

TERMS OF BUSINESS AGREEMENT (TOBA)

For RAC Breakdown Insurance supplied through the Key Choice Sales Platform

In using the Key Choice Sales Platform and the RAC microsite ("**Microsite**"), the user, hereafter referred to as "**the Agent**", accepts the following Terms and Conditions:

1. Appointment and Authority

- 1.1 RAC Motoring Services ("**RACMS**") provides roadside repair and recovery insurance for vehicles in the United Kingdom and the Republic of Ireland, for which it does not require authorisation under the Financial Services and Markets Act 2000 ("**FSMA**") to effect or carry out contracts of insurance. RACMS also provides various related services in connection with vehicle breakdowns. RACMS is authorised under FSMA to act as an insurance intermediary. RAC Insurance Limited ("**RACIL**") provides onward travel and European breakdown insurance. RACIL is authorised under FSMA to effect and carry out contracts of insurance.
 - 1.2 RACMS is appointed by RACIL to sell and administer onward travel and European breakdown insurance on its behalf and is permitted to sub-delegate all or part of its appointment.
 - 1.3 The Agent wishes to make roadside repair and recovery, at home and onward travel and European breakdown and related insurance and various related services ("**the Product/s**") provided by RACMS and RACIL'S available to its customers. RACMS hereby appoints the Agent as its agent and as RACIL'S's sub-agent for the sale of breakdown products, on the terms of this TOBA.
 - 1.4 The Agent confirms it is authorised under FSMA to arrange and sell contracts of insurance. The Agent wishes to sell insurance policies provided by RACMS and RACIL'S on the terms of this TOBA.
 - 1.5 The terms of this TOBA are in addition to any Intermediary Agreement between the Agent and Key choice. In the event of conflict, the terms of this TOBA shall prevail.
 - 1.6 In arranging contracts of insurance, the Agent undertakes to RACMS that it will fully comply with all relevant legislation, regulations, guidance and statutory reporting requirements as affects the business conducted under this TOBA.
 - 1.7 For the purposes of the Insurance Distribution Directive (EU) 2016/97 (the "IDD"), it is agreed that the RAC is the "Manufacturer" in respect of the Product and the Agent is the "Distributor".
 - 1.8 Both parties shall carry out their respective functions as required of a Manufacturer and a Distributor under the IDD and IDD Directive (EU) 2017/2358.
 - 1.9 The Agent agrees:
 - 1.9.1 to inform RAC if they become aware that;
 - a) a Product is not in line with the interests, objectives and/or characteristics of its identified target market; or
 - b) circumstances related to the Product may adversely affect the Policyholders.
 - 1.9.2 to provide RAC with relevant sales and distribution information on request;
 - 1.10 The Agent shall take out and maintain professional indemnity insurance as required by FSMA, and shall provide to RACMS upon request, a copy of such insurance policy.
 - 1.11 The Agent shall notify RACMS if:
 - 1.11.1 any authorisation or approval under FSMA or relevant to the activities, is or is likely to be terminated, suspended, withdrawn, refused, expired, made subject to conditions or otherwise come to an end; or
 - 1.11.2 if the Agent becomes aware of any actual or pending investigation or enforcement or disciplinary action by any Regulator (including any proposed or threatened regulatory enforcement action and/or any steps taken by any Regulator which indicate that such regulatory enforcement action may or will be taken).
- #### 2. Arranging Cover
- 2.1.1 The Agent is authorised by RACMS to arrange contracts of insurance solely based on this TOBA. RACMS authorises the Agent to, and the Agent shall:
 - 2.1.2 provide quotations for breakdown insurance contracts only

in the form of the full policy wording made available to the Agent on the Key Choice Sales Platform from time to time ("**Policy/ies**") on behalf of RACMS;

- 2.1.3 enter into Policies on behalf of and for the account of RACMS;
 - 2.1.4 issue and despatch Policies and Policy related literature and materials including Polices, Policy booklets, Policy Schedules, Policy Summaries (including IPIDs) and proposal forms ("**Fulfilment Material**") in accordance with Clause 16;
 - 2.1.5 effect any necessary alteration, endorsement or cancellation of any Policy after it is issued;
 - 2.1.6 renew any Policy on behalf of RACMS.
- 2.2 Notwithstanding the authorities granted to the Agent by this TOBA, the Agent does not act as either RACMS's or the RACIL'S Authorised Representative (as defined by the FCA Handbook)
 - 2.3 All Policies shall be in the form made available on the Key Choice Sales Platform from time to time, and the Agent shall have no authority to amend, alter or extend any terms of the Policies.
 - 2.4 The Agent shall bring the Policy terms to the notice of the prospective customers in accordance with regulatory requirements and any additional information required by RACMS at the point of sale.
 - 2.5 The Agent shall not whether orally or otherwise, make or give any promises, warranties, guarantees or representations concerning the Policies other than those set out in the Policies. The Agents shall use their best endeavours to uphold the reputation of RACMS and the RACIL'S and represent them in a professional manner.
- #### Refunds and Cancellations
- 2.6 If, during the 14-day period from acceptance of a Policy by a Policyholder (the "**Cooling-Off Period**"), a Policy is cancelled in accordance with the Policy, the Policy shall be cancelled immediately and the Agent shall issue to the Policyholder, a full refund of the retail price and IPT paid for the Policy by the Policyholder, **PROVIDED THAT** the Agent first determines that such Policyholder has not received any service(s) under its Policy prior to issuing any refund.
 - 2.7 If, outside of the Cooling Off Period a Policyholder cancels a Policy, the Policy shall be cancelled immediately and the Agent must issue to the Policyholder, after termination of the Policy, a pro-rata refund (with the assumption that each Year is 365 days) of the retail premium and IPT paid for the Policy by the Policyholder in accordance with the Policy, **PROVIDED THAT** the Agent first determines that such Policyholder has not received any services under its Policy prior to issuing any refund.
 - 2.8 The Broker shall determine any pro-rata refund due to the Policyholder under Clause 2.7 by using the RAC calculator found at <https://talentedinnovators.ssp-worldwide.com/keychoice-rac-resources> (or as otherwise notified from time to time). RAC will only reimburse Net Premium and IPT pro-rata refunds that have been calculated accurately and by utilising the RAC calculator the Agent can ensure accuracy.
 - 2.9 No refund shall be given in relation to any cancelled Policies where the Policyholder has received services under a Policy.
 - 2.10 Where the Agent provides a refund to the Policyholder in accordance with Clause 2.7 and subject to 2.8 and 2.9 the Agent may deduct from sums due under this Agreement to RAC, the pro rata Net Premium plus the pro rata IPT refunded to the Policyholder for the cancelled Policy.
 - 2.11 The Agent may only make deductions pursuant to Clause 2.10 **PROVIDED THAT**:
 - 2.11.1 the Policy has terminated;
 - 2.11.2 the Agent has already paid or accounted to RAC for the applicable Net Premium and IPT in accordance with Clause 2.13 for the cancelled Policy;
 - 2.11.3 the Agent has notified RAC of the cancelled policy;

- 2.11.4 the deduction is made within 2 months of termination of the Policy; and
- 2.11.5 the RAC calculator (as at clause 2.8) has been used to calculate the refund due to the Policyholder.
- 2.12 If the Agent makes any deduction from sums due to RAC under this Agreement in breach of this Clause 2, the Agent shall reimburse to RAC any and all sums deducted by the Agent from sums due to in respect thereof and the Agent shall indemnify and keep indemnified RAC from and against all liabilities, claims, demands, losses, expenses (including legal expenses), interest, penalties, fines, costs and damages which RAC may suffer or incur (directly or indirectly) arising out of any breach of Clauses 2.6 to this 2.12(inclusive) by the Agent.

Net Premium and IPT

- 2.13 The Agent shall pay to RACMS (acting on its own behalf and as agent for RACIL'S) the net premium as set out on the Key choice Sales Platform from time to time ("**Net Premium**") together with the IPT on the retail price at the prevailing rate (the retail price being determined in accordance with Clause 2.14) on all Policies sold in each calendar month, whether or not collected from the Policyholder, by no later than 30 days after the end of the calendar month in which such Policies are sold.
- 2.14 RACMS has not specified a retail price at which the Policies are to be sold and, the Agent may add commission to the Net Premium as it see fit. If RAC reasonably believe that the retail price is too high and/or the retail price may not meet Financial Conduct Authority requirements, RAC shall have the right to fix the Agents maximum retail price. If the Agent does not agree to the proposed retail price, either Party may terminate the TOBA immediately by providing notice in writing.
- 2.15 If the Agent:
- 2.3.1 fails to properly and fully account to RACMS and/or RACIL for IPT on any amount paid in relation to any Policy; or
- 2.3.2 charges an amount whether in connection with the Policy, or any services provided to a Policyholder or any other person, and that amount is subject to IPT or any other tax or duty for which RACMS and/or RACIL have any liability to collect and/or account to HMRC,

and where in consequence HMRC raises any action or demand against RACMS and/or RACIL, then the Agent shall reimburse to RACMS (acting on its own behalf and as agent for RACIL) all such tax or duty together with all costs, expenses, interest, penalties and fines which RACMS or RACIL (as the case may be) sustains or incurs as a result of such action or demand being brought. Any such reimbursement shall be made within 10 days of receiving a written request, with details of such action or demand and setting out the tax, duty, costs, expenses, interest, penalties and fines incurred by RACMS and/or RACIL.

- 2.16 The Agent accepts responsibility for ensuring the sales procedure is fully compliant with the FCA rules (and/or any other relevant regulatory authority), and agrees to indemnify RACMS for any claims or complaint redress that must be made as a direct result of non-compliance, or where the Financial Ombudsman Service find in favour of a claimant/complainant where compliance to the sales procedure cannot be proved.

3. Premiums, Commission and Accounting and Reporting

- 3.1 RACMS shall at the end of each calendar month, using the Daily List (described in Clause 3.4) supplied by the Agent, produce an invoice in respect of the Net Premium and IPT due to RACMS and send the same to the Agent. The Agent shall pay RACMS in accordance with Clause 2.13.
- 3.2 If the Agent disputes part of the invoice then the Agent shall notify RACMS which elements of the invoice are in dispute together with full reasons and, if the dispute cannot be resolved within 2 days, RAC may remove the disputed elements and present a revised invoice and the disputed elements shall be invoiced separately and payable upon resolution of the dispute.
- 3.3 Late payments of any monies due from the Agent to RACMS will incur interest charges at the rate of 2.0% above the prevailing bank base rate as set by HSBC Bank.
- 3.4 The Agent shall make available to RACMS (acting on its own behalf and as agent for RACIL) via the Key Choice Sales Platform a daily list of all Policies sold by the Agent that day ("**Daily List**") as set out in Annex 1 of this TOBA and such other information which

RACMS shall reasonably request from time to time.

4. Non- Validating Vehicles

- 4.1 Where RACMS is requested to provide services to any vehicle which has not been notified to RACMS as an insured vehicle on the Daily List (above) ("**Non-Validating Vehicle**") it shall do so subject to the user of such Non-Validating Vehicle paying for such services direct to RACMS. If the Agent can subsequently demonstrate to RACMS's reasonable satisfaction that such vehicle was a vehicle insured under a Policy under this TOBA then RACMS shall, subject to receipt of the relevant Net Premium and IPT reimburse the customer for the fees paid.

5. Exclusivity and Non-Solicitation

- 5.1 RACMS acknowledges that any person insured under a motor policy sold by the Agent who is also the legal holder of a Policy under the terms of this TOBA ("**Policyholders**") are and remain the clients of the Agent who has the ultimate right to handle and deal generally with all such Policyholders. RACMS shall not, during the continuance of business conducted under this TOBA and for the period of two (2) years after its termination, (however caused) knowingly solicit the custom of any Policyholder.

6. Credit Risk Transfer

- 6.1 RACMS (acting on its own behalf and as agent for RACIL) authorises the Agent to act as RACMS's and RACIL'S agent for the purposes of receiving and holding premiums received from or payable to Policyholders in connection with the Policies ("**Risk Transfer Monies**"), such that:

- 6.1.1 the valid receipt of the retail price and IPT by the Agent will constitute valid receipt by RACMS and RACIL; and
- 6.1.2 retail price and IPT refunds held by the Agent but due to the Policyholder will be deemed to be held by RACMS and RACIL until transmitted to the Policyholder. The Agent and RACMS (acting on its own behalf and as agent for RACIL) acknowledge and confirm that the terms of the Policies are compatible with the provisions of this Clause 6.

- 6.2 The Agent may co-mingle retail price (including refunds of retail price) monies and IPT under this Agreement with Client Money (as defined by the Regulatory Rules). RACMS (acting on its own behalf and as agent for RACIL) hereby consents to such co-mingling and agrees that RACMS's and RACIL's interests will be subordinated to the interests of the Agent's clients (other than insurance undertakings).

- 6.3 If the Agent is to co-mingle funds held as agent for RACMS and RACIL pursuant to Clause 6.2 in a non-statutory trust account, it must hold all Risk Transfer Monies as follows:

- 6.3.1 the Agent shall open and maintain a segregated bank account with an Approved Bank (as defined by the Regulators) for the holding of monies as agent of insurance undertakings and shall use such account for the banking of retail price (including refunds of retail price) monies and IPT. Such account shall be a trust bank account or equivalent (including holding money as agent in Scotland) and shall be for the sole benefit of those insurance undertakings on whose behalf the Agent holds monies and shall contain no money other than that held as such insurance undertakings' agent;

- 6.3.2 prior to holding any funds in the account referred to in Clause 6.3.1, the Agent must provide RACMS with a copy of the written confirmation of the bank with which the account is held to the effect that:

- a) all money standing to the credit of the account is held by the Agent as trustee (or if relevant in Scotland, as agent) and that the bank is not entitled to combine the account with any other account or to exercise and right of set-off or counterclaim against money in the account in respect of any sum owed to it on any other account of the Agent;
- b) that the title of the account sufficiently distinguishes that account from any other account containing money that belongs to the Agent, and is in the form requested by the Agent; and
- c) obtain RACMS's written approval of the form of trust deed required to set up the account and provide RACMS with a copy of the executed trust deed (or, where the Agent is situated in Scotland, enter into an

agency agreement with RACMS in order to establish and govern the operation of the account);

- 6.4 In relation to the account referred to in Clause 6.3.1, the Agent shall also require its auditors annually to give an opinion as to whether or not the account is being operated in accordance with the terms of the trust deed and provide copy of such opinion to RACMS upon request;
- 6.5 No advances of credit obtained by the Agent secured on the account referred to in Clause 6.3.1 shall be made without the prior written consent of RACMS;
- 6.6 The Agent shall take all steps necessary to ensure that the establishment and operation of the account referred to in Clause 6.3.1 complies with all applicable local laws; and
- 6.7 All interest paid on Risk Transfer Monies held by the Agent in accordance with this Clause 6 shall be for the account of the Agent who shall be entitled to withdraw such interest at any time, subject to any applicable Regulatory Requirements.

7. Commencement and Termination

- 7.1 This TOBA commences on the date of acceptance by the Agent on the RAC Microsite (the "**Commencement Date**") and shall continue unless terminated in accordance with Clause 7.2 until RACMS or the Agent provide each other with seven (7) days' written notice in writing (the "**Term**"). Notices may be delivered by hand or sent by prepaid first class recorded delivery post sent to 'Broker Support', RACMS at RAC House, Brockhurst Crescent, Walsall, WS5 4AW or to the last known address of the Agent or by email to brokersupport@rac.co.uk. Notice sent by post shall be deemed to have been received by the addressee at noon on the second business day after posting, excluding the day of dispatch.
- 7.2 Either party shall be entitled forthwith to terminate this relationship by written notice to the other if:
- 7.2.1 The other party commits any material breach of any of the provisions of this TOBA; or
- 7.2.2 the other party goes into liquidation, or an encumbrancer take possession of or a Receiver of Administration is appointed over any of the property or assets of that other party, or an Administration Order is made in respect of that other party or that other party makes a voluntary arrangement with its creditors; or
- 7.2.3 the other party ceases to be authorised under FSMA or ceases or threatens to cease to carry on business; or
- 7.2.4 the Agent fails in any manner to hold and account for monies due to RACMS strictly in accordance with FCA rules or as required under this TOBA; or
- 7.2.5 the Agent is in breach of Clause 15.1.
- 7.3 Upon termination:
- 7.3.1 all services provided shall cease except those applying to Policies which remain in force;
- 7.3.2 any net premium accrued which has not been paid will immediately become due and payable to RACMS;
- 7.3.3 the Agent shall continue to provide RACMS with all information that is necessary to satisfy any applicable regulatory requirements or is reasonably required in relation to the on-going administration of the Policies;
- 7.3.4 the Agent shall immediately cease the promotion, distribution and sale of the Policies;
- 7.3.5 the Agent shall continue to process in the ordinary course of business any application which was received but not accepted by the Agent prior to the effective date of termination and any application which was received by the Agent on or after the effective date of termination but within the maximum thirty (30) day quote validity period;

8. Data Protection

- 8.1 In this section the following terms shall have the following meanings:

Agreed Purpose: has the meaning given to it in paragraph 1.3 of this Schedule 4;

Criminal Offence Data: means Personal Data relating to criminal convictions and offences or related security measures to be read in accordance with section 11(2) of the Data Protection Act 2018;

Data Protection Legislation: all applicable data protection and privacy legislation in force from time to time in the UK including the Data Protection Act 2018 (and regulations made thereunder); the retained EU law version of the General Data Protection Regulation ((EU) 2016/679) ("UK GDPR"); the Privacy and Electronic Communications Regulations 2003 (SI 2003 No. 2426) as amended; any other UK legislation relating to personal data and all other legislation and regulatory requirements in force from time to time in the UK which apply to a party relating to the use of Personal Data (including, without limitation, the privacy of electronic communications);

Personal Data Breach: a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to the Shared Personal Data;

Shared Personal Data: the personal data and Special Category Personal Data to be shared between the Parties under paragraph 2 of this Schedule 4;

Special Categories of Personal Data: the categories of Personal Data set out in Article 9(1) of the UK GDPR;

Subject Access Request: the exercise by a data subject of his or her rights under Article 15 of the UK GDPR and the Data Protection Act 2018;

Supervisory Authority: the Information Commissioner's Office; and

Controller, Processor, Data Subject, Personal Data, Processing and "appropriate technical and organisational measures" shall have the meanings given to them in the Data Protection Legislation.

8.2 Purpose

- 8.2.1 This Clause 8 sets out the framework for the sharing of Personal Data when one Controller (the "Data Discloser") discloses Personal Data to another Controller (the "Data Receiver"). It defines the principles and procedures that the Parties shall adhere to and the responsibilities the Parties owe to each other.
- 8.2.2 The Parties consider this data sharing initiative necessary in order to perform the Services pursuant to this TOBA. The aim of the data sharing initiative is to allow RAC to provide the Services to the Customers.
- 8.2.3 The Parties agree to only process Shared Personal Data, as described in Clause 8.3 below, and as set out in and for the purposes outlined in Annex 2. The Parties shall not process Shared Personal Data in a way that is incompatible with the purposes described in this paragraph ("**Agreed Purpose**").
- 8.2.4 Each Party shall appoint a single point of contact (SPoC) who will work together to reach an agreement with regards to any issues arising from the data sharing and to actively improve the effectiveness of the data sharing initiative.

8.3 Shared Personal Data

- 8.3.1 The types of Personal Data that will be shared between the Parties during the Term of this TOBA are set out in Annex 2.
- 8.3.2 Special Categories of Personal Data that will be shared between the Parties during the term of this TOBA are set out in Annex 2.
- 8.3.3 Criminal Offence Data will not routinely be shared between the Parties during the Term of this TOBA.
- 8.3.4 The Shared Personal Data must not be irrelevant or excessive with regard to the Agreed Purpose.

8.4 Error! Bookmark not defined. Lawful, fair and transparent processing

- 8.4.1 Each Party must ensure compliance with the Data Protection Legislation at all times during the term of this TOBA.
- 8.4.2 Each Party shall ensure that it processes the Shared Personal Data fairly and lawfully in accordance with Clause 8.4.3 below during the Term of this TOBA.
- 8.4.3 Each Party shall ensure that it has legitimate grounds under the Data Protection Legislation for the processing of Shared Personal Data.

- 8.4.4 The Data Discloser shall, in respect of Shared Personal Data, ensure that it provides clear and sufficient information to the Data Subjects, in accordance with the Data Protection Legislation, of the purposes for which it will process their Personal Data, the legal basis for such purposes and such other information as is required by Article 13 of the UK GDPR including:
- a) if Shared Personal Data will be transferred to a third party, that fact and sufficient information about such transfer and the purpose of such transfer to enable the Data Subject to understand the purpose and risks of such transfer; and
 - b) if Shared Personal Data will be transferred outside the UK pursuant to Clause 8.7.2 below, that fact and sufficient information about such transfer, the purpose of such transfer and the safeguards put in place by the Controller to enable the Data Subject to understand the purpose and risks of such transfer.
- 8.4.5 The Data Receiver undertakes to inform the Data Subjects, in accordance with the Data Protection Legislation, of the purposes for which it will process their Personal Data, the legal basis for such purposes and such other information as is required by Article 14 of the UK GDPR including:
- a) if Shared Personal Data will be transferred to a third party, that fact and sufficient information about such transfer and the purpose of such transfer to enable the Data Subject to understand the purpose and risks of such transfer; and
 - b) if Shared Personal Data will be transferred outside the UK pursuant to Clause 8.7.2 below, that fact and sufficient information about such transfer, the purpose of such transfer and the safeguards put in place by the Controller to enable the Data Subject to understand the purpose and risks of such transfer.
- 8.4.6 The Data Discloser shall provide all reasonable assistance to the Data Receiver in order to facilitate the provision by the Data Receiver of information to Data Subjects as is required by Article 14 of the UK GDPR and as set out in Clause 8.4.5 above.
- 8.5 Data Subjects' rights**
- 8.5.1 Each Party agrees to provide such assistance as is reasonably required to enable the other Party to comply with requests from Data Subjects to exercise their rights under the Data Protection Legislation within the time limits imposed by the Data Protection Legislation.
- 8.5.2 Each Party is responsible for maintaining a record of individual requests for information, the decisions made and any information that was exchanged. Records must include copies of the request for information, details of the data accessed and shared and where relevant, notes of any meeting, correspondence or phone calls relating to the request.
- 8.6 Data retention and deletion**
- 8.6.1 The Data Receiver shall not retain or process Shared Personal Data for longer than is necessary to carry out the Agreed Purpose.
- 8.6.2 Notwithstanding Clause 8.6.1 above, the Parties shall continue to retain Shared Personal Data in accordance with any statutory or professional retention periods applicable in their respective industries.
- 8.6.3 The Data Receiver shall ensure that any Shared Personal Data are returned to the Data Discloser or destroyed in the following circumstances:
- a) on termination of the TOBA;
 - b) on expiry of the Term of the TOBA;
 - c) once processing of the Shared Personal Data is no longer necessary for the Agreed Purpose.
- 8.7 Transfers**
- 8.7.1 For the purposes of this Clause 8.7, transfers of Shared Personal Data shall mean any sharing of Shared Personal Data by the Data Receiver with a third party, and shall include, but is not limited to, the following:
- a) subcontracting the Processing of Shared Personal Data;
 - b) granting a third party Controller access to the Shared Personal Data.
- 8.7.2 The Data Receiver may not transfer Shared Personal Data to a third party located outside the UK unless:
- a) it complies with the provisions of Articles 26 of the UK GDPR (in the event the third party is a joint controller);
 - b) it complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Shared Personal Data that is transferred;
 - c) there are appropriate safeguards in place in relation to the transfer; and
 - d) the Data Subject has enforceable rights and effective legal remedies.
- 8.8 Security and training**
- 8.8.1 The Data Discloser shall only provide the Shared Personal Data to the Data Receiver by using secure methods.
- 8.8.2 The Parties undertake to have in place throughout the Term appropriate technical and organisational security measures to:
- a) prevent:
 - i. unauthorised or unlawful processing of the Shared Personal Data; and
 - ii. the accidental loss or destruction of, or damage to, the Shared Personal Data;
 - b) ensure a level of security appropriate to:
 - i. the harm that might result from such unauthorised or unlawful processing or accidental loss, destruction or damage of the Shared Personal Data; and
 - ii. the nature of the Shared Personal Data to be protected.
- 8.8.3 It is the responsibility of each Party to ensure that its staff members are appropriately trained to handle and process the Shared Personal Data in accordance with the Security Measures together with any other applicable national data protection laws and guidance and have entered into confidentiality agreements relating to the processing of Personal Data.
- 8.8.4 The level, content and regularity of training referred to in Clause 8.8.3 above shall be proportionate to the staff members' role, responsibility and frequency with respect to their handling and processing of the Shared Personal Data.
- 8.9 Personal Data breaches and reporting procedures**
- 8.9.1 The Parties shall each comply with its obligation to report a Personal Data Breach to the Supervisory Authority and (where applicable) Data Subjects under Article 33 of the UK GDPR.
- 8.9.2 The Parties agree to provide reasonable assistance as is necessary to each other to facilitate the handling of any Personal Data Breach in an expeditious and compliant manner.
- 8.10 Resolution of disputes with Data Subjects or the Supervisory Authority**
- 8.10.1 In the event of a dispute or claim brought by a Data Subject or the Supervisory Authority concerning the processing of Shared Personal Data against either or both Parties, the Parties will inform each other about any such disputes or claims, and will cooperate with a view to settling them amicably in a timely fashion.
- 8.10.2 The Parties agree to respond to any generally available non-binding mediation procedure initiated by a Data Subject or by the Supervisory Authority. If they do participate in the proceedings, the Parties may elect to do so remotely (such as by telephone or other electronic means). The Parties also agree to consider participating in any other arbitration, mediation or other dispute resolution

proceedings developed for data protection disputes.

8.10.3 Each Party shall abide by a decision of the Supervisory Authority.

8.11 Warranties

8.11.1 Each Party warrants and undertakes that it will:

8.11.2 Process the Shared Personal Data in compliance with the Data Protection Legislation;

- a) respond within 2 Working Days and as far as reasonably possible to enquiries from the Supervisory Authority in relation to the Shared Personal Data;
- b) respond to Subject Access Requests in accordance with the Data Protection Legislation; and
- c) take all appropriate steps to ensure compliance with the Security Measures and provisions set out in Clause 8.8 above.
- d) The Data Discloser warrants and undertakes that it is entitled to provide the Shared Personal Data to the Data Receiver, and it will ensure that the Shared Personal Data are accurate as required by the Data Protection Legislation.

9. Financial Crime

9.1 The Agent shall maintain adequate and up to date financial crime prevention, anti-money laundering and whistle blowing processes, and not undertake any activity in any way that would constitute a criminal act within the jurisdiction. It shall conduct the business in accordance with all applicable anti-money laundering and international trade, economic or financial sanctions legislation.

9.2 The Agent shall carry out Financial Sanctions checks on all customers to ensure its compliance with the Counter Terrorism Act 2008 and all applicable laws and regulations. The Agent shall provide evidence of this upon request by RACMS.

9.3 The Agent shall have and shall maintain in place throughout the term of this Agreement its own Anti-Bribery policies and procedures (including adequate procedures under the Bribery Act 2010) comply with all applicable laws, statutes, regulations and codes relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010 and not engage in any activity or conduct which would constitute an offence under sections 1, 2 or 6 of the Bribery Act 2010 if such activity, practice or conduct had been carried out in the United Kingdom.

10. Criminal Finances Act

10.1 The Agent shall, and shall procure that its associated persons within the meaning of Part 3 of the Criminal Finances Act 2017 including but not limited to its employees, directors, agents, representatives, suppliers, contractors and sub-contractors shall:

10.1.1 not engage in any activity, practice or conduct which would constitute an offence under any finance laws, statutes, regulations and codes, including the Criminal Finances Act 2017;

10.1.2 not do, or omit to do, any act that will cause RAC to commit an offence under section 45 or 46 of the Criminal Finances Act 2017; and

10.1.3 promptly report to RAC any request or demand from a third party to facilitate the evasion of tax within the meaning of Part 3 of the Criminal Finances Act 2017.

10.2 The Agent warrants that it has and shall maintain in place throughout the term of this TOBA such policies and procedures as are reasonable to prevent the facilitation of tax evasion by an associated person and to ensure compliance with this clause 10.

10.3 If requested, the Agent shall provide RAC with such reasonable assistance to enable RAC to perform any activity required by any relevant government or agency in any relevant jurisdiction for the purposes of compliance with Part 3 of the Criminal Finances Act 2017.

10.4 The Agent shall ensure that any person associated with the Agent who is performing services and providing goods in connection with this TOBA is subject to terms equivalent to those imposed on the Agent in this clause 10 (Relevant Terms). The Agent shall be responsible for the observance and performance by such persons of the Relevant Terms, and shall be directly liable to RAC for any breach by such persons of any of the Relevant Terms.

10.5 The Agent shall indemnify RAC against any losses, liabilities, damages, costs (including professional fees on an indemnity basis) and expenses incurred by, or awarded against, RAC as a result of any breach of this clause by the Agent.

10.6 Breach of this clause by the Agent shall constitute an irremediable material breach for the purposes of this TOBA. If RAC terminates this Agreement for breach of this clause 10, the Agent shall not be entitled to claim compensation or any further remuneration.

11. Slavery and Human Trafficking

11.1 Both Parties shall not, and shall procure that its directors, employees, agents, representatives, contractors and sub-contractors shall not, engage in any activity, practice or conduct which would constitute an offence under any anti-slavery and anti-human trafficking laws, statutes, regulations and codes, including the Modern Slavery Act 2015.

11.2 Both Parties warrant, represent and undertake that it conducts its business in a manner that is consistent with anti-slavery and anti-human trafficking laws, statutes, regulations and codes, including the Modern Slavery Act 2015 and shall implement due diligence procedures for its own suppliers, subcontractors and other participants in its supply chains, to ensure that there is no slavery or human trafficking in its supply chains.

11.3 Both Parties, upon request from the other Party shall provide a slavery and human trafficking report setting out the steps it has taken to ensure that slavery and human trafficking is not taking place in any of its supply chains or in any part of its business.

11.4 Both Parties shall permit each other on reasonable notice to have access to and take copies of records and any other information and to meet with the personnel to audit each other's compliance with its obligations under this Clause 11.

11.5 Breach of this Clause 11 by either Party shall constitute an irremediable material breach.

12. Claims and Complaints

12.1 The Agent is not authorised to settle or negotiate settlement of claims under Policies.

12.2 RACMS shall be responsible for the receipt, handling, recording and reporting of complaints (or parts of complaints) relating to:

12.2.1 the Policies; and

12.2.2 the performance by RACMS of its obligations under the Policies.

12.2.3 where a customer expresses dissatisfaction with RACMS's brand and RACMS determines, acting reasonably, that the customer's opinion of RACMS's brand has been or is reasonably likely to be damaged; or

12.2.4 which RACMS determines, acting reasonably, could have negative press relations

12.3 The Agent shall be responsible for the receipt, handling, recording and reporting of complaints (or parts of complaints) relating to the sale and administration of the Policies.

12.4 If a Party receives a complaint for which the other Party is responsible, each Party shall within two working days, forward the complaint (along with full details of such complaint and copies of written correspondence and data to enable the relevant Party to deal with the complaint) to the other Party at:

12.4.1 in the case of RACMS: Membership Customer Care, RAC Motoring Services, Great Park Road, Bradley Stoke, Bristol, BS32 4QN, breakdowncustomer@rac.co.uk; or

12.4.2 in the case of the Agent: its Registered Office address.

12.5 The Agent shall notify RACMS of all complaints received by it even if the responsibility for dealing with the complaint vests with the Agent.

13. Confidentiality

13.1 RACMS and the Agent shall treat any information relating to the other party, its business or customers, as confidential except to the extent that such information is public knowledge other than as a result of any breach of this TOBA. Each Party shall not disclose such information to any third party nor use it for any purpose except as is necessary for the enforcement of the party's rights in law or contract. For the avoidance of doubt, RACMS may disclose information about the Agent and its ongoing performance under this TOBA to Key choice.

14. Audit

- 14.1 RACMS shall, itself or by its, auditors, professional advisors, have the right at any time or times while business is being conducted pursuant to this TOBA and for a reasonable period thereafter, in business hours, and upon giving reasonable notice to the Agent to make investigation and to examine all files and records of the Agent (including bank records) pertaining to obligations and responsibilities thereunder, to fulfil any legal or regulatory request by any regulatory body, undertake verification of fees and may arrange for copies to be made at RACMS's expense of any of the records containing such information as it may require.
- 14.2 The Agent shall provide all reasonable assistance and cooperation to RACMS in making such investigation and examination and will answer all reasonable enquiries made by RACMS in respect of this TOBA, and RACIL in respect of the insurance relating to them. The Agent will extend the same rights granted to RACMS under this clause to RACIL.
- 14.3 If the audit identifies a material default by the Agent, the Agent shall reimburse RACMS for all its reasonable costs incurred during audit. This Clause 12 shall survive termination of the agreement for 12 months.

15. Intellectual Property

- 15.1 For the purposes of this Clause 15, "RAC Marks" means the trademarks and domain names owned by or licensed to RACMS and/or RACIL.
- 15.2 The Agent hereby acknowledges that all Intellectual Property Rights in the Policies and services and the RAC Marks (including goodwill) are the absolute property of RACMS (or its licensors) and the Agent shall make no claim to ownership or do anything to adversely affect the ownership or exercise of such rights by RACMS.
- 15.3 The Agent shall not reproduce any logo, trade mark, service mark or name of RAC in any form without its prior written consent.

16. Fulfilment and Marketing Material

- 16.1 RACMS shall be responsible for creating the form and content of Fulfilment Material and any marketing materials which shall be made available to the Agent via the Key Choice Sales Platform.
- 16.2 The Agent shall be responsible for production and printing of all Fulfilment Material and marketing materials including all costs and expenses.

17. Microsite

- 17.1 RAC's Microsite may from time to time be delayed, suspended or interrupted in line with the usual service disruptions associated with mobile telecommunications and data services and/or there may be downtime due to planned or unplanned maintenance of RAC's Microsite may be totally unavailable ("Normal Disruptions"). RACMS will not be liable for any breach of this TOBA and/or for any damages, losses, liabilities, expenses, costs in the event of any Normal Disruptions.
- 17.2 RACMS provides no warranty as to the availability of the RAC Microsite.

18. General

- 18.1 Within 14 days of the Commencement Date the Agent shall submit a completed copy of the "Initial Broker Due Diligence Form" which shall be made available to the Agent via this RAC microsite to RACMS at duediligence@rac.co.uk or such other address which RACMS may notify the Agent of from time to time. The Agent must complete and return the "Annual Due-Diligence Form" in the same way within 7 days of the anniversary of the Commencement Date and each subsequent year.
- 18.2 This TOBA replaces any previous terms or agreements between the Parties.
- 18.3 This TOBA cannot be waived, amended, varied or added to except by written agreement except that RAC reserves the right to amend this TOBA by providing the Agent with seven (7) days' written notice.
- 18.4 RACMS and the Agent agree not to assign their respective rights under this TOBA whether by sale, consolidation, merger, operation of law or otherwise, except as agreed by both parties in writing.
- 18.5 Nothing in this TOBA will confer any rights, remedies or benefits of any nature whatsoever on any third party for the Contract (Rights of Third Parties) Act 1999 or for any other purpose.
- 18.6 This TOBA shall be governed by and constructed in accordance with the laws of England and Wales and it is irrevocably agreed that the Courts of England and Wales are to have jurisdiction to settle any disputes which may arise out of or about this TOBA.
- 18.7 Clauses 1.6 (Insurance), 8 (data protection), 13 (confidentiality), 14 (audit) shall survive termination of this TOBA.

Annex 1

SEGMENTS
Senders SCID Number
Broker's Name
Policy Number
Customer Forename
Customer surname
Salute
Customer Address line 1
Customer Address line 2
Customer Address line 3
Customer Address line 4
Customer Postcode
Customer Home Telephone
Customer Work Telephone
Policy Inception Date
Policy Expiry Date
Vehicle Registration
Vehicle Make
Vehicle Model
Registration Year
Gross Premium Float
IPT Float
Net of IPT Premium float
Scheme Name
Premium of Parent Policy
Scheme Commission
Customer Date of Birth

Annex 2

Processing Details

Categories of Personal Data being Processed	Policy Holder's name, driver's names, location identifiers i.e. photographs, GPS location, contract telephone/mobile numbers, addresses and postcodes, vehicle registrations, claims details and vulnerabilities.
Categories of Data Subjects	Policyholders, drivers, family members, brokers, other insurers/carriers and third-party suppliers.
RAC Processing Purposes	Provision of obligations under the TOBA, record keeping, reporting purposes and claims handling.
Broker Processing Purposes	Provision of obligations under the TOBA.
RAC Recipients	Any member of the RAC Group, and any agents and/or third parties.