

v4.1 September 2020

REGISTRATION

MODULE 2

CPPDSM4008A Identify legal and ethical requirements of property sales to complete agency work

CPPDSM4012A List property for sale

CPPDSM4022A Sell and finalise the sale of property by private treaty

promoting
excellence
in real estate

REGISTRATION

Module 2

Learning guide

SALES

AND LISTING

CPPDSM4008A Identify legal and ethical requirements of property sales to complete agency work

CPPDSM4012A List property for sale

CPPDSM4022A Sell and finalise the sale of property by private treaty

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Version: 4.1
September 2020

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CPPDSM4008A Identify legal and ethical requirements of property sales to complete agency work

UNIT DESCRIPTOR

This unit of competency specifies the outcomes required to meet the core legal and ethical requirements associated with property sales. This includes awareness of the legislation relating to property sales, the role and responsibility of agency personnel in property sales, the administration of sales transactions and the completion of sales documentation. The unit may form part of the licensing requirements for persons engaged in real estate activities in those States and Territories where these are regulated activities.

ELEMENTS

1. Develop knowledge of property sales
2. Develop knowledge of sales process
3. Identify roles and responsibilities of sales personnel.

OVERVIEW OF ASSESSMENT STRATEGY

This unit of competency could be assessed through case studies, demonstrations, practical exercises and targeted written (including alternative formats where necessary) or verbal questioning relating to the legal and ethical requirements of property sales. The case studies, demonstration and questioning would include collecting evidence of the candidate's knowledge and application of ethical standards and relevant federal, and state or territory legislation and regulations. This assessment may be carried out in a simulated or workplace environment.

CPPDSM4012A List property for sale

UNIT DESCRIPTOR

This unit of competency specifies the outcomes required to list all types of property and businesses for sale. It includes prospecting for listings, establishing client requirements, planning and delivering property listing presentations, finalising listings for the sale of property, and recording and acting on client instructions. This unit does not address listings for property management or the actual marketing or sale of the property under an agency contract. The unit may form part of the licensing requirements for persons engaged in real estate activities in those States and Territories where these are regulated activities.

ELEMENTS

1. Prospect for property listings.
2. Establish client requirements.
3. Plan property listing presentation.
4. Deliver property listing presentation.
5. Prepare and execute agency agreement.
6. Record and act on instructions.

OVERVIEW OF ASSESSMENT STRATEGY

This unit of competency could be assessed through practical demonstration of listing a property for sale. Targeted written (including alternative formats where necessary) or verbal questioning to assess the candidate's underpinning knowledge would provide additional supporting evidence of competence. The demonstration and questioning would include collecting evidence of the candidate's knowledge and application of ethical standards and relevant federal, and state or territory legislation and regulations. This assessment may be carried out in a simulated or workplace environment.

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CPPDSM4022A Sell and finalise the sale of property by private treaty

UNIT DESCRIPTOR

This unit of competency specifies the outcomes required to sell and finalise the sale of all types of property by private treaty. It includes qualifying buyers, arranging for potential buyers to inspect listed properties, delivering effective sales presentations, submitting offers and negotiating property sale with sellers and buyers and maintaining communications with sellers and prospective buyers. It also includes monitoring the process between exchange of contracts and settlement for all types of property and businesses and preparing documentation for agency disbursements. The unit does not include the sale of property by auction. The unit may form part of the licensing requirements for persons engaged in real estate activities in those States and Territories where these are regulated activities.

ELEMENTS

1. Qualify buyer.
2. Arrange property inspection for potential buyer.
3. Deliver effective sales presentation.
4. Submit offer and negotiate property sale.
5. Maintain communication with seller.
6. Manage contract to settlement.
7. Prepare documentation for agency disbursements.
8. Decide on future contacts with prospects.
9. Maintain client relationships.

OVERVIEW OF ASSESSMENT STRATEGY

This unit of competency could be assessed through practical demonstration of selling different types of property using general real estate sales procedures and techniques in line with agency practice, ethical standards and legislative requirements affecting the sale of property. Targeted written (including alternative formats where necessary) or verbal questioning to assess the candidate's underpinning knowledge would provide additional supporting evidence of competence. The demonstration and questioning would include collecting evidence of the candidate's knowledge and application of ethical standards and relevant federal, and state or territory legislation and regulations. This assessment may be carried out in a simulated or workplace environment.

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PART 1 | LISTING

UNIT 1 | PROSPECTING

1.1 Responsibilities of sales personnel

Real estate agents work with an extensive legislative framework comprising Acts of Parliament, regulations, professional standards and codes of conduct. It is essential that agents gain a significant understanding of the legal requirements and appreciate the need for complying with legislation.

Knowledge of legislative requirements enables agents to understand their responsibilities and the consequences of breaching the law. The laws mentioned in this document are relevant to property sales

Property Occupations Act 2014 - The POA regulates real estate agency practice in Queensland. The Act sets out who may own, manage and work in a real estate agency, and the required qualifications, functions and conduct of real estate practitioners. This legislation is extensive and agents must be familiar with all various parts and sections

Competition and Consumer Act (Australian Consumer Law) 2010- The ACL applies throughout Australia to protect consumers against misleading or deceptive conduct in trade and commerce generally

Privacy Act 1988- Personal information is constantly being collected, either verbally or in writing by real estate practitioners. Real estate agents must ensure compliance with the Privacy Act in relation to how information is gathered, used, disclosed, destroyed, accessed and corrected

Residential Tenancies and Rooming Accommodation Act 2008 (RTRA Act)- The Act establishes the rules for residential and rooming accommodation in Queensland and sets out the rights and obligations of tenants, lessors and agents.

Work Health and Safety Act 2011- The main object of this Act is to provide for a balanced and nationally consistent framework to secure the health and safety of workers and workplaces

1.1.1 Real Estate Licensing

All persons working as a salesperson or a property manager must have a full real estate licence or certificate of registration.

However a person performing the below duties as an employee of a real estate agent at the real estate agent's registered office or other place of business are not acting as a real estate agent or real estate sales person:

- Collects, and issues receipts for, rents
- Gives a person a list, prepared by or for the real estate agent, of premises available for rent
- Does something of an administrative nature in relation to a thing the real estate agent does as a real estate agent.

Section 26 of the POA states that a real estate agent's licence authorises an agent to undertake the following activities for others for reward:

Property Occupations Act 2014

Part 2 Licensing

Section 26 What a real estate agent licence authorises

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- (1) A real estate agent licence authorises the holder of the licence to perform the following activities as an agent for others for reward—
 - (a) to buy, sell (other than by auction), exchange or let real property or interests in real property;
 - (b) to buy, sell (other than by auction), exchange, or let businesses or interests in businesses;
 - (c) to negotiate for the buying, selling, exchanging, or letting of something mentioned in paragraph (a) or (b);
 - (d) to collect rents.
- (2) A real estate agent may perform the activities mentioned in subsection (1) in the carrying on of a business, either alone or with others, or as an employee of someone else.

Section 115(1) of the POA authorises the holder of a real estate salesperson certificate to perform any activity that may be performed by the real estate agent who employs the holder. A real estate agent who is a principal licensee or an employed licensee in charge of a licensee's business at a place of business must take reasonable steps to ensure each real estate salesperson employed by the agent is properly supervised, acts only within the scope of the person's employment agreement.

Immediately after a real estate salesperson commences employment at a real estate agency, the licensee must give the salesperson an employment agreement, clearly specifying the activities of a real estate agent the agent authorises the salesperson to perform for the agent during the salesperson's employment by the agent.

This employment agreement should note:

- Expected standards of behaviour when dealing with consumers
- A defined job description
- Authorisation to receive and bank monies on behalf of the agency and its clients
- Authorisation and limitations regarding preparing of contracts and statutory documentations
- Procedures for dispute resolution.

A salesperson should ensure that they always seek advice from their licensee on matters that they may be uncertain about, matters that further guidance may be required or matters that they feel that the licensee should be made aware of. Some matters are urgent which must be brought to the licensee's attention immediately; these include if the salesperson becomes aware that the seller does not hold public liability insurance, or if a customer (or client) makes allegations against the salesperson that could result in the agency being sued. Other matters that are not as urgent, but are still important include ideas on how to improve the business, any concerns within the business that the salesperson feels should be brought to the licensee's attention and any concerns about alleged or known unethical practice from fellow colleagues. These issues are studied in detail in other subjects.

1.1.2 Representations to consumers

Before any discussion with a client or customer, an agent must ensure they are suitably qualified and licensed, if applicable. For example, if agents give investment advice they are required to be licensed by Australian Securities and Investment Commission (ASIC) as financial advisors, or if they provide an opinion or arranging insurance on behalf of their client, they are required to either hold an Australian Financial Services licence; be appointed in writing as a distributor; or be an authorised representative, or corporate authorised representative, of a licence holder.

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Agents should pay particular attention and be very careful when discussing:

- Value of the land
- Land's income producing potential
- Sales history of the land
- Income tax benefits of buying the land.

Agents are required by legislation, and by the REIQ Standards of Business Practice, to take all reasonable steps to be informed regarding the essential facts which affect current market conditions in order to be in a position to advise their clients and, or, to assist customers in a responsible manner. It is recommended that in specialised areas, which fall outside the scope of the duty of a real estate agent, that agents advise the client or customer to seek more specialised advice. (Best practice suggests that this recommendation be provided in writing to the seller.)

If agents provide appraisals or market forecasts in a volatile market, they should identify the volatility to the relevant consumer and warn the consumer to keep that volatility in mind when evaluating their appraisals or market forecasts.

Agents must make accurate representations about properties, including the reasonable values of those properties, the features of those properties or any other matter that is material to the sale, purchase or lease of the property by a consumer.

As per section 209 of the POA, a licensee or registered employee must not, in connection with the sale, or the possible sale, of an interest in land or in connection with the promotion in any way of the sale of an interest in land, represent in any way to someone else anything that is false or misleading in relation to the value of the land at the date of sale; or the potential income from the leasing of the land; or if the land has been previously sold, the date of the sale and the consideration for the sale; or how the purchase of the land may affect the incidence of income taxation on the buyer.

Property Occupations Act 2014

Part 11 General contraventions and evidentiary matters

Section 209 False representations and other misleading conduct relating to residential property

- (1) A marketer must not, in connection with the sale, or for promoting the sale, or for providing a service in connection with the sale, of residential property in Queensland, represent in any way to someone else anything that is false or misleading.

Note—

For remedies for a contravention, see part 9 (QCAT proceedings).

- (2) Without limiting subsection (1), a marketer must not, in connection with the sale, or for promoting the sale, or for providing a service in connection with the sale, of residential property, or the possible sale of residential property, in Queensland—
- (a) represent that the person has a sponsorship, approval or affiliation the person does not have; or
- (b) make a false or misleading representation about the following—
- (i) the nature of the interest in the property;
 - (ii) the price payable for the property;
 - (iii) the location of the property;
 - (iv) the characteristics of the property;
 - (v) the use to which the property is capable of being put or may lawfully be put;
 - (vi) the existence or availability of facilities associated with the property;

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- (vii) the value of the property at the date of the sale;
 - (viii) the potential income from the leasing of the property;
 - (ix) if the property has been previously sold, the date of the sale and the consideration for the sale;
 - (x) how the purchase of the property may affect the incidence of income taxation on the buyer; or
- (c) offer gifts, prizes or other free items with the intention of not providing them or of not providing them as offered.

Note—

For remedies for a contravention, see part 9 (Proceedings).

- (3) Without limiting subsection (1) or (2), a representation is taken, for the subsection, to be false or misleading if it would reasonably tend to lead to a belief in the existence of a state of affairs that does not in fact exist, whether or not the representation indicates that state of affairs does exist.
- (4) Also, if a person makes a representation relating to a matter and the person does not have reasonable grounds for making the representation, the representation is taken to be misleading.
- (5) The onus of establishing the person had reasonable grounds for making the representation is on the person.
- (6) It is not a defence to a proceeding for a contravention of subsection (1) or (2) for the marketeer to prove that an agreement with the person was terminated or that the person did not enter into an agreement because of the representation.
- (7) In this section—

false or misleading, for a representation, includes the wilful concealment of a material fact in the representation.

Note—

A person may make a claim, under the Administration Act, against the fund if the person suffers financial loss because of a contravention of this section.

A representation is taken to be false or misleading if it would reasonably lead to a belief in the existence of a certain state of affairs that does not in fact exist, whether or not the representation indicates that that state of affairs does exist.

If a person makes a representation in relation to a matter and the person does not have reasonable grounds for making the representation, the representation is taken to be misleading.

False or misleading, in relation to a representation includes the wilful concealment of a material fact in the representation.

Put simply, an agent may liable for engaging in false or misleading conduct or misrepresentation if the agent:

- Leads a consumer into believing a fact regardless of whether the agent intended to mislead them or not (innocent or negligent misrepresentation)
- Knowingly permits a consumer to draw incorrect conclusions (fraudulent misrepresentation)
- Remains silent when there was a duty to disclose a fact

1.2 Business development area

Without listings, the agency has nothing to sell. Licensees rely on employed salespeople to seek and secure listings on the licensees behalf, and to comply with all relevant legislation in doing so. As

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a term of employment, performance benchmarks (goals) may be set by the employer in relation to prospecting activities and listings gained.

Early decisions for any salesperson joining the industry include deciding on where to work. Some individuals choose an area simply because they live there, love the area, and have existing connections. Others may be more influenced by opportunities and the market in an area.

Some agencies may have designated suburbs or areas allocated to each member of the sales team as their 'business development area'. A business development area is allocated to each team member for the purpose of conducting prospecting activities such as letterbox dropping or door-knocking, or other forms of ongoing marketing. A salesperson should clarify this with the employer at the initial interview by asking about any boundaries that will apply to marketing activities undertaken.

1.3 Listing opportunities – sources and strategies for seeking new listings

Salespeople don't wait for listings to fall into their lap – they actively seek them out. As part of the overall approach, a salesperson needs to be able to identify listing opportunities, and act on them.

Sources of listings – recognising opportunities, places, or people, from which listings could possibly be obtained.	Examples of potential strategies – planned actions undertaken to seek out listings from a source.
<p>Current buyers.</p> <p>Within this group there will be buyers who need to sell as part of their purchase.</p> <p>Also includes people attending an open house. This group includes current buyers but may also include neighbours thinking about selling now or in the future</p>	<ul style="list-style-type: none"> ➤ When qualifying any buyer always ask where the buyer is currently living, and if they also need to sell. Ask if you could meet them at their property to complete an appraisal and a sales listing presentation. ➤ When greeting attendees at an open for inspection ask key questions such as <i>“Do you need to sell a property as part of your purchase plans?”</i> or <i>“Do you live locally?”</i> followed by, <i>“Are you thinking about selling your place?”</i>
Sources of listings – recognising opportunities, places, or people, from which listings could possibly be obtained.	Examples of potential strategies – planned actions undertaken to seek out listings from a source.

<p>Past buyers.</p> <p>They may need to sell in the short or long term.</p>	<ul style="list-style-type: none"> ➤ Obtain their consent to stay in touch, and then regularly send median price updates so they can monitor pricing in the area, in case they want to sell in the future. Send a current market price review of their property on the anniversary of their purchase. ➤ Send promotional material like a fridge magnet, calendar or mousepad to keep your name always in front of them in case they need a salesperson in the future. ➤ Become involved in the local Neighbourhood Watch program, as a way to stay in touch with buyers who are now residents.
<p>Past sellers.</p> <p>A source of repeat business, but also a source of referral business, over the short and long term.</p>	<ul style="list-style-type: none"> ➤ Seek consent to stay in touch so you are the first agent they think of next time they need to sell. ➤ Ask if they know anyone else who is thinking about selling. ➤ Ask if they would be happy to refer friends or family to your agency. Their answer will depend on their satisfaction with their experience with you and your agency. ➤ Offer incentives (e.g. gifts) to any past seller who refers a future seller to you.
<p>Personal network.</p> <p>Neighbours, relatives, friends, people you know through your children's school, clubs or other groups you are part of.</p> <p>People prefer to do business with someone they already feel they can trust.</p>	<ul style="list-style-type: none"> ➤ Let everyone know what you do. Hand out business cards. ➤ Sponsor teams or events. ➤ Provide branded resources that are relevant to the context of the club or organisation. ➤ Write articles for any club or organisation newsletters that are distributed. ➤ Participate in community events. ➤ Offer to speak to school groups.

Sources of listings – recognising opportunities, places, or people, from which listings could possibly be obtained.

Examples of potential strategies – planned actions undertaken to seek out listings from a source.

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Private sellers.

These are people who are trying to sell right now, without using an agent.

- Identify private sellers through monitoring websites and newspapers where private sellers can advertise, and look out for private 'for sale' signs when driving around. Their phone number will be in the advertisement.
- Opening phrases might include *"is your property still available for sale?"* Or *"have you sold your property?"* Then engage with the seller by sharing market knowledge, and sales information. When the timing seems right, asking *"when would you like to meet?"*
- Before making a call to a private seller, check the private number on the ACMA website to ensure the person has not included their number on the do not call register.
- Note: it is not lawful to say you have a buyer for them if you do not.

Owner-occupiers in your area or suburb. Although they may not be currently trying to sell their property, they may do so at some future time.

- Letterbox cards. *"We are in urgent need of properties for buyers. If considering selling, please call ..."* These can also include a calendar, fridge magnet, recipe or useful information that will make people want to keep it. (NB: always comply with 'no junk mail' signs.)
- Doorknocking is a great way to get to know people in your area. Don't stand right in the doorway because this can intimidate the person opening the door and put them on the defensive. Smile - this helps to remove the occupier's anxiety or annoyance. Give personal Identification and offer a business card. State the reason for calling by.
- Local engagement: Become involved in local community activities. Sponsor local teams or events, have a stall at the local markets every month, write a regular real estate column for the local community newsletter that positions you as the local industry expert, advertise yourself on the back of shop-a-dockets at your local supermarket, buy bus-stop advertising, join any local community Facebook groups, engage with Neighbourhood Watch and other community services.
- Be visible with signage, especially 'sold' signs.

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	<ul style="list-style-type: none"> ➤ Look out for activity in your area that could indicate that an owner may be considering selling e.g., properties being renovated or that are empty. And plan to make contact. <p>If you are using a commercial database like Corelogic RP Data to obtain addresses for direct marketing, ensure that you are only accessing information the site denotes as being appropriate to use for marketing purposes.</p>
Users of social media.	<ul style="list-style-type: none"> ➤ Know your target audience and engage with people through sharing interesting content, photos, videos, competitions, links, and posts that invite responses and contributions. ➤ Facebook campaigns on properties you have sold to show people results achieved. ➤ Go live on Facebook and share suburb market updates. ➤ Post eye-catching images and video on Instagram to show your personality and promote your area. ➤ Share quick updates or advertising on YouTube. ➤ Blogging or offering an e-newsletter people can sign up for, or offer a free e-book about selling. ➤ Create a dynamic LinkedIn profile.
Developers who are building new units, houses, or commercial properties, in your area.	<ul style="list-style-type: none"> ➤ Make contact with the developer, or site supervisor, and find out what their plans are for selling the lots. ➤ Research details of building or development applications or approvals, to seek a very early opportunity before construction has actually started.

1.4 Adding potential sellers to your networking database

Adding potential sellers to your contact database means you can continue to network with them on a regular basis. Customer Relationship Management (CRM) programs make this easier, or some agents use a virtual assistant to take care of tasks such as sending follow up e-mails or SMS messages. Make sure that you first establish and keep record of the consumer's permission to add their details to your database or mailing list. Ensure that information is obtained, stored and used with due regard for the privacy of the person.

A consumer who has not been happy with your services is unlikely to want to keep hearing from you. If asked by a consumer to remove their personal details from a database or mailing list, ensure this is done.

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UNIT 2 – LISTING PROCESS

2.1 Responding to enquiries from prospective sellers

Consumer survey results show that general expectations about call return times, and email response times, are accelerating. Ideally try to get back to people within no more than one to four hours. Where this is not possible, the content of your voicemail message and email auto-reply can inform people about when they can expect a response. Some salespeople may engage the services of a virtual assistant to sort and make initial responses to emails and calls. When handling an initial enquiry from a prospective seller, ask questions about;

- Who the owners are. Tip: when making the appointment ensure all owners will be there if possible
- Their circumstances and why they are selling
- When they hope to have the property on the market and what urgency is involved in the sale
- If they have already spoken to other agents, or already have the property listed
- Whether they have sold a property before
- Their knowledge of the current market and price expectations
- The location, size and features of the property (you might ask them to email you some photos)
- What prompted them to call you in particular (to identify what marketing is working for you)

The more you know about the seller's needs and expectations the better you will be able to address their concerns and avoid conflict. Show interest and engage with them.

Although a salesperson will find out as much as they can when the enquiry is first made, it is always better to physically inspect a property before advising the seller of your opinion about pricing and marketing. Photos cannot give a clear indication of all features, size, layout, light levels, positioning on the block, the neighbourhood, and a range of other physical factors that impact on the property appeal. Inspecting the property also offers an opportunity to build rapport with the seller, and ask questions about anything that may not come up in searches, such as covenants over the property.

In order to seek an appointment, a salesperson might say something like *"I can definitely give you more reliable market information once I've had a look through your property. When we meet I can show you some data on recent sales results in your area and let you know what buyers are likely to pay for your home. When would it suit you to meet at the property?"*

2.2 Preparing to meet with prospective sellers

After making an appointment, many agents will email through information to help the seller prepare for the upcoming appointment, such as advising of what information they need to have on hand, e.g. rates notice, body corporate information, solicitor details etc.

The next important steps in preparation involve the salesperson researching the property, and researching the market to comply with the Property Occupations Act (POA).

2.2.1 Research the property

Section 19 of the Property Occupation Regulation (PO Regulation) requires a salesperson (or auctioneer) to verify the ownership of the property and the property description before listing a property. The most reliable method is to conduct a title search. Title information is kept by the

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Department of Natural Resources & Mines (DNRM), under the Land Title Act. However a title search from DNRM can also be requested through the Core Logic RP Data program.

An example of a title search can be viewed in **Annexure A**, and should be viewed in conjunction with the following explanation;

Information obtained from a title search;

- **Title Reference number:** Shown at the top right.
- **Owner's name:** Might be one or more individuals, a company, or a trust.
- **Types of property ownership:**
 - Joint tenants; two or more persons each own the whole of the property. There is no percentage share owned by each. If one dies, the survivor(s) still each own the whole property, or;
 - Tenants in common; Owners each hold defined shares, which can be equal or unequal. If one dies, their share does not automatically pass to the other owners, but is passed on as per the deceased person's will.
- **Land tenure:** Generally there are two major forms of landholding:
 - Freehold land, which is identified as '*fee simple*' on the title and means the owner owns the property 'in perpetuity' (permanently), and,
 - Crown leasehold land, an interest in freeholding or perpetual lease where the owner owns the property only for the duration of the lease.
- **Real Property description:** Lot number and plan number. The plan type can vary, for example a registered plan, a subdivision plan, a building units plan.
- **Easements, encumbrances, interests**
 - Crown rights apply to all land, which entitles government to buy back property to build infrastructure etc. This detail is not needed on the listing documentation or contract of sale.
 - Easement information in this case identifies that the local Council have a right to access the land for a particular purpose. An easement can also be granted in favour of another authority, or a neighbour who is permitted to cross the land to access their own land. This detail is needed on the contract of sale as shown on the title, and therefore should be on the listing documentation.
 - Mortgage, to show that a mortgagee has an interest in the land. This detail is not needed on the listing documentation or contract of sale because the mortgage is lifted at settlement. The mortgage does not belong to the buyer.
 - Covenant; (not shown on this example) may or may not show on the title. A covenant is a restriction on the use of the land, such as a covenant that requires a certain building style, or a covenant that does not allow for front fences to be added. Ask the seller for the relevant documentation they were given when they purchased.
 - Caveat; (not shown on this example) where another party registers interest in the land to prevent further transactions from being registered on the title. For example, during a divorce, a partner who is not named on the title wants to ensure that the partner who is named on the title does not sell the property until the divorce settlement is finalised.

For more detailed information about title searches and other types of searches refer to **Annexure B**.

2.2.2 Research the market

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The salesperson will do some research to find any ‘for sale’ history about the property on line, and what the last sale price and date was, and may check Google Earth.

To comply with section 215 of the POA, when a seller (of residential property) asks a salesperson what price their property is likely to sell for, the salesperson must provide the seller with a comparative market analysis (CMA) at the same time as giving them this requested price advice. Because sellers commonly ask about price at a listing presentation, the salesperson must have the CMA with them.

POA Schedule 3 provides a definition of a CMA, which is;

‘comparative market analysis, for an offered property, means a document comparing the offered property with at least 3 properties sold within the previous 6 months that are of a similar standard or condition to the offered property and are within 5km of the offered property.’

When finding comparison properties of a similar standard and condition, it is best to avoid including comparison sales if the sale was an inter-family sale, or a neighbour sale, or another circumstance where the price may not reflect true market value due to the circumstances of the sale.

The comparison sales can be sourced from settled sales data for the agency, or sales results researched using a resource such as CoreLogic RP Data, or finding information about sold properties on a range of websites. Googling “sold properties Queensland” will locate several such sites.

If there are not 3 available comparisons within 5kms and within 6 months, the salesperson can instead provide an alternative written explanation of how the salesperson decided on the advised price.

When the salesperson provides a CMA to the seller, they will advise on the price range of comparisons sales, from lowest to highest comparison as a price indicator. Salespeople will be familiar with the average % difference between list price and sale price in their local area, which allows them to recommend an appropriate listing price that allows for negotiation with buyers.

Refer to **Annexure C** to view an example of this on a CMA.

2.2.2.1 Data Sources: CoreLogic RP Data Professional

CoreLogic RP Data Professional is the leading property data solution used by property professionals in Australia. This powerful property database helps you generate reports (Comparative Market Analysis, Suburb Reports, etc.), prepare value estimates, verify information and conduct valuable research.

CoreLogic RP Data is a proud sponsor of the REIQ. All REIQ Registration and Licensing students receive free access to CoreLogic RP Data Professional for the duration of their course. Find out more about CoreLogic RP Data Professional here <https://www.corelogic.com.au/products/rp-professional>

2.2.2.2 Market value based on modifications

When calculating the market value based on modifications, the agent must check that:

- The modifications have been done in sympathy with the original house. For example, if a timber styled room with a metal roof has been added to the original house which is brick and tile, it may detract from the price. Conversely if a nice brick extension has been added to a timber house, this may increase the price of the original home.

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- The rooms flow nicely
- Net benefits are gained by the modifications; for example: a room is not sacrificed as a passageway for the additions

It is important to note, and remember, that a salesperson or real estate agent is not qualified to actually 'value' property. Only a valuer can value in the true sense of the word. Licensed agents and registered salespeople can only provide market sales opinions or property sales appraisals.

2.2.2.3 Factors which may affect the price of the property

There are other factors which must be considered as they can have an impact on the property and affect the value. Particularly important investigations to carry out when conducting a market appraisal are:

- Any encumbrances which may affect the sale, e.g. caveats or easements – can be found on the Certificate of Title
- Zoning, particularly in re-development areas – can be obtained from the Local Authority
- Sewer availability, specifically whether the property is connected to the sewer or a septic tank or leach drain system. This matter is important in some of the older suburbs.
- Building extensions must have been approved by the Local Authority – obtained from the Local Authority
- Items included in the sale, for example, if the seller wants to keep the chandelier or special curtains, it is best to recommend that they are replaced before offering the property for sale. If not, they must be specifically excluded as part of the sale on the contract of sale.

If the property is on a strata title, the seller should be advised of the necessity for a disclosure statement to be completed at the time of listing as prescribed by the provisions of the Body Corporate and Community Management Act 1997 (Queensland). Information from the strata plan will be essential. It is good practice to have the seller complete the disclosure statement at the time of listing.

Any current rental arrangements should also be considered.

2.3 Listing appointment

The salesperson usually prefers to meet the prospective seller at the property that is to be sold. This will give them the opportunity to look through the property, and to discuss the listing with the seller. The agency or salesperson should develop visual promotional materials that can be used at the presentation, to complement the verbal presentation. These might be hardcopy, as in a listing folder, or incorporated into a digital listing presentation platform that can be shown on a phone, tablet, or laptop. In practice, once this is set up, it might look like a series of slides shown to the client on a device, perhaps with an interactive menu that allows the salesperson to open additional supporting resources by touching menu icons on the screen. There are different products on the market a salesperson might use, but the following is a simulated example of a page of a listing resource. This particular example illustrates what a salesperson might show a client at stage 5 of the listing presentation sequence explained later in this section. Imagine that the three menu icons on the right will allow the salesperson to touch to open those additional resources mentioned.

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How we help you successfully compete for buyer attention;

- High quality photographs
- Property staging
- Floorplans
- Video promotion
- Online marketing campaigns

Attention-grabbing marketing for your property means more buyer enquiry, busier open for inspections, better offers, and a quicker sale.



The agency that creates the best impression through their listing presentation has a greater chance of winning the listing.

The following sequence represents the usual steps taken by a salesperson in a listing presentation, and the accompanying visual resources that might be used at each step. Each presentation will vary but all legal requirements must be met.

LISTING PRESENTATION SEQUENCE:

Stage	Action and purpose - conducting the listing presentation	Promotional resource used in the presentation for each stage
1	<p>Arrive at the appointed time, and greet the seller.</p> <p>Establish an understanding of who the key decision-makers are.</p> <p>Inspect the property.</p> <p>Take notes of features.</p> <p>Take photos.</p> <p>Take measurements using a distance app, particularly for commercial properties.</p> <p>Find out more about the seller and their selling situation if not already known.</p>	<p>➤ Business card</p>
Stage	Action and purpose - conducting the listing presentation	Promotional resource used in the presentation for each stage

2	<p>Sit down with the client and tell them about the market and how that influences price.</p> <p>Discuss types of buyers in the marketplace and their behaviour and negotiation styles. Refer to Annexure Z for further insights.</p> <p>Lead into advising on a realistic price range for their property. Discuss the pitfalls of over-pricing; attracting the wrong buyers, not reaching the right buyers, slow to sell, listing goes stale.</p> <p>Discuss strategy to list for a price that allows for some negotiation with buyers.</p> <p>If they are considering auction, discuss the reserve price.</p>	<ul style="list-style-type: none"> ➤ CMA. ➤ Graphs showing median sale price. ➤ Data on sale volumes. ➤ Visit real estate marketing website and show properties already for sale. ➤ Data on local market demographics. ➤ Media reports or research about any current impacts on the supply and demand in their area; including social, political, or financial impacts.
3	<p>Ask if the client currently has their property listed with any other agencies, to comply with section 21 of the Property Occupations Regulation.</p> <p>If they do, provide general advice on the consequences of having two agents appointed and the risk of having to pay both, before accepting the appointment.</p> <p>Refer to Annexure E of this manual for more detail.</p>	
4	<p>Explain the three methods of selling –</p> <ol style="list-style-type: none"> 1. Auction – public bidding on a nominated date at a nominated location. 2. Tender – written bids submitted by a close date. 3. Private treaty sale - the price and terms are negotiated between agent/seller and the buyer. <p>Explain the listing options - open, sole and exclusive. This ensures compliance with section 103 of the POA. <i>Refer to section 2.4 of this manual for more information on listing types.</i></p> <p>Discuss which option best suits the client's circumstances and why. Do this by relating the benefits of the method back to their circumstances.</p> <p>Ask if they have any questions and ensure they are comfortable with the information presented before moving on.</p>	<ul style="list-style-type: none"> ➤ Metrics data showing the timing and price of sales for different listing types, to show the effectiveness of exclusive agency listings. ➤ Refer them to the summary list in part 6 of the PO Form 6.

Stage	Action and purpose - conducting the listing presentation	Promotional resource used in the presentation for each stage
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5	<p>Discuss the marketing and promotion of the property.</p> <p>Discuss the benefit of a good marketing campaign in terms of enquiry volume, timing of sale, and price achieved.</p> <p>Discuss professional photography and property staging.</p> <p>Work together to create a marketing plan. Discuss costings.</p> <p>Review the information presented and ask the client if they are comfortable with everything explained so far. Ask if the client has any questions that have not been answered. Provide honest answers.</p> <p>If the listing is going ahead, have the marketing agreement signed by the seller.</p> <p>Arrange to receive the advertising money in advance from the seller, into the agency trust account.</p> <p>Discuss open for inspections, and advise the seller to ask their insurer if their policy will cover any risks.</p>	<ul style="list-style-type: none"> ➤ Examples of professional photographs versus amateur photographs. ➤ Sample campaigns done for other clients and the results produced (price and timing). ➤ Show sample advertising currently running online. ➤ Show sample 3D virtual tours or video walkthroughs. ➤ Show metrics data on enquiry volumes from different forms of marketing. ➤ List of costings on marketing options. ➤ Examples of floorplans created. ➤ Information and costings on staging properties.
6	<p>Sell yourself and your agency services. Focus on your point of difference and why they should choose you to sell their property.</p> <p>Ask for the business.</p> <p><i>"I am confident we're going to get a good result for you and help you sell your home. I'm looking forward to working with you and I'm keen to get started. Are you ready to list your property with me today?"</i></p> <p>If they say no, ask what is causing them to hesitate and discuss this further without being 'pushy'.</p>	<ul style="list-style-type: none"> ➤ Recordings of testimonials from past sellers. ➤ Awards won. ➤ Show 'Meet our Team' page on website. ➤ Show LinkedIn profile and endorsements. ➤ Summary list of the benefits of engaging your services

Stage
Action and purpose - conducting the listing presentation
Promotional resource used in the presentation for each stage

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7	<p>Discuss commissions. These are usually a percentage of the sale price but can be a flat rate. Commissions are not regulated and there is no 'standard'.</p> <p>Ensure that commission discussions are always within employer guidelines. If there are different commission options available from the agency (e.g. that do / don't include advertising costs) explain each.</p> <p>Use persuasive language to sell the value of the service offered.</p> <p>Expect potential clients to challenge the commission rate and use negotiation strategies to convince them. Refer to Annexure 2 for further suggestions on what to say.</p>	<p>➤ Summary list of commission options to allow comparison</p>
8	<p>Reach agreement on terms of appointment and complete the Property Occupations Form 6.</p> <p>Clarify details about the property so as to be able to represent it accurately to buyers, and also to ensure the seller is aware of their requirements for legal compliance;</p> <ul style="list-style-type: none"> • smoke alarms Refer to Annexure J • safety switch Refer to Annexure K • neighbourhood disputes that are going to QCAT • inclusions being sold with the property (e.g. leaving the ride-on mower with the acreage block). If not stated on a contract of sale, non-affixed items are assumed to not be part of the sale. • exclusions that are not to be sold with the property (e.g. if the seller is removing and keeping the plumbed-in ice-maker fridge) If not stated on a contract of sale, affixed items are assumed to be part of the sale. • Recommending the owner ensures they have a pool safety certificate so the contract is not at risk of being terminated when a buyer insists on a contract being 'subject to a pool inspection'. Read Annexure L for further understanding. • Ask about material facts – flooding, property stigmas <p>Discuss property presentation and make any suggested improvements to achieve a better outcome in the sale, such as decluttering, repairs, etc. This ensures a quicker sale and a better price.</p> <p>Sight ID from the sellers.</p> <p>Have the PO Form 6 signed.</p>	<p>➤ PO Form 6.</p> <p>➤ Factsheets on compliance topics, or visit relevant regulatory websites with the client.</p>
Stage	Action and purpose - conducting the listing presentation	Promotional resource used in the presentation for each stage

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9	If the property is likely to sell for over \$750,000, advise the seller about their obligation to apply online to obtain a clearance certificate from the Australian Tax Office. Otherwise the buyer must withhold 12.5% of the purchase price at settlement.	<p>➤ Show the seller the following webpage and provide the link</p> <p>http://www.ato.gov.au/frcgw_clearance_certificate.aspx</p>
10	<p>Establish expectations with the client in terms of progress reports and touchpoints throughout the sale process.</p> <p>Discuss preferred method of communication.</p> <p>Obtain consent to use email.</p>	<p>➤ A copy of the communication plan or commitment the agency offers.</p> <p>➤ Electronic consent form. Refer to Annexure F.</p> <p>➤ Service guarantee.</p>

For a list of possible content that can be developed and included in the promotional materials, refer to **Annexure D**.

2.3.1 Presentation of property

First impressions are very important. A property must be well presented and prepared for the appropriate market. There are now professional decorators and interior designers who are consulted to enhance the presentation of a property. These people are experts on what motivates customers when selecting property.

It is important to note that rental properties in particular are 'presentation sensitive'. Since a tenant cannot redecorate or change a property to any major degree, the presentation of a rental property must be considered in terms of what the desired rental market would expect without having to make any major changes.

The following identifies to what the buyers would respond with respect to the property presentation:

Positive appeal

- Clean, bright and airy residences
- Neutral colours
- Well-landscaped gardens
- Plenty of outdoor living space such as decks and covered patios
- Soft music
- Pleasant fragrance

Negative appeal

- Dark, dingy residences
- Unpleasant smells, especially cigarette smoke and animal odours
- Filth and clutter
- Loud noise (e.g. TV or radio)

Recommendations

- Clean out cupboards and rooms to give an impression of space
- Take away all unnecessary furniture to leave rooms uncluttered
- Fix all obvious faults
- Tidy up yards

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- Steam clean and deodorise carpets professionally
- A coat of paint over marked walls will brighten up a room quickly
- Replace brightly coloured curtains and wall colours with neutral tones

2.4 Listing types

Open listing;

- Has a start date but no end date.
- Can be ended at any time by either the client or agent by giving written notice, which can be effective immediately.
- The client can have an open listing with more than one agent at the same time.
- Only the selling agent who is the effective cause of the sale will receive commission from the seller.

Sole agency;

- Has a start and end date.
- Cannot exceed 90 days (refer to **Annexure H** for a 90 day ready reckoner or use the REIQ app)
- The client or agent can give 30 days notice to end the appointment, but it cannot end before day 60 of the appointment – unless both parties agree.
- During a sole agency, if the client allows another agency to sell the property, they must still pay the originally appointed agent commission and fees.

Exclusive agency;

- Has a start and end date.
- Cannot exceed 90 days (refer to **Annexure H** for a 90 day ready reckoner). The client or agent can give 30 days notice to end the appointment, but it cannot end before day 60 of the appointment – unless both parties agree.
- During an exclusive agency, if the client allows another agency to sell the property, or if the client sells it themselves, they must still pay the originally appointed agent commission and fees.

2.4.1 Methods of sale

- **Auction-** Property is offered for sale without a disclosed listing price to the public and is sold to the highest bidder, if the reserve price is reached. This method of sale encourages unconditional contracts.
- **off the plan** – Off the plan sales are regulated under the Land Sales Act, prior to individual titles being issued. All documentation such as the appointment of agent and contract of sale are handled by the Solicitor for the Developer, as no separate titles have been issued at this point of time. Once the titles are issued this will fall under the Property Occupations Act.
- **private treaty-** Private treaty is used for all non-auction and tender transactions. The property is advertised to find interested parties. If a buyer expresses interest then negotiations commence.
- **reverse auction** – The Auctioneer calls an opening bid of a high figure and the item i.e. a Chattel is auctioned down until an active bidder, bids, and once the reserve price is reached the item being auctioned is sold to the highest bidder.
- **Set sale** – In QLD this is referred to as a Tender. Refer to explanation below for Tender.

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- **Specialised properties** – A property that is unique to a particular market or area and that uniqueness gives the property a desirability that requires a specialised marketing campaign.
- **Tender**- The property is advertised without a price, and buyers are able to submit a tender by a stated closing date. As oppose to Auction, this method of sale encourages conditional contracts, oppose to Auction which are unconditional contracts.

2.5 Follow up advice with new client

Within the first 24 to 48 hours of being appointed a salesperson should send an email thanking the seller for the business and advising them of actions taken in accordance with the seller's instructions. These may include;

- Launching 'coming soon' posts about the listing across all social media channels
- Booking the property staging appointment
- Organising the photography, video, and floor-planner
- When the 'for sale' sign will be erected
- Contacting existing buyers on the agency CRM database and advising them of the new listing
- Writing advertising copy and sending it through for seller approval
- Seeking to organise a time when the sales team can view the property

UNIT 3 | APPOINTMENT FORM

3.1 Requirement to be appointed

Section 102 of the POA states that an agent is not permitted to sell a property on behalf of a seller unless they are first appointed in writing. The required document is the Property Occupations (PO) Form 6. This is a form from Queensland Government (Fair Trading).

The PO Form 6 is used for all listing types – residential, commercial, sales, leasing, holiday letting etc. Section 3 of the form allows for a description of the type of property being listed. However on Realworks¹, the PO Form 6 is available with a selection of attached schedules and terms attached, each of which have been tailored to suit the different types of listings. The PO Form 6 in **Annexure M** has the REIQ schedule and terms for residential sales included with it.

The document must be completed in such a way that complies with sections 103, 104, 105, 106, 108 and 109 of the POA. Not complying with some requirements of the POA can result in the appointment being rendered ineffective and loss of commission entitlement. *Check the legislation online for further reading.*

3.2 The appointment form

The PO Form 6 should be explained to the client by the salesperson before signing. Fair Trading recommend that sellers seek legal advice before signing a PO Form 6.

The following notes should be studied in conjunction with the completed sample Property Occupations Form 6 in Annexure M.

¹ REIQ Realworks is a forms generation program for the Queensland real estate profession.

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Property occupations Form 6



Queensland
Government

Appointment and reappointment of a property agent, resident letting agent or property auctioneer

Property Occupations Act 2014

This form is effective from 1 August 2016

ABN: 13 846 673 994

Part 1—Client details

Client 1

Note: The client is the person or entity appointing the agent to provide the services. This may be the owner (or authorised representative of the owner) of the land, property or business that is to be sold or may be a prospective buyer seeking to purchase land or a property.

Client name

ABN ACN

Are you registered for GST? ☐ Yes ☐ No

Address

Suburb State Postcode

Phone Fax Mobile

Email address

Client 2

Note: Annexures detailing additional clients may be attached if required.

Client name

ABN ACN

Are you registered for GST? ☐ Yes ☐ No

Address

Suburb State Postcode

Phone Fax Mobile

Email address

PART 1

Name the client.

This should be as per the title search, and therefore can be individual names, or a company, or a Trust.

In some instances it might be a registered power of attorney or an executor.

Complete contact information and relevant details.

Part 2—Licensee details

Licensee type

More than one box may be ticked if appropriate.

Note: Annexures detailing conjuncting agents may be attached if required.

Licensee name

Where a corporation licensee is to be appointed, state the corporation's name and licence number.

Where a sole trader is to be appointed, state the individual's name and licence number.

☐ Real estate agent ☐ Resident letting agent ☐ Property auctioneer

Trading name

Licensee name (corporation, if applicable)

ABN ACN

Licence number Expiry DD / MM / YYYY

Address

Suburb State Postcode

Phone Fax Mobile

Email address

PART 2

Tick the licence type held by the licensee.

Show relevant details of the agency.

Part 3—Details of property or business that is to be sold, let, purchased, or managed

Please provide details of the property, land, or business as appropriate.

Note: Annexures detailing multiple properties may be attached if required.

Description

Address

Suburb State Postcode

Lot Plan

Title reference

PART 3

Describe the type of property being sold. Show the address, lot, plan & Title reference are as per the title search.

Part 4—Appointment of property agent

Section 1

Performance of service

Annexures detailing the performance of service may be attached if required.

The client appoints the agent to perform the following service/s:

☐ Sale ☐ Purchase ☐ Letting / collection of rent / management

☐ Leasing (Commercial agents)

☐ Auction Auction date DD / MM / YYYY (must be completed)

☐ Other (please specify)

PART 4 | Section 1

Indicate type of service being provided by ticking the relevant box.

Part 4—Appointment of property agent

Section 2

Term of appointment

Sole and exclusive appointments: for sales of one or two residential properties, the term is negotiable and agent can be appointed or reappointed up to a maximum of 90 days per term. There are no limitations on the length of an appointment for anything other than a residential property sale.

☐ Single appointment for a particular service or services

Start DD / MM / YYYY End DD / MM / YYYY

☐ Continuing appointment for a service or a number of services over a period

Start DD / MM / YYYY

PART 4 | Section 2

A single appointment is where the agent is appointed to achieve a single result such as a sale.

Tip: Review section 2.4 of this manual for important information in relation to start and end dates. If selling 3+ properties for the seller, a continuing appointment can be chosen.

Part 4—Appointment of property agent

Section 3 Price State the price for which the property, land or business is to be sold or let. Note: Bait advertising is an offence under the Australian Consumer Law.	<input type="checkbox"/> Reserve <input type="checkbox"/> List <input type="checkbox"/> Letting \$ <ul style="list-style-type: none"> For auctions: If a reserve price is unknown at the time of appointment, it can be advised <i>in writing</i> at a later date. For residential property auctions and residential properties to be marketed without a price: If the client agrees to marketing via an <i>electronic listing provider</i>, the client agrees for the agent to disclose to the <i>electronic listing provider</i> a price or price range of \$ to establish a search criteria.
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PART 4 | Section 3

Indicate the box for 'list' price for private treaty sale, and write the listing price on the first dotted line.

Write '*not applicable*' on the second dotted line.

~**OR**~ Indicate the box for 'reserve' price for auction, and on the first dotted line write "*to be advised by client in writing prior to auction*".

Then on the second dotted line write the price or price range that the seller wants the salesperson to use when loading the advertisement onto a website portal, even though that price will not be visible on the advertising.

For an example of how to complete part 4 section 3 for auction, refer to **Annexure N**.

Part 4—Appointment of property agent

Section 4 Instructions/conditions The client may list any condition, limitation or restriction on the performance of the service. Note: Annexures detailing instructions/conditions may be attached if required.	
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PART 4 | Section 4

Used for any additional instructions not contained elsewhere.

Part 5—Termination of appointment

Residential sales of 1 or 2 properties only	Open listing: You may terminate in writing at any time. Sole or exclusive: The client and agent can agree in writing to end the appointment early. For appointments of 60 days or more, either party can end the appointment by giving 30 days written notice, but the appointment must run for at least 60 days unless both parties agree to an earlier end date.
Open listing	You may terminate an open listing for either commercial or residential property sales at any time.
Other fixed term appointments (excluding residential property sales)	The parties may agree to a fixed term appointment of their choice. This term may be ended earlier by mutual agreement.
Continuing appointments (for example: letting, collection of rents etc)	You may terminate in writing with 30 days notice, or less if both parties agree.

PART 5

Point out to the client which termination notice period applies to their listing. Nothing is completed in this part.

Part 6—PROPERTY SALES: open listing, sole agency or exclusive agency

To the client

You may appoint an agent to sell a property or land on the basis of an open listing, or a sole agency, or exclusive agency.

The following information explains the circumstances under which you will, and won't, have to pay a commission to the agent if the property is sold during their term of appointment.

☐ OPEN LISTING

- You appoint the agent to sell the property but you retain a right to appoint other agents on similar terms, without penalty or extra commission.
- No end date required.
- Appointment can be ended by either you or the agent at any time by giving written notice.

When you must pay the agent

- The agent is entitled to the agreed commission if the agent is the effective cause of sale.

When you don't have to pay the agent

- If the client sells the property privately and the agent is not the effective cause of sale i.e.: purchaser did not contact the agent, did not attend open house inspections etc.

☐ SOLE AGENCY

When you must pay the agent

- If you appoint a new agent during an existing agent's sole agreement term and the property is sold during that term, you may have to pay:
 - A commission to each agent (two commissions)
 - Damages for breach of contract arising under the existing agent's appointment

When you don't have to pay the agent

- If the client sells the property privately and the agent is not the effective cause of sale i.e.: purchaser did not contact the agent, did not attend open house inspections etc.

☐ EXCLUSIVE AGENCY

When you must pay the agent

- The client will pay the appointed agent whether this agent, any other agent, or person (including the client themselves) sells the property during the term of the appointment.
- If the client sells the property, after the exclusive appointment expires and if the agent was the effective cause of sale (introduced the buyer to the property) the agent may be entitled to commission.

At the end of the sole or exclusive agency, the parties ☐ Agree ☐ Do not agree
that the appointment will continue as an open listing. (Please tick whichever is relevant)

Part 6—PROPERTY SALES: open listing, sole agency or exclusive agency continued

Acknowledgement for sole and exclusive agency

I/we acknowledge the appointed agent has provided me/us with information about sole and exclusive agency appointments.

Client

Date / /
DD MM YYYY

Client

Date / /
DD MM YYYY

Agent

Date / /
DD MM YYYY

PART 6

Indicate the relevant box to show which listing option the agent and client have agreed to.

Ensure the client understands the commission obligations that apply to each type to comply with section 103 of the POA.

The last section of Part 6 provides a section for signatures and dates as acknowledgement.

Part 7—Commission	
<p>To the client The commission is negotiable. It must be written as a percentage or dollar amount.</p> <p>Make sure you understand when commission is payable. If you choose 'Other' and the contract does not settle, the agent may still seek commission.</p> <p>To the agent You should ensure that commission is clearly expressed and the client fully understands the likely amount and when it is payable. Refer to section 104 and 105 of the <i>Property Occupations Act 2014</i>.</p>	<p>The client and the agent agree that the commission including GST payable for the service to be performed by the agent is:</p> <p>.....</p> <p>When commission is payable</p> <p><input type="checkbox"/> For sales, including auctions, commission is payable if a contract is entered into and settlement of the contract occurs.</p> <p><input type="checkbox"/> Other (for specific other circumstances in which commission is payable see annexure).</p> <p>For all other types of appointments:</p> <p>.....</p>

PART 7

Show the agreed commission, inclusive of GST. If a percentage format is used, include wording to indicate that this is based on the actual sale price of the property. Then complete the 'when payable' section. Best practice is to tick 'other' and write "refer to clause 5 of the attached *Essential Terms and Conditions*". Clause 5 in the REIQ terms attached, explains when the client would pay the agent

Part 8—Authorisation to incur fees, charges and expenses	
<p>The client authorises the agent to incur the following expenses in relation to the performance of the service/s. Annexures may be attached if required.</p>	
<p>Section 1 Advertising/marketing</p> <p>To the client Your agent may either complete this section or attach annexures of marketing/ advertising activities. In either case, the <i>authorised amount</i> must be written here.</p>	<p>Authorised amount \$.....</p> <p>When payable DD / MM / YYYY</p>

PART 8 | Section 1

Itemise the marketing, or use wording to indicate that an itemised advertising and marketing schedule is attached and signed where this is the case.

Insert the total spending authority, and the date this is payable (usually when the agent is appointed.)

Part 8—Authorisation to incur fees, charges and expenses	
<p>Section 2 Repairs and maintenance (if applicable) Property management</p>	<p>The maximum value of repairs and maintenance to be paid by the agent without prior approval by the client is \$.....</p>

PART 8 | Section 2

Not applicable for sales.

Part 8—Authorisation to incur fees, charges and expenses			
<p>Section 3 Other Description of fees and charges.</p> <p>The agent may either complete this section or attach annexures.</p>	<p>Description</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p>	<p>Amount</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p>	<p>When payable</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p>

PART 8 | Section 3

Used to show other fees the client has agreed to pay. Show a description, the amount and when it's payable.

Part 8—Authorisation to incur fees, charges and expenses

Section 4	Service	Source	Estimated amount
Agent's rebate, discount, commission or benefit incurred in the provision of or performance of the service

PART 8 | Section 4

If the agency is receiving a payment or benefit from anyone other than the client in relation to selling the client's property, this cannot be a 'secret commission' but must be disclosed.

Show the service it relates to, identify the source it comes from, and disclose the estimated amount.

Part 9—Signatures

WARNING: THE CLIENT IS ADVISED TO SEEK INDEPENDENT LEGAL ADVICE BEFORE SIGNING THIS FORM.

This form enables the client to appoint, or reappoint, a property agent, resident letting agent or property auctioneer (the 'agent') for the sale, letting/management, collection of rent, auction or purchase of real property, land or businesses. This form must be completed and given to the client before the agent performs any service for the client. Failure to do so may result in a penalty and loss of commission for the agent. If you are unclear about any aspect of this form, or the fees you will be charged, do not sign it. Seek legal advice. If you need more information about this form including what an agent needs to disclose, you can visit the Office of Fair Trading website at www.qld.gov.au/fairtrading or phone on 13 QGOV (13 74 68).

Client 1	Full name Signature D D / M M / Y Y Y Y
Client 2	Full name Signature D D / M M / Y Y Y Y
Agent A registered real estate salesperson working for an agency can sign this form on behalf of the licensed agent.	Full name Signature D D / M M / Y Y Y Y
Schedules and attachments List any attachments.	

PART 9

The names of the signatories can be typed in in readiness for signing and dating. For the agent, use the agency information not a personal name.

Also in part 9, complete the **Schedules and Attachments** section by naming the attached REIQ schedule and terms which then starts on the next page.

If a marketing schedule is also attached, identify that here as well.

Part 10—Reappointment

Use this section to reappoint your agent. A new appointment form is required if any of the terms or conditions are to change. Your agent can only be reappointed within 14 days before the contract ends - not before. Limitations apply on reappointments for sole or exclusive agency appointments for residential property sales.	I/we (the client) reappoint (the agent) to D D / M M / Y Y Y Y Client's name Signature D D / M M / Y Y Y Y Client's name Signature D D / M M / Y Y Y Y
---	---

PART 10

Can only ever be completed and used in the last 14 days of the appointment, to extend the appointment for a further term and show the new end date.

All parties would sign.

Appointment of Real Estate Agent (Residential Sales)

ITEMS SCHEDULE

A PRIOR APPOINTMENT

Pursuant to Section 21 of the *Property Occupations Regulation 2014* (Qld), prior to accepting this Appointment of Property Agent, the Agent must take reasonable steps to find out whether the Client has already appointed another property agent to perform the service(s) listed in this Appointment of Property Agent.

- ☐ The Client acknowledges that the Agent has taken reasonable steps to find out whether the Client has already appointed another property agent to perform the service(s) listed in this Appointment of Property Agent.
- ☐ The Client further warrants that another property agent has not been appointed to perform the service(s) listed in this Appointment of Property Agent.
- ☐ If the Client is not able to warrant that another property agent has **not** been appointed to perform the service(s) listed in this Appointment of Property Agent, the Client acknowledges that a statement in accordance with Section 21 (4) of the *Property Occupations Regulation 2014* (Qld) has been provided by the Agent.

Note: A copy of the statement provided to the Client must be annexed to this Appointment of Property Agent.

PART A

This section establishes proof of compliance with section 21 of the PO Regulations, that the agent has taken steps to find out if the client has other agencies appointed.

The first box indicates the agent has asked.

The second box indicates the client has said that no other agent is appointed.

The third box is only used if the client does have another agency appointed, in which case an additional signed acknowledgement about the client potentially having to pay commissions or damages to other appointed agents should be signed before the PO Form 6.

B ADVISE AS TO MARKET PRICE

Has the Client requested information regarding the price at which the Property is to be offered for sale? (Select applicable Box)
☐ Yes ☐ No

If Yes, ☐ The Client acknowledges receipt of the Comparative Market Analysis; OR
☐ The Client acknowledges receipt of the written explanation showing how the Agent decided the market value of the Property.

COMPARATIVE MARKET ANALYSIS

Compares the Property with at least 3 properties sold within the previous 6 months that are of a similar standard or condition to the Property and are within 5km of that Property.

- ☐ Listed below; OR
☐ Listed in the attached Comparative Market Analysis (attach analysis)

ADDRESS OF PROPERTY:	SALE PRICE:	DISTANCE FROM PROPERTY:
	\$	
	\$	
	\$	
	\$	
	\$	

Comments:

Note: Pursuant to sections 214 and 216 of the Property Occupations Act 2014 (Qld), where the Property is to be marketed without a price and/or the Property is residential property to be sold by auction, the Agent must not disclose a price guide for the Property or what he/she considers is a price likely to result in a successful or acceptable bid for the Property.

However, the Agent may give a person a Comparative Market Analysis, or the written explanation showing how the Agent decided the market value of the Property, if the Client provides written consent.

The Client:

- ☐ Authorises
☐ Does not authorise
the Agent to give a potential Buyer either the Comparative Market Analysis or the written explanation showing how the Agent decided the market value of the Property.

PART B

Indicate if the client has asked for price advice (commonly 'yes').

If they have, indicate whether they were given a CMA, or, an alternative written explanation on how the agent reached that opinion.

Then indicate whether a CMA is listed below and show the relevant details of chosen sale comparisons, OR, indicate that it is attached. (If attached, also identify this fact in Part 9 schedules & attachments)

Finally, if the property is auction or unpriced, indicate whether the client has authorised the agent to show the buyer the same CMA they were shown upon listing. If it's not auction or unpriced, tick neither box.

C MANAGING AGENT OF PROPERTY (If Applicable)

AGENCY: _____
PROPERTY MANAGER: _____
ADDRESS: _____
SUBURB: _____ STATE: _____ POSTCODE: _____
PHONE: _____ MOBILE: _____ FAX: _____ EMAIL: _____

PART C

If the property is rented, show managing agent details.

D SOLICITOR'S DETAILS FOR CLIENT

NAME: _____
REF: _____ CONTACT: _____
ADDRESS: _____
SUBURB: _____ STATE: _____ POSTCODE: _____
PHONE: _____ MOBILE: _____ FAX: _____ EMAIL: _____

☐ To be provided to the Agent by the Client at a later date as not known by the Client when entering into this Agreement.

PART D

Indicate solicitor details, or tick to show this will be provided later.

E PUBLIC LIABILITY

INSURER: _____ AMOUNT OF COVER: \$ _____
POLICY NUMBER: _____ EXPIRY DATE: _____

PART E

Identify public liability insurer.

F AUCTION

The Client instructs and authorises the Agent to sell the Property by Public Auction.
(Select applicable box)

- ☐ No - Clause 11 of this Agreement will not apply.
☐ Yes - Clause 11 of this Agreement will apply and the following details must be completed.

- (1) Date of Auction: _____
(2) Place of Auction: _____
(3) Time of Auction: _____
(4) Fee for Auctioneer: \$ _____
(5) Terms of Sale: ☐ Cash, with Settlement 30 days from the date of the Contract ☐ Select applicable box
☐ Other (please specify): _____

PART F

Indicate 'no' to auction, OR, indicate 'yes' and show date, place, time, fee and terms of the auction.

G PRIVACY

- ☐ The Client acknowledges that they have, where necessary, been provided with and completed, a Privacy Notice and Consent by the Agent in the form **annexed** to this Appointment of Property Agent or located on the Agent's website at:

_____ and they fully understand that the collection and use of personal information contained in the *Property Occupations Form 6 - Appointment and reappointment of a property agent, resident letting agent or property auctioneer*, this Schedule, the Essential Terms and Conditions and any additional annexures, is in accordance with the Privacy Notice and Consent.

PART G

Is completed to prove the client has been provided with a privacy notice and consent, often via the agency website.

H REQUIREMENTS FOR SOLE OR EXCLUSIVE AGENCY

- ☐ The Client acknowledges and accepts that the following notice is provided in accordance with the Agent's obligations under Section 103 of the *Property Occupations Act 2014* (Qld):
- (1) The Agent has, in accordance with the requirements of the *Property Occupations Act 2014*, discussed with the Client:
- (a) whether the Appointment of Agent is to be for a sole agency or and exclusive agency; and
 - (b) the proposed term of the appointment; and
 - (c) for an appointment for the sale of residential property other than a commercial scale appointment, the Client's entitlement to negotiate a term of the appointment up to a maximum of 90 days; and
 - (d) the consequences for the Client if the Property is sold by someone other than the Agent during the term of the Appointment.
- (Note: The Client should refer to Clause 5 of the Essential Terms and Conditions)
- ☐ The Client acknowledges that the above matters have been discussed before signing the Appointment of Property Agent.

PART H

Both boxes are ticked to prove the agent has complied with section 103 of the POA by explaining the commission obligations of sole and exclusive agencies before the appointment is signed.

I FACTS MATERIAL TO THE SALE OF THE PROPERTY

Note: Agent must take reasonable steps to find out/verify any facts material to the sale of the Property

PART I

Used to record any material facts about the property that will need to be disclosed to buyers in the sale to ensure consumer protection.

PROPERTY DESCRIPTION DETAILS

ADDRESS _____

SUBURB _____ STATE _____ POSTCODE _____

Property type (select one)

RES

☐ House ☐ Apartment ☐ Acreage

☐ Unit ☐ Mobile Home ☐ Farm

☐ Duplex ☐ Townhouse ☐ Vacant Land

Room details (Total number of rooms) _____

Bedrooms _____ Bath _____

Lounge _____

Dining _____

Lounge/Dining Comb _____

Rumpus/Family _____

Media room _____

Bathroom _____

Kitchen _____

Dining/Kitchen Comb _____

Pantry _____

Ensuite _____

Gas in street _____

Separate toilet _____

Separate shower _____

Laundry _____

Study/Office _____

Covered Shed/Storage _____

Other rooms _____

Type (select one)

☐ Highset

☐ Lowset

☐ Split-level

☐ Double story

☐ Multilevel

Services (select as applies)

☐ Town water

☐ Sewered

☐ Septic

☐ Gas in street

☐ Cable in street

Garage (if of space) _____

Carport _____

Other _____

Construction (select as applies)

☐ Brick

☐ Timber

☐ Concrete

☐ Hardiplank

☐ Flies

☐ Rendered

☐ Cladding

☐ Brick Veneer

☐ Block

Interior Walls (select as applies)

☐ Plasterboard

☐ Timber

☐ Brick

☐ Block

☐ Fibro

Appliances (select as applies)

☐ Gas stove

☐ Electric stove

☐ Oven

☐ Hot Pad

☐ Rangehood

☐ Microwave

☐ Refrigerator

☐ Dishwasher

☐ Disposal Unit

☐ Washing machine

☐ Dryer

☐ Ducted vacuum

Hot water system (select as applies)

☐ Gas

☐ Electric

☐ Solar

Features (select as applicable)

☐ Cable TV

☐ Freespace

☐ Air conditioned

☐ Ducted

☐ Split Systems

☐ Heated

☐ VerandaDeck

☐ Entertaining area/Pergola

☐ Tennis/Covered

☐ BBQ

☐ Bar

☐ In-ground pool

☐ Above-ground pool

☐ Fenced

☐ Slides/fenced

☐ Tennis court

☐ Water hose

☐ Water access

☐ Jetty

☐ Spa

☐ Sauna

☐ Gym

☐ Cooling fans

☐ Security system

☐ Window and Door security screens

☐ Window Lincs

☐ Insectum system

☐ Rain water tank

☐ Bore

☐ Solar electricity system

Number of bathrooms _____

Community Facilities (choose by) _____

Primary school _____ m

Secondary school _____ m

Bleisure _____ m

Park _____ m

Sporting facilities _____ m

Transport (choose by) _____

Bus _____ m

Train _____ m

Ferry _____ m

Outlook (select one direction)

☐ East

☐ West

☐ North-east

☐ South-east

☐ South-west

☐ North-west

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PROPERTY DESCRIPTION DETAILS (Continued)

Age (years): _____

Land (approx. m²): _____ Land (approx. ha): _____

R.P.D. _____

Electrical safety switch: ☐ Yes ☐ No Smoke alarm: ☐ Yes ☐ No

Pool Safety Certificate: ☐ Yes ☐ No

Encumbrances: ☐ Yes ☐ No if yes please provide details: _____

Neighbourhood Disputes (Dividing Fences and Trees) Act 2011 disclosures:

(select whichever is applicable)

☐ The Land is not affected by any application to, or an order made by, the Queensland Civil and Administrative Tribunal (QCAT) in relation to a tree on the Land.

☐ The Land is affected by an application to, or an order made by, QCAT in relation to a tree on the Land.

Zoning: _____

Rates: \$ _____ ☐ Quarter ☐ Half year ☐ Year

Vacant Possession: _____ days

Tenanted: ☐ Yes ☐ No

Inspection: ☐ Call listing agent ☐ 24hrs notice required ☐ Specify: _____

UNIT USE ONLY

Body Corporate Fees (Inc Sink Fund): \$ _____ Period: _____

Floor level: _____ Lift: ☐ Yes ☐ No (select one)

COMMENTS

SIGNATURE OF PARTIES

Client 1: _____ Date: _____

Client 2: _____ Date: _____

Agent: _____ Date: _____

ESSENTIAL TERMS AND CONDITIONS

<p>1. DEFINITIONS</p> <p>1.1 "Aest" means the Property Occupiers Act 2014 (Og).</p> <p>1.2 "Agreement" means the party described in Part 2 of the Appointment of Property Agent.</p> <p>1.3 "Appointment of Property Agent" means the Queensland Government Property Occupiers Form 6 - Appointment and appointment of a property agent, resident lease agent or primary auctioneer. These terms and conditions and the Schedule are annexed to the Appointment of Property Agent.</p> <p>1.4 "Aest" means the party described in Part 1 of the Appointment of Property Agent.</p> <p>1.5 "Commissioner" means the Commissioner stated in Part 7 of the Appointment of Property Agent.</p> <p>1.6 "Contract of Sale" means a contract conducted in conjunction with other property agents.</p> <p>1.7 "Property" means the property described in Part 3 of the Appointment of Property Agent.</p> <p>1.8 "Property Description Detail" means the details of the Property stated in the Property Description Details annexed to the Agreement.</p> <p>1.9 "Real Estate Institute of Queensland" means the Real Estate Institute of Queensland.</p> <p>1.10 "Schedule" means the Residential Sales Schedule forming part of this Agreement.</p> <p>1.11 "Term" means the term specified in Part 4, Section 2 of the Appointment of Property Agent.</p>	<p>5.2 For the purposes of Clause 5.1 a Relevant Person is, when the Agent is acting as a Relevant Person, 5.2.1 an Exclusive Agent, any person (including the Client or, 5.2.2 a Sale Agent, any person other than the Client, or 5.2.3 an Open Listing, the Agent only.</p> <p>6. AUTHORITY TO PAY COMMISSION</p> <p>6.1 The Client:</p> <p>6.1.1 authorises the Agent, and</p> <p>6.1.2 authorises and directs the deposit holder or any other person to whom any deposit is held under a Contract of Sale, to pay to the Agent any Commission to which the Agent is entitled in accordance with (a) the entitlement to Commission arising; and (b) production of the Agreement, a copy of the Agreement.</p> <p>6.2 The Client agrees that under Clause 6.1 the payment of Commission from the Client under 6.1.1 completely discharges the deposit holder from any duty or account to the Client for the Commission paid to the Agent.</p>
<p>2. WHAT MAKES UP THIS AGREEMENT</p> <p>2.1 Agreement comprises the following parts:</p> <p>2.1.1 Appointment of Property Agent;</p> <p>2.1.2 Schedule;</p> <p>2.1.3 Essential Terms and Conditions;</p> <p>2.1.4 Any additional annexes.</p> <p>3. CLIENT AGENTS AGREEMENT</p> <p>3.1 For the Commission and other fees payable by the Client to the Agent agree to pay the Property for the Client in accordance with this Agreement.</p> <p>4. PRICE</p> <p>4.1 The Client instructs the Agent that the Price at which the Client must offer to buy the Property will be the Price stated in Part 4, Section 3 of the Appointment of Property Agent, or any variation to the Price stated in Part 4, Section 3 of the Appointment of Property Agent, entered in writing at a later date by the Client.</p>	<p>7. COMMUNICATION OF EXPRESSIONS OF INTEREST</p> <p>7.1 Unless otherwise stated in writing between the Client and the Agent, the Client:</p> <p>7.1.1 only requires the Agent to communicate to the Client (a) all written offers about the sale; and (b) only those expressions of interest which the Agent determines in its discretion are to be communicated to the Client.</p> <p>8. DISCLOSURE OF RELEVANT FACTS</p> <p>8.1 The Client states that:</p> <p>8.1.1 the Property is the Client's own property;</p> <p>8.1.2 the Agent is entitled to the Property on behalf of the Client; and</p> <p>8.1.3 the particulars about the Property contained in the Property Description Details are correct.</p> <p>8.2 The Client authorises the Agent that the Agent:</p> <p>8.2.1 take reasonable steps to find out or verify (a) the ownership of the Property and (b) the description of the Property;</p> <p>8.2.2 take such other reasonable steps to find out or verify the facts and circumstances that may, exchange or lease that a prudent property agent would find out or verify, including but not limited to, ownership, occupation or other information that may be known before listing the Property and afterwards as the Commission arises.</p>
<p>5. ENTITLEMENT TO COMMISSION</p> <p>5.1 The Client agrees to pay the Agent Commission as specified in Part 7 of the Appointment of Property Agent in a Contract of Sale of the Property entered into with a buyer, whether within the Term or after the term, where the Relevant Person is the effective cause of the Sale within the Term, provided that: (a) the Commission of Sale is not: 5.1.1 a Contract of Sale that is: 5.1.2 the result of a default under the Contract of Sale and that Commission is terminated by reason of following that default; or 5.1.3 the Contract of Sale is not completed and the whole or part of the deposit paid is liable to be forfeited; or 5.1.4 the Contract of Sale is terminated by mutual agreement of the Client and the Agent.</p>	<p>8.2.3 the Client will produce to the Agent, at the Agent's request, all documents and information that the Agent is entitled to satisfy the Agent of the matters referred to in this Clause.</p> <p>8.3 The Client Clause 8 does not obligate the Agent to conduct any search or investigation to verify the facts and circumstances that may, exchange or lease that a prudent property agent would find out or verify, including but not limited to, ownership, occupation or other information that may be known before listing the Property and afterwards as the Commission arises.</p> <p>8.5 The Client warrants that the Property is safe and free from any defects for the purposes of a property</p>

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9. NOTIFICATION OF SALE TO TENANT	
9.1 If the Property is tenanted, the Client states that the managing agent for the Property is as stated in item 8 of the Schedule.	12.2 If:
9.2 The Client acknowledges that where the Agent provides its responsibility for the Property is tenanted:	12.2.1 the Contract of Sale is a Relevant Contract; and
9.2.1 The Agent must immediately give written notice of the appointment to any managing agent of the Property;	12.2.2 the Buyer validly terminates the contract at any time before the cooling-off period ends in accordance with the Act; and
9.2.2 The managing agent must immediately give the tenant notice of the appointment of the Agent to sell the Property.	12.2.3 The Client:
10. COMMUNICATION AND NOTICES	12.2.3.1 authorises the Agent; and
10.1 All written communications under this Agreement must be given to the parties' postal address, facsimile or email address or to the person or persons specified in Parts 1 or 2 of the Appointment of Agent.	12.2.3.2 authorises and directs the deposit holder or any other person to whom any deposit of the Termination Penalty is paid to:
10.2 The Client consents to the use of email and facsimile for communication with the Client set out in Part 2 of the Electronic Transactions (Queensland) Act 2006 and the Electronic Transactions Act 2002 (Cth).	12.2.3.3 pay to the Agent, the Agent's share of the Termination Penalty, which is determined in accordance with the Clause 12.2.2 immediately after the termination of the Appointment of Agent and the Agreement.
10.3 The Client authorises the Agent to act on behalf of the Client in any matter that the Client is not required to be given by the Client in accordance with any law.	12.2.3.4 The Client agrees that the Agent's receipt for the payment of the whole of the Termination Penalty is sufficient evidence of payment to the Agent.
10.4 Nothing in this Clause 10 requires the Agent to give a statement or other notice on behalf of the Client, in reliance may require the Client to sign a statement or other notice on the Client's own behalf.	12.3 INDEMNITY
11. AUCTION	13.1 The Client shall be liable for and shall indemnify and hold the Agent, its directors, officers, employees, and agents from and against any and all claims, damages, costs, losses, expenses (including costs and legal fees on an indemnity basis), and damages, including but not limited to:
11.1 The Sale Price shall be the amount specified in Part 4, Section 3 of the Appointment of Property Agent or as instructed by the Client in writing prior to the time of Auction.	13.1.1 injury, bodily or otherwise, to or death of any person;
11.2 The date, place and time for the Auction shall be as stated in Part 4, Section 3 of the Appointment of Property Agent and item F of the Schedule or as the Client agrees with the Client in writing prior to time.	13.1.2 illness, damage to or destruction of property, whether real or personal, belonging to the Client arising from or in connection with any act or omission, negligence or other fault of any other person (other than the Agent) or arising out of or in connection with the Property or this Appointment of Property Agent.
11.3 The general conditions of sale shall be those set out in:	14. CLIENT AND AGENTS ACKNOWLEDGEMENTS
11.3.1 The Conditions of Sale by Public Auction: Real Property adopted by the REIQ; and	The Client and the Agent acknowledge that:
11.3.2 The Standard Conditions of Sale of Contract/Standard Conditions of Sale adopted by the REIQ and approved by the Queensland Law Society as the terms of Contract/Standard Conditions of Sale;	14.1 They have received a copy of the Property Occupations Act 2015 (Queensland) and the appointment of a property agent, resident letting agent or property agent, and have read and understood the Essential Terms and Conditions and any additional arrangements;
14. The Agent, in holding the Public Auction, subcontracting the performance of the Agent's services in reliance on the Public Auction, is acting as an agent licensed as an Auctioneer under the Act.	14.2 They have read and fully understood the Property Occupations Act 2015 (Queensland), the Schedule, these Essential Terms and Conditions and any additional arrangements including but not limited to those contained therein and agree to be fully bound by them.
14.1 The Agent, in holding the Public Auction, subcontracting the performance of the Agent's services in reliance on the Public Auction, is acting as an agent licensed as an Auctioneer under the Act.	15. ENTIRE AGREEMENT
14.2 The amount as specified in item F(4) of the Schedule as a fee for the Auctioneer's services.	15.1 This contract constitutes the entire agreement of the parties with respect to the subject matter of this contract and supersedes all other contracts, negotiations or understandings with respect to the appointment of the Agent to the Property.
14.3 AGENTS' ENTITLEMENT TO TERMINATION PENALTY	
14.3.1 In this Clause 12:	
12.1.1 Relevant contract means a relevant contract as defined in the Act; and	
12.1.2 Termination Penalty means the amount of the sum of the Purchaser's deposit and the Contract of Sale as defined in the Act.	

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Property Description Details over two pages, to record information about the property to be sold.

Essential terms and conditions.
Refer to *Annexure M* for further reading.

3.3 Keeping records

Records under the POA must be kept for 5 years, which includes the PO Form 6, any documents required under the Act in relation to a sale. Trust account records are also required to be kept for 5 years under the Agents Financial Administration Act 2014 (AFAA).

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Developer	Georgia Parkinson	Next Review Date:	Feb 2021	
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PART 2 | SELLING

UNIT 4 | QUALIFY BUYERS

4.1 Handling buyer enquiry

Buyers may enquire by phone, SMS, email, social media, or by attending an open for inspection. As with sellers, buyers' expectations for quick responses to phonecalls and emails is accelerating. Best practice would be to reply within one to four hours, and any more than 24 hours and the enquiry may have been lost.

The interaction with a buyer should be friendly and trust can be built by showing respect for people's time, needs, and expectations. Throughout the initial conversation the salesperson will seek to qualify the buyer. Agents who use effective questioning and listening can more readily interpret the customer's values, perspectives, fears and aspirations.

If the enquiry is about a particular property the salesperson might ask: *Did you initially find the property through our website, or did you see the signage? What initially attracted you to this particular property?*

4.2 Qualifying the buyer

Qualifying the buyer is all about determining what matters to the buyer, and what factors are likely to influence their purchase. Knowing what the buyer is really looking for is also very useful later, when closing a sale and negotiating on price with the buyer.

Information the agent wants to find out.	Examples of questions that could be asked.
The buyers' wants and needs.	<i>What type of property are you looking for?</i> <i>What size home are you looking to buy?</i> <i>What area are you looking in?</i> <i>What are your must-haves?</i> <i>What are your hoped-for features?</i>
The buyers' circumstances and motivations.	<i>Are you searching for a home to live in, or an investment?</i> <i>What's caused you to decide to look around for something to buy?</i> <i>Is this your first property purchase?</i> <i>How long have you been looking?</i> <i>Have you seen many properties so far?</i> <i>Do you need to sell before you can buy?</i>
The buyers' price range and financial capacity.	<i>What price range did you have in mind?</i> <i>Will you be organising finance? Have you spoken to your lender as yet?</i>
The buyers' preferred timing.	<i>What timeframe did you have in mind to buy?</i>
Who the decision-makers are.	<i>Are you buying the property with anyone else?</i>

	<i>Whose name is the property being purchased in?</i>
--	---

4.3 Adding buyers to your database

Adding potential buyers to your contact database means you can continue to contact them as new listings are signed up, and beyond. Customer Relationship Management (CRM) programs make this easier or some agents use a virtual assistant to take care of tasks such as sending follow up emails or SMS messages. Make sure that you first establish and keep record of the consumer's permission to add their details to your database or mailing list. Ensure that information is obtained, stored, and used with due regard for the privacy of the person. A consumer who has not been happy with your services is unlikely to want to keep hearing from you. If asked by a consumer to remove their personal details from a database or mailing list, ensure this is done.

Below is a simple version of a buyer enquiry record;

Name	<input type="text"/>	Date	<input type="text"/>
Telephone		Email	<input type="text"/>
Preferred contact method / time	<input type="text"/>		

Purchase requirements

Location	<input type="text"/>
Size / style	<input type="text"/>
Price range	<input type="text"/>
Preferred features	<input type="text"/>

Record of inspections

Properties seen	Buyers Response
<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>

4.4 Selecting properties to show

Information discovered during the qualification process is then used to determine which property listings might suit this buyer. Trust will be quickly lost if the buyer finds they have not been listened to and are being shown properties that do not meet their needs. Equally, sellers and salespeople don't want to show a property to people who have no interest in purchasing it.

If a listed property meets some of the buyer's needs, but not all, or if it is in a higher price range, let the buyer know, and discuss whether this excludes the property from the buyer's 'list of possibilities' or not. Ask relevant questions, such as *"This one ticks a lot of boxes for you, but lacks the fencing."*

Does that rule it out? or “I have a property that has more of the features you are seeking, but it is in a slightly higher price range. Would that be of interest?”

When first discussing a property with a buyer, introduce the property by pointing out the features that most closely match what the buyer is looking for. For example; for a buyer who has said they hate cooking, but love dining out, introduce a listing by saying *“This property is within two blocks of a popular café precinct”* rather than *“This property has a designer kitchen.”* Assuming that both facts are true, the property might have a designer kitchen, but this buyer won’t care about that.

The salesperson can also use promotional material to help the buyer learn more about the property to help them decide whether to view it. For example the agency will have;

- photos of the property and location
- 360 degree photos of rooms
- video ‘walk-throughs’
- floorplans
- website advertising
- local area information
- financial information on body corporate levies

The buyer may have already seen some of these materials, depending on how the enquiry originated. The salesperson should make decisions about which materials are most relevant in each case. Showing a 360 degree photo of the kitchen to those buyers who hate cooking, may not be helpful.

The aim of this process is to help the buyer decide which properties to inspect.

Tip: When discussing properties, the property for sale should only be represented on the owner’s price and terms to comply with PO Regulation 22, or, when discussing auction properties, section 214 of the POA requires that the salesperson cannot give the buyer any price information. They can show the buyer the same CMA they showed the seller when obtaining the listing, but only *if* the seller has authorised this.

4.5 Updating the seller

The salesperson should keep records of buyer enquiries and ensure that sellers are given regular feedback about the volume and nature of enquiry received as a result of the different forms of marketing being done on their property as per the PO Form 6. This can be done through a planned mix of phonecalls, face to face contact, and emails. A CRM program can assist to ensure this occurs with reliable frequency. Doing this reliably will ensure seller confidence in the agency’s ongoing marketing activities is maintained.

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UNIT 5 – SHOWING PROPERTY

5.1 Arranging appointments to show properties that are owner-occupied

Sellers are generally quite flexible about allowing a salesperson to show a buyer through on short notice, because they want a sale. Making arrangements can be as simple as phoning the seller, and ensuring you have the right keys. Sellers also usually agree to a series of open for inspections. It is generally preferred that the seller goes out during the buyer viewing for the comfort of the buyers.

5.2 Showing properties that are tenanted

It is important to understand the different rules of entry that apply to individual appointments compared to open for inspections.

5.2.1 Arranging individual viewings of tenanted properties

Showing buyers through tenanted properties can pose additional challenges. The tenant does not stand to gain from the sale, and often finds property viewings intrusive. Tenants are entitled to quiet enjoyment.

The tenant must be served with an RTA Form 10 to notify them the property is for sale before buyers can be brought through. Refer to **Annexure P** for a sample RTA Form 10.

Additionally, to gain access to show a buyer through individually by appointment, an RTA Form 9 is sent to the tenant each time. Refer to **Annexure Q** for a sample RTA Form 9. If a Form 9 is correctly served for an individual appointment, the tenant's permission is not needed but caution is advised to not create animosity with the tenant. It must be a reasonable time since the last time a buyer was brought through, but 'reasonable' is not defined. Entry cannot be before 8am or after 6pm, and cannot be on a Sunday or public holiday, unless the tenant agrees otherwise.

Sometimes the agency appointed to sell the property is not the same agency managing the rental. In that case a summary of the process is;

Lessor lists property for sale and advises their renting agent.



Selling agent completes sales sections of the RTA Form 10 and forwards this to the renting agent.



Renting agent completes the renting agent sections of the RTA Form 10, signs, and serves it to the tenant. A copy is sent back to the selling agent.



Each entry: Selling agent issues RTA Form 9 to the tenant & provides renting agent with a copy every time they enter.

As an alternative option, the RTRA Act does allow entry to be gained if the tenant agrees. If the tenant agrees to allow the salesperson to enter the premises to show a buyer through there is no

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RTA Form 9 required and 24 hours notice isn't compulsory in that case. This permission would have to be obtained each time, and the tenant is not obliged to agree. If the tenant does not agree, the salesperson would have to use the RTA Form 9 process.

5.3 Arranging Open for Inspections of tenanted properties

The rules regarding open for inspections are entirely different to individual inspections. Under section 204 of the RTRA Act, the salesperson must obtain the tenant's written permission to conduct an open for inspection. If the tenant will not agree, open for inspections **cannot** be done. The agent cannot simply serve an RTA Form 9 providing 24 hours notice that they are doing an open for inspection in the same way they can do for an individual appointment. Nor can the agent simply obtain verbal permission in the same way they can do for an individual appointment.

There is no RTA form provided to use to obtain the tenant's written permission, but REIQ has developed a form to serve this purpose. Refer to **Annexure T** to view this form.

If a tenant has agreed to open for inspections, as a courtesy the salesperson should remind them in writing each time, and show appreciation. Some tenants will agree to open for inspections because they would rather have a lot of people come through in a concentrated time span, than be repeatedly interrupted with individual viewings. Sometimes a lessor (who is also the seller) might agree to a rent reduction whilst the property is on the market, to compensate the tenant for the inconvenience.

5.4 Showing a property at an inspection by appointment

Some suggestions;

- Make access arrangements with the seller
- If a security system is in place, ask the buyer to wait until it is deactivated. This proper security procedure is a sign of professionalism.
- Use the best entrance to the property.
- Provide the buyer with a brochure about the property.
- Ensure that the property is safe to show the buyer through.
- Present the property in the best way to the buyer by ensuring the rooms have natural light; the house is at a comfortable temperature; and that the property is clean and tidy, both inside and outside.
- Let the buyer discover the property, but stay nearby.
- Give the buyer ample time to inspect each part of the property, and to visualise living in it. Do not hurry the buyer through the property, and do not move on to the next room until it is evident that the buyer is ready to do so.
- Encourage the buyer to ask questions because you want them to feel sufficiently informed so they are comfortable to make a buying decision.
- Point out features of interest. You have already qualified the buyer and have an understanding of their requirements, so personalise the property presentation by acknowledging the particular needs of the buyer when presenting the property. If the buyer has indicated that a deck is important, emphasise the fact that a particular property has a deck.
- Answer the buyer's questions completely and honestly, even if this means potentially losing a sale.

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- Ask the buyer about their impressions of the property. This is useful to determine if they are interested in the property. Any positive feedback they give on the property can also be used later to help close the sale and encourage them to pay a higher price.
- Use their feedback to help them decide whether to view other property listings
- Be prepared to change plans if the buyers are not responding to what is shown to them.
- Always ensure personal safety.
- Make records of inspections including who came through and their feedback.
- Provide feedback to the seller after the appointment.

5.5 Conducting an Open For Inspection (OFI)

- At listing stage ensure the seller is aware of the risks of open for inspections and that recommendations have been made to the seller to remove valuables and to check their policy terms with their insurer.
- Plan the OFI days/times to suit the availability of the target market and to show the property at its best.
- Promote the OFI through websites, print media, social media, signage, and other marketing such as promoting the OFI by letterbox dropping the area around the property.
- Plan and arrange signage and banners. Ensure compliance with council regulations on signage.
- Organise property brochures, and keys before the day.
- Arrive 15 minutes early to check through the property and to open up. Ensure everything presents well, and that there are no slip or trip hazards.
- Set up a laptop or tablet to run a video or scroll through a display of photos or background information or other promotional material about the property or the area that may interest those attending.
- Have a register - either hardcopy, or using an app on a portable device that allows people to register their details on arrival, or alternatively the salesperson enters their details into a mobile CRM software program.
- Greet people at the entry point, provide them with a brochure containing property details and photos. Provide a privacy statement which informs them that you do plan to use their details to make contact about other listings and obtain consent. Register their details in a way that is not visible to other people attending the open for inspection. Obtain consent to contact them again to let them know about other listings. Ask a few key questions to determine how they heard about the OFI, their buying situation, and if they have to sell too. Very personal qualification questions are not appropriate where privacy cannot be offered.
- Welcome people to look through.
- Ensure security: Don't have keys laying around. Monitor the arrival and departure of people. If possible have two people supervising the OFI.
- Seek feedback from people before they leave.
- Securely lock up after the OFI.
- Provide feedback to seller. For example; immediately afterwards by phone or in person, advising them of number of inspections and any feedback. On Monday update the seller with feedback obtained from buyers about the inspection. Later in the week, generate a written activity report, detailing the activity over the week since the open.

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UNIT 6 – SELLING

6.1 Buying signals

A buying signal is a clue that someone is interested in the property;

- asking lots of questions about the property
- going into rooms multiple times
- measuring or pacing out rooms
- discussing furniture placement or renovations
- staying until the end of the open for inspection
- asking questions about the contract terms and price
- making negative comments about the property and yet not leaving – generally a sign of a buyer who is interested but is perhaps trying to hint at disinterest as a price negotiation strategy

6.2 Closing a sale

When a salesperson notices a buyer is interested, the aim will be to engage effectively with the buyer and to move towards having a contract signed. A first-time buyer who loves the property but is nervous about taking the next step or a buyer who is being strategic by acting disinterested to set the tone for a price negotiation, might not want to say out loud that they want to buy the property. However, if the salesperson asks the right questions, the buyer might feel more comfortable saying 'yes', which will move the negotiation forward.

A salesperson should recognise their 'cue' when it's time to test the buyer's level of interest. Perhaps ask for the buyer's thoughts on the property, and encourage the buyer to ask any questions they have about the property to help them be certain they are making the right decision. If the salesperson hasn't already qualified the buyer, they should identify who the decision makers are, and attempt to check whether property features match the buyer's needs.

Can you picture yourself entertaining friends out here with this fantastic view?

Is this the sort of property you have been looking for?

Does this home meet all of your needs?

Do you want to own this home?

Points to consider;

- closing a sale is asking someone to make a decision
- asking too soon can make a buyer feel pressured
- people are afraid of making a mistake
- although scripts can help with what to say, it must sound natural and not rehearsed
- Section 59 of the Property Law Act requires all contracts to be in writing so a verbal offer is not binding. To act in the client's best interests a signed written offer on a contract document should be obtained – explain to the buyer that it's the best way to ensure their offer is taken seriously
- if they say 'no', ask what aspect is turning them off to learn more about what they do want

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6.3 Negotiating with the buyer

Because a salesperson must act in the client's best interests, this stage of the selling process involves trying to persuade the buyer to make their best offer – that means best price, and best terms to suit the seller. A salesperson cannot misrepresent facts or mislead buyers, but can use negotiation strategies. This process is a matter of reading the buyer, and making decisions about what to say, and when to say it. There is no one-size-fits-all approach to negotiation and an ability to think on your feet helps! The following are examples of strategies and approaches that can assist to persuade and to break deadlocks;

- Always represent the property at the price and terms as per your client's instructions, in accordance with PO Regulation 22.
- Reassure and encourage by linking back to what you learned about the buyer during the qualification stage *"This open living area is exactly what you'd said you were hoping for, and the home is in the right school catchment area for your family too."*
- When discussing price, remind buyers of what they love about the property.
- If a buyer points out a negative it can just be a smokescreen to try to lower the price - rather than becoming defensive, ask them if they have any ideas on how to make that particular aspect better suit their needs.
- Fear of missing out. *"I'd hate to see you miss out on this one."* or *"If you offer low, the seller may reject the contract outright rather than counter-offering."*
- Add perspective. Remind a buyer who has become so determined to reduce the price by a small amount that they are buying something they will live in and create memories in for the next ten or twenty years of their lives.
- If a negotiation comes down to a relatively small price difference, trivialise the difference. *"The seller has come down from their initial list price to move closer to your offer. So right now, the only price gap standing between you and owning this gorgeous home, amounts to less than the price of a small car..."*
- Alternative-choice close. *"Would you prefer to own this home, or the one you saw on Smith Street?"*
- Empathy. *"I felt just as cautious as you do right now when we first bought in this area, but it's been the best decision we've made."*
- Explain what the seller reactions have been to the buyer's initial offer. *"The seller is willing to agree to that longer settlement you prefer, but they want to see something a lot higher in terms of price."*
- Make suggestions on ways the buyer can compromise or improve their offer in a way that benefits the seller, relating to price, dates, and terms.
- Sweeten the deal, such as offering inclusions that the seller will leave behind – **only if** the seller has authorised this in their instructions.
- Keep notes and provide progress reports to the seller.

6.3.1 Negotiating styles

There are several negotiating styles. Agents should be aware of some of these and be able to recognise them in their agency's buyers.

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- The self-denying approach involves the denial of personal feelings and holding back views or opinions because of the fear of upsetting the other parties. These types of negotiators rarely achieve a win-win result and often end up in a losing situation.
- The self-exposing approach involves being the centre of attention. These people push their own views forward, speaking loudly or speaking over the top of others. They often ignore the views of other parties. This can make a win-win result equally difficult to achieve.
- Self-realising negotiators seek a balanced approach to negotiation. They are keen to put their own view and equally keen to hear the other parties' point of view. These people are very focused on achieving goals and if the goal is to settle a negotiation they can be very effective.

6.4 Offer and acceptance

An offer may be directed specifically to an individual or to a group of people. The offer and all the terms and conditions of the offer must be communicated either verbally, or in writing. However, a verbal offer, if accepted, must be committed to paper and signed by all parties for it to be an enforceable contract. Refer below to Section 59 of the Property Law Act (Qld).

Section 59 Contracts for sale etc. of land to be in writing

No action may be brought upon any contract for the sale or other disposition of land or any interest in land unless the contract upon which such action is brought, or some memorandum or note of the contract, is in writing, and signed by the party to be charged, or by some person by the party lawfully authorised

A clear example of the result arising from failing to communicate the terms and conditions of the offer may be:

The buyer makes a written offer but does not mention that they need a finance condition. Therefore the buyer is bound by the cash offer if the seller accepts and signs the written offer, thereby forming a contract.

An offer can specify conditions to be followed in acceptance. For example, a buyer sends a faxed offer to a seller and stipulates that the acceptance is to be faxed back immediately. If the seller accepts the offer by signing the contract but then sends it by courier instead of by return fax, the buyer is entitled to elect not to be bound by the contract.

The agent should inform the seller that an offer can be revoked or withdrawn any time prior to acceptance, and that the seller should not procrastinate, or unnecessarily delay, communicating the response.

An offer can lapse if the seller has not responded within a reasonable time. The courts will determine what a reasonable time is.

The rules concerning the acceptance of an offer are that:

1. Acceptance must be communicated to the person making the offer. This means that even though the seller has signed a contract, the contract is not enforceable until acceptance has been communicated back to the person making the offer.
2. It is important that the agent telephones the person making the offer to notify of the acceptance immediately contract is signed and delivers the signed contract to the other party forthwith.
3. Acceptance must be unconditional otherwise it will be considered a counter-offer.
4. Acceptance, once made and communicated, cannot be revoked.

In Queensland, there is not a statutory document provided by government for the sale of houses, units or land. The REIQ produce a number of contracts which are commonly used to fulfil the

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legislative requirements of the contracts of the sale of land to be in writing (as per the Property Law Act).

When completing a binding land contract, the Queensland Land Contract differs from Contracts in other States of Australia.

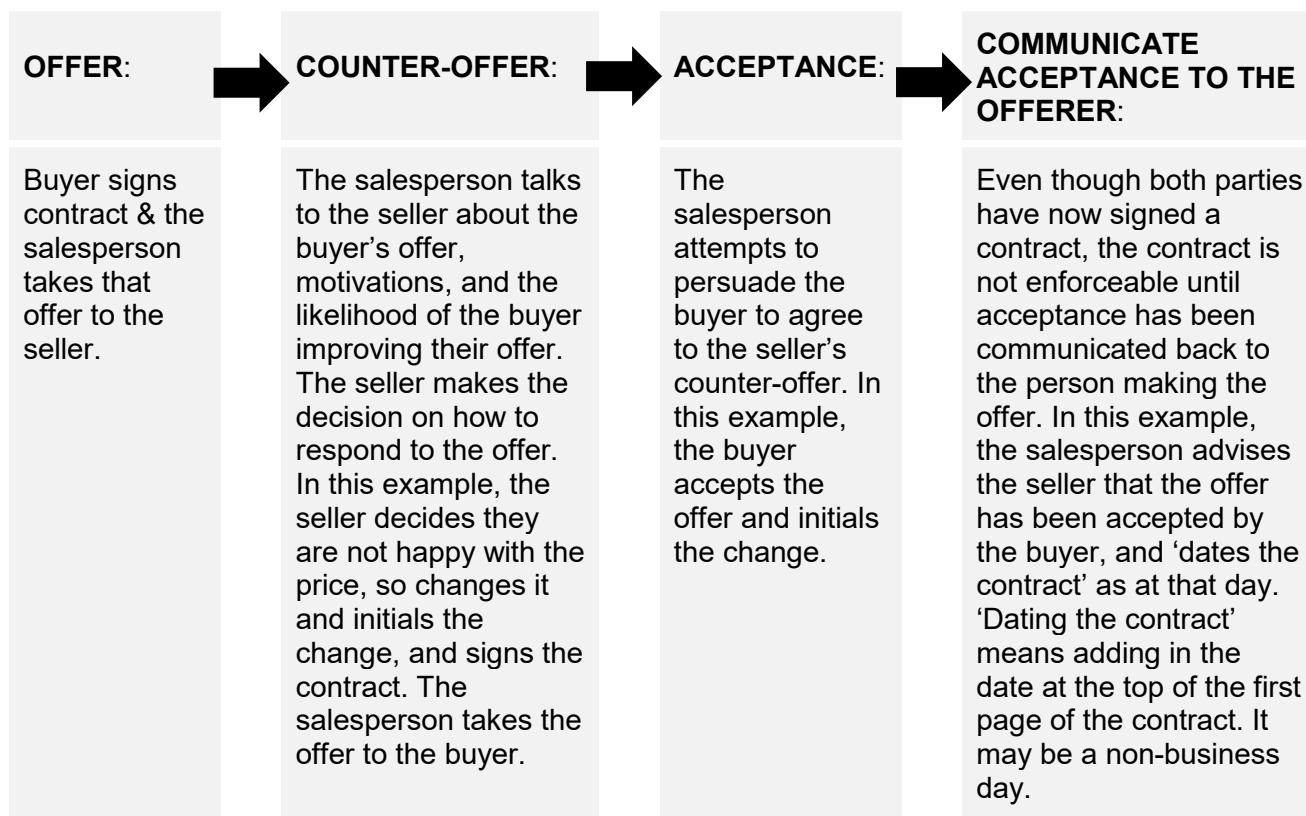
There is other documentation which must form part of the contract process, that must be provided to buyers in a private treaty and tender sales situation, which agents must know and be very familiar with. These documents include the Property Occupations Form 8 – Disclosure to prospective buyer and BCCM (Body Corporate and Community Management Act) Form 14 Information statement.

Once the buyer has committed to a contract in writing, and the offer is provided to the seller; the seller has three options

1. reject the offer outright
2. accept the offer and sign the contract
3. make a counter offer

The counter offer is commonly a price change or it could be a special condition change such as rejecting the request of a buyer wanting an extended time frame within the contract to sell their existing property. The offer would then be taken back to the buyer and the agent would continue their duty as a communicator and negotiator on behalf of their seller

The counter-offer process may look like this;



6.5 Multiple buyers

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It is very fortunate for a seller if more than one buyer is interested in buying their property. The salesperson must act in the client's best interests, and treat both (or all) buyers fairly. Steps for dealing with multiple offers:

1. As soon as a salesperson is aware that more than one party wants to buy the property, they inform the licensee/sales manager and the client immediately. Office procedures are explained to the seller to ensure this suits them. The salesperson follows instructions and conducts negotiations with the buyer in accordance with seller instructions.
2. Salespeople should not share any details of a buyer's offer with any other buyers. Each buyer should be informed (preferably in writing) that there is other interest in the property so they understand they have competition. The REIQ provides a multiple offer form which can be used for this purpose. This form can be viewed in **Annexure R**.
3. Each buyer is encouraged to make their best offer on their best terms and conditions. Their offer is made on a signed contract which will be presented to the seller. If one buyer has already submitted a contract before it became a multiple buyer situation, they should be advised and given the opportunity to change their offer. Establishing a deadline with all parties is helpful.
4. When discussing the two offers with the seller, point out not only the prices, but also the terms. Many sellers prefer contracts with less conditions, so a cash contract might be more appealing than one that is subject to finance. A seller might prefer a shorter or longer settlement timeframe, or prefer a contract where the buyer is borrowing a smaller amount because that means their finance is more likely to be approved, or any number of variables other than price. To ensure fairness in negotiations, the expressions of interest might be presented to the seller by the licensee or sales manager – not the salespeople dealing with the buyers.
5. The property is **not sold** until negotiations have been completed and the seller has signed a contract, and acceptance has been communicated, and the contract dated.

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UNIT 7 – CONTRACT STAGE

7.1 Receiving Deposits

A deposit is an initial amount paid by the buyer, as part of the purchase price. The law allows a seller and buyer to agree to a contract with no deposit, however most sellers would be reluctant to agree to this. The amount of the deposit is a matter that can be negotiated between seller and buyer. A salesperson should seek instructions from the seller when first listing the property, and as circumstances arise.

If it is agreed that a deposit is to be paid, this will be stated on the contract document that the seller and buyer sign. It might be payable over two payments; for example an initial deposit on signing, and a further amount payable on a later agreed date. The contract must be completed to show what the parties have agreed to. The buyer must pay the amounts as per the contract they have signed.

Prudent agents will ensure that an initial deposit paid by a buyer is at least equal to 0.25% of the purchase price, so that it would cover the termination penalty if a buyer cools off after the contract is signed. Prudent agents also ensure that the total deposit is going to be sufficient to cover the agency commission, which allows for simpler processes at settlement.

If a buyer does not pay a deposit by 5pm on the date stated on the contract, the salesperson must not accept a late payment from the buyer without first obtaining written instructions from the seller. This is because the seller might wish to terminate the contract instead.

The buyer pays the deposit to the agency trust account. If the deposit is received in the office by cash or cheque, it must be receipted, and banked into the agency trust account by the agent before the end of the first business day after it was received. If it was received by electronic payment, the receipt must be completed as soon as the agency is aware it has been received.

7.2 Property Occupations Form 8

A PO Form 8 must be used to make a disclosure to a buyer, if the licensee or salesperson has a personal or commercial connection with any third party the agency refers the buyer to for professional services. The PO Form 8 is also used to disclose where the agency will derive a benefit as a result of making the referral. This includes referrals to finance brokers, accountants, valuers, solicitors, building inspectors, etc. The details of the connection or benefit must be included in the form. For an example of a completed PO Form, refer to **Annexure S**.

This applies to residential sales only.

For the protection of the buyer where the requirement to make a disclosure under section 157 arises, a PO Form 8 must be completed, signed and given to the buyer. The buyer must sign this before a contract is entered into.

If there is nothing to disclose, the PO Form 8 is not required.

7.3 Property Occupations Form 7

A PO Form 7 must be used to disclose a circumstance of 'beneficial interest' to a seller. This arises if a seller has listed their property for sale with an agency, but then the salesperson or licensee wants to buy that property. It also extends to situations where the buyer is an 'associate' of the salesperson or licensee – which is defined in the schedule of the POA - spouse, defacto, sibling, parent, child, or child of spouse or defacto. It also applies if the buyer is a corporation where the licensee, registered

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employee, or associate, is an executive officer or member of that corporation. This is a summary only and section 153 of the POA should be read for a more comprehensive explanation.

For the protection of the seller, where beneficial interest arises, a PO Form 7 must be completed, signed, and given to the seller. The seller must sign this before a contract is entered into.

If a salesperson or licensed agent obtains beneficial interest and has not complied with this disclosure requirement, the maximum penalty is 200 penalty units or 3 years imprisonment.

7.4 Body Corporate disclosure

When selling units, townhouses, or any lot in a community titles scheme, a salesperson should be aware of section 206 of the Body Corporate and Community Management Act. This section requires a seller to disclose certain information to a buyer before the contract is entered into. Information must be substantially completed and include;

- Contact details for the Body Corporate Secretary and Manager (the Manager may be a specialty management company)
- The amount of annual contributions payable by the lot owner
- Identify any improvements on common property that the lot owner is responsible for
- Identify body corporate assets
- State whether there is a Body Corporate Committee and an appointed Manager
- Other information required depends on which Regulation module the particular Body Corporate has been established under – there are 5 Regulation modules
- Signed by the seller (it is not best practice for the salesperson to sign this for the seller)

This required information can be obtained from the body corporate Secretary or Manager. Some Body Corporate Management companies will complete the disclosure and provide it to the seller or agent, to give to the buyer. There is no disclosure form provided by government to serve this purpose, but REIQ have developed a form that can be used. An example can be found in **Annexure U**.

7.5 Contract documentation

7.5.1 Essential elements of a valid contract

A valid contract is an agreement made between two or more parties whereby legal rights and obligations are created which the law will enforce. The terms 'contract' and 'agreement' are often used with the same meaning. Whilst these respective terms may not always be exactly the same, a real estate contract involves elements of agreement.

For rights to be acquired, and obligations met under a contract, six essential elements must be present for a contract to be valid. The six essential elements are:

1. Intention to create legal relations
2. Offer and acceptance (agreement)
3. Valid consideration
4. Legal capacity

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5. Genuine consent
6. Legality of objects

The absence of any one of the previous six essential elements may render the contract void, voidable or unenforceable.

- Void: A void contract is of no legal effect and therefore does not create legal rights or obligations. It is not really a contract
- Voidable: A voidable contract is capable of being disclaimed at the option of one of the parties, so it may or may not remain a contract
- Unenforceable: An unenforceable contract is valid but by reason of a technical defect is not capable of being enforced by legal action

7.5.2 Information discussed with the buyer

Electronic consent should be established with the buyer that will allow documents to be emailed to them. Note: A salesperson should have already established an electronic consent with the seller when the property was first listed.

Continue to use negotiation techniques throughout the process of having the contract signed by the buyer, to the benefit of the seller (client).

Show the buyer any special conditions the seller has had their solicitor draft for inclusion on the contract. The buyer may wish to seek additional legal advice before proceeding.

Ask the buyer for the details for the contract, such as;

- Contact details
- Solicitor details
- Price they are offering
- Lending institution and amount they are borrowing if applicable
- Building and pest inspector if applicable
- Pool inspector if applicable
- Any special terms they have had their solicitor draft for inclusion on the contract

Explain the buyer's rights in relation to cooling off, and point out where this is stated on the contract – which the POA requires to be written on the contract immediately above (and on the same page) as the place where the buyer will sign the contract. Points to note are;

- The cooling off period is counted from when the buyer (or their solicitor) is given the copy of the fully signed and dated contract. If the day it is given is a business day, that is counted as 'one'. It does not have to be given before 5pm for that day to be counted as 'one'. If the day it is given is not a business day, the very next business day is counted as 'one'.
- The cooling off period ends at 5pm on the fifth business day.
- Example; a contract given to the buyer on Thursday 10th May, 2018, at 7pm is given on a business day so that is day 'one'. The weekend is not counted. The cooling off will end at 5pm on Wednesday the 16th May, 2018.
- If the buyer cools off during the cooling off period they must notify the seller. The seller is entitled to retain a termination penalty of 0.25% of the contract price.

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- After the cooling off period has ended, the buyer cannot cool off.

7.5.3 House and Land contract

The following notes should be read in conjunction with the completed house and land contract in **Annexure V**.

The contract in Annexure V has been created by REIQ and Queensland Law Society.

Contract date: The date at the top of the first page of the contract is never completed until the contract is fully signed, and acceptance has been communicated. *You can refresh your memory of this process by reviewing section 6.4 of this manual.* However when preparing a contract for signing, a salesperson will need to have a presumed contract date in mind. This is because other timeframes calculated in the contract are going to be counted from the presumed contract date. The presumed contract date will be the date the salesperson thinks the seller and buyer will reach their final agreement on price and terms. Depending on how close the buyer's offer is to the seller's expectations, the salesperson might think that will occur on the same day as the buyer makes the offer, or in a few days time. In the example in Annexure V, we will assume the salesperson has made an educated assumption that the contract date will end up being Monday 4th June, 2018, and all other dates will be worked out from that.

Seller and Buyer details: The relevant names and contact details should be completed for the following sections;

- Seller's agent – the agency that has the property listing.
- Seller - As per title search.
- Seller's solicitor – as advised by the seller.
- Buyer – As per verified identification.
- Buyer's agent – If applicable.
- Buyer's solicitor – as advised by the buyer.

Property:

- Include the address
- Indicate if it is built-on or land only
- From the title search show the lot number, and write the plan number where it reads 'on' _____
- Show the title reference number
- Show the area
- Indicate freehold or leasehold
- State the present use. This must be the current lawful use or otherwise it could allow the buyer to terminate the contract at a later stage.
- Local government means name the relevant Council
- Excluded Fixtures – Any attached items that the seller is not leaving behind at settlement.
- Included chattels – Any non-attached items that the seller is leaving behind at settlement, including brand and model details.

Price:

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- Deposit holder will usually be the selling agent, and the agency trust account details are added.
- Show the price the buyer is initially offering. This could later change if counter-offers are made and initialled by all parties. In this example the price is \$700,000.
- Show any initial deposit amount payable when the buyer signs the contract, or at a later date if specified. In this example the initial deposit is just sufficient to cover the cooling off termination penalty, being \$1750. Some salespeople will allow a slight buffer in case the sale price is negotiated higher.
- Show any balance deposit payable and the date it is payable. In this case the seller wants a total deposit that is 5% of the purchase price. That equals \$35,000, but because \$1750 is paid initially, then the balance of deposit required will be \$33,250. (\$35,000 minus \$1750). In this case they want the balance of deposit payable by 5pm on 26th June.
- Default interest rate – this is left blank and therefore defaults to the rate published by the Queensland Law Society. This is the interest rate that applies if the buyer does not pay an amount under the contract on the due date. Refer to contract term 9.9

Finance:

- Show the amount the buyer is borrowing.
- Name the financier they intend to use.
- If the finance date is not completed it means the contract is not subject to finance – e.g. a cash buyer. If a date is inserted it means the buyer is making the contract conditional upon them being approved for finance. The date must be a business day. In this example the buyer has asked for 21 days to organise their finance. Counted from the presumed contract date of 4th June, 2018, the finance date will be Monday 25 June, 2018. This means the buyer has until 5pm on the stated date to organise their finance and notify the seller that either they have been approved and are continuing with the contract, or, that their finance application has not been approved and so they are ending the contract. If they end the contract because of finance being declined, the seller returns the buyer's deposit with no penalty. If the buyer fails to notify the seller either way by 5pm on the 25th, the seller could terminate the contract as per contract term 3.
- If finance is the final contract condition to be met, then the contract is said to go 'unconditional' once that occurs.

Building/Pest inspection date:

If this section is not completed it means the contract is not subject to a satisfactory building and pest inspection. If a date is inserted it means the buyer is making the contract conditional upon them obtaining a satisfactory building and pest report, at their cost, and then having the opportunity to proceed or end the contract depending on the results. The date must be a business day. In this example the buyer has asked for 7 days to organise their inspection. Counted from the presumed contract date of 4th June, 2018, the deadline date will be Monday 11th June, 2018. This means the buyer has until 5pm on the stated date to organise the building and pest inspection, and notify the seller that either they are proceeding with the contract, or ending the contract. If they end the contract due to an unsatisfactory building and pest report, the seller returns the buyer's deposit with no penalty. If the buyer fails to notify the seller either way by 5pm on the 11th, the seller could terminate the contract, as per contract term 4.

Matters affecting property

The completion of this section depends on the title search. There is no requirement to show 'crown rights' or a seller's mortgage that appears on the title. However if there is an easement, this must be shown on the contract, using full detail as per the title search.

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Tenancies and Managing agent

State 'nil' if the property is owner-occupied. Also state 'nil' if the property is tenanted but if the seller has agreed to provide vacant possession. Essentially this would mean tenant will be required to vacate before settlement by the seller. This is only possible if the tenancy is periodic and is given correct notice, or if the tenant has mutually agreed in writing with the seller (lessor) to vacate before the end of their fixed term. When a periodic tenant is asked to vacate due to a sale, this will mean the tenant being served with a 4 week notice to vacate (RTA Form 12) by the Property Manager at the stage that the contract is unconditional. It also means the salesperson will have calculated the settlement date to allow a further 4 weeks after the notice is served for the settlement date, plus days for tenancy finalisation. Refer to **Annexure W** for a calendar showing how this could be worked out. If the intention is that the tenant will remain in the property beyond settlement, then the tenant and managing agent details are inserted onto the sale contract. In our example, the seller lives in the property so there is no tenancy or managing agent.

Pool safety:

Q1. Indicate if there is a non-shared pool at the property. If no, the other questions in this section do not require answering and no pool safety inspector details are needed.

Q2. If there is a pool, does it have a safety certificate. If yes, the next question in this section does not require answering and no pool safety inspector details are needed.

Q3. If the pool does not have a certificate, has the buyer been given a notice of no pool safety certificate? Refer to **Annexure Y** for an example.

Note: If the pool does not have a safety certificate, and if the buyer settles with that being the case, the buyer is then legally obligated to have the pool inspected and ensure it is compliant. At that stage the buyer is the new owner, so any costs involved would be theirs. This makes buyers nervous because costs are unknown. For this reason, most buyers make the contract 'subject to a pool safety inspection'. This is done at their cost, and once they see the report they can decide whether to proceed or terminate the contract. If this is the case, the contract is completed to show the name of the pool inspector, and the deadline date. The date must be a business day. The buyer has until 5pm on the stated date to advise the seller of their intentions. This is linked to contract term 4.

Electrical safety switch

Indicate whether or not there is a safety switch installed. If there is not, the seller's solicitor must notify the electrical safety authority at settlement. The buyer then is responsible for installing this within 90 days of settlement.

Smoke alarms

Indicate whether or not there are compliant smoke alarms. The seller must ensure there are compliant smoke alarms.

Neighbourhood dispute

The seller must disclose to the buyer whether there is an application or order in relation to a dispute about trees or fences, and provide a copy before the buyer enters into the contract. Failure to do so can allow the buyer to terminate the contract. The relevant legislation is the Neighbourhood Disputes (Dividing Fences and Trees) Act 2011.

Special conditions

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These cannot be drafted by the salesperson or licensed agent because of the Legal Professions Act. They can be drafted by a legal practitioner, or by the seller or buyer as parties to the contract. They are then provided to the salesperson for inclusion on the contract. Special conditions are negotiated between seller and buyer, just like price and other terms. The parties can seek their own legal advice and will only sign to agree once they are satisfied with the wording.

Settlement

The seller and buyer agree on a settlement date which is stated on the contract. This is the date that the ownership will change from seller to buyer. The date must be a business day. The date must allow enough time for the solicitors and financial institutions involved to perform their required functions after the contract has gone unconditional. A settlement about 30 days from the contract date is quite common. The settlement will need to be longer if there is a tenancy to be ended before settlement, or if the buyer requires approvals from the Foreign Investment Review Board, or other conditions requiring longer timeframes. In the example in Annexure V it is a straightforward settlement, and the agreed settlement date is 30 days from the presumed contract date, which works out to be 4th July, 2018.

Signatures

Point out the provisions of cooling off, if not already done. The parties sign. The agent signs as deposit holder when they receive the initial deposit from the buyer.

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Terms of Contract

These have been drafted by legal practitioners and are the terms approved by REIQ and Queensland Law Society. Common special conditions drafted concerning residential property sales are:

- Subject to the sale of the buyer's property
- Subject to the completion of the sale of the buyer's property
- Subject to the transmission of title by death
- Subject to the registration of the registered plan
- Subject to the completion of building works

7.5.4 Lots in a Community Title - property contract

The contract for lots in a community title is similar to the house and land contract. There are some additional sections on this contract where details about the body corporate are required to be added.

Refer to **Annexure X** for a completed example.

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UNIT 8 – MANAGING A CONTRACT AND SETTLEMENT

8.1 Contract distribution

- Seller
- Seller's solicitor
- Buyer
- Buyer's solicitor
- Financier
- Agency file
- A conjunction agency if applicable

8.2 Monitoring contract dates

The following important dates should be noted in the salesperson's diary for monitoring and follow-up:

- End of cooling-off period
- Finance approval
- Payment of balance of deposit
- Building and pest and pool inspection
- Any other special conditions
- Settlement

The salesperson should stay in touch with the buyer to ensure that the contract proceeds smoothly. For example; a few days after a contract is signed up, if the salesperson has not heard from a building and pest inspector wanting to arrange access, the salesperson could call the buyer and check if they have made arrangements.

If the buyer is purchasing subject to finance, the salesperson should diarise and monitor the contract finance date. The salesperson should expect to hear from a valuer from the relevant bank wanting to access the property well before the finance date. As soon as the valuer gets in touch, the salesperson should liaise between the valuer and the seller to arrange access to the property. If the salesperson does not hear from a valuer appointed by the bank, they should follow up with the buyer before the date, and seek updates for the seller.

The salesperson should keep records of communications with the buyer so as to keep the seller updated about the progress of the contract, and notify once relevant dates and events have occurred.

8.3 Insurance on the property

As per clause 8.1 of the terms of the sale contract, the property is at the buyer's risk from 5pm on the first business day after the contract is dated. The buyer should contact an insurer and organise property insurance over the phone. The seller should not cancel their property insurance until the contract has settled.

8.4 Buyer wanting access to the property before settlement

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As per clause 8.2 of the terms of the sale contract, the seller must allow the buyer to enter the property before settlement to serve the following purposes;

1. once to read any meter
2. for inspections under clause 4 (building and pest, pool inspection)
3. once to inspect before settlement
4. once for a valuation

The salesperson will liaise with the seller and buyer to facilitate these arrangements.

8.5 Termination of the contract by the seller or buyer

If the contract is terminated this means it will not be settling. The agency must receive notifications from both seller and buyer (or their respective solicitors) both instructing the agent on whether to pay the deposit held to the seller, or to the buyer. This will depend on the reason for the contract being terminated, and the terms and conditions contained on the signed contract. It may just be a straightforward matter of the buyer terminating because their finance application was declined. In that case, the following process applies;

- a salesperson must be very careful to obtain proper authorisations from both parties
- a salesperson must keep on file all correspondence received and sent
- If both parties instruct the agent to pay the deposit in a certain way, the agency will do so and their trust account financial records will be updated to show the money has been disbursed
- In this case the agent will not be entitled to a percentage of the sale price as commission.

On other occasions the contract may be terminated because one party is in breach of the contract. Clause 9 of the contract terms outlines the actions that can be taken by either party (seller or buyer) if the other party is in default under the contract however the solicitors for the parties would handle these matters.

When a contract is terminated, a salesperson should be very careful to obtain proper authorisations from both parties, and to keep on file all correspondence received and sent. If both parties give the agent the same instruction to pay the deposit in a certain way, the agency trust account financial records will be updated to show the money disbursed in accordance with those instructions.

If the agent receives conflicting instructions from a seller and buyer on what to do with trust account money, the provisions of the Agents Financial Administration Act apply. More detailed advice should be sought from the agency accountant and/or legal advisor.

8.6 Extensions of contract dates

A buyer might contact a salesperson to request an extension on a date for finance, or for their building and pest inspections, or for settlement. The salesperson should make any appropriate recommendations to help the buyer resolve the issues, but if they do need an extension the salesperson should advise the buyer to contact their solicitor.

The buyer's solicitor will make the request to the seller's solicitors. However a salesperson should also be proactive and let the seller know what is happening, taking the opportunity to calm any concerns before they hear the news from their solicitor. This will lessen the likelihood of anyone misreading the situation.

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The salesperson should diarise all communications, and continue to monitor the progress with the seller and buyer. If the parties all agree to change a date on the contract, this is confirmed in writing between the parties through the solicitors. The salesperson should be notified but does not alter the signed contract in their records.

The salesperson should follow the client's lawful instructions.

8.6.1 What is e-Conveyancing?

e-Conveyancing minimises the manual processes and paperwork associated with property settlement by enabling lawyers, conveyancers and financial institutions to transact together online. It enables the parties to lodge documents and complete financial settlements electronically.

e-Conveyancing also reduces the risk of errors and delays, giving real estate professionals and their buyers and sellers greater certainty of successful, on-time settlement.

e-Conveyancing is an initiative championed by the property industry to simplify and digitise the complex process of property exchange. Instigated by the Council of Australian Governments (COAG), it's built around an online network of members supported by PEXA.

What does this mean for real estate businesses?

- Instant notifications: PEXA can instantly let real estate agencies know once settlement has occurred.
- Improved customer satisfaction: With PEXA, sellers and buyers will have greater certainty that their settlement will occur as scheduled.
- Access money fast: Agencies can elect to have their commission paid directly out of financial settlement funds, as a direct disbursement. (Not applicable in all states).
- Digital transformation: In the 21st century customers expect digital services for greater convenience and ease of use, including innovations such as online banking and digital content streaming. Ensure your clients settle online and improve their experience.

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8.7 Confirmation of settlement

The settlement process is completed by the solicitors (or their appointed settlement agent) and the financiers involved. Once settlement occurs, the parties are notified, and they will notify the agent.

8.8 Keys at settlement

Keys are usually left with the agent by the seller. These are held at the agency office until written authorisation has been received from the seller's solicitor to allow handover of keys to the buyer. This will be on settlement of the contract.

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8.9 Tenancy documents at settlement

If there is a tenancy at the sold property, on settlement the seller must provide the buyer with records as per term 5.3 of the sale contract. This includes providing the tenancy agreement, a notice to each tenant advising of the sale, and an RTA Form 5 to transfer the bond into the name of the new owner or the new owner's managing agent. The seller might instruct their managing agent to assist with meeting this obligation. Generally the new managing agency will expect to receive all relevant tenancy documents, and the two agencies should approach their roles in the transaction with professionalism.

8.10 Disbursement of deposit by agent

Settlement notifications from both parties' solicitors will instruct the agent to pay the deposit amount held to the seller, minus the agency commission, and minus other authorised deductions. The payment to the seller is made before the payment to the agency.

The agency is only holding the deposit, not the full purchase price. The seller will receive the deposit from the agency, and the balance of the purchase price from the buyer.

The agent is required to account to the seller for money received and paid out on their behalf through the trust account. A seller's statement is called an account sales, or tax invoice. The agency must make the disbursement and provide the account sales within 14 days of being instructed, but usually this is done immediately by electronic disbursement.

For the sale contract in unit 7.5.2 and Annexure V of this manual, the calculation would be made as follows;

- agency received \$1750 plus \$33,250, which means the agency is holding a total deposit of \$35,000
- the total sale price was \$700,000. If the agency commission on the PO Form 6 is 3.3% then the agency commission is \$23,100.
- Assuming the advertising costs were paid by the seller when the property was first listed for sale, this will not need to be deducted from the deposit now.
- This means the seller will be paid deposit held (\$35,000) minus commission (\$23,100), which leaves \$11,900 paid to the seller.

At settlement, the above figures would be set out in an easy to read statement format on an account or tax invoice for the seller.

Date 04/07/2018		*REIQ Realty Letterhead*	
To: Jonathon Snell PO Box 43 BROWNS PLAINS QLD 4767		From: REIQ Realty 1 REIQ Ave, BRISBANE CITY QLD 4000	
Re: ACCOUNT SALES: 63 Starfish Drive, BROWNS PLAINS			
Dates	Details	Paid out	Received
04/06/2018	Initial Deposit Received from Stephen Black		\$1,750
26/06/2018	Deposit Balance Received from Stephen Black		\$33,250
Total in Trust		\$35,000	
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19/01/2020	Payment to Jonathon Snell BSB 123-123 Account 456789	\$11,900	
19/01/2020	Commission to NJB Pty Ltd T/A REIQ Realty	\$23,100	
Total Paid out		\$35,000	

UNIT 9 – AFTER SETTLEMENT

9.1 Satisfaction surveys

Seeking opinions and comments from sellers and buyers about their experience with the agency after a transaction is a great way to obtain objective feedback. This can be done in a number of ways, however written or online surveys are less intimidating than phone surveys.

Surveys must be quick and easy to complete, otherwise nobody will choose to participate.

In addition to seeking feedback on the services provided, the survey can also include questions that seek to establish consent to stay in touch, or that ask the person if they know of anyone else with real estate needs that they would be happy to refer the agency to. *“Do you have any other real estate requirements we can help you with?” “Would you recommend our service to friends and family?” “Would you like us to send you monthly market updates?”*

Always ask a happy seller or buyer for a testimonial – it can be as simple as recording them on your phone as they speak briefly about their experience.

9.2 Maintaining long term relationships with clients

Sections 1.3 and 4.3 of this manual contain information about adding sellers and buyers to a database to allow future and ongoing contact, as a great source of future business or referrals in the short and long term. The goal is to be the first salesperson they think of next time they have a real estate need.

UNIT 10 THE SALE OF BUSINESSES

10.1 Contract

A contract for the sale of businesses has been produced by REIQ and the Queensland Law Society. This contract is available on Realworks.

10.2 Due diligence

The buyer of a business will wish to conduct a due diligence process before deciding to purchase an existing business, to ensure they are not taking on financial and legal burdens they would rather avoid. This process involves requesting the disclosure of information from the seller of the business. Business Queensland advise this process will take approximately 30 days, and warns buyers to be wary if a seller will not disclose relevant information. Business Queensland also recommends that buyers obtain a valuation of the business before deciding what to pay.

A buyer may appoint a buyer's agent to conduct this process for them.

Business Queensland provide the following checklist for anyone considering buying a business.

A buyer is strongly advised to carefully review:

- income statements
- records of accounts receivable and payable
- balance sheets and tax returns including business activity statements (last 3-5 years)
- profit and loss records (last 2-3 years)
- cash deposit and payment records, as reconciled with the accounts
- utility accounts
- bank loans and lines or letters of credit
- minutes of directors' meetings/management meetings
- audit work paper files (if available)
- the seller's claims about their business (e.g. their reasons for selling, the business's reputation)
- privacy details (e.g. of employees, trading partners, customers)
- stock
- details about plant, equipment, fixtures, vehicles (are they in good working order and licensed?)
- intellectual assets of the business (e.g. intellectual property, trademarks, patents)
- existing contracts with clients/staff
- partnership agreements
- lease arrangements
- details of the business's automated financial systems
- details of credit and historical searches related to the business.

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