

Agreement from 1 January 2012 to 5pm 2 March 2018

Agent Referral Terms and Conditions

The following referral terms and conditions serve to ensure Which Real Estate Agent (WREA) is remunerated for the introduction of a qualified lead to You. Please read them carefully before contacting the property owner and their representative, as in doing so you agree to be bound by these Terms and Conditions

Summary of Key Provisions

The Agent agrees to pay WREA the Referral Fee (being 20% of the total sales commission or one week's rent, as the case may be, including GST), within fourteen days after receipt of commission.

If you are accepting a referral on behalf of a business or pass the Lead to another agent, that business or agent is taken to have accepted these Terms and Conditions and you are taken to have been duly authorised to bind them.

We respect existing relationships that may exist between yourself and the Client. No Referral Fee will be payable if you have physically attended the property or provided a valuation to the owner in the last 90 days.

1.0 PARTIES TO THE AGREEMENT

1.1 The Parties

This Referral Agreement exists between:

1. Geneva Private Wealth Pty Ltd trading as Which Real Estate Agent ACN 092 013 931 (and its representatives) Agency Licence: 10001023 "WREA" or "Company" AND
2. Agent (and representatives) AND
3. Agency (and its representatives)

1.2 Commencement date of the Referral Agreement

This Agreement commences on the date the Client is contacted by the Agent or Agency.

1.3 The purpose of the Referral Agreement

This Agreement serves to ensure WREA is remunerated for the introduction of a client to the Agency.

2.0 DEFINITIONS

Agency means the holder of the real estate licence.

Agent means the authorised representative of the Agency who accepts the Referral Agreement whether that individual is the holder of a real estate licence or is an employee, officer or sub-contractor of the Agency. This includes other agents the lead may be passed to.

Agreement or **Referral Agreement** means the agreement constituted by these Terms &

Conditions.

Lead means information with respect to properties and property owners.

Referral Fee means an amount determined in accordance with clause 3.1.

You or Your means the Agent and the Agency.

Client means the owner or authorised representative of the owner of the referred property.

Lead means the provision of Client information to the Agent or Agency

Company or **WREA** means Geneva Private Wealth Pty Ltd (ACN 092 013 931) trading as Which Real Estate Agent

3.0 TERMS & CONDITIONS

These terms and conditions create a legally binding obligation between the above Parties.

By accepting these Terms & Conditions the Agent agrees to be bound in a personal capacity and confirms that he/she has the authority to bind the Agency.

3.1 Fees

You agree to pay the following fee:

- In the case of the sale of a property referred to You by WREA **20% of the total commission** is payable to the Company on the earlier of:
 - i. fourteen days from completion or settlement of the sale contract; and
 - ii. receipt by You of the sale commission from the property owner (for example, in the case of a s.27 deposit release or equivalent).

- In the case of the rent or lease of a property referred to You by WREA **the equivalent of one week's rent** is payable to the Company upon entry of the lease.

- For the purposes of this Agreement a property is deemed to have been referred to You by WREA:
 - i. if You or any of Your authorised representatives are retained by the Client; or
 - ii. if the details of the property and/or property owner are provided to You or any of Your authorised representatives by WREA; or
 - iii. if you haven't physically attending the property or provided a valuation to the owner in the last 90 days.

3.2 Penalties:

- Payments not made by the due date will incur a late payment fee of \$195 and accrue interest at a rate of 15% per annum, pro-rata (or the highest rate permitted by law, if less) from the due date.
- You agree to reimburse the Company for any costs, expenses, or fees expended by the Company in connection with any collection efforts against you, including reasonable internal and external legal or collection fees.

3.3 GST

- All above noted Referral Fees and penalties are GST inclusive amounts.

3.4 Disputes

- With respect to disputes as to what constitutes a Lead, You agree that in the event that it is

claimed that the property owner is already an existing client of Yours (and has been in contact with respect to a possible sale within the last 30 days), then You will provide the Company with documentary evidence within 24 hours of being informed who the Client is; otherwise it will be deemed to be a Lead from the Company.

3.5 Confidential Information and Intellectual Property

- You acknowledge that you will not disclose any confidential information and / or intellectual property provided by the other party without their consent and acknowledge it is the exclusive property of said party.

3.6 Agent and Agency responsibilities

The Agent will:

- disclose these Terms & Conditions to the Agency and any other authorised representative of the Agency using the Service;
- provide accurate details to the Company;
- Promptly consider and respond to any Leads in good faith;
- promptly advise WREA in writing:
 - upon signing an Authority with a property owner referred by WREA;
 - of the date of settlement or completion of the sale contract with respect to a property;
 - if applicable, the early payment of any commission due to the Agent or Agency; and
 - if they leave the Agency or pass the lead onto another agent, and after consultation with the Agency, advise the Company of the details of a replacement authorised representative; and
- pay WREA the Fees.

The Agency agrees to:

- honour any offers made by the Agent;
- pay the Fees in the event that the Agent does not for whatever reason (for example, where the Agent ceases to be employed by the Agency);
- disclose these Terms & Conditions to any other authorised representative of the Agency using the Service;

3.7 Term

The Agreement is open ended and is structured to extend to all future referrals, subject to the agreement of both parties on each occasion.

The Agent will pay the Referral Fee to WREA if the referred property is sold, leased or rented by the Agent or Agency if the Agent or Agency is appointed within 12 months from the provision of the Lead.

4.0 MISCELLANEOUS

4.1 Independent contractors. The Company is an independent contractor. The Company does not have the right to act as Your agent representative or partner and neither the Agent nor the Agency has the right to act as an agent, representative or partner of the Company. This Agreement must not be construed to create an association, agency, joint venture or partnership between the Company and the Agent or Agency.

4.2 Waivers. A right created by this Agreement can only be waived if the waiver is in writing and signed by the party entitled to that right. Delay by a party in exercising a right does not amount to a waiver, and a written waiver will not operate as a subsequent waiver of the same right or of any other right of that party.

4.3 Assignment. Neither the Agent nor the Agency may assign or sub-licence its rights or obligations under this Agreement without the prior written consent of the Company. Any assignment or sub-licence without the prior written consent of the Company shall be null and void. This Agreement may be assigned by the Company without any consent.

4.4 Enforceability. If a clause or part of a clause is unenforceable, voidable, invalid or illegal, it must be read down so as to be enforceable, valid and legal. If this is not possible, the clause (or the offending part) is taken to be severed from this Agreement without affecting the enforceability, validity or legality of the remaining clauses.

4.5 Disputes. In the event of a dispute between the parties arising in connection with this Agreement, each party must nominate an officer of equivalent seniority who must meet in good faith to resolve the dispute. If they cannot resolve the dispute within 14 days, the Agency's chief executive officer (or equivalent) and an officer of equivalent seniority from the Company must meet in good faith to resolve the dispute. If the dispute is not resolved within a further 14 days, either party may take any action it deems appropriate.

4.6 Governing law. This Agreement is governed by the law of New South Wales, Australia. The parties submit to the non-exclusive jurisdiction of the courts exercising jurisdiction there without regard to the principles of conflicts of law.