

Sales Inspection Report & Exclusive Selling

Agency Agreement & Continuing Agency

1. This agreement consists of three parts: Part 1 - Sales Inspection Report; Part 2 - The Particulars; Part 3 - Terms and Conditions (contained on the back of this agreement).
2. All parts of this agreement must be read before signing.
3. The Property, Stock and Business Agents Act 2002 and the Property, Stock and Business Agents Regulations 2003 require all agreements to be in writing and contain prescribed terms.

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PART 1 - SALES INSPECTION REPORT

PRINCIPAL ("the Principal")

Registered for GST ☐ Yes ☐ No ABN/ACN

Name:

Address:

Phone:

Mobile:

Fax:

Email:

LICENSEE ("the Licensee")

Registered for GST ☐ Yes ☐ No ABN/ACN

Name:

Business Name:

Licence Number:

Address:

Phone:

Mobile:

Fax:

Email:

PRINCIPAL'S SOLICITOR / LICENSED CONVEYANCER

Name:

Address:

Document
Service Address:

Phone:

Mobile:

Fax:

Email:

PROPERTY ("the Property") Description of the Property sufficiently detailed to allow it to be readily identified.

Address:

Suburb:

Postcode:

Occupation:

☐ Vacant Possession

☐ Tenanted

Items (Fixture/Fittings) to be included:

Items (Fixture/Fittings) to be excluded:

Easements/Covenants/Defects/Local Government Notices/Orders affecting the Property known to the Licensee:

Terms and Conditions of Sale Known to the Licensee:

Licensee's Estimate of the Selling Price (Or Price Range) : (This opinion is not to be construed as a valuation) \$

Licensee's Recommendation as to the Most Suitable Method of Sale:

Special Instructions about the Marketing and Showing of the Property:

Signature of Licensee:

Date of Preparation of Report:

/ /

PART 2 - THE PARTICULARS

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A. AGENCY APPOINTMENT

In consideration of the Licensee agreeing to use the Licensee's best endeavours to sell the Property the Licensee is appointed and authorised to sell the Property on behalf of the Principal, as exclusive selling agent for the sale of the Property, for the period ("the Exclusive Agency Period") commencing on / / and ending at midnight on / / AND as non-exclusive agent for the sale of the Property for the period ("the Non-exclusive Agency Period") commencing at the expiration of the Exclusive Agency Period and terminating upon the sale of the Property or upon termination by seven days prior written notice given by the Principal or the Licensee to the other. Where the Exclusive Agency Period exceeds 90 days, the Principal may terminate the Agreement (without penalty) by giving 30 days notice in writing to the Licensee at any time after the end of the first 90 days of the term except where the agency agreement is in respect of the sale of residential property where the contract for sale provides for the construction by the Principal of a dwelling on the land.

B. PRICE [Clause 2.1] at which the Property is to be offered for sale: \$

C. REMUNERATION [Clause 3.1, 3.2]

The Licensee's GST inclusive remuneration shall be calculated on the GST inclusive selling price in the following way:

(e.g. % of sale price; flat fee; formula e.g. a combination of % and flat fee)

e.g. in relation to the Licensee's ESTIMATE of the sale price of \$ the GST inclusive remuneration would be \$ if the property sold at that price.

IMPORTANT: This is an exclusive agency agreement. This means you may have to pay the agent commission even if another agent (or you) sell the property or introduce a buyer who later buys the property.

WARNING: Have you signed an agency agreement for the sale of this property with another agent? If you have you may have to pay 2 commissions (if this agreement or the other agreement you have signed is a sole or exclusive agency agreement).

D. EXPENSES AND CHARGES [Clause 3.3] [If there are no such expenses or charges, write 'NIL' on each line]

Government and other imposts as charged. An ESTIMATE of the expenses or charges the Licensee expects to incur and for which the Licensee is entitled under the agreement to be reimbursed is as follows.

Services	Estimate \$	When due and payable

Those services and amounts cannot be varied except with the agreement in writing of the Principal.

E. OTHER SERVICES [Clause 4.1] [If no such services are to be provided write 'NIL' on each line]

Services	\$ (GST Inc)	When due and payable

Those services and amounts cannot be varied except with the agreement in writing of the Principal.

F. ADVERTISING AND PROMOTION [Clause 4.2]

Manner of Advertising and Promotion:

Signboard: ☐ Yes ☐ No

G. INSPECTION OF PROPERTY [Clause 6.1]

Inspection may be conducted in the following circumstances:

H. DISCLOSURE OF REBATES, DISCOUNTS AND COMMISSIONS [Clause 6.4] [If no rebates etc. are received write 'NIL' on each box]

Name of Source of Rebate:	Estimated Amount of Rebates, Discounts or Commissions:

COOLING-OFF PERIOD: You (the principal) have a cooling-off period for this agreement. If you do not wish to continue with this agreement you can cancel it until 5pm on the next business day or Saturday. How to do this, you should refer to the guide given to you before signing the Agreement.

WAIVER OF COOLING OFF PERIOD: ☐ Yes ☐ No

THE LICENSEE AND THE PRINCIPAL/S ACKNOWLEDGE AND CONFIRM THAT BEFORE SIGNING THIS AGREEMENT THE LICENSEE AND THE PRINCIPAL/S HAVE READ AND UNDERSTOOD AND AGREE TO THE TERMS AND CONDITIONS IN PART 3 ON THE REVERSE SIDE OF THIS AGREEMENT.

The approved guide "Agency Agreement for the Sale of Residential Property" was provided to the Principal: ☐ Yes ☐ No

Date Provided: / / [Clause 6.5].

SIGNATURE OF, OR ON BEHALF OF, PRINCIPAL/S

SIGNATURE OF, OR ON BEHALF OF, LICENSEE

Date of Agreement: / /

PART 3 - TERMS AND CONDITIONS OF THE EXCLUSIVE SELLING AGENCY AGREEMENT

1.0 DEFINITIONS

- 1.1 "Government and other imposts"** includes State and Federal Taxes and any tax in the nature of a goods or services tax and any other taxes or charges debited by banks or financial institutions against the account of the Licensee in relation to receipts or expenditures associated with the operation of this agreement.
- 1.2 "Introduced"** - A person shall be deemed to have been "introduced" to the Principal or the Property by the Licensee if the fact that the Property is available for sale is made known to that person by or through the Licensee and, without limiting the generality of this paragraph, a person shall be deemed to have been introduced to the Property by the Licensee if that person becomes aware that the Property is available for sale as a result of reading any advertisement, notice or placard referring to the availability of the Property for sale, published or erected by or in the name of the Licensee.
- 1.3 "Person"** includes a corporation.
- 1.4** The word **"Licensee"** and the word **"Agent"** where appearing mean the same and may be used interchangeably in this Agreement.
- 1.5 Words** importing one gender include the other and the singular only include the plural and vice versa.

2.0 PRICE

- 2.1** The Principal authorises the Licensee to sell the Property at the price set out in Item B of the Particulars or such other price the Principal approves.

3.0 REMUNERATION, EXPENSES AND CHARGES

- 3.1 Remuneration** - The Licensee shall be entitled to the remuneration set out in Item C of the Particulars ("the Remuneration") in the following circumstances (whether or not the Licensee is the effective cause of sale):
- (a) if during the Exclusive Agency Period the Principal enters into a contract (which includes by way of an option being exercised) for the sale of the Property, or of an interest in the property, to any person (including a co-owner), whether or not that person was introduced to the Principal or to the Property by the Licensee.
 - (b) if the Principal is a corporation - then in addition, if during the Exclusive Agency Period any person acquires by allotment, or enters into a contract (which includes by way of exercise of an option) to acquire by allotment or to purchase (either alone or jointly with another or others), one or more shares, or an interest in one or more shares, in the capital of the Principal, whether or not that person was introduced to the Principal or to the Property by the Licensee.
 - (c) if at any time during the Non-exclusive Agency Period a person who has been effectively introduced to the Principal or to the Property by the Licensee during either the Exclusive Agency Period or the Non-exclusive Agency Period, or another person introduced to the Principal or to the Property by such a person, enters into a contract (which includes by way of exercise of an option) to purchase (either alone or jointly with another or others) the Property or an interest in the Property, or
 - (d) if the Principal is a corporation - then in addition, if at any time during the Non-exclusive Agency Period a person who has been effectively introduced to the Principal or to the Property by the Licensee during either the Exclusive Agency Period or the Non-exclusive Agency Period, or another person introduced to the Principal or to the Property by such a person, acquires by allotment, or enters into a contract (which includes by way of exercise of an option) to acquire by allotment or to purchase (either alone or jointly with another or others) one or more shares, or an interest in one or more shares, in the capital of the Principal.
- 3.2 When Remuneration is Due and Payable** - The Remuneration is due and payable by the Principal to the Licensee:
- (a) immediately upon completion of the sale of the Property, or
 - (b) upon demand if a sale referred to in Clause 3.1 is not completed because of default by the Principal or is not completed pursuant to an agreement to that effect between the Principal and the purchaser.
- 3.3 Expenses, Charges and Other Services** - The Licensee is entitled to reimbursement for expenses, charges and fees on other services incurred by the Licensee as set out in Item D and E of the Particulars as and when the same are incurred.
- 3.4 Other reimbursement** - If a sale referred to in Clause 3.1 is not completed because of default by the Purchaser and whether or not the Principal forfeits all or part of the deposit then the Principal will reimburse and agrees to reimburse the Licensee for all expenses and charges reasonably incurred by the Licensee under or in relation to this agreement as provided for in Clause 3.3.
- 3.5 Variation** - The Remuneration, expenses and charges cannot be varied except as agreed in writing by the Principal.

4.0 OTHER SERVICES, ADVERTISING AND PROMOTION

- 4.1 Other Services** - The Licensee shall undertake the other services (if any) set out in Item E of the Particulars for the fee set out in that Item.
- 4.2 Advertising and Promotion** - The Licensee shall advertise or otherwise promote the Property as set out in Item F of the Particulars.

5.0 PRINCIPAL'S WARRANTY, AUTHORITIES, INDEMNITIES AND OBLIGATIONS

- 5.1 Warranty** - The Principal warrants to the Licensee that the Principal has authority to enter into this Agreement with the Licensee.
- 5.2 Licensee not to Sign Contract** - The Licensee is not authorised to sign a Contract for Sale on behalf of the Principal.
- 5.3 Conjunction Agents** - The Licensee may allow other licensed real estate agents to sell the Property in conjunction with the Licensee provided only one amount of Remuneration is payable by the Principal.
- 5.4 Authority to Deduct** - The Principal authorises the Licensee, upon receipt of an order from the Purchaser or the Purchaser's solicitor or licensed conveyancer authorising the Licensee to account to the Principal for the deposit, to deduct from any monies held by the Licensee on behalf of the Principal the Remuneration and all expenses, charges and fees payable to the Licensee under this agreement.
- 5.5** The Principal acknowledges that by signing this Agreement the Principal is precluded from selling the Property himself/herself during the Exclusive Agency Period without paying the Remuneration.
- 5.6** The Principal will keep the Licensee indemnified against all actions, claims and demands brought against, and all costs, losses and liabilities incurred by the Licensee in the course of or arising from the exercise or performance of the Licensee's authorities or duties under this Agreement.

6.0 GENERAL, DISCLOSURE, ACKNOWLEDGEMENTS AND WARNINGS

- 6.1 Inspection of Property** - A prospective purchaser is entitled to inspect the Property in the circumstances set out in Item G of the Particulars.
- 6.2 Deposit** - The Principal agrees that the Contract for Sale of the Property shall require the Licensee to hold the deposit as stakeholder as follows:
- (a) in the Licensee's trust account, or
 - (b) if directed by the Contract for Sale or the Principal and Purchaser, in an investment account in terms of such direction; until the sale of the Property is completed.
- 6.3 Financial and Investment Advice**
WARNING: Any financial or investment advice provided to the Principal by the Licensee is general advice and does not take into account the individual circumstances of the Principal or the Principal's objectives, financial situation or needs. The Principal must seek and rely on his/her/its own independent financial and investment advice from an appropriate licensed financial adviser.
- 6.4 Rebates, Discounts or Commissions** - All rebates, discounts or commissions that the Licensee will or may receive in respect of the expenses charged under this Agreement and the estimated amount of those rebates, discounts or commissions to the extent that the amount can reasonably be estimated are as set out in Item H of the Particulars. The Principal agrees that the Licensee is entitled to retain all such rebates, discounts, commissions and other benefits.
- 6.5 Approved Guide** - The Principal confirms that prior to the Principal signing this agreement, the Licensee has provided the Principal with a copy of the approved guide entitled 'Agency Agreements for the Sale of Residential Property' on the date stated above the signature of the Principal.

7.0 AVAILABILITY OF CONTRACT FOR SALE

- 7.1** The licensee must not offer residential property for sale unless the required documents are all available including a copy of the proposed contract for the property at the Licensee's registered office for inspection by a prospective purchaser.
The Principal will provide that copy to the Licensee as soon as is practicable.

8.0 GST

- 8.1** The Principal must pay any goods and services tax payable in respect of anything done or supplied by the Licensee under this Agreement, or reimburse the Licensee on demand for any such tax paid by the Licensee.

9.0 PRIVACY NOTICE

- 9.1** The Privacy Act 1988 (Cth) regulates the collection, use, disclosure and maintenance of personal information by the Agent from the Principal. The information is collected by and pursuant to this Agreement.
- 9.2** The information collected enables the Agent to act for and on behalf of the Principal and to effectively carry out the Agent's obligations under and pursuant to the terms of the Agreement and to perform and promote the Real Estate Agency services of the Agent generally.
- 9.3** Some of the information is required by law and without it the Agent may not be able to act for and on behalf of the Principal.
- 9.4** The intended recipients of the information is any person to whom, body or agency to which it is usual to disclose the information to enable the agent to perform the services under or pursuant to this agreement, Real Estate Agency services and as otherwise permitted by the Privacy Act 1988, including potential buyers, actual or potential sellers, print and electronic media, internet, financial institutions, State or Federal authorities, or organisations as well as owners' corporations and community associations.