



REFERRAL FEE AGREEMENT

THIS REFERRAL FEE AGREEMENT (Agreement) will be considered as read and agreed upon when the Customer agrees to engage The Referrer (Property PA) and is invoiced for the services as outlined below

REFERRAL FEE AGREEMENT

BACKGROUND:

- A. The Customer wishes to engage the services of a Tradesperson (**Service Provider**) to provide certain services (**Services**).
- B. The Referrer is in the business of finding Service Providers to undertake certain Services required by Customers and referring Customers to the Service Providers.
- C. The Customer wishes to engage the services of the Referrer for the purpose of obtaining a referral to, and contact details of, one or more Service Providers to provide the requisite Services.
- D. This Agreement provides the mechanism for the Referrer to refer a Customer to one or more Service Providers, the details of which will be set out in a separate Referral Order/Invoice (**Referral Order**) for each of the Services required by the 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 the Referrer which has not previously been published or otherwise disclosed to the general public, and which is disclosed to, or otherwise received by, the Customer in confidence including but not limited to the Referrer's proprietary information, trade secrets, know-how, price lists, Service Provider 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 Referrer's.

Fee means the Referrer's fee specified in the Referral 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 the Referrer's Confidential Information (including Trade Secrets, Know-How and Service Provider 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 Customer appoints the Referrer from the Commencement Date for the Term of this Agreement for the purpose of referring the Customer to one or more Service Providers who will be responsible for carrying out the Services specified in the Referral 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 **Referral Order** will commence on the Referral Order Commencement Date (specified in the Referral Order/Invoice) and continue in full force and effect for a period of twenty one (21) days (**Referral 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

This Agreement and / or a Referral Order may be terminated immediately by either Party upon notice in writing to the other Party for any reason.

6. Obligations of the Referrer and Customer

- 6.1 The Referrer agrees to:
 - (a) use all reasonable efforts to source Service Providers with a good reputation in their respective industry;
 - (b) take enquiries from the Customer; and
 - (c) liaise, and provide the applicable 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 the Customer to a Service Provider, the Customer acknowledges he/she will thereafter be responsible for, and agrees to negotiate directly, and enter into a separate contractual agreement, with the Service Provider in relation to and including, but not limited to, the following:
 - (a) the terms of engagement between the Customer and the Service Provider;
 - (b) the Services required by the Customer from the Service Provider;
 - (c) obtaining a quote / estimate of costs from the Service Provider for the requisite Services;
 - (d) the hours during which the Services are to be provided to the Customer by the Service Provider; and
 - (e) the timeframe within which the Customer requires the Services to be completed by the Service Provider.
- 6.3 The Customer acknowledges and agrees that the:
 - (a) service provided by the Referrer to the Customer is a Referral service only;
 - (b) Referrer does not have any expertise, or hold any 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 Customer agrees to only contact the Referrer during Normal Business Hours.

7. Exclusivity

The Referrer will, for the Referral Order Term, have the exclusive right to refer the Customer to the applicable Service Provider who is not already known to the Customer.

8. Referrer's Fees

8.1 In consideration for the referral of a Service Provider to the Customer, the Customer agrees to pay the Referrer's Fees as specified in the Referral Order together with the applicable GST and any other applicable taxes.

8.2 The Referrer's Fee will be payable by the Customer for each referral of the Customer to a Service Provider irrespective of whether the Customer engages the Service Provider's Services or not.

8.3 The Referrer will issue a Tax Invoice to the Customer once the Referrer:

- (a) has taken an enquiry from the Customer;
- (b) contacted the applicable Service Provider; and
- (c) has provided the Service Provider with a Service Order setting out the Customer's details and Services required in order for the Service Provider to contact the Customer directly.

8.4 All Fees quoted are inclusive of GST.

9. Payment Terms

9.1 Payment of the Referrer's Fee/Invoice for the Referral service specified in a Referral Order is to be made within seven (7) days from the date of the Referrer's Tax Invoice.

9.2 Payment of the Referrer's Fee must be made in Australian Dollars (AUD).

10. Ownership and Intellectual Property Rights

10.1 The Customer acknowledges that the Referrer owns all Intellectual Property originated by, conceived, made or reduced to practice by the Referrer prior to or during the Term of this Agreement and that such Intellectual Property is the sole property of the Referrer.

10.2 The Customer acknowledges and agrees that nothing in this Agreement purports to transfer, license or assign any Intellectual Property Rights of the Referrer's to the Customer.

11. Confidentiality

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

12. Warranties and Indemnities

12.1 Each Party warrants it has the legal right and power to enter into this Agreement and each Referral Order as contemplated by this Agreement.

12.2 The Referrer does not, and the Customer acknowledges and agrees the Referrer does not, provide any warranties or guarantees in relation to the Service Providers reputation, skills, quality of workmanship or timeliness in the provision of the Services.

12.3 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 of, 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.

13. 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.

14. Entire Agreement

14.1 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.

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

15. Relationship between the Parties

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

16. 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.

17. 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

EXECUTED by OR for and on behalf of:
[Insert Name of Person OR Company]

Signature

Susan Amelia McRae

Name

Date

Signature

Name (please print)

Date