

Terms of Engagement (Adjuster, First Party)

Introduction

These terms of engagement (TERMS) are intended to provide a more formal framework for the appointment of independent loss adjusters, as currently utilised by the issuing Syndicate's Property Claims department when in a "lead agreement party capacity". The intent is that these TERMS will generally assist with the pro-active handling of claims and third party expert management, for first party property business.

Nothing contained within this document should be read as any form of contract, or claims procedure manual. This framework document outlines the applicable reporting, billing and processing requirements.

Each claim will be handled separately, on its own merits and each claim instruction will ordinarily be augmented by such individual instructions issued by the lead syndicate (and any second agreement party) as are required for the handling of that particular claim scenario.

Individual instructions may be supplied directly by the claim agreement party(s) to the appropriate adjuster handling the claim, or recorded on the claims file and relayed to the adjuster by the London broker. We will endeavor to ensure that you are aware of the identity of the applicable claims agreement party(s) and the respective claims handlers/ file reference(s). If your adjusters are unclear as to whom they are representing and to whom they need to report, they are to contact the leading Lloyd's syndicate directly. Each London market claim will have a carrier point of contact, nominated on the broker system. If direct contact with the London carriers is required, the adjuster should seek clarity from the broker.

Each claim may have more than one agreement party, and if this is at all unclear, clarity should be sought via the leading Lloyd's claims handler and/ or the broker contact.

These general TERMS, will however, overarch all appointments made, on the understanding that more specific claims handling instructions, raised at the individual claim level (including any instructions necessary to reconcile instructions as among agreement parties), will supersede conflicting instructions herein. These general TERMS should be circulated within your organization, so that, notwithstanding any other more specific TERMS, this document can be referenced by any adjuster handling property claims within the London market.

Applicability

These TERMS are subject to all local laws, regulations and ethical rules applicable to your provision of services either to or on behalf of the leading agreement party, and any following Lloyd's market. At all times we also expect your adjusters to use their expertise and to exercise their professional skill and judgment. Accordingly, these TERMS should not be rigidly and mechanically applied regardless of circumstances. While we expect them to

be followed, they are flexible and can be modified where appropriate. Any questions or specific issues may be discussed with the leading agreement party claims handler.

General Claims Handling

We expect and require that you will use the appropriate level of adjusting expertise for particular tasks and to comply with all statutes and regulations that may apply to the handling and adjustment of the claims. We rely on your adjusters experience, skill and judgment to determine claims where direct reporting or closer liaison with the syndicate claims handlers may be warranted.

The individual syndicate claims handler and any additional agreement parties must approve the following items in advance:

- Retention of other experts/ consultants (where time allows). See **“Other Experts”**, **below**.
- Agreements as to coverage and quantum
- Issuance of reservation of rights letters or coverage denials
- Responses to regulatory complaints
- Retention of legal counsel
- Any agreements to settle or take Proof of Loss, full or partial.

In the event that you become aware of any formal dispute resolution activity against the syndicate or the Lloyd’s following market, arising out of a matter you are handling, you should notify the claim agreement party(s) immediately.

Budgets/ Expense Reserves

In order for us to better evaluate and manage the associated claims costs, we require basic budget information on all matters that you are handling. In preparing the budget, we request that you provide your best estimate of the total fees, expenses and costs to be incurred through to either the conclusion of the matter, or if this is impractical, an estimate for the coming 12 month period. We expect you to use your best efforts to estimate accurately the realistic costs associated with any given assignment. Whilst we recognize that it will be necessary from time to time to revise these budget projections, any significant changes or issues arising, should be discussed with the claim agreement party(s).

See also **“Other Experts”** section on page six.

Loss Reserving

Timely and accurate loss reserving is a matter of great importance to the Lloyd’s market and reserve recommendations are an essential element of the services you provide to us. Whilst we recognize that reserve analysis is not an exact science and recommended reserves sometimes cannot be precise, we do expect you to use your experience, professional skill and judgment in making reserve recommendations where appropriate. We expect to see reserve recommendations presented under headings by claim component (eg, for Physical Damage and Time Element).

In recommending reserves you should be as realistic as possible in estimating the exposure

arising from a particular matter. Reserve recommendations should always be reviewed in light of new facts that may affect the reserve level that the adjuster would recommend. However, "step reserving" of matters is strongly discouraged. You should have a clear understanding of the reserving philosophy, of the agreement party(s) that you are representing. If your adjusters are unclear, they should ask.

Cautionary or protective language should be used on advising reserves where appropriate. If there is any concern over the reserve to be recommended, you should discuss the situation with the claim agreement party(s) before making a written recommendation.

Reporting

A) Acknowledgement of Instruction/ Conflicts

We would ordinarily expect you to acknowledge an instruction on an expedited basis. In the event that a conflict of interest is identified that is possible to resolve, please contact the claim agreement party(s) in order to discuss the situation. In the event that you are unable to act, whether because of a conflict of interest or otherwise, you will, as soon as reasonably possible, return all papers supplied to you in the original form without copying any such documents, and you will keep confidential any information supplied to you, and will not disclose such information to any third parties.

No commitments regarding policy coverage will be conveyed to the Insured without prior approval from the claims agreement party(s). Furthermore, in no circumstances should your reports include your adjuster's opinions as to coverage or lack thereof.

An acknowledgement of instruction will ordinarily be required no later than 15 days following our notice of instruction, unless an Initial report is being prepared

B) Initial Reports

The primary purpose of the report will be to establish the facts surrounding the claim and the quantification and notification of appropriate potential indemnity and likely expense reserves. This to ensure that the claim agreement parties can post a reserve to enable prudent financial planning. We do not intend to dictate the content of each of your reports, from your organisation, within these TERMS. We will of course advise you of any shortfalls in reporting service, upon any individual claim. Notwithstanding this, we would like to see your reports follow the criteria below, in situations that allow:

These are to be as comprehensive as the facts allow at that time. In addition to the items that your adjusters routinely report upon, we would like to have mention of the following:

- a) Brief description of Insured's premises and or business
- b) Description of incident and/or damage
- c) The facts describing what transpired at the loss location
- d) Potential loss reserve, with explanation of the estimate
- e) Potential expense reserve (this should include estimates for any other experts requested if applicable)
- f) Outstanding issues and suggested time line for handling these, where possible
- g) Documentation and photographs to support the facts of the loss will be secured.

- h) Confirmation that the policy wording and other such required information has been received
- i) Preliminary subrogation potential is to be assessed and a recovery strategy suggested (which may include the requirement for subrogation counsel).

Initial reports should ordinarily be issued within 30 days of the initial site visit.

C) Interim Reports

We will require a report to be generated and supplied as soon as possible after further material developments (and ordinarily no later than 30 days after such development). This should include facts which, in your opinion, may affect indemnity or expense reserves; may alter our understanding of the facts of the loss, or which (again in your opinion) may impact upon the adjustment of the loss.

The salient facts developed, since the last report will likely be required in detail, in addition to a short précis of the historical facts. If using a pro forma report, it would be useful to highlight the current developments/ facts in contrast to the historical/ repeated information.

D) Settlement Reports

To be provided within the shortest time frame possible, following your assessment that a settlement is warranted. As with Interim Reports, the salient facts developed, since the last report will likely be required in detail, in addition to a short précis of the historical facts.

You have no authority to agree any settlement on our behalf without the claims agreement parties authorisation.

E) Annual

We will require a report, on claims where no other material developments have occurred (ordinarily giving rise to any other form of report) at least once a year. This is to ensure that reserves on those open claims experiencing minimal activity are reviewed and as appropriate, re-validated annually.

These reports are to restate both loss and expense reserves; give a reason why the claim has remained dormant for any significant period; together with any future recommendations.

All reports are to summarise (in as much detail as your adjusters believe is warranted) the outstanding issues, together with clear requests for any instructions required. Each report is to specify a time by which any further report is to be expected and established reserve adequacy should be considered with every report

It is useful to include a schedule of other co-insuring parties complete with placement structures, if known, or applicable.

Billing and Invoices

Fees incurred should be commensurate with the activity required and representative and necessary to complete the ordinary due diligence adjustment, in accordance with market practice. We require detailed invoices that contain the following information regarding the fees charged:

- The identities of all timekeepers and their hourly rates
- The details of each task billed separately identified
- The time spent on each task each day
- An itemization of disbursements

If you are utilizing an in-house, or third party fee collection agency, please ensure we are made aware of this arrangement, as soon as possible after appointment. If no collection agency, or broker, is collecting the fees, the lead agreement parties will arrange for fees to be collected and will identify to you, by what method, the fees are to be collected.

We ordinarily expect to be billed on a quarterly basis in arrears. However, if a matter is particularly active or inactive, you should discuss with the claims agreement parties, the possibility of an alternative billing arrangement.

The claims agreement party's reserve the right to audit your billings, disbursement charges and work product on any matter assigned to you from time to time at their sole discretion and on reasonable notice to you. You agree to cooperate fully with us (or any outside auditor we may retain) in the audit process including making records and personnel available.

We request that you provide us with your general annual billing rate information and you also should notify us beforehand if these rates are going to be amended.

See also, **Other Experts** (below)

Disbursements

We expect the responsible claims adjuster to ensure that all disbursement charges billed are reasonable and reflect necessary expenses associated with the services rendered. However, please note the following specific points:

- Travel expenses will be reimbursed at cost. We expect that air travel within the US and within the UK/Continental Europe will ordinarily be at coach/economy rates. All other forms of transportation (e.g. air, rail, rental car, taxi) will be reimbursed at cost.
- Travel time spent working on a matter should be billed in the ordinary manner. However, we would expect to pay for only 50% of time spent just traveling (unless approved, in advance of travel). This 50% travel time, should be reflected on your itemized billing statements.
- We expect that photocopying and similar extraordinary office expenses (e.g., printing, courier and long distance telephone charges) will be billed at your cost without any mark-up. With large copying projects, you should raise the matter with the claims agreement party's in order to decide the most cost-effective method.

Your normal administrative time and overhead costs are not chargeable.

Other Experts

You should aim to obtain the agreement of the claims agreement party's to the retention of any third party expert (in advance, if time allows) and we will be guided by your skill and expertise in selecting the most suitable third party experts to assist with the development of the facts and likely quantum of the loss. If you recommend and/ or appoint that Other Experts, we expect you to outline the criteria upon which they were selected, and provide a brief resume (e.g CV if requested/ not an expert already known to the agreement party[s]). We reserve the right to amend the instruction of any outside expert at any time. We expect you to supervise outside experts in order to ensure that the services provided are appropriate and that their billings substantially comply with these guidelines to the extent appropriate.

We will require an estimate or budget to reflect the work of this/ these expert(s) in the same manner as is set out in the "**Budgets/ Expense Reserves**" heading on page two of these TERMS. The invoices of outside experts should ordinarily be submitted to us with your own quarterly billings. **We will need to know if your own in-house, or third party fee collection agency is not collecting these other expert costs, in order that arrangements may be made to get these paid in a timely manner.** To the extent that some other arrangement might be appropriate in a particular matter, please discuss this with the claims agreement party(s).

The retention of legal counsel is solely for the agreement party(s) to decide/ handle.

Where outside experts/consultants prepare written reports, we would normally expect to receive complete copies of such reports from you as they are received in the same manner as appropriate for your own reports. In most cases it should not be necessary for you to send a report that simply repeats the substance of a report from outside experts/consultants.

Errors & Omissions Insurance

We expect you to maintain professional errors & omissions insurance in effect throughout the term of your engagements with us. The limits of such insurance should be sufficient to satisfy any potential claims that might realistically be anticipated to arise out of your work for us.

We may request that you provide us with evidence of such insurance and you also should notify us immediately if your insurance is cancelled or non-renewed, or if the limits are substantially eroded or exhausted.

Record Retention/Disaster Recovery

Subject always to compliance with the requirements of all local laws and regulatory or professional bodies best practice guidelines, you will retain and keep in safe storage all files relating to the leading claim agreement party's instructions and the adjustment of the claim. The syndicate are obligated to retain claims documentation for a minimum period of at least ten years from the date of loss or six years from the date the claim was finally settled, or longer if local obligations apply. Notwithstanding all local laws, regulatory or professional bodies best practice guidelines, you will retain our claims documentation for this period also,

or longer, if so required. For the avoidance of doubt, this does not apply to claims that are subject to either an agreement to return or destroy claims and claim documentation under a confidentiality agreement. You should have in place an appropriate disaster recovery plan with appropriate backup to ensure the continuity of services in the event of a disaster. We may require you to provide details of your plan to us from time to time upon request.

Compliance

Neither party shall be involved in the offering, promising or giving of any financial or other advantage to any person in breach of any law against bribery. The Parties shall, insofar as required to do so, maintain on an ongoing basis their own anti-corruption/bribery policies and procedures, including but not limited to adequate procedures to prevent corruption/bribery offences and will enforce them where applicable.

Each party shall conduct its business in accordance with all relevant anti-money laundering and international economic or financial sanctions legislation. When paying monies to an insured or to a claimant, we will perform appropriate sanctions and money laundering checks both on our own behalf and on your behalf prior to any payment being made. Sanctions checks shall include full searches against the most up-to-date OFAC and UK HM Treasury lists and shall take place on the same date as monies are to be paid to an insured or to a claimant. Should any positive match(es) occur, we shall immediately inform you [**give MA specific email address: eg MA's own UK Legal or Compliance**] and the related monies shall not be paid to the insured or the claimant (as the case may be) without your prior written consent.

Material Changes to this Term of Engagement

The agreement to these TERMS may be modified by the leading claims agreement party and advised to you. Existing instructions (in place at the time of any cancellation) may however continue on each claim on which you are acting on our behalf, until such time as that matter is concluded, unless you are advised to the contrary.

Severance of Individual Claims Handling

The decision to terminate your appointment, to transfer the matter to another adjuster or otherwise restrict your handling of a particular matter shall be entirely at the discretion of the agreement party(s) and is unaffected by the existence (or otherwise) of this Term of Engagement. In the event of such a termination, you will assist in the immediate transfer of the files to the claims agreement party(s) or their nominated representatives.

Miscellaneous

The files relating to the matters you are handling on our behalf remain the property of the carriers whom you are representing. These files may contain private and confidential information regarding the claims agreement parties, the following Lloyd's market and our assureds that is protected by applicable laws and regulations. You are responsible for ensuring compliance with all data protection and similar laws and regulations.