

# Sales Inspection Report and Exclusive Selling Agency Agreement And Continuing Agency



1. This agreement consists of three parts: Part 1 | Sales Inspection Report; Part 2 | The Particulars; Part 3 | Terms and Conditions.
2. All parts of this agreement must be read before signing.
3. The *Property, Stock and Business Agents Act 2002* and the *Property, Stock and Business Agents Regulation* require all agreements to be in writing and contain prescribed terms.

## PART 1 | SALES INSPECTION REPORT

### PRINCIPAL ["the Principal"]

Registered for GST Yes/No

ACN|ABN

**Name:** Michael Peter Raymond Collins & Julie-Anne Frances Collins

**Address:** 1677 The Lakes Way Rainbow Flat NSW 2430

**Phone:** 0447 106 624 Julie

**Mobile:** 0408 626 136 Michael

**Fax:**

**Email:** jam.350@bigpond.com

### LICENSEE ["the Licensee"]

Registered for GST Yes **ABN:** 98 166 315 939

**Licence No.:** 10017171

**Name:** Mahlim Pty Ltd

**Business Name:** Elders Real Estate Forster

**Address:** 11 Wharf Street

Forster

2428

**Phone:** 02 6555 2188

**Mobile:** 0447 107 744

**Fax:** 02 6555 2199

**Email:** forster@eldersre.com.au

### PRINCIPAL'S SOLICITOR/LICENSED CONVEYANCER

**Name:** Smart Coast Conveyancing

**Business Address:** Shop 5, 1-5 Manning Street, Tuncurry NSW 2428

**Document Service Address:** Po Box 3, Tuncurry NSW 2428

**Phone:** 02 6519 4933

**Mobile:**

**Fax:** N/A

**Email:** info@smartcoastconveyancing.com.au

### PROPERTY ["the Property"] Description of the Property sufficiently detailed to allow it to be readily identified.

**Address:** 24 Lakeview Crescent, Forster NSW

**Postcode:** 2428

**Occupation:** Tenanted

**Items (Fixtures/Fittings) to be included:**

As Per Awaiting Contract

**Items (Fixtures/Fittings) to be excluded:**

As Per Awaiting Contract

**Easements/Covenants/Defects/Local Government Notices/Orders affecting the Property known to the Licensee:**

As Per Awaiting Contract

**Terms and Conditions of Sale Known to the Licensee:**

As Per Awaiting Contract

**Agent's Estimate of the Selling Price [Or Price Range] \$:**

650,000.00 - \$675,000.00

[This opinion is not to be construed as a valuation]

**Agent's Recommendation as to the Most Suitable Method of Sale:**

Private Treaty

**Special Instructions about the Marketing and Showing of the Property:**

None

**Date of Preparation of Report:**

09/04/2019

**Signature of Agent:**



## PART 2 | THE PARTICULARS

### A. AGENCY APPOINTMENT

In consideration of the Licensee agreeing to use the Licensee's best endeavours to sell the Property the Licensee is appointed and authorised to sell the Property on behalf of the Principal, as exclusive selling agent for the sale of the Property, for the period ("the Exclusive Agency Period") commencing on 09/04/2019 and ending at midnight on 30 Days Written Notice

AND as non-exclusive agent for the sale of the Property for the period ("the Non-Exclusive Agency Period") commencing at the expiration of the Exclusive Agency Period and terminating upon the sale of the Property or upon termination by seven days prior written notice given by the Principal or the Licensee to the other.

Where the Exclusive Agency Period exceeds 90 days, the Principal may terminate the Agreement (without penalty) by giving 30 days notice in writing to the Licensee at any time after the end of the first 90 days of the term except where the agency agreement is in respect of the sale of residential property where the contract for sale provides for the construction by the Principal of a dwelling on the land.

### B. PRICE at which the property is to be offered [Clause 2.1]

\$699,000.00

### C. REMUNERATION [Clause 3.1, 3.2]

The Licensee's GST inclusive remuneration shall be calculated on the GST inclusive selling price in the following way:  
3% Including GST, of the Sale Price

(e.g. % of sale price; flat fee; formula e.g. a combination of % and flat fee)

e.g. in relation to the Licensee's ESTIMATE of the sale price of \$650,000.00 - \$675,000.00 the GST inclusive remuneration would be \$19,500.00 - \$20,250.00 if the property sold at that price.

**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 property or introduce a buyer who later buys the property.

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

### D. EXPENSES AND CHARGES [Clause 3.3] [If there are no such expenses or charges, write 'NIL' on each line]

Government and other imposts as charged.

An ESTIMATE of the expenses or charges the Licensee expects to incur and for which the Licensee is entitled under the agreement to be reimbursed is as follows.

| Services: | Estimate \$ | When due and payable |
|-----------|-------------|----------------------|
| Nil       | \$Nil       | Nil                  |
| Nil       | \$Nil       | Nil                  |

Those services and amounts cannot be varied except with the agreement in writing of the Principal.

### E. OTHER SERVICES [Clause 4.1] [If no such services are to be provided write 'NIL' on each line]

| Services: | \$ (GST Inc) | When due and payable |
|-----------|--------------|----------------------|
| Nil       | \$Nil        | Nil                  |
| Nil       | \$Nil        | Nil                  |

Those services and amounts cannot be varied except with the agreement in writing of the Principal.

### F. ADVERTISING AND PROMOTION [Clause 4.2]

Manner of Advertising and Promotion:

Internet, Window Card, Sign Board, Brochure, Local Adverting, Social Media.

Signboard: Yes

### G. INSPECTION OF PROPERTY [Clause 7.1]

Inspection may be conducted in the following circumstances:

Accompanied By An Agent

### H. DISCLOSURE OF REBATES, DISCOUNTS AND COMMISSIONS [Clause 7.4]

[If no rebates etc. are received write 'NIL' on each box]

| Name of Source of Rebate: | Estimated Amount of Rebates, Discounts or Commissions: |
|---------------------------|--|
| Nil                       | Nil  |
| Nil                       | Nil  |
| Nil                       | Nil  |

**COOLING-OFF PERIOD:** You (the Vendor) have a cooling-off period for this agreement. If you do not wish to continue with this agreement you can cancel it until 5pm on the next business day or Saturday. How to do this, you should refer to the guide given to you before signing the Agreement.

**WAIVER OF COOLING OFF PERIOD:** Yes

THE LICENSEE AND THE PRINCIPAL/S ACKNOWLEDGE AND CONFIRM THAT BEFORE SIGNING THIS AGREEMENT THE LICENSEE AND THE PRINCIPAL/S HAVE READ AND UNDERSTOOD AND AGREE TO THE TERMS AND CONDITIONS IN PART 3 OF THIS AGREEMENT.

The approved guide "Agency Agreement for the Sale of Residential Property" was provided to the Principal Yes

Date Provided: 09/04/2019

[Clause 7.5].

SIGNATURE OF, OR ON BEHALF OF, PRINCIPAL/S

*M. Collins*

*[Signature]*

SIGNATURE OF AGENT

Date of Agreement: 09/04/2019



## Part 3 | TERMS AND CONDITIONS OF THE EXCLUSIVE SELLING AGENCY AGREEMENT

### 1.0 DEFINITIONS

- 1.1 "Government and other imposts"** includes State and Federal Taxes and any tax in the nature of a goods or services tax and any other taxes or charges debited by banks or financial institutions against the account of the Licensee in relation to receipts or expenditures associated with the operation of this agreement.
- 1.2 "Introduced"** - A person shall be deemed to have been "introduced" to the Principal or the Property by the Licensee if the fact that the Property is available for sale is made known to that person by or through the Licensee and, without limiting the generality of this paragraph, a person shall be deemed to have been introduced to the Property by the Licensee if that person becomes aware that the Property is available for sale as a result of reading any advertisement, notice or placard referring to the availability of the Property for sale, published or erected by or in the name of the Licensee.
- 1.3 "Person"** includes a corporation.
- 1.4** The word "Licensee" and the word "Agent" where appearing mean the same and may be used interchangeably in this Agreement.
- 1.5** Words importing one gender include the other and the singular only include the plural and vice versa.

### 2.0 PRICE

- 2.1** The Principal authorises the Licensee to sell the Property at the price set out in Item B of the Particulars or such other price the Principal approves.

### 3.0 REMUNERATION, EXPENSES AND CHARGES

- 3.1 Remuneration** - The Licensee shall be entitled to the remuneration set out in Item C of the Particulars ("the Remuneration") in the following circumstances (whether or not the Licensee is the effective cause of sale):

- if during the Exclusive Agency Period the Principal enters into a contract (which includes by way of an option being exercised) for the sale of the Property, or of an interest in the property, to any person (including a co-owner), whether or not that person was introduced to the Principal or to the Property by the Licensee.
- if the Principal is a corporation - then in addition, if during the Exclusive Agency Period any person acquires by allotment, or enters into a contract (which includes by way of exercise of an option) to acquire by allotment or to purchase (either alone or jointly with another or others), one or more shares, or an interest in one or more shares, in the capital of the Principal, whether or not that person was introduced to the Principal or to the Property by the Licensee.
- if a person has been effectively introduced to the Principal or the Property by the Licensee during the Exclusive Agency Period or the Non-Exclusive Agency Period, (including another person who is introduced to the Principal or the Property by such person), and that person, either during the Non-Exclusive Agency Period or thereafter, enters into a contract to purchase the property, or an interest in the property (which includes by way of exercise of an option); and includes whether it be alone or jointly with another or others), or
- if the Principal is a corporation - then in addition, if a person has been effectively introduced to the Principal or the Property by the Licensee during the Exclusive Agency Period or the Non-Exclusive Agency Period, (including another person who is introduced to the Principal or the Property by such person), and that person, either during the Non-Exclusive Agency Period or thereafter, acquires by allotment, or enters into a contract (which includes by way of exercise of an option) to acquire by allotment or to purchase (either alone or jointly with another or others) one or more shares, or an interest in one or more shares, in the capital of the Principal.

- 3.2 When Remuneration is Due and Payable** - The Remuneration is due and payable by the Principal to the Licensee:

- Immediately upon completion of the sale of the Property, or
- the Principal and the Purchaser entering into a mutual agreement (whether written or verbal) to terminate or rescind the contract or otherwise not proceed with the sale; or
- If the sale is not completed owing to the default of the Principal after the parties have entered into a binding contract; or
- upon the termination of the contract by the Principal as a result of the default of the Purchaser and the Remuneration is the same or less than the amount of the deposit which is forfeited to the Principal.

**WARNING :** The term immediately above provides that a commission is payable under this agreement even if the sale of the property is not completed.

- 3.3 Expenses, Charges and Other Services** - The Licensee is entitled to reimbursement for expenses, charges and fees on other services incurred by the Licensee as set out in Item D and E of the Particulars as and when the same are incurred.

- 3.4 Other reimbursement** - If a sale referred to in Clause 3.1 is not completed because of default by the Purchaser and whether or not the Principal forfeits all or part of the deposit then the Principal will reimburse and agrees to reimburse the Licensee for all expenses and charges reasonably incurred by the Licensee under or in relation to this agreement as provided for in Clause 3.3.

- 3.5 Variation** - The Remuneration, expenses and charges cannot be varied except as agreed in writing by the Principal.

### 4.0 OTHER SERVICES, ADVERTISING AND PROMOTION

- 4.1 Other Services** - The Licensee shall undertake the other services (if any) set out in Item E of the Particulars for the fee set out in that Item.

- 4.2 Advertising and Promotion** - The Licensee shall advertise or otherwise promote the Property as set out in Item F of the Particulars.

### 5.0 PRINCIPAL'S WARRANTY, AUTHORITIES, INDEMNITIES AND OBLIGATIONS

- 5.1 Warranty** - The Principal warrants to the Licensee that the Principal has authority to enter into this Agreement with the Licensee.

- 5.2 Licensee not to Sign Contract** - The Licensee is not authorised to sign a Contract for Sale on behalf of the Principal.

- 5.3 Conjunction Agents** - The Licensee may allow other licensed real estate agents to sell the Property in conjunction with the Licensee provided only one amount of Remuneration is payable by the Principal.

- 5.4 Authority to Deduct** - The Principal authorises the Licensee, upon receipt of an order from the Purchaser or the Purchaser's solicitor or licensed conveyancer authorising the Licensee to account to the Principal for the deposit, to deduct from any monies held by the Licensee on behalf of the Principal the Remuneration and all expenses, charges and fees payable to the Licensee under this agreement.

- 5.5** The Principal acknowledges that by signing this Agreement the Principal is precluded from selling the Property himself/herself during the Exclusive Agency Period without paying the Remuneration.

- 5.6** The Principal will keep the Licensee indemnified against all actions, claims and demands brought against, and all costs, losses and liabilities incurred by the Licensee in the course of or arising from the exercise or performance of the Licensee's authorities or duties under this Agreement.

### 6.0 MATERIAL FACTS

- 6.1** The Principal acknowledges that pursuant to the Property, Stock and Business Agents Act 2002, the Licensee is required to disclose all "material facts" relating to the property to any prospective or actual purchaser. A "material fact" is a fact that would be important to a reasonable person in deciding whether or not to proceed with a particular transaction or a matter prescribed by the Act.

- 6.2** The Principal warrants that it has supplied to the Licensee all relevant details and information relating to anything which may be considered to be a "material fact" in relation to the property marketing assistance form completed in relation to the property (which may be annexed to this agreement). If the Principal becomes aware of any further information after entering into this Agreement it will immediately provide that information to the Licensee.

- 6.3** The Principal authorises and directs the Licensee to disclose anything which may be a "material fact" in relation to the property to any actual or prospective purchaser of the property.

- 6.4** The Principal will keep the Licensee indemnified against all actions, claims and demands brought against, and all costs, losses and liabilities incurred by the Licensee arising from or connected with a failure on the part of the Principal to disclose information in accordance with this Clause or as a result of the Principal providing false, misleading or deceptive information to the Licensee.

### 7.0 GENERAL, DISCLOSURE, ACKNOWLEDGEMENTS AND WARNINGS

- 7.1 Inspection of Property** - A prospective purchaser is entitled to inspect the Property in the circumstances set out in Item G of the Particulars.

- 7.2 Deposit** - The Principal agrees that the Contract for Sale of the Property shall require the Licensee to hold the deposit as stakeholder as follows:

- in the Licensee's trust account, or
- if directed by the Contract for Sale or the Principal and Purchaser, in an investment account in terms of such direction;

- until the sale of the Property is completed.

### 7.3 Financial and Investment Advice

**WARNING: Any financial or investment advice provided to the Principal by the Licensee is general advice and does not take into account the individual circumstances of the Principal or the Principal's objectives, financial situation or needs. The Principal must seek and rely on his/her/its own independent financial and investment advice from an appropriate licensed financial adviser.**

- 7.4 Rebates, Discounts or Commissions** - All rebates, discounts or commissions that the Licensee will or may receive in respect of the expenses charged under this Agreement and the estimated amount of those rebates, discounts or commissions to the extent that the amount can reasonably be estimated are as set out in Item H of the Particulars. The Principal agrees that the Licensee is entitled to retain all such rebates, discounts, commissions and other benefits.

- 7.5 Approved Guide** - The Principal confirms that prior to the Principal signing this agreement, the Licensee has provided the Principal with a copy of the approved guide entitled 'Agency Agreements for the Sale of Residential Property' on the date stated above the signature of the Principal.

### 8.0 AVAILABILITY OF CONTRACT FOR SALE

- 8.1** The Licensee must not offer residential property for sale unless the required documents are all available including a copy of the proposed contract for the property at the Licensee's registered office for inspection by a prospective purchaser.

**The Principal will provide that copy to the Licensee as soon as is practicable.**

### 9.0 GST

- 9.1** The Principal must pay any goods and services tax payable at the then current rate in respect of anything done or supplied by the Licensee under this Agreement, or reimburse the Licensee on demand for any such tax paid by the Licensee. If at any time the GST rate is changed, the parties agree that the fees set out in this agreement will be amended in accordance with the rate change.

### 10.0 PRIVACY NOTICE

- 10.1** The Privacy Act 1988 (Cth) regulates the collection, use, storage and disclosure of personal information of the Principal by the Agent. The Agent will collect personal information about the Principal in order to effectively carry out the Agent's obligations under this Agreement.

- 10.2** You consent to personal information being collected by the Agent pursuant to this Agreement. Such information will be collected from the Principal directly or from authorised third parties (including information that is in the public domain). All personal information is stored by the Agent at its premises or at the premises of a third party service provider of the Agent.

- 10.3** Such information may include the information provided by the Principal in this Agreement, together with any other personal information of the Principal required by the Agent to effectively carry out the Agent's obligations under this Agreement.

- 10.4** The Principal may review or correct any personal information of the Principal held by the Agent by contacting the Agent using the information set out on page 1 of this Agreement. The Principal may also direct any queries and complaints about the Agent's collection, use, storage or disclosure of the Principal's personal information to the Agent using the information set out on page 1 of this Agreement.