

# TERMS OF USE

Your Home Loan Review Pty Ltd ACN 685 042 326

## Terms and Conditions

### 1. Application of Terms and Conditions

By using the Services or accessing the Platform, the User agrees to be bound to these Terms and Conditions.

### 2. Definitions and Interpretation

#### 2.1 Definitions

In this Agreement, unless the context otherwise requires, the following definitions apply:

- (a) **Agreement** means these Terms and Conditions and any additional terms displayed on the Platform;
- (b) **Intellectual Property Rights** means all industrial and intellectual property right in Australia and throughout the world, and includes any copyright, patent, registered or unregistered trade mark, registered or unregistered design, domain name, trade secrets, knowhow, trade or business or company name, indication or source of appellation of origin or other proprietary right or right of registration of such rights;
- (c) **Mortgage Broker** means Shol Financial Pty Ltd ABN 79 648 611 250 or such other mortgage broker notified by YHLR from time to time;
- (d) **Personal Information** includes any information relating to an identifiable individual as defined under the *Privacy Act 1988* (Cth);
- (e) **Platform** means the online system, website, application, or digital service operated by YHLR;
- (f) **Services** means:
  - (i) the functionalities, features, and tools provided through the Platform;
  - (ii) the facilitation of mortgage brokerage services and related transactions;
  - (iii) data storage, client information management, communication tools; and
  - (iv) any other ancillary services made available to Users;
- (g) **User** includes:
  - (i) a person who accesses the Platform;
  - (ii) a person whose Personal Information is input into the Platform;
  - (iii) a person who acquires Services from YHLR; and/or
  - (iv) a person to whom Services are provided;
- (h) **YHLR** means Your Home Loan Review Pty Ltd ACN 685 042 326.

#### 2.2 Interpretation

In this Agreement, unless the context clearly indicates otherwise:

- (a) a reference to:
  - (i) a clause, schedule, annexure or party is a reference to a clause, schedule, annexure or party to this Agreement;
  - (ii) a party includes its executors, personal representative, administrators, successors and assigns;
  - (iii) 'document', 'deed' or 'agreement' (including a reference to this Agreement) includes the document, deed or agreement as varied, amended, novated or supplemented and includes all recitals, schedules, appendices and exhibits to it;
  - (iv) legislation or a legislative provision includes any statutory modification or substitution of that legislation or provision and any subordinate legislation issued under that legislation or provision; and
  - (v) 'person' includes a corporation, trust, partnership, unincorporated body, government, local authority or agency, or other entity, whether or not it constitutes a separate legal entity;
- (b) headings and any table of contents do not form part of this Agreement or affect its interpretation;
- (c) a word or phrase that is derived from or is another grammatical form of a defined word or phrase has corresponding meaning;
- (d) the meaning of general words is not limited by specific examples introduced by 'including', 'for example' or similar expressions;
- (e) the singular includes the plural and vice versa;
- (f) monetary amounts are expressed in Australian dollars;
- (g) a 'day', 'month' or 'year' means a calendar day, month or year; and
- (h) all or part of this Agreement must not be construed against the interests of a party because that party or its lawyers were responsible for its drafting or because that party relies on a provision of this Agreement to protect itself.

### 3. User Obligations

#### 3.1 Obligations

The User agrees to:

- (a) provide accurate and lawful information to YHLR;
- (b) only input the User's own personal information into the Platform;
- (c) maintain the confidentiality of login credentials for the Platform; and
- (d) comply with all applicable privacy and data protection laws.

### 3.2 User Warranty

- (a) The User warrants that all information input by the User into the Platform:
  - (i) is the User's own Personal Information;
  - (ii) is true and accurate; and
  - (iii) is not misleading.
- (b) YHLR is not liable to the User or any other person if any warranty in this clause 3.2 is not true.

## 4. Personal Information

### 4.1 Collection and Use of Personal Information

- (a) YHLR collects, stores and uses Personal Information in accordance with the Australian Privacy Principles (APPs).
- (b) By accessing the Platform and/or using the Services, the User consents to the collection, use and disclosure of their Personal Information as set out in this clause 4.
- (c) Personal Information may be collected, used and disclosed by YHLR and the Mortgage Broker to facilitate mortgage brokerage services being provided to the User.

### 4.2 Third Party Data

- (a) Where Users are using the Services on behalf of a third Party:
  - (i) the User is required to obtain the consent of that person before inputting the Personal Information into the Platform; and
  - (ii) the User warrants to YHLR that they have obtained the consent of the person to their data being input on the Platform and to YHLR or the Mortgage Broker contacting them.
- (b) If clause 4.2(a) applies, the User is liable for any loss, damage or liability suffered or incurred by YHLR and the Mortgage Broker:
  - (i) as a consequence of the warranties in clause 3.2 being untrue; and
  - (ii) due to any failure of the User to comply with clause 4.2(a)(i); and
  - (iii) in the event that the warranty in clause 4.2(a)(ii) is not correct.

### 4.3 Disclosure of Personal Information

Personal Information may be disclosed:

- (a) to verify the information provided by the User;
- (b) for enquiries about Services that may be suitable for the User's purposes;
- (c) to anyone proposing to supply Services to the User;
- (d) if required by law or regulatory authorities; or
- (e) with the consent of the individual whose Personal Information is being disclosed.

### 4.4 Data Access

- (a) Users and clients may access and correct their Personal Information stored on the Platform at any time by submitting a written request to YHLR.

- (b) YHLR relies on the User to submit correct and accurate information where requested.

### 4.5 Specific Disclosure Consent

The User specifically consents to:

- (a) their Personal Information and data being disclosed to the Mortgage Broker to facilitate the Mortgage Broker providing mortgage broking services to the User; and
- (b) the Mortgage Broker using that Personal Information to contact the User in respect of mortgage broking services.

## 5. Marketing and Communication

- (a) Users acknowledge and agree that:
  - (i) YHLR may send communications related to the Services;
  - (ii) marketing communications require the Users consent; and
  - (iii) Users may unsubscribe from marketing communications at any time.
- (b) Users specifically consent to YHLR and the Mortgage Broker sending marketing communications to the User.

## 6. Intellectual Property

- (a) All Intellectual Property Rights in the Platform are owned by or licensed to YHLR.
- (b) Users may not copy, modify, distribute, or otherwise use any intellectual property associated with the Platform without prior written consent from YHLR.
- (c) Users retain ownership of any content they upload to the Platform but grant YHLR a non-exclusive, royalty-free, worldwide license to use, store, and display such content as necessary to operate the Platform.

## 7. Accuracy of Information

### 7.1 No Representations

- (a) YHLR makes no representations or warranties in relation to the information available on the Platform, including without limitation:
  - (i) that the information on the Platform is complete or correct;
  - (ii) that the Platform will be continuously available or free from any delay in operation or transmission, virus, communications failure, internet access difficulties or malfunction in hardware or software; or
  - (iii) that YHLR endorses any site linked to the Platform or any third party products or services referred to on the Platform.
- (b) The information presented on the Platform may be reliant on third party information and is subject to change without notice.

### 7.2 Risk

The User acknowledges that they use the Platform at their own risk and that YHLR makes no guarantees regarding the availability, accuracy, or reliability of the Platform.

## 8. Fees and Charges

- (a) No direct fees are charged by YHLR for the use or access of the Platform.
- (b) Users acknowledge that commissions may be payable to YHLR and the Mortgage Broker on successful transactions facilitated via the Platform, as agreed in separate arrangements or agreements.
- (c) YHLR reserves the right to amend commission structures at any time by providing notice to Users.

## 9. Termination

- (a) YHLR may terminate this Agreement, suspend or terminate access to the Platform or withhold supply of Services at any time and without reason or notice. In particular (but without limitation) YHLR may do so if:
  - (i) the User becomes insolvent;
  - (ii) YHLR determines that a material adverse event has occurred with respect to the User;
  - (iii) events beyond the control of YHLR occur make supply of Services impossible or undesirable (in the sole opinion of YHLR);
  - (iv) the User breaches any of the terms or conditions of this Agreement;
  - (v) the User fails to pay any money due to YHLR; or
  - (vi) the User breaches any other agreement with YHLR.
- (b) Upon termination under clause 9(b), all amounts due by the User become immediately due and payable to YHLR.
- (c) Termination under clause 9(a) will not affect YHLR's right to institute legal proceeding for the recovery of all money owed to YHLR.

## 10. Limitation of Liability

### 10.1 General

- (a) The liability of YHLR for any breach of this Agreement or any related order or contract and/or in tort (including negligence) is limited at YHLR's option to:
  - (i) the supply of equivalent services;
  - (ii) the cost of acquiring equivalent services; or
  - (iii) the amount paid by the User to YHLR pursuant to the Agreement.
- (b) To the maximum extent permitted by law, YHLR will not be liable for any loss of profit, loss of goodwill, loss of opportunity and/or any special, punitive, indirect or consequential loss or damage incurred by the User or any other person whether directly or indirectly related to this Agreement.
- (c) YHLR is not liable for any loss or damage caused to the User by reason of any delay, lack of supply, industrial action, fire, flood, riot, war, embargo, civil commotion, act of God or any other event which is beyond YHLR's control.

## 10.2 Australian Consumer Law

- (a) YHLR's services come with guarantees that cannot be excluded under the Australian Consumer Law. For major failures of services, the User is entitled:
  - (i) to cancel its service contract with YHLR;
  - (ii) to a refund for the unused portion, or to compensation for its reduced value.
- (b) The User is also entitled to be compensated for any other reasonably foreseeable loss or damage.
- (c) If the failure does not amount to a major failure, the User is entitled to have problems with the service rectified in a reasonable time and, if this is not done, to cancel this Agreement and obtain a refund for the unused portion of the contract.

## 11. Indemnity

The User will indemnify YHLR and keep YHLR indemnified against any claim, loss, damage, liability, cost or expense that may be incurred by YHLR arising from or in connection with any breach or default by the User of this Agreement or any related contract.

## 12. General

### 12.1 Entire Agreement

This Agreement constitutes the entire agreement of the parties as to its subject matter and supersedes and cancels all prior arrangements, understandings and negotiations between the parties and all representations or warranties made by a party unless repeated in this Agreement.

### 12.2 Costs

The User must pay:

- (a) any legal costs (on a solicitor/client indemnity basis) stamp duty, and other expenses payable in relation to this Agreement, or a guarantee or other security document provided in conjunction with this Agreement;
- (b) all costs incurred by YHLR relating to any default by the User; and
- (c) YHLR's costs and disbursements incurred in pursuing any recovery action, or any other claim or remedy, against the User, including debt recovery fees paid to a collection agent or otherwise and legal costs on an indemnity basis and whether or not the recovery action, claim or remedy is successful.

### 12.3 Assignment

- (a) The User's obligations under this Agreement cannot be transferred or assigned and any attempt to do so will be void.
- (b) YHLR may assign its rights and obligations pursuant to this Agreement to another party without notice to, and without the consent of, the User.

### 12.4 Waiver

No failure to exercise or delay in exercising any right, power or remedy under this Agreement operates as a waiver. A single or partial exercise or waiver of the exercise of any right, power or remedy does not preclude any other or further exercise of that or any other right, power or remedy. A waiver is not valid or binding on the party granting that waiver unless made in writing.

## 12.5 No merger

The covenants, conditions, provisions and warranties contained in this Agreement do not merge or terminate upon a termination of this Agreement, but to the extent they are capable of having effect, remain in full force and effect.

## 12.6 Notice

- (a) A notice, demand, consent, approval, request or other communication (**notice**) to be given under this Agreement:
- (i) must be in writing in English;
  - (ii) must be delivered by a method contemplated by the table in this clause 12.6; and
  - (iii) shall be duly received at the time and on the day set out in the table in this clause 12.6.

Delivery Method	Duly Received
Personal delivery to the party to whom the notice is addressed.	When it is personally delivered.
Sent by registered post or express post.	On the 3rd Business Day after posting by registered post.  On the next Business Day following express post.
Sent by courier.	On the day that the courier records delivery of any notice sent by courier.
Transmission by email.	On the day of transmission by email.

- (b) Where any notice is personally delivered or transmitted by facsimile or email after 5:00pm on any day, it shall be treated as having been duly given and received at 9:00am on the next Business Day.

## 12.7 Governing law

- (a) This Agreement is made under and will be governed by the laws of Queensland, Australia.
- (b) Each party irrevocably submits to the exclusive jurisdiction of the courts of Queensland, Australia.

## 12.8 Severability

This Agreement will, to the extent possible, be interpreted and construed so as not to be invalid, illegal or unenforceable in any respect. If a provision is found to be illegal, invalid or unenforceable:

- (a) that provision will, be read down to the extent that it may be necessary to ensure that it is not illegal, invalid or unenforceable and as may be reasonable in the circumstances to give it a valid operation; or
- (b) if the provision or part of it cannot effectively be read down, that provision or part of it will be deemed to be void and severable and the remaining provisions of this Agreement will not in any way be affected or impaired and will continue regardless of that illegality, invalidity or unenforceability.