

GENERAL TERMS AND CONDITIONS

GENERAL TERMS AND CONDITIONS OF BUSINESS GOVERNING THE SERVICES OF THE INSURANCE BROKER

1. KESSLER – YOUR INSURANCE BROKER

KESSLER & CO Inc. and KESSLER CONSULTING Inc. (hereinafter referred to as «Kessler») are independent insurance brokers for all lines of insurance. At the commencement of the cooperation with the client, a client executive will be designated to look after the client's insurances. This person is at the client's disposal as a direct contact and is responsible for the entire customer care.

Kessler and its client executives are licensed for rendering insurance broking services in accordance with the requirements of the Swiss Insurance Supervision Law (FINMA brokers' register no. 10477). Kessler is a member of the Swiss Insurance Brokers Association (SIBA).

2. SUBJECT OF THE CONTRACT

The client entrusts Kessler by means of a separate Broker of Record Agreement with the continuous servicing of his insurances, on the basis of a business relationship guided by mutual trust.

The provisions listed herein form an integral part of the Broker of Record Agreement, which may only be amended or supplemented through a document signed by both the client and Kessler.

3. SERVICES AS INSURANCE BROKER

Kessler shall be authorised to negotiate with insurance companies and obtain offers and, with the client's approval, place and service the insurances on the client's behalf.

Kessler shall advise and assist the client on all insurance matters forming part of the Broker of Record Agreement, i.e. in particular by means of a risk and insurance analysis, by formulating a risk and insurance policy, by creating concepts for risk financing solutions, determining insurance needs, placing and continuously servicing the insurances as well as offering support and assistance of inhouse lawyers on issues relating to insurance laws and with respect to claims against insurance companies.

The advice or information provided by the client executives and insurance specialists of Kessler is based on years of experience as an insurance broker. It is no substitute for legal, financial investment or tax advice offered by e.g. lawyers, banks, tax experts or any authorities in any given case.

4. COOPERATION WITH FOREIGN INSURANCE BROKERS

In cases where it is deemed expedient and necessary to carry out any tasks stipulated in the Broker of Record Agreement outside Switzerland, Kessler, after consulting with the client, shall be authorised to cooperate with a local insurance broker abroad.

5. REMUNERATION

Kessler is remunerated for rendering the services pursuant to Section 3 with a standard rate of commission, which is paid by the insurance company. The brokerage is calculated as a percentage of the insurance premium paid by the client. Brokerage is included in the premiums quoted by the insurers. Prior to commencement of the broker agreement, Kessler shall notify the client of the basis for its calculation and bandwidths or of the estimated amount of the expected brokerage on the basis of the information available pertaining to the client's insurance portfolio. By signing this broker agreement, the client shall agree to the waiver of the distribution of the brokerage. Kessler expressly waives any volume, growth or loss-based additional remuneration by third parties.

Other forms of remuneration shall be agreed separately between the client and Kessler in writing.

Kessler will negotiate a separate fee with the client in advance for any other additional services rendered at the client's request.

Turnover generated from insurance broker services is exempt from VAT (Section 21 [18] MWSTG) in Switzerland. Kessler reserves the right to debit VAT for services rendered pursuant to Section 3 in case the practice of the Swiss tax authority should change. Kessler will not accept any liability for a correct payment of any of the client's taxes, such as, for example, insurance premium taxes.

6. COOPERATION WITH INSURANCE COMPANIES

Kessler has cooperation agreements with all major insurance companies licensed in Switzerland (incl. health insurance companies and registered collective foundations), however, in the meaning of the Swiss Insurance Supervision Law, Kessler is neither legally nor commercially nor in any other way tied to an insurance company.

Kessler services the client's insurance contracts on the basis of working relationships with the relevant insurance companies, thus also alleviating the insurance company's workload.

As a rule, the relevant insurance company will identify the risks and will handle and adjust claims in cooperation with Kessler at the client's request. Kessler shall support and assist the client with the handling and adjustment of claims. As a rule premiums will be collected directly by the insurance company.

7. DATA PROTECTION, DATA SECURITY AND CONFIDENTIALITY

Kessler guarantees that its employees handle entrusted data in accordance with the principles of Swiss law governing data protection. In cases where it is necessary to transmit data abroad to render the broking services correctly, the client shall consent to its data being transmitted abroad by Kessler in compliance with the principle rules of data protection.

The client hereby consents to the processing of data by Kessler using Internet applications offered by insurance companies which serve to simplify the administrative management of policies.

Any data belonging to the client obtained within the scope of servicing the insurances or any information pertaining to its business activities shall be handled in confidence and only processed for the purpose of executing the Broker of Record Agreement. Data storage devices shall be kept under lock and key at the premises of Kessler and shall only be made accessible to the staff of Kessler. Strict silence is maintained without reservation beyond the scope of the contractual relationship with respect to any uninvolved third parties. Kessler reserves the right to forward data to involved service providers, insofar as this is necessary for the performance of insurance broking services, in particular to insurance companies for the purpose of tendering for or renewing policies or in connection with claims processing.

8. LIABILITY

Kessler shall provide its service with due care and diligence. Kessler shall be liable to the client for any losses resulting from negligence, errors or inaccurate information in accordance with the principles outlined below: Kessler, its group companies and subsidiaries as well as their directors and officers or employees shall be liable only for intentional or grossly negligent breaches of contract and only for causal losses, costs and expenses incurred by the client as a direct and immediate result of such an intentional or grossly negligent breach of contract. Any liability for such losses, including all costs and expenses, shall be limited to twice the annual remuneration paid out to Kessler under this broker agreement, however, up to a maximum of CHF 2,000,000. Kessler shall under no circumstances be held liable for claims resulting from intentional, grossly negligent or incorrect conduct by the client, its directors and officers or employees or for claims for damages resulting from incomplete, inaccurate or misleading documents or information on the part of the client or third parties. The Kessler company referenced in the Broker of Record Agreement as the contracting party shall be the relevant contact in the meaning of art. 45 (1) (d) VAG (Insurance Supervision Law).

9. APPLICABLE LAW AND PLACE OF JURISDICTION

The Broker of Record Agreement is subject to Swiss substantive law. The exclusive place of jurisdiction is the client's registered office in Switzerland on the date when an action is filed.

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