



# REFERRAL SERVICES AGREEMENT

BETWEEN

**Susan Amelia McRae**  
under the Business Name of:  
**Property PA**

AND

.....  
(Insert Customer's / Business or Company Name)  
under the Business / Company Name of: (if Applicable)

.....  
(Insert Business / Company Name (if Applicable))

# REFERRAL SERVICES AGREEMENT

**THIS REFERRAL SERVICES AGREEMENT (Agreement)** is made on the

day of

20..... (**Commencement Date**)

**BETWEEN: Susan Amelia McRae** ABN 51 004 698 296 under the business name of Property PA, with the principal place of business at 2 Coombe Street, Gawler East, SA 5118 (**Referrer**)

**AND:** .....ABN or ACN .....of

.....(NOT PO Box) (**Service Provider**)

(each a **Party** and collectively, the **Parties**)

## BACKGROUND:

- A. The Tradesperson (**Service Provider**) is in the business of providing certain trade services (**Services**) to customers (**Customers**) requiring such Services.
- B. The Referrer is in the business of referring Customers to Service Providers to undertake certain Services required by Customers.
- C. The Service Provider wishes to engage the services of the Referrer for the purpose of obtaining an introduction to, and contact details of, potential Customers requiring the Service Provider's Services.
- D. This Agreement provides the mechanism for the Referrer to refer Customers to the Service Provider, the details of which will be set out in a separate Service Order (**Service Order**) (the template of which is annexed as an Annexure to this Agreement) for the Services required by each Customer.
- E. The Parties wish to enter into this Agreement in accordance with the following terms and conditions.

## THE PARTIES agree as follows:

### 1. Definitions

In this Agreement:

**Agreement** means this agreement and any attached schedules and annexures;

**Business Day** means any day except a Sunday or other public holiday in Australia;

**Commencement Date** means the date of this Agreement as specified above;

**Confidential Information** means the terms of this Agreement and any information (in any form) which is owned or licensed by a Party (**First Party**) which has not previously been published or otherwise disclosed to the general public, and which is disclosed to, or otherwise received by, the other Party (**Other Party**) in confidence including but not limited to the First Party's proprietary information, trade secrets, know-how, price lists, customer lists, supplier lists, market research information, business and marketing methods, plans and data (whether recorded or not) and any other commercially valuable information of the First Party's.

**Fee** means the Referrer's fee specified in the Service Order;

**GST Law** means the *A New Tax System (Goods and Services Tax) Act 1999 (Cth)*, or any other act imposing a goods and services tax in Australia;

**Intellectual Property** means all copyright and all rights in relation to registered and unregistered Trade Marks (including Service Marks), registered Designs, the right to protect a Party's Confidential Information (including Trade Secrets, Know-How, Service Provider lists and Customer lists), Software and any Application or right to apply for Registration of any such rights.

**Normal Business Hours** means Monday to Friday from 8.00am to 6.00pm and Saturdays from 8.00am to 12.00pm;

### 2. Interpretation

In this Agreement unless the context otherwise requires:

- (a) headings do not affect interpretation;
- (b) singular includes plural and plural includes singular;
- (c) reference to a person includes a corporation, joint venture, association, government body, firm and any other entity;
- (d) reference to legislation includes any amendment to it, any legislation substituted for it, and any subordinate legislation made under it;
- (e) a provision must not be construed against a Party only because that Party prepared it;
- (f) a provision must be read down to the extent necessary to be enforceable. If it cannot be read down to that extent, it must be severed without affecting the validity and enforceability of the remainder of this Agreement;
- (g) an expression defined in the *Corporations Act 2001 (Cth)* (**Act**) or GST Law has the meaning given by the Act or GST Law at the Commencement Date of this Agreement.

### **3. Appointment**

The Service Provider appoints the Referrer from the Commencement Date for the Term of this Agreement for the purpose of referring Customers to the Service Provider who will be responsible for carrying out the Services specified in the Service Order.

### **4. Term**

- 4.1 This Agreement commences on the Commencement Date and continues in full force and effect for a period of twelve (12) months (**Term**) subject to earlier termination in accordance with clause 5. or extension or renewal in accordance with clause 4.2.
- 4.2 This Agreement may be extended or renewed for a further Term or as otherwise mutually agreed between the Parties in writing.
- 4.3 Each Service Order will commence on the Service Order Commencement Date (specified in the Service Order) and continue in full force and effect for a period of seven (7) days (**Service Order Term**) subject to earlier termination in accordance with clause 5. or extension or renewal or as otherwise mutually agreed between the Parties in writing.

### **5. Termination**

- 5.1 This Agreement and / or a Service Order may be terminated immediately by either Party upon notice in writing to the Other Party for any reason.
- 5.2 Upon Termination by either Party, the Service Provider agrees to pay any and all outstanding Referral Fees to the Referrer within seven (7) days from the date of the Referrer's Tax Invoice.

### **6. Obligations of the Referrer and Service Provider**

- 6.1 The Referrer agrees:
  - (a) to take enquiries from Customers seeking the Services of the Service Provider;
  - (b) not to make any commitment to a Customer on behalf of the Service Provider as to quotes or estimate of costs of Services to be provided by the Service Provider;
  - (c) to provide the Service Provider with a brief description of the Services required by the Customer; and
  - (d) to provide the Service Provider with the Customer's contact details in order for the Service Provider to contact the Customer directly.
- 6.2 Upon the Referrer referring a Customer to the Service Provider, the Service Provider acknowledges he/she will thereafter be responsible for, and agrees to negotiate directly, and enter into a separate contractual agreement, with the Customer in relation to and including, but not limited to, the following:
  - (a) the terms of engagement between the Service Provider and the Customer;
  - (b) the Services to be provided by the Service Provider to the Customer;

- (c) providing a quote / estimate of costs to be paid by the Customer to the Service Provider for the provision of the requisite Services;
  - (d) the hours during which the Service Provider will provide the Services to the Customer; and
  - (e) the timeframe within which the Service Provider expects to be able to complete the requisite Services for the Customer.
- 6.3 The Service Provider acknowledges and agrees that the:
- (a) service provided by the Referrer to the Service Provider is a Referral service of potential Customers only;
  - (b) Referrer does not have any expertise, or hold licenses, in respect of any of the trade industries;
  - (c) Referrer is not in the business of sub-contracting work to Service Providers; and
  - (d) Referrer does not carry Insurance which would otherwise be applicable if 6.3(b) and 6.3(c) applied.
- 6.4 The Service Provider agrees to only contact the Referrer during Normal Business Hours.

## 7. **Non-Exclusivity**

During the Term of this Agreement:

- (a) the Referrer acknowledges and agrees that this Agreement does not grant the Referrer exclusive rights to refer Customers to the Service Provider.
- (b) the Referrer acknowledges and agrees that the Service Provider has the right to deal with other customers (**Other Customers**) not introduced by the Referrer without any obligation to pay the Referrer's Fee in respect of such Other Customers;
- (c) the Service Provider acknowledges and agrees that this Agreement does not restrain the Referrer from referring Customers to other Service Providers with the same or similar trade skills; and
- (d) the Service Provider acknowledges and agrees not to attempt to do business with, or otherwise solicit, any Customers found or otherwise referred by the Referrer to the Service Provider for the purpose of circumventing, the result of which would be to prevent the Referrer from realizing the Referrer's Fee.

## 8. **Referrer's Fees**

- 8.1 In consideration for the referral of a Customer to the Service Provider during the Term of this Agreement, the Service Provider agrees to pay the Referrer's Fee as specified in the Service Order together with the applicable GST and any other applicable taxes.
- 8.2 The Referrer's Fee will be payable by the Service Provider for each referral of a Customer to the Service Provider where the Customer proceeds with engaging the Service Provider's Services.
- 8.3 The Referrer will issue a Tax Invoice to the Service Provider once:
- (a) the Referrer has taken an enquiry from the Customer;
  - (b) the Referrer has provided the Service Provider with a Service Order containing the Customer's details in order for the Service Provider to contact the Customer directly;
  - (c) the Referrer has received a copy of the quotation for the Services to be provided to the Customer by the Service Provider; and
  - (d) the Customer has engaged the Service Provider.
- 8.4 All Fees quoted are inclusive of GST.

## 9. **Payment Terms**

- 9.1 Payment of the Referrer's Fee for the Referral service specified in a Service Order is to be made within seven (7) days from the date of the Referrer's Tax Invoice, (*unless alternative payment terms have been agreed in advance*)
- 9.2 Payment of the Referrer's Fee must be made in Australian Dollars (**AUD**).

**10. Late Payment Penalty**

If payment is not received within seven (7) days from the date of the Referrer's Tax Invoice, the Referrer may recover from the Service Provider interest on the unpaid amount at 5% per annum, accruing from the date of the Tax Invoice up to and including the date of receipt of payment in full.

**11. Ownership and Intellectual Property Rights**

- 11.1 Each Party (**First Party**) acknowledges that the Other Party owns all Intellectual Property originated by, conceived, made or reduced to practice by the Other Party prior to or during the Term of this Agreement and that such Intellectual Property is the sole property of the Other Party.
- 11.2 The First Party acknowledges and agrees that nothing in this Agreement purports to transfer, license or assign any Intellectual Property Rights of the Other Party's to the First Party.
- 11.3 Each Party agrees not to use the Other Party's business's branding whether a registered or unregistered Trade Mark in any advertising, or in any other manner, unless otherwise mutually agreed between the Parties in writing.

**12. Confidentiality**

Each Party agrees to hold, treat and maintain the confidentiality of the Other Party's information, acknowledging it to be valuable property of the Other Party. The terms of this clause will survive the expiration or termination of this Agreement.

**13. Warranties and Indemnities**

- 13.1 Each Party warrants it has the legal right and power to enter into this Agreement each Service Order as contemplated by this Agreement;
- 13.2 The Referrer will not, and the Service Provider acknowledges and agrees the Referrer will not, provide any warranties or guarantees to any Customer in relation to the Service Provider's skills, quality of workmanship or timeliness in the provision of the Services.
- 13.3 Each Party (**First Party**) agrees to indemnify the Other Party, its officers, directors and employees against any and all claims, demands, liabilities, losses, costs, expenses (including legal costs and expenses on an indemnity basis) and taxes that the Other Party may suffer or incur as a direct or indirect result, or arising out of a breach by the First Party (or any officer, employee, agent or subcontractor of the First Party) of any of its obligations, representations or warranties under this Agreement except to the extent that such claims, demands, losses, costs, expenses or taxes result from any illegal acts, default, omission, wilful misconduct or negligence (including breach of statutory duty) of the Other Party (or any officer, employee, agent or subcontractor of the Other Party) or any breach by the Other Party of its obligations under this Agreement.

**14. Limitation of Damages**

Neither Party will have any liability for any indirect, special, incidental, consequential or punitive loss or damages ("**Special Damages**") including, but not limited to, the loss of opportunity, revenue or profit, goodwill or reputation or value of Intellectual Property in connection with or arising out of this Agreement. Each Party hereby waives for itself and its successors and assigns, any and all claims for any Special Damages which might otherwise be recoverable under this Agreement.

**15. Entire Agreement**

- 15.1 This Agreement records the entire agreement between the Parties and supersedes all previous communications, representations and agreements, whether oral or written, with respect to the subject matter of this Agreement.

15.2 This Agreement may only be varied by a further Agreement as mutually agreed between the Parties in writing.

**16. Relationship between the Parties**

The Referrer is an independent contractor. Neither the Referrer nor the Service Provider are or will be deemed for any purpose to be employees, partners, sub-contractors or agents of the other.

**17. Governing Law**

This Agreement is governed by the laws of South Australia and the division of the Federal Court of Australia in that jurisdiction, and the courts of appeal from them.

**18. Costs**

Each Party agrees to bear its own costs in relation to the negotiation and preparation of this Agreement and any document required by this Agreement.

**EXECUTION**

**EXECUTED** as an agreement by the Parties

**EXECUTED** by: )  
**Susan Amelia McRae** )  
under the business name of: )  
**Property PA** )  
in the presence of: ) \_\_\_\_\_  
Signature

\_\_\_\_\_  
Witness Signature **Susan Amelia McRae**  
Name

\_\_\_\_\_  
Name (please print) **[Insert Position Title]**  
Title (please print)

\_\_\_\_\_  
Date

**EXECUTED** by OR for and on behalf of: )  
**[Insert Name of Person OR Company]** )  
in the presence of: ) \_\_\_\_\_  
Signature

\_\_\_\_\_  
Witness Signature **[Insert Name of Person OR Company]**  
Name (please print)

\_\_\_\_\_  
Name (please print) **[Insert Position Title]**  
Title (please print)

\_\_\_\_\_  
Date