

**CREDIT INTERMEDIARY AGREEMENT**

BETWEEN

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The INSURANCE BROKING INTERMEDIARY

Hereinafter known as “the INTERMEDIARY”

Registration Number / ID number (Sole Proprietors)

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**And**

**GENRIC INSURANCE COMPANY LIMITED**

the Insurer

Hereinafter known as “GENRIC”

Registration Number

**2005/037828/06**

## **1. INSTRUCTIONS**

- ~ All relevant fields must be completed by the applicant.
- ~ The signatory and witness on behalf of the INTERMEDIARY must initial each page of this Agreement.
- ~ GENRIC will countersign the Agreement and provide the INTERMEDIARY with a copy of same in the event that the application process is successful.

## **2. GENERAL**

The headings of this agreement are inserted for reference purposes only and shall in no way govern or affect the interpretation of this agreement.

Unless inconsistent with the context, an expression which denotes:

- ~ Any gender includes the other genders;
- ~ A natural person includes an artificial person and vice versa;
- ~ The singular includes the plural and vice versa.

The following expressions shall, unless the context indicates otherwise, bear the meanings ascribed to them here: -

- ~ The Act - The Short-Term Insurance Act, No 53 of 1998, including amendments thereto.
- ~ The FAIS Act – The Financial Advisory and Intermediary Services Act, No 37 of 2002, including amendments thereto.
- ~ The business – Short Term Insurance business and any other business which may be agreed to by GENRIC and which GENRIC is authorised to underwrite.
- ~ Person - any natural or juristic person, including any body of persons corporate or un-incorporate.
- ~ This agreement - the written agreement incorporated herein plus any addenda or annexure hereto.
- ~ Policyholder – that person for whom the INTERMEDIARY seeks to establish a business relationship with GENRIC.

## **3. APPOINTMENT AS INTERMEDIARY**

GENRIC hereby appoints the INTERMEDIARY to promote the business on behalf of GENRIC.

## **4. GENRIC'S UNDERWRITERS**

- 4.i. GENRIC's Underwriters refers to Underwriting Management Agencies and/or Non-mandated Intermediaries, as defined in the FAIS Act, who hold an Agreement with GENRIC.

## **5. POWERS AND DUTIES OF THE INTERMEDIARY**

- 5.i. The INTERMEDIARY may only quote premium rates, terms and conditions being those specified in writing by GENRIC, for and on behalf of GENRIC.
- 5.ii. The INTERMEDIARY may not promote or market the business outside the Republic of South Africa.
- 5.iii. The INTERMEDIARY may collect premiums from the policyholder as calculated by GENRIC insurance software system on the Due Date as stipulated on the Policy Schedule.

- 5.iv. The INTERMEDIARY may only collect premiums from the policyholder where GENRIC has provided the INTERMEDIARY written authorisation to do so.
- 5.v. GENRIC may, at its own discretion, limit the authorisation to collect premiums to policies written by a particular GENRIC Underwriter. This limitation will be stipulated on the written authorisation issued by GENRIC.
- 5.vi. The INTERMEDIARY shall within a period of 15 days after the end of every month in which premiums are received, pay to GENRIC, into the account stipulated on the written authorisation, the total amount of those premiums received during that month.
- 5.vii. Commission as defined under Clause 8.i. below may be deducted from the Gross Written Premium in accordance with the Act before paying over such premium to GENRIC.
- 5.viii. Shall produce proof of payment of Premium from its collecting Agent in the event of a claim which occurs before the premium is paid over to GENRIC in terms of Clause 4.iv. above.
- 5.ix. The INTERMEDIARY shall have a guarantee in place issued by the Intermediaries Guarantee Fund or a Bank and the amount of the guarantee shall be that prescribed in the Regulations. This guarantee shall be renewed annually and a copy thereof provided to GENRIC or upon GENRIC's request.
- 5.x. The INTERMEDIARY may not extend credit to any policyholder in respect of the payment of premiums.
- 5.xi. Unless expressly authorised by GENRIC in writing, which authorisation shall not be unreasonably withheld, the INTERMEDIARY may not do any of the following in relation to the business conducted by it:
- a) admit, negotiate or settle a claim;
  - b) institute legal proceedings;
  - c) amend any policy, endorsement or receipt;
- 5.xii. The Intermediary shall not be entitled to give cover for any risk, unless expressly authorised by GENRIC to do so. GENRIC shall not be bound by the issue of any manner of cover note or interim or other insurance cover or protection by the INTERMEDIARY which does not strictly fall within the ambit of any express authority which may have been granted to the INTERMEDIARY by GENRIC.
- 5.xiii. The Intermediary shall procure and maintain in its name an appropriate Professional Indemnity and / or Fidelity Guarantee policy as may be required in terms of the Financial Advisory and Intermediary Services Act 2002 and any amendment thereto, and shall provide a copy thereof following each renewal to GENRIC or at the request of GENRIC.

## **6. DOCUMENTATION**

The INTERMEDIARY hereby acknowledges that the information submitted to GENRIC is a vital and integral part of the business development and agreements entered into between GENRIC and the prospective policyholder.

## **7. CHANGE IN UNDERLYING POLICY TERMS AND CONDITIONS**

GENRIC undertakes to provide to the INTERMEDIARY forty-five days' notice of any changes to the underwriting terms and conditions including any increase in premiums, rates, and excess structures.

## **8. ASSIGNMENT OF AGENCY**

The INTERMEDIARY may not cede its rights or delegate its obligations in terms of this agreement to any person without the prior written consent of GENRIC.

**9. SUB-AGENTS**

- 9.i. Unless specifically authorised in writing by GENRIC the INTERMEDIARY may not conclude an agreement with a sub-agent in connection with GENRIC's business. Without derogating from the generality of the foregoing, no sub-agent shall be allowed to collect or receive any premium owing to GENRIC.
- 9.ii. In the event of any breach by the INTERMEDIARY of the terms of paragraph 7.i above (and notwithstanding GENRIC's rights under this agreement arising from such breach), the INTERMEDIARY hereby indemnifies GENRIC against all claims of whatsoever nature which may be made by or against GENRIC based on the acts or omissions of any sub-agent and any failure by such sub-agent to account for premiums paid to the sub-agent which are owed to GENRIC.

**10. REMUNERATION OF INTERMEDIARY**

- 10.i. GENRIC hereby agrees that as remuneration for the services rendered by the INTERMEDIARY, the INTERMEDIARY shall be paid commission dependant on the product sold as determined by GENRIC. Commission shall never exceed the statutory maximum commission as stipulated by the Act.
- 10.ii. The INTERMEDIARY may charge a fee as per Section 8(5) of the Act on condition that the beneficiary of the fee has disclosed to the policyholder the reason why the fee is charged. This fee can only be charged for services rendered to the policyholder which are not classified as intermediary services in terms of the FAIS Act.

**11. DURATION AND TERMINATION**

- 11.i. This agreement will begin on the date on which GENRIC approved the application. This agreement will continue indefinitely and applies to all short term insurance business between GENRIC and the INTERMEDIARY.
- 11.ii. Either party may cancel this agreement by giving the other party written notice of TWO (2) calendar months at any time. This agreement shall terminate at midnight on the final day of the notice period and shall be of no further force or effect from that date.
- 11.iii. The INTERMEDIARY may not engage in any form of marketing or promoting business on GENRIC's behalf during the notice period.
- 11.iv. This agreement shall terminate automatically if the INTERMEDIARY:
- a. becomes the subject of voluntary or involuntary liquidation, sequestration, insolvency or judicial management proceedings (whether provisional or final);
  - b. enters into any general assignment, compromise, composition or scheme of arrangement for the benefit of creditors of the INTERMEDIARY;
  - c. performs any "Act of Insolvency" as defined in terms of Section 8 of the Insolvency Act, No 24 of 1936, as amended;
  - d. is merged with, acquired by, becomes controlled by or is otherwise absorbed by any person (unless a previous agreement has been reached in this regard with GENRIC);
  - e. has any pertinent license to conduct its business suspended, removed or impaired by any regulatory or judicial authority;
  - f. has failed to disclose a material fact affecting its services as an intermediary for GENRIC.

- 11.v. Notwithstanding the foregoing, should the INTERMEDIARY commit a breach of a material term of this agreement, GENERIC shall be entitled to determine if the breach warrants the immediate cancellation of this agreement or if the INTERMEDIARY shall be granted the opportunity to remedy the breach. The INTERMEDIARY shall be given written notice of GENERIC's decision.
- 11.vi. In the event that the INTERMEDIARY is granted the opportunity to remedy the breach, the written notice shall contain the time period allowed to remedy the breach. This time period allowed shall be dependent on the nature of the breach with a minimum of twenty four (24) hours.

## **12. RIGHT OF INSPECTION**

All documents, which come into the INTERMEDIARY's possession and which the INTERMEDIARY pursues with the intention of developing a business relationship between GENERIC and the prospective client will be deemed to be and shall remain the property of GENERIC.

GENERIC or its representatives shall have the right to inspect and audit any records pertaining to their business at any time during business hours and shall have the right to make copies of the relevant documentation.

The INTERMEDIARY, immediately upon termination of this Agreement, shall return all such documentation to GENERIC.

## **13. DOMICILIUM AND NOTICES**

Any notice referred to in this agreement must be in writing and must be addressed to the domicilium citandi et executandi of the party to whom it is addressed.

Such notices must either:

- 13.i. be delivered by hand at the relevant domicilium address and an acknowledgement of receipt must be signed by the person present at the relevant domicilium address on a copy of such notice; or
- 13.ii. be sent by pre-paid registered post to the relevant domicilium address.

Any notice complying with the aforementioned requirements shall be deemed to have been received by the party to whom it has been addressed:

- 13.iii. in the case of delivery by hand, on the date of delivery;
- 13.iv. alternatively; in the case of posting by pre-paid registered post, within five (5) working days after the posting thereof.

The parties hereby choose domicilium citandi et executandi at the following addresses:

### **GENERIC:**

#### PHYSICAL ADDRESS

MIDRAND BUSINESS PARK  
BUILDING 3  
563 OLD PRETORIA MAIN ROAD  
MIDRAND  
1685

#### POSTAL ADDRESS

P O BOX 1115

BROMHOF  
2154

**INTERMEDIARY:**

PHYSICAL ADDRESS

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POSTAL ADDRESS

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To which addresses all notices, legal processes or other documents relating to this agreement may be sent.

**14. VARIATION AND WAIVER**

- 14.i. No waiver or modification of any of the terms of this Agreement shall be valid unless in writing and signed by each of the parties hereto..
- 14.ii. No waiver of any breach hereunder shall be deemed a waiver of any repetition of such breach or in any way affect any of the other provisions herein.
- 14.iii. No indulgence which a party (the grantor) may grant to the other party (the grantee) shall constitute a waiver of any of the rights of the grantor, who shall not thereby be precluded from exercising any rights against the grantee which have arisen in the past or might arise in the future.

**15. CONFIDENTIALITY**

- 15.i. For purposes of this Agreement, "Confidential Material" shall include, without limitation, any technical, commercial, scientific information, know-how, trade secrets, processes, machinery, designs, drawings, technical specifications, and data in whatever form, communicated to the Receiving Party or acquired by the Receiving Party from the Disclosing Party, in the past or in the future, during the course of the parties association with one another.
- 15.ii. A Receiving Party shall protect the Confidential Material by using the same degree of care, but not less than a reasonable degree of care, to prevent the unauthorised use, dissemination or publication of the Confidential Material as the Receiving Party uses to protect its own Confidential Material. A Receiving Party agrees to use the Confidential Material solely for the purposes set forth in this Agreement.
- 15.iii. For the purposes of this Agreement, "Confidential Material" shall not include any material which:
  - a. is known to or was in the Receiving Party's possession before receipt from the Disclosing Party;
  - b. is or becomes part of information in the public domain;
  - c. is or becomes public knowledge through no fault of the Receiving Party;

- d. is rightfully received by the Receiving Party from a third party without a duty of confidentiality,
  - e. is independently developed by the Receiving Party;
  - f. is required to be disclosed by operation of law, provided, however, that the Receiving Party attempts to maintain the confidentiality of such Confidential Material by asserting in such action or proceeding any applicable privileges, and within a reasonable time prior to any disclosure notifies the Disclosing Party in order to give the Disclosing Party the opportunity to seek other legal remedies to maintain such Confidential Material in confidence;
  - g. is disclosed by the Receiving Party with the Disclosing Party's prior written approval.
- 15.iv. All Confidential Material disclosed to the Receiving Party by the Disclosing Party, or on behalf of the Disclosing Party, shall be and remains the sole property of the Disclosing Party. Save as agreed or contemplated by any agreement of the parties otherwise in writing, the Receiving Party expressly agrees that it will make no commercial use, in whole or in part, of such Confidential Material, and further agrees that the Confidential Material shall be disclosed only to such limited group of its authorised employees or representatives who require such information in connection with their activities contemplated by this Agreement, and then only to the extent needed. Under such circumstances, the Receiving Party shall require those employees and representatives as shall have access to such Confidential Material to sign a Confidentiality and Non-Disclosure Agreement, unless they have already done so, confirming they will only utilise Confidential Material for the purposes defined above and will not divulge such Confidential Material to anyone else.
- 15.v. All documents drawings, writings, information and data of whatever kind and nature that may be provided by the Disclosing Party to the Receiving Party in connection with the purposes set forth herein, and all copies thereof, shall, to the extent that they remain in the possession of the Receiving Party, be promptly returned to the Disclosing Party upon completion or termination of the business discussions and evaluation described herein, in the condition in which they are then in. The provisions of Clause 15.v will also apply at the request of the Receiving Party.
- 15.vi. The Disclosing Party's disclosure of the Confidential Material to the Receiving Party pursuant to this Agreement shall not constitute an option, grant or license to the Receiving Party under any patent, copyright or any other intellectual property rights, or rights of any nature or kind whatsoever, which are presently held by the Disclosing Party or which may be held by the Disclosing Party in the future.
- 15.vii. The parties do not intend that any agency, partnership or joint venture relationship be created between them by this Agreement. The disclosure of the Confidential Material hereunder shall not result in any obligation on the part of either Party to enter into further agreement with the other with respect to the subject matter hereof or otherwise.
- 15.viii. Each Disclosing Party warrants that it has the right to make the disclosures under this Agreement.

**16. DISPUTE RESOLUTION**

- 16.i. Should any dispute or deadlock or conflict arise in connection with or pursuant to this Agreement other than in respect of provisions, which contain their own specific remedies, the parties undertake to attempt to resolve the matter by negotiation.
  - 16.ii. If the dispute has not been resolved by negotiation within 10 Business Days after the date upon which the Party had, on notice in writing to the Party, referred the dispute to negotiation. The Parties will be entitled to agree in writing to extend the period within which to attempt to resolve the dispute, failing which the unresolved dispute will be finally resolved in accordance with the rules of the Arbitration Foundation of Southern Africa (**AFSA**) by a single arbitrator appointed by AFSA.
  - 16.iii. Either Party may by notice in writing to the other party, refer the unresolved dispute to AFSA.
  - 16.iv. The arbitrator's decision will be final and binding upon the parties and may be made an order of any competent court having jurisdiction over any of the Parties to the dispute.
  - 16.v. The provisions of this clause will not preclude a party from seeking urgent or interim relief, pending the outcome of the arbitration, in any court of competent jurisdiction.
  - 16.vi. Should costs of whatsoever nature be incurred prior to the arbitrator making its decision, which decision will also stipulate which party will be liable for the costs of the arbitration, the parties will pay such costs in equal shares, pending the arbitrator's final decision.
  - 16.vii. This clause 15 is separate from the remainder of this Agreement and will remain in effect, despite this Agreement being invalid or terminated.
- 17.** In the event that any provision of this Agreement shall be declared invalid or unenforceable, such provision shall be deemed to be severed and deleted, and neither such provision nor its deletion, shall affect the validity of the remaining provisions herein.
- 18.** This Agreement constitutes the entire agreement and understanding of the parties relating to the subject matter hereof and supersedes all prior and contemporaneous agreements. The provisions of this Agreement shall be deemed to obligate and extend to each of the parties hereto and its and their agents, employees, representatives, parent, affiliates, heirs, successors and assigns.
- 19.** This Agreement may be executed in two or more counterparts, each of which shall be deemed an original and shall be deemed to be effective as of the day and year indicated herein.



**The INTERMEDIARY:**

Signed at ..... on this the ..... day of ..... 201.....

.....  
SIGNATURE

NAME: .....  
DESIGNATION: .....

for and on behalf of the INTERMEDIARY and who is a duly authorised representative of the INTERMEDIARY.

AS WITNESS:

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**GENRIC:**

Signed at ..... on this the ..... day of ..... 201.....

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SIGNATURE:

NAME: .....  
DESIGNATION: .....

for and on behalf of **GENRIC INSURANCE COMPANY LIMITED** and who is a duly authorised representative of GENRIC.

AS WITNESS:

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