

June 2016

MA RISK SOLUTIONS NZ LIMITED

Terms of Business Agreement

Introduction

You have appointed MA Risk Solutions NZ Limited as your insurance broker. We will provide our services in accordance with the terms of this Terms of Business Agreement (TOBA). It also identifies your own responsibilities both to us and to insurers and it sets out our regulatory and statutory obligations.

Please contact us immediately if there is anything in these terms of business that you disagree with or do not understand.

References to:

- 'insurance' and 'insurers' includes reinsurance and reinsurers.
- 'your' means your client's if you are an intermediary and the context requires.
- 'we', 'us' and 'our' are references to Ma Risk Solutions NZ Limited.

These terms can only be varied by a specific agreement in writing between you and us. If you instruct us to proceed with any insurance placement or to undertake any other insurance-related service we will be doing so on these terms alone and they will have contractual effect between you and us.

1. Broker Information

1.1 MA Risk Solutions NZ Limited is registered in New Zealand, and has its registered office at 57 Symonds Street, Auckland. MA Risk Solutions NZ Limited is a registered member of The Insurance Brokers Association of New Zealand Inc (IBANZ) and is registered as a financial service provider in compliance with the Financial Service Providers Act 2008. Our registration number is **FSP #34182**

1.2 MA Risk Solutions NZ Limited's holding company and has two trading subsidiaries. Honan NZ Ltd. and MA Risk Solutions NZ Ltd.

1.3 You can contact MA Risk Solutions NZ Limited by phone on +64 9 307 3374 and find out more about us at www.marisksolutions.co.nz or www.cover.co.nz

2. Our service to you

2.1 As an insurance intermediary we are your agent. We make every attempt not to have a situation where there may be a conflict of interest however we may also act for and owe duties of care to others in which case we will manage any conflict of interest fairly.

2.2 We subscribe to the IBANZ Code of Practice.

2.3 We will offer a range of services to assist you to protect your Assets and Liabilities and business interests; these include:

- Review your risk exposure and insurance needs
- Advice about insurance products
- Arrange, amend and renew insurance contracts (policies) on your behalf
- Arrange premium funding if required
- Assist with insurance claims

We may provide additional services upon request.

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2.4 We will endeavour to establish a thorough understanding of your requirements before negotiations with insurers commence. We will then seek quotations for insurance which should in our opinion meet your requirements.

2.5 We will explain the main features of products and services we are offering to you including costs, details of cover, exclusions, conditions and other obligations.

2.6 We will also provide you with full information about any risk quoted, before it is bound. We will place your insurance only when you instruct us to, and we will advise you if we are unable to complete the placement.

2.7 We will negotiate with insurers on your behalf and will keep you informed of any significant developments. When we give you a cost for placing insurance it must be taken as an indication of the premium required by insurers to complete your order and not as a guaranteed premium. In case it is necessary to deviate from a premium indication during the course of completing a placement you will receive a prompt notification by an explanation and a request for confirmation of your instructions.

2.8 If your insurances were arranged by another party prior to our appointment:

- We will not be responsible for any payments made in relation to those insurances prior to our appointment (including payment of premiums and claims)
- We will review the policies within 60 days of our appointment, or upon receipt of the document, whichever is the later, and discuss with you any relevant issues we identify with the policies; and
- We will not be responsible to the adequacy or apportionment of such

insurances for your needs prior to our review.

2.9 You can provide us with instructions in persons, by telephone, email or in writing using our contact details above.

3. Insurer security

3.1 We check the financial strength ratings provided by specialist agencies for insurers in order to ensure that to the best of our knowledge any placement arranged on your behalf is with insurers that have at the time of concluding the placement a financial strength rating that indicates ability to meet their obligations under the policy and contracts.

3.2 Based on the information provided by ratings agencies (which will be provided to you on request), or if the security does not meet the above standard we may ask for your prior approval to use a particular insurer. We cannot and do not assess or guarantee the solvency of any insurer.

3.3 We do not accept any liability for any unpaid amounts in respect of claims or return premiums due to you from a participating insurer who becomes insolvent or delays settlement.

4. Your duty of disclosure / utmost good faith

4.1 For us to be able to arrange insurance to meet your requirements, you and any agent acting on your behalf must at all times act with utmost good faith toward us and insurers. You are responsible on an ongoing basis for providing us with all material facts relating to the insurance contracts we arrange on your behalf. You must provide accurate, complete and timely information to us. Information is material if it would influence the judgment of a prudent insurer in establishing the premium or determining whether to underwrite the risk.

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4.2 Failure to provide full and accurate information may mean that your cover is reduced, cancelled or if the non disclosure is fraudulent the insurer may be able to avoid (cancel) the contract from the beginning.

4.3 You must advise us of any change in your business that might affect your insurances; this may include acquisitions, disposals, mergers, sale or principal assets, or material changes to business operations.

4.4 We are not responsible for checking the accuracy or completeness of any information you provide to us or any insurer. We will not be responsible for any consequence resulting from failure by you to disclose all material facts to an insurer (including, without limitation, the possibility of your insurance policies being rendered void or limited).

4.5 If there is any doubt as to whether information is material, it must be disclosed to insurers.

4.6 If you want to vary any business insurance e.g. by increasing the sum insured or adding other property, you must provide us with details of the changes you require and any other information you need to disclose to insurers. Any adjustment of premium as a result will be advised to you.

4.7 Take care to complete claims and proposal forms or questionnaires required by insurers fully and accurately. The provision of incorrect or incomplete information may result in the denial or your claim or the avoidance of your insurance contract.

4.8 After receiving your insurance documents from us you should check them and advise us promptly if anything that does not meet your requirements. Any errors should be notified to us immediately. You should familiarize yourself with all the terms of an insurance contract that you

purchase. In particular, you must treat any warranties seriously and comply strictly with them. Failure to do so will entitle the insurer to terminate your insurance contract.

4.9 A subjectivity in your insurance contract may lead to the contract being invalidated or coverage prejudiced if the subjectivity remains outstanding. We will look to you to promptly satisfy the subjectivity enabling it to be removed.

4.10 You must pay premiums when due as set out in our invoices unless premium funding has been arranged. We will give information about premium payment options when we provide quotations'. Invoices detail the premium, statutory charges (government levies) GST and fees (if applicable) for all new and renewal and midterm variation.

4.11 If you do not pay the premium on time we are required to advise the insurer. In that event the insurer may have the right to cancel the insurance and you will not be insured. The insurer may also charge a short term premium for the time they have been on risk.

4.12 We have no obligation to fund any premium, taxes or fees (if applicable) on your behalf and we have no responsibility for any loss you may suffer as a result of insurers cancelling the insurance or taking any prejudicial steps as a result of late payment.

5. Documentation

5.1 Our company policy is that policy documentation will be issued in a timely manner. We will promptly send you evidence of cover in the form of an insurance policy, a certificate of insurance, a copy of our placing slip or an insurer of MA Risk Solutions NZ Limited produced insurance document.

5.2 You should examine any insurance documents very carefully to ensure that they

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meet with your requirements. We will do our best to ensure that policies and endorsements for insurance we place on your behalf are issued by your insurers promptly and correctly.

5.3 If the documents do not meet with your requirements, if you feel they are incorrect or if you are dissatisfied with the insurance security, please advise us immediately. Otherwise, we will assume that the documentation is in order.

5.4 In any event it is important for you to keep your insurance documents safe. We retain documents for business placed on your behalf in electronic or paper format in line with market practice.

6. Premium Payment

6.1 You must pay premiums when due as set out in our invoices unless premium funding has been arranged. We normally accept payments by cheque or online banking.

6.2 We will give information about premium payment options when we provide quotations'. Invoices detail the premium, statutory charges (government levies) and GST) and fees (if applicable) for all new and renewal and midterm variation.

7. Non-payment of premium

7.1 Should you or your agents fail to pay the premium or any installment of it in full with cleared funds in the invoiced currency by the due date, the insurance contract may be cancelled by us or by insurers in accordance with any cancellation clause in the policy.

7.2 Where insurers have specified a premium payment warranty, they must receive the premium due by that date. If you do not think you will be able to comply with the premium warranty please contact us immediately.

7.3 Where applicable and where the relevant details have been passed to us, any other party with an interest in the insurance contact will be advised of any non-payment of premium and given the opportunity to pay the outstanding amounts.

8. Client money

8.1 We hold money received from you, or to pay to you, as 'client money' as your agent in a designated trust account separate from our own money.

8.2 We are not permitted to use client monies for any purpose other than for the purposes of our clients. We may not use client money to pay ourselves commission before we receive the premium from our client. We are entitled to retain the interest earned on client money held by us unless we agree otherwise with our client.

8.3 Your money will be deposited in a designated bank account. We may transfer your money to other banks or intermediaries, including those outside New Zealand, where the legal and regulatory regime will be different. In the event of their failure this money may be treated in a different manner.

8.4 Where you do not wish your money to be passed to a particular bank, intermediary or jurisdiction you should tell us.

9. Currency

9.1 When conducting your business we may have to convert funds to another currency in order to settle amounts due to insurers. If a repayment of funds is due to you or is requested by you after conversion then any such repayment will be made in the currency the funds have been converted to.

9.2 If you pay a premium in a different currency or to a bank account in a different currency from

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that requested, we may at our discretion either return the funds to you or convert the money to the required currency. In the latter case the converted funds will be applied against the amount due with any shortfall arising from exchange differences remaining your liability.

10. Your liability for tax

10.1 Unless there is a legal requirement for us to do so, it is your obligation to make declaration in respect of any to account for tax on all insurance transactions.

10. Remuneration and Other Income

11.1 The two principal methods of remuneration for insurance broking services are by way of brokerage or an agreed fee basis.

11.2 We are normally remunerated in accordance with normal market practice by brokerage earned on any insurance we arrange for you. As this remuneration is earned on placement, we will be entitled to retain it (or to receive it where unpaid) even if policies placed by us are cancelled. We will not impose any fees or additional charges on you without prior notification or discussion.

11.3 We may earn investment income from handling your premiums.

11.4 If we arrange premium funding for you we may be paid a commission by the premium funder. 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).

12. Claims

12.1 Details of how to notify claims can be found in your policy documentation.

12.2 You must notify us of all details of any incidents that could give rise to a claim without delay and provide us with all material information in order for us to assist you to comply with the terms of your insurance contract.

12.3 We will promptly inform you of the acceptance or denial of your claim, together with any explanation of that insurer's reasons.

12.3 We will provide a claims handling service for you as long as you remain a client of MA Risk Solutions NZ Limited. However if you cease to be our client but request us to handle any claim on your behalf we reserve the right to charge for our services.

13. Complaints

13.1 If you are not fully satisfied with our services please contact us in writing. Our complaints procedure is available upon request. All complaints should be addressed to the Head of the Compliance, MA Risk Solutions NZ Limited, 2 Commerce Street, Auckland.

13.2 Your complaint will be acknowledged in writing and we will endeavour to resolve your problem within 20 working days. If we are unable to settle your complaint with us, you may be entitled to refer to Dispute Resolution Service.

13.3 If the complaint still remains unresolved then you can undertake dispute resolution proceedings directly with ISO

Contact details are:

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Insurance & Savings Ombudsman Inc
P O Box 10845
Wellington 6143
Free phone: 0800 888202
Email: info@iombudsman.org.nz

14. Confidentiality

14.1 Information provided by you to MA Risk Solutions NZ Limited will remain confidential and will only be disclosed by us in the normal course of negotiating, maintaining or renewing your insurance policies, unless you have consented otherwise.

14.2 We may disclose the fact that you are our client and the nature of the project but no other details. Disclosure may also be made to our regulator, and to our agents or other service providers, or where we are legally obliged to disclose the information. If you wish we shall be pleased to enter into a specific confidentiality agreement with you.

15. Data protection

15.1 We undertake to comply with the Privacy Act in all our dealings with your personal data.

16. E-mails

16.1 As part of our day-to-day communications with you we may utilize e-mail and will take it you find this acceptable, unless you advise us to the contrary.

16.2 By communicating with us via e-mail you cannot later contend that this method of communication was invalid or unenforceable on that basis alone. You will also be taken to appreciate and accept its inherent risks and that communication in this form is writing for the purpose of any law or regulation when writing is required.

16.3 In order that there is certainty about the effect of our exchanges with you by e-mail, MA Risk Solutions NZ Limited has an e-mail protocol. This is available on our website at www.mariskolutions.co.nz and will govern all our electronic exchanges with you and in particular when you will have entered into a binding contract.

17. Termination of our services

17.1 Whilst our wish is to retain the business and goodwill of our clients, you may terminate our services at any time by giving us notice in writing. However we will not terminate your contract of insurance without written instruction from a person(s) who is authorized to represent each of the parties who are named as insured's in the contract of insurance or the approval of any interested parties noted on the contract.

17.2 Similarly, we may also terminate the services that we provide to you by giving you notice in writing

17.3 We cannot cancel a policy without the insurers approval and some insurance contracts contain a non cancellation clause or cancellation penalties which for the avoidance of doubt you will be responsible for paying.

17.4 Upon such cancellation we will cease providing you service and:

- Withdraw from any negotiations in progress including without limitation any claim or renewals of policies
- Return any premiums we have received from you but not yet disbursed; and
- Upon request deliver to you copies of relevant correspondence we have had with your insurer in respect of any current claim

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If a contract of insurance is canceled before expiry of the period of insurance we may refund the net premium we receive from your insurer(s). We will not refund our fees or commission earned when the policy was first arranged.

18. Marketing Database

18.1 You consent to being entered into our marketing data base and for the purposes of the Unsolicited Electronic Messages Act 2007 you expressly consent to receiving email communications from us with regard to the our business or the insurance industry. You may revoke such consent at any time and we will remove you from our marketing data base.

19 Language

19.1 All evidence of cover and other documentation provided to you, and any discussion with you, will be in English. Please ensure that any documentation and instructions you provide to us are always in English.

20. Governing law

These terms of business, any associated letter and our business relationship with you are governed by the laws of New Zealand and subject to the exclusive jurisdiction of the courts of New Zealand.

21. Your acceptance of these terms

21.1 We will assume that you have given us your consent to working with us on the above basis if, having received these terms of business, you continue to do business with us.

21.2 We accept no liability for instructions received until we acknowledge receipt and acceptance of the instructions to you in writing.

21.3 No cover or action shall be deemed to be taken or given until confirmed by us in writing.

21.4 We shall be entitled to rely on all written instructions without enquiry including email instructions.

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Sections applicable in special circumstances

➤ *For broker clients*

Our duties are solely to you as our client, though you in turn will owe duties of care either to the ultimate policyholder or to another intermediate party. In all cases you must ensure that you have full authority to instruct us. It is your obligation to ensure that your client is aware of all the terms of any insurance policy obtained by us on your instructions. It is also your obligation to ensure that you hold and comply with all necessary licences.

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