

## **EXCLUSIVE AGENCY AGREEMENT FOR SALE OF BUSINESS**

The Property Stock and Business Agents Act 2002 required all agents'™ instructions to be in the form of a

written agreement

### **BETWEEN PRINCIPAL**

(S)

ADDRESS : dfgdfgdfgfdg

ABN/ACN: 34534534

Phone : 345345

AND AGENT Xclusive Business Sales Pty Ltd (Xclusive)

Lic. No 1723536

ABN 99 144 870 762

### **PRICE: 10.00**

The Principal warrants that they have authority to enter into this agreement.

2. In the Event that the Principal is not the owner of the business, the Principal warrants to the Agent that it is authorized by the business owner to enter into this agreement and indemnifies the Agent in respect to any damage suffered by the Agent as a result of the breach of this warranty by the Principal.

3. The liability of the Principal under this agreement extends to all related parties of the Principal having an interest in the business including any related company, trust, partnership or other entity.

4. The Agent is authorized to sell the business for the price of \$ 43543 (Plus GST if any) plus stock at valuation or such other price as the principal may agree to accept.

5. The Principal agrees that the Agent has conducted a physical inspection of the Business or that such an inspection is not required by the Principal.

6. The agent is authorized to use any information supplied to it by the Principal and to supply such information to a prospective buyer subject to the Agent entering into a confidentiality agreement on

behalf of the Principal with a prospective purchaser in respect to any Confidential Information.

7. The sale price of the business shall include the value of all plant, fixtures, furniture and effects and goodwill being sold therewith. The value of any plant, furniture, effects and stock in trade to be sold to a purchaser subject to an existing Bill of Sale or Hire Purchase or Lease Agreement the liability under which (by arrangement with the Principal's secured creditor or lessor) is to be taken over by the Purchaser shall, for the purposes of calculation of the Agent's selling fee, be treated as part of the purchase price, by adding to the sale price the amount of the debt outstanding or rental/hire purchase payment plus residual value as the case may be.

8. Where the parties arrange for the sale of the Principal's business to take place by way of transfer of

company shares calculation of the Agent's selling fee shall be based on the GST exclusive sale

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price of the business and stock at valuation (GST exclusive) and not on the amount of consideration to be stated in the share transfer.

9. Unless otherwise instructed, the Agent may allow other Agents to act in conjunction with them in order to effect a sale but only one selling fee will be payable.

10. The sale of the business will be advertised and or otherwise promoted as follows:

As per the Exclusive Business Sales 3 Phase Marketing Plan.

11. Unless otherwise instructed by the Principal, any prospective purchaser is entitled to inspect the business premises (if any) and the records, documents and books of account of the business in the following circumstances:

#### BY APPOINTMENT

12. Engagement fee of \$3,000 + GST is payable on signing this agreement. Services provided on payment of the Engagement fee can include the following: Production of Information memorandum for the business, Mail outs to people and businesses within the industry, advertising on the agent's website, email marketing to our client database, cold calling to businesses within the industry, third party business for sale websites. This fee cannot be varied except as agreed by the Principal in writing. Refund will not be made for above-mentioned services that were not undertaken in the promotion of the business sale.

a) In the event of the Principal terminating the Exclusive Agency Agreement within 30 days of the signing date, the Principal will be entitled to a refund of the Engagement Fee plus 10% (ten percent) of the Engagement Fee. This includes any additional money contributed by the Principal towards additional advertising methods requested.

13. In consideration of the Agent promising to use its best endeavors to sell the subject business, the Principal hereby grants to the Agent exclusive selling rights of the business for a period of 6 months commencing on the date of this agreement, (the "Exclusive Agency Period").

14. The Agent shall be entitled to the selling fee stipulated hereunder in the event that they or any co-joined Agent introduced a Purchaser to the Principal and/or the business or is otherwise

responsible for the Principal being introduced to a purchaser.

15. The Agent shall be entitled to commission irrespective of what form the sale of business takes including but not limited to the sale of assets of the Principal, the sale or issue of shares in any company owning the business or the sale or issue of any units in a trust which beneficially owns the business.

16. Where the sale of the Business is by way of a sale of shares or units, commission will be based on the higher of the value of the Business and stock at valuation or the consideration stated in the transfer of shares or units.

17. In the event that any part of the sale price is to be paid after settlement of the sale, the Agent shall be entitled at settlement to the full amount of commission payable in respect to the full sales price stated in the contract for sale whether or not payments to the Principal of any part of the sales price after settlement are conditional.

18. SELLING FEE BASED ON THE GST SALE PRICE OF THE BUSINESS INCLUDING GOODWILL, PLANT AND EQUIPMENT, FIXTURES AND FITTINGS, INTELLECTUAL PROPERTY AND THE STOCK AT VALUATION (exclusive of GST):-

8% (eight percent) + GST, of sales price or \$10,000 + GST, whichever is higher

The Agent's selling fee is due and payable by the Principal on whichever takes place first; completion of the sale or when the purchaser is granted control of the business.

(i) The Agent understands that the Principal has previously introduced parties to the business to potentially sell the business to them. The Agent agrees to reduce the commission to X% + incl GST if any of the following parties listed below purchase the business:

X

IMPORTANT: This is an exclusive agency agreement. This means you may have to pay the agent commission even if another agent (or you) sell the business or introduce a buyer who later buys the business.

WARNING: Have you signed an agency agreement for the sale of this business with another agent? If you have, you may have to pay 2 commissions (if the agreement or the other agreement you have signed is a sole or exclusive agency agreement).

In addition the Agent shall be entitled to the selling fee in the event that:

- (a) The business is sold by the agent, another agent, the Principal or any other person during the period of the exclusive agency agreement, or
- (b) If at any time following the expiration of the Exclusive Agency Period the business is sold by the Agent, another Agent, the Principal or any other person, to any person or legal entity introduced to the business or the Principal during the period of the exclusive agency agreement.

(ii) Our 120 day find a buyer guarantee does not apply to this business. The commission will not be reduced if the buyer who purchases this business is introduced to this business 120 days after going to the market.

19. It is irrevocably agreed that all monies that shall be paid by the Purchaser as deposit monies shall be held by the Agent in their trust account as stakeholder pending completion. The Agent is entitled to deduct their selling fee and any expenses or charges to be paid or reimbursed by the Principal from such monies on receipt of authorization from the Purchaser or their solicitor to account to the Principal or their solicitor.

20. The Agent will also be entitled to commission where:

- a) Where the Agent introduces a purchaser who makes an offer in writing to buy the business for a price agreed to by the Principal on terms agreed by the Principal and the Principal withdraws the Business from sale or otherwise refuses to sell the Business at the agreed price;
- b) After exchange of contracts the Principal defaults or the Principal and the Purchaser mutually agree not to proceed to settlement of the sale.

WARNING: A commission is payable under this agreement even if the sale of the property or business is not completed

21. WARNING: Any financial or investment advice provided by the Agent to the Principal is of a general

nature whose preparation does not take into account the individual circumstances, objectives, financial situation or needs of the principal. The Principal is advised to consult with their own financial and/or investment advisor.

22. The Agent is entitled to reimbursement of the following expenses and charges:-

Commission Only

The services and amount required to be reimbursed cannot be varied except with the agreement in writing of the Principal.

23. In respect of any expenses to be incurred by the Principal or the Agent on behalf of the Principal pursuant to this agreement, the Agent discloses that the Agent may receive the following rebates, discounts or commissions from third parties.

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