



**ELLGEO RE**  
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## **ELLGEO RE (MAURITIUS) LIMITED**

### **TERMS OF BUSINESS AGREEMENT**

#### **Scope and Application**

The purpose of this document is to describe our professional relationship and the services we will provide to you (except for services, if any, which we are providing under the terms of a separate written agreement executed by you and EllGeo Re (Mauritius) Limited).

In this document "we", "us" and "our" means EllGeo Re (Mauritius) Limited.

You should read this document carefully for as well as setting out the terms of our relationship it contains details of our regulatory and statutory responsibilities.

We draw your attention to the following sections:

- Your Responsibilities;
- Our Remuneration;
- Client Money Disclosures;
- Conflicts of Interests; and
- Complaints

This document takes effect from 1 January 2013 or whenever it is received (whichever is the later) and supersedes any terms of business agreement that may have been previously sent to you by us.

You should contact us if there is anything in this document which you do not understand or with which you disagree.

#### **Introduction and status disclosure**

EllGeo Re (Mauritius) Limited is a leading reinsurance broker in sub-Saharan Africa, and is incorporated in the Republic of Mauritius. We are authorised and regulated by the Financial Services Commission (FSC), Mauritius.

Our permitted business is arranging general insurance contracts which includes reinsurance contracts. Our business registration number is C09056714.

We offer transactional and/or advisory services for your reinsurance requirements over a wide range of reinsurance products, and are committed to acting in your best interests at all times in providing services to you.

As a reinsurance intermediary, we normally act for you; and we arrange reinsurance with leading reinsurers and recommend one or more from a limited range, according to the nature of the product required.

However, for some reinsurance products, reinsurers may grant us a binding authority which enables us to accept business on their behalf and immediately provide coverage for a risk. Further, we may arrange lineslips, which enable a reinsurer to bind business for itself and other reinsurers and we may manage these lineslips for such reinsurers. We may place your reinsurance business under a Binding Authority, Lineslip or similar facility where we reasonably consider these match your reinsurance requirements/ instructions. Where we intend to bind your reinsurance risk under a facility without reference to the insurer or market we shall inform you prior to the inception of the reinsurance contract.

We do not offer advice in relation to tax, accounting, regulatory or legal matters and you should take separate advice as you consider necessary regarding such matters.

#### **Services provided**

##### **Negotiation and Placing**

We will discuss with you or your representatives your reinsurance requirements, including the scope of cover sought, limits to be sought and cost. Upon receipt of your instructions, whether written or oral, we will endeavour to satisfy your reinsurance requirements. We will provide you with information about the reinsurance cover we will advise and recommend to you to enable you to decide whether to accept the reinsurance cover available. As your reinsurance intermediary we will answer any questions you may have on the proposed cover, its benefits, restrictions, exclusions and conditions.

You will be responsible for reviewing information on the reinsurance coverage recommended to you. If the indication of coverage and terms does not accord with your instructions you should advise us immediately.

During the course of the placement of your reinsurance we will endeavour to keep you informed of the progress of our negotiations and identify any inability to obtain the coverage sought by you. We will use reasonable endeavours to implement your reinsurance programme, subject to available reinsurers, before the intended date of inception, renewal or extension of cover (whichever is appropriate).

You are responsible for reviewing the documentation we send you confirming that you have coverage with reinsurers to ensure that it is in accordance with your instructions. If you have any questions with the coverage, limits or other terms and conditions, or concerns that we have not implemented your instructions correctly please contact us immediately.

Further, you should review the reinsurance premium payment terms we advise you. All premium payment terms must be met on time or your reinsurers will have the right to effect a notice of cancellation for non-payment of premium. We shall also advise of any charges additional to the reinsurance premium.

We will forward any policy documents, if applicable, and any amendments or endorsements to your policy as soon as reasonably practicable.

##### **Reinsurers**

We assess the financial soundness of the proposed reinsurers we recommend for your requirements using public information including that produced by recognised rating agencies. However, we will not in any circumstances act as a reinsurer nor will we guarantee or otherwise warrant the solvency of any reinsurer. As a consequence the suitability of any reinsurer rests with you and we will discuss with you any concerns you may have.

##### **Claims**

Except where we agree with you otherwise, we will provide our claims handling services for the period of our appointment. These services can be continued beyond our appointment by mutual agreement, and may be subject to a separate fee. Our claims handling services include, upon receiving the required information from you, the notification of the claim or circumstances to reinsurers, representing you in the resolution of the claim and arranging the collection and/or settlement of the claim in accordance with market practice and your policy terms and conditions. Where claims are to be dealt with by you with reinsurers directly we will provide you advice and support as necessary.

Where we collect claims payments these will be remitted to you as quickly as possible. However, we will not remit claims monies to you before we have received them from reinsurers.

### **Electronic Communications**

We may communicate with each other by electronic mail, sometimes attaching further electronic data, where we have each expressed a wish for that to happen. By consenting to this method of communication we and you accept the inherent risks (including the security risks of interception of or unauthorised access to such communications, the risks of corruption of such communications and the risks of viruses or other harmful devices). Notwithstanding that we and you have reasonable virus checking procedures on our system, you will be responsible for virus checking all electronic communications sent to you. You will also be responsible for checking that messages received are complete. In the event of a dispute neither of us will challenge the legal evidential standing of an electronic document and our system shall be deemed the definitive record of electronic communications and documentation.

### **Our Remuneration**

Our remuneration for the services we provide you will be either brokerage, which is a percentage of the reinsurance premium paid by you and allowed to us by the reinsurer with whom your reinsurance contract is placed, or a fee as agreed with you. If appropriate, we may receive a fee and brokerage.

Brokerage and fees are earned for the policy period and we will be entitled to retain all fees and brokerage in respect of the full policy period in relation to policies placed by us.

If you require details of the remuneration we receive you may contact our Managing Director.

It may, at times, be appropriate (and for your benefit) for us to use other parties such as wholesale brokers, including Lloyd's brokers, excess and surplus lines brokers, underwriter managers, managing general agents or reinsurance intermediaries. These parties may also earn and retain commissions for their role in providing products and services for you.

We may have contracts with reinsurers pursuant to which we provide certain services, such as those under binding authorities and lineslip arrangements (for example, providing statements of the business accepted and the issuance of contracts of reinsurance cover). We may also provide reinsurance broking services for reinsurers. Under these arrangements we may be paid by the reinsurers for the services we provide to them in addition to any commissions we may receive for placing your reinsurance cover.

### **Your Responsibilities**

#### **Disclosure of information**

Our objective is to obtain the best product we can identify in order to meet your reinsurance needs. In order to make our business relationship work, you must provide complete and accurate information and instructions in a timely manner, so that we can assist you fully. Please bear in mind that there is no duty on reinsurers to make enquiries of you. Indeed, you are under a duty to make full disclosure of all material facts and fully and frankly respond to any requests for information made by reinsurers. Failure to make full disclosure of material facts allows reinsurers to avoid liability for a particular claim or to void the policy. This duty of disclosure applies equally at renewal of your policies and on taking out new reinsurance policies. We will not be responsible for any consequences which may arise from any delayed, inaccurate or incomplete information. Further, all information which is material to your coverage requirements or which might influence reinsurers in deciding to accept your business, finalising the terms to apply and/or the cost of cover must be disclosed.

Please discuss with us if you have any doubts about what is material or have any concerns that we may not have material information.

### **Choice of reinsurers**

If you have any concerns with any reinsurers chosen for your reinsurance requirements you must advise us as soon as possible.

### **Your policy**

Although we will check the policy documents we send you, you are responsible for reviewing your policy to ensure that it accurately reflects the cover, conditions, limits and other terms that you require.

Particular attention should be paid to any policy conditions, warranties and the claims notification provisions as failure to comply may invalidate your coverage. If there are any discrepancies you should consult us immediately.

### **Claims**

You are responsible for notifying claims or potential circumstances that may give rise to a claim in accordance with your reinsurance policy. In presenting a claim it is your responsibility to disclose all facts which are material to the claim. Therefore, to ensure full protection under your policy or similar documentation provided you should immediately familiarise yourself with the coverage conditions or other procedures relating to claims and claims notification.

Failure to adhere to the notification requirements particularly with regard to timing requirements may entitle reinsurers to deny your claim.

Therefore, please carefully consider any claims reporting instructions we provide to you because failure to report a claim in a proper and timely manner may jeopardise coverage of the claim. In addition, you should retain copies of all reinsurance policies and coverage documents as well as claims reporting instructions, as you may need to report claims after the termination of a policy, perhaps long after its expiry date. It is important, therefore, that you keep your policy documents in a safe place.

### **Change in circumstances**

You will advise us as soon as reasonably practicable of any changes in your circumstances that may affect the services to be provided by us or the cover provided under your reinsurance policy.

### **Provision of information**

All activities undertaken by us as outlined in this document are provided by us for your exclusive use and all data, recommendations, proposals, reports and other information provided by us in connection with our services are for your sole use. You agree not to permit access by any third party to this information without our express written permission. We reserve our right to take action to protect proprietary information.

### **Payment of premium**

You will provide settlement with cleared funds of all monies due in accordance with the payment date (s) specified in our debit note or other relevant payment documentation ("Payment Date"). Failure to meet the Payment Date may lead to reinsurers cancelling your policy, particularly where payment is a condition or warranty of a policy. It is imperative that you meet all payment dates. We are under no obligation to pay premium by the Payment Date to reinsurers on your behalf.

### **Client Money Disclosures**

**Cash Accounts.** We will treat any cash balances held by us for you in accordance with the Insurance (Insurance Brokers) Rules 2008. This means that such monies are held separately from our own money. We will hold such cash in our "Insurance Broking Premium Account" as defined by the Insurance (Insurance Brokers) Rules 2008.

**Intermediaries.** Client money may be transferred to another person (such as another insurance or reinsurance intermediary) for the purposes of carrying out a transaction for you.

**Foreign Intermediaries.** Client money may be passed to another insurance or reinsurance intermediary located outside the Republic of Mauritius, and the legal and regulatory regime applying to that client money so held may well be different from that of the Republic of Mauritius.

In the event of the failure of the insurance or reinsurance intermediary, client money may be treated differently than if the money were held by the insurance or reinsurance intermediary in the Republic of Mauritius.

You may notify us if you do not wish your money to be passed to a person in a particular jurisdiction.

**Interest.** We will not pay you interest, nor account to you on profits earned on client money.

**Reinsurers' monies.** On some occasions we will receive the premiums you pay to us as agent for the reinsurers. This will be the case where we place your reinsurance under a binding authority or where the reinsurer has agreed that payment of monies to us is payment to the reinsurer.

This means that, in effect, premium has been paid to the reinsurer as soon as it is received by us. So, if (for any reason) we do not pay those monies to the reinsurer, you cannot be obliged to pay again.

## Data Protection and Confidentiality

We will treat all information we hold about you as private and confidential, even when you are no longer a client. We will not disclose any information we hold about you to others except:

- (i) to the extent we are required to do so by law or regulatory requirements;
- (ii) where it is necessary to do so in order to provide our services to you (which might involve us disclosing information which you consider confidential or sensitive to reinsurers); or
- (iii) at your request or with your consent.

You agree that we may hold and process by computer or otherwise any information we hold about you in order to provide our services to you. Further, we may disclose to third parties certain industry-wide statistics or other information which may include information relating to you – although information specific to you will not be revealed without your consent. You have a right of access to some or all of the information we hold about you, or to have inaccurate information corrected, under data protection law. If you wish to exercise either of these rights, please contact us in writing.

You agree that we may, for the purposes of providing our services to you or for systems administration, transfer information we hold about you to any country, which may not have comparable data protection laws.

## Conflicts of Interests

Circumstances may arise where we may find we have a conflict of interest or otherwise have a material interest in or related to a matter in which we are acting. For example, we may be asked to act on behalf of any reinsurer in the appointment of a loss adjuster; or, we may find that the interests of two of the clients for whom we act conflict. We seek to avoid conflicts of interest but where a conflict is unavoidable we will explain the position fully and manage the situation in such a way as to avoid prejudice to any party.

The reinsurance market is complex and there could be other relationships not described here which might create conflicts of interest. Whatever the circumstances, we will act in your best interests; and, if a conflict arises for which there is no practicable solution, we will withdraw unless you wish us to continue to act for you and provide us with your written consent to that effect.

## Complaints

Should you have any cause for complaint about our services please raise the matter in the first instance with the person who handles your account. Alternatively, you may contact our Managing Director at Level 1, Raffles Tower, Cybercity, Ebene, Republic of Mauritius.

## Termination

Our services may be terminated either by us or you upon the giving of one month's notice in writing to the other or as otherwise agreed.

## Amendments

You agree that we have a right to amend this document by sending you either a notice of amendment in writing or a revised Terms of Business Agreement.

Any amendment will apply in respect of any service transaction entered into by us after notice of the amendment is given, and may take effect either immediately or at such later date as the notice may specify. We will however give you at least ten business days' notice of any change.

## Entire Agreement

This document and any amendment constitute the entire terms on which we will provide general reinsurance business with you and no alternation will have effect unless issued or agreed by us in writing.

## Third Party Rights

Unless otherwise agreed between us in writing no term of this Agreement is enforceable by third parties.

## Governing Law

This Agreement, which sets out the terms of our relationship with you, will be governed by and construed in accordance with Mauritian Law and any dispute arising under it shall be subject to the exclusive jurisdiction of the Mauritian courts.

Date: 11 June 2013