

## CREDIT APPLICATION: please fax to 1300 30 32 42

company( full legal name)	RADEMEYERS' PTY LTD	mailing address	121 BULCOCK STREET
ACN/ABN	17 115 220 641		CALOUNDRA QLD 4551
Trading name/s	RE/MAX FIRST		
company office phone	07 5405 3717	office address	121 BULCOCK STREET
accounts person	Lindi Rademeyer phone 07 5405 3717		CALOUNDRA QLD 4551
accounts email	lindir@remax.com.au		

sales agent	-----	if you have an existing office credit agreement in place - just add the agents details here and the principal's signature to authorise if required.
agent mobile phone	-----	
agent email	-----	
agent signature and date	----- / / -----	
		note there are 3 pages to this agreement

By completing this application, the principal authorises the agent to order media packages from Surroundplan Pty Ltd and Surroundpix - Surroundplan on behalf of his agency under this credit agreement.

If the agent leaves this office - the remaining credit listings stay with the agency  
 Moving properties to another agency will require a new credit application.

If the agent signs without the principal, then the agent is the credit guarantor

In all orders, a \$99 admin fee applies. This \$99 is deducted from the total package price if the property sells.  
 The balance is due and payable within 7 days from unconditional exchange of contract  
 - the agent and or principal agree to make this payment at that time.

Please note that in both cases - there is no obligation to pay the balance, if the property does not sell with the agency

It is your responsibility to pay the invoice (if the property is sold) - regardless of whether the vendor pays you or not.  
 We are to be paid by you, as the trust account manager, we do not hold credit or chase payments from vendors.  
 If the vendor pays us direct on your behalf that is fine too, but you must ensure this happens.  
 We prefer you to recover the monies upon settlement like any usual marketing invoice.

### AGENCY NO SALE NO PAY ACCOUNT TERMS AND CONDITIONS

(all details as shown below except where specific details and terms agreed in writing from Surrundplan Pty Ltd)

Signature of authorised ordering staff member will be required on each orderform.  
 Ordering staff member must have signed an agreement to the terms and conditions  
 An invoice will be sent upon order to the agent/agency for \$99 for the admin, fee per property  
 and it will specify the remaining credit amount to be paid if the property sells.

The admin fee is non refundable and is due to be paid within 7 days from ordering.

I hereby agree authorise Surroundplan Pty Ltd to charge this fee upon unconditional exchange of contracts for the properties ordered.  
 I understand and agree I am personally liable for this debt if the bill is not paid under the terms and conditions of this offer as agreed.  
 I understand I am liable for any collection fees accumulated in addition to this bill if I do not pay within the period allowed by the terms.  
 I agree that I will notify Surroundplan Pty Ltd when the property is off market, withdrawn, deposit taken or sold to facilitate invoicing.

I understand that if the property listed does not sell, then I have no further obligation to pay  
 Surroundpix - Surroundplan Pty Ltd reserves the right to offer the vendor to purchase the media products in the event the agent  
 does not sell the property

We will only do this once notified of the property being withdrawn from your sales list. Vendors have no obligation to purchase, but may  
 choose to buy the media pack themselves. Its also prevents the next agent from using this media for free.

If they choose not to purchase the media, then the media is not to be used for marketing the property If the media provided by surroundpix  
 is used in any subsequent marketing by the seller then this bill is instantly due and payable by them regardless of it being sold or not.

**1. Definitions**

- 1.1 "Surroundpix" shall mean Surroundplan Pty Ltd T/A Surroundpix its successors and assigns or any person acting on behalf of and with the authority of Surroundplan Pty Ltd T/A Surroundpix.
- 1.2 "Client" shall mean the Client (or any person acting on behalf of and with the authority of the Client) as described on any quotation, work authorisation or other form as provided by Surroundpix to the Client.
- 1.3 "Guarantor" means that person (or persons), or entity, who agrees to be liable for the debts of the Client on a principal debtor basis.
- 1.4 "Services" shall mean all Services supplied by Surroundpix to the Client and includes any advice or recommendations.
- 1.5 "Price" shall mean the price payable for the Services as agreed between Surroundpix and the Client in accordance with clause 1 of this contract.

**2. Acceptance**

- 2.1 Any instructions received by Surroundpix from the Client for the supply of Services and/or the Client's acceptance of Services supplied by Surroundpix shall constitute acceptance of the terms and conditions contained herein.
- 2.2 Where more than one Client has entered into this agreement, the Clients shall be jointly and severally liable for all payments of the Price.
- 2.3 Upon acceptance of these terms and conditions by the Client the terms and conditions are binding and can only be amended with the written consent of Surroundpix.
- 2.4 The Client shall give Surroundpix not less than fourteen (14) days prior written notice of any proposed change of ownership of the Client if a corporation or any change in the Client's name and/or any other change in the Client's contact details. The Client shall be liable for any loss incurred by Surroundpix as a result of the Client's failure to comply with this clause.
- 2.5 Services are supplied by Surroundpix only on the terms and conditions of trade herein to the exclusion of anything to the contrary in the terms of the Client's order notwithstanding that any such order is placed on terms that purport to override these terms and conditions of trade.

**3. Price And Payment**

- 3.1 At Surroundpix's sole discretion the Price shall be either:
- (a) as indicated on invoices provided by Surroundpix to the Client in respect of Services supplied; or
- (b) Surroundpix's current price as at the date of the delivery of the Services according to Surroundpix's current Price list; or
- (c) Surroundpix's quoted Price (subject to clause 1) which shall be binding upon Surroundpix provided that the Client shall accept Surroundpix's quotation in writing within thirty (30) days.
- 3.2 Surroundpix reserves the right to change the Price in the event of a variation to Surroundpix's quotation.
- 3.3 It is the Client's responsibility to notify Surroundpix immediately on the day that the sale of the said property becomes unconditional and binding upon the Client. Surroundpix shall issue an invoice immediately on receipt of such advice.
- 3.4 Time for payment for the Services shall be of the essence and will be stated on the invoice or any other forms. If no time is stated then payment shall be due fourteen (14) days following the date of the invoice.
- 3.5 Payment will be made by cheque, or by bank cheque, or by credit card (plus a surcharge of up to three percent (3%) of the Price), or by electronic funds transfer, or by any other method as agreed to between the Client and Surroundpix.
- 3.6 GST and other taxes and duties that may be applicable shall be added to the Price except when they are expressly included in the Price.

**4. Delivery Of Services**

- 4.1 At Surroundpix's sole discretion delivery of the Services shall take place when the Client takes possession of the Services at the Client's nominated address (in the event that the Services are delivered by Surroundpix or Surroundpix's nominated carrier).
- 4.2 At the Client's request, Surroundpix shall deliver the services either:
- (a) by standard delivery the second day following the photography shoot; or
- (b) by Express Turnaround, on the day following the photography shoot.
- 4.3 At Surroundpix's sole discretion the costs of Delivery are:
- (a) included in the Price; or
- (b) in addition to the Price; or
- (c) for the Client's account.
- 4.4 Delivery of the Services to a third party nominated by the Client is deemed to be delivery to the Client for the purposes of this agreement.
- 4.5 The failure of Surroundpix to deliver shall not entitle either party to treat this contract as repudiated.
- 4.6 Surroundpix shall not be liable for any loss or damage whatsoever due to failure by Surroundpix to deliver the Services (or any of them) promptly or at all where due to circumstances beyond the control of Surroundpix.

**5. Client's Disclaimer**

- 5.1 The Client hereby disclaims any right to rescind, or cancel the contract or to sue for damages or to claim restitution arising out of any misrepresentation made to the Client by Surroundpix and the Client acknowledges that the Services are bought relying solely upon the Client's skill and judgement.

**6. Risk**

- 6.1 If Surroundpix retains ownership of the Services nonetheless, all risk for the Services passes to the Client on delivery.
- 6.2 The quality of media services provided by Surroundpix shall be of a professional standard and usable in promotion of the property for sale or auction. The Client agrees that payment shall not be withheld or discounted due to the subjective opinions or lack of perceived artistic merit.

**7. Title**

- 7.1 Surroundpix and the Client agree that ownership of the Services shall not pass until:
- (a) the Client has paid Surroundpix all amounts owing for the particular Services; and
- (b) the Client has met all other obligations due by the Client to Surroundpix in respect of all contracts between Surroundpix and the Client.
- 7.2 Receipt by Surroundpix of any form of payment other than cash shall not be deemed to be payment until that form of payment has been honoured, cleared or recognised and until then Surroundpix's ownership or rights in respect of the Services shall continue.

**8. Errors and Omissions**

- 8.1 The Client shall inspect the Services on delivery and shall within five (5) days of delivery (time being of the essence) notify Surroundpix of any alleged defect, shortage in quantity, errors, omissions or failure to comply with the description or quote. The Client shall afford Surroundpix an opportunity to inspect the Services within a reasonable time following delivery if the Client believes the Services are defective in any way. If the Client shall fail to comply with these provisions, the Services shall be conclusively presumed to be in accordance with the terms and conditions and free from any defect or damage. For defective Services, which Surroundpix has agreed in writing that the Client is entitled to reject, Surroundpix's liability is limited to either (at Surroundpix's discretion) replacing the Services or repairing the Services, except where the Client has acquired Services as a consumer within the meaning of the Trade Practices Act 1974 (Cwlth) or the Fair Trading Acts of the relevant state or territories of Australia, and is therefore also entitled to, at the consumer's discretion either a refund of the purchase price of the Services, or repair or replacement of the Services.

**9. The Commonwealth Trade Practices Act 1974 ("TPA") and Fair Trading Acts ("FTA")**


- 9.1 Nothing in this agreement is intended to have the effect of contracting out of any applicable provisions of the TPA or the FT Territories of Australia, A in each of the States and except to the extent permitted by those Acts where applicable.

**10. Intellectual Property**

- 10.1 Where Surroundpix has designed, drawn, written or created photographs, copy or materials for the Client, then the copyright in such photographs, copy or materials shall remain vested in Surroundpix, and shall only be used by the Client at Surroundpix's discretion.
- 10.2 The Client warrants that all designs or instructions to Surroundpix will not cause Surroundpix to infringe any patent, registered design or trademark in the execution of the Client's order and the Client agrees to indemnify Surroundpix against any action taken by a third party against Surroundpix in respect of any such infringement.
- 10.3 The Client hereby authorises Surroundpix to utilise images of the Goods designed or drawn by Surroundpix in advertising, marketing, or competition material by Surroundpix.
- 10.4 Disks, artwork and film supplied by the Client and/or other authorised persons remain the property of the Client. Unless otherwise indicated in writing Surroundpix shall assume these disks, artwork and film to be duplicate copies of the original.

agreed and approved Page 2 of 3

signature \_\_\_\_\_  
date \_\_\_\_\_



10.5 Surroundpix retains ownership of all photographs, copy and materials produced or created by Surroundpix during the provision of Services, however Surroundpix shall grant the Client a royalty free license to use such photographs, copy or materials in any media for promotional purposes only in selling the Clients property until the expiration of the 2 year credit period, at which time if no payment has been received by Surroundpix, all photographs, copy or materials may no longer be used by the Client in any way

#### 11. Default & Consequences of Default

11.1 Interest on overdue invoices shall accrue daily from the date when payment becomes due, until the date of payment, at a rate of two and one half percent (2.5%) per calendar month (and at Surroundpix's sole discretion such interest shall compound monthly at such a rate) after as well as before any judgment.

11.2 In the event that the Client's payment is dishonoured for any reason the Client shall be liable for any dishonour fees incurred by Surroundpix.

11.3 If the Client defaults in payment of any invoice when due, the Client shall indemnify Surroundpix from and against all costs and disbursements incurred by Surroundpix in pursuing the debt including legal costs on a solicitor and own client basis and Surroundpix's collection agency costs.

11.4 Without prejudice to any other remedies Surroundpix may have, if at any time the Client is in breach of any obligation (including those relating to payment), Surroundpix may suspend or terminate the supply of Services to the Client and any of its other obligations under the terms and conditions. Surroundpix will not be liable to the Client for any loss or damage the Client suffers because Surroundpix has exercised its rights under this clause.

11.5 If any account remains overdue after thirty (30) days then an amount of the greater of twenty dollars (\$20.00) or ten percent

(10%) of the amount overdue (up to a maximum of two hundred dollars (\$200.00)) shall be levied for administration fees which sum shall become immediately due and payable.

11.6 Without prejudice to Surroundpix's other remedies at law Surroundpix shall be entitled to cancel all or any part of any order of the Client which remains unfulfilled and all amounts owing to Surroundpix shall, whether or not due for payment, become immediately payable in the event that:

(a) any money payable to Surroundpix becomes overdue, or in Surroundpix's opinion the Client will be unable to meet its payments as they fall due; or

(b) the Client becomes insolvent, convenes a meeting with its creditors or proposes or enters into an arrangement with creditors, or makes an assignment for the benefit of its creditors; or

(c) a receiver manager, liquidator (provisional or otherwise) or similar person is appointed in respect of the Client or any asset of the Client.

#### 12. Security And Charge

12.1 Despite anything to the contrary contained herein or any other rights which Surroundpix may have howsoever:

(a) where the Client and/or the Guarantor (if any) is the owner of land, realty or any other asset capable of being charged, both the Client and/or the Guarantor agree to mortgage and/or charge all of their joint and/or several interest in the said land, realty or any other asset to Surroundpix or Surroundpix's nominee to secure all amounts and other monetary obligations payable under these terms and conditions. The Client and/or the Guarantor acknowledge and agree that Surroundpix (or Surroundpix's nominee) shall be entitled to lodge where appropriate a caveat, which caveat shall be withdrawn once all payments and other monetary obligations payable hereunder have been met.

(b) should Surroundpix elect to proceed in any manner in accordance with this clause and/or its sub-clauses, the Client and/or Guarantor shall indemnify Surroundpix from and against all Surroundpix's costs and disbursements including legal costs on a solicitor and own client basis.

(c) the Client and/or the Guarantor (if any) agree to irrevocably nominate constitute and appoint Surroundpix or Surroundpix's nominee as the Client's and/or Guarantor's true and lawful attorney to perform all necessary acts to give effect to the provisions of this clause 1

#### 13. Cancellation

13.1 Surroundpix may cancel any contract to which these terms and conditions apply or cancel delivery of Services at any time before the Services are delivered by giving written notice to the Client. On giving such notice Surroundpix shall repay to the Client any sums paid in respect of the Price. Surroundpix shall not be liable for any loss or damage whatsoever arising from such cancellation.

13.2 In the event that the Client cancels delivery of Services the Client shall be liable for any loss incurred by Surroundpix (including, but not limited to, any loss of profits) up to the time of cancellation. Minimum cancellation fees shall apply as follows:

(a) cancellation before 4pm the day before the appointment - no cancellation fee.

(b) Cancellation after 4pm the day before the appointment - 25% of the Price shall be payable.

(c) Cancellation within one (1) hour of the appointment time - 50% of the Price shall be payable.

#### 14. Privacy Act 1988

14.1 The Client and/or the Guarantor/s agree for Surroundpix to obtain from a credit reporting agency a credit report containing personal credit information about the Client and Guarantor/s in relation to credit provided by Surroundpix.

14.2 The Client and/or the Guarantor/s agree that Surroundpix may exchange information about the Client and the Guarantor/s with those credit providers either named as trade referees by the Client or named in a consumer credit report issued by a credit reporting agency for the following purposes:

(a) to assess an application by the Client; and/or

(b) to notify other credit providers of a default by the Client; and/or

(c) to exchange information with other credit providers as to the status of this credit account, where the Client is in default with other credit providers; and/or

(d) to assess the credit worthiness of Client and/or Guarantor/s.

14.3 The Client consents to Surroundpix being given a consumer credit report to collect overdue payment on commercial credit (Section 18K(1)(h) Privacy Act 1988).

14.4 The Client agrees that personal credit information provided may be used and retained by Surroundpix for the following purposes and for other purposes as shall be agreed between the Client and Surroundpix or required by law from time to time:

(a) provision of Services; and/or

(b) marketing of Services by Surroundpix, its agents or distributors in relation to the Services; and/or

(c) analysing, verifying and/or checking the Client's credit, payment and/or status in relation to provision of Services; and/or

(d) processing of any payment instructions, direct debit facilities and/or credit facilities requested by the Client; and/or

(e) enabling the daily operation of Client's account and/or the collection of amounts outstanding in the Client's account in relation to the Services.

14.5 Surroundpix may give information about the Client to a credit reporting agency for the following purposes:

(a) to obtain a consumer credit report about the Client; and/or

(b) allow the credit reporting agency to create or maintain a credit information file containing information about the Client.

14.6 The Client consents to Surroundpix disclosing the Clients contact details to Real Estate Agents and/or Solicitors as required in the due course of carrying out the Services.

#### 15. General

15.1 If any provision of these terms and conditions shall be invalid, void, illegal or unenforceable the validity, existence, legality and enforceability of the remaining provisions shall not be affected, prejudiced or impaired.

15.2 These terms and conditions and any contract to which they apply shall be governed by the laws of New South Wales and are subject to the jurisdiction of the courts of New South Wales.

15.3 Surroundpix shall be under no liability whatsoever to the Client for any indirect and/or consequential loss and/or expense (including loss of profit) suffered by the Client arising out of a breach by Surroundpix of these terms and conditions.

15.4 In the event of any breach of this contract by Surroundpix the remedies of the Client shall be limited to damages which under no circumstances shall exceed the Price of the Services.

15.5 The Client shall not be entitled to set off against, or deduct from the Price, any sums owed or claimed to be owed to the Client by Surroundpix nor to withhold payment of any invoice because part of that invoice is in dispute.

15.6 Surroundpix may license or sub-contract all or any part of its rights and obligations without the Client's consent.

15.7 Surroundpix reserves the right to review these terms and conditions at any time. If, following any such review, there is to be any change to these terms and conditions, then that change will take effect from the date on which Surroundpix notifies the Client of such change.

15.8 Neither party shall be liable for any default due to any act of God, war terrorism, strike, lock-out, industrial action, fire, flood, storm or other event beyond the reasonable control of either party

15.9 The failure by Surroundpix to enforce any provision of these terms and conditions shall not be treated as a waiver of that provision, nor shall it affect Surroundpix's right to subsequently enforce that provision.

#### 16. Application of these terms to all orders from the Client

16.1 These terms and conditions shall be applied to all signed or faxed orders from authorised staff to Surroundpix.

#### 17 Admin Fee

17.1 The client agrees to pay the non refundable admin fee of \$99 per order or as agreed in writing from Surroundpix.

agreed and approved Page 3 of 3

signature  
date

