



KNIGHTCORP

Terms of Engagement

Knightcorp Holdings Pty Ltd T/A Knightcorp Insurance Brokers
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1. Introduction

Knightcorp Holdings Pty Ltd T/As Knightcorp Insurance Brokers (**Knightcorp, us or we**) are delighted to confirm our engagement as insurance broker to you and your Related Bodies Corporate to whom we agree in writing to provide Services (as defined below) (together, **you or Client**). Please take the time to read your broker agreement (if applicable), our Terms of Engagement and our [Financial Services Guide \(FSG\)](#) (together, the **Agreement**) carefully as they explain the terms under which we provide our Services to you and how we and our representatives may be remunerated.

By engaging our Services and/or continuing to instruct us, you acknowledge that you have understood and accepted this Agreement.

Knightcorp insurance brokers subscribe to and are bound by the Insurance Brokers Code of Practice (a copy of which is available from the NIBA website, www.niba.com.au).

We usually act on your behalf and in your interests in all matters. Sometimes, we may either arrange insurance or manage claims where we act as an agent of the insurer. If this occurs we will inform you.

2. Defined Terms

Account Manager means the Knightcorp broker responsible for servicing and managing your insurance account, acting as your advocate and advisor.

Additional Services means any services you request us to provide to you from time to time, which may include but is not limited to, delivering, referring, assisting with, and coordinating additional policies not named at the commencement of Services, risk management services, risk engineering services, return and safety services, employee benefits, specialist claims services, surveys and valuations.

Affected Party means the Party affected by a Force Majeure Event.

Allocated Claims Support means, in respect of claims services, up to [20] person hours for each claim.

Broker Fees means the brokerage fees we may charge for the services we provide, which will be disclosed to you before the placement of insurance.

Commissions means the commissions that we may receive from the insurer, which is a percentage of the premium paid.

Consequential Loss means indirect, incidental, consequential, exemplary, reliance, special, or punitive damages (including but not limited to loss of data, business or goodwill, or government fines, penalties, taxes, or filing fees), or any lost sales, business opportunities, revenues or profits regardless of whether such liability is based on breach of contract, tort, strict liability, breach of warranty, statutory liability or otherwise.

Consumer Insurance Contracts has the meaning set out in the ICA, and means insurance policies obtained wholly or predominantly for personal, domestic or household purposes (and includes motor vehicle, home building and/or contents and personal accident or sickness products).

Corporations Act means the *Corporations Act 2001* (Cth).

Deliverables means any reports, advice, materials and information provided to you by us.

Force Majeure Event means acts of God, governmental acts, delays in obtaining work permits or visas, fires, explosion, earthquake, flood or other natural disaster, epidemic or pandemic, accident, civil commotion, industrial dispute or other occurrence outside the reasonable control of the relevant Party.

Gross Negligence means any act or failure to act which is intentional and where a reasonable and professional person would perceive to entail a high degree of risk of loss, risk of injury, or risk of damage to others, coupled with reckless disregard or indifference to the consequences.

ICA means the *Insurance Contracts Act 1984* (Cth).

Knightcorp Parties means Knightcorp and our Related Bodies Corporate.

Limitation Amount means \$5,000,000 in the total aggregate.

NIBA means the National Insurance Brokers Association.

Party means Knightcorp Holdings Pty Ltd T/As Knightcorp Insurance Brokers (**Knightcorp, we, us or our**) and you (as defined in section 1).

PDS means a Product Disclosure Statement.

Personal Information has the meaning set out in the Privacy Act.

Privacy Act means the *Privacy Act 1988* (Cth).

Related Bodies Corporate has the meaning set out in the Corporations Act.

Remuneration means our remuneration for the provision of the Services.

Retail Client has the meaning set out in the Corporations Act.

Services means the following services we will provide to you, in addition to any Additional Services:

- arranging general insurance products to help you protect against insurable risks;
- advising and making recommendations as to your insurance requirements;
- collecting information that insurers require from you;
- where needed, providing you with risk management information and advice pertaining to your insurable risks; and

- where needed, assisting you to submit and manage insurance claims.

SOA means a Statement of Advice.

Urgency Fee means an additional fee we may charge you in the event we are asked to provide you with an urgent turnaround of Services. We will agree the Urgency Fee with you in writing prior to providing such Services, where reasonably practicable.

3. Our Services and Responsibilities

We will act as your insurance broker, risk advisor and/or workplace risk consultant and provide you with the Services.

We agree to provide the Services in accordance with your instructions and in compliance with applicable laws. We can also advise on risk management strategies apart from insurance. Let us know if you would like to discuss these.

The information and advice we provide to you through our Services is not tax, legal, regulatory or accounting advice.

Insurance Quotations

When you ask us to arrange 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 in the market, and have only considered those policies available from insurers we deal with regularly.

Advice

When recommending insurance policies, we provide advice based on your personal circumstances (including personal objectives, needs and/or financial situation) as notified to us.

Where you are a Retail Client, we will provide you with a SOA together with any PDS for the relevant insurance policy wordings.

Claims

Where we provide claims services to you as agreed with you in writing, we will do so for up to the Allocated Claims Support. If you require

claims assistance in excess of the Allocated Claims Support, we may charge an additional fee at rates to be agreed. The costs of any specialists appointed to assist with management of your claims will be passed onto you.

If we act under either a binder or agency arrangement with an insurer or provide claims handling and settling services on behalf of the insurer which is relevant to you, we will tell you and implement measures to manage any conflict of interest.

We will assist you in making a claim by guiding you on the process and liaising with the insurer on your behalf. The final decision on the claim rests with the insurer. We are not responsible for the insurer's decisions or the solvency of insurers.

Any decision as to choice of insurer rests with you.

4. Your obligations

You agree to:

- Provide accurate and complete information relevant to your insurance requirements and the risk to be insured, and be fully responsible for that information, which we rely on to provide the Services and arrange insurances.
- Inform us promptly of any changes to your circumstances that may affect your insurance cover. If your circumstances change, our recommendations may no longer be appropriate. You must tell us about any changes in your circumstances so that we can confirm that your insurance continues to be suitable for your needs.
- Review the terms, conditions, and exclusions of any insurance policy recommended or arranged by us. If you identify any errors, let us know so that we may correct them.
- Pay all premiums, fees, and charges related to your insurance policies and our Remuneration by the due date.

5. Our Remuneration

We may be remunerated through Commissions, Broker Fees or a combination of both.

Our Remuneration for the core services will be agreed with you in writing and may be increased annually in line with the Consumer Price Index. If you would like us to perform any Additional Services or arrange policies other than those agreed with you in writing, we will use reasonable endeavours to agree additional Remuneration with you. We will be entitled to charge you reasonable fees for providing Additional Services even if additional Remuneration is not agreed beforehand.

If we arrange any third party services for you such as valuations or surveys, you will be charged a separate fee for these services.

We may also charge you an Urgency Fee.

6. Your Disclosure Obligations

Duty to disclose information

Before you enter into an insurance contract with an insurer, you have a duty under the ICA to disclose information to the insurer relevant to its decision to insure you and on what terms.

This duty applies until the insurer agrees to either insure you or renew your insurance and applies before you extend, vary or reinstate your insurance.

Duty to take reasonable care to avoid misrepresentations

You have a duty to take reasonable care not to make a misrepresentation to the insurer if you are applying for or renewing insurance in relation to Consumer Insurance Contracts.

You must answer the specific questions asked by the insurer truthfully and accurately and tell the insurer all the information that's known to you.

If you are applying for or renewing insurance policies that are not Consumer Insurance Contracts, you must tell the insurer all information known to you or that a reasonable person could be expected to know, that is relevant to the insurer's decision to insure you and on what terms. You do not need to tell the insurer anything:

- that reduces the risk it insures you for;
- that is common knowledge;
- that the insurer knows or should know; or
- which the insurer waived your duty to tell it about.

7. Non-Disclosure

If you fail to comply with either of the duties mentioned above, to the extent permitted by law, the insurer may cancel your contract of insurance or reduce the amount payable if you make a claim, or both.

If your failure to comply with the relevant duty is fraudulent, the insurer may refuse to pay a claim and treat the contract of insurance as if it never existed.

If you are unsure if a matter should be disclosed, contact your Account Manager.

8. Confidential Information

Where a Party (the **Receiving Party**) receives any Confidential Information from the other Party (the **Disclosing Party**) or on the Disclosing Party's behalf in connection with this Agreement or Services, the Receiving Party will treat any Confidential Information provided as confidential and take appropriate measures to protect the privacy and confidentiality of such Confidential Information and comply with all applicable laws and regulations.

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

- it is necessary for Knightcorp to disclose such Confidential Information for the purpose of providing the Services; or
- a Party discloses Confidential Information to its professional advisers or auditors or where it is required to disclose such Confidential Information by law or any regulatory authority. Where the Receiving Party is required to make any disclosure of Confidential Information by law or regulation, the Receiving Party will notify the Disclosing Party of such disclosure to

the extent reasonably practicable and legally permissible.

You agree that Knightcorp may disclose your Confidential Information to:

- our service providers as needed for services provided to Knightcorp;
- third parties such as sub-brokers, insurers or prospective insurers for the purpose of providing the Services;
- our Related Bodies Corporate (as that term is defined in the Corporations Act) to the extent necessary to perform their obligations under the Agreement; and
- any subcontractors as necessary for them to perform or support the Services, provided that we will have in place with such service providers and subcontractors, appropriate and reasonable obligations regarding the safeguarding of such Confidential Information.

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

- either derives economic value, actual or potential, from not being generally known or has a character such that the Disclosing Party and/or any third party from whom the Disclosing Party has received the Confidential Information has a legitimate interest in maintaining its secrecy;
- relates to the Disclosing Party's business (and/or to those of its suppliers and clients, and/or any third party from whom the Disclosing Party has received the Confidential Information) and includes, but is not limited to: equipment; software; designs; technology; technical documentation; product or service specifications; marketing or business plans and strategy; pricing information; financial information; information relating to existing, previous, and potential suppliers, customers, and contracts; inventions; trade secrets; trademarks; intellectual property; applications; methodologies; insurance practices, plans, and strategies, and

other know-how which is identified as confidential at the time of disclosure or that a reasonable person would consider, from the nature of the information and circumstances of disclosure, as confidential to the Disclosing Party; and

- includes the existence and terms of this Agreement.

However, Confidential Information excludes information which:

- is publicly available at the time of its disclosure under this Agreement;
- becomes publicly available (other than as a result of disclosure by the Receiving Party contrary to the terms of this Agreement);
- was lawfully in the possession of the Receiving Party free of any restriction as to its use or disclosure prior to it being disclosed under this Agreement; or
- is or has been developed independently by the Receiving Party and without use of the Confidential Information disclosed under this Agreement.

9. Intellectual Property

Each Party retains all title and rights in their pre-existing intellectual property, being all intellectual property rights owned or used by a Party before the start of this Agreement.

Our Services and Deliverables are for your benefit only and may not be shared with any third parties without our prior written consent. We disclaim responsibility to any third party who has had Deliverables provided to them.

Knightcorp retains ownership of all Deliverables and any work product, being any materials created in the course of providing the Services.

10. Privacy and Use of Information

Our privacy policy sets out how we will ensure the privacy and security of your Personal Information.

A copy of our privacy policy is available on request or on our website at www.knightcorp.insure.

You promise that all Personal Information you disclose to us has been collected in accordance with the Privacy Act and that we are authorised to collect such information.

We may use any information provided to us to:

- provide you with customised recommendations for you; and
- for anonymised, statistical purposes, such as creating benchmarking and industry reports, developing analytics solutions and performing risk modelling.

11. Limitation of Liability

To the extent permitted by law, our liability and the liability of the Knightcorp Parties whether arising in contract, tort (including negligence) or on any other basis, under or in connection with this Agreement or the Services, is limited to the Limitation Amount.

Nothing in this Agreement is intended to exclude or restrict liability for fraud, intentional misconduct, wilful default, personal injury, property damage or Gross Negligence or any liability which cannot be limited at law.

Neither Party will be liable to the other for any Consequential Loss.

The Knightcorp Parties will not be liable for any losses arising out of an error or omission by you or your representatives or for any matter beyond the Knightcorp Parties' reasonable control.

If either Party is found liable to the other, it will be only liable to the proportional extent that they caused or contributed to the relevant loss.

If you or your Related Bodies Corporate makes a claim against the Knightcorp Parties for a sum in excess of the Limitation Amount, you agree to indemnify the Knightcorp Parties for all such claims, to the extent that these exceed the Limitation Amount.

All implied representations and all other implied conditions, warranties and terms as to the provision of the Services are excluded to the extent permitted by law.

12. Non-solicitation

You must not employ or seek to engage the services of our employees or agents who have provided the Services during the period of engagement or for twelve (12) months following termination of this Agreement. This does not apply where an employee or agent responds to a general advertisement that is widely advertised.

13. Continuity of Cover

It is important that you maintain continuity of cover. Accordingly, if a contract of insurance falls due and we are unable to contact you, we will automatically arrange a renewal offer for the policy to be held covered (or renewed if necessary) based on your expiring coverage policy information and coverage requirements. If you do not require the cover, you must tell us as soon as possible. A short-term premium may apply. Please tell us if you do not wish us to provide this service. If your policy is not automatically renewed or extended or you do not pay your renewal premium, you will be uninsured from the expiry date of your current insurance policy.

We will take reasonable steps to contact you at least 14 days prior to your insurance cover expiry date to engage you on the next steps to be taken prior to the expiry of your policy. We will take appropriate, professional and timely steps to seek insurance cover terms and conditions and advise you of your available options (if any) for your consideration.

14. Cancellation

We can only request cancellation of a contract of insurance on the written instructions of a person authorised to represent each party named as an insured. We cannot cancel any contract of insurance subject to the *Marine Insurance Act 1909* (Cth).

15. Period of Engagement

Unless mutually agreed in writing, our appointment remains current unless terminated by either Party by providing 30 days written notice.

16. Force Majeure

A Party will not breach this Agreement due to a failure to or delay in performing this Agreement

caused by a Force Majeure Event that is promptly notified to the other Party.

The Affected Party must implement commercially reasonable work-arounds to facilitate the performance of this Agreement and minimise any delay. The Affected Party may be entitled to an extension of time to perform its obligations under this Agreement upon written agreement with the other Party. If the period of delay or non-performance continues for a period of [30] days, either party may terminate this Agreement with written notice.

17. Our Payment Terms

Invoices

We will invoice you for the premium, statutory charges (e.g. stamp duty and fire services levy) and any fees we charge for arranging your insurances. You will pay us within:

- 14 days of the invoice unless otherwise stated; or
- in the case of a renewal, before the expiry date of the contract of insurance.

To the extent permitted by law, our Remuneration is earned in full at the time of placement of the relevant policy of insurance and we will be entitled to all of our Remuneration for the full policy period, even if our agreement with you terminates early or your policy of insurance is cancelled. Alternatively, we may charge you a cancellation fee equal to the reduction in our Remuneration in the event of early termination of our appointment or cancellation of your policy of insurance. If there is a refund of premium owed to you as a result of a cancellation or alteration to a policy, 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.

If you do not pay the premium on time, the insurer may cancel the contract of insurance, and you will not be insured. The insurer may also charge a short-term penalty premium for the time on risk.

18. Credit Card Fees

If you pay by credit card, we may charge you a non-refundable credit card fee. This fee will be shown on your invoice and reimburses us for bank interest, extra charges/costs and time incurred by us when providing credit card facilities.

19. Amendments

We may amend this Agreement from time to time. We will notify you at least 30 days prior to any changes, unless those changes are required by law, regulation, NIBA or the Insurance Brokers Code of Practice to be implemented within a shorter period (**Relevant Notice Period**), in which case, we will use reasonable endeavours to provide you with notice of at least the Relevant Notice Period. Continued engagement of our services will constitute acceptance of the updated terms. If any of the changes to this Agreement materially adversely affect your rights or impose materially more onerous obligations, you will have a right to terminate within the applicable period of notice of the change by giving 30 days' written notice.

20. Engaging partners

When you engage us to place insurance as your insurance broker, you agree that we may engage wholesale brokers, international broker partners, sub-agents and other third-party contractors, whether in Australia or overseas, (together, **Partners**) to assist in the placement of insurance on your behalf. By engaging us as your insurance broker, you also agree that we may disclose any personal information that you provide to us to a Partner, in Australia or overseas, for the purposes of providing the Services.

21. Electronic Communications

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

22. Misstatements

We use reasonable endeavours to correctly determine the premium and statutory charges

that apply to your insurance, however errors may occur from time to time. If an amount has been misstated, we reserve the right to correct the amount. To the extent permitted by law, you agree that you will not hold us responsible for any loss that you may suffer as a result of such misstatement.

23. General

This Agreement sets out the entire agreement between the Parties in relation to its subject matter.

Where signatures are required to accept this agreement, you agree to the use of electronic signatures including the use of click wrap agreements where applicable.

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

New South Wales law governs this Agreement and the courts of New South Wales have exclusive jurisdiction.

24. Contact Us

You can contact us in-person or by post, phone or email on any of the below contact details.

Physical Address: Level 27, 197 St Georges Terrace, Perth WA 6000

PO Box 7195, Cloisters Square PO, WA 6850

Phone: 1300 656 001

Email: insurance@knightcorp.insure

Website: www.knightcorp.insure

Let's chat.

PERTH

Level 27, 197 St Georges Terrace
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ADELAIDE

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PO, WA 6850

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Sydney NSW 2000

CONTACT

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IMPORTANT NOTE – this information is provided to assist you in understanding the risks, implications and common considerations for your industry. It does not constitute advice, and is not complete. Please contact Knightcorp Insurance Brokers for further information.