



# Trading Terms and Conditions

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In these Trading Terms and Conditions (Terms and Conditions) the use of “we”, “our” or “us” means 360 Underwriting Solutions Pty Ltd **ABN 18 120 261 270 (AFSL 319181)** and its subsidiaries, related entities and Authorised Representatives.

Any references to “Broker”, “you” or “yours” includes its agents, employees, contractors and authorised representatives.

These Terms and Conditions set out the terms and conditions upon which we provide our financial products and services.

In dealing and trading with us, the Broker agrees to these Terms and Conditions. If there are any terms which the Broker is unable to agree to, please contact us directly to discuss suitable terms. If we do not hear from you, we will take these Terms and Conditions as accepted by you.

We will provide the Broker with written notice in the event any of these Terms and Conditions are amended.

## 1. Our Services

We offer a range of insurance products. Our insurance products are arranged under authorities we have been granted by various underwriters. Unless otherwise specifically agreed in writing, we act solely as agents on behalf the underwriters.

## 2. Broker Warranties

The Broker warrants that:

- + you hold the relevant AFSL to advise and deal in the insurance products on behalf of your clients;
- + you will not represent, at any time, that you act on our behalf, unless otherwise specifically agreed in writing between you and us;
- + you have complied and will always comply with all laws for the purposes of the provision of insurance products by us including, but not limited to, complying with your:
  - AFSL conditions;
  - obligations under the *Corporations Act 2001* (Cth) (Corporations Act);
  - obligations in relation to the collection, use, storage, disclosure and transfer of your clients' personal and sensitive information under the *Privacy Act 1988* (Cth) (Privacy Act);
  - mandatory disclosure obligations under the Corporations Act;
- + when providing us with any information for the purpose of payment by us, you have independently verified the accuracy and correctness of such information. We accept no liability where information is not correct or has not been independently verified by you.

We rely upon these warranties in providing our insurance products and services.

## 3. Placing Insurance

The Broker must accept the offer for the contract of insurance in writing prior to or on the inception date and provide us with all proposal forms, where applicable, and closing instructions received from the insured within 14 days from the inception date of the contract of insurance, unless written instructions have been provided by us with an alternate timeframe.

The contract of insurance will be on the terms and conditions provided by us and any subsequent documents or other conduct, including any counter-offer from the Broker, will have no effect unless confirmed in writing by us.

Hold covered terms may be available in limited circumstances upon written request and at our sole discretion.

## 4. Insureds

You agree we may only directly contact insureds in the following circumstances:

- + promoting, marketing and selling our services or products to the general public or to groups of persons who are members of a specific industry, association, profession, club or ethnic community provided that in doing so it does not target any client of yours specifically;
- + pursuant to statutory requirements;
- + if requested by the insured in writing;
- + if required in relation to a claim; or
- + if following reasonable efforts, we have been unable to contact you to provide the relevant statutory notices and information.

## 5. Duty of Disclosure

In addition to warranties provided, you warrant that you have advised and explained to the insured, the insured's duty of disclosure under the *Insurance Contracts Act 1984* (Cth) (Insurance Contracts Act) and as set out in the product disclosure document (PDS), policy wording or other insurance documentation associated with the contract of insurance.

## 6. Payment of Premium, Fees and Statutory Charges

Unless we have agreed in writing otherwise, you will remit:

- + premium on a net of commission basis; and
- + all applicable fees and statutory charges on a gross basis,

within our credit period, which will commence on the inception date of the insurance policy bound.

Unless otherwise agreed in writing, our credit period is 30 days.

We will hold all applicable premium, fees (unless they are our fees) and statutory charges, which are held in trust, in accordance with our statutory requirements.

## 7. Remuneration

We will pay the Broker commission on each base premium in accordance with the rates agreed between the parties. Unless otherwise agreed, the base premium is exclusive of statutory charges (including GST, stamp duties, any fire services levy or any other fee). We will provide the Broker with 30 days' written notice of any change in commission. Where the Broker has a fee for service arrangement in respect of a policy, the Broker will not be entitled to commission in respect of that policy. Further, no commission will be payable for any policy cancelled during the cooling off period.

## 8. Cancellation of the Contract of Insurance

We, on behalf of the insurers, will have the right to cancel any contract of insurance if the premium is not paid in accordance with the terms of the contract of insurance and these Terms and Conditions.

Subject to the terms of the contract of insurance, we may exercise rights under the Insurance Contracts Act, on behalf of insurers, to cancel the contract of insurance. In the event we exercise any cancellation right in relation to a contract of insurance, we will issue a notice of cancellation pursuant to requirements under the Insurance Contracts Act.

When a contract of insurance is cancelled following the cooling off period, if applicable, the premium refund will comprise of a prorated percentage of the net premium received by us and a prorated percentage of commission earned by the Broker for arranging the contract of insurance.

Our fees are non-refundable unless the contract of insurance is cancelled during the cooling off period, if applicable, or is a full term cancellation.

The PDS, policy wording or insurance documentation associated with the contract of insurance will disclose when a fee is payable and/or premium is non-refundable as a result of cancellation.

## 9. Claims

The Broker will provide us (or a party nominated by us or the insurer) with all reasonable assistance in respect of all claims and agrees that any claim will only be paid upon receipt of all outstanding premium(s) and other fees and statutory charges for that contract of insurance.

## 10. Electronic Distribution

If the Broker chooses to distribute insurance documentation via electronic means, the Broker must comply with all ASIC regulatory guides and any statutory requirements.

You acknowledge that electronic communications are not always secure and may be read, copied, lost or interfered with in transit. You agree we are not responsible for any of the risks associated with electronic communication, including loss of data, unless it is established that any loss or breach resulted from any negligence or breach of these Terms and Conditions by us.

## 11. Marketing Material

Any marketing material for our products created or developed by the Broker must be approved by us. The Broker will not amend any marketing material provided by us without our prior written consent.

## 12. Indemnity

Each party indemnifies the other for all claims, damages, judgments, losses, costs and expenses to the extent that they are reasonably incurred in connection with any breach by a party of either these Terms and Conditions or statutory requirements.

To the fullest extent permitted by law, each party will not be liable for:

- + any consequential, incidental, indirect or special damage or loss of any kind; or
- + any failure or delay arising from a cause outside of your/our control.

This indemnity survives the expiry or termination of any contract or agreement incorporating these Terms and Conditions.

## 13. GST

Where GST is payable, it must be calculated and paid in accordance with *A New Tax System (Goods and Services Tax) Act 1999* (Cth), as amended. All amounts referred to in these Terms and Conditions are GST exclusive.

## 14. Tax Invoices

The Broker will issue to the insured a tax invoice in the Broker's name that specifies the GST payable on any taxable supply made by us to the insured. Where an adjustment event, such as variation or cancellation of the policy occurs, the Broker will issue to the insured an adjustment note in the Broker's name.

The Broker will issue to us a tax invoice that specifies the GST payable on any taxable supply made by the Broker to us. Where an adjustment event such as variation or cancellation of the policy occurs, the Broker will issue to us an adjustment note.

## 15. Records

The Broker will retain all records including correspondence (whether electronic or otherwise) either created by or supplied to the Broker for the purpose of providing financial product advice or dealing with the insurance products under these Terms and Conditions for a minimum of seven years or longer if required by any statutory requirement.

## 16. Dispute Resolution

The parties will attempt in good faith to resolve any dispute between them in connection with these Terms and Conditions within 30 days after written notice from a party. If the parties cannot resolve the dispute by negotiation within 30 days from the original written notice, they will mediate in accordance with the Australian Disputes Centre Guidelines for Commercial Mediation, as amended. This clause does not apply to any urgent court application, including interlocutory relief.

## 17. Privacy and Confidentiality

### Privacy

The Broker will comply with the Privacy Act and supporting regulations in relation to the collection, storage, use and disclosure of personal and sensitive information as defined by the Privacy Act and do all that is reasonably necessary to ensure that we comply with the laws.

You warrant that you will advise the insured the purposes for which any personal and sensitive information will be disclosed to us and obtain all necessary consent for the collection, storage, use and disclosure of personal and sensitive information by us in the provision of our services.

You agree to provide the insured with a copy of our Privacy Policy for all services and products provided by us, which can be found at [www.360uw.com.au](http://www.360uw.com.au)

### Confidentiality

Subject to clause 4 (Insureds), each party must keep confidential and must not use the other party's Confidential Information, except as necessary to perform services under these Terms and Conditions or as required by law. Nothing in this clause (Privacy and Confidentiality) restricts the use or dissemination of Confidential Information obtained lawfully from a third party.

Each party authorises the other to disclose its Confidential Information to its insurers, (re)insurers, actuaries, auditors, professional advisors, any related bodies corporate and regulators or the Courts as required by law. This clause survives the expiry or termination of any contract or agreement incorporating these Terms and Conditions.

In this clause (Privacy and Confidentiality), "Confidential Information" means all information, data, practices and techniques relating to a party, or a related body corporate, customers, competitors, business, operations, strategies, computer systems, marketing systems and intellectual property or other property of which the other party becomes aware in negotiating or performing under these Terms and Conditions but does not include information that is in the public domain or later comes into the public domain unless it came into the public domain by a breach of confidentiality.

## 18. Complaints

The Broker must inform us immediately of any complaint received by the Broker which relates specifically to a contract of insurance issued by us or the services provided by us. The Broker must fully cooperate with our dispute resolution procedures and provide all reasonable assistance to us, including providing all relevant documents and information in the investigation and resolution of the complaint.

## 19. Termination and Variation

We may vary these Terms and Conditions by providing the Broker with 30 days' written notice, unless the variation is to comply with a statutory requirement where the variation will apply with immediate effect. Further, any contract or agreement incorporating these Terms and Conditions may be terminated without cause by either party by providing 30 days' written notice to the other party or immediately if a party has its AFSL varied, suspended or cancelled. We may terminate any contract or agreement incorporating these Terms and Conditions immediately by providing written notice to the Broker if the Broker is subject to an insolvency event, breaches an AFSL condition or engages in serious misconduct including fraudulent activity. As soon as practicable after any termination of any contract or agreement incorporating these Terms and Conditions and in any event within 90 days of termination, each party must pay all money owed to the other, after taking into account any adjustments and the Broker must return at its own expense all documents to us including marketing materials supplied by us.

## 20. Inconsistency and No Assignment

In the event of any inconsistency between these Terms and Conditions and the PDS, policy wording or insurance documentation associated with the contract of insurance, the PDS, policy wording or insurance documentation will take precedence. The Broker may not assign its rights or transfer obligations under any contract or agreement incorporating these Terms and Conditions without our prior written consent.

## 21. Governing Law

These Terms and Conditions sets out the entire agreement between you and us. If any part of these Terms and Conditions is or becomes invalid, unlawful or unenforceable, that part will be read down or interpreted and enforced to the extent permissible. Or if this is not possible, that part will be severed and the remainder of these Terms and Conditions will remain unaffected.

Any contract or agreement incorporating these Terms and Conditions will be governed by the laws of New South Wales and the parties irrevocably submit to the non-exclusive jurisdiction of the Courts of New South Wales and any courts which may hear appeals from those Courts.