



NOW SELLING TERMS OF TRADE

DEFINITIONS

Agreement means these terms of trade.

Company means Now Selling.

Customer means the person or entity placing an Order with the Company.

Goods means goods supplied or to be supplied by the Company to the Customer.

Order means the order placed by the Customer for Goods and Services.

Price means the price for the Goods and Services as specified by the Company at the time of Order.

Listing means the electronic listing of the Property on the Website or on a third party website(s).

Property means the property in respect of which the Goods and Services are being provided.

Purchaser means the person or entity purchasing the Property.

Services means the services provided or to be provided to the Customer by the Company or any third party contracted by the Company.

Vendor means the person or entity selling the Property.

Website means the Company's website located at www.nowselling.co.nz

APPLICATION

Unless otherwise agreed in writing by the parties, this Agreement will apply to all Goods and Services ordered by and supplied to the Customer.

AGREEMENT

The Customer agrees to engage the Company to provide the Goods and Services for the Price plus any additional charges that may be payable from time to time. The Company agrees to provide such Goods and Services in accordance with this Agreement and advertised by Now Selling on their website. The Customer agrees no listings will go live until the Now Selling account has been paid in full.

ORDER AND PAYMENT

The Customer shall place an Order for the Goods and Services via the Website. The Customer agrees that the Price includes GST, and plus any other taxes and duties which may be applicable. Payment shall be made to the Company by invoice at the time of the order been placed. You agree and acknowledge that the Price is non-refundable irrespective of the outcome of any Property transaction.

In the event the Customer wishes to change the Order, the Customer must notify the Company within 5 working days of the original Order. The Company is under no obligation to agree to such changes if outside of such time frame. Any changes to an Order may be subject to an additional payment.

PROPERTY LISTING

Any Listing in respect of a Property:

- Shall (unless otherwise agreed between the parties) only exist for the duration specified by the Company (if any) at the time of Order. If no duration is specified, the Listing will exist for six months or until the Customer notifies the Company to remove the Listing, or the Company otherwise removes the Listing pursuant to this Agreement.
- Will be at all times subject to the terms and conditions of use of the Website or third party websites and social media platforms it is listed on (as applicable).
- May be amended or otherwise withdrawn if the Company in its reasonable opinion believes that one or more of the warranties provided by the Customer under this Agreement in respect of the Property has been breached, or the Company otherwise holds reasonable concerns in respect of the Listing.
- Shall be removed on receipt of notification from the Customer that the Property is no longer for sale.

ACKNOWLEDGEMENTS

The Customer agrees and acknowledges that the Company:

- Is a marketing and advertising company and is not a real estate agency, conveyancer, lawyer, conveyancing practitioner or land broker under the Lawyers and Conveyancers Act 2006. Now Selling will only use licenced real estate agents when the customers is requiring that service.
- Is not a real estate agent or otherwise registered or licensed with or by the Real Estate Agents Authority.
- Now Selling does not collect commission or any payment in respect of a successful Property transaction.
- Now Selling does not represent either the Vendor or Purchaser of a Property.
- Listing means the electronic listing of the Property on the Website or on a third party website(s). Now Selling is not a party to any negotiations, arrangement, contract, agreement, sale or transaction in respect of the Property.
- Now Selling may use third parties to provide the Goods and Services to the Customer.

PROFESSIONAL REAL ESTATE AGENT

- The Real Estate Agent is conducted by a Licenced Real Estate Sales Salesperson who holds a current REAA 2008 Licence and abide by the terms and conditions within their terms of trading.
- The Real Estate Agent does not involve Now Selling, when doing a formal listing agreement between the buy and the seller. The Real Estate Agent will with the seller, sign a listing agreement in regards to the negotiation process as well as provide the seller with a current CMA.
- The Real Estate Agent trades under Emphasis Real Estate Ltd and are governed and bound by the REAA 2008 rules and regulations.

CUSTOMER OBLIGATIONS

The Customer shall:

- Ensure that all data and / or information supplied to the Company at the time of the Order is valid, up to date, accurate and complete.
- Inform the Company in writing of any changes to the details in respect of the Property that may be contained within a Listing or other Goods supplied by the Company in respect of the Property.
- Inform the Company in writing in the event the Property is no longer for sale or has been sold.
- Satisfy itself as to the capacity of any third party in respect of any transaction or proposed transaction in respect of the Property.

CUSTOMER WARRANTIES

The Customer warrants to the Company that:

- It is the registered proprietor of the Property and has the legal authority to offer this Property for sale and to sell the Property or otherwise has the legal authority to offer for sale and to sell the Property.
- The Customer will not seek to involve the Company in any dispute, or dispute resolution process which arises as a result of the Customer's use of the Goods and Services and / or in respect of the Property.

EXCLUSION OF LEGISLATION

If the Customer acquires the Goods and Services for a business purpose the Company agrees that to the extent permitted by law, the statutory guarantees and implied terms, covenants and conditions contained in the New Zealand Consumer Guarantees Act 1993 and Sale of Goods Act 1908 and any successor legislation are excluded and do not apply.

LIMITATION OF LIABILITY

Notwithstanding anything else in this Agreement, the Company will be under no liability whatsoever to the Customer for any indirect or consequential loss, loss of profit, loss of bargain, loss of business opportunity or exemplary damages or losses suffered by the Customer or any third party arising out of or flowing from any breach of contract, any pre-contractual misrepresentation, or other dispute arising out of this Agreement, or in respect of a Listing, a Property transaction, or otherwise in respect of the provision of the Goods and Services by the Company or third party used by or referred to the Customer by the Company and whether actionable in contract, tort (including negligence), equity or otherwise.

If the Company is found liable for any loss or damage (including that set out above), the Company's liability shall not exceed the Price of the Goods and Services provided by the Company to the Customer to which the liability relates.

INDEMNITY

The Customer indemnifies the Company against all liabilities, costs (including full costs between solicitor and client), losses, claims, expenses and demands incurred by the Company or any third party arising out of or incidental to the supply of Goods and Services, the Customer's non-compliance with this Agreement, including but not limited to those arising out of or related to the Property, and any misrepresentations by the Customer regarding the Property, except where such liabilities, costs, claims and demands are the result of the gross negligence of the Company.

NO WARRANTIES

The Company does not give any guarantee, warranty or representation of any sort as to:

- The likelihood or otherwise of a Property sale as a result of purchasing the Goods and Services.
- The outcome of any Listing.
- The suitability, legality or otherwise of any proposed transaction in respect of the Property, or the information provided in respect of the Property.
- The outcome of any Property negotiation, agreement, transaction or sale between the Customer and a potential buyer.
- The number, extent of, or legitimacy of any inquiries in respect of the Property as a result of the provision of the Goods and Services including but not limited to the Listing.
- The provision of any goods or services by third parties referred by the Company to the Customer.

- Any third party website or social media platform used in respect of a Listing being secure or having continuous, uninterrupted, timely or secure or that it will be free from any malfunctions or other failures.

DISPUTES

In the event of a dispute in relation to this Agreement or any other matter, the parties shall give written notice to the other of the particulars of the dispute and cooperatively endeavour to resolve a dispute. If the dispute remains unresolved, a party may take legal action to resolve the dispute. Nothing in this clause prevents either party from seeking interlocutory or injunctive relief.

CONFIDENTIALITY

Information belonging to a party which by its nature is intended to be treated as confidential will be confidential information for the purposes of this Agreement. Each party agrees not to use or disclose any confidential information of the other party except to fulfil its obligations under this Agreement, or if required to disclose such by law.

PERSONAL INFORMATION

If the Customer is an individual, they have rights under the Privacy Act 1993 to access information held by the Company, and to request the correction of such personal information. In respect of such personal information, the Customer authorises the Company to:

- Use the personal information for the purposes of direct marketing and promotional activities, research and development purposes, identity verification, and otherwise in respect of the provision of the Goods and Services to the Customer.
- Provide the personal information to third parties for the purposes of creating the Listing, to a third party seeking to contact the Customer in respect of a Listing, and / or otherwise to enable the Company to provide the Goods and Services under this Agreement.

INTELLECTUAL PROPERTY

The Customer agrees and acknowledges that the Company (or a third party where applicable) owns the intellectual property rights in the Goods and unless expressly provided for in this Agreement nothing gives the Customer any right, title, or interest in such intellectual property. The Company grants to the Customer a non-exclusive, non-transferable licence to use the intellectual property in the Goods for the sole purpose of marketing and advertising the Property for sale.

The Customer must not do anything to damage or otherwise endanger the Company's (or a third party's) intellectual property rights in such Goods. The Customer may not, unless otherwise agreed, reproduce, translate, adapt, vary, decompile, modify or disseminate such intellectual property to any third party or do anything to damage or otherwise endanger our intellectual property rights.

If the Customer discovers any improvements to the Goods you must provide the details of such improvements to the Company and do all things reasonably necessary to ensure that the intellectual property in such improvement and the right to obtain any relevant protection belongs to the Company.

FORCE MAJEURE

No failure or omission by a party to carry out or observe any of the terms of this Agreement will give rise to any claim against that party or be deemed a breach of this Agreement, if such failure or omission arises from any cause reasonably beyond the control of that party.

TERMINATION

Either party may terminate this Agreement at any time and for any reason by providing 5 days written notice to the other. Written notice can be made via email from the Company to the Customer. Email notification can be made to the Company at info@nowselling.co.nz

Termination of this Agreement for any reason will not affect such rights and obligations of the parties as are intended to survive termination including without limitation the rights and obligations under the limitation of liability, intellectual property and indemnification clauses.

On termination the Company shall remove the Listing.

MISCELLANEOUS

You agree and acknowledge that:

- Any amendment to or variation of this Agreement by the Company will be notified to the Customer via the Website. If the Customer does not agree with any amendment or variation, the Customer may terminate this Agreement by providing 5 days written notice to the Company.
- This Agreement is governed by the laws of New Zealand.
- No party will assign or otherwise transfer or encumber their rights or obligations under this Agreement without the prior written consent of the other party.
- A party will not have waived or be deemed to have waived any provision of this Agreement unless the waiver is in writing and signed by that party.
- This Agreement does not create any relationship of partnership, agency, employment or joint venture between the parties.
- If any provision of this Agreement is found to be illegal, invalid or unenforceable, that provision shall be read down to the extent necessary and reasonable in all circumstances to give it valid operation. If it cannot be so read down, that provision will be void and severable and the remaining provisions will not in any way be affected or impaired.

- This Agreement constitutes the sole understanding between the parties and supersedes all prior understandings, written or oral, which will be of no further force or effect.

Now Selling is not a licensed real estate agent, Now Selling is a marketing and advertising business that knows how to get your listing out there to buyers.