



The financial services referred to in this Terms of Business Agreement (TOBA) / Financial Services Guide (FSG) are offered by: **Fenchurch Insurance Brokers Pty Ltd** trading as Fenchurch  
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AFSL 522 814  
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## From when does this TOBA / FSG apply?

This TOBA / FSG applies from 1<sup>st</sup> November 2022 and remains valid unless a further FSG is issued to replace it. We may give you a supplementary TOBA / FSG. It will not replace this FSG but will cover services not covered by this TOBA / FSG.

This TOBA / FSG sets out the terms and services that we can offer you. It is designed to assist you in deciding whether to use any of those services and contains important information about:

- the services we offer you.
- how we and others are paid.
- any potential conflict of interest we may have.
- our internal and external dispute resolution procedures and how you can access them.
- arrangements we have to compensate clients for losses.

You should contact us if there is anything in this document which you do not understand or with which you disagree.

## Insurance Brokers Code of Practice

We subscribe to and are bound by the Insurance Brokers Code of Practice a full copy of which is available from the National Insurance Brokers Association (NIBA) website, [www.niba.com.au](http://www.niba.com.au).

## Lack of Independence

***Why are we not independent, impartial, or unbiased in relation to the provision of personal advice and the impact of this on you?***

We are not independent, impartial, or unbiased pursuant to section 923A of the Corporations Act because:

- We may receive remuneration or commission when we provide personal advice to you in relation to insurance products and other financial products;
- We may have associations or relationships with issuers of insurance products and other financial products.

Further information about these benefits and relationships is set out in this Financial Services Guide. If you have any questions, please ask us.

## Application

In this document “Fenchurch”, “we”, “us” and “our” means Fenchurch Insurance Brokers Pty Ltd. Also, insurance includes reinsurance and insurers includes reinsurers.

Your direction to bind coverage and/or your payment related to your insurance placement will be deemed to be your signed, written agreement to be bound by the provisions of this document.

You should read this document carefully for as well as setting out the terms of our relationship it contains details of our regulatory and statutory responsibilities.

We do not offer advice in relation to tax, accounting, regulatory or legal matters and you should take separate advice as you consider necessary regarding such matters.

We will provide you with further information whenever we provide you with advice which takes into account your objectives, financial situation and needs. This information may include the advice that we have given you, the basis of the advice and other information on our remuneration and any relevant associations or interests. This information may be contained in a statement of advice(SOA).

## Insurers

When you ask us to recommend an insurance policy for you, we will usually only consider the policies offered by the insurers or insurance providers that we deal with regularly. In giving you advice about the costs and terms of recommended policies we have not compared those policies to other policies available, other than from those insurers we deal with regularly.

If you have any concerns with any insurers chosen for your insurance requirements you must advise us as soon as possible.

## Statement of Advice and Product Disclosure Statement

If we offer to arrange the issue of an insurance policy to you, we may also provide you with, or pass on to you, a Statement of Advice (SoA)

and/or a product disclosure statement (PDS), unless you already have an up to date SoA or PDS. The PDS will contain information about the particular policy which will enable you to make an informed decision about purchasing that product.

## Instructions to us

You can contact us to give us instructions by post, phone or fax. Our contact details are mentioned on page 1 of this document.

## What kinds of financial services is Fenchurch authorised to provide and what kinds of financial product/s do those services relate to?

Fenchurch holds a current Australian Financial Services Licence. Fenchurch is authorised to advise and deal in general insurance products to wholesale and retail clients. We will do this for you as your broker unless we tell you otherwise.

## Who is responsible for the financial services provided?

Fenchurch is responsible for the financial services that will be provided to you, or through you to other representatives including your family members, including the distribution of this TOBA / FSG.

## Core Services

We will discuss with you or your representatives your insurance requirements, including the scope of cover sought, limits to be sought and cost. Upon receipt of your instructions, whether written or oral, we will endeavour to satisfy your insurance requirements. We will provide you with information about the insurance cover we recommend to you to enable you to decide whether to accept the insurance cover available. We will advise on market structures available to meet your demands and needs and, where appropriate, the relative merits of a single insurer or a multiple insurer placement. As your insurance intermediary we will answer any questions you may have on the proposed cover, its benefits, placement structure, restrictions, exclusions and conditions. You will be responsible for reviewing information on the insurance coverage recommended to you. If the coverage and terms do not satisfy your instructions you should advise us immediately.

We will provide you with details of all the insurer quotations we recommend.

During the course of the placement of your insurance we will endeavour to keep you informed of the progress of our negotiations and identify any inability to obtain the coverage sought by you. We will use reasonable endeavours to implement your insurance program, subject to available insurers, before the intended date of inception, renewal or extension of cover (whichever is appropriate). You are responsible for reviewing the documentation we send you confirming that you have coverage with insurers to ensure that it is in accordance with your instructions. If you have any questions about the coverage, limits or other terms and conditions, or concerns that we have not implemented your instructions correctly, please contact us immediately.

Further, you should review the insurance premium payment terms we advise you. All premium payment terms must be met on time or your insurers may have the right to effect a notice of cancellation for non-payment of premium. We shall also advise of any charges additional to the insurance premium.

We will forward any insurance contract documents, if applicable, and any amendments or endorsements to your insurance contract as soon as reasonably practicable.

## Proposal Forms

For certain classes of insurance you may be required to complete a proposal form or similar document. We will provide guidance but we are not able to complete the document for you.

## Insurer Security

We assess the financial soundness of the proposed insurers we recommend for your requirements using public information including that produced by recognised rating agencies.

However, we will not in any circumstances act as an insurer nor will we guarantee or otherwise warrant the solvency of any insurer. As a consequence the suitability of any insurer rests with you and we will discuss with you any concerns you may have.

## Electronic Trading Facilities

For some markets and some types of risk, electronic trading facilities are available for both the placing and administration (including claims handling) of cover placed on your behalf. Generally speaking, for us to use such facilities, we are obliged to agree the terms and



conditions required by the electronic facility provider, as are all users of the system. Agreement by us of such terms will also bind any client on whose behalf we are acting when using such a facility. It is sometimes the case that such terms and conditions alter the usual legal position as to ownership and permitted usage of information and

documents submitted to or generated by the facility. Please speak to us for further information as to whether any such electronic facilities are used on your behalf in placing or administering your business.

### Claims

We will manage your claims for the period of our appointment. These services can be continued beyond that point by mutual agreement but will be subject to additional remuneration. Our claims management services include, upon receiving the required information from you, the notification of the claim or circumstances to insurers, the communication of reports and correspondence in connection with the claim between appropriate parties, and arranging the collection and/or settlement of the claim in accordance with market practice and the terms and conditions of your insurance contract.

Our claim management services will not be provided in the event that claims are to be dealt with by you with insurers directly.

We may use third party claims handling services, however, where we intend to do so we shall inform you prior to the inception of the insurance contract.

Where we collect claims payments these will be remitted to you as quickly as possible. However, we will not remit claims monies to you before we have received them from insurers.

We advise that we may be granted authority by insurers, for example under a binding authority, managing general agency or a lineslip agreement, to settle claims on your insurance. We settle such claims made within the terms and conditions of the authority granted and your contract. It is our policy to refer claims to insurers for settlement decision where we are not able to settle the claim on a 100% basis. Further, if there is a conflict of interest we shall manage it in accordance with our conflicts policy.

It is generally the case that claims may become unenforceable by way of legal proceedings (or in some jurisdictions, completely extinguished) if they are not pursued by legal proceedings commenced within the relevant limitation period applying to your claim in the jurisdiction in question. As we are not lawyers, we do not advise on the legal implications of failure to collect and we will not commence legal proceedings or enter into standstill/tolling agreements in order to suspend the application of relevant limitation periods on your behalf. On these issues we recommend you take your own legal advice. It therefore remains your responsibility to monitor the position on limitation periods applying to your claims and to commence legal proceedings in relation to your claims where this is necessary.

Therefore, please carefully consider any claims reporting instructions we provide to you because failure to report a claim in a proper and timely manner may jeopardise coverage of the claim. In addition, you should retain copies of all insurance contracts and coverage documents as well as claims reporting instructions, as you may need to report claims after the termination of a contract, perhaps long after its expiry date.

It is important, therefore, that you keep your insurance and other contract documents in a safe place.

### Additional Services

If requested, available and appropriate we may agree to provide you with a number of additional services which fall outside our core service provision. Such services, whether or not they are listed in any Client Service Plan, may be subject to the agreement of additional remuneration.

### Will I receive tailored advice?

Not in all cases. We may need information about your personal objectives, details of your current financial situation and any relevant information, so that we can arrange insurance policies for you, or to give you advice about your insurance needs. We will ask you for the details that we need to know.

In some cases we may not ask for some or all of this information. If we do not ask, or if you do not give us all of the information we ask for, any advice you receive may not be appropriate to your needs, objectives and financial situation.

You should read the warnings contained in any SoA, or any other warnings that we give you, carefully before making any decision about an insurance policy.

Where we provide you with advice about your insurance arrangements, that advice is current at the time that we give it. We will review your insurance arrangements when you inform us about changes in your circumstances, at the time of any scheduled status review or upon renewal of your insurances.

### Disclosure of Information

Our objective is to obtain the best product we can identify in order to meet your insurance needs. In order to make our business relationship work, you must provide complete and accurate information and instructions in a timely manner, so that we can assist you fully. Please bear in mind that insurers are not always obliged to make enquiries of you. Indeed, you are often under a duty to make full disclosure of all material facts, including all information which is material to the coverage requirements or which might influence insurers in deciding to accept your business, finalising the terms to apply and/or the cost of cover must be disclosed, and also to respond fully and frankly to any requests for information made by insurers.

Failure to make full disclosure of material facts may allow insurers to avoid liability for a particular claim or to void the contract. Where applicable, this duty of disclosure applies equally at renewal of the contracts and on taking out new insurance contracts. We will not be responsible for any consequences which may arise from any delayed, inaccurate or incomplete information, or any misrepresentation made by you (or your employees or their dependants).

Please discuss with us if you have any doubts about what is material or have any concerns that we may not have material information, or have any doubt about what the applicable duty of disclosure is.

### Your Insurance Contract

Although we will check the insurance contract documents we send you, you are responsible for reviewing your contract to ensure that it accurately reflects the cover, conditions, limits and other terms that you require. Particular attention should be paid to any contract conditions, warranties and the claims notification provisions as failure to comply may invalidate your coverage. If there are any discrepancies you should consult us immediately.

### Change in Circumstances

You must advise us as soon as reasonably practicable of any changes in your circumstances that may affect the services to be provided by us or the cover provided under your insurance contract.

### Provision of Information

All activities undertaken by us as outlined in this document are provided by us for your exclusive use and all data, recommendations, proposals, reports and other information provided by us in connection with our services are for your sole use. You agree not to permit access by any third party to this information without our express written permission. We reserve our right to take action to protect proprietary information.

### Payment of Premium

You will provide settlement with cleared funds of all monies due in accordance with the payment date(s) specified in our invoice, debit note or other relevant payment documentation. Failure to meet the payment date may lead to insurers cancelling your contract, particularly where payment is a condition or warranty of a contract. It is imperative that you meet all payment dates. We are under no obligation to pay premium to insurers on your behalf.

### Contractual Liability and your insurance cover

Many commercial or business contracts contain clauses dealing with your liability (including indemnities or hold harmless clauses). Such clauses may entitle your insurers to reduce cover, or in some cases, refuse to indemnify you at all. You should seek legal advice before signing and accepting contracts. You should inform us of any clauses of this nature before you enter into them.

### What information do you maintain in my file and can I examine my file?

We maintain a record of your personal profile, including details of insurance policies that we arrange for you. We may also maintain records of any recommendations or advice given to you. We will retain this TOBA / FSG and any other TOBA / FSG given to you as well as any SoA or PDS that we give or pass on to you for the period required by law.

We are committed to implementing and promoting a privacy policy, which will ensure the privacy and security of your personal information. A copy of our privacy policy is available on request.



If you wish to look at your file, please ask us. We will make arrangements for you to do so.

### How will I pay for the services provided?

For each insurance product the insurer will charge a premium that includes any relevant taxes, charges and levies. We often receive a payment based on a percentage of this premium (excluding relevant taxes, charges and levies) called commission, which is paid to us by the insurers. In some cases we may also charge you a fee(s). These will be shown on the invoice that we send you.

You can choose to pay by any of the payment methods set out in the invoice.

You are required to pay us within the time set out on the invoice.

If there is a refund or reduction of your premium as a result of a cancellation or alteration to a policy, or based on a term of your policy (such as a premium adjustment provision), we will retain any fee we have charged you. We will also retain commission depending on our arrangements with the insurer, or charge you a cancellation fee equal to the reduction in our commission.

When you pay us your premium it will be banked into our trust account. We retain the commission from the premium you pay us and remit the balance to the insurer in accordance with our arrangements with the insurer. We may earn interest on the premium while it is in our trust account or we may invest the premium and earn a return. We will retain any interest or return on investment earned on the premium.

It may, at times, be appropriate (and for your benefit) for us to use other parties such as wholesale brokers, excess and surplus lines brokers, underwriting managers, managing general agents or reinsurance intermediaries.

These parties may also earn and retain commissions for their role in providing products and services for you. If any such parties are subsidiaries of Fenchurch, we will disclose the form of compensation they will earn before insurance is purchased.

You may also choose to use a premium finance company or other service provider in connection with the insurance we place for you or the services we provide. We may receive a commission from any such service provider by reason of your use of their service. When we arrange premium funding for you, you can ask us what commission rates we are paid for that funding arrangement compared to the other arrangements that were available to you.

In the ordinary course of business we may also receive interest on client and insurer monies from the date we receive the funds until we settle to those due to receive them. We confirm that we shall retain that interest rather than pay it to you or the insurer (as the case may be).

We reserve the right to charge you for certain administrative services we undertake on your behalf.

### How are any commissions or other benefits calculated for providing the financial service

Our commission will be calculated based on the following formula:

$$X = Y\% \times P$$

In this formula:

X = our commission

Y% = the percentage commission paid to us by the insurer.

P = the amount you pay for any insurance policy (less any government fees or charges included in that amount).

Rates of commission (Y%) typically vary between 0% and 25%. We do not often pay any commissions, fees or benefits to others who refer you to us or refer us to an insurer. If we do, we will pay commissions to those people out of our commission or fees (not in addition to those amounts).

Our employees that will assist you with your insurance needs will be paid a market salary.

If we give you personal advice, we will inform you of any fees, commission or other payments we, our associates or anyone referring you to us (or us to any insurer) will receive in relation to the policies that are the subject of the advice.

See below for information on the Steadfast association and commission.

### Do you have any relationships or associations with the insurers who issue the insurance policies or any other material relationships?

Fenchurch is a Steadfast Group Limited (Steadfast) Network Broker. As a Steadfast Network Broker we have access to services including model operating and compliance tools, procedures, manuals and training, legal, technical, HR, contractual liability advice and assistance, group insurance arrangements, product comparison and placement support, claims support, group purchasing arrangements

and broker support services. These services are either funded by Steadfast, subsidised by Steadfast or available exclusively to Steadfast Network Brokers for a fee.

Steadfast has arrangements with some insurers and premium funders (Partners) under which the Partners may pay Steadfast commission of between 0.5 – 1.5% for each product arranged by us with those Partners or alternatively a fee to access strategic and technological support and the Steadfast Broker Network. Steadfast is also a shareholder of some Partners.

We may receive a proportion of any commission paid to Steadfast by its Partners at the end of each financial year (or other agreed period).

You can obtain a copy of Steadfast's FSG at [www.steadfast.com.au](http://www.steadfast.com.au)

If we arrange premium funding for you, we may be paid a commission by the premium funder. We may also charge you a fee (or both). The commission that we are paid by the premium funder is usually calculated as a percentage of your insurance premium (including government fees or charges). If you instruct us to arrange or issue a product, this is when we become entitled to the commission.

Our commission rates for premium funding are in the range of 0.5 – 1.5% of funded premium. When we arrange premium funding for you, you can ask us what commission rates we are paid for that funding arrangement compared to the other arrangements that were available to you.

### What arrangements do you have in place to compensate clients for losses?

Fenchurch has professional indemnity (PI) insurance in place.

The PI insurance covers us and our employees for claims made against us and our employees by clients as a result of the conduct of us or our employees in the provision of financial services.

This policy satisfies the requirements for compensation arrangements under section 912B of the Corporations Act.

### Failure to provide information

You undertake and agree that all information provided to us by or on your behalf pursuant to this document is true, complete and accurate in all respects and not misleading and you will promptly inform us if any information provided ceases to be true, accurate and complete, or is otherwise misleading.

Fenchurch is not liable for claims, loss or damages or any failure to provide any services (or failure to provide any services in accordance with any service level agreement) if the claims, loss or damages or failure is caused or contributed to by you, or any third party on your behalf, failing to provide Fenchurch with true, accurate, complete or timely information.

### Limitation of liability

To the extent permitted by law, you agree that no Indemnified Party (as defined under the paragraph titled "Indemnity by Client") will have any liability (whether in contract, tort, statute or otherwise) for any loss suffered by you, your related bodies corporate or any of your respective employees, directors, officers, agents or representatives for or in connection with any services provided by Fenchurch or any of its related bodies corporate to you under this document, except to the extent that loss has resulted primarily from that Indemnified Party's fraud or wilful misconduct or omission.

You agree that recourse for any liability or claim is limited to, and may only be enforced against, Fenchurch and not the personal assets of any directors, officers or employees of Fenchurch. You agree not to (and to ensure that any client or associated party will not) bring any claim against any of Fenchurch's directors, officers or employees personally in connection with this document or any of the services to which it relates. Each director, officer or employee of Fenchurch may rely on this clause as if they were a party to this document.

To the extent permitted by law, if Fenchurch is liable for a breach of a consumer guarantee applied by Australian Consumer Law, our liability will be limited to resupplying the relevant services.

In all other circumstances, the aggregate liability of Fenchurch for all claims under or directly or indirectly arising from or in connection with the services provided under this document is limited to the lesser of AUD \$1,000,000 or the total amount of all fees actually received by Fenchurch from you in connection with the relevant services in the 12 months prior to the date on which the services were first performed that have given rise to the claim or alleged claim.

The amount that you or any other person may recover from Fenchurch in respect of any claim will be reduced by the extent that the loss, liability, cost, charge or expense is:

- For any consequential, special or indirect damages, including loss of profits or opportunities;
- Caused, induced or contributed to by you or any third party; or
- Caused by an Indemnifiable Party's reliance on any information





provided by or on behalf of you.

## Consequential damages

Neither Fenchurch nor any of its related bodies corporate or any of their respective employees, directors, officers or agents will under any circumstances whatsoever be liable for any indirect or consequential loss, including loss or corruption of data, loss of profits, loss of revenue, loss of or interruption of business

(including loss or reduction of goodwill), or exemplary, punitive or special damages or losses, even if Fenchurch is aware of the possibility of such loss or damage, in connection with any breach of any implied or express term of this document or any duty at law or in equity.

This condition expressly extends to include any loss of revenue, loss of opportunity, loss of reputation, loss of profits, loss of anticipated savings, increased costs of doing business or any other indirect or consequential loss.

## Indemnity by Client

You agree to indemnify and keep indemnified (to the maximum extent permitted by law) Fenchurch and each of its related bodies corporate and their respective employees, directors, officers, representatives or agents (**Indemnified Parties**) from and against any and all claims, demands, actions or proceeding brought, made or alleged against any Indemnified Party and any losses, liabilities, damages, amounts paid in settlement, charges, costs and expenses (including reasonable legal fees) (**Liabilities**) arising out of or in connection with the provision of any services by Fenchurch or any of its related bodies corporate or in connection with this document or arising out of or in connection with the performance or non-performance of your obligations under this document, including any breach of this document by, or any negligence on the part of, you, your related bodies corporate or any of your respective employees, directors, officers, agents or representatives.

Your liability to indemnify under this paragraph is reduced proportionally to the extent that any fraud, wilful act or omission of any Indemnified Party caused or contributed to the Liabilities except to the extent that the Liabilities are caused by an Indemnified Party's reliance in any information provided by or on your behalf.

The indemnity in this paragraph shall be in addition to any rights an Indemnified Party may have at common law of otherwise and Fenchurch hold the indemnity set out in this paragraph on trust for each of the Indemnified Parties.

## Electronic Communications

We may communicate with each other, and with other parties with whom we need to communicate in order to provide services to you, by electronic mail, sometimes attaching further electronic data. By engaging in this method of communication we and you accept the inherent risks (including the security risks of interception of or unauthorised access to such communications, the risks of corruption of such communications and the risks of viruses or other harmful devices).

Notwithstanding that we have reasonable virus checking procedures on our system, you will be responsible for virus checking all electronic communications sent to you. You will also be responsible for checking that messages received are complete. In the event of a dispute neither of us will challenge the legal evidential standing of an electronic document and the Fenchurch system shall be deemed the definitive record of electronic communications and documentation.

You should also be aware that Fenchurch's systems security devices may block certain file extensions. Emails attaching such files will not get through to us and no message will be sent to tell you they have been blocked.

## Client Money Disclosures

We do not pay premium to insurers on your behalf until we have received it from you, nor will we pay claims or other monies due to you before they have been received from insurers (or other relevant third parties). However, in the event that we make any payment on your behalf or make any payment to you prior to our being in receipt of relevant funds from either yourself, insurers or other third parties, we shall be entitled, without prejudice to any other remedy available, to recover that amount by way of deducting that sum from any amount due to you, whether on the insurance upon which we have made payment to you or on your behalf, or on any other insurance we handle for you.

We will treat any balances held by us for you in accordance with our practices. This means that client money will be held separately from our own money. Please note that your money may be transferred to

another person or party in another jurisdiction (such as another insurance intermediary) where such transfer is required in order to carry out services for you.

## Financial Services Legislation

As a financial services provider, we may have obligations under various Acts in respect of activities including privacy, data protection, fraud, sanctions, anti-money laundering, anti-tax evasion and other similar legislation. This may require us to ask you to provide information to ensure compliance with these Acts. We will only use this information in respect of the services provided under this document. We may not be able to provide you with services if you are unable or unwilling to provide us with the required information.

## Conflicts of Interest

Circumstances may arise where we may find we have a conflict of interest or otherwise have a material interest in or related to a matter in respect of which we are acting. For example, we may be asked to act on behalf of an insurer in the appointment of a loss adjuster, or, we may find that the interests of two of the clients for whom we act conflict.

We have conflict management procedures and we seek to avoid conflicts of interest but where a conflict is unavoidable we will explain the position fully and manage the situation in such a way as to avoid prejudice to any party.

The insurance market is complex and there could be other relationships not described here which might create conflicts of interest. Whatever the circumstances, we will act in your best interests; and, if a conflict arises for which there is no practicable solution, we will withdraw unless you wish us to continue to act for you and provide us with your written consent to that effect.

## What should I do if I have a complaint?

Contact us and tell us about your complaint. We will do our best to resolve it quickly.

If your complaint is not satisfactorily resolved within 14 days, please contact a Fenchurch Director or put your complaint in writing and send it to Fenchurch at the address noted at the beginning of this document. We will try and resolve your complaint quickly and fairly. Fenchurch is a member of the Australian Financial Complaints Authority (AFCA). If your complaint cannot be resolved to your satisfaction by us, you have the right to refer the matter to AFCA. AFCA provides fair and independent financial services complaint resolution that is free to customers. AFCA can be contacted at:

Mailing address - Australian Financial Complaints Authority, GPO Box 3, Melbourne, VIC 3001

Ph - 1800 931 678

Email - [info@afca.org.au](mailto:info@afca.org.au)

Website - [www.afca.org.au](http://www.afca.org.au)

## Termination

Our services may be terminated either by us or you upon the giving of one month's notice in writing to the other or as otherwise agreed.

## Amendments

You agree that we have a right to amend this document by sending you either a notice of amendment in writing or a revised TOBA / FSG. Any amendment will apply in respect of any service transaction entered into by us after notice of the amendment is given and may take effect either immediately or at such later date as the notice may specify. We will however give you at least ten business days' notice of any change.

## Entire Agreement

This document and any amendment constitute the entire terms on which we will provide general insurance business with you and no alternative will have effect unless issued or agreed by us in writing.

## Governing Law

This Agreement, which sets out the terms of our relationship with you, will be governed by and construed in accordance with Western Australian law and any dispute arising under it shall be subject to the exclusive jurisdiction of the Western Australian courts.

## Any questions?

If you have any further questions about the financial services Fenchurch provides, please contact us.

Please retain this document for your reference and any future dealings with Fenchurch.