

CONJUNCTION AGREEMENT

LIST AGENT

Name: Bacchus Group Pty Ltd
ACN: 102 227 823
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Licence No: 3050609

CONJUNCTING PARTY

Name:
ACN:
Address:
Phone:
Fax:
Email:
Licence No:

PROPERTY

Address:
.....

LIST AGENT'S COMMISSION

5.0% of the first \$18,000 and 2.5% of the balance of the Purchase Price of the Property + GST, payable by the Seller to the List Agent as follows:

- 50% upon achieving an Unconditional Contract, subject to the Seller's Construction Drawdown Threshold being satisfied (**1st tranche**); and
- 50% upon settlement (**2nd tranche**).

CONJUNCTING PARTY'S COMMISSION

(refer terms and conditions as to entitlement)

5.0% of the first \$18,000 and 2.5% of the balance of the Purchase Price of the Property + GST, payable by the List Agent to the Conjuncting Party as follows:

- 50% upon achieving an Unconditional Contract, subject to the Seller's Construction Drawdown Threshold being satisfied and payment by the Seller to the List Agent of 1st tranche of the List Agent's Commission (**1st tranche**); and
- 50% upon settlement, provided that the Seller has paid to the List Agent the 2nd tranche of the List Agent's Commission (**2nd tranche**).

CONJUNCTING PARTY'S REFERRAL FEE

(refer terms and conditions as to entitlement)

1.0% of the Purchase Price of the Property + GST, payable by the List Agent to the Conjuncting Party as follows:

- 50% upon achieving an Unconditional Contract, subject to the Seller's Construction Drawdown Threshold being satisfied and payment by the Seller to the List Agent of 1st tranche of the List Agent's Commission (**1st tranche**); and
- 50% upon settlement, provided that the Seller has paid to the List Agent the 2nd tranche of the List Agent's Commission (**2nd tranche**).

SIGNED as an agreement (incorporating terms and conditions attached):

SIGNED for and on behalf of the
LIST AGENT by a duly authorised
officer

per _____
Authorised Officer

SIGNED by the **CONJUNCTING PARTY**

per _____
(Authorised Officer if the Conjuncting Party is a
Company)

1. DEFINITIONS

“**Deposit**” means the deposit required or accepted by the Seller in respect of the sale of a Lot.

“**Development**” means the development of units at the Property.

“**List Agent’s Appointment**” means the duly executed PAMD Form 22a between the Seller and the List Agent.

“**List Price**” means the price of the Lots as set by the Seller from time to time.

“**Lot**” means a lot (unit) to be created in the Development, and “**Lots**” means each of them .

“**Seller**” means the owner of the Property carrying out the Development.

“**Seller’s Construction Drawdown Threshold**” means each of the criteria / requirements which the Seller must satisfy before the Seller’s financier will advance the necessary funding to enable the Seller to construct the Development.

“**Unconditional Contract**” a duly executed and binding contract for a Lot on terms acceptable to the Seller having the following features:

- (a) the buyer has paid the Deposit in cleared funds (or provided a bank guarantee for the amount of the Deposit on terms acceptable to the Seller); and
- (b) all conditions (including finance) have either been satisfied or waived.

1 GENERAL ARRANGEMENTS

- (a) All communications by the Conjuncting Party (including offers , negotiations and otherwise) with the Seller and in relation to the Development generally (including site inspections) must be made through the List Agent.
- (b) The Conjuncting Party must not attempt to sell a Lot for a price less than the List Price, or otherwise on terms not acceptable to the Seller.
- (c) The Conjuncting Party may only advertise the Development or the sale of Lots on its own proprietary website and not on any other website.
- (d) The Conjuncting Party acknowledges and agrees that:
 - the Seller will only allow a buyer of a Lot a maximum period of 14 days to sign and return contracts and all other relevant documents or matters (including payment of deposit) from issue date of the same, otherwise the Seller may offer the Lot to another buyer; and
 - the List Agent can not hold a Lot for a buyer of the Conjuncting Party without a duly executed expression of interest and deposit.

2 LIST AGENT’S APPOINTMENT

- (a) The List Agent has been engaged by the Seller as the agent to sell the Property pursuant to the List Agent’s Appointment.
- (b) Whilst the List Agent has used its best endeavours to ensure that the List Agent’s Appointment is valid and binding, the List Agent makes no representations or warranties as to this position at law.
- (c) The parties acknowledge that the List Agent is only entitled to be paid the List Agent’s Commission as set out on the 1st page of this Conjunction Agreement.
- (d) The Conjuncting Party must comply with and warrants that it will comply with the Seller’s sale methodologies from time to time, including as to the time allowed for holding ‘off market’.

3 ENTITLEMENT TO COMMISSION & FEES

3.1 Entitlement to Conjuncting Party’s Commission

The Conjuncting Party shall be entitled to the Conjuncting Party’s Commission if the Conjuncting Party (and not the List Agent) causes a buyer to:

- (a) sign an expression of interest in the form and manner required by the Seller from time to time;
- (b) provide the Seller (or the Seller’s agent or solicitor) with the deposit required by Seller in cleared funds (or if a bank guarantee on terms acceptable to the Seller); and
- (c) sign a contract (and such other documentation) in the form and manner required by the Seller and the List Agent from time to time,

which will be paid to the Conjuncting Party in two (2) tranches as set out on the 1st page of this Conjunction Agreement.

3.2 Entitlement to Conjuncting Referral Fee

If the Conjuncting Party is not entitled to the Conjuncting Party’s Commission because they do not cause the matters in clause 3.1 to occur, but they do refer a buyer to the List Agent and the List Agent then causes the matters in clause 3.1 to occur for that buyer, then the Conjuncting Party shall be entitled to the Conjuncting Referral Fee, which will be paid to the Conjuncting Party in two (2) tranches as set out on the 1st page of this Conjunction Agreement.

3.3 Acknowledgement regarding payment of Commission and / or Referral Fee

The Conjuncting Party acknowledges and agrees that:

- (a) the payment by the List Agent of the 1st tranche of the Conjuncting Party’s Commission or the 1st tranche of the Conjuncting Agent’s Referral Fee (as the case may be) is subject to and

CONJUNCTION AGREEMENT TERMS AND CONDITIONS

- conditional upon the Seller satisfying the Seller's Construction Drawdown Threshold and also payment by the Seller to the List Agent of the 1st tranche of the List Agent's Commission;
- (b) the payment by the List Agent of the 2nd tranche of the Conjuncting Party's Commission or the 2nd tranche of the Conjuncting Agent's Referral Fee (as the case may be) is subject to and conditional upon the payment by the Seller to the List Agent of the 2nd tranche of the List Agent's Commission;
 - (c) the Conjuncting Party shall have no claim or other action against the List Agent for payment of:
 - o the 1st tranche of the Conjuncting Party's Commission or the 1st tranche of the Conjuncting Party's Referral Fee (as the case may be) if the Seller does not satisfy the Seller's Construction Drawdown Threshold; or
 - o any tranche of the Conjuncting Party's Commission or the Conjuncting Party's Referral Fee (as the case may be) if the Seller has not paid the List Agent the relevant tranche of the List Agent's Commission;
 - (d) the Conjuncting Party agrees not to take any action or issue any demand against the List Agent unless and until the List Agent has received the relevant tranche of the List Agent's Commission from the Seller which the List Agent is to pay the Conjuncting Party; and
 - (e) the List Agent shall have no obligation or liability to the Conjuncting Party to pursue the Seller for payment of any tranche of the List Agent's Commission.

4 TAX INVOICE

Notwithstanding any other provision in these terms and conditions the Conjuncting Party must provide the List Agent with an appropriate tax invoice before the List Agent is obliged to pay the Conjuncting Party either the Conjuncting Party's Commission or the Conjuncting Party's Referral Fee.

5 EXPENSES

The Conjuncting Party will not be reimbursed for any out of pocket expenses incurred in connection with these terms and conditions, unless the expense is expressly authorised in advance by the List Agent.

6 INDEMNITY

To the maximum extent permitted by law, the Conjuncting Party indemnifies the List Agent in full from and against all actions, suits, claims, demands, proceedings (whether in tort or otherwise), losses damages, compensation, costs (including legal costs on a full indemnity basis), charges, expenses and obligations whatsoever for which the List Agent may become liable or incur as a result of the actions (or lack thereof) of the Conjuncting Party or any employee, contractor or agent of the Conjuncting Party.

7 TERMINATION OF THIS CONTRACT

7.1 Termination – List Agent's Appointment

This Conjunction Agreement automatically terminates if the List Agent's Appointment is terminated or expires.

7.2 Termination – Other

- (a) The List Agent can terminate this Conjunction Agreement immediately if the Conjuncting Party is in breach of any term or condition of the same, or in breach of any relevant legislation including the Property Agents and Motor Dealers Act 2000 and the Trade Practices Act 1974.
- (b) This Conjunction Agreement automatically terminates if either party provides 14 days written notice of the same.

8 APPOINTMENT AS MANAGING AGENT

8.1 Definitions

In this clause 8, "engage in" means to carry on, participate in, provide services, or otherwise be directly or indirectly involved as a shareholder, unitholder, director, consultant, adviser, contractor, principal, agent, manager, employee, beneficiary, partner, associate, trustee or financier.

8.2 Prohibited activities

The Conjuncting Party undertakes to the List Agent that it will not do any of the following:

- (a) engage in the business of managing agent for any buyer in the development whether or not the Conjuncting Party received Conjuncting Party's Commission for the sale of a lot to that buyer;
- (b) engage in an activity that is likely to or intended to cause a buyer of one or more of the lots in the Development to appoint a person as a managing agent for the relevant buyer;
- (c) solicit, canvass, approach or accept an approach from a person who was at any time during the 12 months ending after the payment of the final instalment of the Conjuncting Party's

CONJUNCTION AGREEMENT TERMS AND CONDITIONS

- Commission a buyer of a lot in the Development with a view to obtaining their custom as a managing agent for a lot in the Development;
- (d) interfere with the relationship between the List Agent or the Seller and a buyer of a lot in the Development.