Exclusive Residential Sale Authority

Authority Particulars - Residential

Property Address:

Street: 21 CUVIER STREET

Suburb: MIA MIA State: VIC Postcode: 3444

With chattels being: TBA

Agent:

Company name: Lawry Holdings Pty Ltd

Trading name: Ray White Heathcote

ABN/ACN:

Postal address: 77 High Street

Heathcote State: VIC Postcode: 3523

Sales agent's: Name Kayla Senior Licence No.:

Email kayla.senior@raywhite.com Phone 0490450782

Vendor 1

Full name: HOWARD TOMAZ NATHAN

ABN/ACN:

Postal address: 43 EDWARDS ROAD

KENNINGTON State: VIC Postcode: 3550

Email: tomtruck.howard@gmail.com

Phone: Work Home Mobile 0417 315 795

Vendor 2

Full name:

ABN/ACN:

Postal address:

State: Postcode:

Email:

Phone: Work Home Mobile

Details

Sale:

☑ by private sale

☐ by auction, to be held on _____ at ____ *am/pm

at _____

Exclusive Period: ☐ 30 days ☑ 60 days ☐ 90 days ☐ other: _____

Continuing Period: ☐ 30 days ☐ 60 days ☑ 90 days ☐ other: _____

Property will be sold: ☑ with vacant possession **OR** ☐ subject to tenancy

☐ on payment of full purchase price

OR

☐ upon terms on payment of full deposit and the sum of $ _____

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Vendor's price $ 590,000 payable in ☑ 30 days ☑ 60 days ☑ 90 days

☐ other:

Agent's estimate of selling price (section 47A of the *Estate Agents Act 1980* (Victoria)). Note: if a price range is specified, the difference between the upper and lower amounts cannot be more than 10% of the lower amount.

Single amount $ _____ or between $ 590,000 and $ 640,000

Rebates (see Rebate Statement attached for further details)

The Agent:

☑ will not be, or is not likely to be, entitled to any rebates.

☐ will be, or is likely to be, entitled to rebates.

Commission

Commission (including GST ~~or excluding GST~~) $ _____ **OR** 2.0 %

OR calculated as follows: 2.0% including GST

Dollar amount of estimated commission $ 11,800 including GST of $ $1,072.73 if sold at a price of

*$ 785,000 **including GST or ~~*excluding GST~~* *(delete the one that does not apply)*

Expenses

Marketing expenses (including GST ~~or excluding GST~~)

Advertising $ 1887.00

Other $

Total $ 1887.00

AML/CTF Compliance expenses *$ 200.00 **including GST or ~~*excluding GST~~* *(delete the one that does not apply)*

All expenses are payable on *the signing of this Agreement / *written request / *~~immediately upon settlement.~~

(delete as applicable)

The entity the Agent operates under is required under the Australian Privacy Principles to have a privacy policy: Yes / No

(delete the one that does not apply)

If yes, the privacy policy can be located at WWW.RAYWHITE.COM/PRIVACY

(insert URL)

Signed by the Vendor(s)

Signature Signature SIGN HERE

Date Date

Signed by the Agent

SIGN HERE

Date

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Exclusive Residential Sale Authority

General Conditions

1. Exclusivity

The Vendor acknowledges that the Agent's appointment under this Agreement is an exclusive appointment, and continues until the earlier of the expiration of the Exclusive Period and the termination of this Agreement. During the Exclusive Period, the Vendor undertakes to not contract with or engage the services of any other estate agent, estate agent's representative or any third party to market or sell the Property.

2. Duration

Unless stated otherwise in the Authority Particulars, the Exclusive Period will be:

2.1 in the case of a sale by auction, 30 days after the date of the auction; or

2.2 in any other case, 60 days after the date this Agreement is signed by, or on behalf of the Vendor.

3. Continuing Period

3.1 If a Continuing Period applies to this Agreement, the terms of the Agent's appointment will be identical to the terms of the Exclusive Period, with the exception that the Vendor may terminate the Continuing Period at any time by providing written notice to the Agent.

3.2 The Continuing Period will commence on the day after the Exclusive Period ends and continue for the amount of days stated in the Authority Particulars.

4. Agent's role

The Agent must promote, advertise, market and endeavour to sell the Property.

5. Marketing Expenses

5.1 The Marketing Expenses are completely separate to and in no circumstances form part of the Commission.

5.2 The Vendor acknowledges that:

5.2.1 it was informed prior to signing this Agreement that the Marketing Expenses were negotiable and that the Marketing Expenses were the subject of negotiation; and

5.2.2 the Marketing Expenses must be paid by the Vendor to the Agent pursuant to **clause 5.3** regardless of whether the Agent sells the Property.

5.3 The Marketing Expenses are payable by the Vendor to the Agent:

5.3.1 upon execution of this Agreement;

5.3.2 within 14 days of receiving written notice from the Agent to pay the Marketing Expenses; or

5.3.3 immediately upon settlement of the Property,

as specified in the Authority Particulars.

5.4 The Agent acknowledges that the Vendor will not be liable for the payment of any Marketing Expenses in excess of the amount stated in the Authority Particulars, unless such additional expenses have been agreed by the Vendor in writing.

6. Commission

6.1 The Vendor acknowledges being informed prior to signing this Agreement that the Commission to be paid to the Agent under this Agreement was negotiable and that the Commission was the subject of negotiation.

6.2 Subject to **clause 6.4**, the Vendor agrees to pay the Agent the Commission on the terms of this Agreement if:

6.2.1 the Property is sold during the Exclusive Period or the Continuing Period; or

6.2.2 the Property is sold within 120 days after the expiry of the later of the Exclusive Period or Continuing Period to a buyer Introduced to the Property by the Agent before, during or after the Exclusive Period or Continuing Period.

6.3 The Vendor acknowledges that the Agent will be entitled to receive the Commission under clauses **6.2.1** and **6.2.2** when it obtains a Binding Offer and regardless of whether the selling price of the Property is different to or outside the range of the Agent's estimation of the selling price (as stated in the Authority Particulars) as it is reasonably necessary to protect its legitimate interest.

6.4 The Vendor will not be liable to pay the Commission to the Agent if the Property is sold whilst listed with another estate agent, only if the engagement of the other estate agent by the Vendor was not a breach of clause 1 in this Agreement.

7. Payments

7.1 The Vendor must immediately pay or authorise its conveyancer or solicitor to pay the Agent the Commission when the property is sold (when a Binding Offer is obtained).

7.2 The Vendor agrees that the Agent is entitled to and may deduct from the Deposit received and held by the Agent any amounts towards the payment of Marketing Expenses and any state and federal taxes reasonably necessary to protect legitimate interest required to be paid by law (including GST).

7.3 If a Deposit is received by the Vendor's conveyancer or solicitor, the Vendor irrevocably appoints the Agent as its attorney to direct the payments described in **clause 7.2** to the Agent.

7.4 The Vendor will not be relieved from its obligation to pay the Marketing Expenses and Commission if the Property does not settle due to the Vendor defaulting under an enforceable contract for the sale of the Property between the Vendor and a Purchaser, which is not caused by the Agent.

8. Late payments

8.1 If the Vendor fails to pay any amount under this Agreement within 30 days of receiving an invoice from the Agent issued in accordance with this Agreement, the Agent will be entitled to charge any overdue amounts at the interest rate fixed from time to time under section 2 of the *Penalty Interest Rates Act 1983* (Victoria).

8.2 Interest will be calculated from the due date until and including the date the overdue amounts are paid in full.

8.3 The Vendor fully shall pay the Agent for the outstanding amount, the interest and any and all reasonable, costs and expenses in pursuing any overdue amounts from the Vendor.

9. Execution of documents

9.1 A person signing this Agreement on behalf of the Vendor is responsible for performing the obligations of the Vendor under this Agreement as though that person executed this Agreement as the Vendor.

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9.2 If a corporation or an incorporated association signs this Agreement on behalf of the Vendor, the Agent may require the signatory to procure that the directors of the corporation or the committee members of the incorporated association execute a standard form deed of guarantee and indemnity in favour of the Agent (in a manner acceptable to the Agent's solicitor).

9.3 Upon receiving a written request and authority by the Vendor to do so, the Agent may sign a contract for the sale of the Property on behalf of the Vendor containing the terms and conditions of sale agreed to by the Vendor and the Purchaser.

9.4 The Agent is not liable whatsoever and the Vendor releases and indemnifies the Agent from and against any claim, loss, cost, expense or liability which may arise from the Agent complying with **clause 9.3** and acting within the scope of that Authority.

9.5 The Vendor acknowledges that the Agent may be required to request a reserve price from the Vendor for the sale of the Property. If the Agent requests a reserve price for the Property, the Vendor must provide a written signed response to the Agent confirming the Agent's proposed reserve price for the Property or specifying another reserve price as a single dollar amount which is not modified by words or figures. If the Property is being sold by auction or fixed-date sale, the Vendor must provide its signed written response to the Agent no later than 8 days prior to the scheduled auction or fixed-date sale. The Vendor acknowledges and agrees that the Agent:

9.5.1 may postpone the auction or fixed-date sale to a date which is not earlier than 8 days after receipt by the Agent of the Vendor's written and signed confirmation of the reserve price for the Property; and

9.5.2 is not liable whatsoever in relation to any postponement and the Vendor releases and indemnifies the Agent from and against any claim, loss, cost, expense or liability which may arise in relation to the Vendor's breach of this clause, other than to the extent that the breach arises due to the default or negligence of the Agent.

10. Rebate statement

10.1 If the Authority Particulars specify that the Agent will not be entitled to any rebates then:

10.1.1 the Agent will not be, or is not likely to be, entitled to any rebates. A rebate includes any discount, commission, or other benefit, and includes non-monetary benefits; and

10.1.2 specifically, the Agent will not be, or is not likely to be, entitled to any rebate in respect of:

10.1.2.1 any outgoings; or

10.1.2.2 any pre-payments made by the person engaging or appointing the Agent (the Vendor) in respect of any intended expenditure by the Agent on the Vendor's behalf; or

10.1.2.3 any payments made by the Vendor to another person in respect of the work.

10.2 If the Authority Particulars specify that the Agent will be entitled to rebates then:

10.2.1 the Agent will be, or is likely to be, entitled to rebates. A rebate includes any discount, commission, or other benefit, and includes non-monetary benefits;

10.2.2 specifically, the Agent will be, or is likely to be, entitled to rebates in respect of:

10.2.2.1 any outgoings; or

10.2.2.2 any pre-payments made by the person engaging or appointing the Agent (the Vendor) in respect of any intended expenditure by the Agent on the Vendor's behalf; or

10.2.2.3 any payments made by the Vendor to another person in respect of the work.

10.3 The attached Rebate Statement sets out the details of the rebates.

10.4 The Agent will not keep any rebate and will ensure that rebates that it received are passed to the Vendor.

11. Commission sharing

11.1 The Agent may share the Commission with an employee who is an estate agent or the Agent's representative, or with an estate agent who is the Agent's business partner.

11.2 If the Agent has agreed to share the Commission that will be payable for selling, leasing or managing the Property except as set out in **clause 11.1**, the details of the Commission sharing agreement are set out in the attached notice of Commission sharing statement which the Vendor acknowledges was given to it prior to signing this Agreement.

12. Financial crime laws

12.1 The Vendor acknowledges that the Agent is required by law (including the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (Cth) to obtain and verify certain information and documentation about the Vendor and, where relevant, the Vendor's subsidiaries, affiliates, related parties, related entities and relatives.

12.2 The Vendor agrees to provide such information as the Agent requires promptly on request and, in doing so, confirms that the information provided is complete, true, accurate and not misleading. The Vendor acknowledges and agrees that the Agent will not commence work or continue acting, unless the Agent is satisfied that the information provided by the Vendor is sufficient, complete, true, accurate and not misleading.

12.3 The Vendor consents to the Agent using third-party providers to collect and verify the Vendor's information, including through electronic identity verification, and to disclosing relevant information to them for this purpose. These providers are subject to applicable confidentiality, privacy, and data security requirements, and your information will be used only for compliance with our legal and regulatory requirements and handled in accordance with applicable privacy laws.

12.4 The Vendor acknowledges that applicable legislation may impose statutory obligations, including reporting obligations that may involve the disclosure of confidential information, and that it may constitute an offence to provide false or misleading information or to obtain services anonymously or under a false name.

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12.5 The Agent may terminate this Authority where requested information is not provided, is determined to be incomplete, insufficient, false, inaccurate, or misleading, or if continuing to act would require the Agent to breach any legal, ethical, or professional obligations. The Vendor acknowledges that the Agent need not provide a reason for such termination.

13. Privacy

13.1 For the Agent to market the Property for sale including third party suppliers who provide goods and services in connection with the marketing and sales campaign and the Vendor completing the Authority Particulars, the Vendor will be required to and consents to giving certain personal information, such as (but not limited to) the Vendor's name, address, contact details and bank account details for the purposes in clause 13.2.

13.2 Subject to the *Privacy Act 1988* (Cth), the Vendor authorises the Agent to:

13.2.1 disclose its personal information to third parties for the purpose of marketing and sales campaigns, for any purpose stated in the privacy statement or privacy policy, and for any related or arising matters, issues or disputes;

13.2.2 keep on its database for future marketing and sales campaigns or similar (including where the Vendor is not marketing or selling a property).

13.3 If the entity which the Agent operates through ('**Entity**') is required to comply with the Australian Privacy Principles (which are contained in schedule 1 of the *Privacy Act 1988* (Cth)) ('**APP**'), the Entity must have a clearly expressed, up-to-date and compliant policy about the management of personal information it collects.

13.4 If the Entity is required to have a privacy policy under the APP, the policy can be located at the address given in the Authority Particulars.

14. Termination

14.1 During the Exclusive Period, either party may immediately terminate this Agreement upon providing written notice to the other party only if the other party has breached this Agreement and has not remedied such breach within 7 days of receiving written notice to do so from the other party.

14.2 After the Exclusive Period, this Agreement will continue.

15. Complaints

Any complaint regarding commission, expenses or outgoings can be made to the Director, Consumer Affairs Victoria, GPO Box 4567, Melbourne Victoria, 3001 or by telephoning 1300 73 70 30.

Unless there are exceptional circumstances, Consumer Affairs Victoria cannot deal with any dispute concerning commission or outgoings, unless it is given notice of the dispute within 28 days of the client receiving an account for, or notice that the agent has taken the amount in dispute, whichever is the later.

The Agent has procedures for resolving complaints and disputes arising from the operation of the Agent's estate agency practice. Please request further information in relation to the procedures if you have a complaint or dispute.

16. Notices

16.1 All notices connected with this Agreement ('**Notice**') must be in writing and addressed to the person and their address details stated on the Authority Particulars. In addition to any other method of service provided by law, a Notice may be:

16.1.1 sent by prepaid post to the addressee set out in this Agreement or subsequently notified;

16.1.2 delivered at the address of the addressee set out in this Agreement or subsequently notified; or

16.1.3 sent by email to the email address of the addressee set out in this Agreement or subsequently notified.

16.2 A Notice must be treated as given to and received by the party to which it is addressed:

16.2.1 if sent by post, on the 3rd Business Day (at the address to which it is posted) after posting;

16.2.2 if otherwise delivered before 5 pm on a Business Day at the place of delivery, upon delivery, and otherwise on the next Business Day at the place of delivery; or

16.2.3 if sent by email before 5 pm on a Business Day at the place of receipt, on the day it is sent and otherwise on the next Business Day at the place of receipt provided that an email is not treated as given or received if the sender's computer reports that the message has not been delivered.

17. Entire Agreement

This Agreement (including the Authority Particulars, General Conditions and any other statement attached (eg: Rebate Statement) constitutes the entire agreement between the parties in relation to the matters in this Agreement and supersedes all prior agreements, understandings and negotiations between the parties in relation to those matters.

18. Definitions

Unless the contrary intention appears, defined terms in these General Conditions have the following meaning:

18.1 '**Agent**' means the estate agent specified in the Authority Particulars and includes the Agent's representative and an estate agent employed by the Agent;

18.2 '**Agreement**' means this agreement including the Authority Particulars, General Conditions, Rebate Statement and commission sharing statement (if any);

18.3 '**Authority Particulars**' means the residential form at the front of these General Conditions;

18.4 '**Binding Offer**' means an offer not less than the Vendor's price set out in the Authority Particulars and on terms no less favourable than those set out in the Authority Particulars and which is, or would be when signed by the Vendor, enforceable by an order for specific performance or upon the breach of which either the Vendor or the other party would be entitled to an award of damages.

18.5 '**Business Day**' means any day which is not a Saturday, Sunday or a proclaimed public holiday in the State of Victoria;

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18.6 '**Commission**' means the remuneration the Agent is entitled to receive under this Agreement for the services under clause 4 for the amount set out in the Authority Particulars;

18.7 '**Continuing Period**' has the meaning given in **clause 3**;

18.8 '**Deposit**' means the deposit amount stated in the Authority Particulars paid by the Purchaser under a contract for the sale of the Property;

18.9 '**Exclusive Period**' means the period stated in the Authority Particulars in which the Agent is exclusively appointed by the Vendor to market the Property for sale;

18.10 '**General Conditions**' means these general conditions;

18.11 '**GST**' means the goods and services tax payable in accordance with the *A New Tax System (Goods and Services Tax) Act 1999* (Cth);

18.12 '**Introduced to the Property**' means the Purchaser of the Property realising that the Property was for sale or available for purchase by any direct or indirect marketing by the Agent, including but not limited to word of mouth, signage, brochures, telephone call, discussions, open inspections, internet advertising and any other forms of literature, communication and marketing.

18.13 '**Marketing Expenses**' means the marketing, advertising and other expenses as specified in the Authority Particulars or otherwise agreed between the parties in writing;

18.14 '**Person**' means an entity recognised as a person of law includes a natural person, a corporation and incorporated association;

18.15 '**Property**' means the property specified in the Authority Particulars;

18.16 '**Purchaser**' means the Person who purchases or intends to purchase the Property and has entered into a contract with the Vendor for the sale of the Property;

18.17 '**Rebate Statement**' means the form directly after these General Conditions;

18.18 '**sold**' is the result of obtaining a Binding Offer (not requiring an exchange of contracts) and will trigger Commission being payable; and

18.19 '**Vendor**' means the vendor specified in the Authority Particulars.

19. Counterparts and Execution

19.1 This Agreement (identical in form and content) may be executed in any number of counterparts. All counterparts together will be taken to constitute one instrument of the relevant document.

19.2 A copy of an original executed counterpart sent by facsimile machine, email or link emailed:

(a) will be treated as an original counterpart;

(b) is sufficient evidence of the execution of the original; and

(c) may be produced in evidence for all purposes in place of the original.

19.3 The person signing this Agreement warrants that they have full authority to sign on behalf of the party they represent and has the authority to bind that party.

19.4 Each party consents to this Agreement being signed by any other party in accordance with an electronic communication method and being given or produced by electronic communication, including by link emailed to a party to download an electronic copy. The parties acknowledge and agree that electronic signatures will have the same quality of integrity as a written signature including if the signature is:

(a) computer generated;

(b) by computer pen;

(c) by a typed mark or name;

(d) physically signed on paper and scanned electronically. or

(e) any electronic symbol, or process attached to or logically associated with a record and executed and adopted by a party with the intent to sign such record or document.

19.5 Where either party applies an electronic signature to this Agreement or any other document attached or annexed to such:

19.5.1 that party confirms that the method of identifying the person, their intention to be bound and method of signing is reliable and conclusive evidence of that party's intention to be legally bound by that document

19.5.2 each party is able to rely on the electronic signature as if that party had signed the relevant document by manuscript signature in accordance with all legal requirements; and

19.5.3 each party consents to the conduct of an electronic transaction and the method of electronic signature used by the other party.

19.6 Each party agrees that it will not contest the validity or enforceability of this Agreement, a contract or document because it was signed or transmitted electronically. Each party will not dispute the admissibility or authenticity of this Agreement, a contract or document on the grounds that it is not an original or that any signature was not manually affixed.

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