

dayinsure.com limited Terms of Business

TERMS OF BUSINESS AGREEMENT (TOBA/THE AGREEMENT)

This agreement relates to single event short period insurance arranged through our website(s) and any other related products that we offer or facilitate and regulates the terms of business between us and you. Your use of our Web Site will be subject to these trading terms. If you do not wish to adhere to the Trading Terms, you should not use our site.

1. INTERPRETATIONS AND DEFINITIONS

Where expressions are not specifically defined and are capable of having a special meaning according to the usage or custom of the relevant business, such expressions are to be interpreted accordingly. References to a party shall mean either party to this agreement as the context dictates unless otherwise specified. The singular includes the plural and vice-versa and any words importing gender include the other gender. The company is a general insurance broker and acts on behalf of various Insurers. Any business placed by the agent via the company with the insurer is placed following the express authority of the Insurer for the company to accept business on the Insurers behalf from the agent always subject to the terms of this agreement.

- a. **"The Company", "We", "us", "our"** are all terms referring to dayinsure.com limited who are authorised and regulated by the Financial Services Authority (FSA) under reference number 304010 and whose registered office is 3 The Old Shippon, Holly House Estate, Middlewich Road, Cranage, Cheshire CW10 9LT.
- b. **"You", "your", "agent"**, means the agent, intermediary holding the agency who has applied to us and been accepted as an intermediary in the transaction of insurance policies via the Web Site on behalf of your clients.
- c. **"The Web Site"** means URL www.dayinsure.com/broker and any other site in addition to this through which we transact insurance or other business with other brokers.
- d. **"Client", "Policyholder"** means a person or persons or a legal entity who or which is a policy holder or a prospective policyholder.
- e. **"Commission"** means the commission payable to the agent by the company in accordance with the terms of this agreement.
- f. **"Commencement date"** means the date that we accept the agent as an intermediary.
- g. **"Enforcement Action"** means any formal action begun by the FSA which involves the issue by the FSA of a warning notice, decision notice or final notice under FSMA.
- h. **"FSA"** means the Financial Services Authority.
- i. **"FSA Rules"** means all rules made pursuant to the FSA including without limitation the rules on insurance selling and administration.
- j. **"FSMA"** means the Financial Services and Markets Act 2000.
- k. **"Insurer"** means the risk carrier or their agent on whose behalf the company is acting or with whom the risk is placed.
- l. **"IPT"** means Insurance Premium Tax at the prevailing rate.

- m. **“General Insurance Business”** means insurance business as described within the FSA Handbook Glossary.
- n. **“Related Products”** means any products sold as part of a package of products sold at the same time and as part of the same transaction as the purchase of short term insurance cover.

2. APPLICATION OF THE AGREEMENT

- a. These trading terms allow you to access the website via the agent login using a unique password after registering and being approved as an agent for the purpose of selling the insurance and related products contained within the website to your clients. The rates for the short term insurance and other products are fixed by us at our sole discretion and you are not entitled, under any circumstances, to alter the value of those items. You are entitled to add a value (your commission) onto the fixed value of the products purchased. That value is within maximum parameters detailed on the website and can be selected by you as either a percentage of the sale or as a fixed amount on top of the sale value. In both instances the IPT is added as a value of either the percentage or fixed price commission. You are entirely responsible for any taxes, levies or otherwise that are due and payable on your commission on the sale save and except for IPT which we will collect and pass onto the Insurer.
- b. You will be able to access the broker support area of the website at any time using the secure login/password in order to view all previous transactions and print out a list detailing such transactions. You will not be able to amend any information and the screens are for read only purposes.
- c. In order to make a booking on behalf of a client you will be required to provide information about the client as is requested during the quote and buy process. Once the product has been purchased you will not be able to amend any of the information or scope of cover or dates of cover unless at our sole discretion we provide for such actions to be undertaken within the website process. There is no requirement for a 14 day cooling off period and we have a policy that no refunds will be issued under any circumstances. In the event of you or a client cancelling a policy no refund of premium will be payable.
- d. This agreement shall be governed by and interpreted in all respects in accordance with the laws of England and Wales and both parties agree to submit to the jurisdiction of the English courts unless specifically agreed in writing by both parties to accept an alternative jurisdiction.
- e. If any provision of this Agreement shall be found by any court or administrative body of competent jurisdiction to be invalid or unenforceable the invalidity or unenforceability of such provision shall not affect the other provisions of this agreement which will remain in full force and effect. In such event the parties shall negotiate in good faith with a view to replacing the invalid or unenforceable provision with the legal and enforceable provisions which achieves to the greatest extent possible the economic legal and commercial objectives of the invalid or unenforceable provision.
- f. You will not be liable for any share of the liabilities and losses of the Company except to the extent that such liability and losses have arisen by virtue of a breach by you of the provisions of this Agreement and Codes of Practice and conduct.

- g. This Agreement is personal to the parties and the benefits and obligations may not be assigned or delegated by any party without our written consent.
- h. References to statutory provisions shall include any modification, re-enactment or consolidation.
- i. No failure by either party in enforcing any of its rights shall prejudice its right to do so in the future.
- j. In this Agreement, "Force Majeure" shall be in any cause preventing either party from performing any or all of its obligations which arises from or is attributable to acts, events, omissions or accidents beyond the reasonable control of the party so prevented. If either party is prevented or delayed in the performance of any its obligations under this Agreement by Force Majeure, that party shall forthwith serve notice in writing on the other party specifying the nature and extent of the circumstances giving rise to Force Majeure, and shall, subject to the service of such notice, have no liability in respect of the performance of such of its obligations as are prevented by the Force Majeure events, for the continuance of such events, and for such time after they cease as is necessary for that party, using all reasonable endeavours to recommence its affected operations in order for it to perform its obligations. If either party is prevented from the performance of its obligations for a continuous period in excess of one month, the other party may terminate this Agreement forthwith on the service of written notice upon the party so prevented, in which case neither party shall have any liability together except the rights and liabilities which have accrued prior to such termination shall continue to subsist.

3. GENERAL TERMS

- a. The parties hereto may, by mutual consent, agree to vary the terms and conditions of this Agreement at any time in writing. In the event of mutual consent not being attained, we reserve the right to give 30 days' written notice to you of variation to the conditions of this Agreement excepting always variations of conditions that are specifically provided for in this agreement.
- b. The appointment and continuance of the agency is strictly conditional upon the Agent being authorised by the FSA for insurance selling and administration of General Insurance Business.
- c. The parties acknowledge that the clients whose business is referred to us by the you are clients of the Agent. We undertake not directly and knowingly to solicit your clients away from you during the currency of this agreement and during the period of 2 years following termination of this Agreement provided always that if the client becomes a direct customer of any of our websites other than www.dayinsure.com/broker then they shall be treated as joint clients of both us and you for the purposes of communication and marketing and selling products to that client.
- d. The ownership of any clients introduced by you to us will remain with you in relation to all aspects of the ownership and use of the data as defined in clause 3(c) above. We will only communicate with the clients in any manner we deem appropriate for the purposes of administering the product sold, to the client, policy term or dealing with claims or on instruction from the Insurer. We will seek your permission to communicate with the clients for any other purpose subject to provision provided for in clause 3(c) of this agreement provided always that if the client becomes a direct customer of any of our websites other than www.dayinsure.com/broker then they shall be treated as joint clients of both us and you for the purposes of communication and marketing and selling products to that client.

- e. We hereby agree that all insurance business transacted in performance of this Agreement arises out of an agent/client relationship and acknowledges that the policyholders' goodwill rests with the Agent.
- f. Any complaints made or intimated by any party to the Insurance contract must be notified to us within 48 hours of receipt of such complaint. We and the Insurers have established complaints procedures which are clearly presented in the relevant policy documentation. You agree to co-operate fully with us and/or the Insurer to facilitate the fair and efficient resolution of complaints.
- g. You shall immediately advise us in writing should the FSA initiate an investigation or any enforcement action is taken in respect of you, your employees, agents, Appointed Representatives, representatives or sub-contractors.
- h. You shall immediately advise us in writing if a Terms of Business Agreement you have in place with an insurer is terminated stipulating the reason for the termination.
- i. You shall at all times maintain Professional Indemnity insurance in accordance with the FSA requirements.

4. INTELLECTUAL PROPERTY

- a. You shall not use our or the Insurer's name or logo or other trademark or similar device without the express permission of us or the Insurer, nor shall any intellectual property rights in the same be transferred to you as a result of this agreement. All Intellectual property rights in Policy or other documentation or marketing materials relating to Policies or otherwise shall remain with and vest with us and/or the Insurer.
- b. We shall not use your name or logo or other trademark or similar device without your express permission on any white labelled version of our web site, nor shall any intellectual property rights in the same be transferred to us as a result of this agreement.
- c. The website and all software used to generate it are owned by us. This includes but is not limited to any trademarks used in connection with the website. The only rights or interests that you are granted are those set out in these terms. The images, names and logos on the website remain the sole property of the company and nothing shall be deemed to confer on you or any person, any licence, or right on the part of you or any third party with respect to any such image, name or logo.
- d. Where the copyright in the material contained in this website belongs to us we grant no rights to copy or use any of the material, images, processes or any other element of the website. In the event you wish to copy any part of the site or any material contained therein then you should contact us for express written permission.
- e. We reserve the right to block access to the Website of any user at any time, either temporarily or permanently, if we deem in our absolute discretion that it is reasonable to do so.
- f. The products and technology or processes described in this Website may be subject to other intellectual property rights reserved by us or by other third parties (and no licence is granted in respect of those intellectual property rights).
- g. Images on this Website are protected by copyright and may not be reproduced or appropriated in any manner without the written permission of their respective owner(s).

5. USE OF THE WEB SITE

- a. We have agreed to appoint you as an agent and to permit broker access to the Web Site by those Authorised Persons notified by you to us. We will provide an initial password. You are responsible for controlling the use of passwords and shall ensure that proper procedures exist in your organisation to ensure that only Authorised Users have access to the web site on your account.
- b. You shall ensure that all passwords are maintained securely and confidentially. You shall be responsible for and shall immediately take steps to instruct us to terminate access by persons who should no longer have access to The Web Site on Your account.
- c. You shall inform us immediately if you become aware of any unauthorised use or disclosure or loss or theft of any of the passwords.
- d. The information you supply on behalf of your clients or by your direct customers themselves will be kept confidential to us and the Insurers with whom we deal, save or unless we are required by law to make any disclosure. We have taken care to protect any information that you provide to us. We have used an encryption device to keep your clients personal information and credit or debit card account details as secure as possible. Your agent number and password is unique and this helps us to protect your information. You will need your agent number and password to access your information on the website. You should therefore not disclose either your Agent number or password to anyone. We will accept no responsibility or liability if a third party obtains and uses any agency number or password.
- e. We may suspend the operation of or make changes to The Web Site or disable your broker access to The Web Site at any time without notice for any reason.
- f. You and us further agree that insurance policies may be validly bound electronically through the use of The Web Site and waive any rights to bring an action, claim or proceedings declaring or to raising as a defence to an action, claim or proceedings, the invalidity of an insurance policy on the grounds that the insurance policy was formed electronically.
- g. It is your responsibility to ensure that you have the appropriate hardware, software and virus protection to enable you to use The Web Site safely and securely. You shall make your own arrangements for internet connection, and are responsible for any telephone costs and/or charges which may become due in relation to accessing and using The Web Site.
- h. You shall not access or attempt to access unauthorised areas of The Web Site or probe, scan or test the vulnerability of The Web Site or use any devices, software or routine to interfere with the proper working of The Web Site
- i. You shall not reverse engineer, decompile, copy, distribute, disseminate, sublicense, modify, translate or adapt any software or other code or scripts relating to The Web Site or knowingly post or transmit any information that contains a virus, worm, Trojan horse or other harmful or disruptive components to The Web Site.
- j. Certain (hypertext) links may lead you to Websites that are not under our control. When you activate any of these links, you will leave our Website and we have no control over and will accept no responsibility or liability in respect of the material on any such other Website.

6. COMMISSION

- a. Commission on each specific policy is payable at the rates notified by you to us in accordance with paragraph 2(a) of this agreement.

- b. The Company may alter its commission terms by giving 30 days notice in writing to you.
- c. Commission shall only be payable if:
 - i. The gross premium has been paid to and retained by us.
 - ii. This Agreement has not terminated.
 - iii. The policy has not been cancelled and the premium refunded to the customer.
- d. If we allow any refund of premium either at our sole discretion or on instruction from the insurer you shall either repay us the commission due thereon in the event that you have already been paid the commission or we will, at our discretion, deduct the commission repayment due to us on that policy from the next monthly statement of commission due to you. We will advise you of the action we will take to recover the relevant commission and the reasons for the policy refund. In the event the commission has not yet been paid we will remove any reference to the commission due on that policy from the next monthly statement of commission due to you as the policy has been refunded and there is no commission due to you in relation to that transaction.
- e. We reserve the right to off-set and deduct from any commission due to you from time to time any monies due to us from you on any account whatsoever.
- f. Unless we tell you otherwise there is no option to refund insurance premium payable in any circumstances due to the short term nature of the policies sold.

7. **TERMINATION OF THIS AGREEMENT BY YOU OR US**

- a. at any time by mutual agreement; or
- b. on the expiry of 60 days written notice delivered by registered or recorded delivery post; or
- c. Without notice if the authorisation by FSA of you or us to undertake any general insurance regulated activities is terminated following any proposed or actual disciplinary proceedings for any failure to comply with the FSA Rules, or for any failure to comply with the FSA Rules in respect of any regulated activities undertaken by you in pursuance of the duties delegated to you under this Agreement; or,
- d. If you or we fail to remedy any other breach of this Agreement, or any unsatisfactory conduct, within a reasonable period of you or us notifying the other party in writing.
- e. Without notice if there are reasonable grounds to suspect fraud, or in the event of the bankruptcy, insolvency or liquidation of you or us or on the approval by creditors of you or us of a voluntary arrangement or on the making of an Administration order in relation to you or us or
- f. In the event of termination nothing in this agreement shall affect the right of action of us as detailed in this agreement or its rights to recover premium from you, your clients or any of them, or to apply any return premiums received from Insurers against any moneys which may be owed by you or your client.
- g. All rights to commission cease from the date of termination other than in respect of completed business introduced by the Agent up to and including the date of termination.
- h. All books, papers, records, software and other property of the Company must be surrendered immediately.

8. COMMUNICATION

- a. The prime means of communication in respect of business transacted via our website is email unless specifically provided for in this agreement and you and we accept that electronic communication is acceptable and that such communications constitute written confirmation including electronic generation and delivery of insurance policies and documentation.

9. INDEMNITY

- a. You shall indemnify us and/or our Insurers from and against any proven, foreseeable and fully mitigated loss, cost, liability, claim or damage which we, and/or our Insurers, might suffer or incur as a result of a default by you of any of your obligations expressed or implied arising under or in connection with this Agreement and for any acts carried out by you outside the scope of the authorities given under this Agreement.

10. RECORDS, DOCUMENTS AND QUOTATIONS

- a. You shall allow us and/or the FSA to access your premises and any representatives or sub-contractors used pursuant to this agreement to inspect review and or copy without limitation all records documents files audio and video tapes computer databases information stored electronically and any other material or information that we or the FSA may require which relate to your obligations under this agreement and or the regulatory regime for General Insurance Business.
- b. You shall at all times comply with the FSA requirements for the creation, maintenance and retention of business records.
- c. It is the duty of you and your client to disclose all circumstances material to the insurance. Failure to do so may invalidate the insurance or enable the Insurers to decline a claim. The obligation to disclose material facts exists both at the time when the insurance contract commences and throughout the duration of the contract. If there is failure to disclose any material information then the insurance may not cover the Policyholder properly or may not operate at all. If you are unsure about any matter you should contact us for assistance. You are advised to keep copies of all documents or correspondence that you send to us for your own protection. If you provide information about other people, then it is your responsibility to check the accuracy of that information and that other people have given you permission to give their information to us. Any matters or information which might influence the acceptability or otherwise of the proposal for insurance or the continuance of it must be disclosed at the earliest opportunity.
- d. A sample of the policy is available for you or your client, any visitor to the site to download from the site. Please read it carefully as it is that document along with the policy schedule and any certificate of insurance or written agreement that is the basis of the cover purchased. If there is any doubt over any of the terms or conditions, please seek our advice promptly.
- e. All transactions are completed on-line and you or your clients should not proceed to the payment screen and then authorise payment if you do not wish us to collect money from you or your client. Quotations are valid and guaranteed only for period of the internet session between your, your client's point of access and ours.
- f. We reserve the right to retain Certificates of Insurance and any other documentation until any payments due under the policy have been cleared through our bank account.

- g. We reserve the right, at any time and without prior notice to remove or cease to supply any product or service contained on our Website. In the event that such removal takes place we shall not be liable to you in any way whatsoever for such removal. Applications for Products and Services: Prices and details of products and services (and any offers) posted online are subject to change without notice. All products and services are subject to availability and we give no guarantee in this regard. The provision of details of products and services on this Website are not, and should not be construed as, an offer to sell or buy such products or services by the relevant company. The company advertising the products and services concerned may accept or reject your offer at its sole discretion.
- h. We give no guarantees as to the availability of our on-line products at any given time or periods of time and shall not be liable in any way whatsoever to you or your clients for such unavailability of our products to be purchased at any given time.
- i. We reserve the right to change the terms and conditions of use of the website at any time by posting changes on the Website. It is your responsibility to review the Website terms and conditions regularly to ensure you are aware of our latest terms and conditions of use. Your use of this Website after a change has been posted will be deemed to signify your acceptance of the modified terms and conditions. We recommend that you print off and retain for your records a copy of these terms and conditions of use from time to time and a copy of any terms and conditions of use relating to any product or service which you apply for on-line, together with any related application and/or proposal form duly completed and submitted to us (and received by us). Any amendment to any terms and conditions of use must be agreed in writing by us.
- j. You are advised that the Insurer exchanges information with other Insurers through various databases to help them check information provided and also to prevent fraudulent claims and you consent to your clients details being used for any such purposes.
- k. The MID is a database of policies and vehicles operated by the Motor Insurers Information Centre on behalf of the Motor Insurers Bureau. We will use our best endeavours to submit details of your clients policy, drivers and vehicles to the MID within 48 hours of the cover date.
- l. If the Policyholder has occasion to claim on the policy the Insurer must be notified promptly. Notification to us does not constitute notification to the Insurer.
- m. We reserve the right to make charges for the arranging of any policy of insurance. These charges will always be clearly identified and shown separately. We make a non-refundable charge (amount specified on the relevant documentation) for the issue of any policy. Administration fees will be identified separately. We also reserve the right to make a further charge to your policyholder should any payment default (cheques, credit cards, direct debit or any other method of payment). Any charges made on defaulting payments will be notified to your Policyholder. In the event of any cancellation or voidance of a policy, irrespective of any period of unexpired cover, there will be no return of premium allowed unless we are specifically instructed so to do by the Insurer at their sole discretion. There is no cooling off period allowed under contracts of less than 1 month duration.

11. PREMIUMS AND ACCOUNTING

- a. We act as agent of the Insurer for the purposes of receiving and holding premiums from Insured's and receive premium risk transfer so that once premiums are paid to us they are deemed to have been paid to the Insurers.

- b. Where the Agent is not authorised to act as agent of the Insurer under the terms of this Agreement the Agent agrees to comply in all respects with the regulatory requirements of the FSA including but not limited to those for client money.
- c. Any commission due to you as a result of business written using the our premium collection arrangements on our website from either you on behalf of your clients or from direct clients will be accounted for to you within 28 days of the end of each calendar month in respect of the latest completed month exclusive of any IPT payable on the premiums collected.
- d. We will make any commission payments due to you direct into your bank account by BACS or by such other means as we may agree between us in writing from time to time.