



**IBNA Limited**

**Deed of Licence**

**IBNA Limited ABN 43 986 563 055  
and  
The Licensee**

## DEED OF LICENCE

This Agreement is made as a deed on

between the following parties:

### PARTIES

**IBNA Limited** (referred to as “**IBNA**”)

ABN 43 086 563 055

Level 10, 1 Elizabeth Plaza, North Sydney NSW 2060

Phone Number: 02 8913 1640

Fax Number: 02 9929 0451

Email address: david@ibna.com.au

Contact: David Bournell

### AND

**The Person(s) Or Corporation(s) Named In Item 2 Of The Schedule Whose Registered Office Or Place Of Business Is Stated In Item 3 Of The Schedule** (referred to as “**the Licensee**”)

### INTRODUCTION

- A. IBNA develops and distributes financial products, services and software applications relating to the business, provides corporate regulatory and legislative information, and provides educational services and advice to its Licensees.
- B. IBNA has developed a licensing system under which it licences certain brokers involved in the insurance industry to use the trade marks, signs, colours and symbols owned or used by IBNA from time to time (some or all of which are trade marks within the meaning of the *Trade Marks Act 1995 (Cth)*) the Business name or names from time to time referred to in Item 4 of the Schedule, and the products and services listed in Item 5 of the Schedule.
- C. The Licensee has requested IBNA to grant to the Licensee, the right to use the Products and Services for the purpose of or in connection with carrying on the Licensee's Business.

### AGREEMENT

#### 1 DEFINITIONS

In this Deed the following words have the following meanings unless the context otherwise requires:

**Bank interest** means the rate (expressed as a percentage per annum) as determined by Commonwealth Bank of Australia as its prime rate as published from time to time;

**Board** means the board of directors of IBNA;

**Business names** means the name or names referred to in Item 4 of the Schedule and each of them;

**Deed** means this Deed of Licence;

**Directors** means the directors of IBNA Limited ABN 43 086 563 055;

**Guidelines** means the ethical and prudential guidelines published by IBNA as amended from time to time;

**Licence** means this Deed of Licence or a Deed of Licence on the same terms;

**Licensee's Business** means the business of dealing in and advising in financial products the Licensee is licensed to provide under Chapter 7 of Corporations Act 2001, and any other activities incidental to the provision of those financial service. ;

**Marks** means the common law and registered trade and service marks and commercial symbols owned and/or used by IBNA from time to time including the marks depicted in Annexure A and each of them;

**Minimum Share Parcel** means the minimum parcel of shares in IBNA to be held by a Licensee or Related Entity as specified at Item 9 of the Schedule;

**Products and Services** means IBNA's insurance broking systems and all associated products and services including signs, colours, trade and service marks and commercial symbols owned and/or used by IBNA such as the Marks, and the Business names, and includes other products and services as specified in Item 5 of the Schedule;

**Related Entity** means the entity so described at Item 7 of the Schedule being the entity (if any) nominated by the Licensee to hold shares in IBNA.

## 2 INTERPRETATION

The following rules of interpretation apply unless the context requires otherwise:

- (a) where a word or phrase is defined, its other grammatical forms have a corresponding meaning;
- (b) headings are for convenience only and do not affect interpretation of this Deed;
- (c) the singular includes the plural and conversely;
- (d) any gender includes all genders;
- (e) a reference to a person includes a body corporate, an unincorporated body or other entity and conversely;
- (f) a reference to any party to this Deed or any other agreement or document includes the party's successors and permitted assigns;
- (g) a reference to any agreement or document is to that agreement or document as amended, novated, supplemented, varied or replaced from time to time, except to the extent prohibited by this Deed or that other agreement or document;
- (h) a reference to any legislation or to any provision of any legislation includes any modification or re-enactment of it, any legislative provision substituted for it, and all regulations and statutory instruments issued under it.

## 3 GRANT OF LICENCE

- 3.1 IBNA hereby grants to the Licensee the non-exclusive right to use the Products and Services in connection with the establishment and/or continuance of the Licensee's Business on the terms and conditions of this Deed.
- 3.2 The Licensee must notify IBNA of its intention to associate or take up membership with another national organisation that provides the same or substantially the same services as IBNA (excluding the National Insurance Brokers' Association of Australia).
- 3.3 IBNA may terminate the licence granted under clause 3.1:
  - (a) if the Licensee intends to associate with or become a member of a national organisation that provides the same or substantially the same services as IBNA (excluding the National Insurance Brokers' Association of Australia) without obtaining the prior written consent of IBNA. IBNA can exercise its absolute discretion in determining whether to grant such consent; or
  - (b) If the Licensee or its Related Entity ceases to hold at least the Minimum Share Parcel..

## 4 USE OF THE PRODUCTS AND SERVICES

- 4.1 The Licensee shall use the Products and Services in accordance with the Guidelines issued by IBNA from time to time.
- 4.2 The Licensee shall not print or cause to be printed or allow to be printed any stationery, business cards, maps, plans, agreements, accounts, invoices, notices or other printed or pictorial material upon which the Products and Services, or any of them, appear without the prior written consent of IBNA.
- 4.3 The Licensee shall use the Marks:
  - (a) precisely as depicted and drawn by IBNA;
  - (b) as trade marks and not descriptively; and
  - (c) in compliance with any and all directions given by IBNA from time to time as to the use and/or display of the Marks including changes to the manner of their use or display by the Licensee.
- 4.4 The Licensee shall not sublicense, assign or attempt to transfer any of the rights granted to the Licensee under clause 3.1.

## **5 COMPLIANCE WITH STATUTES**

- 5.1 The Licensee will comply with all laws and regulations governing the Licensee's Business and the use of the Products and Services.

## **6 SAFEGUARDING THE PRODUCTS AND SERVICES**

- 6.1 The parties agree to cooperate fully and in utmost good faith for the purpose of securing and preserving IBNA's rights in and to the Products and Services.
- 6.2 The Licensee recognises and acknowledges that IBNA has the exclusive rights to the Products and Services and that all rights in respect of the Products and Services, whether registered or not, together with any and all goodwill attached to the Products and Services shall remain the sole and exclusive property of IBNA.
- 6.3 The Licensee further acknowledges, represents and warrants that it will never:
- (a) represent that it has any interest in the Products and Services other than the licence to use granted under this Deed; or
  - (b) claim any proprietary rights in any of the Products and Services, or
  - (c) adopt any trade name or marks similar to any one or more of the Marks or the Business names.
- except in respect of any interest the Licensee holds in the Products and Services as assets of IBNA by virtue of the Licensee being a shareholder of IBNA.
- 6.4 The Licensee shall immediately bring to the attention of IBNA any suspected or actual improper or wrongful use of the Products and Services coming to its notice and shall use every effort to safeguard the registration, property rights and interests of IBNA in relation to the Products and Services. The decision as to whether or not to prosecute any infringement of the Marks or the Business names or any other Products and Services will be the sole responsibility of IBNA and any such prosecution will be at the sole expense of IBNA. The Licensee will co-operate with and provide all reasonable assistance to IBNA in any such prosecution of an infringement.

## **7 PROTECTION OF GOODWILL AND STANDARDS OF SERVICE**

- 7.1 To protect IBNA's goodwill attaching to the Products and Services and to maintain a uniformly high standard of service to customers and the public, the Licensee agrees to conduct the Licensee's Business in accordance with the highest professional and ethical standards and the Guidelines.
- 7.2 The Licensee shall use its best endeavours to maintain and increase the goodwill associated with the Products and Services and with IBNA.
- 7.3 The Licensee shall not do or permit to be done any act which might prejudice the goodwill associated with the Products and Services or with IBNA.
- 7.4 The Licensee shall ensure all of its officers, employees and agents comply strictly with the provisions of this Licence.

## **8 PROPERTY IN THE PRODUCTS AND SERVICES**

- 8.1 The Licensee acknowledges that:
- (a) the Products and Services are and will at all times remain the sole property of IBNA or its successors and assigns;
  - (b) the use of the Products and Services by the Licensee shall not give or create any proprietary rights in relation to the Products and Services in favour of the Licensee; and
  - (c) all existing goodwill in the Products and Services is vested in and all future goodwill arising out of the use by the Licensee of the Products and Services, on its creation, vest in and remain the exclusive property of IBNA.
- 8.2 The Licensee agrees that its right to use the Products and Services is restricted to the carrying on of the Licensee's Business and the Licensee shall not use the Products and Services for any other business or purpose.
- 8.3 The Licensee agrees not to impugn or contest the validity of the ownership of the Products and Services by IBNA.
- 8.4 Any use of the Products and Services will inure for the benefit of IBNA, and the Licensee will not at any time acquire any rights in the Products and Services by virtue of any use by the Licensee of the Products and Services.

## **9 BUSINESS NAMES AND MARKS**

**9.1** The Licensee may (but is not required to) conduct the Licensee's Business under the Business names or any one of them.

**9.2** If the Licensee elects to use the Business names or any one of them, the Licensee agrees:

- (a) to use the Business names only in connection with the Licensee's Business;
- (b) not to transfer the right to use the Business names, except with the prior written consent of IBNA;
- (c) not to attach or use the Business names as part of any corporate name, nor consent to any other corporation doing so;
- (d) at all times, to comply with any and all Guidelines issued by IBNA concerning:
  - (i) the display of the Business names;
  - (ii) the use of the Business names on invoices, letterheads and other stationery;
  - (iii) the display and use of the Business names in advertisements;
- (e) provided the Board does not insist on the Business names or any Marks being displayed more prominently than any Licensee's name, to change the manner in which the Business names are displayed or used whenever reasonably requested by IBNA to do so.

**9.3** The Licensee shall not use the Business names in any form or variation except as permitted under this Deed.

**9.4** The Licensee will not:

- (a) obtain or attempt to obtain, directly or indirectly, registration in the Australian Trade Marks Office or any office that registers marks or names, any of the Marks or Business names; or
- (b) apply for registration of a trade mark, business name or company name that incorporates logos or words identical or deceptively similar to the Marks or Business names; or
- (c) oppose in any way IBNA's applications for registration of any of the Marks or Business names.

All such Marks and Business names, applications and registrations, shall be and remain the exclusive property of IBNA.

**9.5** In the event that IBNA cannot obtain registration of any of the Marks or the Business names, then, whenever requested to do so by IBNA, the Licensee agrees to apply for registration of the Marks or the Business names at the expense of IBNA through attorneys of IBNA and under IBNA's direction and control. If such Marks or Business names should be registered in the name of the Licensee, the Licensee will immediately assign such registration to IBNA on request by IBNA.

**9.6** On any request by IBNA, the Licensee must do anything, at IBNA's cost, necessary or desirable to enable IBNA to register or review the registration of the Mark.

**9.7** The Licensee will not apply for registration of a trade mark, business name or company name that incorporates any part of the IBNA name, nor will the Licensee challenge the registration of the Marks or the Business names by IBNA or IBNA's ownership of the Marks or the Business names.

## **10 WARRANTIES AND INDEMNITIES**

**10.1** The Licensee hereby indemnifies and agrees to keep IBNA indemnified from and against all claims, proceedings, damages, losses, costs and expenses (on a solicitor and own client basis and whether incurred by or awarded against IBNA) arising from the operation of the Licensee's Business and/or the use of the Products and Services by the Licensee.

**10.2** If a third party claims that the Licensee's authorised use of the Products and Services infringes the rights of that third party, and if the Licensee notifies IBNA as soon as practicable of the claim, IBNA will indemnify the Licensee against all claims, proceedings, damages, losses, costs and expenses (on a solicitor and own client basis and whether incurred by or awarded against the Licensee) arising out of that claim.

**10.3** IBNA warrants that it will:

- (a) use its best endeavours to supply the Products and Services in a manner that is fit for their intended purpose and reasonably accessible to the Licensee; and
- (b) at all times exercise reasonable care and skill in the delivery of the Products and Services.

IBNA takes no responsibility for the manner in which a Licensee may choose to use the Products and Services in the Licensee's Business, nor will IBNA be liable to indemnify the Licensee or any other person in respect of the use of or the provision of the Products and Services.

## **11 LICENCE FEE**

- 11.1** The Licensee must pay to IBNA the fees specified in the schedule in accordance with the instructions issued by IBNA from time to time.

## **12 PROMOTIONS AND OTHER LICENSEE OBLIGATIONS**

- 12.1** In cooperation with IBNA, the Licensee shall provide all necessary support to all marketing promotions and advertising campaigns conducted by IBNA for the benefit of its licensees generally or any number of them which includes the Licensee.
- 12.2** The Licensee will:
- (a) strictly comply with the provisions of the Guidelines;
  - (b) not disclose or release any confidential information regarding the operation, structure, facilities or financial position of IBNA without the prior written approval of the Directors;
  - (c) use its best endeavours to participate in and comply at all times with agreements or insurance arrangements or premium funding arrangements entered into by IBNA, subject to its obligation as an Australian financial services licensee to give appropriate advice to its clients;
  - (d) use its best endeavours to place insurance and other business on behalf of its clients in accordance with the facilities arranged from time to time by IBNA;
  - (e) ensure that it uses and maintains at all times a computer system which is compatible with the requirements of IBNA;
  - (f) comply with any request made by the Directors to give such information as the Directors may from time to time reasonably require in connection with the Licensee's Business so that the Board may be satisfied as to continued eligibility for being a Licensee of IBNA;
  - (g) supply information and reports relating to their insurance and other business activities electronically in accordance with the form in Annexure B;
  - (h) at all times abide by the National Insurance Brokers' Association of Australia Code of Practice, regardless of whether the Licensee is a current member of the National Insurance Brokers Association of Australia.
- 12.3** The Licensee grants IBNA permission to request reports from suppliers with whom IBNA has negotiated preferred trading terms in accordance with clause 14.1 about the business the Licensee has placed with those preferred suppliers.
- 12.4** Any breach, non-observance or non-performance of the obligations in clause 12.2 by the Licensee shall be deemed to be a breach of this Licence.

## **13 PERMISSION TO VISIT & EXAMINE**

- 13.1** IBNA and its authorised representatives may visit and remain on any premises occupied by or under the control of the Licensee during the Licensee's usual business hours and on 48 hours advance notice at all other times to:
- (a) ensure that the Licensee complies with its obligations under this Deed; and
  - (b) examine the Licensee's books and records relating to the Licensee's business, including but not limited to, books and records maintained as data on a computer system ('Books').
- 13.2** The Licensee must produce all Books and otherwise cooperate fully with the Company and its authorised representatives to enable IBNA to exercise its rights under clause 13.1.

## **14 TRADING TERMS WITH SUPPLIERS**

- 14.1** IBNA will, from time to time, negotiate preferred trading terms with suppliers of insurance products and services and any other associated services which may be beneficial to Licensees. IBNA may in its absolute discretion licence the products and services to the Licensee by notifying the Licensee in writing.
- 14.2** If terms have been negotiated with preferred suppliers and IBNA decides the products and services will not be licensed to the Licensee under this Deed, the Licensee may deal directly with those suppliers to obtain products and services on the preferred terms negotiated by IBNA.
- 14.3** The Licensee is not compelled by this Deed to take products or services from the suppliers if the products and services do not form part of the Products and Services. In all cases where the Licensee deals directly with a preferred supplier, it is an essential term of this Deed that the Licensee complies with the trading terms of those suppliers. The Licensee will immediately advise IBNA of any default or breach by the Licensee of those trading terms.

- 14.4 IBNA must inform Licensees of the details of any preferred terms negotiated with suppliers, and any changes to those terms from time to time.
- 14.5 The Licensee acknowledges that IBNA has no obligation to the suppliers in respect of the trading accounts of the Licensee. IBNA does not guarantee the payment of the trading accounts of the Licensee with the suppliers. The Licensee has no authority to commit IBNA to any obligation or liability to the suppliers.
- 14.6 The Licensee acknowledges that its obligations under this clause are an essential term of this Agreement.

## 15 INCOME

- 15.1 Income received by IBNA from suppliers in respect of the Licensee's trading with the supplier will be the income of IBNA, excluding any proportion of an override commission that may be rebated to the Licensee at the discretion of the Board from time to time.

## 16 INSURANCE

- 16.1 The Licensee will, at its own expense, effect and maintain in relation to the Licensee's Business insurance with reputable insurance companies.
- 16.2 The Licensee agrees to arrange professional indemnity insurance to the amount determined annually by resolution of the Board and subject always to any legal requirements which may apply to the Licensee, and to participate in the professional indemnity insurance facility arranged by IBNA, from either the date of this Deed or from the time of expiry of the Licensee's professional indemnity insurance policy current at the date the Licensee executes this Deed, or to arrange professional indemnity insurance independently with insurers approved by IBNA. Approval by IBNA will not be unreasonably withheld.
- 16.3 IBNA will inform the Licensee in writing of the required level of professional indemnity insurance within 14 days of the Board resolution which determines the required levels.

## 17 TERM

- 17.1 This Deed shall commence on the date it is signed and, unless terminated earlier in accordance with the provisions of this Deed, will continue thereafter for successive periods of 12 months each.
- 17.2 IBNA may not less than 1 month prior to the commencement of any 12 month term of this Licence, request the Licensee to enter into an amended Deed of Licence, or vary the terms of this Deed by giving the Licensee 30 days prior written notice of the changes, as a condition of renewal by IBNA.

## 18 TERMINATION

- 18.1 Subject to clauses 19.1 and 19.2, IBNA may terminate this Deed and the Licence if:
- (a) the Licensee commits a breach of this Deed of Licence and fails to rectify such breach after notice in writing being given by IBNA within such reasonable time as shall be specified in such notice;
  - (b) the Licensee shall have committed repeated or persistent breaches of any duty, obligation or responsibility required to be performed by the Licensee under this Deed of Licence;
  - (c) the Licensee shall be engaged in any conduct or practice that in the reasonably held opinion of IBNA is detrimental or harmful to the good name, goodwill, reputation or interests of IBNA and the Licensee shall have continued, repeated or failed to cease and desist from such conduct or practice after written notice from IBNA;
  - (d) the Licensee (or any of them), being an individual, shall be made bankrupt or stop or suspend payment of his debts or threaten so to do or become insane;

- (e) the Licensee (or any of them), being a company:
  - (i) shall take action which would have the effect of altering the beneficial interest of the shareholders of such company at the date of this Licence by more than 40% of the voting, income and capital participation rights in such company, without first obtaining the consent of the company in writing, unless the Licensee has IBNA's prior written consent;
  - (ii) has an order made or a resolution passed for the winding up of the Licensee or to place the Licensee under official management or if any meeting is convened for the purpose of considering such resolution;
  - (iii) has a receiver or administrator or other insolvency practitioner appointed to enter into possession of or administer any of the assets of the Licensee;
- (f) the Licensee is a partnership, and there is any change in the partners of that partnership or the equity interests of the partners in that partnership from those partners and interests at the date of this Deed of Licence, unless the Licensee has IBNA's prior written consent;
- (g) the Licensee fails to pay any amount due to IBNA;
- (h) the Licensee breaches IBNA's Guidelines;
- (i) the Licensee fails to hold an Australian financial services licence or any other authorities or licences required by law to conduct the Licensee's Business;
- (j) the Licensee becomes a member of, or it becomes known to IBNA that the Licensee already is a member of, a national organisation that provides the same or substantially the same services as IBNA (excluding the National Insurance Brokers' Association of Australia); or
- (k) the Licensee or its Related Entity ceases to hold shares in IBNA.

**18.2** The Licensee must notify IBNA immediately if:

- (a) after the day this Deed is signed, a person directly or indirectly becomes entitled to more than 40% of the voting shares in the Licensee;
- (b) it disposes of the whole or any part of its assets, operations or business other than in the normal course of business (except by permitted assignment);
- (c) any step is taken to enter into any arrangement between the Licensee and its creditors;
- (d) it ceases to be able to pay its debts as they become due;
- (e) it ceases to carry on business;
- (f) the Related Entity (if any) ceases to be a related entity of the Licensee;
- (g) an insurance company acquires more than a 20% interest in the business or capital of the Licensee or of the Related Entity;
- (h) any step is taken by a mortgagee to enter into possession or dispose of the whole or any part of its assets or business;
- (i) any step is taken to appoint a receiver and manager, administrator, a trustee in bankruptcy, a liquidator, a provisional liquidator or other like person of the whole or any part of its assets or business;
- (j) the Licensee's Australian financial services licence, or any other authority or licence required by law to conduct the Licensee's business, is suspended or revoked or if ASIC or any other regulatory authority commences an investigation into the business activities of the Licensee to determine whether it should exercise its powers to suspend or revoke an authority or licence required for conduct of the Licensee's business (including an Australian financial services licence).

**19 NOTICE OF INTENTION TO TERMINATE**

**19.1** Subject to clause 19.2, prior to termination of this Licence on any of the grounds of termination set out in the previous clause, IBNA shall give written notice to the Licensee of the ground or grounds and where the default or defaults complained of by IBNA are capable of being remedied, then that notice will require remedy within the period indicated.

**19.2** If:

- (a) the grounds of termination constitute a breach of this Deed incapable of remedy (excluding termination under clauses 18.1(e)(i), (f), (g) or (h)), IBNA is not required to comply with clause 19.1 and may terminate this Licence immediately upon service of a written notice to the Licensee to that effect;
- (b) the grounds of termination constitute a breach of this Deed capable of remedy (excluding termination under clauses 18.1(e)(i), (f), (g) or (h)), IBNA is required to give notice under clause 19.1 and will give 30 days prior written notice to the Licensee. If the Licensee does not remedy the breach within the period nominated in a notice given under clause 19.2(b), then IBNA may terminate the Licence by further notice served upon the Licensee.

- (c) the Deed is terminated under any of clauses 18.1(e)(i), (f), (g) or (h), IBNA is not required to comply with clause 19.1 and must comply with clause 20.

## **20 RIGHT TO BE HEARD**

- 20.1** If IBNA terminates this Deed under any of clauses 18.1(e)(i), (f), (g) or (h), the Licensee will be entitled to be heard by the Board in accordance with this clause 20.
- 20.2** If this clause 20 applies, IBNA will give written notice to the Licensee of the following:
- (a) that this Deed and the Licence is to be terminated, together with the grounds upon which the decision to terminate is based, and the date termination will come into effect;
  - (b) that the Licensee has a right to be heard, and the Licensee should advise IBNA in writing within 14 days if it wishes to exercise that right.
- 20.3** If the Licensee does not contact IBNA to exercise their right to be heard under this clause, the termination will take effect at the date specified in the notice, being 30 days from the date of the notice;
- 20.4** If the Licensee exercises its right to be heard under clause 20.2(b), a meeting of the Board shall be convened within 14 days of the date IBNA received the Licensee's notice. IBNA shall give the Licensee 7 days prior written notice of the date, place and time of the hearing.
- 20.5** The Licensee has the right to have a representative attend at the hearing and make representations on the Licensee's behalf.
- 20.6** At the hearing, the Board shall:
- (a) give the Licensee or the Licensee's representative a reasonable opportunity to make oral representations (including representations as to why the Licence and this Deed should not be terminated);
  - (b) give reasonable consideration to any written representations submitted to the Board; and
  - (c) by a majority resolution of the Directors determine whether to:
    - (i) terminate this Licence;
    - (ii) suspend the operation of this Licence or any part thereof for a specified period; or
    - (iii) take no action in respect of this Licence.

## **21 TERMINATION BY THE LICENSEE**

- 21.1** The Licensee may terminate the Licence by notice in writing of not less than 30 days notice served on the Company.
- 21.2** If the Licensee terminates this Deed in accordance with clause 21.1, IBNA will not refund the Licence Fee to the Licensee.

## **22 EFFECT OF TERMINATION**

- 22.1** Immediately upon the expiration or termination or cessation of this Licence, the Licensee shall cease to use the Products and Services and shall take all steps to remove all references from the premises of the Licensee's Business and from any stationery, business cards, maps, plans, agreements, accounts, invoices, notices or any other written or pictorial material used in conjunction with the Licensee's Business which indicate an association with IBNA.
- 22.2** On termination of this Deed, the Licensee shall no longer be permitted to use the Products and Services, except that the Licensee shall have limited access for a period of 12 months for the purposes of arranging variations and endorsements to current insurance policies issued through an insurance facility established by IBNA or any of its subsidiaries. Under no circumstances will the Licensee be permitted to access the Products and Services to conduct new business or renewal transactions.
- 22.3** On termination of this Deed, IBNA will provide the Licensee with access to or copies of any electronic records or data held in whatever form on an information technology system (including a computer server) operated by IBNA. IBNA will deliver such records in a format reasonably accessible to both parties.
- 22.4** If the Licensee fails to comply with its obligation under clause 22.1 within 7 days of the date of expiration or termination or cessation of the Licence, IBNA shall have the right to remove all signs and advertising material bearing any Marks or the Business names from the premises of the Licensee's Business at the expense of the Licensee and IBNA may enter upon the Licensee's Business premises for the purpose of carrying out such removal.
- 22.5** Termination or suspension of this Licence shall not prejudice any right of action or remedy of IBNA for any antecedent breach of this Licence by the Licensee.

**22.6** On termination of this Licence, the Licensee will assign, transfer and convey to IBNA any rights, equities, goodwill, titles and other rights in and to the Products and Services which may have been obtained by the Licensee or which may have vested in the Licensee in pursuance of any endeavours covered by this Deed, and the Licensee will execute all instruments required by IBNA in order to give effect to such assignment, transfer or conveyance. Any such assignment, transfer or conveyance will be without further consideration and the consideration for that assignment, transfer or conveyance shall be the mutual covenants in consideration of this Licence.

### **23 NO ASSIGNMENT**

**23.1** The Licensee must not assign, transfer, charge, mortgage or otherwise encumber all or any part of its right under the Licence nor grant any supplementary licence or sub-licence without the prior written consent of IBNA which shall be at IBNA's absolute discretion.

### **24 OWNERSHIP OF LICENSEE BUSINESS**

**24.1** The Licensee further agrees:

- (a) that where the Licensee is a company, the directors referred to in the Schedule are and will remain directors of the company during the term of the Licence;
- (b) that where the Licensee is a partnership, the partners are and will remain partners in the partnership during the term of the Licence; or
- (c) that where the Licensee is a sole trader, the Licensee shall remain the sole proprietor of the Licensee's Business during the term of the Licence,

as the case may be, unless IBNA otherwise agrees.

**24.2** The Licensee shall give written notice to IBNA of any change (if applicable) in its directors, shareholders, shareholding, partners and its partnership interests, within 7 days of such change.

**24.3** As a condition of its consent, IBNA may require any new director, shareholder or partner to enter into a guarantee and indemnity in relation to the Licensee's performance of its obligations under this Licence, the guarantee and indemnity to be in such form as IBNA may in its discretion require.

**24.4** IBNA's costs and expenses in relation to the preparation, execution and stamping of any consent and the guarantee and indemnity, including stamp duty, if any, shall be payable by the Licensee to IBNA on demand.

### **25 DISPUTES BETWEEN LICENSEES**

**25.1** Where any dispute arises between the Licensee and any other licensee of IBNA as to any matters concerning this Licence or the Guidelines, either licensee may refer the dispute for determination by the Board and a majority decision of the Board shall be binding on the licensees.

**25.2** Referral of such a dispute to IBNA shall not be deemed a reference to arbitration.

### **26 DISPUTES BETWEEN COMPANY AND LICENSEE**

**26.1** Any dispute between IBNA and the Licensee concerning any matter in relation to or arising out of this Licence or the Guidelines, may be resolved either by litigation or by arbitration but only after the provisions of clause 26.2 and 26.3 have been observed.

**26.2** Either party claiming that a dispute has arisen shall give written notice to the other party designating as its representative in negotiations relating to the dispute, a person with authority to settle the dispute. The other party shall within 7 days thereafter give notice in writing to the first party, designating as its representatives in negotiations relating to the dispute, a person with similar authority.

**26.3** The designated persons shall, within 14 days of the last designation required under clause 26.2, seek in good faith to resolve the dispute expeditiously using informal dispute resolution techniques such as mediation, expert evaluation or determination or similar techniques agreed by them.

**26.4** If any such dispute cannot be settled amicably, then the dispute may be settled in accordance with the Rules of Conciliation and Arbitration of the International Chamber of Commerce by an arbitrator who shall be the nominee of the President for the time being of the New South Wales Chapter of the Institute of Arbitrators, Australia or the President's nominee appointed in accordance with those rules. The place of jurisdiction of the arbitration shall be in Sydney, Australia and the applicable law shall be the law of New South Wales.

## **27 RELATIONSHIP BETWEEN THE PARTIES**

- 27.1** The parties to this Deed acknowledge that:
- (a) they are independent contractors;
  - (b) no fiduciary relationship exists between them; and
  - (c) nothing in this Licence constitutes a relationship of employer and employee, principal and agent, partnership or joint venture between the parties.
- 27.2** The Licensee shall not incur or attempt to incur any expenses on behalf of IBNA nor pledge or attempt to pledge IBNA's credit nor bind or attempt to bind IBNA to any contractual obligation directly or indirectly whatsoever without the prior written consent of IBNA.
- 27.3** IBNA shall not incur any expenses on behalf of the Licensee nor pledge the Licensee's credit nor bind the Licensee to any contractual obligation whatsoever without the prior written consent of the Licensee.
- 27.4** The Licensee shall not make any unauthorised representation on behalf of IBNA or any licensee of IBNA.
- 27.5** IBNA shall not be bound by any representations or warranties made to any third party by the Licensee.
- 27.6** The Licensee shall not be bound by any representations or warranties made to any third party by IBNA.

## **28 AMENDMENTS**

- 28.1** This Deed may not be varied except in writing signed by both parties.

## **29 NO WAIVER**

- 29.1** The failure of a party at any time to require full or partial performance of any provision of this Deed does not affect in any way the full right of that party to require that performance subsequently.
- 29.2** The waiver by any party of a breach of a provision of this Deed is not deemed a waiver of all or part of that provision or of any other provision or of the right of that party to avail itself of its rights subsequently.
- 29.3** Any waiver of a breach of this Deed must be in writing signed by the party granting the waiver, and is effective only to the extent specifically set out in that waiver.

## **30 COSTS**

- 30.1** The Licensee shall pay IBNA upon demand IBNA's costs and expenses (including stamp duty) of and incidental to the preparation, execution and stamping of this Licence, any additional licence and any variation of this Licence and any other document executed to give effect to any provision of this Deed of Licence.
- 30.2** The Licensee shall also pay to IBNA on demand IBNA's costs and expenses (including legal fees on an indemnity basis) in connection with any legal proceedings instituted against IBNA by the Licensee.

## **31 NOTICES**

- 31.1** Any notice required or authorised to be given or served upon a party under this Deed shall be sufficiently given, if forwarded by registered post or hand to the usual or last known place of business or abode of the parties, or sent electronically to the electronic mail address of the Licensee as specified in Item 3 of the Schedule, or to the electronic mail address of IBNA as specified on page 1 of this Deed. Each notice shall be deemed to have been given and received by the party to whom it was sent:
- (a) in the case of hand delivery, upon delivery during Business Hours of the recipient;
  - (b) in the case of pre-paid registered post, 2 Business Days after the date of dispatch; and
  - (c) in the case of facsimile transmission:
    - (i) at the time of dispatch if that dispatch is during Business Hours; or
    - (ii) at 9am on the next Business Day following the day of dispatch, if the dispatch is outside Business Hours.
  - (d) in the case of electronic delivery, at the time of dispatch, being the time that the electronic communication first enters an information system outside the control of the sender.
- 31.2** A notice given or served upon this Deed is sufficient if:
- (a) in the case of a corporation, it is signed by a director or secretary of that corporation; and
  - (b) in the case of an individual, it is signed by that individual.
- 31.3** The provisions of this clause are in addition to any other mode of service permitted by law.

- 31.4** In this clause 'notice' includes a demand, request, consent, approval, offer and any other instrument or communication made, required or authorised to be given under or pursuant to a provision of this Deed.
- 31.5** In this clause 'Business Hours' means from 9am to 5pm on a Business Day, and 'Business Day' means a day other than a Saturday, Sunday, a public holiday and other holiday in Sydney.

## **32 CONSENT AND EXERCISING DISCRETION**

- 32.1** If the Licensee seeks IBNA's consent as required by any provision in this Licence then unless this Deed states otherwise, IBNA may in its absolute discretion require further information to be given by the Licensee.
- 32.2** Thereafter unless this Licence states otherwise, IBNA may in its absolute discretion:
- (a) refuse consent without being required to give any reasons;
  - (b) defer a decision on the question of granting consent;
  - (c) grant consent; or
  - (d) grant consent subject to any further terms or conditions the Company may wish to impose.
- 32.3** If IBNA or the Board are permitted to exercise their discretion in respect of any matter under this Deed, IBNA or the Board must do so acting fairly and conscientiously and apply their discretion in a consistent fashion towards the Licensee and all other licensees of the Products and Services.

## **33 CONFIDENTIALITY**

- 33.1** Each party covenants that it shall:
- (a) observe strict confidentiality in respect of all transactions of IBNA and the Licensee and related matters and all information concerning IBNA and the Licensee and their respective members, whether financial or otherwise, obtained or which may come to their knowledge in the course of performing their duties and they shall not reveal the information to any other person except when so required or expressly permitted by IBNA or the Licensee or by a Court of competent jurisdiction or by any other properly constituted authority and except to the extent necessary to comply with these regulations;
  - (b) not permit any employee, officer, representative, servant, agent or other person over whom they may reasonably be expected to exercise control to reveal or disclose any information concerning the transactions of IBNA or the Licensee or matters relating thereto or any information concerning IBNA or the Licensee or their respective members, whether financial or otherwise, obtained or which may come to their knowledge as a result of or in the course of their association with the member or officer of IBNA, as the case may be, to any other person except when so required or expressly permitted by the Board or by a Court of competent jurisdiction or by any other properly constituted authority; and
  - (c) at any time if required by the Board, sign a declaration pledging to observe strict secrecy respecting all transactions of IBNA and the Licensee and matters relating thereto and all information concerning IBNA and the Licensee and their respective members, whether financial or otherwise, and shall by such declaration pledge not to reveal the same to any other person except when so required or expressly permitted by the Board or by a Court of competent jurisdiction or by any other properly constituted authority and except to the extent necessary to comply with the regulations of IBNA or the Licensee.
- 33.2** The obligations of confidentiality under this Deed do not extend to information that:
- (a) was rightfully in the possession of and not subject to an obligation of confidentiality on the receiving party prior to negotiations leading to this Deed;
  - (b) is, or after the day this Deed is executed, becomes public knowledge (otherwise) than as a result of a breach of this Deed); or
  - (c) is required by law to be disclosed.
- 33.3** The provisions of this clause shall continue to bind the Licensee and IBNA after termination of this Licence.

## **34 APPLICATION OF LAW**

- 34.1** This Deed is made in the state of New South Wales and shall be construed and performed in accordance with the laws of New South Wales.

**35 SEVERABILITY**

- 35.1** If any provision of this Deed is held by a court to be unlawful, invalid or unenforceable or in conflict with any rule of law, statute, ordinance or regulation, the validity and enforceability of the remaining provisions shall not be thereby affected.

**36 NO IMPLIED TERMS**

- 36.1** This Deed contains the whole of the agreement between the parties and there are no promises, terms, conditions or obligations, oral or written, expressed or implied other than as contained in this Deed.

**EXECUTED** as a Deed

Executed by and or on behalf of **IBNA Limited ABN 43** )  
**086 563 055** in accordance with its Constitution in the )  
presence of: )

-----  
Signature of Authorised Person

-----  
Signature of Witness

-----  
Full Name (Print)

-----  
Name of Witness (Print Name)

Executed by and on behalf of )  
(Name of Licensee and ABN) )  
in the presence of: )

-----  
Signature of ##

-----  
Signature of Witness

-----  
Full Name (Print)

-----  
Name of Witness (Print Name)

**SCHEDULE**

<b>ITEM 1</b>	<b>Date Of Licence:</b>	<hr/> (Please insert date)
<b>ITEM 2</b>	<b>Licensee:</b>	<hr/> (Please insert full name of individual or company and ABN)
<b>ITEM 3</b>	<b>Licensee's Address Or Registered Office:</b>	<hr/> (No. and Street) <hr/> (Suburb) <hr/> (State) (Postcode) Contact Details: <hr/> Phone: Fax: <hr/> E-mail address: <hr/>
<b>ITEM 4</b>	<b>The Business Names:</b>	IBNA Limited IBNA
<b>ITEM 5</b>	<b>PRODUCTS AND SERVICES</b>	Principally, insurance products for wholesale and retail clients, services relevant to the business of a financial services provider that offers general and/or life insurance broking and advisory services, other products and services incidental to the conduct of the business of the Licensee, and any other products and services that the Board of IBNA agrees to provide or offer from time to time.
<b>ITEM 6</b>	<b>Licensee's Directors And Shareholders:</b>	Directors: <hr/> 1. Director's Name: <hr/> 2. Director's Name: <hr/> 3. Director's Name: <hr/> 4. Director's Name: <hr/> Shareholders: <hr/> 1. Shareholder's Name: <hr/> 2. Shareholder's Name: <hr/> 3. Shareholder's Name: <hr/> 4. Shareholder's Name: <hr/>
<b>ITEM 7</b>	<b>Licence Fee:</b>	An amount fixed by the Board in each year of the licence less the proportion of override commission rebated by the Board to the Licensee.
<b>ITEM 8</b>	<b>Related Entity</b>	Where a related entity of the Licensee holds shares in IBNA, details of that related entity: Name Address ABN
<b>Item 9</b>	<b>Minimum Share Parcel</b>	1,000 shares

**ANNEXURE A**

Trade and Service Marks and Commercial Symbols

(Refer to definition of Marks)



**ANNEXURE B**

IBNA Licensee Premium and Income Statement

**Audited Statement to be submitted to IBNA National by 30<sup>th</sup> September each year**

Name of Licensee: \_\_\_\_\_

Financial Year commencing on \_\_\_\_ / \_\_\_\_ / \_\_\_\_ and ending on \_\_\_\_ / \_\_\_\_ / \_\_\_\_

**IN RESPECT TO GENERAL INSURANCE**

**Premium Receipts**

Money received in bank account for insurance business on behalf of insureds or intending insureds: (ADP code 80)	\$
Less Refunds to insureds or intending insureds: (ADP code 81)	\$
Net amount received for general insurance business:	\$

**Income**

Trading income received from insurance broking activities: (ADP code 87) Including insurance commissions, over-rides, interest earned from the broking account, premium funding commissions, profit share receipts, less commission paid to agents and/or sub-agents.	\$
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**IN RESPECT TO LIFE INSURANCE**

**Income**

Income received from life, superannuation and investment products and services: (ADP code 87) Include income earned from related companies or entities.	\$
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Signature \_\_\_\_\_  
(Director, Secretary or Agent)

\_\_\_\_\_  
(Auditor)

Date \_\_\_\_ / \_\_\_\_ / \_\_\_\_

Date \_\_\_\_ / \_\_\_\_ / \_\_\_\_