

# ValidPath Ltd

## APPOINTED REPRESENTATIVE AGREEMENT



**PARTIES:**

(1) "THE COMPANY": **ValidPath Ltd**  
Unit 16, The Globe Centre,  
Wellfield Road, Cardiff  
CF24 3PE

**AND**

(2) "THE MEMBER" .....

MEMBERS ADDRESS .....

.....

.....

.....

**AGREEMENT**

1.      The Company hereby appoints the Member with effect from ..... 20.... as its Appointed Representative (as defined herein) on the terms and for the purposes specified in the within-written Terms and Conditions.
  
2.      The Company accepts responsibility for the activities of the Member carrying on investment business of the kind and for the purposes for which the Member is hereby appointed for the duration of this agreement.
  
3.      The Member hereby agrees to act as an agent on behalf of the Company in respect of the Products (as defined herein) pursuant to the within written Terms and Conditions and hereby confirms he/she has read and fully understood the same Terms and Conditions.
  
4.      The Member hereby agrees to comply with all provisions of the Financial Services and Markets Act 2000 (FSMA 2000), the rules and regulations made thereunder, such provisions of The Criminal Justice Act 1993 and the FCA rules and all and any principles, rules, regulations and authorisations laid down from time to time by the FCA and any other regulatory body in accordance with whose principles, rules, regulations and authorisations the Company and/or the Member is required to act from time to time as are relevant to its activity and with any conditions to which FCA's approval of its appointment is subject.
  
5.      This Agreement supersedes all previous versions, and the Member's continued use of the Company's services will be deemed as its agreement to the terms contained herein.

**Duly Authorised for and on behalf of the Company**

SIGNED by: ..... [Director]      Date .....

SIGNED by: ..... [Director]      Date .....

In the presence of: .....

Witness' Name .....

Witness' Address .....

Witness' Occupation .....

**For self and for and on behalf of the Member**

SIGNED by: .....(on behalf of Appointed Representative)

In the presence of: .....

Witness' Name .....

Witness' Address .....

Witness' Occupation .....

## Terms and Conditions of Agency

### 1. Interpretation

1.1 In this agreement unless the context otherwise requires:

- “Member” or “Appointed Representative”** means the Appointed Representative of the Company, Appointed Representative having the meaning ascribed to it in the FSMA 2000.
- “Clients”** means persons who enter into Contracts with the Company for Products through the agency of the Member, or persons for whom financial advice is provided in exchange for a fee.
- “Commissions”** means in relation to any product sold through the agency of the Member any commission or other remuneration which is payable to the Company in respect of the Contract in accordance with the various provisions relating to the payment of commission by the Institutions with whom such Contract is entered to the Company and which either:
- (a) is actually received by the Company or
  - (b) would have been received by the Company but for some deduction or retention not attributable to the act or omission of the Member.
- Commissions as so defined shall also include the payment by clients, and the receipt by the Member, of any fees payable in relation to the procurement of Products or the provision of services in respect of which either the Member has foregone his entitlement to receive commissions from the Institutions as described above and has agreed with the client to be remunerated by way of an agreed fee, or where a fee is charged in respect of financial advice, howsoever calculated.
- and “Commission” shall be construed accordingly.
- “Controller(s)”** means the principal(s) of the Member, (which expression shall include directors, shareholders and partners in the business of the Member) and where the context so admits the personal representatives of such principal(s).
- “Contracts”** means contract(s) for the Products entered into or to be entered into by Clients with the Institutions.
- “Fees”** remuneration paid to the Member by a client for services rendered which may not be related to commission-bearing

- transactions, and in the broader sense subsumed under the heading of ‘commission’.
- ‘FCA’** means the Financial Conduct Authority (or such other body from time to time carrying out its function in succession to it in accordance with the provisions of the FSMA 2000.
- “Institution”** means any insurance or assurance company, life office, broker, unit trust manager, stockbroker, building society, bank, finance house or other financial institution.
- “FCA Rules”** means the rules made from time to time by the FCA or its successor.
- “Products”** means policies of assurance, annuity contracts, pensions plans or policies and such other products and services (including but without limitation critical illness and permanent health insurance policies) and term assurance policies as shall from time to time be dealt in by the Company subject (in the case of investment business) to the provisions of Schedule 3, including regulated and unregulated mortgage contracts plus other products and services which the Member shall transact in the ordinary course of its business.
- ‘Registered Individuals’** means registered individuals in the business of the Member.
- “Restricted Information”** means any information which is disclosed to the Member by the Company pursuant to or in connection with this Agreement (whether orally or in writing, and whether or not such information is expressly stated to be confidential or marked as such).
- “Retention”** means the amounts the Company shall be entitled to retain from Commissions on and subject to the terms of Schedule (1) to this Agreement, and as may be amended from time to time.
- 1.2 the headings in this Agreement are for convenience only and shall not affect its interpretation.
- 1.3 this agreement supersedes all other agreements relating to the subject matter.
- 1.4 words denoting the masculine in this Agreement shall include the feminine and neuter and vice versa.
- 1.5 references to the singular include references to the plural and vice versa.
- 1.6 any reference to a Statutory Provision shall be construed as including references to:
- 1.6.1 any statutory modification, consolidation or re-enactment (whether before or after the date of this Agreement) for the time being in force;

- 1.6.2 all statutory instruments, orders or sub-ordinate legislation made pursuant to a statutory provision;
- 1.6.3 any statutory provisions of which a statutory provision is a consolidation, re-enactment or modification.
- 1.7 'person' includes any natural person or body corporate or unincorporated government or public authority.

## **2. Functions of Member & Company**

- 2.1 The Member is appointed for the purpose of procuring or endeavouring to procure clients and prospective Clients to enter into Contracts and (for that purpose) giving advice to clients and prospective clients about entering into such Contracts.
- 2.2 Provided that:
  - 2.2.1 the Member shall not during the currency of this Agreement act in any capacity (other than as Member under this Agreement) in connection with the Product.
  - 2.2.2 the Member shall act in such a way as to ensure that its business as Member under this Agreement is, and is held out as being, clearly distinct from any other business which it carries on.
  - 2.2.3 neither the Member nor any of the Controllers shall be entitled during the currency of this Agreement to act as Member or Controllers of or otherwise to have any direct or indirect interest (whether as shareholder, investor, director, officer, employee or consultant) in any competitor companies, firms or persons or to engage in similar businesses, trades or occupations, save with the prior written approval of the Company, (such approval not to be unreasonably withheld), PROVIDED THAT the Member or the Controller (s) as the case may be shall not be deemed to be in breach of this restriction solely by holding shares in a company listed on a stock exchange or deal in on a public securities market which do not exceed in aggregate one per cent in nominal value of all the securities of the same class held in the same company.
  - 2.2.4 without prejudice to the provisions of clause 2.2.3 neither the Member or any of the Controllers shall during the currency of this Agreement concern themselves or have any direct or indirect interest (whether as shareholder, investor, director, officer, employee or consultant) with any agency, business or trade which is connected with the business of arrangement of procuring or endeavouring to procure clients to enter into Contracts and (for that purpose) giving advice to clients about entering into such Contracts.
- 2.3 The Member shall not be the exclusive Member for the Company in any territory.
- 2.4 Providing that there is good and reasonable cause, the Company may at any time (and either for a specific period or indefinitely):

- 2.4.1      direct the Member to cease immediately from acting or holding itself out as acting on the Company's behalf.
- 2.4.2      direct the Member to act on the Company's behalf in a specific manner or in respect of some but not other specified types of investment business.
- 2.4.3      restrict the kinds of Products in respect of which the Member is to procure Contracts or give advice.
- 2.4.4      restrict the Institutions in relation to whose Products the Member is to procure Contracts or give advice.
- 2.5      For the avoidance of doubt, in the event that other products or services become subject to regulation they shall forthwith be deemed included within the definition of "Products" hereunder.
- 2.6      The Member shall comply and shall procure that all Registered Individuals in the business of the Member comply at all times with the FCA's Training and Competence rules (as amended from time to time).
- 2.7      The Company shall provide a functional compliance framework for the Member to operate within, and shall review the same periodically in order to maintain its currency with the rules and regulations of the FCA and any subsequent regulator and to that end shall procure to the Member's reasonable satisfaction that it (the Company) is and remains at all times during the term of this Agreement:
  - 2.7.1      properly licensed and approved by the FCA to provide the required services; and
  - 2.7.2      compliant with FCA regulations and codes of conduct.
- 2.8      The Company shall set up, hold and administer such agencies and subagencies as are required with the Institutions in order to enable the Member to transact the Products.
- 2.9      The Company shall operate a robust and accurate commission management system to allow for the prompt and regular payment of the Member's share of such commissions, upon terms which will be revised and amended from time to time.
- 2.10      The Company shall provide practical support and assistance to its Members in such ways as it identifies from time to time, and including the provision of regular compliance reviews.
- 2.11      The Company shall undertake the responsibility of reporting to the FCA or any subsequent regulator, and shall require the assistance at times of the Member in complying with such responsibility.

### **3.      Registration**

- 3.1      It is a condition of this Agreement that the Member is or becomes registered by the FCA as an Appointed Representative of the Company and remains so

registered during the currency of this Agreement. It is also a condition that the Member must have a Customer Credit licence whenever it performs any business regulated by The Consumer Credit Act 1974.

It is the duty of the Member during the currency of this Agreement to provide such information concerning the Member, and/or its Controller(s) and/or Registered Individuals as the Company or FCA may require from time to time and to notify the Company promptly of any material alteration affecting information supplied in relation to the Member and/or its Controller(s).

#### **4. The Members Duties**

The Member and the Controller(s) shall have the following obligations to the Company and shall abide by and procure that Registered Individuals abide by the following rules and regulations:

- 4.1 the Member and the Controller(s) agree and covenant to carry on investment business and other regulated activities strictly in accordance with clause 10, and Schedule 3 (see also FCA Scope of Permission).
- 4.2 the Member will at all times use its best endeavours to promote the Products to clients and prospective clients. The Member may, with the prior written approval of the Company (which the Company may withhold or modify in its absolute discretion) as to form, content and medium, advertise Products and its authority to sell them, but shall do so at its own expense and notwithstanding such written approval by the Company the Member shall be responsible for ensuring full compliance at all times with FCA Rules.
- 4.3 the Member shall not make any representations or give any warranties in relation to the Products which are inconsistent with the statements made in the Company's or the relevant Institution's current brochure or advertising material, or in any way misrepresent to clients or prospective clients the nature content or effect of any Contracts. The Member will fully and effectively indemnify the Company against any loss damage expense liability or cost incurred as a result of any representation or warranty made or given in breach of this clause.
- 4.4 the Member shall conduct business with a client only on the Company's Terms of Business (which shall be supplied timeously to every client) in the format prescribed by the Company and in compliance with FCA Rules as amended from time to time.
- 4.5 the Member must report all Contracts entered into, and all advice given to the Company's Head Office as the business is transacted using the prescribed form of Business Register, or by such other method as the Company may from time to time prescribe.
- 4.6 such Business Registers must be maintained in a current state at all times, so that the Company may accurately account for Commissions and Fees to the Member, and provide liability for advice given. The Company cannot provide liability for advice which has not been documented and disclosed in full to the Company using whichever system is applicable at the time.
- 4.7 the Member must hold any monies received directly from the Institutions as trustee for the Company and must notify the Company of all such monies,



pending a decision on reconciliation. The Member shall not be automatically entitled to retain money received from Institutions on account of commissions owed to it by the Company.

- 4.8 the Member must at all times describe itself as an Appointed Representative of the Company and must not hold itself out as an employee of the Company. All correspondence, business cards or other similar literature issued under the name of the Member must clearly state that the Member is an Appointed Representative of the Company and may display the Company logo as amended from time to time and subject to such rules as the Company may issue from time to time in connection with the use of such logo.
- 4.9 the Member must, before concluding any Contract on behalf of a client or prospective client (save in respect of execution only and/or direct offer business) make reasonable enquiries as to the circumstances and financial stability of the client or prospective client and shall not conclude such Contract unless the Member is reasonably satisfied as a result of those enquiries that the client or prospective client is able, and likely, to pay for the Products contracted for. In all cases (including in the case of execution only/direct offer business), the Member shall reimburse the Company its share of the liability of those commissions paid to the Member in respect of Contracts cancelled or not fulfilled by clients where the Company has had to refund Commissions to third parties.
- 4.10 the Member must not make any purchases in the Company's name or on the Company's behalf and/or in any way pledge the Company's credit.
- 4.11 the Member must immediately notify the Company in writing of any complaint fitting the FCA's definition which is received by the Member, either orally or in writing and must administer the said complaint strictly in accordance with the Company's compliance manual and guidance published elsewhere.
- 4.12 in those circumstances where the Member, prior to entering into this agreement, carried on investment business as an authorised person, as defined within the FCA, the Member agrees and undertakes to investigate any complaints levied against it, arising out of or in connection with the business the Member carried out as an authorised person, in accordance with the FCA Rules, as if it was itself regulated by the FCA, and to promptly notify the Company of such circumstances.
- 4.13 the Member must not publish any advertising material whatsoever in relation to its business as a Member under this Agreement unless the same has first been submitted to and approved for publication by the Company who may withhold or modify such approval at its absolute discretion.
- 4.14 the Member shall not engage in any conduct which in the reasonable opinion of the Company is prejudicial to the Company's business or interests or the marketing of the Products generally and/or is prejudicial to any of the Company's clients and/or brings or is likely to bring the Company or any of the Company's clients into disrepute.
- 4.15 the Member agrees to produce to any person nominated by the Company or the FCA forthwith on demand any documents, information or material, concerning investment business (including but without limitation Contracts concluded or written by the Member) which that person may specify.

- 4.16 the Member agrees to allow the Company or the FCA access at all reasonable times to the Member's premises for the purpose of examining documents, information or material in the nature referred to in clause 4.15, and to permit them to be copied at those premises or elsewhere at the cost of the Member. The Member agrees to retain all client files for a minimum of 7 years, and not destroy the same without permission of the Company.
- 4.17 the Member agrees that the Member and its Controller(s), shall be under a duty to co-operate and comply freely and fully with the Company and with the FCA, for as long as the Member, and/or its Controller(s) remain an appointed representative of the Company and for a period of 3 years after the appointment ends, in the monitoring or investigation of any matters relating to business undertaken by the Member, and/or its Controller(s) on the Company's behalf or for the Company's benefit. In the event of any investigation or compliance visit required for disciplinary, regulatory or compliance reasons, the Company shall be entitled to recoup from the Member such reasonable costs as it may at its absolute discretion decide.
- 4.17A without prejudice to the generality of clause 4.17 the Member covenants with the Company that the Member will indemnify the Company against all and any loss damage, costs, expenses, claims and liabilities incurred by the Company (including but without limitation administration costs) arising out of the FCA pension review and/or any other review which the Member (and/or the Company in relation to the affairs of the Member) may be required to carry out from time to time in accordance with the directions of any regulatory body being undertaken or to be undertaken by the Member (and/or the Company in relation to the affairs of the Member) in accordance with (in the case of the pension review) the directions of the FCA (which expression shall include any successor body to the FCA charged with supervision or regulation of such review) and (in the case of any other review) the directions of such regulatory body including but without limitation any amounts payable by the Company to any clients or former clients arising out of such review and any fines imposed upon the Company arising out of such review arising in each case as a result of any act or omission of the Member or any of the Controller(s) other than where such act or omission was committed or omitted at the express written direction of the Company.
- 4.18 the Member agrees that during the currency of this Agreement it will provide to the Company such copies as the Company may reasonably require of the representative records relating to business introduced to the Company or carried out by it as a Member of the Company.
- 4.19 the Member agrees to comply with all reasonably lawful instructions and rules for the conduct of its business notified in writing to it from time to time by the Company and in particular to comply with any instruction which the Company may give, concerning investigations which may be made by the FCA or any other regulatory body in accordance with whose requirements the Company and/or the Member is required to act from time to time or with any instruction which may result from the exercise of intervention powers by the FCA or such other regulatory body and the Member shall be responsible for all and any costs arising in respect thereof.
- 4.20 where the Member shall be an individual trading on his or her own account and not in partnership or in conjunction with any other person or body in

accordance with the requirement of the FCA, the Member hereby undertakes to enter into a locum arrangement with a person or persons whom the Company shall approve during any period in which the Member shall be unable to conduct his activities hereunder. In the event that the Member fails to enter into such an arrangement or that the locum so appointed by the Member is not approved by the Company the Company may in its absolute discretion act as locum for the Member during the period of his absence and the Company reserves the right to levy such reasonable charges as in its absolute discretion it considers fit therefore.

- 4.21 the Member and the Controller(s) agree(s) and undertake(s) to ensure that the Member, and its Controller(s) and Registered Individuals operate within and comply with the FCA's Statements of Principles, as described in Schedule 2, and any principles, rules and regulations and authorisations adopted and/or laid down by the FCA and/or any other regulatory body in accordance with whose principles, rules, regulations and authorisations the Company and/or the Member is required to act in each case as amended from time to time, and further agrees to ensure that the Member, and its Controller(s) and Registered Individuals will comply with any restriction or prohibition imposed by the Company, whether or not such restriction or prohibition is imposed under the FCA rules, or by the FCA under the FCA rules specifically.
- 4.22 the Member, and its Controller(s) undertake to notify the Company immediately if, in the course of conducting any relevant business activity for which it is authorised in accordance with paragraphs 4.1, 10 and Schedule 3 herein, it or its Controller(s) or Registered Individuals comes, or may come into possession of inside information as described in the Company Securities (Insider Dealing) Act 1985 and the FSMA 2000.
- 4.23 In the event the transaction of business in relation to any Products or any other aspect of the Member's activities hereunder not currently subject to regulation (whether statutory or otherwise) become during the terms of the Agreement subject to statutory regulation, the Member and the Controller(s) agree and covenant to transact business in relation to such Products and to carry on such activities strictly in accordance with the provisions of such statutory regulation.
- 4.24 To the extent lawfully permitted, the Member may enter into arrangements with third parties, pursuant to which third parties may introduce potential Clients to the Member, provided always that no third party shall be engaged to undertake activities which would require such third party to be an Authorised Person or an Exempt Person (in both cases as defined in FSMA 2000). A third party may only be engaged to introduce customers where such activities are not regulated activities pursuant to the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001.
- 4.25 Prior to any third party being appointed to provide any services to the Member, the Member shall, and shall procure that the third party shall, execute an agreement substantially in the form set out at Schedule 4 to this agreement.
- 4.26 Notwithstanding the generality of clause 4.16, the Company shall be entitled to inspect the records of the Member on reasonable notice to ensure compliance with the provisions of clause 4.25.

**5. Financial Provisions**

5.1 In consideration of the obligations undertaken by the Member under this Agreement the Company shall pay to the Member a percentage of the Commissions as described in Schedule (1) of this Agreement, or such other percentage as may from time to time be agreed between the parties.

5.2 The amounts payable to the Member under clause 5.1 shall be paid no less frequently than once a month, subject to an anticipated weekly payment, insofar as that is permitted by the systems operated by the Company.

For the avoidance of doubt no payment shall be made in respect of any Commission until either it has been actually received by the Company or it would have been received by the Company but for some deduction or retention attributable to the act or omission of some person other than the Member or made in respect of a Contract other than one entered into through the Member's commission account and the Company shall not be liable to pay interest on any payment in respect of any period between the sale of the Product(s) in question and the date when the payment falls due. The Company is only liable to pay interest to the Member on commissions which are delayed by its own administration, at a rate of 2% per month. The Company shall employ its best efforts to identify and reconcile commissions payable to the Member, subject to the full cooperation of the Member and the relevant Institution.

5.3 If an Institution shall have become entitled to clawback or otherwise recover from the Company, or to set-off against other Commission payable to the Company, any Commission in respect of which the Member has been paid a percentage, or any part thereof, the Member shall forthwith on demand repay to the Company the appropriate share of that Commission provided that in no circumstances shall the Member become obliged to repay to the Company more commission in relation to any particular Contract than the Member actually received in respect of such Contract.

5.4 The Member shall duly and punctually pay without deduction or set-off all other sums owing by the Member to the Company on any account or in respect of any matter or thing whatsoever.

In respect of payments due by the Member to the Company, time shall be of the essence, and if any sum shall not be paid in full at the due time it (or any outstanding balance) shall bear interest (as well before as after judgement) at the rate of 2% per month (accruing on a daily basis) from the due time for payment until actual payment.

5.5 The Company may set-off any money owing by the Member (such as FCA fees, PII premiums or minimum fees) to the Company against any commission or other money owing by the Company to the Member and if this shall leave a balance owing by the Member such balance shall be forthwith repaid by the Member together with interest as described in paragraph 5.4 above.

5.6 The financial provisions as detailed in Schedule 1 to this Agreement shall be deemed to form part of this Agreement.

- 5.7 For the avoidance of doubt, in the event that the Company does not, for any reason whatsoever, receive full payment in respect of the Member's Commission due from any Institutions, there shall be a pro-rata reduction in the commission payable to the Member in respect of the Contract concerned. If in such case the commission has already been calculated and paid to the Member on the basis of full payment of Commission being received, the Company shall be entitled to recover from the Member that part of the commission paid to the Member which should not have been paid and/or to deduct such amount from monies payable by the Company to the Member.
- 5.8 All sums payable by the Company to the Member are inclusive of any applicable value added tax or other relevant sales tax, should these become relevant to such payments.
- 5.9 Each of the Controller(s) shall be a self employed person or limited company employee and they or the Member (as the case may be) shall be responsible for the payment of their Income Tax and National Insurance Contributions and all expenses incurred during the continuance of this Agreement.
- 5.10 The Member shall cause accounting records to be kept which are sufficient to show and explain its transactions and which shall be such as to disclose with reasonable accuracy the financial position of the Member at any point in time.
- 5.11 The Member warrants to the Company that:
- 5.11.1 it is able to meet its liabilities as they fall due and will continue to be able to do so during the terms of this Agreement.
- 5.11.2 its assets exceed its liabilities and will continue to do so during the terms of this Agreement.
- 5.11.3 it shall strictly comply with any and all financial and solvency requirements of the Company and the FCA from time to time.
- 5.12 The Member shall notify the Company forthwith by telephone or fax if any time it has reason to believe that it is, or will be, in breach of Clause 5.11, and promptly confirm such notification in writing.
- 5.13 The Member shall cooperate fully with the Company's requests to provide information in the Company's prescribed format confirming, amongst other things, compliance with Clause 5.12 above, and to assist in the submission of all regulatory reporting as required by the FCA or any successor thereto.
- 5.14 The Member shall submit to the Company a full copy of its annual financial statements within four months of the date to which they are prepared and shall promptly submit to the Company such other financial information as may be reasonably requested from time to time.
- 5.15 The Member shall assist the Company in providing sufficient and relevant information to support the renewal and continuation of the Company's group Professional Indemnity Insurance cover.
- 5.16 In the event that the Member (being an individual) or any Controller or Registered Individual enters into any Contract on his own behalf or any relative (for this purpose meaning spouse, grandparent, parent, brother, sister, child or grandchild or the spouse of any of the aforementioned) of the

Member or any Controller or Registered Individual enters into any Contract, then the Company should be notified of the fact. The Company reserves the right to withhold indemnity commission to the Member if the sum exceeds £5,000 and if a subsequent file review indicates a failure on affordability or compliance.

- 5.17 In the event that the Member procures the entry by any client or prospective client into any Contract in relation to which the amount of indemnified Commission exceeds £5,000 (or such other threshold as the Company may notify to the Member from time to time) the Company reserves the right to withhold indemnity commission, or to pay such in instalments to the Member if the sum exceeds £5,000 and if a file review indicates a failure on affordability or compliance.
- 5.18 In the event that the Member receives fee or Commission payments direct from an Institution or Client, it is the Member's responsibility to account for the same to the Company at the time of receipt.
- 5.19 Under the terms of this Agreement, the Member allows the Company's auditors a right of access under Section 341 FSMA as amended from time to time to the Member's financial records.

## **6. Confidentiality and Clients**

- 6.1 Except as provided by clauses 6.2 and 6.3 the Member and its Controller(s) shall and shall procure that all Registered Individuals shall at all times during the continuance of this Agreement and after its termination:
- 6.1.1 use their best endeavours to keep all Restricted Information confidential and accordingly not to disclose any Restricted Information to any other person.
- 6.1.2 not use any Restricted Information for any purpose other than the performance of their obligations under this Agreement.
- 6.1.3 comply in full with the terms of the Data Protection Act 1998, and the Member must hold a current registration with the Information Commissioner's Office, or any subsequent regulatory body.
- 6.2 Any Restricted Information may be disclosed by the Member and its Controller(s) to:
- 6.2.1 any clients or prospective clients.
- 6.2.2 any governmental or other authority or regulatory body to such extent only as necessary for the purposes contemplated by this Agreement, or as is required by law and subject in such case to the Member using its best endeavours to ensure that the person in question keeps the same confidential and does not use the same except for the purposes for which the disclosure is made.
- 6.3 In addition to the permission granted under clause 6.2, any Restricted Information may be used by the Member and its Controller(s) and Registered Individuals for any purpose, or disclosed by the Member to any other person, to the extent that:

- 6.3.1 it is at that date thereof, or thereafter can be shown to have become, public knowledge through no fault of the Member or any of its Controller(s) or Registered Individuals (provided that in doing so the Member shall not disclose any Restricted Information which is not public knowledge).
- 6.3.2 it can be shown by the Member, or its Controller(s) to the reasonable satisfaction of the Company, to have been already known to the Member or its Controller(s) or Registered Individuals prior to it being disclosed by the Company to the Member.
- 6.4 Save as may be required by law or by any applicable rule or regulation, the Company undertakes that it will not, either during the term of this Agreement or at any time after its termination divulge or communicate to any person, any confidential information however acquired which relates to the Member or to present or future clients of the Member, and undertakes not to use such information for its own benefit without the prior consent of the Member, except in such circumstances where the FCA's supervisory obligations might require such action.

## **7. Duration and Termination**

- 7.1 This Agreement shall come into force on the date hereof and shall continue in force unless and until terminated either:
  - 7.1.1 by either party to the Agreement giving three months notice in writing to the other of its intention to terminate the Agreement, termination being effective at the end of said notice period. It is agreed however that the Company reserves the right not to accept the Members resignation, or the resignation of any investment staff operating under its auspices, until and unless the Company is satisfied that the Member or any member of its investment staff has complied with all requests made by the Company arising out of the notice of resignation as herein described. Further, the Company shall not accept a Member's resignation if the Member is under suspension or if there are in relation to such Member unresolved outstanding compliance matters unless and until the Company receives approval from the FCA.
  - 7.1.2 by the Company giving notice in writing to the Member that the Agreement has been summarily terminated as in 7.2 below.
- 7.2 The Company shall be entitled to terminate the Agreement summarily if the Member:
  - 7.2.1 (being a natural person) dies, or becomes a patient within the meaning of Part VIII of the Mental Health Act 1959, or in Scotland upon its estate being sequestrated, or if it becomes incapable of managing its own affairs.
  - 7.2.2 commits any serious or persistent breach of its obligations under clauses 4.1, 4.2, 4.3, 4.4, 4.5, 4.6, 4.7, 4.8, 4.9, 4.10, 4.11, 5.12, 5.13, 5.14, 5.15 and 5.16.

- 7.2.3 retains in its possession any money which should be transferred to the Company or fails to pay promptly when due any sum due to the Company hereunder.
  - 7.2.4 is a natural person or partnership and becomes bankrupt ceases trading or enters into any individual or partnership voluntary arrangements or compounds with its creditors or has any execution levied against or any receiver appointed in respect of any of its assets.
  - 7.2.5 is convicted of any offence of dishonesty or is convicted of any offence for which a sentence of imprisonment is imposed.
  - 7.2.6 is in breach of any FCA Rules or any provision of the FCA undertaking or the rules and regulations of any other body, authority or organisations the rules of which the Member or the Company is bound to observe at clause 10 hereof.
  - 7.2.7 ceases to have any Registered Individuals.
  - 7.2.8 if shareholder control of the Member (being a limited company) shall pass from the present shareholders to any other party or parties.
  - 7.2.9 (being a limited company) ceases trading, commences winding-up, enters into liquidation or becomes insolvent, has any execution levied against or any receiver appointed in respect of any of its assets, has an administrative receiver or administrator appointed or enters into any company voluntary arrangement or compounds with its creditors.
- 7.3 Where justifiable grounds exist, the Company may suspend the Member with immediate effect by service on it of notice of suspension, providing an explanation of the basis of such suspension. Such suspension shall continue for a period of fourteen days subject to earlier withdrawal of the suspension, provided that the Company may at its discretion impose a further or successive suspension without limit so long as the event or omission which justified the original suspension or any complaint arising thereunder remains unresolved or is still subject to investigation.
- 7.4 This Agreement shall terminate automatically if the Company ceases to be authorised under the FSMA 2000, or such other Act of Parliament or regulation from time to time enacted in succession to it.

The Member agrees that all commission payments payable to the Member during the period of notice as detailed in paragraph 7.1.1 above, may be suspended in accordance with paragraph 8.3.

## **8. Consequences of Termination**

- 8.1 For the avoidance of doubt it is declared that since the Company accepts responsibility for the Contracts entered into, payment for which is made through the commission account of the Member, all rights to Commission in respect of Contracts entered into during the subsistence of this Agreement



and all rights to receive Commission accruing after the date of termination of this Agreement in respect of contracts entered into before that date, shall vest in and be treated as belonging in their entirety to the Company, until such a time as the Member has discharged all its responsibilities at the point of termination.

- 8.2 For the purpose of clarification, the FCA regards goodwill in all the Clients as belonging at all times to the Company and not the Member. However, the Company confirms that all goodwill in respect of Clients which is created or arises during the term of this Agreement will after its termination become the property of the Member, subject to the Member following such procedures for termination as the Company shall publish from time to time, including the purchase of PII runoff cover for historic liabilities. In the event that the Member elects after termination of this Agreement to become (a) directly regulated or (b) authorised via another entity, the Company will in good faith do all that is reasonably possible to expedite the transfer of the Goodwill upon the termination of this Agreement to the Member, or another entity nominated by the Member, provided that:
- 8.2.1 the Institution with whom it was transacted agrees to release the Company in its entirety from any and all liability in respect of the Contracts or, if that is not possible, the Member indemnifying in writing the Company in respect of its potential liabilities to the Institution; and
  - 8.2.2 the Member agrees to indemnify in writing the Company in respect of its potential liabilities to the Client, other than in respect of the Company's own breach of contract, negligence or other wrongdoing.
- 8.3 Howsoever the Agreement is terminated, the following provisions shall apply to the calculation and payment of Commissions without prejudice to the rights already accrued hereunder prior to termination:
- 8.3.1 at the effective date of termination, if required by the Company the Member will supply to the Company a list of all Contracts in respect of which the Member is or will be entitled to commission and of the anticipated amount of each commission including renewal commissions
- 8.4 In the event of disagreement which can not be resolved between the Company and the Member, the Member shall either:
- 8.4.1 agree that the Company's auditors shall determine the dispute. Providing that the auditors determine that the Member's records are accurate to within £250, the Company shall be liable for the auditor's fee. Otherwise, their work shall be at the Member's own expense.
  - 8.4.2 appoint a recognised professional firm of auditors or accountants (to be selected by agreement between the Company and the Member or, in the absence of agreement, appointed on the application of either of them by the President for the time being of the Institute of Chartered Accountants in England & Wales) to examine the relevant books and documents on the Company's premises, by prior arrangement, and authorise the said auditor or accountant to prepare a certificate of the Member's entitlement

working in conjunction with the Company's auditors. Providing that the auditors determine that the Member's records are accurate to within £250, the Company shall be liable for the auditor's fee. Otherwise, their work shall be at the Member's own expense.

- 8.5 Regarding exposure to clawback on indemnified commissions, the Company shall be entitled to withhold payment of commission without liability to pay interest thereon in respect of any Contract until the period has come to an end during which any Commissions payable may be repayable by the Company to the Institutions in respect of the Contract. In the event of the Company making payments of commission before such period has come to an end, and in the event of the Company having to repay to the Institutions any Commissions received by it in respect of any Contracts or otherwise sustaining any loss as a result of the Members activities, the Company shall be entitled to make the appropriate reductions in the Members entitlement to commissions and to set off any over payment and/or loss sustained against any remaining unpaid commissions, or to demand repayment by the Member.
- 8.6 If after the termination of this Agreement for whatever reason, it shall appear that the total amount of Commission retained by the Company in accordance with Schedule 1 (and not for any reason repayable) in respect of Contracts entered through the commission account of the Member during the subsistence of this or any previous Agreement shall be less than £10,000, the Member will forthwith on demand pay to the Company the amount of the shortfall.
- 8.7 In the event of the Agreement being terminated by either party the Member shall forthwith deliver or make available to the Company copies of all compliance documentation, representative records, contracts, client files and any other documentation and/or data in its possession which relate to the activities of the Member in performing its obligations herein and/or the Products, and which is required by the Company. It is expressly agreed and declared that all instructions resources and compliance manuals issued to the Member by the Company are the exclusive property of the Company and shall forthwith be returned by the Member to the Company.
- 8.8 In the event of the Agreement being terminated by the Member, the Company shall at any time within three years after termination be entitled to make such compliance visits and such inspections of the Member's records as may in the opinion of the Company be reasonable or as may be required by the FCA or any other regulatory body in accordance with whose rules the Company is required to act from time to time in each case at the expense of the Member.
- 8.9 Following termination of this Agreement for any reason:
- 8.9.1 the Member shall cease to promote, market, advertise or sell the Products on behalf of the Company.
  - 8.9.2 the Member shall have no claim against the Company for compensation for loss of rights, loss of goodwill or any similar loss.
  - 8.9.3 clause 6 shall continue in force in accordance with its terms.
  - 8.9.4 the Member shall not, subject to paragraph 6.4, during the period of one year after the termination of this Agreement, solicit business with any past or present Appointed Representative of the Company

whose name or address has been provided to it by the Company where such proposed business is concerned with the provision of services similar to those offered by the Company.

- 8.9.5 the Member shall not be entitled to exercise a lien on any goods of the Company held at any time in its possession or control.
  - 8.9.6 the Member shall notify such clients who have entered into investment agreements with the Member that the Member is no longer authorised by the Company.
  - 8.9.7 the Member shall take all reasonable steps to ensure that all affected clients are novated to an appropriate servicing intermediary in order to ensure that they are fairly treated.
  - 8.9.8 subject to the previous provisions of this clause 8 the financial provisions of this Agreement shall continue to operate in accordance with their terms in relation to Products sold through the agency of the Member prior to termination.
  - 8.9.9 the Member shall follow due process for termination of Appointed Representative status, by following such procedures as are laid down by the Company.
- 8.10 The Member hereby agrees to indemnify the Company against all loss, liability claims damages and expenses of whatever nature however arising which the Company may incur or suffer directly or indirectly as a result of the Member's own activities during the currency of this Agreement, providing that such loss liability claims damages and expenses are not directly attributable to negligence, act or omission by the Company. This includes the repayment of indemnified commission clawbacks and the payment of the self-insured excess applying from time to time to the Company's Professional Indemnity Insurance in such circumstances when a complaint is upheld against the Member by a client of the same.

The Member agrees that the Company may take at any time all reasonable and lawful steps which in the Company's absolute discretion considers appropriate to protect the interest of clients if it becomes apparent that regulatory issues have become relevant.

## **9. Nature of Agreement**

- 9.1 The Company shall be entitled to perform any of the obligations undertaken by it and to exercise any of the rights granted to it under this Agreement through any other company which at the relevant time is its holding company or subsidiary (as defined by S736 of the Companies Act 1985) or the subsidiary of any such holding company and any act or omission of any such company shall for the purposes of this Agreement be deemed to be the act or omission of the Company.
- 9.2 The Member shall not be entitled to appoint any sub-agent hereunder.
- 9.3 Nothing in this Agreement shall create, or be deemed to create, a partnership or the relationship of employer and employee between the parties.

- 9.4      This Agreement is personal to the Member and may not be assigned or changed in any way howsoever. Notwithstanding the foregoing this Agreement shall be enforceable against the Members successors in title, personal representatives, administrators or executors.

## **10.      FCA Undertaking**

- 10.1      The Member shall conduct itself to the strict adherence of the FCA Rules.
- 10.2      The Member shall limit its activities in relation to investment business and conduct and transact only those clauses of investment in relation to which the Company has authorisation, as detailed in Schedule 3.

**NEITHER THE COMPANY NOR THE MEMBER NOR ANY OF ITS OFFICERS OR REGISTERED INDIVIDUALS ARE AUTHORISED TO HANDLE CLIENT MONEY AS DEFINED BY FCA REGULATIONS**

- 10.3      The Member shall not and shall ensure that its own Controller(s) nominees, Registered Individuals, appointed representatives or employees shall not accept, unless by prior agreement:
- 10.3.1      a mandate over any bank, building society or other account in the name of any client of the Company or his associate, or
- 10.3.2      a power of attorney for any such clients which would empower the attorney to handle assets belonging to that client or his associate.

The Member or other individual may accept such a mandate or power if it is a close relative, trustee or personal representative of the client and receives no remuneration or other benefit unless expressly granted by the trust instrument or will, or otherwise if it or he is specifically appointed under the authority of the courts. In any such event, the Member shall forthwith notify the Company in writing and comply with all and any reasonable requirements of the Company for compliance purposes.

- 10.4      The Member is prohibited from procuring or endeavouring to procure persons to enter into Contracts otherwise than through its agency on behalf of the Company.
- 10.5      The Member cannot and must not at any time during the continuance of this Agreement be an appointed representative or employee of an Institution or an operator of a regulated collective investment scheme without the express approval of the Company.
- 10.6      All correspondence, business cards and other literature issued under the name of the Member on behalf of the Company will clearly state that the Member is an Appointed Representative or Member of the Company, which is regulated by the FCA.
- 10.7      Any act or omission of the Member shall be treated by regulatory authorities as an act or omission of the Company. It is therefore imperative that the Member adheres to the strict rules laid down by FCA and the Company's compliance guidelines, which is issued by the Company to the Member as the

same may be amended from time to time. The FCA Rules are available on request for inspection at the Company's Head Office.

- 10.8 The Member will comply with any requirement, direction order or award made by the FCA Ombudsman (or any successor body thereto). The Member will also be required to follow and carry out compliance as laid out in the Company's Manuals as the same may be amended from time to time.
- 10.9 The Member shall not effect any transaction relating to any investment at any time if it knows that the Company is forbidden by any of the FCA rules to effect that transaction at that time on the Company's own account or if to do so would to the Member's knowledge involve the Member in a conflict of interest with any client or with the Member's duty to any client.
- 10.10 The Member shall not effect any transaction relating to any Product or effect any transaction with a person whom it knows to be a client of the Company (other than as a result of business transacted by the Member on behalf of the Company), unless it does so with the written consent of the Company (which, may be a general consent relating to all such transactions) and it should, forthwith upon the effecting of such a transaction, inform the Company that it has been effected and provide such details and further information as the Company may require.
- 10.11 If the Member effects a transaction relating to any Product with or through the agency of another authorised person he should inform that other authorised person, in relation to that transaction, that it is a Member of the Company and it should not request or accept from that other authorised person any credit or special dealing with facilities in connection with the transaction unless the Company has previously consented in writing to it doing so specifically in relation to that transaction.

## **11. Money Laundering**

The Member acknowledges that business introduced to the Institutions will be governed by the Proceeds of Crime Act, FCA Money Laundering Rules, the Criminal Justices Act 1993, the guidance notes for Insurance and Retail Investment Products, (where relevant) guidance notes for Wholesale, Institution and Private Client Investment Business and all and any other laws, regulations and guidance notes as may be relevant from time to time in relation to money laundering in each case as the same may be amended extended or re-enacted from time to time (together the "FCA Money Laundering Rules").

Where a Terms of Business Letter or similar arrangement exists that constitutes a business relationship between the Member and the client, the Member undertakes full responsibility for the identification procedures necessary under the FCA Money Laundering Rules in respect of any transaction with the Institutions.

Where the Member arranges a transaction or linked transaction, not covered by the above arrangements, the Member will still undertake to the identification procedures necessary under the FCA Money Laundering Rules. The Member undertakes to assist the Company in fulfilling its requirements under the FCA Money Laundering Rules and will, if requested in writing, supply the Company with confirmation of the evidence of identity obtained by the Member in respect of any transaction introduced to the Institutions.

**12.      Proper Law**

This Agreement shall be governed by and construed in all respects in accordance with the Laws of England, and each party hereby submits to the non-exclusive jurisdiction of the English Courts.

**13.      Notices and Services**

Any notice or other information required or authorised by this Agreement to be given by either party to the other may be given by hand or sent (by first-class pre-paid post, facsimile transmission or comparable means of communication) to the other party at the address referred to in this Agreement.

**14.      Professional Indemnity Insurance**

The Company shall at all times maintain Professional Indemnity Insurance to at least the minimum level specified from time to time by the Council of the FCA and shall recoup from the Member a contribution towards same, calculated at the Company's discretion on a fair and equitable basis.

The Policy shall be available for inspection at the Head Office of the Company upon request.

The Member shall comply with all and any requirements and requests for information, which the Company may notify to the Member from time to time for insurance purposes within prescribed timescales.

In the event that the Member shall elect at some stage to become (a) directly regulated, or (b) authorised via another entity, then the Member shall purchase from the Company PII runoff cover lasting for five years, with such cost calculated by the Company at the time of leaving.

**15.      Power of Recovery**

For the avoidance of doubt it is declared that any power of recovery conferred upon the Company under clause 8 shall apply after as well as before the termination of this Agreement and shall apply whether the commission which the Company is required to repay to the Institution was received by the Company before or after termination.

**16.      Payments shall be of the Essence**

In the event of termination of this Agreement in any manner whatsoever any amount owing by the Member to the Company shall be clearly identified and immediately become due and owing to the Company without any further demand. For the avoidance of doubt costs relating to and arising out of termination such as (but without limit to) FCA fees, FSCS Levy, FOS Levy or any other similar scheme and costs (as detailed in Schedule 1 annexed hereto) shall become due and payable by the Member. Without prejudice to any rights, the Company shall be entitled to set-off the

amount of any such sum (whether under this Agreement or otherwise) against any other commission or other sum due to the Member from the Company.

**17.      Lapse of Commission Contingency**

The Member shall use its best endeavours to ensure that no Contract negotiated through the agency of the Member on behalf of a client shall be cancelled or shall otherwise not be fulfilled save by an exercise by the client of his rights under the Insurance Contracts (Cancellation) Rules from time to time in force.

**18.      Commission Retention**

The Member further agrees that the Company may withhold payments to the Member at its absolute discretion, but acting reasonably, in the circumstances summarised in clause 5.5.

**19.      Performance [applicable only where Member is a limited company]**

19.1 In consideration of the Company agreeing to enter into this Agreement the Member hereby undertakes to perform all and any of the obligations of the Member under this Agreement and the Member will fully and effectively indemnify and keep indemnified the Company against all and any liabilities, losses, costs, damages and expenses arising from any acts and/or omissions of the Member in breach of the terms of this Agreement.

19.2 This indemnity shall be a continuing indemnity and the Member shall not be released from any liability under this clause by reason of:

19.2.1            any forbearance, granting of time or other indulgence on the part of the Company; or

19.2.2            any variation of this Agreement; or

19.2.3            the termination of this Agreement for any reason.

**20.      Taxation Status**

For the purposes of clarification, it is agreed that all liabilities for Income Tax, National Insurance Contributions or Corporation Tax arising on the Member from commissions paid by the Company to the Member are the sole responsibility of the Member in the normal pursuance of its business. The Company is hereby indemnified against demands or penalties in relation to such amounts.

## SCHEDULE 1

1. Until further notice, the percentage of commission payable to the Member as referred to in clause 5 above shall be allocated at a rate that is agreed between Member and Company, but subject to amendment from time to time upon notification from the Company.
2. The Company shall therefore be entitled to retain for its own benefit an agreed percentage of Commission arising from the Member's regulated activities, this being quoted from outset, and reviewed quarterly, based upon either historic turnover or a reasonable projection of future annual revenues.
3. The percentage of Commission to be retained by the Company will be illustrated to the Member in advance, confirmed in writing and therefore be deemed to be subject to the terms of this Contract. That percentage will depend upon a range of factors, such as the number of Registered Individuals and assumed turnover and is therefore unique to each Member.
4. The Company shall apply a minimum monthly level to the net retained Commission, depending upon the service plan chosen by the Member, which may be varied following consultation with the Member. Any balance arising in relation to this minimum charge will become payable one month in arrears.
5. In addition to the percentage specified in paragraph 2 above the Company reserves the right to deduct from the Commission payable to the Member and retain for its own benefit contributions in respect of additional charges or levies raised by regulatory bodies, or other bodies that the Company becomes subject to, and which possess revenue-raising powers. Such costs will be clearly identified and explained to the Member.
6. All Commissions received in respect of Contracts negotiated by the Member in the course of carrying on business pursuant to this Agreement shall be paid into an Account titled "ValidPath Ltd Appointed Representatives Account" held with HSBC.



## SCHEDULE 2

### FCA STATEMENTS OF PRINCIPLE

<b>(1) Integrity</b>	A firm must conduct its business with integrity.
<b>(2) Skill, care &amp; diligence</b>	A firm must conduct its business with due skill, care and diligence.
<b>(3) Management &amp; control</b>	A firm must take reasonable care to organise and control its affairs responsibly and effectively, with adequate risk-management systems.
<b>(4) Financial prudence</b>	A firm must maintain adequate financial resources.
<b>(5) Market conduct</b>	A firm must observe proper standards of market conduct.
<b>(6) Customers' interests</b>	A firm must pay due regard to the interests of its customers and treat them fairly.
<b>(7) Communications with clients</b>	A firm must pay due regard to the information needs of its clients, and communicate information to them in a way which is clear, fair and not misleading.
<b>(8) Conflicts of interest</b>	A firm must manage conflicts of interest fairly, both between itself and its customers and between a customer and another client.
<b>(9) Customers: relationships of trust</b>	A firm must take reasonable care to ensure the suitability of its advice and discretionary decisions for any customer who is entitled to rely upon its judgement.
<b>(10) Clients' assets</b>	A firm must arrange adequate protection for clients' assets when it is responsible for them.
<b>(11) Relations with regulators</b>	A firm must deal with its regulators in an open and cooperative way, and must disclose to the FCA appropriately anything relating to the firm of which the FCA would reasonably expect notice.

## SCHEDULE 3

In accordance with paragraphs 4.1 and 10 above, the Member, its Controller(s), Officers and Registered Individuals agree to partake in the following investment business activity only, for which the Company is authorised to transact by the FCA under its scope of permissions notice:

### SCOPE OF PERMISSION NOTICE

This notice is issued under Article 55 of The Financial Services and Markets Act 2000 (Transitional Provisions) (Authorised Persons etc.) Order 2001. It sets out the scope of Permission that the FCA considers that the named Institution should have under Part IV of the Financial Services and Markets Act 2000.

**Firm name:** ValidPath Ltd

**Firm FCA Ref:** 197107

**Requirement not to hold or control client money:** YES

#### Other Requirements

<b>Regulated Activity (1)</b>	Advising on Pension Transfers & Pension Opt Outs
<b>Limitations</b>	Rights to interests in investments (Contractually Based Investments)
<b>Investment Types</b>	Life Policy; Stakeholder Pension Scheme; Unit
<b>Customer Types</b>	Private Customer; Intermediate Customer
<b>Regulated Activity (2)</b>	Advising on investments (except on Pension Transfers and Pension Opt Outs)
<b>Limitations</b>	Investment activity in “rights to or interests in investments – security” and “rights to or interests in investments – contractually based investments” are limited to the investment types granted for this activity”
<b>Investment Types</b>	Life Policy; Rights to or interests in investments (Contractually Based Investments); Debenture; Rights to or interests in investments (Security); Warrant; Non-investment insurance contracts; Certificates representing certain security; Government and public security; Share; Unit
<b>Customer Types</b>	Intermediate Customer; Private Customer; Retail; Commercial

<b>Regulated Activity (3) Limitations</b>	Agreeing to carry on a regulated activity
	Agreeing to carry on such regulated activities as are specified in the FCA Notice

<b>Regulated Activity (4) Limitations</b>	Arranging (bringing about) deals in investments
	Investment activity in “rights to or interests in investments – security” and “rights to or interests in investments – contractually based investments” are limited to the investment types granted for this activity.
<b>Investment Types</b>	Life Policy; Rights to or interests in investments (Contractually Based Investments); Debenture; Rights to or interests in investments (Security); Stakeholder pension scheme; Warrant; Non-investment insurance contracts; Certificates representing certain security; Government and public security; Share; Unit
<b>Customer Types</b>	Intermediate Customer; Private Customer; Retail; Commercial

<b>Regulated Activity (5) Limitations</b>	Making arrangements with a view to transactions in investments
	Investment activity in “rights to or interests in investments – security” and “rights to or interests in investments – contractually based investments” are limited to the investment types granted for this activity.
<b>Investment Types</b>	Life Policy; Rights to or interests in investments (Contractually Based Investments); Debenture; Rights to or interests in investments (Security); Stakeholder pension scheme; Warrant; Non-investment insurance contracts; Certificates representing certain security; Government and public security; Share; Unit
<b>Customer Types</b>	Intermediate Customer; Private Customer; Retail; Commercial

<b>Regulated Activity (6) Investment Types Customer Types</b>	Dealing in investments as agent
	Non-investment insurance contracts
	Retail; Commercial

<b>Regulated Activity (7) Investment Types</b>	Advising on regulated mortgage contracts
	Regulated mortgage contract

<b>Customer Types</b>	Customer
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<b>Regulated Activity (8)</b>	Arranging (bringing about) regulated mortgage contracts
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<b>Investment Types</b>	Regulated mortgage contract
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<b>Customer Types</b>	Customer
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<b>Regulated Activity (9)</b>	Making arrangements with a view to regulated mortgage contracts
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<b>Investment Types</b>	Regulated mortgage contract
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<b>Customer Types</b>	Customer
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<b>Regulated Activity (10)</b>	Advising on a home reversion plan
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<b>Activity Category</b>	Regulated Home Finance
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<b>Customer Types</b>	Retail Customer
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<b>Regulated Activity (11)</b>	Arranging (bringing about) a home reversion plan
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<b>Activity Category</b>	Regulated Home Finance
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<b>Customer Types</b>	Retail Customer
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<b>Regulated Activity (12)</b>	Making arrangements for a home reversion plan
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<b>Activity Category</b>	Regulated Home Finance
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<b>Customer Types</b>	Retail Customer
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## SCHEDULE 4 ('Clawback Undertaking')

This deed is entered into on \_\_\_\_\_ 20XX

### Between:

- (1) [INSERT DETAILS OF APPOINTED REPRESENTATIVE] ("AR")
- (2) [INSERT DETAILS OF INTRODUCER] ("**Introducer**")

### Background:

- (A) The parties propose to enter into an arrangement, pursuant to which the Introducer shall introduce clients to the AR.
- (B) Attached to this letter agreement is a copy of the appointed representative agreement (the "**Appointed Representative Agreement**") between AR and ValidPath Limited ("**ValidPath**"), pursuant to which (amongst other rights) ValidPath may, in certain circumstances, be entitled to clawback commission and other fees which have been paid to the AR.

### It is agreed:

#### 1 Interpretation

Defined terms in this deed shall, unless the context otherwise requires, have the same meanings as are ascribed to such terms in the Appointed Representative Agreement.

#### 2 In the event that:

- 2.1 ValidPath makes a demand pursuant to clause 5.3 of the Appointed Representative Agreement for reimbursement of any or all of the Commissions and/or Fees previously paid to the AR; and
- 2.2 any or all of such Commission and/or Fees have been paid by the AR to the Introducer,

the Introducer shall immediately, on receipt of a demand from ValidPath, repay to ValidPath the amount claimed, without set off or deduction.

- 3 Each of the Parties to this agreement shall use their respective reasonable endeavours to take all necessary steps and to co-operate fully with ValidPath to ensure that it obtains the full benefit of this agreement and shall execute such documents and take such other steps (or procure other necessary parties to take such steps) as are necessary or appropriate for vesting in ValidPath all its rights and interests in this agreement and the full benefit of this agreement.

**ValidPath Ltd      Appointed Representative Agreement 10/11**

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- 4      Subject to clause 5, a person who is not a party to this agreement shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this agreement.
  
- 5      ValidPath Limited, a company incorporated in England with registered number 04273538 shall be entitled to enforce all of the rights and benefits under this agreement at all times as if party to this agreement.
  
- 6      No amendment of this agreement shall be effective unless it is in writing and signed by or on behalf of each of the Parties and with the prior written consent of ValidPath.
  
- 7      All notices with respect to this agreement shall be in writing and signed by or on behalf of the person giving it. A notice may be served: (i) by delivering it by hand; or (ii) by first class pre-paid post or recorded delivery to the address of the addressee given at the start of this agreement or such other address as the addressee may from time to time have notified for the purpose of this clause, such notice to be provided to ValidPath in addition to the other party to this agreement. Notices shall be deemed to have been received: (iii) if delivered by hand, on the day of delivery; and (iv) if sent by first class pre-paid post or recorded delivery, two business days after posting, exclusive of the day of posting.
  
- 8      This agreement and any dispute or claim arising out of or in connection with it (including any non-contractual claims or disputes) shall be governed by and construed in accordance with the laws of England. In relation to any legal action or proceedings (i) arising out of or in connection with this agreement or its implementation or effect or (ii) relating to any non-contractual obligations arising out of or in connection with this agreement, each of the parties irrevocably submits to the exclusive jurisdiction of the English courts.

IN WITNESS WHEREOF, this agreement is executed as a deed on the date and year first above written.

Executed as a **deed** by    )  
[AR]                            )

\_\_\_\_\_  
Director

\_\_\_\_\_  
Director/Secretary

Executed as a **deed** by    )  
[INTRODUCER]            )

\_\_\_\_\_  
Director

\_\_\_\_\_  
Director/Secretary