

EXCLUSIVE AUCTION AUTHORITY

PARTICULARS OF APPOINTMENT

Item 1 - Agent Details		
Agent: The Dromana Real Estate Trust T/A Barry Plant Dromana	ACN: 662 049 630	ABN: 97 939 261 875
Address: 211b Point Nepean Road, Dromana Victoria 3936		
Attention: Terry Burgoyne		
Phone: (03) 5981 8181	Mobile: 0404842771	Email: tburgoyne@barryplant.com.au
Item 2 - Vendor Details		
Vendor: JULIANNE MAIN	ACN:	ABN: N/A
Address: 8 Charles Smith Drive, Wonga Park Victoria 3115		
Attention:		
Phone:	Mobile: 0419139028	Email: juliannemain@gmail.com
Item 3 - Guarantor/s Details <i>(if applicable) (being the directors of a company if the company as a vendor)</i>		
Full Name:		
Address:		
Attention:	Mobile:	Email:
Item 4A – Exclusive Authority Period		
Exclusive authority period: from the date of this Agreement until 120 days after the Auction Date.		
Item 4B – Continuing authority period		
Continuing Authority period: 120 days from the end of the Exclusive Authority Period.		
Item 5 – Property Details		
Property: 56 Sixth Avenue, Rosebud Victoria 3939		
Lot/Plan:	Certificate of Title Volume/Folio:	
Included Chattels: All fixed floor coverings, window furnishings and electric light fittings as inspected		
Excluded Fixtures or Improvements:		
Auction date: Sat 23 Mar 2024	Time of auction: 11:00 AM am/pm	*(delete one that does not apply)
owner will not accept offers prior to auction <input checked="" type="checkbox"/>		
Property to be Sold with <input checked="" type="checkbox"/> vacant possession OR <input type="checkbox"/> subject to any tenancy		
To be sold on payment of: <input checked="" type="checkbox"/> full purchase price OR <input type="checkbox"/> upon terms of payment of full deposit and the sum of:		
payable on settlement unless otherwise agreed upon by the Vendor.		
Vendor's reserve price: To Be Advised	payable in 30, 45, 60	days of Day of Sale

Item 6 – Agent’s estimate of Selling Price (section 47A of the Estate Agents Act 1980 (Vic))

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** a range between: \$870,000 and \$930,000

Revised amount: **OR** a range between: and

Item 7 - Agent's Commission (incl GST)

An amount equal to 2.200% (including GST) of the Sale Price.

Example

If sold at price of: \$930,000 GST N/A

Dollar amount of estimated commission: \$20,460

Including GST of \$1,860.00

Item 8 - Marketing Expenses

Total Marketing Expenses payable upon signing this agreement, including GST \$7,083.00

Additional agreed Marketing Expenses must be paid on request per general condition 7.1

Item 9 - Whether personal information is likely to be disclosed to overseas recipients

We are likely to disclose your personal information to overseas recipients: YES NO

If yes, countries personal information is likely to be disclosed:

Item 10 - Special Conditions

NOTE: THE GENERAL CONDITIONS AND ANNEXURES 1 AND 2 FORM PART OF THIS AUTHORITY.

Dated: Wed 21 Feb 2024

Signature of Agent:

Signature of Vendor(s):



21/02/2024

21/02/2024

Terry Burgoyne

JULIANNE MAIN

EXCLUSIVE AUCTION AUTHORITY

Annexure 1

REBATE STATEMENT

Rebate statement form approved by the Director for sections 48A and 49A of the Estate Agents Act 1980 (Vic)

Important information for Vendors / Landlord(s)

A rebate includes any discount, commission, or other benefit, and includes non-monetary benefits. It is illegal for an Agent to keep any rebate they receive for advertising or other outgoings purchased by the Agent on your behalf. Section 48A of the Estate Agents Act 1980 requires the Agent to immediately pay you any rebate they receive in relation to the sale, management or leasing of your property

The agent is not entitled to retain any rebate and must not charge you an amount for any expenses that is more than the cost of those expenses.

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

Or

The agent will be, or is likely to be, entitled to rebates.

List of rebates:

- any outgoings; or
- any pre-payments made by the person engaging or appointing the agent (the client) in respect of any intended expenditure by the agent on the client's behalf; or
- any payments made by the client to another person in respect of the work.

Goods/services to which rebate relates	Name of person or organisation providing rebate	Amount (including GST)(if amount not known, provide an estimate)
		\$

Signature of Agent:



21/02/2024

Terry Burgoyne

Signature of Vendor(s)



21/02/2024

JULIANNE MAIN

EXCLUSIVE AUCTION AUTHORITY

Annexure 2

COMMISSION SHARING NOTICE

Notice of commission sharing

Notice of commission sharing form approved by the Director in accordance with Section 48 of the Estate Agents Act 1980.

Important information for vendors/landlord(s)

If the agent has agreed to share the commission that will be payable for selling, leasing or managing your property, before getting your signature to engage or appoint them, they must give you this commission sharing statement. This statement shows details of all other people who will share in the commission.

The Agent's commission may be shared with other people (other than a licensed estate agent or an agent's representative employed by the agent, or a licensed agent who is in partnership with the agent). In accordance with Section 48 of the Estate Agents Act 1980, the agent states that the commission the agent is entitled to under the terms of this Authority may be shared as follows:

Name and address of person with whom commission is to be shared	Description of such person
ASR Real Estate Pty Ltd ACN 619 649 535 Trading As Barry Plant (Glen Waverley) at 261 Springvale Road, GLEN WAVERLEY VIC 3150	Franchisee of the Barry Plant Group
Ballarat PS1 Pty Ltd ACN 600 212 342 Trading As Barry Plant (Ballarat) at 80B Garsed Street, BENDIGO VIC 3550	Franchisee of the Barry Plant Group
Bendigo PS Pty Ltd ACN 141 232 733 Trading As Barry Plant (Bendigo) at Egan Taylors Pty Ltd, 51 Myers Street, BENDIGO VIC 3550	Franchisee of the Barry Plant Group
Boronia Real Estate Pty Ltd ACN 077 946 804 Trading As Barry Plant (Boronia) at Level 4, 313 La Trobe Street, MELBOURNE VIC 3000	Franchisee of the Barry Plant Group
BSD Commercial Pty Ltd ACN 636 669 193 Trading As Barry Plant (Commercial-Klein) at 234 Balaclava Road, CAULFIELD VIC 3161	Franchisee of the Barry Plant Group
Care Real Estate (Vic) Pty. Ltd. ACN 605 190 494 Trading As Barry Plant (Mentone-Cheltenham) Barry Plant Bayside at Level 2, 19 Shierlaw Avenue, CANTERBURY VIC 3126	Franchisee of the Barry Plant Group
Community Sales Pty Ltd ACN 094 759 298 Trading As Barry Plant (Moonee Valley) at Level 2, 19 Shierlaw Avenue, CANTERBURY VIC 3103	Franchisee of the Barry Plant Group
Darebin City Property Group Pty Ltd ACN 629 556 323 Trading As Barry Plant (Northcote) at C/- Ascot Partners Pty Ltd, 227 Abbotsford Street, NORTH MELBOURNE VIC 3051	Franchisee of the Barry Plant Group
Elm Real Estate Pty Ltd ACN 605 879 678 Trading As Barry Plant (Norwood) at Level 7, 420 King William Street, ADELAIDE SA 5000	Franchisee of the Barry Plant Group
Eltham Realty Pty Ltd ACN 619 257 279 Trading As Barry Plant (Eltham) at Accountek Pty Ltd, Suite 5,323-325 Pascoe Vale Road, ESSENDON VIC 3040	Franchisee of the Barry Plant Group

Eltham Rentals Pty Ltd ACN 621 817 721 Trading As Barry Plant (Eltham Rentals) at Accountek Pty Ltd, Suite 5, 323-325 Pascoe Vale Road, ESSENDON VIC 3040	Franchisee of the Barry Plant Group
Emerald & District Co-op Society Ltd Trading As Barry Plant (Emerald) at 1/321 Main Street, EMERALD VIC 3782	Franchisee of the Barry Plant Group
Gladstone Park Real Estate Pty Ltd ACN 093 064 236 Trading As Barry Plant (Gladstone Park) at 677 Victoria Street, ABBOTSFORD VIC 3067	Franchisee of the Barry Plant Group
Gledhill & Cole Real Estate Pty Ltd ACN 096 376 699 Trading As Barry Plant (Docklands) at 83 Bay Street, PORT MELBOURNE VIC 3207	Franchisee of the Barry Plant Group
Greater Geelong Realty (South Barwon) ACN 004 358 856 Trading As Barry Plant (Belmont) at C/- Fortune 5 Accounting, Level 2, 83 Moorabool Street, GEELONG VIC 3220	Franchisee of the Barry Plant Group
Greensborough Real Estate Pty Ltd ACN 620 579 973 Trading As Barry Plant (Greensborough) at Level 1, 460 Lower Heidelberg Road, HEIDELBERG VIC 3084	Franchisee of the Barry Plant Group
Huntsman Enterprises Pty Ltd ACN 619 055 239 Trading As Barry Plant (Highton) and Barry Plant (Leopold) at C/- Kelly & Associates, 183-185 Little Malop Street, GEELONG VIC 3220	Franchisee of the Barry Plant Group
Jammat Real Estate Pty Ltd ACN 612 981 263 Trading As Barry Plant (Croydon Sales) at C/- MV Anderson & Co, North Tower, Level 5, 485 La Trobe Street, MELBOURNE VIC 3000	Franchisee of the Barry Plant Group
L. A. Realty Pty Ltd ACN 168 176 038 Trading As Barry Plant (Frankston) at 49 Playne Street, FRANKSTON VIC 3199	Franchisee of the Barry Plant Group
LA & RD Realty Pty Ltd ACN 626 819 869 Trading As Barry Plant (Cranbourne) at Suite 5, 50 Upper Heidelberg Road, IVANHOE VIC 3079	Franchisee of the Barry Plant Group
Leading Realty Property Management Pty Ltd ACN 105 084 259 Trading As Barry Plant (Brimbank Rentals) at 1-7 Elaine Street, ST ALBANS VIC 3021	Franchisee of the Barry Plant Group
Leading Realty Pty Ltd ACN 005 291 092 Trading As Barry Plant (Brimbank) at 1-7 Elaine Street, ST ALBANS VIC 3021	Franchisee of the Barry Plant Group
Mabivik Pty Ltd ACN 609 347 284 Trading As Barry Plant (Drouin) at C/- Graphite Business Advisers, Level 1, 451-455 Riversdale Road, HAWTHORN EAST VIC 3123	Franchisee of the Barry Plant Group
Manningham Sales Pty Ltd ACN 135 707 434 Trading As Barry Plant (Manningham) at 250 Blackburn Road, DONCASTER EAST VIC 3109	Franchisee of the Barry Plant Group
Manningham Rentals Pty Ltd ACN 127 682 213 Trading As Barry Plant (Manningham Rentals Centre) at 250 Blackburn Road, DONCASTER EAST VIC 3109	Franchisee of the Barry Plant Group
Matavier Pty Ltd ACN 130 435 004 Trading As Barry Plant (Pakenham) at Level 1, 460 Lower Heidelberg Road, HEIDELBERG VIC 3084	Franchisee of the Barry Plant Group
Maz Real Estate Pty Ltd ACN 619 652 461 Trading As Barry Plant (Mount Waverley Sales) at 284 Stephenson's Road, MOUNT WAVERLEY VIC 3149	Franchisee of the Barry Plant Group
Melbourne South Eastern Real Estate Pty Ltd ACN 128 550 541 Trading As Barry Plant (Mount Waverley) at C/- Harry Scapetis Pty Ltd, 30 Station Street, OAKLEIGH VIC 3166	Franchisee of the Barry Plant Group
Melton Realty Sales Pty Ltd ACN 121 963102 Trading As Barry Plant (Melton) at 78 Pier Street, ALTONA VIC 3018	Franchisee of the Barry Plant Group
Merdeen Pty Ltd ACN 147 883 305 Trading As Barry Plant (Doreen-Mernda) at 127 Paisley Street, FOOTSCRAY VIC 3011	Franchisee of the Barry Plant Group
Mildura Real Estate Pty Ltd ACN 005 387 208 Trading As Barry Plant (Mildura) at 146-148 Langtree Avenue, MILDURA VIC 3500	Franchisee of the Barry Plant Group
MJ Real Estate Pty Ltd ACN 121 830 966 Trading As Barry Plant (Lilydale) at "North Tower", Level 5, 485 La Trobe Street, MELBOURNE VIC 3000	Franchisee of the Barry Plant Group
Moxon Real Estate Pty Ltd ACN 092 137 936 Trading As Barry Plant (Bundoora) at 411177 Plenty Road, BUNDOORA VIC 3083	Franchisee of the Barry Plant Group
National Real Estate (Aust) Pty Ltd ACN 005 500 541 Trading As Barry Plant (Reservoir) at 295 Spring Street, RESERVOIR VIC 3073	Franchisee of the Barry Plant Group
No Reserve Agents Pty Ltd ACN 159 858 769 Trading As Barry Plant (Rosebud) at Suite 4, 259	Franchisee of the

Whitehorse Road, BALWYN VIC 3103	Barry Plant Group
NTP Real Estate Pty Ltd ACN 625 423 734 Trading As Barry Plant (Narre Warren) at C/-Syracuse, Level 11,459 Collins Street, MELBOURNE VIC 3000	Franchisee of the Barry Plant Group
Pagent Pty Ltd ACN 105 328 809 Trading As Barry Plant (Shepparton) Barry Plant (Nagambie) at 60 Skene Street, SHEPPARTON VIC 3630	Franchisee of the Barry Plant Group
Peter Stickley Pty Ltd ACN 005 047 339 Trading As Barry Plant (Noble Park) at 390 Princes Highway, NOBLE PARK VIC 3174	Franchisee of the Barry Plant Group
Precise Real Estate Pty Ltd ACN 091 443 695 Trading As Barry Plant (Thomastown) at 199 High Street, THOMASTOWN VIC 3074	Franchisee of the Barry Plant Group
PS Rentals Pty Ltd ACN 605 720 278 Trading As Barry Plant (Noble Park Rentals) at CI-Yarra Accounting Group, 65A Charles Street, SEDDON VIC 3011	Franchisee of the Barry Plant Group
Real TER Pty Ltd ACN 145 633 781 Trading As Barry Plant (Geelong) at 441 Moorabool Street, GEELONG VIC 3220	Franchisee of the Barry Plant Group
Rowville-Lysterfield Real Estate Pty Ltd ACN 006 239 087 Trading As Barry Plant (Rowville) at Level 13, Freshwater Place, 2 Southbank Boulevard, SOUTHBANK VIC 3006	Franchisee of the Barry Plant Group
SBV Pty Ltd ACN 097 186 644 Trading As Barry Plant (Mitchell Shire), Barry Plant (Wallan) at Level 1, 460 Lower Heidelberg Road, HEIDELBERG VIC 3084	Franchisee of the Barry Plant Group
Select Realty Property Management Pty Ltd ACN 104 558 689 Trading As Barry Plant (Coburg) at Level 2, 19 Shierlaw Avenue, CANTERBURY VIC 3126	Franchisee of the Barry Plant Group
Select Realty Sales Pty Ltd ACN 104 558 698 Trading As Barry Plant (Craigieburn) at Level 2, 19 Shierlaw Avenue, CANTERBURY VIC 3126	Franchisee of the Barry Plant Group
Silver Star Realty Pty Ltd ACN 628 062 279 Trading As Barry Plant (Epping) at Suite 5, Level 1, 50 Upper Heidelberg Road,, IVANHOE VIC 3079	Franchisee of the Barry Plant Group
Solinter Pty Ltd ACN 630 292 689 Trading As Barry Plant (Sunbury) at Level 1, 460 Lower Heidelberg Road, HEIDELBERG VIC 3084	Franchisee of the Barry Plant Group
South Eastern Real Estate Pty Ltd ACN 062 572 927 Trading As Barry Plant (Berwick) at 100 High Street, BERWICK VIC 3806	Franchisee of the Barry Plant Group
South Park Real Estate Pty Ltd ACN 628 595 139 Trading As Barry Plant (Mill Park-South Morang) at Level 1,460 Lower Heidelberg Road, HEIDELBERG VIC 3084	Franchisee of the Barry Plant Group
Studfield Real Estate Pty Ltd ACN 144 901173 Trading As Barry Plant (Wantirna) at Shop 6, 249 Stud Road, WANTIRNA VIC 3152	Franchisee of the Barry Plant Group
Sunshine Real Estate (Vic) Pty Ltd ACN 118 612 749 Trading As Barry Plant (Sunshine) at 271 Hampshire Road, SUNSHINE VIC 3020	Franchisee of the Barry Plant Group
Superior Realty Pty Ltd ACN 098 225 248 Trading As Barry Plant (Glenroy) at Level 1, 55 Whitehorse Road, BALWYN VIC 3103	Franchisee of the Barry Plant Group
Tarneit Realty Pty Ltd ACN 153 985 632 Trading As Barry Plant (Tarneit) at Level 2, 35 Cotham Road, KEW VIC 3101	Franchisee of the Barry Plant Group
TGRE Pty Ltd ACN 114 962 953 Trading As Barry Plant (Point Cook) at 196 Keilor Road, ESSENDON VIC 3040	Franchisee of the Barry Plant Group
Thompson Real Estate Pty Ltd ACN 082 620 684 Trading As Barry Plant (Croydon) at 44 Main Street, CROYDON VIC 3136	Franchisee of the Barry Plant Group
Threeonethreefive Real Estate Pty Ltd ACN 168 988 109 Trading As Barry Plant (Heathmont) at C/-Feutrill Pty Ltd, 801 Glenferrie Road, HAWTHORN VIC 3122	Franchisee of the Barry Plant Group
Wantirna South Real Estate Pty Ltd ACN 127 273 287 Trading As Barry Plant (Boronia Rentals) at Level 4, 313 La Trobe Street, MELBOURNE VIC 3000	Franchisee of the Barry Plant Group
Waywick Pty Ltd ACN 054 694 923 Trading As Barry Plant (Diamond Creek) at 62C Hurstbridge Road, DIAMOND CREEK VIC 3089	Franchisee of the Barry Plant Group
Whitehorse Sales Pty Ltd ACN 624155 924 Trading As Barry Plant (Blackburn Sales) at Suite 5, 323-325 Pascoe Vale Road, ESSENDON VIC 3040	Franchisee of the Barry Plant Group

Wyndham Realty Pty Ltd ACN 104109 640 Trading As Barry Plant (Werribee) at 21 Watton Street,
WERRIBEE VIC 3030

Franchisee of the
Barry Plant Group

Yarra Valley Real Estate Pty Ltd ACN 095 666 952 Trading As Barry Plant (Woori Yallock) at 1605
Warburton Highway, WOORI YALLOCK VIC 3139

Franchisee of the
Barry Plant Group

Signature of Agent:

Signature of Vendor(s)



21/02/2024

Terry Burgoyne



21/02/2024

JULIANNE MAIN

EXCLUSIVE AUCTION AUTHORITY

GENERAL CONDITIONS

This Agreement is made between:

1. the party or parties whose details are listed in Item 1 of the Particulars (**Agent**) and
2. the party or parties whose details are listed in Item 2 of the Particulars (**Vendor**); and
3. the party or parties whose details are listed in Item 3 of the Particulars (**Guarantor**)

Operative provisions:

1. Definitions and interpretation

1.1. Definitions

In this Agreement:

Act means the Estate *Agents Act 1980* (Vic) and associated legislation and regulations;

Agreement means this Agreement and includes the Particulars, these general conditions and any Special Conditions, schedules and annexures hereto;

Associated Person has the meaning in the *Duties Act 2000* (Vic);

Auction means a public auction in respect of the Property on the date and at the time set out in Item 5 of the Particulars or such other date or time agreed upon by the Agent and the Vendor to be held in accordance with the Sale of Land Act 1962 (Vic);

Business Day means a day which is not a Saturday, Sunday or a public holiday or a bank holiday in Victoria;

Change in Control means a change of 50% or more of the total beneficial interest; or in the case of a company, 50% or more of the voting rights of the shareholders; or in the case of a unit trust, 50% or more of the voting rights of the unitholders; or in the case of a family trust or superannuation fund, a change in the trustee of that fund or change in the directors or beneficiaries or in the case of a partnership a change of 50% or more of the interest holdings in that partnership;

Claim means any and all claims, actions, disputes, differences, demands, proceedings, accounts, interest, costs (whether or not the subject of a court order), losses, expenses and debts or liabilities of any kind (whether prospective or contingent or for unascertained amounts) of whatever nature and however arising;

Commencement Date means the date of this Agreement;

Commission means the fee payable to the Agent as set out in general condition 3.1 and Item 7 of the Particulars and is exclusive of GST;

Commission Sharing Notice means the notice required under section 48 of the Act and annexed to this Agreement as Annexure 2;

Continuing Authority Period means a non-exclusive agency authority period of the number of days specified in Item 4B (unless cancelled earlier in accordance with clause 2.3);

Exclusive Authority Period means the Exclusive Authority Period of the number of days stated in Item 4A of the Particulars commencing from the Commencement Date;

Fixed Commission means the fixed commission amount payable as commission by the Vendor set out in Item 7 of the Particulars (if applicable);

GST means GST within the meaning of the GST Act;

GST Act means the A New Tax System (Goods and Services Tax) Act 1999 (Cth);

Included Chattels means those listed in Item 5 of the Particulars;

Introduced to the Property means that the person was made aware that the Property was available to purchase irrespective from whatever source and whether before or after the date of this Agreement. Without limiting the generality of the foregoing, a person is deemed to have been Introduced to the Property if the person receives any information regarding the Property from the Agent or the person becomes aware that the Property is available for purchase after viewing, hearing or reading any advertisements of whatever nature or medium, any boards, placards or other literature referring to the availability of the Property that were connected to the Agent or marketing developed by the Agent, whether or not any one or more of the above takes place before or after the date of this Agreement. A reference to "Agent" in this definition includes a reference to the Agent's employees, contractors, consultants and agents. Without limitation, a person is deemed to have been Introduced to the Property if the person receives any

information in relation to the Property as a result of any information published, communicated, transmitted or made available on social media, newspaper, brochure, letter, email, mailout or other advertisement, marketing, contact or promotion;

Vendor Reserve Price means the Vendor's reserve price set out in Item 5 of the Particulars (if any);

Marketing Expenses means all outgoings, expenses and costs of and incidental to the marketing and promotion of the Property by the Agent set out in Item 8 of the Particulars or otherwise agreed in writing between the Vendor and the Agent excluding Commission.

Particulars means the details contained in the Particulars of Appointment;

Percentage Commission means the commission of an amount equal to the percentage of the Price for the Property specified in Item 7 of the Particulars (exclusive of GST);

Price means:

- a. the price at which the Vendor agrees to the Sale of the Property; or
 - b. where the Sale is not on a commercial or arms length basis or to an Associated Person, the price shall be the higher of the Vendor Reserve Price; or the price at which the Vendor Agrees to Sell the Property;
- and for the purpose of calculating the Commission includes:
- i. the total aggregate amount of consideration payable to or for direct or indirect benefit of the Vendor or any person that is an Associate or Person of the Vendor in consideration for the whole or any part of the Property or any right relating to the Property (including an option fee and GST (if any)); and
 - ii. the value of any liabilities that are assumed by the purchaser or any person that is an Associated Person of the purchaser in connection with the purchase of the whole or any part of the Property;

Property means the property specified in Item 5 of the Particulars and includes any improvements and fixtures (unless expressly excluded) and any Included Chattels;

Rebate statement means the form required under section 48A of the Act and annexed to this Agreement as Annexure 1.

Related Body Corporate and **Related Entity** have the same meaning as in the Corporations Act 2001 (Cth);

Sale or Sold in relation to the Property means either:

- a. an offer signed by a purchaser or its agent or representative at no less than Vendor Reserve Price and on terms consistent with the Particulars which would result in an enforceable contract of sale against the Vendor, if signed by the Vendor or its agent or representative and exchanged with the purchaser; or
- b. a contract of sale signed by the Vendor and a purchaser for the sale and purchase of the Property;
- c. the exchange of a contract for the transfer of the Property (or if no contract the transfer form) or Change in Control of the Vendor's interest in the whole or part of the Property (or any contract of sale if the Vendor is not yet the registered proprietor of the Property) or a Change in Control in relation to the Vendor or an option to purchase the Property;

Sale of Land Act means the Sale of Land Act 1962 (Vic) and associated regulations;

Security includes a mortgage bond debenture charge or any other right or interest which entitles the holder to take possession of and dispose of real estate in order to satisfy a debt;

Security Holder means a mortgagee in possession or other party entitled to dispose of the Property under the terms of a Security; and

Special Conditions means the terms and conditions set out in Item 10 of the Particulars.

1.2. Interpretation

In this Agreement, unless the context requires otherwise:

- a. words importing persons shall include corporations and other entities recognised by law and where a person is referred to as the trustee of any trust or settlement the reference is to that person both personally and in his capacity as such;
- b. Any provision in this Agreement which binds more than one person binds all of those persons jointly and each of them individually;
- c. headings are for convenience only and shall not affect interpretation;
- d. references to any party to this Agreement shall include its transferees, successors or permitted assigns;
- e. reference to "\$" and "dollars" are to Australian currency;
- f. a reference to an Act of Parliament, ordinance, code or other law includes regulations and other statutory instruments under it includes any amendment, consolidation, modification or re-enactment thereof or any replacement legislation;
- g. a reference to a party binds if a corporation its parties, liquidators, controllers, receivers, managers and administrators; and if an individual their executors, administrators, trustees and beneficiaries;
- h. no provision of this Agreement will be construed adversely to a party solely on the ground that the party was responsible for the preparation of this Agreement or that provision;
- i. the Particulars and any annexures and schedules to this Agreement is hereby incorporated into this Agreement;
- j. a Special Condition shall prevail over a general condition in the event of any inconsistency;
- k. this Agreement is governed by the laws of the State of Victoria.

2. Appointment of Agent

2.1. Engagement as Exclusive Agent

The Vendor engages the Agent as its sole and exclusive agent to market and sell the Property during the Exclusive Authority Period (including holding the Auction unless the Property is Sold earlier) and the Vendor agrees to pay the Agent the Commission and Marketing Expenses pursuant to the terms of this Agreement. The Vendor acknowledges it must not appoint any other agent to sell the Property during the Exclusive Authority Period and that if it purports to do so it may be liable to pay more than one commission.

2.2. Exclusive Authority Period (no time stated)

If an agreement stating that an estate agent is to act as the sole agent for the sale of any real estate or business does not state when the sole agency is to end, the sole agency ends:

- a. in the case of a sale by auction, 30 days after the date of the auction; or
- b. in any other case, 60 days after the date the agreement is signed by, or on behalf of, the seller of the real estate or business.

2.3. Continuing Authority Period

If there is a Continuing Authority Period completed in item 4B of the Particulars the parties acknowledge and agree that:

- a. it commences when the Exclusive Authority Period ends;
- b. it may be cancelled by the Vendor at any time by written notice to the Agent;
- c. on the day it commences, the Agent's exclusive engagement ends; and
- d. the Vendor is still liable under general condition 3.1 even if the Continuing Authority Period is cancelled.

2.4. Agent's Obligations

The Agent will endeavour to effect a Sale of the Property and will:

- a. as reasonably requested advertise and market the Property at the Vendor's cost (in accordance with the Vendor's instructions) and report to the Vendor on the marketing programme;
- b. submit the Property to prospective purchasers;
- c. unless the Property is Sold earlier, conduct the Auction; and
- d. receive, hold and account for deposits paid subject to any instructions otherwise by the Vendor or their legal representative.

2.5. Agent to sign on behalf of Vendor if requested

The Agent may sign a contract for the sale of the Property on behalf of the Vendor, as the Vendor's agent if requested to do so by the Vendor in writing

3. Commission and Agent's Estimate of Selling Price

3.1. Commission

Subject to general conditions 3.2 and 3.3, the Vendor agrees to pay the Agent, without setoff or deduction, the Fixed Commission or Percentage Commission, whichever is set out in Item 7:

- a. if the Property is Sold during the Exclusive Authority Period, irrespective of how or by whom the purchaser was introduced to the Property and irrespective of whether it was Sold by the Agent, the Vendor or any other person or agent; and
- b. unless the Vendor may also incur a liability to pay another agent commission under an exclusive agency agreement signed by the Vendor with that other agent after the expiry of the Exclusive Authority Period, if the Property is Sold:
 - i. during the Continuing Authority Period by the Agent;
 - ii. to a purchaser introduced to the Property by the Agent before the Vendor signed this Agreement; or
 - iii. within 120 days of the expiration of the Exclusive Authority Period to a purchaser introduced to the Property by the Agent during the Exclusive Authority Period where the Property was Sold as a result of that Introduction.

3.2. Vendor may refuse offers prior to Auction

The Vendor may refuse any binding offers prior to the Auction without becoming liable for Commission.

3.3. Disposal by Security Holder

If the Vendor is acting as a Security Holder and the Auction is cancelled within 14 days of:

- a. the Commencement Date, the Vendor must immediately pay the Agent all Marketing Expenses together with an amount equal to twenty five percent (25%) of the Commission payable based on a Sale at the higher of the List Price and the amount owed under the Security; or
- b. the scheduled date of the Auction (and general condition 3.3(a) does not apply), the Vendor must immediately pay the Agent all Marketing Expenses together with an amount equal to seventy five percent (75%) of the Commission payable based on a Sale at the higher of the List Price and the amount owed under the Security.

3.4. Commission payable

Commission is due and payable by the Vendor on the Property being Sold. The Vendor acknowledges that the Agent's Commission must still be paid in full if a Sale is brought to an end:

- a. by the Vendor as a result of default by the purchaser;
- b. by the purchaser as a result of default by the Vendor; or
- c. by agreement between the Vendor and the purchaser

3.5. Commission Sharing

The Vendor:

- a. agrees that the Agent may share Commission with any authorised person including an employee who is an estate agent or agent's representative or with an estate agent who is the Agent's business partner; and
- b. acknowledges and agrees that it has received the Agent's Commission Sharing Notice.

3.6. Agent's Estimated Selling Price

The Vendor acknowledges and agrees that the Agent's estimate of the selling price for the Property is set out in Item 6. Such price may be varied from time to time by the Agent in accordance with the terms of the Act and the Vendor agrees to sign an acknowledgement provided by the Vendor of any change to the estimate of the selling price for the Property

3.7. All moneys subject to negotiation

The Vendor acknowledges and agrees that it has, before signing this Agreement, been advised by the Agent that any moneys, including Commission payable by the Vendor to the Agent pursuant to this Agreement, were subject to negotiation.

3.8. Estimate of Commission

The Vendor acknowledges and agrees that the Agent has set out in Item 7 the estimated Commission payable as a dollar amount and as a percentage based on the Vendor Reserve Price (or where no Vendor Reserve Price is stated in Item 5 of the Particulars, on the Agent's estimated selling price for the Property set out in Item 6).

3.9. Rebate Statement

The Vendor acknowledges and agrees that the Agent has provided it with the Rebate Statement annexed as Annexure 1 to this Agreement. The Agent is not entitled to retain any rebate and must not charge the Vendor an amount for expenses that is more than the cost of those expenses. Reference to rebate includes any rebates in respect of any outgoings, or any prepayments made by the person engaging or appointing the agent (i.e. the Vendor) in respect of any intended expenditure by the agent on the Vendor's behalf or any payments made by the Vendor to another person in respect of the work.

3.10. Dispute

Should there be a dispute of Commission under sections 56A or 56B of the Act then the vendor authorises the Agent to transfer its commission from its trust account to its office account pending the resolution of the dispute.

4. Disclosures

4.1. The Agent hereby discloses and the Vendor acknowledges that the Franchisor of the Barry Plant Group, The Barry Plant Group Pty Ltd (ACN 088 069 952) and its Related Bodies Corporate and/or any of the Agent's Related Entities may obtain indirect financial benefits from each of the following entities listed at:

<https://www.barryplant.com.au/partnerships/>.

4.2. The Agent hereby discloses and the Vendor acknowledges that [The Dromana Real Estate Trust ACN 662 049 630](#) trading as Barry Plant [Barry Plant Dromana](#) Related Bodies Corporate and/or any of the Agent's Related Entities do not hold an indirect financial benefit, nor receive any indirect benefit in addition to the entities listed in general condition 4.1.

5. Interest on Overdue Monies and Costs

5.1. If any amount payable to the Agent has not been paid by the Vendor when due, the Vendor must pay interest on the amount outstanding (at the current rate of interest prescribed by section 2 of the Penalty Interest Rate Act 1983 (Vic)) from the due date for payment until payment of the outstanding amount is made in full. Interest accrues daily and capitalises monthly.

5.2. In the event of a default under this Agreement, the defaulting party agrees to pay the non-defaulting party's costs on a solicitor/client own basis arising from or in any way connected with the default or in relation to the enforcement of the non-defaulting party's rights.

6. Payment, Deposits, Irrevocable Authority and POA

6.1. Notwithstanding the right of the Agent to be paid immediately upon a Sale, the Vendor hereby irrevocably authorises the Agent to deduct its Commission and any other amounts due to it under this Agreement (including GST) from any deposit moneys held by the Agent.

6.2. If the Agent is requested to transfer deposit moneys held by it to the Vendor's legal practitioner or another authorised person appointed by the Vendor, the Vendor authorises the Agent to retain an amount equal to any Commission and

other amounts payable to it under this Agreement to which it is or will become entitled to.

6.3. If no deposit moneys are held by the Agent, the Vendor must pay the Agent all Commission and other amounts due to it under this Agreement on demand.

6.4. Without limiting general condition 6.3, if deposit moneys are held by the Vendor's legal practitioner or any other authorised person appointed by the Vendor as a stakeholder pending settlement of the Property or if no deposit moneys are held, the Vendor hereby:

- a. irrevocably appoints, authorises and directs that legal practitioner or authorised person to:
 - i. immediately pay the Agent any Commission or other amounts due to it under this Agreement from any deposit moneys which are released by the purchaser prior to settlement; and/or
 - ii. collect at settlement of the Property and provide to the Agent, payment of all Commission and other amounts due under this Agreement by way of bank cheque or as the Agent otherwise consents to or directs in writing; and
- b. grants this limited power of attorney which:
 - i. shall commence on the Commencement Date and end at 5:00 pm on the day that the Agent receives payment of all Commission and other amounts payable by the Vendor to the Agent under this Agreement. No notice of revocation is required; and
 - ii. appoints the officer in effective control of the Agent as the Vendor's attorney to direct and authorise the Vendor's legal practitioner or other authorised person appointed by the Vendor to hold deposit moneys or collect settlement moneys to:
 - a. immediately pay the Agent any Commission or other amounts due to the Agent pursuant to this Agreement from any deposit monies which are released by the purchaser prior to settlement; and/or
 - b. collect at settlement of the Property and provide to the Agent, payment of all Commission and other amounts due under this Agreement by way of bank cheque or as the Agent otherwise consents to or directs in writing.

6.5. The Vendor undertakes to do all things and sign all documents reasonably necessary to give full effect to this general condition 6 and to promptly confirm the irrevocable authorities and power of attorney on request by the Agent.

7. Marketing

7.1. Vendor Liable for Marketing Expenses

The Vendor understands, acknowledges and agrees that:

- a. it is liable for the Marketing Expenses, whether or not all or part of the Property is Sold; and
- b. Marketing Expenses will be payable in advance in the amount specified in Item 8 of the Particulars upon signing this Agreement and otherwise within three (3) days of receipt of the Agent's written request. Within seven (7) days of receipt of any written request from the Vendor the Agent will provide the Vendor with an itemised list of all Marketing Expenses.

7.2. Marketing Expenses incurred in the name of the Vendor

The Agent is irrevocably authorised by the Vendor to incur as agent for and in the name of the Vendor all Marketing Expenses for which the Vendor is liable for under this Agreement providing that such Marketing Expenses are either disclosed in Item 8 of the Particulars or otherwise approved by the Vendor in writing prior to being incurred.

7.3. Auction Not Proceeding

If, for any reason, the auction does not proceed, the Vendor will remain responsible for any Marketing Expenses that have been incurred.

8. Vendor's Obligations

The Vendor must:

- a. duly and punctually pay without deduction or set off the Commission, Marketing Expenses and other monies due and payable to the Agent in accordance with the terms of this Agreement
- b. give the Agent reasonable assistance in the performance of the Agent's services on request by the Agent including not limited to providing the Agent with reasonable and safe access to the Property for the purposes of this Agreement; and
- c. act in good faith and reasonably towards the Agent.

9. Vendor's Acknowledgments

The Vendor acknowledges and agrees that prior to executing this Agreement:

- a. it carefully read and understood this Agreement;
- b. the Agent's estimate of Commission, Rebate Statement, Commission Sharing Notice and estimate selling price for the Property, set out in Item 7, Annexures 1 and 2 and Item 6 respectively, were fully completed and that it read each of them and raised or had an opportunity to raise any queries about them with the Agent;
- c. it has not been induced to enter into this Agreement and has executed this Agreement freely, voluntarily and without

- any duress on the part of the Agent, or any other person;
- d. it has not relied on representations, warranties or statements whether oral or written made by the Agent, its officers, advisers, employees or agents, except those in this Agreement;
- e. all figures provided by the Agent in relation to estimated sales are estimates only;
- f. it was informed by the Agent that the Agent has procedures for resolving complaints and disputes arising from the operation of the Agent's estate agency practice. If a complaint or dispute arises please contact the Agent to ascertain the procedure to be followed;
- g. dummy bidding is illegal under the Sale of Land Act; and
- h. it is illegal for the auctioneer to accept any bids or offers after the Property has been knocked down to the successful bidder.
- i.

10. Warranties

- 10.1.** The Vendor warrants to the Agent and agrees with the Agent that:
- a. unless otherwise disclosed in Item 2 of the Particulars, it enters this Agreement and holds the Property (or the contractual right to commence marketing and/or selling the Property) in its own right and has or will have the legal right to sell the Property;
 - b. it has not appointed any other estate agent and shall not appoint any other estate agent to sell the Property during the Exclusive Authority Period;
 - c. it has not and will not make, any statement or representation to the Agent that is false, misleading and/or deceptive or likely to be false, misleading and/or deceptive; and
 - d. at the time of entering into this Agreement, and for the term of this Agreement, it disclosed and will continue to disclose to the Agent any and all material facts relating to the condition of the Property of which it is aware
- 10.2.** Subject to general condition 10.3, the Vendor hereby releases and indemnifies the Agent against any Claims (including legal fees on a solicitor/client basis) which the Agent incurs as a consequence of any breach of the warranties set out in general condition 10.1.
- 10.3.** The indemnity referred to in general condition 10.2 of this Agreement shall not apply to the extent that there was any negligence, unauthorised or unlawful act, default or omission on the part of the Agent.
- 10.4.** The Agent warrants that it (either in its own right or through one or more associated companies) is licensed and permitted to carry out the duties and obligations on its part in this Agreement.
- 10.5.** The Vendor acknowledges being given an executed copy of this Agreement at the time of executing it.
- 10.6.** The Vendor warrants that:
- a. if there is a pool or spa on the property it has complied with the relevant provisions of the Building Act 1993 (Vic); and
 - b. it has disclosed to the Agent any material fact under section 12(d) of the Sale of Land Act.

11. Making a Complaint Concerning Commissions and/or Outgoings

- 11.1.** Our complaints procedure can be found at <https://www.barryplant.com.au/customer-service-charter-and-complaint-process/>.
- 11.2.** Any complaint relating to the commission or outgoings can be made to the Director, Consumer Affairs Victoria, GPO Box 4567, Melbourne, VIC 3001 or by telephoning 1300 73 70 30.
- 11.3.** 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, or notice that the agent has taken the amount in dispute, whichever is later.

12. Guarantee & Indemnity

- 12.1.** 1 In consideration of the Agent entering into this Agreement, the Guarantor unconditionally and irrevocably guarantees to the Agent that the Vendor will perform all of its obligations (express or implied) under this Agreement and guarantees the due and punctual payment by the Vendor of all monies under this Agreement.
- 12.2.** As a separate and primary undertaking, the Guarantor unconditionally and irrevocably indemnifies and keeps indemnified the Agent against all Claims arising from or in any way connected with or resulting from a default by the Vendor of the terms of this Agreement and/or the Agent's inability to enforce performance of obligations under this Agreement if any of the Vendor's obligations are void, voidable or unenforceable against the Vendor.
- 12.3.** The guarantee and indemnity is a continuing guarantee and indemnity and is not discharged by any one payment, and does not merge on termination of this Agreement.
- 12.4.** If required by the Agent, the person signing this Agreement will procure, within 7 days of a request, the execution of a deed of guarantee and indemnity in favour of the Agent by the directors of the Vendor (if a company) or beneficiaries of a trust (if a trust) on the same terms as set out in clauses 12.1 to 12.3.

13. Charge over Property as Security for Vendor's Obligations

13.1. In consideration of the Agent entering into this Agreement, and in order to better secure its obligations hereunder, the Vendor hereby:

- a. charges all of its present and future right, title and interest in the Property;
- b. consents to the Agent lodging and registering a caveat in respect of the Property to secure all monies due to it under this Agreement; and
- c. agrees to provide such further information and sign such further documents as necessary for the Agent to effect registration of the caveat and or enforce the charge granted under this general condition 13 within two (2) Business Days of a written request by the Agent.

13.2. Should an Agent lodge and register a caveat in accordance with general condition 13.1, the Vendor agrees to pay the Agent's reasonable legal costs and expenses for the lodging and removal of the caveat on an indemnity basis.

14. Electronic Communications

14.1. The Vendor acknowledges that the Agent may provide this Agreement and other communications which relate to or concern this Agreement to the Vendor from time to time by email, or other forms of electronic communications **(Electronic Communications)**.

14.2. In accordance with section 8 of the Electronic Communications Act 2000 (Vic), the Vendor hereby consents to receiving Electronic Communications from the Agent from time to time and as required.

15. Notices

15.1. The Agent can deliver a notice to the Vendor personally, in which case the date of delivery is the date on which the Vendor receives the notice.

15.2. If the Agent mails a notice to the Vendor, notice is taken to have been given 3 Business Days after the date that it is posted, if the Agent mailed it to the Vendor's last known address as specified within this Agreement.

15.3. Where permitted to do so by law, the Agent may provide the Vendor with a notice, other documents or information:

- a. electronically to the Vendor's email address, or other electronic mail address, last known to the Agent; or
- b. to any person nominated by the Vendor to receive such notices, documents or information.

16. General

16.1. No Merger

Each term of this Agreement that has not been carried into effect at the termination of this Agreement survives the termination.

16.2. Invalidity and Severability

- a. If any provision of this Agreement is illegal, invalid or unenforceable then to the extent that the offending provision can be read down so as to give it a valid and enforceable operation of a partial nature it must be read down; and
- b. in any other case it must be severed from this Agreement so that the remaining provisions continue to operate.

16.3. Electronic Communications and Execution

- a. The Vendor acknowledges that in accordance with the Electronic Transactions (Victoria) Act 2000 (ETVA), the Agent may send notices and this Agreement via electronic means, and the Vendor agrees that this is a valid form of notice in writing in accordance with the ETVA and consents to this use of electronic communications by the Agent.
- b. The Vendor acknowledges that the Agent will use the contact details provided in the Particulars for the purposes outlined above and that it is the Vendor's responsibility to notify the Agent, in writing, of any changes in their contact details and any failure to do so will not render notice invalid.
- c. The Vendor acknowledges that it is entering into a binding agreement if this Agreement is signed by electronic signature.
- d. This Agreement may be either signed face to face with the Agent or separately. If signed face to face, the Agent may require that proof of identity documents be presented and sighted. If signed separately, the electronic platform will send the Vendor a verification code via text to their mobile device which must be entered by the Vendor at the time of signing.

17. GST

17.1. If GST is imposed on any supply made under this Agreement, the recipient of the taxable supply must pay to the supplier an additional amount equal to the GST payable on or for the supply, subject to receiving a valid tax invoice at or before the time of payment. Payment of the additional amount is due at the time of the taxable supply.

17.2. If this Agreement requires a party to pay for, reimburse or contribute to any expense, loss or outgoing (Reimbursable Expense) suffered or incurred by another party, the first party must only pay the amount of the Reimbursable Expense net of GST input tax credits (if any) to which the other party is entitled in respect of the Reimbursable Expense (Net Amount) save that if the Agent's recovery of any Reimbursable Expense from the Vendor is

a taxable supply by the Agent, the Vendor must pay GST in addition to the Net Amount.

18. Privacy Act 1988 (Cth): APP Notification of Collection of Personal Information

18.1. For the purposes of this general condition 18 unless context requires:

- a. “**you**” means a Vendor who is a natural person (and if appropriate, their attorney under power or agent) and “**us**” means the Agent and its Related Entities; and
- b. all words and phrases shall have the same meaning as under the Privacy Act 1988 (Cth).

18.2. Upon entering into this Agreement, you consent to us collecting, holding, using, and disclosing your personal information:

- a. for the primary purpose of acting in connection with the marketing and sale of the Property and exercising and carrying out our rights and obligations under this Agreement;
- b. for the secondary purposes of:
 - i. providing details of your sale to the REIV, domain.com.au, commercialview.com.au or realestateview.com.au to enable them to collect
 - ii. promoting our services to the public and potential clients;
 - iii. responding to enquiries from Consumer Affairs Victoria and the REIV; and
 - iv. complying with the law; and
- c. as required to comply with our legal obligations including the disclosure of sale prices as required by the Act.

18.3. You also consent to us using your personal information for direct marketing and telemarketing about our services among other things.

18.4. Your consent survives termination of this Agreement and continues until you inform us your consent is withdrawn.

18.5. The kinds of personal information we will collect and hold are your name, address, date of birth, contact details, bank account details, credit and debit card details.

18.6. We will collect your personal information from you and may hold it in hard copy and or in electronic form.

18.7. We can be contacted between 9:00 am and 5:00 pm on Business Days for you to access, update or seek correction of your personal information. Our contact details are as set out in Item 1 of the Particulars.

18.8. If you consider we have breached the Australian Privacy Principles you may complain to us by letter or email using the contact details set out in Item 1 of the Particulars. We will promptly consider your complaint and attempt to resolve it in a timely manner. If we are unable to resolve your complaint, you may refer it to the Office of the Australian Information Commissioner GPO Box 5288, Sydney NSW 2001 or enquiries@oaic.gov.au.

18.9. We are unlikely to disclose your personal information to overseas recipients unless specified in Item 9 of the Particulars.

18.10. If your personal information is not provided, we may not be able to act for you or sell the Property.