

## Effective Date: 1 June 2024

These Terms and Conditions of Trade (**'T&Cs'**) apply to any AFS licenced insurance broker (**'Broker'**) advising on and dealing in or wishing to advise on and deal in general insurance products provided by Hollard Commercial Insurance Pty Ltd (ABN 86 603 039 023, AFSL 474540) (**'HCl'**) from and including the Effective Date. These T&Cs replace any previous versions of these T&Cs or any existing service agreements between HCl and the Broker.

HCl acts under a binding authority given to it by the insurer, The Hollard Insurance Company Pty Ltd (ABN 78 090 584 473, AFSL 241436) (**'Hollard'**).

## 1. Introduction

The Broker carries on a financial services business by providing financial advice for general insurance products, and dealing in financial products by applying for, acquiring, varying or disposing of general insurance products on behalf of its clients subject to the Broker's Australian Financial Services Licence (**'AFSL'**) authorisations. Where the Broker provides advice or deals in respect of general insurance products provided by HCl and in consideration of the Remuneration (set out at section 8 below) by HCl, the Broker agrees to advise on and deal in a general insurance product provided by HCl in accordance with the Broker's AFSL authorisations and to be bound by these T&Cs.

## 2. Relationship and warranty

The Broker holds an Australian Financial Services Licence (**'AFSL'**) or is appointed as an Authorised Representative of an AFSL holder (**'Appointment'**).

The Broker warrants that it is authorised under its AFSL or its Appointment (as applicable) to advise and deal in general insurance products on behalf of its clients and will not perform any activities that are not authorised under its AFSL or its Appointment (as applicable).

The Broker will advise HCl immediately if the AFSL or Appointment is varied, suspended or cancelled.

The Broker acknowledges and agrees that:

- it acts as agent for its clients;
- these T&Cs do not create any form of binder, employment, joint venture, partnership or trust;
- it will not provide or purport to provide any financial services on behalf of HCl; and
- it is responsible for the actions and omissions of its authorised representatives, agents, employees, contractors and referrers.

HCl acts as agent for the insurer.

## 3. Communications

HCl will communicate all product updates and related information electronically (including by e-mail) to all staff of the Broker. Any unsubscribe request from staff of the Broker will be applied only in respect of marketing initiatives.

## 4. Arranging insurance – closings

The Broker must provide HCl with all 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 HCl informing of an alternate timeframe.

## 5. Financial Services Guide ('FSG')

For retail products distributed by HCl, where there is no combined FSG/PDS for the insurance product, the Broker must issue the relevant FSG on behalf of HCl to the Broker's client.

## 6. Insureds

HCI will only directly contact insureds in the following circumstances:

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

## 7. Duty of disclosure

The insured has a duty to take reasonable care not to make a misrepresentation (if a consumer insurance contract) or a duty of disclosure (for all other insurance contracts) under the *Insurance Contracts Act 1984* (Cth) ('ICA'). The duty applicable to the Broker's client is set out in the Product Disclosure Statement (if a retail product) or policy wording (for all other products) and/or insurance documentation associated with the contract of insurance.

## 8. Remuneration

HCI will pay the Broker commission on each base premium in accordance with the rates agreed between the parties. The applicable commission for each policy is in the policy details on the quoting platform. For the avoidance of doubt, the base premium is exclusive of statutory charges (including Goods and Services Tax ('GST'), stamp duty, any emergency services levy or any other fee). Any change to the Broker commission will be communicated by providing 30 days' written notice to the Broker.

## 9. Remit premium and fees to HCI

The Broker will remit premium on a net of commission basis and any applicable fees and statutory charges on a gross basis to HCI within 90 days of the inception date of the applicable contract of insurance. All collected premium, any applicable fees and statutory charges are to be held in a trust account in accordance with statutory provisions.

The Broker acknowledges that any premium refund, whether arising from a mid-term alteration or cancellation, will be calculated on a net basis. Any commission adjustment arising from the refund or any dishonour of payment will be accounted for and issued to the Broker on record at the time of the transaction on the respective policy in the next monthly commission statement.

## 10. Cancellation of contract of insurance

HCI, on behalf of the insurer, will have the right to cancel the contract of insurance if premium is not paid in accordance with the terms of the contract of insurance and as per the ICA.

Any interim contracts of insurance will be cancelled in accordance with sections 38 and 60(4) of the ICA. Any instalment contracts of insurance will be cancelled in accordance with section 62 of the ICA.

Subject to the terms of the contract of insurance, HCI maintain any other rights under the ICA to cancel the contract of insurance.

HCI must notify the Broker of any intention to cancel or avoid a contract of insurance.

If a contract of insurance is cancelled following the cooling off period (if applicable), the premium refund will be made up of two components:

- (i) a prorated percentage of the net premium received by HCI; and
- (ii) a prorated percentage of commission earned by the Broker for arranging the contract of insurance.

**Note:** Agency fees are non-refundable unless the contract of insurance is cancelled within the cooling off period (if applicable) or is a full term cancellation.

## 11. Claims

The Broker will provide all reasonable assistance to HCl, or a party nominated by HCl, in respect of all claims and agrees that any claim will only be met upon receipt of all outstanding premium and agency fees and statutory charges for that contract of insurance.

## 12. Electronic distribution

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

## 13. Marketing material

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

## 14. Complying with laws, regulations and codes of practice

The Broker acknowledges that all business under these T&Cs must be conducted in accordance with the applicable laws, regulations and codes of practice.

The Broker agrees to and confirms it will at all times, comply with the applicable laws, regulations and codes of practice.

## 15. Indemnity

Each party indemnifies the other, on demand, for all claims, damages, judgments, losses, costs (party/party basis) and expenses to the extent that they are reasonably incurred in connection with any breach by a party of either these T&Cs or statutory requirements. The indemnity survives the expiry or termination of these T&Cs.

## 16. 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). All amounts referred to in these T&Cs are GST exclusive.

## 17. Recipient Created Tax Invoice ('RCTI')

HCl is registered for GST. If the Broker is registered for GST, then the following clause applies.

Both parties agree that they are parties to this RCTI Agreement for the purpose of dealing in general insurance products and declare that these T&Cs apply to supplies to which a tax invoice relates. HCl may issue tax invoices for the supplies, in which case the Broker will not issue tax invoices for the supplies. If either party ceases to be registered for GST then it will notify the other party immediately. Both parties agree to comply with the Australian Taxation Office requirements for a valid RCTI, which may be amended from time to time.

If the Broker is not registered for GST, then it must inform HCl prior to any financial services business been undertaken in relation to any general insurance products provided by HCl.

## 18. Target Market Determinations

For retail products provided by HCl, the Broker agrees to distribute the general insurance products in accordance with the Target Market Determination ('TMD') applicable to the general insurance product.

The Broker agrees to comply with the distributor reporting conditions set out in the TMD.

## 19. 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 T&Cs for a minimum of seven years or longer if required by any statutory requirements.

## 20. Dispute resolution

The parties will attempt in good faith to negotiate any dispute between them in connection with these T&Cs.

If the parties cannot resolve the dispute by negotiation within 30 days from the original written notice of the dispute, they will mediate in accordance with the Australian Commercial Disputes Centre guidelines for commercial mediation then in operation. This clause does not apply to any urgent court application, including interlocutory relief.

## 21. Privacy

The Broker, if providing HCl with personal information about other individuals, will comply with all relevant obligations under the *Privacy Act 1988* (Cth), including having made or making the individual(s) aware that their personal information will be disclosed to HCl and the insurer and that HCl will handle their personal information in accordance with HCl's Privacy Policy available at [www.hollard.com.au](http://www.hollard.com.au) or [www.hollardcommercial.com.au](http://www.hollardcommercial.com.au).

## 22. Confidentiality

Subject to Section 6 (Insureds), during and after cessation of any business conducted pursuant to these T&Cs, each party must keep confidential and must not use the other party's Confidential Information except as necessary to perform under these T&Cs or as required by law.

If a government, regulatory authority or court orders a party to disclose Confidential Information, that party will, to the extent permitted, immediately advise the other party and will disclose only such of the Confidential Information as may be necessary to comply with the order.

Nothing in this Section 22 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 insurers, reinsurers, actuaries, auditors, professional advisors and any related bodies corporate in each case on a confidential basis.

This Section 22 survives termination.

"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 T&Cs. Confidential Information 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).

## 23. Termination and variation

These T&Cs may be varied by HCl without cause by providing the Broker with 30 days' written notice, unless the variation is to comply with a statutory or regulatory requirement in which case immediate notice will apply. Further, these T&Cs may be terminated without cause by either party by providing 30 days' written notice to the other or immediately if a party has its AFSL varied, suspended or cancelled. HCl reserves the right to terminate any engagement with the Broker pursuant to these T&Cs immediately by providing written notice to the Broker, if the Broker is subject to an insolvency event, breaches a material term or condition of these T&Cs or engages in serious misconduct including fraudulent activity, or there is a statutory or regulatory requirement. As soon as practicable after any such termination and, in any event, within 90 days, each party must pay all money owed to the other, if any, after taking into account any adjustments required and the Broker must return at its own expense all documents including marketing materials supplied by HCl.

## 24. No assignment

The Broker may not assign its rights or transfer obligations under these T&Cs without the prior written consent of HCl.

## 25. Governing law

These T&Cs will be governed by the laws of New South Wales and the parties irrevocably submit unconditionally to the non-exclusive jurisdiction of the Courts of New South Wales and any courts which may hear appeals from those Courts.