

## Terms and Conditions

These terms and conditions are the contract between you and [www.Property.co.nz](http://www.Property.co.nz) ("us", "we", etc). By visiting or using Our Website, or signing up for our Services, you agree to be bound by them.

We are Realty Group Limited, a company registered in New Zealand, number 3714018.

You are: Anyone who uses Our Website or buys any service from us.

These terms are the contract between us. If you do not agree with any part, you should leave Our Website and stop using the site or the Services immediately.

**This is one document, one contract. The mention in headings of applicability to Sellers or buyers is only for your better understanding.**

**These are the agreed terms**

### 1. Definitions

"Content"	means a Property Posting and all textual, visual or aural content that is encountered as part of your experience on Our Website. It may include, among other things: text, images, sounds, videos and animations. It includes Content Posted by you. It does not include content that is solicited by us either for maintenance of customer records or with a view to submission to third parties in the course of our business.
"Contribution"	means Content Posted by you.
"Intellectual Property"	means intellectual property owned by us, of every sort, whether or not registered or registrable in any country, including property of kinds coming into existence after today; and including, among others, patents, trademarks, unregistered marks, designs, copyrights, software, domain names, discoveries, compilations, creations and inventions, together with all rights which are derived from those rights.
"Property"	means real property.
"Property Posting"	means information about the Property, Posted by the

Seller under the terms as set out on Our Website, to advertise for a prospective buyer. As a verb it also refers to the action of placing such Content.

“Our Data”	means data which is made available to you on Our Website, even if not owned by us (example: a Property Posting).
“Our Website”	means any website or service designed for electronic access by mobile or fixed devices which is owned or operated by us or any member of the Realty Group Limited. It includes all of the web pages controlled by us.
“Post”	means place on or into Our Website any Content or material of any sort by any means.
“Service”	means all of the services available from Our Website, whether free or charged.
“Seller”	means a person involve in Property Posting on Our Website.

## **2. Basis of Contract**

- 2.1. Our Website is a market place for property buyers to meet prospective sellers. For the buyer, these are information services. Our Sellers are the clients to whom we owe a duty of care. We owe none to a buyer.
- 2.2. We are not a party to any transaction between Sellers and buyers. We will not be subject to any claim, if dispute arises between Seller and buyer. you acknowledge that you understand exactly what is included in the Services and you are satisfied that the Services are suitable and satisfactory for your requirements;
- 2.3. We provide a market place for the sale or letting of Property. We are in no way responsible for anything Posted on Our Website in connection with a Property for sale or to let.
- 2.4. In any dispute with a Seller, you should deal only with the Seller. We have neither legal obligation nor detailed information about Property Posting.

- 2.5. We may change this agreement in any way at any time. The version applicable to your contract is the version which was Posted on Our Website at the time that the contract was made.

### **3. The price**

- 3.1. The prices payable for Services are clearly set out on Our Website.
- 3.2. Prices are inclusive of any applicable goods and services tax or other sales tax.
- 3.3. When you subscribe for a subscription Service, that payment may not cover other Services, for which we will ask you to pay either by addition to your subscription or by a single payment.
- 3.4. All monies paid by you to us are non-refundable and cancellation and/or termination of this agreement by you or us at any time for any reason will not entitle you to a refund of monies paid.

### **4. Renewal payments**

- 4.1. At least one week before expiry of the period, for which you have paid, we shall send you a message to your last known email address to tell you that your licence to use the Services is shortly to expire and to invite you to renew. An invoice for the new period will be included.
- 4.2. At expiry of your [www.Property.co.nz](http://www.Property.co.nz) subscription we shall automatically take payment from your credit card of the sum specified on the invoice sent earlier and shall confirm the renewal of your [www.Property.co.nz](http://www.Property.co.nz) subscription for a further period by sending you an email message.
- 4.3. Subject to last previous sub-paragraph, you may cancel subscription Service within 7 days after the day we confirm the renewal of your subscription. If you do so we will refund your subscription cost within 7 days of receipt of this request.
- 4.4. Other than the limitation set out above any subscription Service cost is non-refundable and non-transferable.

### **5. Security of your credit card**

We take care to make Our Website safe for you to use.

- 5.1. Card payments are not processed on a page controlled by us. We use one or more online payment service providers who will encrypt your card or bank account details in a secure environment.
- 5.2. If you have asked us to remember your credit card details in readiness for your next purchase or subscription, we will securely store your payment details on our systems. These details will be fully encrypted and only used to process your automatic monthly payments or other transactions which you have initiated.

## **6. Your account and personal information**

- 6.1. When you visit Our Website, you accept responsibility for any action done by any person using your name, account or password. You should take all necessary steps to ensure that the password is kept confidential and secure and should inform us immediately if you have any reason to believe that your password has become known to anyone else, or if the password is being, or is likely to be, used in an unauthorised manner.
- 6.2. You agree that you have provided accurate, up to date, and complete information about yourself. We are not responsible for any error made as a result of such information being inaccurate.
- 6.3. You agree to notify us of any changes in your information immediately it occurs. If you do not do so, we may terminate your account.

## **7. How we handle your data**

- 7.1. Our privacy policy is strong and precise. It complies fully with the relevant law.
- 7.2. If you Post a Contribution to any public area of Our Website it becomes available in the public domain. We have no control who sees it or what anyone does with it.
- 7.3. Property Postings and other restricted information are also available in the public domain. It is important that material you Post is accurate and complete, but you should avoid Posting unnecessary confidential information.
- 7.4. We need the freedom to be able to publicise our Services and your own use of them. You therefore now irrevocably grant us the right and licence to edit, copy, publish, distribute, translate and otherwise use

any Contribution that you place on Our Website, in the public domain and in any medium. You represent and warrant that you are authorised to grant all such rights.

- 7.5. We will use that licence only for commercial purposes of the business of Our Website and will stop using it after a commercially reasonable period of time.
- 7.6. Posting a Contribution does not change your ownership of the copyright in it. We have no claim over it and we will not protect your rights for you.
- 7.7. You understand that you are personally responsible for your breach of intellectual property rights, defamation, or any law, which may occur as a result of any Contribution having been Posted by you.
- 7.8. You accept all risk and responsibility for determining whether any Contribution is in the public domain and not confidential.
- 7.9. Please notify us of any security breach or unauthorised use of your account.

## **8. Restrictions on what you may Post to Our Website**

We invite you to Contribute Content to Our Website in several ways and for different purposes. We have to regulate your use of Our Website to protect our business and our staff, to protect other users of Our Website and to comply with the law. These provisions apply to all users of Our Website.

We do not undertake to moderate or check every item Posted, but we do protect our business vigorously. If we believe Content Posted breaches the law, we shall co-operate fully with the law enforcement authorities in whatever ways we can.

You agree that you will not use or allow anyone else to use Our Website to Post a Contribution, upload Content or undertake any activity which is or may:

- 8.1. be unlawful, or tend to incite another person to commit a crime;
- 8.2. consist in commercial audio, video or music files;
- 8.3. be obscene, offensive, threatening, violent, malicious or defamatory;
- 8.4. be sexually explicit or pornographic;
- 8.5. use a Posting to solicit responses from property buyers other than in the terms proposed by this agreement;

- 8.6. link to any of the material specified in this paragraph;
- 8.7. use distribution lists that include people who have not given specific permission to be included in such distribution process;
- 8.8. send age-inappropriate communications or Content to anyone under the age of 18.

## **9. Sellers: Property Posting: restricted content**

In connection with the restrictions set out below, we may refuse or edit or remove a Property Posting which does not comply with these terms.

In addition to the restrictions set out above, a Property Posting must not contain:

- 9.1. hyperlinks, other than those specifically authorised by us;
- 9.2. keywords or words repeated, which are irrelevant to the Property Posted.
- 9.3. the name, logo or trademark of any organisation other than that of you or your client.
- 9.4. inaccurate, false, or misleading information.

## **10. Property sellers: terms applicable**

- 10.1. You understand and agree that you alone are responsible for all of the information you submit to us and for maintaining it up to date.
- 10.2. The information you submit for a Property Posting must be accurate and complete.
- 10.3. If you deal with a buyer in a way which assists the buyer to avoid liability for payment to us, you agree to be responsible for making that payment to us.
- 10.4. By registering with us, you accept that we may send to you from time to time offers by third parties to supply goods or services to you.
- 10.5. If or when you cancel your account, we may delete all your personal information and documents relating to you. We may also delete your information if you have not taken any active step for a period of at least 2 months.

- 10.6. We are not obliged to delete your personal information immediately. We are not liable for any action of a third party in their use of your information.

## **11. Removal of offensive Content**

- 11.1. For the avoidance of doubt, this paragraph is addressed to any person who comes on Our Website for any purpose.
- 11.2. We are under no obligation to monitor or record the activity of any user of Our Website for any purpose, nor do we assume any responsibility to monitor or police internet-related activities. However, we may do so without notice to you and without giving you a reason.
- 11.3. If you are offended by any Content, the following procedure applies:
- 11.3.1 your claim or complaint must be submitted to us in the form available on Our Website, or contain the same information as that requested in our form. It must be sent to us by post or email.
  - 11.3.2 we shall remove the offending Content as soon as we are reasonably able;
  - 11.3.3 after we receive notice of a claim or complaint, we shall investigate so far as we alone decide;
  - 11.3.4 we may re-instate the Content about which you have complained or not.
- 11.4. In respect of any complaint made by you or any person on your behalf, whether using our form of complaint or not, you now irrevocably grant us a licence to publish the complaint and all ensuing correspondence and communication, without limit.
- 11.5. You now agree that if any complaint is made by you frivolously or vexatiously you will repay us the cost of our investigation including legal fees, if any.

## **12. Security of Our Website**

If you violate Our Website we shall take legal action against you.

You now agree that you will not, and will not allow any other person to:

- 12.1. modify, copy, or cause damage or unintended effect to any portion of Our Website, or any software used within it.
- 12.2. link to Our Website in any way that would cause the appearance or presentation of the site to be different from what would be seen by a user who accessed the site by typing the URL into a standard browser;
- 12.3. download any part of Our Website, without our express written consent;
- 12.4. collect or use any product listings, descriptions, or prices;
- 12.5. collect or use any information obtained from or about Our Website or the Content except as intended by this agreement;
- 12.6. aggregate, copy or duplicate in any manner any of the Content or information available from Our Website, other than as permitted by this agreement or as is reasonably necessary for your use of the Services;
- 12.7. share with a third party any login credentials to Our Website;
- 12.8. Despite the above terms, we now grant a licence to you to:
  - 12.8.1 create a hyperlink to Our Website for the purpose of promoting an interest common to both of us. You can do this without specific permission. This licence is conditional upon your not portraying us or any product or service in a false, misleading, derogatory, or otherwise offensive manner. You may not use any logo or other proprietary graphic or trademark of ours as part of the link without our express written consent.
  - 12.8.2 you may copy the text of any page for your personal use in connection with the purpose of Our Website or a Service we provide.

## **13. Storage of data**

- 13.1. We assume no responsibility for the deletion or failure to store or deliver email or other messages.
- 13.2. We may, from time to time, set a limit on the number of messages you may send, store, or receive through the Service. We may delete messages in excess of that limit. We shall give you notice of any change to your limit, except in an emergency.
- 13.3. You accept that we cannot be liable to you for any such deletion or failure to deliver to you.

- 13.4. We maintain reasonable procedures for general backup of Our Data for our own purposes but we give no warranty that your data will be saved or backed up in any particular circumstances unless we have made specific contractual arrangements with you in writing.

## **14. Termination**

- 14.1. If you or we terminate your account, all your account information may be deleted from our servers.
- 14.2. Subject to the provisions set out in paragraph three above, you may terminate this agreement at any time, for any reason, with immediate effect. You may terminate the agreement either by sending notice to us by post or email. We reserve the right to check the validity of any request to terminate your account / membership / subscription.
- 14.3. We may terminate this agreement at any time, for any reason, with immediate effect by sending you notice to that effect by post or email.
- 14.4. Termination by either party shall have the following effects:
- 14.4.1 your right to use the Services immediately ceases;
  - 14.4.2 we are under no obligation to forward any unread or unsent messages to you or any third party;
  - 14.4.3 in the event of such termination by us, we will within 30 days refund to you the balance of your subscription outstanding for any Service, pro rata with time not elapsed.
- 14.5. There shall be no re-imbusement or credit if the Service is terminated due to your violation of the terms of this agreement.

## **15. Interruption to Services**

- 15.1. If it is necessary for us to interrupt the Services, we will give you reasonable notice where this is possible and when we judge the down time is such as to justify telling you.
- 15.2. You acknowledge that the Services may also be interrupted for many reasons beyond our control.

- 15.3. You agree that we are not liable to you for any loss, foreseeable or not, arising from any interruption to the Services.

## **16. Intellectual Property**

You agree that at all times you will:

- 16.1. not do anything which does or might reduce the value of our Intellectual Property or challenge our ownership of it.
- 16.2. notify us of any suspected infringement of the Intellectual Property;
- 16.3. so far as concerns software provided or made accessible by us to you, you will not:
  - 16.3.1 copy, or make any change to any part of its code;
  - 16.3.2 use it in any way not anticipated by this agreement;
  - 16.3.3 give access to it to any other person than you, the licensee in this agreement;
  - 16.3.4 in any way provide any information about it to any other person or generally.
- 16.4. not use the Intellectual Property except directly in our interest.

## **17. Warnings and explanations**

- 17.1. You use Our Website at your own risk.
- 17.2. We do not moderate or censor Property Postings or any other Content Posted by users of Our Website but if we decide to remove any Content, we do not have to give you the reason why we have done so.
- 17.3. Our Website contains Content Posted by many people. By its very nature other people's information may be offensive, harmful, incomplete or inaccurate.
- 17.4. Access to and use of Our Website may be unlawful in some countries by some people.
- 17.5. You cannot rely on a person being who he claims to be or that he is acting honestly. Beware of dealing with strangers and children. (People over the age of 16 are allowed to use Our Website, but that may not

prevent younger children from coming onto Our Website and using it fraudulently).

- 17.6. Our Website contains links to other Internet websites. We have neither power nor control over any such website. You acknowledge and agree that we shall not be liable in any way for the content of any such linked website, nor for any loss or damage arising from your use of any such website or from your buying services or goods via such a website.
- 17.7. Our Website may contain advertisements for goods, services or information. We do not investigate the value or use of any goods or services advertised nor the commercial integrity of any advertiser.

## **18. Disclaimers and limitation of liability**

- 18.1. The law differs from one country to another. This paragraph applies so far as the applicable law allows.
- 18.2. All implied conditions, warranties and terms are excluded from this agreement. If in any jurisdiction an implied condition, warrant or term cannot be excluded, then this sub paragraph shall be deemed to be reduced in effect, only to the extent necessary to release that specific condition, warranty or term.
- 18.3. Our Website and our Services are provided “as is”. We make no representation or warranty that the Service will be:
  - 18.3.1 useful to you;
  - 18.3.2 of satisfactory quality;
  - 18.3.3 fit for a particular purpose;
  - 18.3.4 available or accessible, without interruption, or without error.
- 18.4. We claim no expert knowledge in any subject. We disclaim any obligation or liability to you arising directly or indirectly from information you take from Our Website.
- 18.5. We make no representation or warranty and accept no responsibility in law for:
  - 18.5.1 accuracy of any Content or the impression or effect it gives;
  - 18.5.2 delivery of Content, material or any message;
  - 18.5.3 privacy of any transmission;

- 18.5.4 third party advertisements which are posted on Our Website or through the Services;
  - 18.5.5 the conduct, whether online or offline, of any user of Our Website or the Services;
  - 18.5.6 failure or malfunction of computer hardware or software or technical equipment or system connected directly or indirectly to your use of the Services;
  - 18.5.7 loss or damage resulting from your attendance at an event organised through Our Website or the Services;
  - 18.5.8 any act or omission of any person or the identity of any person who introduces himself to you through Our Website;
  - 18.5.9 any aspect or characteristic of any goods or services advertised on Our Website.
- 18.6. You agree that in any circumstances when we may become liable to you, the limit of our liability is the amount you have paid us in the immediately preceding 12 month period for the Services concerned.
- 18.7. Except in the case of death or personal injury, our total liability under this agreement, however it arises, shall not exceed the sum of \$500. This applies whether your case is based on contract, tort or any other basis in law.
- 18.8. We shall not be liable to you for any loss or expense which is:
- 18.8.1 indirect or consequential loss; or
  - 18.8.2 economic loss or other loss of turnover, profits, business or goodwill even if such loss was reasonably foreseeable or we knew you might incur it.
- 18.9. If you become aware of any breach of any term of this agreement by any person, please contact us immediately. We welcome your input but do not guarantee to agree with your judgement.
- 18.10. Nothing in this agreement shall be construed as limiting or excluding our liability for death or personal injury caused by our negligence.

## **19. You indemnify us**

You agree to indemnify us against all costs, claims and expense arising directly or indirectly from:

- 19.1. your failure to comply with the law of any country;
- 19.2. your breach of this agreement;
- 19.3. any act, neglect or default by any agent, buyer, licensee or customer of yours;
- 19.4. a claim in contract or tort, arising from your use of the Services
- 19.5. For the purpose of this paragraph you agree that the cost of our management and technical time is properly recoverable and can reasonably be valued at \$100 per hour without further proof.
- 19.6. Although this agreement shall be interpreted in accordance with the laws of New Zealand, software downloaded from or via Our Website may also be subject to export control law of the United States of America or other jurisdictions. If you breach those laws you will have committed an offence in that or those countries. By downloading or using such software, you now represent and warrant that you are not located in, under the control of, or a national or resident of any such country.

## **20. Miscellaneous matters**

- 20.1. You undertake to provide us your current land address, e-mail address, telephone and fax numbers as often as they are changed together with all information that we may require to enable us to fulfil our obligations under this contract.
- 20.2. If any term or provision of this agreement is at any time held by any jurisdiction to be void, invalid or unenforceable, then it shall be treated as changed or reduced, only to the extent minimally necessary to bring it within the laws of that jurisdiction and to prevent it from being void and it shall be binding in that changed or reduced form. Subject to that, each provision shall be interpreted as severable and shall not in any way affect any other of these terms.
- 20.3. The rights and obligations of the parties set out in this agreement shall pass to any permitted successor in title.
- 20.4. If you are in breach of any term of this agreement, we may:
  - 20.4.1 publish all text and Content relating to the claimed breach, including your name and email address and all correspondence between us and our respective advisers; and you now irrevocably give your consent to such publication.

- 20.4.2 terminate your account and refuse access to Our Website;
  - 20.4.3 remove or edit Content, or cancel any order at our discretion;
  - 20.4.4 issue a claim in any court.
- 20.5. Any obligation in this agreement intended to continue to have effect after termination or completion shall so continue.
- 20.6. No failure or delay by any party to exercise any right, power or remedy will operate as a waiver of it nor indicate any intention to reduce that or any other right in the future.
- 20.7. you agree that we may disclose your information including assigned IP numbers, account history, account use, etc. to any judicial or proper legal authority who makes a written request without further consent or notification to you.
- 20.8. Any communication to be served on either of the Parties by the other shall be delivered by hand or sent by first class post or recorded delivery or by e-mail.

It shall be deemed to have been delivered:

if delivered by hand: on the day of delivery;

if sent by post to the correct address: within 72 hours of posting;

If sent by e-mail to the address from which the receiving party has last sent e-mail: within 24 hours if no notice of non-receipt has been received by the sender.

- 20.9. In the event of a dispute between the parties to this agreement, then they undertake to attempt to settle the dispute by engaging in good faith with the other in a process of mediation before commencing arbitration or litigation.
- 20.10. This agreement does not give any right to any third party.
- 20.11. Neither party shall be liable for any failure or delay in performance of this agreement which is caused by circumstances beyond its reasonable control.
- 20.12. In the event of any conflict between any term of this agreement and the provisions of the constitution of a limited company or any comparable document intended to regulate any other corporate or collective body, then the terms of this agreement shall prevail.
- 20.13. The validity, construction and performance of this agreement shall be governed by the laws of New Zealand.