
**MODEL AGENCY AGREEMENT
FOR
SELLING OF LONG-TERM INSURANCE**

**Life Insurance Council of
The Hong Kong Federation of Insurers
2011**

AGENCY AGREEMENT

THIS AGREEMENT made the _____ day of _____ with
effective date of _____ between
_____ (the "Company") and
_____ (the "Agent").

The parties agree as follows:

1. Appointment

- 1.1 With effect from the date of registration with the Insurance Agents Registration Board ("IARB") as the Company's appointed insurance agent (as defined in the Insurance Companies Ordinance Cap. 41, Laws of Hong Kong ("ICO")) and subject to the terms of this Agreement, the Agent shall act as the agent of the Company for the purpose of soliciting applications for long term business as defined in the ICO and such other business as the Company may from time to time transact ("insurance business") during the continuance of this Agreement and to service the needs and requirements of the owners of policies issued by the Company as a result of such applications. The Agent may operate anywhere within Hong Kong, but no exclusive rights in any district is assigned to him.
- 1.2 The Agent shall at all times comply with all legislation, statutory rules or regulations and the rules and regulations of the Company now or hereinafter in force. The Agent shall also strictly comply with all terms and conditions of this Agreement.
- 1.3 It is understood and agreed that there is no employer-employee relationship either expressed or implied between the Company and the Agent and nothing contained herein shall be construed to create such relationship.
- 1.4 The Agent shall act as the agent of the Company and shall not accept appointment as the agent of any other company or person for the introduction of insurance business as set out in the attached **Annex 1** without the prior written consent of the Company.
- 1.5 The Agent shall faithfully and diligently promote the business of the Company and at all times act in accordance with the *Code of Practice for the Administration of Insurance Agents* (in particular the Conduct of Registered Persons for Long Term Insurance Business as set out in Part G and attached as **Annex 2** to this Agreement), all the Guidance Notes and guidelines issued by the Hong Kong Federation of Insurers, IARB, the Office of the Commissioner of Insurance and the relevant regulator(s) and as may be amended from time to time.

2. Obligations of the Agent

- 2.1 The Agent shall in fulfilling his obligations hereunder use such forms, documents, materials and computer software programs (if any) as may from time to time be supplied to him by the Company for the purposes hereof and shall not amend or alter the same or any documents belonging to any applicant for insurance or policy-holder without the Company's prior written consent. Any application form received by the Agent must be promptly forwarded to the Company.

- 2.2 Subject only to any authorization which may be given to the Agent in this Agreement or otherwise in writing by the Company, nothing herein shall require the Company to accept any application for insurance from any person introduced by the Agent.
- 2.3 The Agent agrees that so long as this Agreement remains in force the Agent will :-
- (a) Bear all expenses incurred in conducting the agency except as may otherwise be determined and advised to the Agent in writing by the Company.
 - (b) At all times observe the strictest secrecy concerning the business of the Company or of persons or companies from time to time dealing with the Company or the Agent or which come to the knowledge of the Agent.
 - (c) Disclose to the Company every fact and circumstance within his knowledge relevant to the acceptance of the risk by the Company, and shall accurately relate to the Company every fact disclosed to him by the proposed insured and/or any person relevant to the Company's acceptance of the risk.
 - (d) Indemnify the Company and hold it harmless against all loss, claims, demands, expenses and other liabilities incurred by the Company as a result of any breach of the terms of this Agreement by the Agent including without prejudice to the generality of the foregoing any representation made by the Agent which is not authorized hereunder or otherwise in writing by the Company.

3. Limitations of Authority of the Agent

- 3.1 Unless and to the extent that the Agent is otherwise authorized in writing by the Company, no authority is given to the Agent to accept risks on behalf of the Company, to issue cover notes or policies or bind the Company in any other manner to accept risks, to receive notice of termination or assignment of any policy or to waive any condition of any policy and the Agent shall not represent to a proposed insured or any other person that he is so authorized or that any risk has been accepted or cover effected or policy issued by or on behalf of the Company (whether on an original proposal or on a renewal) unless the Company has so notified in writing.
- 3.2 The Agent shall not print, publish or distribute, or cause to be printed, published or distributed, any book, advertisement, pamphlet or other document containing the name of the Company or otherwise dealing, directly or indirectly, with the business of the Company or display, upload or otherwise use any of the Company's trademark(s) and/or logo(s) to or on the Agent's business website and business publications without the prior consent of the Company. If any lawsuits shall be brought against the Company in consequence of any unauthorized action or statement of the Agent, all costs and damages arising therefrom or incurred and in connection therewith by the Company shall be borne by the Agent personally.
- 3.3 The Agent is not authorized and shall not represent to any person that he is authorized to accept notice of assignment, notice of loss, negotiate terms of settlement, settle or pay any loss or claim save where he is expressly directed so to do by the Company.
- 3.4 The Agent shall not save as specifically otherwise herein provided incur any liability on behalf of the Company, pledge or purport to pledge the Company's credit or make any other contract binding upon the Company.

3.5 No warranty, representation or promise with reference to policies endorsements or supplementary contracts issued by the Company shall be given save as authorized from time to time by the Company in writing.

4. Collection and Remittance of Funds

4.1 The Agent has the authority to collect or accept in Hong Kong on behalf of the Company any premium or deposit payable with or pursuant to the application or policy. The Agent shall immediately remit to the Company all premium and deposit received or collected by the Agent on behalf of the Company and shall not use any such premium and deposit for any other purpose whatsoever.

4.2 The Agents must observe the rules set out by the Company designed to avoid the mixing of customers' money with their personal funds.

4.3 Subject to the terms of any further direction in writing by the Company, where the Agent is authorized to issue an interim or conditional receipt on the Company's printed form for all moneys received by the Agent on the Company's behalf, he shall without delay pay or remit to the Company without any deduction all moneys so received.

4.4 The Agent shall not act to put the Company on insurance risk by delivering any policy endorsement or supplementary contract issued by the Company to an applicant whose health or occupation he knows or has reason to suspect has changed since the date of application. The Agent further shall not in any case deliver to any person, any policy or renewal receipt of the Company unless the premium has been received by the Company in full within the period allowed for payment and the person on whose life the policy is issued is at the time in good health.

5. Commission

5.1 (a) For the services to be rendered by the Agent under this Agreement, the Agent shall be entitled to remuneration calculated in accordance with the attached **Schedules**. The Company reserves the right at any time and from time to time to revoke, alter, add or modify the attached Schedules by notice in writing to the Agent.

(b) The Agent's entitlement to such remuneration will be established by:-

(i) issuance by the Company of a policy document (including endorsements and supplementary contracts where applicable), subsequent to its acceptance of an application endorsed with the name of the Agent or Agents; and

(ii) receipt by the Company of the required premiums; and

(iii) compliance by the Agent with the provisions of this Agreement in all respects.

5.2 When any policy issued upon the application submitted by the Agent pursuant to this Agreement is changed or converted to another policy plan, the commission payable upon the changed or converted policy shall be determined by the rules of the

Company current at the time of such change or conversion. The Agent shall not be entitled to any commission on the changed or converted policy unless the change or conversion is effected by the Agent himself.

- 5.3 In case a policy is issued within twelve (12) months before or after the termination of a previous policy issued by the Company on the same life, commissions on the new policy shall be determined by the rules of the Company in effect at the time of its issue.
- 5.4 No commissions will be allowed on interim term premiums or on extra premiums.
- 5.5 In case a policy shall lapse for non-payment of premium and shall subsequently be reinstated, the Agent will be entitled to commissions paid on such policy if application for reinstatement is made within _____ () days of the expiration of the grace period. If application for reinstatement is made thereafter, renewal commissions will be paid to the person effecting the reinstatement and the policy shall be assigned to him for service.
- 5.6 The Agent will have no claim for commissions on any business unless his name and identification appears on the application. In the case of any policy issued by the Company on an application secured by the Agent with the assistance of another Agent of the Company from the same agency whose name also appear on the application, the commissions on such policy shall be divided equally between such agents. Such joint business and sharing of commission should be limited to a maximum of two agents.
- 5.7 The Agent will repay to the Company the amount of commissions and bonuses received by him on premiums refunded by the Company.
- 5.8 The Company has the right at all times to offset against any commissions or other sum due to the Agent, and withhold therefrom the amount of any debt, obligation or liability due or owing or likely to become due or owing by the Agent to the Company and such withholding and offset shall not create any cause of action against the Company.
- 5.9 The Company will declare annually to the Inland Revenue Department the total remuneration paid to the Agent during the Company's relevant accounting period and the Agent will in this respect comply with and observe all ordinances, regulations and statutory instruments as may be currently or from time to time in force in Hong Kong and shall have particular regard to the Prevention of Bribery Ordinance (Cap. 201). The Company shall be under no liability in respect of the payment of any commissions, remuneration or perquisites received by the Agent other than those paid directly by the Company.
- 5.10 Any part of any commission or discount allowed to the Agent shall not be paid by the Agent to any director, partner or employee of any policy holder or any other person as an inducement to place the business with the Company. The Agent shall in addition to any other indemnity hereunder indemnify the Company for any loss, damage or expense resulting from any breach by the Agent of the provisions of this Clause 5.10 and Clause 5.9.

6. Assignment

- 6.1 This Agreement shall be assignable by the Company in whole or in part to any successor or affiliated company. However, the Agent will not assign or purport to assign any right or interest which the Agent may have herein without the prior consent of the Company. Such consent by the Company to any assignment shall not create or imply any acknowledgement or responsibility on the part of the Company as to validity, effect or sufficiency of such assignment.

7. Books and Records

- 7.1 The Agent shall keep full and proper books of account and other record and in such form as may from time to time be required by the Company for the purpose of showing all its transactions on behalf of the Company. Such books shall show any and all other matters and things concerning the business of the Agent pursuant to this Agreement.
- 7.2 The Company shall have the right at anytime during normal business hours to examine such books and records of the Agent by any officer or authorized representative of the Company (including its auditors) and the Agent shall afford all such facilities for inspection as may reasonably be required.

8. Termination

- 8.1 The Company or the Agent may terminate this Agreement at any time and without giving any reason for so doing by giving _____ () days' notice to the other in writing.
- 8.2 This Agreement shall forthwith terminate without the need for any notice to be given by the Company if:
- (a) The Agent shall die; or
 - (b) The Agent shall have a petition for a bankruptcy order to be made against him presented to Court or have a bankruptcy order made against him or if the Agent shall make a general assignment, composition or arrangement for the benefit of creditors or admit in writing his inability to pay his debts as they become due; or
 - (c) Judgment or decision is entered against the Agent by the IARB, wherein the Agent is prohibited from selling insurance; or
 - (d) Any judgement against the Agent shall be entered which for a period of thirty (30) days shall neither be satisfied nor stayed pending appeal; or
 - (e) Any receiver or officer of any court or governmental authority shall be appointed to take possession or control of any substantial part of the Agent's assets or property or control over his affairs and obligations, or
 - (f) The Agent commits any dishonest or fraudulent act which results in the Agent being charged and found guilty with an offence or if the Agent is guilty of any conduct which in the opinion of the Company is prejudicial to the Company's interests; or

- (g) The Agent is de-registered by IARB.
- 8.3 This Agreement may forthwith terminate without the need for any notice to be given by the Company if:
- (a) The Agent violates any of the terms of this Agreement; or
 - (b) The Agent does not meet training, production, persistency or other requirements in respect of the Agent's operation which may be set by the Company from time to time; or
 - (c) The Agent takes part in any conduct which, in the opinion of the Company, is detrimental injurious or prejudicial to the Company's interests.
- 8.4 On termination:
- (a) The Agent shall return to the Company all moneys, policies, receipts, rate books, manuals, literature, forms, documents and computer software programs supplied by the Company and shall return or supply copies of such parts of the Agent's books and records relating to the business of the Company as the Company may reasonably require at the expense of the Company;
 - (b) The Company may if it thinks fit publish and/or circulate to any person such notice or notices of the termination of the Agent's appointment; and
 - (c) The Company shall, if termination is for a cause relating to a breach of the *Code of Practice for the Administration of Insurance Agents* or Part X of the *ICO*, notify the IARB of the relevant particulars and notify the Agent that it has so done.

9. Termination Benefits

- 9.1 Except for termination of this Agreement caused by the death of the Agent as provided under Clause 8, in all other instances of termination, all of the Agent's rights to commissions, bonuses or any other payment other than first year commissions due on cases approved and premium paid prior to such termination shall forthwith cease.

10. Notices

- 10.1 Any consent or notice required to be given or sent hereunder must be in writing and signed by the Agent or the Company (as the case may be).
- 10.2 Any notice hereunder shall be deemed to have been sufficiently given if personally delivered or sent by courier, facsimile or prepaid post to the address of the Company or the Agent (as the case may be) as appearing herein or to such other address in Hong Kong as may from time to time be notified to the Company or the Agent by the other. Any notice so sent shall be deemed to have been served on the day following the date of posting if posted in Hong Kong and in proving such service it shall be sufficient to prove that the envelope containing the notice was properly addressed, stamped and posted. Notice served in any other manner shall be deemed received when in the ordinary course it may have been expected to be received.

11. General

- 11.1 Waiver of any provision hereof or waiver of a breach of any term shall not constitute a waiver of any of the other provisions or of any future breach or breaches of any provision or operate as a continuing waiver.
- 11.2 Save for the Company's right to change or revoke the Agent's Schedule of Commission or as otherwise expressly provided herein, all modifications to this Agreement shall have no force or effect unless and except as they are expressed in writing and duly signed by an authorized officer of the Company.
- 11.3 This Agreement constitutes the entire Agreement between the parties hereto with respect to the subject matter hereof as at the date hereof and supersedes any prior agreement or understanding.
- 11.4 The headings used in this Agreement are for convenience only and shall not form a part of this Agreement. Any words embodying the masculine gender include the feminine and any words indicating the singular case shall include the plural and vice-versa.

12. Law & Jurisdiction

This Agreement shall be construed in accordance with the laws of Hong Kong and the parties herein irrevocably agree to submit to the exclusive jurisdiction of the courts of Hong Kong.

IN WITNESS whereof the parties hereto have signed this Agreement on the date first before written.

SIGNED BY)
)
)
 for and on behalf of the Company)

Name & Title

Approval

Name of Officer

The Agent hereby confirms that he has fully read, understood and agreed to the terms of this Agreement, together with the Schedules attached hereto, and has accordingly signed this Agreement the day and year as set out on Page 1 hereto.

SIGNED BY THE AGENT)
)
)
)

Agent's name _____

HKID No. _____

Address _____

Signature

Note: The term "Principal" in Annex 2 attached refers to the Company in this Agreement since that term has been defined in the Code of Practice for the Administration of Insurance Agents as *"means an insurer to whom Part X of the Ordinance applies. However, unless otherwise stated, persons collectively represented as a syndicate of Lloyd's shall be treated as one Principal for the purposes of any insurance business relating to the syndicate"*.

Conduct of Registered Persons for Long Term Insurance Business

78. A Registered Person shall at all times conduct business in good faith and with integrity.
79. In the event of a complaint concerning the conduct of a Registered Person, the Registered Person shall co-operate with the IARB and the Principal or insurance agent concerned to establish the facts. The complainant should be informed that he should in the first instance refer the complaint to the relevant Principal or insurance agent. If the complainant is still dissatisfied he may refer the matter to the IARB.
80. A Registered Person shall:-
- (a) ensure that he is registered with the IARB in respect of the Line of Insurance Business to be engaged in prior to conducting such business;
 - (b) identify himself as a Registered Person acting on behalf of the Principal(s) or insurance agent he represents prior to discussing insurance policies with any person;
 - (c) disclose his registration number if so requested and identify his registration number on his business cards if they are distributed;
 - (d) make every reasonable effort to ensure that the policy proposed is suitable to the needs and resources of the potential policy holder as disclosed to the Registered Person;
 - (e) give advice only on those matters in which he is competent to deal with or otherwise seek advice from his Principal(s) or appointing insurance agent when necessary;
 - (f) explain the cover afforded by each policy recommended to ensure that the potential policy holder understands what he is buying;
 - (g) explain the specific differences to which he is referring when making comparisons with other types of policies or forms of investment;
 - (h) treat all information supplied by a potential policy holder as confidential and disclose such information only to the Principal(s) or appointing insurance agent to which the business is being offered, and otherwise comply at all times with the provisions of the Personal Data (Privacy) Ordinance (Cap. 486) when dealing with personal data provided by a potential or current policy holder;
 - (i) not make inaccurate or misleading statements about any Principals or appointing insurance agent or their policies, or any other intermediaries;
 - (j) not impose any charge in addition to the policy premium without disclosing the amount and purpose of such charge to the policy holder before the binding of the policy;

- (k) not make inaccurate or misleading statements or comparisons to induce an insured to replace existing long term insurance with other long term insurance to the insured's disadvantage;
- (l) not pay or offer to pay any rebate of premium, commission or other incentive not specified in the policy as an inducement to any potential long term insurance policy holder unless specifically authorized by a Principal; and
- (m) comply with the requirements as specified in the *MPF Code* where he is engaged in selling or advising on Mandatory Provident Fund schemes or their constituent or underlying funds.

81. In assisting a potential policy holder to complete the proposal or application form, a Registered Person shall:-

- (a) not influence the potential policy holder, and make it clear that the answers or statements given are the latter's own responsibility; and
- (b) explain the consequences of fraud, non-disclosure and inaccuracies to the potential policy holder and draw his attention to the relevant statements in the proposal form.

82. When selling policies related to Long Term Business, a Registered Person shall:-

- (a) explain the long term nature of the policy and the consequences of early discontinuance and/or surrender;
- (b) where a policy offers participation in profits, or is investment-linked, explain the specific difference between guaranteed and projected benefits;
- (c) where projected benefits are illustrated, explain the assumptions on which the illustrations are based, including any future bonus or dividend declaration, and that projected benefits are not guaranteed;
- (d) in the case of participating (with-profit) business, explain that any bonuses or dividends declared in the future may be lower or higher than those currently quoted and that past performance may not be a guide to future performance;
- (e) in the case of linked long term business, explain that unit value and the value of the policy holder's benefits may fluctuate;
- (f) unless specifically authorized by a Principal or appointing insurance agent, use only such sales proposals and illustrative figures that are supplied by the Principal or appointing insurance agent and shall use the whole illustration in respect of the policy being discussed, and no other, and shall not add to it or select only the most favourable aspects of it; and
- (g) if he is authorized by a Principal or appointing insurance agent to prepare certain illustrations himself, prepare them using only the assumptions authorized by the Principal or appointing insurance agent.