
SALES AGENCY AGREEMENT

RENT ROLL

The Vendor appoints the Agent and the Agent accepts the appointment subject to the terms as set out herein.

VENDOR

_____ ACN _____
Contact _____ Phone _____ Fax _____
Mobile _____ email _____

THE AGENT:

Corsers Consultants (Lawsoft Pty Ltd) contact - Chris Gill
122 Pirie Street Adelaide SA 5001

THE BUSINESS :

The rent roll and goodwill of the property management business operated by the Vendor

PRICE TO BE OFFERED

Total Price \$ _____
Indicate Range \$ _____ to \$ _____ (for \$1 annual income only - management fees)

METHOD OF SALE Private Treaty
(private treaty, expression interest)

OTHER _____

TENDER / EXPRESSION OF INTEREST

To close on _____ time _____

SETTLEMENT DATE / PERIOD 30 days other: _____

GST ISSUES RELATING TO THE BUSINESS

The Vendor advises the Agent that:

The Vendor is registered for GST No Yes

The business is sold GST inclusive unless otherwise advised No Yes

The business is sold as a going concern under GST law No Yes

Only part of the business being sold No Yes

**The Vendor must obtain advice from the Vendor's accountant or lawyer regarding GST issues.
The Agent is not advising on GST.**

PREVIOUS AGENTS

No Yes

The Vendor confirms the business was previously listed for sale by:

Agent _____

Sole Agency expired No Yes

Written termination to previous Agent(s) given No Yes

Vendor to attend to Vendor has signed notice and Agent to send for Vendor

TERM OF AGENCY

The sole agency will be for _____ calendar months from the date of this Agency Agreement; or

until _____

Vendor does not retain the right to sell privately General Agency

The Agency continues as a General Agency after the Sole Agency (if applicable) until written notice to cease is given to the Agent by the Vendor.

LEASES & TENANCIES

No Yes

The sale is to be subject to the transfer and/or assignment of a lease or licence and the consent of lessor / landlord.

Lease _____

Managing Agent _____

Commencement of Lease _____ End of Lease / Date _____

Rental \$ _____ week f/night month

Fixed term Periodic Bond with Tribunal No Yes Amount \$ _____

Upon sale Vendor to advise lessee/s No Yes

Sale is to be subject to existing leases continuing No Yes

LEASE FROM VENDOR (if applicable)

No Yes

The Vendor will grant a lease or licence to the Purchaser. The lease and disclosure statement is to be prepared by:

PLANT AND EQUIPMENT

No Yes

Other property included in the sale (use an Annexure and attach depreciation lists as necessary)

EXCLUSIONS FROM SALE

Other property - fixtures and fittings and other property not included in the sale (*detail and or use an Annexure as necessary*)

- Lessor's property Personal effects
 Leased property Specific Furniture Other as detailed or attached
-
-

SECURITIES TO BE DISCHARGED AT SETTLEMENT

- Bill of Sale Debenture Charge Mortgages Rental Agreements **detail all charges*
-

HIRE AGREEMENTS

- No Yes

Detail which are to be discharged or transferred with the sale.

LICENCE & FRANCHISE AGREEMENTS

- No Yes
-
-

VENDOR WILL ASSIST AFTER SALE

- No Yes

The Vendor is prepared to assist after sale for the period of :

BUSINESS NAMES, DOMAIN NAMES & TRADEMARKS

- No Yes
-

COMPANY NAMES

- No Yes

The Vendor will cease using the following company name/s at settlement.

EMPLOYEES

- No Yes

The Vendor will terminate all employees. If No, give details of employees being kept.

TURNOVER DISCLOSURE

a Form 2* is to be prepared by _____ No Yes

(*this form is required to be served if the sale is less than \$200,000)

The Vendor advises :

Turnover : period _____ to _____ Average weekly gross (12 months) \$ _____

GENERAL CONDITIONS

1 **AUCTION (if applicable)**

The Agent will offer the business for sale at the time and in the manner detailed herein.

2 **AGENTS AUTHORITY**

2.1 The Vendor authorises the Agent to accept the deposit or other moneys due to the Vendor under the contract for the sale of the business and the Agent will hold any moneys as a stakeholder on trust or the by the Agent's Solicitors.

2.2 The Vendor irrevocably authorises the Agent and/or Agent's Solicitors to transfer to itself from trust all professional fees and expenses and all claimed interest and costs upon settlement.

3 **FORM OF AGENCY**

3.1 The Agent will be the Sole Agent (unless the initial appointment is as a General Agency) for the sale of the business during the Term. At the expiry of the Term a General Agency will continue until determined by notice in writing from the Vendor. The Agent may determine this Agency Agreement at any time.

3.2 The Vendor will not be entitled to withdraw the Sole Agency granted during the term agreed unless the Agent is in fundamental breach of this Agreement and is not using its reasonable endeavours to market the business after prior written notice from the Vendor. If there is a dispute as to this clause and entitlements the parties will arbitrate the dispute pursuant to clause 15. If the Vendor was not entitled to terminate then the Agent will be paid damages by the Vendor for wrongful termination to be determined by the arbitrator.

3.3 A General Agency will entitle the Agent to promote the business and introduce or procure a Purchaser for the business and the Vendor will in all things assist the Agent in the Agent's endeavours to sell the business.

3.4 The Vendor warrants that no other agent will be appointed during the period of any Sole Agency unless otherwise specified herein.

4 **WARRANTY BY AGENT**

The Agent will at all times act in the best interests of the Vendor.

5 **DEEMED SALE**

The Agent will be deemed to have effected a sale of the business;

5.1 if during the term of the Agency the Agent introduces a prospective Purchaser who does not settle on the business as a result of the Vendor failing to enter into a contract for an amount within the price range or at (or more than) the price to be offered (for whatever reason), or failing to use its best endeavours as required by Clause 13 of this Agreement; or

5.2 if the Vendor sells to a Purchaser not introduced by the Agent which sale is entered into during the Sole Agency, and which sale is not effected by the Vendor exercising its right to sell privately; or

5.3 if during the term of the Agency the Agent introduces a Purchaser who enters into a contract after the expiry of the Sole Agency.

6 In the event there is a transfer of the beneficial ownership of the business to a Purchaser introduced or procured by the Agent and the transfer is effected by some means other than a transfer of legal ownership from the Vendor by transfer of shares or otherwise, then that transfer of the beneficial interest will be deemed a sale effected by the Agent and in particular but without limiting the effect thereof:

6.1 in the event one of the Vendors is a corporation, a transfer of the shares of that corporation giving control to another will be deemed a transfer of that Vendor's interest in the business;

6.2 in the event one of the Vendors owns its interest in the business as trustee, a transfer of the beneficial interest of that trust will be deemed to be a transfer of that Vendor's interest in the business; and the Agent's Professional Fee will be calculated by reference to the 'Professional Fee' above and calculated to the value of the business to the extent of the beneficial interest transferred.

7 **TRANSFER NOT FOR MONEY**

Should the consideration to be given by a Purchaser be expressed other than in monetary terms, the Professional Fee will be calculated by reference to the scale or amount under 'Professional Fee' in this Agreement.

8 **VALUATION**

For the purposes of clauses 6 and 7 above and in the absence of agreement between the parties as to the value of the business, either party may request the President of the Institute of Arbitrators SA Division or chapter or similar body in South Australia to appoint a valuer to ascertain the value of the business. The costs of the valuation will be borne equally by the parties.

9 **EXPENSES AND PROFESSIONAL FEE**

9.1 The Agent is authorised by the Vendor to incur the expenses set out in this Agreement. The Agent may expend more on one expense than another in the Agent's discretion but such that the total is not exceeded without the consent of the Vendor.

9.2 The Vendor will pay the amount of the expenses and Professional Fee within 7 days after invoice, or at settlement whichever is the earlier, and in the event they are not paid then the Agent may issue a written notice by letter or other form requiring immediate payment.

9.3 In the event any moneys demanded by a notice issued pursuant to clause 9.2 are not paid within the time stipulated in the notice, those moneys will then upon such default become a charge over the business and any real property the Vendor may own from time to time until paid in full to the Agent. The Agent will be entitled to caveat any real property owned by the Vendor to secure payment of the moneys due under the charge herein granted. All costs incurred by the Agent in collecting the moneys demanded in the notice issued pursuant to clause 9.2 including stamp duty and all legal costs will be payable by the Vendor and the Agent will be entitled to \$200 for each notice issued.

9.4 The Agent may receive rebates on advertising and associated expenses from 3rd parties and the Vendor acknowledges and agrees the Agent will not be required to account for any rebates. The Vendor acknowledges any rebates are in addition to the Professional Fees payable. Any prepaid expenses not expended by the settlement date will be repaid to the Vendor.

9.5 Notwithstanding the above, the Vendor agrees to pay all expenses and Professional Fees no later than settlement of the business if sold.

9.6 The Vendor will pay interest on any outstanding monies payable to the Agent calculated at 10% per annum.

9.7 In the event GST is imposed on any service in respect of this Agency Agreement, any amount payable by the Vendor to the Agent or a third party (for all other goods and services to include advertising) in respect of those services will be increased by the rate at which GST is imposed at that time. The Vendor will pay the increased amount to the Agent at the same time payment is due under this Agency Agreement to the Agent for the services and the Agent will render a tax invoice.

10 **FORM OF CONTRACT**

The Agent will offer the business for sale in the form of the contract commonly used by the Agent at that time.

11 **INDEMNITY TO AGENT**

11.1 The Vendor indemnifies the Agent against all costs, expenses, damages and loss (including any loss of fees) suffered by the Agent and holds harmless the Agent against claims, demands, actions and losses arising from the Agent acting for the Vendor save and except to the extent that the costs, expenses, damages and losses are a result of the negligence of the Agent.

11.2 The Vendor indemnifies and holds harmless the Agent for any loss or damage whatsoever to the business or to any goods and chattels of the Vendor or any third party in or on the business arising from the act or omission of any third party during any inspection of the business. The Vendor further warrants the Vendor has or will provide suitable insurance cover for the property of the business, the Vendors (or any tenant's) personalty therein and for all persons invited onto the business for the purpose of offering the business for sale directly or indirectly.

11.3 The Vendor releases, discharges, waives any and all claims against the Agent relating to any GST liability on the business sale and acknowledges the Agent's express term and requirement herein that the Vendor will in all respects seek and rely on independent accounting or legal advice, regarding all GST issues and instruct the Agent about any special contract requirements.

12 **VENDOR'S WARRANTIES**

12.1 The Vendor warrants the Vendor has good authority and full capacity to sell the business.

12.2 The Vendor warrants all information detailed in this Agency Agreement and otherwise provided to the Agent is accurate and correct. The Vendor will promptly advise the Agent of any changes to the information given which comes to the Vendor's knowledge or attention.

12.3 The Vendor warrants there is no other information material to the sale which the Vendor is aware of and should be brought to the attention of the Agent and all equipment and operating fixtures are in good working condition.

13 **BEST ENDEAVOURS**

In the event the Agent introduces a prospective Purchaser offering to purchase the business within the price range or at (or more than) the price to be offered, or such lower price as may be agreed by the Vendor, the Vendor undertakes to enter into a contract for sale of the business. The Vendor further undertakes to observe, perform and carry out any contract for sale of the business effected by the Agent and will use its best endeavours to ensure that settlement occurs.

14 **TERMINATION**

Where the Vendor has contracted to purchase another business marketed by the Agent and that contract is terminated for any reason the Vendor may withdraw the business from sale and terminate this Agency Agreement.

15 **ARBITRATION**

Disputes involving the sum of \$40,000 or less will be determined by an independent arbitrator appointed by the President of the Institute of Arbitrators SA Division or Chapter at the request of either party. The determination of the arbitrator will be final and binding between the parties and the provisions of the Commercial Arbitration Act will apply. The costs of the arbitration will be paid by the party/s as directed by the arbitrator. The arbitrator will advise of and direct the arbitration procedure and will request payment of reasonable fees prior to acting and in default of payment may refuse to act. The parties will have no right of appeal under section 38(2) or to apply with respect to a question of law under section 39(1) of the Commercial Arbitration Act.

INTERPRETATION

Unless this Agency Agreement otherwise requires-

'**a Contract**' means the sale agreement between a transferee and the Vendor for the transfer of the goodwill and assets of the business.

'**business**' means the assets of the business referred to above and particulars herein and includes the rent roll if only the rent roll is being sold.

'**Corporation**' means a corporation as defined under the Corporations Act.

'**documentation fees**' means fees charged by the Agent for and incidental to opening files and preparing documents for the Vendor.

'**expenses**' means those costs set out above in Vendors Marketing Costs to include any interest, costs and other expenses properly payable in addition to any GST payable for those services.

'**Form 2**' means the document required to be served and delivered under the Act.

'**General Agency**' means more than one Agent may be appointed and the Vendor may act.

'**GST**' means *A New Tax System (Goods and Services Tax) Act 1999* or any other Act or Regulation amending, replacing or directly associated with that Act and any goods and services or similar tax imposed thereby.

'**Professional Fee**' means that amount agreed as the Professional Fee calculated on the gross price excluding any GST and includes any Administration Fee payable and all expenses payable and any interest accrued.

'**Purchaser**' includes the Purchaser's assignee or nominee disclosed.

'**Services**' has the same meaning as supply for all purposes of the GST including supply as defined therein and to mean and include Professional Fees and all other fees and costs payable under this Agency Agreement.

'**Settlement**' means the date referred to in any contract for the sale of the business or upon a transfer of the business.

'**Sole Agency**' means the Agent appointed is the only appointed Agent for the period.

A reference to an Act of Parliament or to a section of an Act includes any amendment thereto or re-enactment

thereof for the time being in force. Where two (2) or more persons are named in this Agency Agreement as the

Vendor or the Agent their liability under this Agency Agreement is joint and several.

SPECIAL TERMS (if any)

PRIVACY STATEMENT

The Agent uses personal information collected from you to act as your Agent and to perform its obligations under this Agreement. The Agent may also use such information collected to promote the services of the Agent and/or seek potential clients. The Agent may disclose information to other parties including media organizations on the internet to potential clients of the Agent both existing and potential as well as financiers, strata corporations, government and statutory bodies and to other parties as required by law. The Agent will only disclose information in this way to other parties as required to perform their duties under this Agreement for the purposes specified above or as otherwise allowed under the Privacy Act 1988. If you would like to access this information you can do so by contacting the Agent at the address and contact numbers in this Agreement. You can correct any information if it is inaccurate, incomplete or out-of-date. Real estate and tax law requires some of this information to be collected.

VENDOR

DATE

_____	_____
_____	_____
_____	_____

















THE AGENT

hereby accepts the appointment

THE AGENT

DATE

_____	_____
_____	_____

CREDIT CARD AUTHORITY FOR EXPENSES	
Credit Card Type	<input type="checkbox"/> VISA <input type="checkbox"/> Amex <input type="checkbox"/> MasterCard <input type="checkbox"/> BankCard <input type="checkbox"/> Diners Club
Card Number	               
Expiry Date	_____
Cardholders Name	_____
Signature	_____ Amount \$ _____