the relevant provision.

26.2 A failure or delay by a party to exercise any right or remedy provided under the Agreement or by law shall not (a) constitute a waiver of that or any other right or remedy, or (b) prevent or restrict any further exercise of that or any other right or remedy under the Agreement. No single or partial exercise of any right or remedy provided under the Agreement or by law shall prevent or restrict the further exercise of that or any other right or remedy.

27. SEVERANCE

27.1 If any provision or part-provision of the Agreement is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause 27 shall not affect the legality, validity and enforceability of the rest of the Agreement.

27.2 If any provision or part-provision of the Agreement is deemed deleted under clause 27.1 the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.

28. NO PARTNERSHIP OR AGENCY

Nothing in the Agreement is intended to or shall operate to create a partnership between the parties, or authorise either party to act as agent for the other, and neither party shall have the authority to act in the name or on behalf of or otherwise to bind the other in any way (including, but not limited to, the making of any representation or warranty, the assumption of any obligation or Liability and the exercise of any right or power).

29. THIRD PARTY RIGHTS

Except as expressly stated in the Agreement, the Agreement shall not create nor confer any rights that shall be enforceable by anyone other than the parties to the Agreement and, where applicable, their successors and permitted assigns pursuant to the Contracts (Rights of Third Parties) Act 1999.

30. ENTIRE AGREEMENT

30.1 The Agreement constitutes the entire agreement between the parties on the subject matter of the Agreement and supersedes and extinguishes all previous agreement, promises, assurances, warranties, representations, contracts, arrangements and understandings between them, whether written or oral, relating to its subject matter.

30.2 Each party acknowledges that in entering into the Agreement it has not relied on and shall have no right or remedy in respect of, any statement, representation, assurance or warranty (whether made negligently or innocently) other than as expressly set out in the Agreement.

31. GOVERNING LAW

31.1 The Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.

31.2 The parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of, or in connection with, the Agreement or its subject matter or formation (including non-contractual disputes or claims).