

## RECITALS

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- A. Owner has rights in the Property.
- B. User has requested and Owner has agreed, on the terms and conditions of this Agreement, to allow the User to use the Property.

## OPERATIVE PROVISIONS

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### 1. DEFINITIONS

In this Agreement except to the extent the context otherwise requires:

**Agreement** means this Agreement;

**Business** means Real Estate Marketing and Information;

**GST** has the same meaning as in the GST Act;

**GST Act** means *A New Tax System (Goods and Services Tax) Act 1999* as amended;

**Property** means the property specified in Item 1 of Schedule 1;

**Supply** has the same meaning as in the GST Act;

**Taxable Supply** has the same meaning as in the GST Act;

**Tax Invoice** has the same meaning as in the GST Act;

**Territory** means Australia;

**Writing** includes typewriting, printing, lithography, photography and any other made of representing or reproducing words in a permanent and visible form.

### 2. RIGHT TO USE

- 2.1 Owner grants to User a personal non-exclusive right to use the Property in the Business in the Territory.

### 3. FEE

- 3.1 User must pay to Owner the fees specified and agreed.

### 4. USER OBLIGATIONS

- 4.1 Owner may issue, and User must comply promptly with, directions regarding the use of the Property.
- 4.2 User must not:

- (a) represent that it has any interest in the Property other than the right to use granted under this Agreement.

4.3 User must conduct the Business in an orderly and businesslike manner, including but not limited to, ensuring that the Business complies with all applicable laws.

4.4 User must immediately comply with all directions requirements of the Owner and must not use the Site for any purpose other than for marketing the business and its product.

## 5. **PROPERTY RIGHTS**

5.1 User acknowledges that:

- (a) the Property is and remains the exclusive property of Owner or its successors and assigns; and
- (b) all existing goodwill in the Property is vested in and all future goodwill arising out of the use by User of the Property, on its creation, vests in and remains the exclusive property of Owner.

## 6. **TERM**

6.1 This Agreement will commence on the date of this agreement and will continue until terminated pursuant to clause 8.

## 7. **YOUR ACKNOWLEDGEMENTS**

7.1 You acknowledge and agree that at all times during the Term of this Agreement:

- (a) in consideration for us granting you a right to upload content to the Property you grant us an irrevocable, perpetual, worldwide, royalty free licence to publish, copy, licence to other persons, use and adapt for any purpose related to our business any content you provide to us during the Term, and this licence survives termination of this Agreement by you or us;
- (b) you are solely responsible for the content of your listings and any errors or omissions in your listings;
- (c) all features of our Subscriptions and Products are subject to change, development and discontinuation and, as such, we may vary or discontinue any feature of a Subscription or Product, we will give you at least 30 days' written notice via email before the variation or discontinuation is to take effect and you may terminate this Agreement during this period.

## 8. **TERMINATION**

8.1 Owner may terminate this Agreement immediately by notice to User if:

- (a) User breaches any of the provisions of this Agreement and fails to remedy the breach within 5 days after receiving notice from Owner requiring it to do so;

- (b) User breaches any other provision of this Agreement and fails to remedy the breach within 30 days after receiving notice from Owner requiring it to do so;
- (c) on 3 months notice for no fault.

8.2 User may terminate this Agreement by notice, via the Property, to the Owner.

**9. INDEMNITY**

- (a) The User indemnifies the Owner against any loss, damage or claim made against the Owner by any party in consequence of the User's conduct and/or breach of the terms of this Agreement.

**10. CONSEQUENCES OF TERMINATION**

10.1 On termination of this Agreement the licence to use the Site terminates and User must immediately:

- (a) stop using the Property; and
- (b) pay all amounts due under this Agreement.

10.2 Termination of this Agreement does not affect any accrued rights of either party or User's obligations under this Agreement.

**11. STAMP DUTY**

11.1 User must pay any stamp duty payable on this Agreement and any document executed to give effect to any provision of this Agreement.

**12. ASSIGNMENT**

12.1 User must not assign.

**13. WAIVER**

13.1 The failure of either party at any time to insist on strict performance of any provision of this Agreement is not a waiver of its right at any later time to insist on strict performance of that or any other provision of this Agreement.

**14. FURTHER ASSURANCES**

14.1 Each party must do all things and execute all further documents necessary to give full effect to this Agreement and refrain from doing anything that might hinder the performance of this Agreement.

**15. SEVERABILITY**

15.1 Where any provision of this Agreement is void, illegal or unenforceable, it may be severed without affecting the enforceability of the other provisions in this Agreement and the parties must attempt to replace that severed part with a legally acceptable alternative clause that meets the parties' commercial objectives.

**16. NOTICE**

16.1 Any notice, demand, consent or other communication to be given by a party to another party under this Agreement must:

- (a) be in writing;
- (b) give the address of the recipient as set out in this Agreement or as varied by notice from the relevant party;
- (c) be left at or sent by prepaid post to that address; and
- (d) be deemed to be served on the day of delivery or 3 days after the date of posting by prepaid post as the case may be.

**17. AMENDMENTS IN WRITING**

17.1 No amendment to this Agreement has any force unless it is in writing and signed by the all of the parties to this Agreement.

**18. GOVERNING LAW AND JURISDICTION**

18.1 This Agreement is governed by the laws of Queensland and the Commonwealth of Australia.

18.2 Each party irrevocably submits to the non-exclusive jurisdiction of the courts of Queensland.

**19. ENTIRE AGREEMENT**

19.1 This Agreement constitutes the entire agreement of the parties as to its subject matter and supersedes and cancels all prior arrangements, understandings and negotiations in connection with it. Any statement made in negotiations for this Agreement which is not set out in this Agreement does not form part of the agreement between the parties.

**20. INTERPRETATION**

20.1 In this Agreement, except to the extent the context otherwise requires:

- (a) the singular includes the plural and vice versa and a gender includes other genders;
- (b) a reference to an item in the Background, clause, schedule, annexure or appendix is a reference to an item in the Background, clause of or schedule, annexure or appendix to this Agreement and references to this Agreement include its schedules and any annexures;
- (c) where a word or phrase is given a particular meaning, other parts of speech or grammatical forms of that word or phrase have corresponding meanings;
- (d) in the interpretation of this Agreement, headings are to be disregarded.

21. **GST**

21.1 If any Supply made by the one party (Owner) to another (User) under this Agreement is a Taxable Supply, then:

- (a) in relation to any consideration payable by the User to the Owner under this Agreement, the Owner shall be entitled to recover from the User an additional amount on account of GST, such amount to be equal to the amount of the Owner's GST liability in respect of the supply calculated in accordance with the GST Act and on the basis that the consideration otherwise payable under this Agreement is the Value of the Taxable Supply and shall be recoverable at the time when the Fee is paid;
- (b) the User may, in its absolute discretion, review its obligations under this clause and reduce the amount payable by the User to the Owner under this clause. Any adjustment shall be notified in writing by the User to the Owner on or before the date the Fee is payable; and
- (c) the Recipient and the Supplier acknowledge and agree that each Supply made under this Agreement is made:
  - (i) on a progressive or periodic basis;
  - (ii) for consideration that is provided on a periodic or progressive basis; and
  - (iii) each progressive or periodic component of the Supply is to be treated as a separate Supply.

## SCHEDULE

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### Item 1

### Property

#### Description:

The agentfeed.com.au platform, used on a subscription basis, for the purpose of providing Real Estate Marketing and Information.