



VISION
INSURANCE PLACEMENTS

Terms of Business Agreement

Version 1.0 May 2024

VISION INSURANCE PLACEMENTS PTY LTD
WWW.VISINS.COM.AU Level 5, 28 The Esplanade, Perth WA 6000

TERMS OF BUSINESS AGREEMENT

This Terms of Business Agreement (TOBA) supersedes all previous agreements, understandings and negotiations between Vision Insurance Placements Pty Ltd (We, Us, Our) and any Australian Financial Services Licenced insurance broker (Retail Broker, You, or Your) in relation to the subject matter set out below (Agreement). Reference to 'The Parties' means You or Us, or both as appropriate in the context.

BACKGROUND

You have engaged Us to provide, advise and deal, as appropriate, in relation to general insurance products and services for Your clients (Services) pursuant to the terms of this Agreement. By continuing to instruct us, You are taken to have accepted the terms of this Agreement (as amended from time to time) unless otherwise agreed in writing with You.

LICENCE AND REGISTRATION

The Parties each hold an Australian Financial Services Licence (AFSL) that authorises each of us to provide financial product advice and to deal in general insurance products to retail and wholesale clients. Each of The Parties must notify the other immediately if its AFSL is suspended or cancelled, or any authorisation on the licence is varied other than by the addition of authorisations or, in the case of an exemption, the party is no longer entitled to an exemption.

RELATIONSHIP

You act as agent for each of Your clients, and not as agent for Us or any insurer, in providing any financial advice or dealing in any financial product under Your own AFSL. We act as agent for insurers, unless otherwise notified within Our insurance contract quotations and policy wordings as provided.

The Parties are and remain independent contractors at all times and for all purposes. Except as expressly provided for in this Agreement, neither of The Parties has authority to act on behalf of or represent the other and shall not purport to have such authority.

You are responsible for the acts, defaults and negligence of Your authorised representatives, agents, employees and contractors. Nothing in this Agreement creates a binder or relationship of agency, joint venture, partnership or employment relationship between The Parties.

VARIATION AND TERMINATION

We may change this Agreement from time to time by providing You with thirty (30) days' written notice.

Either of The Parties may terminate this Agreement, without cause, upon giving not less than thirty (30) days' notice in writing.

This Agreement may be terminated by either of The Parties with immediate effect by giving written notice to the other party if any of the following occur:

1. The other party breaches any term of this Agreement, which cannot be rectified;
2. The other party breaches any term of this Agreement that is capable of being rectified and that party fails to do so within fourteen (14) days' of written notice from the other party requiring it to rectify the breach;
3. Any officer or employee of the other party is guilty of malpractice or misconduct that will materially affect that parties ability to provide financial services;

The other party enters into any composition or arrangement with its creditors, has a receiver and manager or

an administrator appointed to it or is the subject of any resolution or petition for winding up (other than for the purpose of amalgamation or reconstruction while solvent) or becomes bankrupt; or

4. The other party fails to hold any authority or licence that allows it to carry on the business covered by this Agreement or such authority or licence is altered in such a manner as materially affects in any way the ability to transact general insurance or any activity contemplated in this Agreement.

Termination of this Agreement will not prejudice the rights of either of The Parties in connection with anything that occurred between them before its termination or affect the rights of a party under any provisions of this Agreement that are expressed, or by necessary intendment are intended, to survive termination.

As soon as practicable after termination of this Agreement, and in any event within ninety (90) days, each party must pay all money owed to the other, if any, after taking into account any adjustments required; and You must return all documents, proprietary and confidential materials supplied by Us to You.

ARRANGING INSURANCE

You must, in relation to any new business, alteration, variation or renewal:

1. Prepare the underwriting information sought by insurers based solely on information provided by Your client;
2. Provide all necessary advice about the insured's duty of disclosure under the Insurance Contracts Act 1984 (Cth) or any amendment or replacement thereof (ICA) and the consequences of breaching that duty including the insurer's remedies for non-disclosure and misrepresentation under the ICA;
3. Procure Your client's approval of all underwriting information before it is provided to Us;
4. Provide all necessary professional and financial product advice to Your client in connection with the insurances sought to be arranged through Us, including advice in relation to the terms and conditions of the relevant policy, the adequacy and suitability of cover for that client's circumstances, and the suitability of the price and the security of the cover. Any advice provided by Us in respect to the Services under this Agreement is intended for Your use only, and is not to be passed on to Your Client;
5. Provide all necessary assistance to enable Us to arrange the insurances sought, including obtaining the information required by the insurers from Your client within the time period required by Us; and
6. Declare and disclose all commissions, fees, charges and other remuneration to Your client as required by law, including the impact of cancellations and premium adjustments. We provide Our remuneration and benefits disclosures within our Financial Services Guide which can be accessed [here](#) (Our FSG).

You acknowledge that You have each of Your client's authority to receive for that client all notices for an insured or intending insured under the ICA and Corporations Act 2001 (Cth) (Corporations Act).

CLOSING AND HOLD COVERED

If You wish to incept or renew an insurance product through Us, You must, no later than fourteen (14) days before the contract of insurance inception date (or an alternate timeframe permitted by Us in writing) provide written instructions to Us to accept the contract of insurance, together with all proposal forms (where applicable) and closing instructions from the insured.

If We do not receive written acceptance instructions from You in accordance with the above, the insurance product may not be incepted or renewed and in the case of a renewal product, all coverage may cease at the expiry of that product, unless other arrangements are made and confirmed in writing by Us.

CLAIMS

You are responsible for all claim notifications for Your clients. At Your request, We must provide reasonable assistance to You in notifying the insurers of a claim.

The Parties acknowledge that We have no authority to admit liability on behalf of the insurers, nor to deal with or settle a claim.

There are contractual arrangements in place with an appropriately authorised third party claims management service provider (Claims Manager) to perform claims handling and settlement services for business written within our binder agreements, as well as for some wholesale insurance placements. The Claims Manager acts on the insurers behalf in providing these services, with the appropriate level of authority granted by the insurers supporting Our binder arrangements.

INVOICES AND GST

You must pay any valid invoice within thirty (30) days from the date of the invoice, unless otherwise agreed in writing by Us.

We will pay You commission as agreed in writing between The Parties in which case Your commission and other charges will be identified on the relevant invoice. Where it is agreed that premium is written on a net basis, You will remit premium on a net of commission basis.

Please note that all remuneration referred to in this Agreement or in any invoice, unless clearly stated otherwise, is to be treated as exclusive of GST. If anything supplied under or in connection with this Agreement constitutes a taxable supply for the purposes of A New Tax System (Goods and Services

Tax) Act 1999 (Cth) (GST Act) the recipient of the supply must, subject to receiving a valid invoice, pay to the supplier an additional amount equal to that GST.

REMUNERATION

You acknowledge and agree that We will be paid a commission by the relevant insurers on placement of insurance under this Agreement as set out in Our FSG, and We are also entitled to receive a policy administration charge for policy invoicing, premium collection and remittance and for issuing policies and other administrative work as set out in the relevant tax invoice issued by Us to You. The tax invoice will include a breakdown of the premium including all relevant remuneration, charges and taxes.

You acknowledge and agree that We fully earn our commission, fee and any other remuneration at the time of placement of the relevant insurance and may retain in full all such remuneration in the event of any mid-term cancellation of a policy or future downward adjustment of premium unless We have agreed in writing to another arrangement. You also agree that We and the insurers may offset such remuneration from any premium refund You are entitled to.

This clause survives the termination of this Agreement.

CANCELLATIONS

If We have not received payment of the premium the agreed payment period, after a period of fourteen (14) days from the expiry of the payment period We may, on behalf of the relevant insurer and subject to the terms of the policy and the Insurance Contracts Act, cancel the relevant insurance contract on behalf of the insurer. We will notify You in writing of any intention by the insurer to cancel or avoid any contract of insurance.

If a premium refund is payable, We will pay the refund to You and You are responsible for ensuring the premium refund is paid to Your Client in accordance with requirements.

REFUND OF COMMISSION

Unless otherwise agreed, if any policy of insurance is varied, cancelled or avoided, You will refund to Us that

part of Your commission for payment to the insurers that relates to the proportion of premium refunded to the client, if any.

APPROACHING INSURERS

During the currency of this Agreement and for a period of thirteen (13) months after its termination, You will not approach any insurers to which We have brokered or placed a risk at Your request to solicit, create or develop any arrangement for You to broke and place the insurance products covered by this Agreement, other than through Us.

OWNERSHIP OF INSURANCE BUSINESS

During the currency of this Agreement and for a period of thirteen (13) months after its termination, You will not approach any insurers to which We have brokered or placed a risk at Your request to solicit, create or develop any arrangement for You to broke and place the insurance products covered by this Agreement, other than through Us.

We will not make any direct approach to any insured for whom a contract of insurance has been arranged pursuant to this Agreement for the purpose of selling or issuing any insurance business and will only contact an insured directly where:

1. We are required to do so by law;
2. You fail to give any notice or disclosure document to the insured that is required by law;
3. The person makes a claim under the contract of insurance, in which case We, the Claims Manager and/or insurer may liaise with the insured about the claim;
4. The insured requests We do something, in which case We may comply with that request; or
5. You are no longer the insurance intermediary for the insured.

Nothing in this Agreement prevents Us from marketing Our business or products to the general public or to members of any association or group insurance arrangement.

INDEMNITY

The Parties indemnify each other for and against all claims, damages, judgements, losses, costs and reasonable legal expenses which are directly caused by any act, omission or breach by that party of this Agreement. This indemnity is reduced proportionately to the extent that such claims, damages, judgements, losses, costs and expenses are caused or contributed to by the other party.

The Parties agree that from time to time We must agree to a limitation of liability with insurers or with intermediaries that access insurers on our behalf. Where there is a limitation of liability on that basis We will clearly inform You as part of any quotation provided, and should the contract be incepted this Agreement will be varied so that such limitation of liability is agreed between The Parties to apply to any policies of insurance affected by such limitation of liability.

To the maximum extent permitted by law, in no event will either party be liable to the other party for Consequential Loss (being indirect, incidental, consequential, exemplary, reliance, special or punitive damages, including but not limited to loss of data, business or goodwill, or government fines, penalties, taxes or filing fees), or any lost sales, business opportunities, revenues or profits regardless of whether such liability is based on breach of contract, tort, strict liability, breach of warranty, statutory liability or otherwise, even if advised of the likelihood of such damages.

This clause survives the termination of this Agreement.

CONFIDENTIALITY

Subject to the remaining provisions of this clause, where in connection with this Agreement or Services a party (the Receiving Party) receives any Confidential Information from the other party (the Disclosing Party) or on the Disclosing Party's behalf, the Receiving Party will treat the Confidential Information as set out herein.

The Receiving Party will not distribute or disclose any Confidential Information without the Disclosing Party's prior written consent except where:

1. It is necessary for the Receiving Party to disclose such Confidential Information to its professional advisors or auditors or where it is required to disclose such Confidential Information by law or any regulatory authority; and
2. In respect of Us, the disclosure is for the purpose of providing the Services, including to insurers or prospective insurers.

Where the Receiving Party is required to make any disclosure of the Confidential Information by law or regulation the Receiving Party will notify the Disclosing Party of such disclosure to the extent reasonably practicable and legally permissible.

We may disclose Your Confidential Information to:

1. Our service providers as needed for services provided to Us;
2. Our Related Bodies Corporate (as that term is defined in the Corporations Act 2001 (Cth)) to the extent necessary to perform Our obligations under the Agreement; and
3. Any sub-contractors as necessary for them to perform or support the Services,

Provided that We will have in place with such service providers and sub-contractors appropriate and reasonable obligations regarding the safeguarding of such Confidential Information.

Each of The Parties will treat any Confidential Information provided as confidential and take appropriate measures to protect the privacy and confidentiality of such Confidential Information and comply with all applicable laws and regulations.

For the purposes of this clause, Confidential Information means any information disclosed by the Disclosing Party to the Receiving Party which:

1. Either derives economic value, actual or potential, from not being generally known or has a character such that the Disclosing Party and/or any third party from whom the Disclosing Party has received the Confidential Information has a legitimate interest in maintaining its secrecy;
2. Relates to the Disclosing Party's business (and/ or to those of its suppliers and clients, and/or any third party from whom the Disclosing Party has received the Confidential Information) and includes, but is not limited to: equipment; software; designs; technology; technical documentation; product or service specifications; marketing or business plans and strategy; pricing information; financial information; information relating to existing, previous, and potential suppliers, customers, and contracts; inventions; trade secrets; trademarks; intellectual property; applications; methodologies; insurance practices, plans, and strategies, and other know-how which is identified as confidential at the time of disclosure or that a reasonable person would consider, from the nature of the information and circumstances of disclosure, as confidential to the Disclosing Party;
3. Includes the existence and terms of this Agreement; and
4. Confidential Information excludes information which: a. Is publicly available at the time of its disclosure under this Agreement;

b. Becomes publicly available (other than as a result of disclosure by the Receiving Party contrary to the terms of this Agreement);

c. Was lawfully in the possession of the Receiving Party free of any restriction as to its use or disclosure prior to it being disclosed under this Agreement; or

d. Is or has been developed independently by the Receiving Party and without use of the Confidential Information disclosed under this Agreement.

This clause survives the termination of this Agreement.

INTELLECTUAL PROPERTY

The Parties agree that nothing in this Agreement transfers ownership in, or otherwise grants any rights in, any intellectual property rights of a party. This clause survives the termination of this Agreement.

PRIVACY

Each party agrees to comply with the Privacy Act 1988 (Cth) (Privacy Act) and any other applicable privacy or data protection laws regulating the collection, storage, use and disclosure of “personal information” as defined under the Privacy Act, including the Spam Act 2003 (Cth) and Do Not Call Register Act 2006 (Cth) and do all that is reasonably needed on each of our parts to enable the other to comply with them.

You must ensure that You have obtained all necessary consents so that all personal information disclosed by You to Us may be collected, collated, used and distributed in accordance with this Agreement.

ELECTRONIC COMMUNICATION

We may correspond with You by electronic communications unless You instruct Us not to do so. Electronic communications are not always secure and may be read, copied, lost or interfered with in transit. We are not responsible for any of the risks associated with electronic communication, including loss of data.

DISPUTE RESOLUTION

The parties must comply with this clause before commencing court proceedings in relation to any dispute between the parties arising out of or in connection with this Agreement.

The parties shall attempt in good faith to resolve any dispute arising out of or relating to the Agreement promptly by negotiation between executives who have authority to settle the dispute and who are at a higher level of management than the persons with direct responsibility for administration of this Agreement. If these representatives are unable to resolve the dispute within thirty (30) days, the dispute shall be referred to more senior executives who will likewise meet in an attempt to resolve the matter in dispute.

All negotiations between The Parties conducted pursuant to the dispute resolution process described herein (and any of The Parties’ submissions in contemplation hereof) will be kept confidential by The Parties and will be treated by The Parties and their respective representatives without prejudice as compromise and settlement negotiations for purposes of the applicable court rules of evidence.

Nothing in this clause shall prevent either party from seeking urgent interlocutory relief.

TRADE SANCTIONS

You must carry out appropriate due diligence to ensure Your activities are in accordance with all applicable trade restrictions law and regulations. We do not assume responsibility for Your compliance with such requirements. If You become aware that any of the Services, including any risk You have insured or are proposing to insure through Us involves a territory, corporation or person subject to a sanction or trade

restriction, You must inform Us immediately.

Where We become aware that an entire transaction is contrary to a sanction or trade restriction, We will not be able to act for the period during which the transaction is subject to such sanction or trade restriction.

If part of a transaction We have been asked to carry out (or have already carried out) would constitute, or constitutes, a breach of a sanction or trade restriction, We will not be able to act with respect to that part, whether it involves a placement, renewal, variation, payment, processing, advising, claim

handling or any other Service for the period during which that part of the transaction is contrary to the sanction or trade restriction.

We will not incur any liability whatsoever to You in the event we rely upon this clause.

BRIBERY AND CORRUPTION

The Parties undertake:

1. To maintain appropriate policies, procedures and internal controls designed to prevent any acts of bribery or corruption in breach of any anti-bribery and anti-corruption laws applicable to either party, in relation to the Services;
2. Not to do, or omit to do, any act that will cause or lead either party to breach any anti-bribery and anti-corruption laws applicable to it; and
3. To keep proper and accurate books and records reflecting all payments made, and expenses incurred in connection with the performance of the Services.

GENERAL

The Parties agree to comply with applicable laws and regulations.

The Parties must not change printed material supplied by the other party (including but not limited to marketing material such as brochures, advertisements, articles, editorials, posters, insurance documents such as proposals, policy wordings and certificates of currency) without the written consent of that party.

If any part of the Agreement is or becomes invalid, unlawful or unenforceable, it will be read down or interpreted and enforced to the extent permissible or if this is not possible, it will be severed and the remainder of the Agreement will remain unaffected.

This Agreement is subject to the laws of Western Australia.

No rule of construction applies to the disadvantage of a party because that party was responsible for the preparation of, or seeks to rely on, the Agreement or any part of it.

Neither party can assign, charge or otherwise deal with its rights and obligations under this Agreement without the prior written consent of the other party (except to a "related body corporate" (as defined in the Corporations Act) by providing thirty (30) days' written notice to the other party).

Any notice under this Agreement must be in writing and sent to the last known address or e-mail address of the party. Each of the parties will give notice to the other of any change of address, telephone number and e-mail address as soon as practicable after such change. If any written correspondence is returned as undeliverable (whether electronic or not) the sending party must make all reasonable attempts to contact the recipient via all other possible methods to establish the new or correct contact details for the written correspondence, including but not limited to attempting to contact via telephone and corporate social media such as LinkedIn.