

# PICKET FENCE PROPERTIES TERMS AND CONDITIONS

Thank you for visiting [www.picketfenceproperties.com.au](http://www.picketfenceproperties.com.au) (the **Site**) (which may be available through other addresses or channels), which is owned by Picket Fence Properties Pty Ltd ACN 632 108 975 trading as Picket Fence Properties ABN 35 632 108 975 (**PFP/we/us/our**).

These terms and conditions create a contract between PFP and the person who accesses or views this Site (**you**) (which includes, in the case of a minor (as per the age of majority in the jurisdiction in which they reside) (a **Minor**), their legal parent or guardian), which is comprised of these terms and our **Privacy Policy** (collectively the **Agreement**). Please read the Agreement carefully.

The Agreement applies to the access to and/or the use of the Site and the use of the information services and content provided through this Site. By accessing and using this Site, you are agreeing to comply with and be bound by the terms of the Agreement. If you do not agree to the terms of the Agreement, you must immediately cease using the Site and may not access or use the Site or the services which we provide.

## 1. THE CONTENT

- 1.1 The '**Content**' is, collectively and severally, real estate listings and any services, advice, goods, products, content, and features made available through the Site.
- 1.2 Any third party who provides the Content or who is otherwise associated with PFP has represented to PFP that they are professionals with appropriate expertise and experience, however PFP makes no warranty or guarantee that the third party is appropriately qualified or experienced.
- 1.3 Any Content provided should not be considered to be professional advice and we strongly recommend that you engage appropriate professional advisors prior to acting on the information in any Content.
- 1.4 No third party providers are employed by us, nor do we endorse or recommend any third party provider. Specifically, it is up to you to make your own enquiries regarding the provider prior to engaging them to provide any additional services or content (paid or otherwise).
- 1.5 PFP grants to you, and you accept, a non-exclusive, non-transferable, limited licence for you to use the Content strictly in accordance with this Agreement.
- 1.6 The licence provided under this Agreement is personal to you and you must not re-sell, sub-license, rent, lease or otherwise distribute the Content. All other rights in respect of the Content is reserved to us.
- 1.7 You may only use the Content for personal, non-commercial purposes.
- 1.8 The Content is not comprehensive and is for general information purposes only. While we and/or the third party providers use reasonable attempts to ensure the accuracy and completeness of the Content, we make no representation or warranty in relation to it, to the maximum extent permitted by law.
- 1.9 To use our Site and/or the Content, you need compatible hardware, software (latest version recommended and sometimes required) and internet access (fees may apply). Our Site's performance may be affected by these factors.
- 1.10 You acknowledge that the terms of agreement with your respective internet and/or mobile network provider (**Network Provider**) will continue to apply when using the Site. As a result, you may be charged by the Network Provider for access to network connection services for the duration of the connection while accessing the Site or any such third party charges as may arise. You accept responsibility for any such charges that arise. If you are not the bill payer for the mobile telephone or device being used to access the Site, you will be assumed to have received permission from the bill payer.
- 1.11 Your right to use the Site is subject to your ongoing compliance with all provisions of this Agreement.
- 1.12 If you are the legal parent or guardian of a Minor, you are responsible for and liable for ensuring that the Minor complies with all provisions of this Agreement, as if they were named as you in it.
- 1.13 Our Site may contain links to websites operated by third parties. Unless expressly stated otherwise, we do not control, endorse or approve, and are not responsible for, the content on those websites. You should make your own investigations with respect to the suitability of those websites.
- 1.14 We may add to, alter, change, temporarily suspend or withdraw partially or completely any parts of the Site and/or the Content at any time without notice to you, in our sole discretion

## 2. ADDITIONAL LIMITATIONS OF LIABILITY

- 2.1 The following limitations of liability apply:
  - (1) you acknowledge and agree that PFP will not be liable to you or any other persons for:
    - (a) any loss or damage of any kind that is directly or indirectly caused by or results from your use of the Content and/or the Site; or
    - (b) any direct, incidental, special or consequential damages, including loss or profits or anticipated profits, even if notified of the possibility of that potential loss or damage;
  - (2) you release PFP from any liability or claims including, but not limited to:
    - (a) any personal injury, illness or death caused to you or any other person; and
    - (b) any breach of PFP's obligations;

- (3) PFP does not represent or guarantee that the Site or the Content will be free from loss, corruption, attack, viruses, interference, hacking, or other security intrusion, and you hereby release PFP from any liability relating thereto;
  - (4) you assume full responsibility for backing-up and/or otherwise protecting your data in the Site against loss, damage or destruction; and
  - (5) PFP is not responsible for data charges you may incur in connection with your use of the Site or the Content.
- 2.2 You acknowledge and agree that this Agreement's limitations of liability in clause 2.1 are essential to PFP and PFP would not have entered into this Agreement in their absence.
- 2.3 You indemnify PFP for:
- (1) all losses and expenses we incur (including legal costs on an indemnity basis); and
  - (2) all liabilities we incur;
- directly or indirectly caused by, or resulting from, any breach of this Agreement or from any wrongful, wilful or negligent act or omission by you.
- 2.4 Any representation, warranty, condition or undertaking that would be implied in this Agreement by legislation, common law, equity, trade, custom or usage is excluded to the fullest extent permitted by law.
- 2.5 Despite clauses 2.1 and 2.3, nothing in this Agreement excludes, restricts or modifies any condition, warranty, right or remedy conferred on you by the *Competition and Consumer Act 2010* (Cth) or any other applicable law that cannot be excluded, restricted or modified by agreement.
- 2.6 To the fullest extent permitted by law, our liability for a breach of a non-excludable condition or warranty is limited to, at our option:
- (1) the supply of the Content provided for under this Agreement; or
  - (2) the payment of the cost of having the content supplied again.

### **3. INTELLECTUAL PROPERTY**

- 3.1 You agree that the Site, including but not limited to the Content, graphics, user interface, audio clips, video clips, editorial content, and the scripts and software used to implement the Site or the Content contain proprietary information and material that is owned by PFP and/or its licensors, and is protected by applicable intellectual property and other laws, including but not limited to copyright. You agree that you will not use such proprietary information or materials in any way whatsoever except for use of the Site or the Content for personal, non-commercial uses in compliance with this Agreement.
- 3.2 No portion of the Content may be reproduced in any form or by any means, except as expressly permitted by this Agreement. You agree not to modify, rent, loan, sell, or distribute the Content in any manner, and you shall not exploit the Content in any manner not expressly authorised. This clause does not modify, restrict or exclude any additional rights you may have under applicable laws that cannot be so modified, restricted or excluded.
- 3.3 If you believe that any Content available through the Site infringes the copyright claimed by you, please contact PFP.

### **4. GENERAL PROVISIONS**

- 4.1 We may vary, alter or amend these Terms and Conditions at any time, without providing you with specific notice. Each time you use the Site or the Content, you are deemed to accept the then-current Terms and Conditions.
- 4.2 You agree to comply with all local, state, federal, and national laws, statutes, ordinances, and regulations that apply to your use of the Site and/or the Content. Your use of the Site and/or the Content may also be subject to other laws.
- 4.3 You hereby grant PFP the right to take steps PFP believes are reasonably necessary or appropriate to enforce and/or verify compliance with any part of this Agreement. You agree that PFP has the right, without liability to you, to disclose any data and/or information to law enforcement authorities, government officials, and/or a third party, as PFP believes is reasonably necessary or appropriate to enforce and/or verify compliance with any part of this Agreement (including but not limited to PFP's right to cooperate with any legal process relating to your use of the Site and/or the Content, and/or a third-party claim that your use of the Site and/or the Content is unlawful and/or infringes such third party's rights).
- 4.4 A party waives a right under this Agreement only if it does so in writing. We do not waive a right simply because we fail to exercise the right, we delay exercising the right or only exercise part of the right. A waiver of one breach of a term of this Agreement does not operate as a waiver of another breach of the same term or any other term.
- 4.5 If a provision in this Agreement is wholly or partly invalid or unenforceable in any jurisdiction, that provision or the part of the provision that is invalid or enforceable must, to that extent, and in that jurisdiction, be treated as deleted from this Agreement. This does not affect the validity or enforceability of the remaining provisions in that jurisdiction, or of the deleted provision in any other jurisdiction.
- 4.6 We may assign or otherwise deal with the benefit of any contract made pursuant to this Agreement without your consent.
- 4.7 PFP may subcontract with one or more affiliates or third parties to provide any service required to be provided by PFP under this Agreement, provided that no such use of subcontractors shall relieve PFP of its obligations under this Agreement.

- 4.8 You may not assign your rights and obligations under this Agreement under any circumstances without first obtaining our written consent to do so. Any purported assignment not undertaken in accordance with this clause will be invalid.
- 4.9 All contracts made between us and you shall be governed by and construed in accordance with the laws of the State of Queensland. You agree to submit to the exclusive jurisdiction of the Queensland courts for all purposes of or in connection with such contracts.