**AGREEMENT FOR SALE OF [FINANCIAL PLANNING & INSURANCE ADVISING] PRACTICE**

THIS AGREEMENT made on this day of 201[6].

BETWEEN

**[COMPANY NAME]** ACN [000 000 000] (“**Vendor**”)

**AND**

**[COMPANY NAME]** ACN [000 000 000] (“**Purchaser**”)

**RECITALS**

1. The Vendor owns the Business.
2. The Dealer Group Company exclusively manages the Business on behalf of the Vendor.
3. The Vendor is entitled to Recurring Revenue.
4. The Vendor agrees to sell to the Purchaser the Servicing Rights to the Clients of the Business.

**OPERATIVE PART**

1. **Interpretation provision**

In this Agreement:

* 1. “this Agreement” means this agreement for sale of the parcel of clients as contained in Schedule 1 attached to this agreement.
  2. “Business day” means any day which is not Saturday, Sunday or a public holiday;
  3. the reference to “Dollars” is to Australian currency;
  4. “Vendor” includes:
     1. when an individual, the Vendor’s legal personal representatives;
     2. when several individuals, the Vendors jointly and their respective legal personal representatives;
     3. when a company or corporation, its successors and assigns;
  5. “Purchaser” includes:

1. when an individual, the Purchaser’s legal personal representatives;
2. when several individuals, the purchasers jointly and their respective legal personal representatives;
3. when a company or corporation, its successors and assigns;
   1. words expressed in the singular include the plural and vice versa;
   2. words expressed in one gender include the other genders, as is appropriate in the context;
   3. a reference to “person” includes a corporation.

i)Other definitions;

"Affiliates" means;

* + 1. In relation to a body corporate, any of the body's related bodies corporate, directors or substantial shareholders (as that term is defined in section 9 of the Corporations Act 2001); and
    2. In relation to a natural person, any spouse, or relative by blood or adoption of that person or any relative's spouse.

"Business" means;

The financial advice service business owned by the Vendor and which includes personal and business insurance protection, insurance policies, term life policies, TPD policies, income protection policies, critical illness policies, a revision of financial product advice in dealing with financial products including and not limited to deposit and payment products, life products, interest in managed investment schemes, retirement savings accounts and superannuation.

"Recurring Revenue"means all:

* Ongoing (trailing) commissions and renewal fees;
* Regular advisor fee for service;
* Renewal income;
* Monies paid or payable by the Clients, the Dealer Group Companies, Fund Managers, Administration Systems, Mortgage Lenders or Brokers or Insurance Companies to the Vendor (or the Purchaser after the Completion Date as the case may be), in connection with the provision of services to the Clients.
* The Vendor's Recurring Revenue at the Completion Date is agreed to be [$00,000.00].

"Servicing Rights" means;

the right to provide services to the Clients in order to generate Recurring Revenue.

"Clients" means;

the person whose name appears on the Client List.

"Client List" means;

Client's names, addresses, contact details and details of insurance, superannuation and any other products and services provided by the Vendor in the Business.

"Consideration" means;

the amount of Recurring Revenue, multiplied by [0.0].

“Completion Date” means [Insert Date Here]

“Dealer Group Company" means [Insert Name Here].

1. **Condition Precedent**

This Agreement, with the exception of this clause 2, is subject to and conditional upon:

2.1 The Vendor, subject to clause 9:

(a) confirming that the warranties are true and correct; and

(c) ensuring that there is no material deterioration in the Servicing Rights of the Clients between the date of this Agreement and the Completion Date;

and if any of the condition precedents in this clause 2.1 is not satisfied or waived by the Completion Date, the Purchaser may terminate this Agreement by written notice within seven (7) days of the Completion Date and all money must be immediately refunded to the Purchaser.

2.2 The Dealer Group Company confirming that it is in possession of all the Client files and contents relating to the Clients as set out in the Client List.

1. **Agreement to sell**

The Vendor agrees to sell and the Purchaser to purchase from the Vendor the Servicing Rights to the Clients including:

1. all of the clients listed in the Client List;
2. the clients files;
3. the Recurring Revenue for the Clients;

For the avoidance of doubt, the parties acknowledge that the Vendor is not selling and the Purchaser is not buying the Business.

1. **Purchase price**
2. The Vendor agrees to sell and the Purchaser agrees to purchase the Servicing Rights for the Clients for the Consideration of [$000,000.00].
3. **Payment of purchase price**

Payment of the Consideration is payable on the Completion Date or such other date agreed on by both parties.

1. **Exclusion of pre-contractual and other representations**
2. **Entire agreement**

This Agreement constitutes the entire agreement between the Vendor and the Purchaser relating to the sale of the designated parcel of clients.

1. **No collateral agreements**

The parties have not entered into and are not bound by any collateral or other agreement apart from this Agreement.

* 1. **Warranties imposed in agreement or by statute**

The parties are not bound by any warranty, representation, collateral agreement, or implied term, under the general law or imposed by legislation unless:

1. such warranty, representation, agreement or term is contained in the express terms of this Agreement; or
2. it is an implied term or warranty imposed by statute which is mandatory and cannot be excluded by the parties’ agreement.
3. **Matters relied on by Purchaser**

The Vendor acknowledges that the Purchaser, when entering into this agreement, relied on the following matters

1. The accuracy of the Client Listing in Schedule 1 which was provided by the Dealer Group Company, including policy listings showing renewal payments received in respect of each policy in the preceding twelve months;
2. the warranties and representations expressly contained in this Agreement;
3. the accuracy of the financial records which were produced for inspection by or on behalf of the Purchaser or copies of which were furnished to the Purchaser.
4. **Vendor’s Warranties**
5. **Vendor’s warranties**

The Vendor makes each of the warranties contained in this clause, and each warranty is subject to clause 9.

1. **Accuracy of warranties**

The Vendor warrants that the warranties contained in this Agreement are accurate, contain no material omissions and are not misleading.

1. **Warranties applicable at completion**

Any warranties which are expressed to apply at the date of this Agreement also apply as warranties made by the Vendor at the date of completion of the sale of business to the Purchaser.

1. **Disclosure of facts rendering warranty incorrect**

In the event of the Vendor becoming aware prior to completion, of any facts which render any of the warranties contained in this Agreement incorrect, inaccurate, false or misleading, the Vendor warrants that the Vendor will disclose those facts to the Purchaser prior to completion.

1. **Requisitions**

The Purchaser is entitled to make requisitions and inquiries before completion to verify any of the Vendor’s warranties.

1. **Vendor to furnish information**

The Vendor agrees to furnish before completion to the Purchaser or to the Purchaser’s solicitors or accountants (as may be requested by the Purchaser) such documents and information as the Purchaser may reasonably require to verify the accuracy of any warranties.

1. **Liability for damages**

The Vendor is liable to the Purchaser for damages for any breach of the warranties contained in this Agreement, whether the breach of warranty is discovered by the Purchaser before or after completion of the sale.

1. **No merger**

These warranties do not merge on completion of the sale of business.

1. **Vendor’s indemnity**

The Vendor agrees to keep the Purchaser indemnified against any liability, loss, damage or claim which the Purchaser may incur in respect of the business, after completion of the sale, to a third party, when that liability or claim occurs in circumstances which constitutes a breach of any warranty and/or where there is any claim made against the purchaser in respect of the business formerly carried on by the Vendor.

1. **The warranties**

The Vendor warrants that:

1. *Relating to the Vendor’s capacity and title*
2. The Vendor has full title, capacity and authority to enter into this Agreement and to sell and assign the commission and assets included in the sale;
3. The Vendor:
   1. has not committed any act of bankruptcy or insolvency;
   2. has not been served with a bankruptcy notice or bankruptcy petition or winding up notice;
   3. is not bankrupt or in liquidation or in administration;
   4. has not entered into any arrangement or composition with creditors;
4. The Vendor is not aware of any unsatisfied judgments, orders or writs of execution against the Vendor or affecting the property included in the sale;
5. The Vendor has, and will at the time of completion have, absolute title to the business property and assets included in the sale;
6. The business included in the sale will not be on completion, subject to any mortgage, charge, encumbrance, lease or other liability which would attach to the property or bind the Purchaser.

1. **Purchaser’s Warranties**

The Purchaser warrants that the Purchaser has made all necessary enquiries, including relating to financial information and takings, and contractual arrangements, directly with the Dealer Group Company.

1. **Provision of Information by Dealer Group Company**

The Vendor’s only knowledge of the [client book] is based on information it has received in good faith from the Dealer Group Company and which the Vendor understands to be and has accepted as accurate.

1. **Contractual arrangements**
2. **Assignments to Purchaser**

On completion of the contract, the Vendor agrees to assign to the Purchasers ownership and all contractual arrangements pertaining to the parcel of clients listed on Schedule 1 attached to this document. This includes all upfront, renewal and trailing commission attached to such policies as provided for in this agreement.

1. **Vendor’s obligations**

The Vendor agrees to observe and perform the Vendor’s obligations under all the contractual arrangements up to completion and to indemnify the Purchaser against any claim by the other contracting parties respect of any breach by the Vendor of those obligations up to completion.

* 1. **Vendor not to terminate contractual arrangement**

The Vendor agrees not to cancel, terminate or vary the terms of any contractual arrangement pertaining to the parcel of clients listed on Schedule 1 attached to this document between the date of this Agreement and completion, except with the Purchaser’s written consent.

* 1. **Purchaser’s obligations**

The Purchaser agrees to assume the Vendor’s obligations and liabilities under the contractual arrangements after completion and will indemnify the Vendor against any liability to the other parties for the period after completion.

1. **Vendor’s restraints**
2. **Agreement for restraints**

The Vendor agrees to abide by each of the restraints contained in this clause, subject to completion of this sale, from the date of completion.

1. **Reasonableness of restraints**

The Vendor acknowledges and agrees that each of the restraints is reasonable as regards the nature of the conduct restrained and the duration and scope of the restraint and that the restraints are reasonably necessary for the future protection of the Purchaser when acquiring the business and its goodwill.

1. **Benefit of restraints**

The benefit of each of the restraints contained in this clause takes effect in favour of the Purchaser and the Purchaser’s successors and assigns being the successive legal owners of the business and the benefit of those persons or companies together with the goodwill of the business.

1. **Confidential information**

The Vendor agrees for a period of three years from the date of completion of the sale of the Servicing Rights to the Purchaser, to keep secret and confidential and not to publish, disclose or divulge (except with the Purchaser’s authority), nor to use or attempt to use, any confidential information regarding the Servicing Rights, including:

1. confidential financial information regarding the Servicing Rights;
2. the financial affairs of clients for whom the vendor acted while conducting the Business;
3. details of transactions or matters in which the Vendor acted for clients while conducting the Business;

except (in respect of the information in (II) and (III)) when compelled to disclose such information, in the course of any litigation or inquiry, as a participant or witness.

1. **Solicitation of clients (Non Compete Clause)**

The Vendor agrees that from the date of completion of the sale:

1. the Vendor will not, and must ensure that its Affiliates will not solicit, canvass, or endeavour to obtain the custom of clients of the business who have been clients at any time during the period of three years immediately preceding the day of completion of the sale of business to the Purchaser, in order to become the clients of the Vendor or of another person, firm or company which provides similar professional services as the Business;
2. the Vendor will not act in any professional capacity for any client who has been a client of the Business during the period of three years immediately preceding the date of completion of the sale of business of the Purchaser.
3. **Liabilities**
4. **Vendor to discharge liabilities**

The Vendor agrees to pay all of the Vendor’s debts and to discharge the Vendor’s liabilities in connection with the Servicing Rights up to the date of completion on completion.

1. **Vendor’s indemnity**

The Vendor will indemnify the Purchaser against all claims and proceedings, in connection with the Vendor’s debts or liabilities up to completion.

1. **Completion**
2. **Time of completion**

Completion of this sale is to occur no later than [Insert Date Here], or such other date as agreed on by both Parties.

1. **Vendor to vest title and possession**

On completion the Vendor will vest in the Purchaser title to and possession and control of the Servicing Rights and each asset included in the sale.

1. **Clients’ records**

On completion the Vendor will deliver to the Purchaser, to be retained by the Purchaser;

1. all lists and records in its possession relating to the designated parcel of client listed in Schedule 1;
2. the financial records in its possession relating to the accounts of the designated clients;
3. all files and correspondence in its possession relating to completed and pending matters conducted by the business for the designated clients;
4. all documents and records held by the Vendor for clients, including in safe custody;
5. the register and records of completed and pending matters for clients and of documents and records held by the Vendor for clients;
6. all correspondence and material held by the Vendor relating to tenders, client inquiries and pending negotiations with clients, so that the Purchaser will receive on completion the benefit of future business pending at the time of completion.
7. **Loss or destruction of files**

The Purchaser shall not incur any liability to the Vendor in the event of accidental loss, destruction or damage to any files, records and documents relating to clients which were received from the Vendor on completion.

1. **Purchaser’s indemnity**

The Purchaser agrees to indemnify the Vendor for any liability to clients for loss, destruction or damage to those files, records of documents which were received from the Vendor on completion.

1. **Notifications**

The Vendor will ensure any statutory notifications in respect of the sale of the Servicing Rights (if applicable) have been provided to the relevant authorities.

1. **Service of notices**
2. **Particulars for service**

Particulars for the service of notices are:

Purchaser: [Insert Name Here]

Address: [Insert Address Here]

Fax: [Insert Fax Number Here]

Purchaser’s solicitor:

Address:

Facsimile:

Vendor: [Insert Name Here]

Address: [Insert Address Here]

Fax: [Insert Fax Number Here]

Vendor’s solicitor:

Address:

Facsimile:

1. **Confidentiality**

The parties shall keep this Agreement and all details relating thereto strictly confidential and shall not disclose any details thereof to any party whatsoever other than shall be required by law.

1. **Goods and Services Tax**

The parties agree that the consideration for the sale of the Servicing Rights under this Agreement is exclusive of GST on the basis that it is a sale with the supply being a going concern for the purposes of Sections 38-325 and 195-1 of the GST Law.

EXECUTED AS AN AGREEMENT

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| **EXECUTED** by **[INSERT PURCHASER NAME HERE] ACN [000 000 000]** in accordance with section 127(1) of the *Corporations Act 2001* (Cth) by being signed by authorised persons: | )  )  )  ) |  |
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| Sole Director / Company Secretary |  |  |
|  |  |  |
|  |  |  |
| Full Name |  |  |
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|  |  |  |
| Usual Address |  |  |
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| --- | --- | --- |
| **EXECUTED** by **[INSERT VENDOR NAME HERE] ACN [000 000 000]** in accordance with section 127(1) of the *Corporations Act 2001* (Cth) by being signed by authorised persons: | )  )  )  )  )  ) |  |
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| Sole Director / Company Secretary |  |  |
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|  |  |  |
| Full Name |  |  |

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|  |
| Usual Address |

**Annexure A**

**SCHEDULE 1**

Client List attached.