



MARSH TERMS OF ENGAGEMENT FOR FACULTATIVE REINSURANCE (SINGAPORE)

MARSH (SINGAPORE) PTE. LTD.

JUNE 2022

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Please read these Terms of Engagement carefully as they contain important information. By instructing Marsh on any Engagement, you are accepting these Terms of the Engagement.

TERMINOLOGY

In order to avoid repetition of words used in this document:

“Affiliate(s)” means, in relation to a company, its subsidiaries and subsidiary undertakings, its holding companies and any subsidiaries and subsidiary undertakings of any such holding companies. As it applies to you, **“Affiliate”** also includes your partners, directors, officers, co-Reinsureds or other associates to whom we or any of our Affiliates may assume a responsibility by reason of providing the services under the Engagement or any ancillary services.

“Claim” includes any claim or incident which may give rise to a claim, as appropriate to the Reinsurance.

“Engagement” means any facultative Reinsurance intermediary services and / or facultative Reinsurance related advisory services that we provide to you or your Affiliates from time to time anywhere in the world, as accepted by you in writing, or by your conduct or our course of business dealing;

“Reinsurance” includes a contract of reinsurance (including retrocession), binding authority agreement, contract of surety or guarantee and other risk transfer product.

“Reinsurer(s)” includes any reinsurer or other category of risk bearer or retrocessionaire.

“Reinsured(s)” includes any reinsured or retrocedant.

In this Terms of Engagement document, unless otherwise expressly provided, any reference to words importing the singular shall include the plural and vice versa, as appropriate.

References to ‘we’ or ‘our’ or ‘Marsh’ refer to Marsh (Singapore) Pte Ltd, 8 Marina View, #09-02, Asia Square Tower 1, Singapore 018960.

If there is a more specific agreement in writing between us which conflicts with any section of this document, the more specific agreement will prevail.

OUR SERVICES

We will use the reasonable skill and care expected of a competent and professional Reinsurance intermediary and risk consultant providing similar services.

Our services under the Engagement may include advice or recommendations (or both). However, it is for you to decide whether or not to accept our advice or recommendations. We are not a reinsurer or an underwriter.

We will be entitled to provide the services ourselves or, where appropriate, through one or more of our Affiliates or subcontractors.

After assessing your needs, we will normally recommend a Reinsurance solution for you. You will then need to decide how to proceed. When we receive your instructions, we will try to arrange Reinsurance to meet the needs you have specified.

YOUR OBLIGATIONS

Duty of Disclosure (& Fair Presentation)

We wish to remind you that you are required to provide information to the Reinsurers which is material or (where the Engagement is governed by the laws of England and Wales) makes a fair presentation of the risks. You are responsible for the accuracy and completeness of all information you provide to us and to the Reinsurers.

In addition to your obligations under the Reinsurance contract, your duty applies through the negotiations preceding the placement of your Reinsurance, when you wish to make changes to your Reinsurance to take on additional risks, upon extension of the Reinsurance contract period and during renewal of the Reinsurance contract.

As we are unable to provide legal advice, please seek your own independent legal advice on your duties and obligations under applicable laws.

Documents

You must promptly check all documentation supplied to you by us to ensure there are no mistakes or misunderstandings. You should advise your account executive immediately of any errors or anything you believe is not in accordance with your instructions or specifications.

You are responsible for maintaining copies of your Reinsurance contracts, and any amendments to them, in a safe place for as long as it is possible for a Claim to be made under them. New documentation may not be issued every year, and subject to any regulatory requirements, we may not retain copies of the Reinsurance contracts.

Warranties & Subjectivities

You should familiarise yourself with all terms of any Reinsurance that you purchase. All warranties should be treated seriously as failure to strictly comply may entitle the Reinsurer, inter alia, to decline a Claim under your Reinsurance. If you discover that you are in breach of a warranty, then you should keep a record of the breach including detail of its remedy. You should endeavour to remedy a breach as quickly as possible. If it is not possible to remedy the breach, you should advise us promptly. If you have any concerns or doubts, please contact us.

Where cover is subject to fulfilment of a particular requirement (known as a subjectivity) and that subjectivity is not fulfilled, then your Reinsurance may be invalidated. It is very important that you promptly satisfy all subjectivities so that they can be removed.

Accepted Forms of Communication

We can only communicate with you or accept instructions through our corporate e-mail addresses. We cannot do so by means of SMS text messages or other alternative messaging platforms. We ask that when using email to communicate with us, you do so using your corporate email address. Sending emails from a personal account may pose a significant security threat to the data contained in the email as these types of accounts are not subject to backup, archiving, security or governance. In the limited circumstances where emails are sent to us from personal accounts, this will be at the sender's own risk. Marsh will accept no liability for any related losses, liabilities, damages, costs, expenses or claims arising out of or in connection with the use of a personal email account.

PLACING SERVICES

Establishing Your Needs

In good time before negotiations with the Reinsurers commence, we wish to establish a proper understanding of your Reinsurance requirements.

We will assist where necessary in the gathering and collation of material risk information and in its preparation for submission to the Reinsurers who we consider to be appropriate and as agreed with you.

Quoting and Placing

We will seek from Reinsurers on your behalf competitive indications for Reinsurance coverage which, in our opinion, meet your needs and are efficient in terms of both price and coverage offered. We will advise you of the terms indicated by the Reinsurers in such a manner as to enable you to make an informed decision on which Reinsurance, if any, to purchase.

We will take diligent and timely steps to implement your instructions and, subject to available Reinsurance markets, place all of the required Reinsurance before its intended date of inception, renewal or extension, and confirm to you prior to such date the coverage that is in place. If we are unable to fulfil your instructions, we will bring this promptly to your attention.

Lineslips and Other Facilities

In relation to certain classes of business, we develop and operate certain facilities. These are arrangements whereby risks, which meet certain pre-agreed criteria, can be bound by one or more Reinsurers usually on behalf of a wide range of Reinsurers, with such arrangements offering speed and efficiencies across a portfolio of business. We generally administer these facilities on behalf of all participating Reinsurers and carry out general functions, such as accounting, on behalf of subscribing Reinsurers. We believe these arrangements help us to secure, for you, access to an expert panel of Reinsurers and cost efficiencies. We review the terms and conditions of facilities annually to ensure that the terms and conditions offered by participating Reinsurers are competitive. Where we place a risk for you under a facility, we will disclose this fact to you.

In certain cases and where permitted under local laws, we may have authority delegated by Reinsurers to bind limited classes of risks under a facility known as a binding authority. Where your risk is placed pursuant to such a binding authority arrangement, you will be specifically advised of it. In these circumstances, to the extent your risk is placed under a binding authority, in dealing with the underwriting and administration of your risk, we will be acting primarily on behalf of the Reinsurers.

PLACEMENT OF A RISK WITH MULTIPLE REINSURERS

Once satisfactory security has been selected, the risk may be offered to a single Reinsurer or to a number of Reinsurers to co-reinsure, if we believe that would best respond to your requirements.

EVIDENCE OF COVER

We will advise you by e-mail, letter, facsimile or other agreed means of communication, of the completion of the Reinsurance arrangement(s). We will then arrange for appropriate documentation to be forwarded to you, which will provide you with formal confirmation or evidence of the Reinsurance. We advise you to check the documentation we issue you when you receive it.

AMENDMENTS

If you require a subsequent amendment and/or material change to the terms of the Reinsurance, you should advise us in writing at the earliest opportunity, specifying the required change(s) and enclosing any relevant supporting information.

We will then seek the necessary agreement(s) from the Reinsurers and confirm to you in writing when the amendment or material change has been effected and supply you with the appropriate documentation, or advise you of any inability to effect the required amendment or material change.

CLIENT MONEY

All client monies are held in separate client accounts. We may use premiums and claims monies held in such accounts to cross-fund our clients' premiums and Claims. Without affecting our fiduciary duties to you, in some cases we may, where permitted under local laws:

1. Hold client money in accounts in other countries which may be subject to different legal and regulatory conditions and which may treat money differently in the event of a bank failing.
2. Pass client money to another intermediary, including those in other countries where different legal and regulatory conditions apply and where money may be treated differently in the event of an intermediary failing.
3. Arrange to hold certain investments with a value at least equal to the money that would otherwise have been paid into a separate client account. If we do this, we will be responsible for meeting any shortfall in the client money if the shortfall is due to a reduction in the market value of those investments.

HOW WE ARE PAID

We are paid for our services in one of three ways:

1. a commission or brokerage rate of the premium due to the Reinsurer for your Reinsurance contract (please note that this will be the basis for our earnings unless otherwise agreed);
2. a fee; or
3. a combination of fee and commission or brokerage.

If we have agreed a fee with you and a fee debit note is issued, we expect to be paid within the timeframe stipulated on the fee debit note or, if no payment date is stipulated, within 30 days of the date of the fee debit note.

Where, in order to satisfy the requirements of our clients, we are required to use another broker's specialist facilities to which that broker has sole access, brokerage will be retained by that broker.

Unless specifically agreed to the contrary, our earnings will be considered to have been earned in full at the time the Reinsurance contract is placed. We reserve the right to retain all earnings even where a Reinsurance contract is amended, terminated or otherwise cancelled. This does not affect any statutory cancellation rights. Our earnings are not conditional on the placement of Reinsurance, and we reserve the right to be paid for the work we have carried out. All fees and expenses are (unless otherwise expressly stated) exclusive of applicable taxes (which may include value added tax or goods and services tax), which will be added as appropriate. Payment must be made in the currency invoiced. This includes, where we have been able to identify them, any taxes and/or similar charges which Reinsurers are obliged to collect or you are required to pay in respect of your Reinsurance contracts.

To the extent an Engagement Fee is agreed between us, any fee we earn from you under this Engagement shall be increased in line with inflation by reference to the inflation index published by the Monetary Authority of Singapore and the Ministry of Trade and Industry upon each annual anniversary of this Engagement.

Other Revenue

We (and/or our Affiliates) sometimes separately receive payments from insurers or Reinsurers for services provided to them which are not directly related to the services which we provide to you.

Where applicable or permitted under the law, the payment received from a particular insurer or Reinsurer for services provided in a given period may be a management or administration fee or it may be based upon the profitability of insurance or Reinsurance business placed with that insurer or Reinsurer during that period. When providing these services to insurers or Reinsurers we will always use reasonable endeavours to avoid a conflict of interest. If we consider that a conflict has arisen, then we shall take no further action on behalf of the insurer or Reinsurer unless you agree in writing that we may proceed.

We (or our Affiliates) may receive separate compensation from insurers or Reinsurers for providing consulting technical, data analytics or other services. Such services are entirely distinct from this Engagement and are designed to improve the offering available to our clients, assist insurers or Reinsurers in identifying new opportunities and enhance insurers' or Reinsurers' operational efficiency. The scope and nature of the services vary by insurer/Reinsurer and geography.

We (or our Affiliates) may sometimes be instructed by a Reinsurer subscribing to a Reinsured's contract to place retrocession business on their behalf. This is a separate contract with that Reinsurer who is our client in such circumstances and is responsible for our remuneration in that capacity.

It may be appropriate for us to use an Affiliate or another intermediary (located inside or outside this jurisdiction) to assist us in fulfilling your Reinsurance requirements. These companies may receive additional remuneration for the services they provide.

At your request, we will disclose to you in writing the remuneration we (and our Affiliates) receive in respect of your policy. To the extent that such other remuneration cannot be indicated in cash terms, then we will explain the basis for its calculation.

You can find out more about how we are paid by visiting our Transparency & Disclosure webpage- [Transparency & Disclosure \(marsh.com\)](https://www.marsh.com/Transparency-Disclosure)

PAYING PREMIUM & OTHER CHARGES

You must promptly pay the premium, any associated applicable taxes and any other charges that we invoice you for in a timely manner within the timeframe stipulated on the debit note or, if no payment date is stipulated, within 30 days of the date of the debit note, or in accordance with the terms of the Reinsurance contract, whichever is earlier.

Payment must be made in the currency invoiced. This includes, where we have been able to identify them, any taxes and/or other similar charges which Reinsurers are obliged to collect or you are required to pay in respect of the Reinsurance contract.

Failure to pay on time or in accordance with the terms of the Reinsurance contract may lead to the cancellation and/or avoidance of your Reinsurances. You should pay particular attention and adhere to any other special premium payment condition or warranty.

TAXES, DUTIES AND OTHER CHARGES

Any Reinsurance premium tax, duty or other charge which is payable in addition to the premium (for which you are responsible) and which needs to be remitted to the appropriate authority by the Reinsurers, or which is allowed by the Reinsurers to be deducted from the premium payable, will be indicated on the premium debit note or invoice. If a tax, duty or other charge is allowed to be deducted by you from the premium payable, it is your responsibility to ensure that it is remitted to the appropriate authority.

Responsibility for accounting for taxes and/or other similar charges is a matter for you and your Reinsurers. We do not accept such responsibility unless there is a legal requirement for us to do so in a specific jurisdiction or where there is specific agreement in advance with you or your Reinsurers as appropriate.

As we are unable to provide tax advice, please seek your own independent tax advices under applicable laws.

MAKING A CLAIM

Many Reinsurance contracts have strict requirements about what you should do if you have a Claim or if you know about something that might lead to a Claim in the future. When we handle Claims for you, you must comply with the requirements of the relevant Reinsurance contract and:

1. Tell us as soon as possible of anything that has happened that enables you to make, or might lead to you making, a Claim on your contract.
2. Provide us with sufficient information in order for the matter to be notified under the contract.
3. Provide a written statement of the details of the Claim and submit it to us, or your Reinsurers, promptly.

MARKET SECURITY

We only seek Reinsurance from Reinsurers that meet our minimum financial guidelines for usage, unless we receive your instructions to the contrary. We will supply you with a copy of our guidelines upon request. We do not guarantee the solvency or continuing solvency of any Reinsurer and you should note that the financial position of a Reinsurer can change after cover has inception.

COMPLIANCE WITH LAW

Each party shall comply with all applicable laws and/or regulations, in particular those relating to bribery and corruption ("Bribery Laws"). We require any commercial organisation with whom we deal to have appropriate policies and procedures in place to ensure that no acts of bribery or corruption take place. Any breach of Bribery Laws by you will entitle us to serve immediate notice of termination of our Engagement and/or these Terms of Engagement.

Marsh and its Affiliates are required to act in accordance all applicable laws and/or regulations in various jurisdictions relating to the prevention of financial crimes such as money laundering, terrorist financing, fraud prevention, tax evasion and identify theft. Marsh may take action at the request of regulatory bodies / authorities including delaying or rejecting your requests.

To prevent or detect financial crime, Marsh and the Reinsurers may exchange information with their Affiliates and make searches of records held at relevant agencies who will supply this information. We and the Reinsurers may also pass information to financial and other organisations involved financial crime prevention.

Marsh is unable to provide any service or provide any benefit to the extent that the provision of such service or benefit would violate applicable laws or expose Marsh or its Affiliates to any sanction, prohibition, or restriction under United Nations Security Council resolutions or under other trade or economic sanctions, laws or regulations.

CONFLICTS OF INTEREST

We aim at all times to treat you fairly. We never deliberately put ourselves in a position where our interests, or our duty to another party for whom we act, prevent us from discharging our duty to you. We maintain internal procedures and controls to identify and manage any potential conflicts, so that at all times the interests of all our clients are protected.

RELATIONSHIPS WITH OTHERS

We occasionally ask other organisations to help us meet our clients' requirements where we believe it is to our client's benefit. We may also access data from the internet and business information providers about the business of our Reinsurance clients when preparing information for submission to Reinsurers.

DATA PRIVACY

Marsh agrees to comply with data protection and data privacy laws applicable to our services.

To provide our services, Marsh will collect and use information about individuals, such as their name and contact details, which may also include special categories of data (e.g. about their health). The purpose for which Marsh uses personal data may include arranging reinsurance cover, handling claims and for crime prevention. The provision of our services may involve the disclosure of personal data to third parties such as insurers, reinsurers, loss adjusters, sub-contractors, Affiliates of Marsh and to certain regulatory bodies who may require your personal data themselves for purposes ancillary to our services provided to you.

Depending on the circumstances, the use of personal data described in this notice may involve a transfer of data to other countries that have less robust data protection laws. Any such transfer will be done in accordance with law and with appropriate safeguards in place.

By accepting our services, you consent to the personal data you provide to us, and confirm that you have obtained the consent of any data subjects whose personal data you provide to us, being used in accordance with the services that we are providing. Marsh shall be entitled to assume that any person disclosing personal data to Marsh is doing so in compliance with all applicable data protection laws.

We will maintain appropriate data security procedures designed to protect against loss or compromise of personal data.

USE OF DEDICATED WEBSITE / FILE TRANSFER FACILITY FOR RISK PRESENTATION

Reinsurers are sometimes provided with access to a dedicated website or file transfer facility or tool in order to facilitate the presentation of risk information for a variety of reasons (e.g. large file sizes, risk modelling etc.). This causes some specific issues, of which you should be aware.

We would always seek to obtain some form of written acknowledgment from Reinsurers of the information which has been made available to them in compliance with our duties under general law (if any). However, unlike information presented in paper form or by way of storage media or e-mail, it may be considerably more difficult (if required at some future point in time) to produce irrefutable evidence of what information was made available for review and was accessible via designated websites at the particular time it was visited by each Reinsurer. Unless there is a way of keeping a check on who has visited a website and of what information they saw, there is an inherent risk of dispute over what was reviewed by Reinsurers.

An associated issue is the dynamic nature of websites. In addition to the difficulty in ascertaining when each Reinsurer visits a website, we believe any change to the information, subsequent to when each Reinsurer has already visited the designated website and completed their review, but prior to the contract being formed, would need to be brought to their specific attention.

In the circumstances, you agree that we shall be taken to have discharged our obligations to you as regards facilitating your disclosure to your Reinsurers where such disclosure is not provided by way of hard copy documents if we have used our reasonable endeavours to provide electronic disclosures: (1) by e-mail or a storage media of which copies can be retained; or (2) through the use of a dedicated website or file transfer facility or tool that enables the Reinsurers to access or download the required information. We shall inform you if none of these options are achievable, so that you can decide whether you wish to reinsure with that Reinsurer.

E-COMMERCE

We will seek to place and service Reinsurance business in the most efficient manner, which increasingly is by means of electronic trading. Indeed some Reinsurers now require information to be submitted to them in this manner.

Therefore, where we consider it appropriate, we will exchange data and text with you, the Reinsurer(s) and other parties connected with the Reinsurance using e-mail, through private (re)insurance market networks and through web-enabled systems accessed via the Internet.

CONFIDENTIALITY

Except as required by law, Marsh undertakes:

- to keep confidential all information (written or oral) concerning your business and affairs that may be obtained or received as a result of the Engagement;
- not without your prior written consent (such consent not to be unreasonably withheld or delayed), to disclose such information in whole or in part to any other person save to employees, agents or sub-contractors involved in the provision or receipt of the services, or in accordance with normal Reinsurance broking practice to Reinsurers and their agents;
- to use the information solely in connection with the provision or receipt of the services.

The above provisions will not apply to the information to the extent that it is:

- already lawfully in Marsh's possession on the date of its disclosure;
- in the public domain other than as a result of a breach of this clause;
- required to be disclosed pursuant to legal or regulatory requirements.

Marsh may include, on a de-identified basis, information relating to our clients' Reinsurance programmes in benchmarking, modelling and other analytics. Marsh and its Affiliates offer an array of analytics capabilities to clients, Reinsurers and others. For clients, these offerings include benchmarking databases, analytics and modelling tools, surveys and other compilations of information, which are designed to help clients more effectively assess their risks, make more informed decisions and construct (re)insurance programmes and other risk mitigation strategies. Marsh or its Affiliates may in some instances receive compensation for its analytics offerings from clients, Reinsurers and others.

ASSIGNMENT & SUB-CONTRACTING

We may on 21 days' written notice transfer our rights and obligations under the agreement for the Engagement to another Affiliate which is able to perform the services in accordance with these Terms of Engagement.

We may also subcontract to another Affiliate but this will be on the basis that we remain responsible for the services we and our subcontractors provide.

LIMITATION OF LIABILITY

The client and its Affiliates agree that Marsh and its Affiliates have a legitimate interest in limiting their liability.

Subject to the clauses below, in respect of the performance of the services under the Engagement, (including any amendments or variations to those services whether expressly or impliedly agreed):

1. Marsh and its Affiliates shall only be liable to you and your affiliates for reasonably foreseeable losses, damages, costs or expenses arising directly from breach of contract, breach of duty or fault, negligence or otherwise, under these Terms of Engagement. Marsh shall neither be liable to you nor your Affiliates in and circumstances for any loss of profit or any special, indirect or consequential losses; and
2. The maximum aggregate amount of our and our Affiliates' liabilities of any nature, whether in contract, tort, equity or otherwise (including in respect of all losses, damages, interest, costs and expenses suffered) to you and your Affiliates for any claim or claims relating to or in connection with all Engagements shall be limited to SGD 10 million (Singapore Dollars ten million) for all claims made in any calendar year.

It is agreed that Marsh has no responsibility for, and shall in no event be liable for, any acts or omissions arising out of:

- a. the adequacy or completeness of your existing facultative Reinsurance programme (if any) prior to the instruction of Marsh relating to these Terms of Engagement;
- b. any facultative Reinsurance contracts placed by you directly or by another (re)insurance broker; or
- c. for any acts or omissions of whatsoever nature that may have taken place take place prior to the instruction of Marsh relating to these Terms of Engagement.

In no event shall Marsh be liable for any loss, damage or expense to the extent that it arises from fraudulent acts or omissions, fraudulent misrepresentation, wilful default or negligence on your part or your directors, agents or employees, or from the provision to Marsh of false, misleading, inaccurate or incomplete information or documentation.

You and your Affiliates accept that Marsh has an interest in limiting the exposure of its directors, employees, consultants and Affiliates to litigation. You and your Affiliates agree not to bring any claim against any Affiliate of Marsh, or personally against any individual director, employee or consultant of either Marsh or any its Affiliates, in connection with the performance of the services. The provisions of this clause are intended to be for the benefit of such directors, employees, consultants and Affiliates who shall have the right to rely on and enforce these terms.

Nothing in this clause shall exclude or limit Marsh's liability for fraud or dishonesty or any other liability which cannot lawfully be excluded or limited.

The provisions of this clause shall survive any termination of these Terms of Engagement and remain in full force and effect.

PERIOD AND TERMINATION

1. The Engagement starts when we commence providing services to you and will remain in force until completion of the services or until the Engagement is terminated in accordance with this clause.
2. Either party may terminate the relevant Engagement by giving the other not less than 90 days' notice in writing. As our brokerage, commission or fee for bringing about or arranging the Reinsurance is considered fully earned when the Reinsurance incepts, any unpaid brokerage, commission or fee will become immediately due and payable upon termination of our appointment. We may also be entitled to some or all of our fee, as agreed with you, if our appointment is terminated before the Reinsurance incepts.
3. Either party may terminate the Engagement immediately in writing if the other party:
 - a. Commits a material breach and, in the case of a breach capable of remedy, fails to do so within 30 days of receipt of a notice setting out particulars of the breach; or
 - b. Becomes insolvent or bankrupt, goes into liquidation, enters into a voluntary arrangement with their creditors, becomes subject to an administration order or has a receiver appointed over their assets, or becomes subject to any equivalent foreign process.
4. When the Engagement terminates we will co-operate in the transfer of your business where necessary, in consideration of all amounts owed to us being paid.

GOVERNING LAW AND JURISDICTION

The Engagement and these Terms of Engagement and any non-contractual obligations arising out of or in connection with them shall be governed by and construed in accordance with the law of Singapore, and any disputes related thereto shall be subject to the exclusive jurisdiction of the courts of Singapore

