



The authority on selling businesses

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EXCLUSIVE AUTHORITY TO ACT

Between: LINK Business Broking Ltd - Licensed REAA2008 ("the Agent")

And: [Redacted] ("the Owner")

Table with 2 columns and 6 rows: Business Name, Business Address, Confidential Postal Address, Confidential Email Address, Authorised Person, Contact Numbers

IT IS AGREED BETWEEN THE PARTIES THAT:

1 APPOINTMENT AND AUTHORITY

1.1 EXCLUSIVE AGENCY

In consideration of the Agent listing for sale and using its best endeavours to sell the business as described, the Owner hereby appoints the Agent as sole agent (with exclusive selling rights) for the sale of the Business. This exclusive agency shall commence immediately on signing and shall continue until cancelled only by notice in writing from the Owner to the Agent, which notice will not be delivered prior to sixty days after the date of this agreement and which notice will not be effective earlier than midnight on the thirtieth day after delivery of the notice.

1.2 The Owner acknowledges: The Agent has advised the Owner on cancellation procedures and the rights of general Agents to continue marketing the business for the number of days (if any) detailed in their agency agreement after notice of cancellation.

1.3 The Owner agrees to pay \$750 + GST immediately, in order that my business be listed on various websites (in addition to the LINK website). This fee also includes adverts printed in the NZ Herald or similar. In addition, the Owner authorises the Agent to spend \$750, or \$ [Redacted] on the preparation of An Information Memorandum, administration cost of promotional advertising and other authorised expenses and agrees to pay this sum to the agent prior to the commencement of the promotional programme.

1.4 If the Owner is a company, partnership or trust then the owner warrants that the authorised person (who must be a director/controlling shareholder or controlling trustee of the owner) is fully authorised by the Owner to act on behalf of the Owner and all references to the Owner herein includes also where applicable refer to the authorised person, and the authorised person agrees that they will be liable for payment of the success fee and for any indemnity by the Owner to the Agent under this agreement if for any reason the Owner fails to pay/is liable for the same.

1.5 In relation to the deposit, The Client agrees:

1.5.1 That New Zealand Real Estate Trust, an independent trust account service provided by SafeKiwi (New Zealand) Limited will be used for payment. Deposit funds will be paid directly to Public Trust, the independent custodian, who will hold and disburse the monies payable under this agreement on behalf of vendors and purchasers.

1.5.2 The client will be bound by the Terms of Use located on website https://www.realestatetrust.co.nz/termsofuse

1.5.3 The client agrees that the Agent will be entitled to be paid its commission and expenses directly from the deposit held by Public Trust as soon as such deposit may be released under the New Zealand Real Estate Trust Terms of Use.

2 COMMISSION AND OTHER EXPENSES PAYABLE

- 2.1 Success Fee: If through a sale of the Business a success fee becomes payable in accordance with clause 1.1, the Owner agrees to pay the Agent 8% (plus GST) of the total sale price as shown on the Sale and Purchase Agreement, and is not subject to any adjustments, (with a minimum fee of \$15,000) plus GST.
- 2.2 A sale of shares or other ownership interest in an entity that owns the Business is deemed to be a sale of the Business for the purposes of this agreement. In the case of a sale of company shares or other interest taking place, the fee payable will be 8% (plus GST) of the full appraised value of the Business in accordance with the written appraisal provided by the Agent and pro-rata in the event of a partial sale of shares, and is not subject to any adjustments, (with a minimum fee of \$15,000) plus GST.
Based on the listed value of \$ [] the estimated commission payable is \$ [] plus GST.
- 2.3 The Owner acknowledges that it has been advised how the Business will be marketed and advertised; including any additional expenses that such marketing and advertising will incur and the Owner understands that it is not obliged to agree to such additional expenses. However unless agreed otherwise the Owner agrees to reimburse the Agents all expenses properly incurred with its authority herein upon demand (irrespective of whether or not a sale is concluded).
- 2.4 If the owner defaults on any payment due under this agreement, all debt collection costs including legal fees, will be payable by the owner.

3 INFORMATON

- 3.1 Owner agrees to the listing information, photographs and particulars of the sale of the Business being used for marketing purposes.
- 3.2 The Owner will promptly provide the Agent with all material information relevant to the Business and also any new information or relevant changes to information already provided and certifies that the information to be provided to the Agent for inclusion in the Information Memorandum will be correct in all respects, not misleading by omission and that except as detailed below the Business is not subject to any; defects; hazards; or requisitions or notices from any council or other territorial local authority, other than those disclosed to the Agent.
- 3.3 The Owner consents to the Agent informing any purchaser or potential purchaser of The Business of any actual, or in the Agent's opinion likely, defects, hazards, requisitions or notices from any council or other territorial local authority, that the Agent's becomes aware of at anytime prior to the Expiry Date, including those defects hazards or requisitions disclosed to the Agent.
- 3.4 If at any time during the course of this agency, in breach of clause 3.3, the Owner directs that the Agent not disclose any defect, the Agent may terminate this agreement without prejudice to any other rights, powers, authorities or remedies which the Agent may have including the right to a success fee.
- 3.5 The Owner agrees to the information provided to the Agent and the details of any agreement for the sale and purchase of the Business being passed to any persons for marketing purposes and statistics compiled and distributed by or on behalf of the Company.
- 3.6 The Owner (if more than one, jointly and severally) indemnifies the Agent and its employees, Agents or contractors against losses, damages, claims or other liability arising from the proper use of that information provided to the Agent should it be incorrect or misleading by omission.

4 NOTICES

- 4.1 Any notices under this agreement may be given by hand, mail, fax or by email to the numbers set out in the Listing Form. If there is more than one set of contact details for the Owner, then this agreement and any notices may be sent to any of them and notice to any person or entity that is listed as Owner shall be notice to all of them. Notices to the Owner may also be sent to any solicitor noted in the Listing Form.
- 4.2 This agreement and notices under it shall be deemed to be delivered; when handed over in person, by mail or if sent by fax, when transmitted from the sender's machine, or if sent by email, in accordance with the default rules in the Electronic Transactions Act 2002.

5 AGENTS DISCLOSURE OF BENEFITS

I, the agent, confirm that, in relation to any expenses for or in connection with any real estate agency work carried out by me for the client(s) in connection with the transaction covered by this agency agreement, I will not receive, and am not entitled to receive, any rebates, discounts, or commissions. It is acknowledged that some banks will provide non-financial rewards to a broker where a purchaser enters into a loan agreement with them, for the purchase of the business.

6 OWNER ACKNOWLEDGEMENTS

The Owner acknowledges that:

- 6.1 Legal, Technical and Other Advice: it has a reasonable opportunity to seek legal, technical and other advice or information and that it has either obtained that advice or information or has decided not to do so of its own accord;
- 6.2 Statements: it has been provided with statements of Rebates, Discounts and Commissions and Form 1, attached (if any);
- 6.3 Complaints and Dispute Resolution: it has been made aware of the Agent's in-house complaints and dispute resolution procedures. The Owner has also been advised that it may access the Real Estate Agents Authority's complaints process and additional information at www.reaa.govt.nz without first using the in-house procedures and that any use of the in-house procedures does not preclude the Owner making a complaint to the Authority.
- 6.4 Consumer Guarantees Act. The Consumer Guarantees Act does not apply to the supply of services by the Agent hereunder.
- 6.5 The Owner confirms that it has read, understood and agreed to the terms of this agreement. Where this agreement is being signed on behalf of the Owner by an authorised person, the Owner and the signatory confirm that the signatory has the appropriate authority to sign this agency agreement and to perform any act on behalf of the Owner hereunder.

Owner/authorised person

Agent

Rudy Kokx

pp

Date

Further information on agency agreements is available from the Real Estate Agents Authority. This information can be accessed by visiting www.reaa.govt.nz or by phoning: 0800 for REAA (0800 367 7322).

Broker: _____ Agency Type: Exclusive General Date: _____

Trading As: _____ Vendor's Name(s): Mr Ms Mrs Other _____

Type of Business: _____ Postal Address: _____

Business Address: _____ Postcode: _____

Phone: _____ Fax: _____ Postcode: _____

Phone: _____ Fax: _____ Mobile: _____

Intangible Assets: \$ _____ Price Range _____

Tangible Assets: \$ _____ Minimum: \$ _____

SAV: \$ _____ Maximum: \$ _____

Freehold: \$ _____ Total: \$ _____

Total: \$ _____

Reason for Sale: _____

Business Established (Year): _____ Current Owner: Months: _____ Years: _____

Number of Staff: Full Time: _____ Part Time: _____ Working Owners: _____ W/O Hours: _____

Operating Hours: Mon: _____ Tues: _____ Wed: _____ Thurs: _____ Fri: _____ Sat: _____ Sun: _____

Premises Owned: Yes No Option to Purchase: Yes No

Lessors Name: _____ Phone Number: _____

Weekly: Turnover \$ _____ Gross Profit \$ _____ Net Profit \$ _____ Rent \$ _____ OPEX \$ _____

Monthly: Turnover \$ _____ Gross Profit \$ _____ Net Profit \$ _____ Rent \$ _____ OPEX \$ _____

Annual: Turnover \$ _____ Gross Profit \$ _____ Net Profit \$ _____ Rent \$ _____ OPEX \$ _____

Commencement Date: _____ Term: _____ ROR: _____

Current Annual Rental: _____ Next Rent Review: _____

Accommodation Details: _____ Demo Clause: _____

Finance: _____

G.V: _____ Land Area: _____ Legal Description: _____

Owner Since: _____ Leased Plant: _____

Comments: _____

Solicitor Company: _____ Representative: _____

Address: _____

Phone: _____ Fax: _____ Email: _____

Office Use: Authority to Act Ref: # _____ Client Ref: # _____