

Appointment of real estate agent

- Commercial and industrial sales, leasing and property management

Property Agents and Motor Dealers Act 2000

This form is effective from 1 July 2009

Department of **Employment, Economic
Development and Innovation (DEEDI)**

WARNING

The client is advised to seek independent legal advice before signing this form.

This appointment 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.

Instructions

This form enables a person (the 'client') to appoint a real estate agent (the 'agent'):

- for the sale or purchase of property, land and businesses (other than residential property); or
- to perform one or more letting, leasing or property management services for the client (other than residential property).

Please complete in **BLOCK** letters. Attach extra pages if needed. All references to dates should be in DD/MM/YYYY.

If you need help completing this form, please contact the Office of Fair Trading on 13 74 68.

Part 1—Client details

To be completed by the client (the person/ company who the service will be performed for).

Full name/s:

Company name:
(if applicable)

BN / ACN:

ABN:

Address:

Registered for GST: ☐ Yes ☐ No

Phone:

Fax:

Mobile:

Email:

Part 2—Agent details

Agency name:

ABN:

Licensee name:

Address:

Phone:

Fax:

Mobile:

Email:

Licence number:

Licence expiry:

Registered for GST: ☐ Yes ☐ No

Part 3—Property/business details

Please provide details of the property or business (e.g. industrial premises) to be sold, leased or managed.

Address:

Lot:

Plan:

Title reference:

Description of property/type of business:

Part 4—Appointment of agent

4.1 Appointment of agent

If insufficient space, please attach schedule.

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

☐ Letting/leasing of property

☐ Collection of rent

☐ Purchase

☐ Sale by auction

☐ Sale by private treaty

☐ Sale by tender

☐ Other real estate service/s (please specify)

(if insufficient space, please attach schedule)

4.2 Assignment clause

Mark the box whether you agree or disagree with the assignment.

In the absence of a marked box and initials, it is taken that the client does not agree to this assignment clause.

The client agrees that the agent may, at any stage throughout the appointment, assign the appointment to another real estate agent without changing the terms of the appointment.

☐ I agree with the assignment clause.

☐ I disagree with the assignment clause.

Client to initial: _____

Note: The client will receive notice of the assignment, including the name and business address of the agent being assigned the appointment.

Part 5—Performance of service

Conditions, limitations or restrictions include multi-list or conjunctural sales, when and how any auctions may be conducted, time restrictions and vendor directions.

Agent and client to agree on and outline here how the services will be performed and any conditions, limitations or restrictions on the performance of the services:

(if insufficient space, please attach schedule)

Part 6—Single or continuing appointment

The appointment is a:

☐ Single appointment
(for a particular service).

☐ Continuing appointment
(for a number of services over a period).

End of continuing appointment:

If the appointment is a continuing appointment, the client may revoke it by giving 90 days notice in writing to the agent, unless the client and the agent agree to a shorter notice period (but it must not be less than 30 days).

Agreed notice (if less than 90 days) is: _____ days

The term of the appointment can be renewed by mutual agreement between the agent and client by completing *PAMD Form 23 Reappointment of real estate agent, pastoral house or auctioneer*.

Part 7—Listing price, leasing or rental charge

Reserve or listing price (sales):

or

Listed leasing or rental charge (letting and property management):

Part 8—Open listing, sole agency or exclusive agency

Under Queensland law, there is no maximum period of a sole or exclusive agency appointment for commercial and industrial property.

If you need more information before you make a choice between open listing, a sole agency or an exclusive agency, ask your legal adviser.

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

For sole and exclusive agency only

If the client is dissatisfied with the agent's service and appoints a new agent during the existing agent's term, and the property is sold during that term, the client may have to pay two commissions (a commission to each agent) and damages for breach of contract arising under the first agent's appointment.

Leasing and property management may also be subject to a sole or exclusive agency agreement and will be subject to the terms of that appointment.

NOTE: sole or exclusive agency for leasing or property management is not regulated under this Act.

The appointment will be for a (please mark one of the following):

☐ Open listing

☐ Sole agency

☐ Exclusive agency

Start date

End date

Part 9—End of sole/exclusive agency, option to continue as open listing

At the end of the sole/exclusive agency, the client may elect to continue the appointment of the agent as an open listing, which may be ended at any time by the client or the agent.

☐ The appointment **will** continue as an open listing until:

(insert date).

☐ The appointment **will NOT** continue as an open listing.

Part 10—Commission

10.1 Agreed commission

Please note that you (the client) will:

- have to pay Goods and Services Tax (GST) on any commission chargeable under this appointment; and
- have the right to negotiate the commission, charges and services.

Under Queensland law there is no maximum cap on commission charged for commercial real estate appointments, only what is negotiated and agreed upon by the client and agent.

The client and the agent agree that the maximum commission (and GST) payable for the service to be performed by the agent is:

You must express the commission in both formats

Dollar amount		Percentage
Total commission \$		%
GST \$		%
Total payment \$		
Other (please specify) \$		

Percentage: Commission expressed as a percentage is worked out only on the sale price or the amount of rent or leasing fee actually collected.

Amount: Commission expressed as an amount represents the commission payable if the property is sold, rented or leased at the listed charge (see Part 7 above). If the actual sale price, or the amount of rent collected, is higher or lower than the listed charge, then the amount of commission payable may vary from the amount stated above.

10.2 When payable

Agent and client to agree when commission is payable.

Refer to Clause 2.1 of the Terms and Conditions.

Part 11—Fees and charges

11.1 Amounts payable

Please note that fees and charges chargeable under this appointment are inclusive of Goods and Service Tax (GST).

Amounts payable (list fee/charge and amount):

Part 11—Fees and charges continued

11.2 When payable Agent to specify when fees and charges are payable.	
11.3 Maximum value Letting/leasing management only.	The maximum value of repairs and maintenance to be paid by the agent without prior approval by the client is: \$

Part 12—Expenses

12.1 Authorisation to incur expenses Agent is to complete in relation to each service or category of service. Attach schedule if extra space is required. Note: Only the actual amount of any expense can be retained or recovered by the agent, if expenses are authorised.	<p>The client authorises the agent to incur the following expenses in relation to the performance of the service/s: (Agent to complete in relation to each service or category of service.)</p> <p>12.1.1 Advertising/marketing (if any):</p> <p>Authorised amount (\$):</p> <p>12.1.2 Other (e.g. photocopying, telephone calls, facsimile transmissions, postage, title searches, etc):</p> <p>Description of expense</p>		
12.2 Agent's rebate, discount, commission or benefit	<p>The client agrees and acknowledges the agent may receive the following rebate, discount, commission or benefit in relation to any expenses the client may incur in connection with the performance of the service:</p> <table><thead><tr><th>Source</th><th>Estimated amount (\$) / Value (%)</th></tr></thead></table>	Source	Estimated amount (\$) / Value (%)
Source	Estimated amount (\$) / Value (%)		

Part 13—Signatures

Client 1 Please note: If more than two clients, please photo copy this page when blank and attach when complete.	<p>To the client: If you want more information before you sign this form, visit the Office of Fair Trading's website at www.fairtrading.qld.gov.au or call 13 13 04. All parties are to sign and keep a copy of this appointment.</p> <p>Signature</p> <p>Signatory (print name)</p> <p>Date signed</p>
Client 2	<p>Signature</p> <p>Signatory (print name)</p> <p>Date signed</p>
Agent	<p>Signature</p> <p>Signatory (print name)</p> <p>Date signed</p>

SCHEDULES OR ATTACHMENTS (if applicable)

SCHEDULE



APPOINTMENT OF REAL ESTATE AGENT COMMERCIAL AND INDUSTRIAL SALES AND PURCHASE

Accredited Agency

ITEMS SCHEDULE

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A. Advice as to Market Price

[Cross Applicable Box]

- ☐ The Client acknowledges that the Agent **has not** given the Client a market price in obtaining an initial listing for the Property.
- ☐ The Client acknowledges that the Agent **has** given the Client a market price in obtaining an initial listing of the Property in the following range:

The material facts which the Agent took into account in arriving at the Property's market price are:

[Cross Applicable Box]

- ☐ listed in the attached comparative marketing analysis [attach analysis]
- ☐ listed below:

(Example: comparable sales in the district)

[If additional space is needed, please supply these details in an Annexure]

B. Conjunctions

The client instructs the Agent to accept conjunctional arrangements for a Conjunction Sale of the Property with other agents during the term of this Appointment:

[Cross Applicable Box]

- ☐ No
- ☐ Yes Apportionment of commission is: Appointed Agent % / Conjuncting Agent %
- Approved Conjunctional Agents:

C. Managing Agent of Property (if applicable)

Agency:

Property Manager:

Address:

Telephone:

Mobile:

Facsimile:

Email:

D. Solicitors Details for Client

Name:

Address:

Telephone:

Email:

Facsimile:

E. Public Liability

Insurer:

Policy Number:

Amount of cover: \$

Expiry date:

F. Auction (Sale Only)

The Client instructs and authorises the Agent to sell the Property by public auction.

[Cross Applicable Box]

☐ No Clause 9 of this Schedule will not apply.

☐ Yes Clause 9 of this Schedule 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: [Cross Applicable Box]

☐ Cash, with settlement 30 days from the date of the Contract

☐ Other [please specify]

G. Identification of Asbestos

The client states that a competent person has been engaged to identify, as far as is reasonably practicable, all asbestos or asbestos contaminating material (ACM) on the Property.

[Warning – A person with the management and control of a workplace commits an offence under Section 422 of the *Work Health and Safety Regulation 2011* if they do not ensure, so far as is reasonably practical, that all asbestos or asbestos contaminating material at the workplace is identified by a competent person]

H. Asbestos Register

The Client states that an Asbestos Register which complies with Section 425 of the *Work Health and Safety Regulation 2011*: [Cross one applicable box]

☐ is not required because the Building located on the Property was constructed after 31 December 2003 and no asbestos has been identified on the Property and no asbestos is likely to be present on the Property from time to time.

☐ has been prepared and is kept on the Property.

☐ has not been prepared and is not kept on the Property.

I. Asbestos Management Plan

The Client states that an Asbestos Management Plan which complies with Section 429 of the *Work Health and Safety Regulation 2011*: [Cross one applicable box]

☐ is not required because no asbestos has been identified on the Property and no asbestos is likely to be present on the Property from time to time.

☐ has been prepared and is kept on the Property.

☐ has not been prepared and is not kept on the Property.

[Warning – A person with the management and control of a workplace commits an offence under Section 429 of the *Work Health and Safety Regulation 2011* if they do not ensure that an Asbestos Management Plan is prepared and kept at the workplace when required to do so]

SIGNATURE OF PARTIES

Client 1:

Date:

Client 2:

Date:

Agent:

Date:

The following terms and conditions have been approved by The Real Estate Institute of Queensland.

1. PRICE

- 1.1 The Client instructs the Agent that the Price at which the Agent must offer to sell the Property will be the Price stated in Item 7 of the Appointment.

2. ENTITLEMENT TO COMMISSION

- 2.1 The Client agrees to pay the Agent commission as specified in the Appointment if a Contract of Sale of the Property is 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:
- (1) the Contract of Sale of the Property is completed; or
 - (2) the Client defaults under the Contract of Sale and that Contract is terminated by reason of or following that default; or
 - (3) the Contract of Sale is not completed and the whole or part of the deposit paid is liable to be forfeited; or
 - (4) the Contract of Sale is terminated by mutual agreement of the Client and the buyer.
- 2.2 For the purposes of Clause 2.1 a Relevant Person is, where the Appointment is for:
- (1) an Exclusive Agency, any person (including the Client); or
 - (2) a Sole Agency, any person other than the Client; or
 - (3) an Open Listing, the Agent only.

3. AUTHORITY TO PAY COMMISSION

- 3.1 The Client:
- (1) authorises the Agent, and
 - (2) authorises and directs the deposit holder or any other person to whom any deposit is paid under a Contract of Sale, to pay to the Agent any commission to which the Agent is entitled immediately upon:
 - (a) the entitlement to commission arising; and
 - (b) production of the Appointment and this Schedule or a copy of them.
- 3.2 The Client agrees that the Agents receipt for the payment of commission under Clause 3.1 completely discharges the deposit holder from any duty to account to the Client for the commission paid to the Agent.

4. COMMUNICATION OF EXPRESSIONS OF INTEREST

- 4.1 The Client acknowledges that, but for this Schedule or unless otherwise agreed by the Client in writing, S.11(2) of the Code of Conduct would require the Agent to immediately communicate to the Client each expression of interest, whether written or oral, about the sale.
- 4.2 Despite S.11 of the Code of Conduct, the Client:
- (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; and
 - (2) acknowledges that by signing this Schedule, the Client is taken to have directed in writing that S.11(2) of the Code of Conduct does not apply to this Appointment.

5. CONJUNCTIONS

- 5.1 If the Property is a place of residence, business or land, the Client acknowledges that before accepting the Appointment, the Agent:
- (1) explained to the Client:
 - (a) general issues about a Conjunction Sale; and
 - (b) issues about a Conjunction Sale relevant to the sale of this Property if the sale is to be a Conjunction Sale; and
 - (2) disclosed to the Client the Agents policy about Conjunction Sales.
- 5.2 If the Agent is to accept conjunctural arrangements, the percentage apportionment of commission between agents will be as specified in Item B of the Items Schedule.

6. DISCLOSURE OF RELEVANT FACTS

- 6.1 The Client states that:
- (1) the Property is the Clients own property;
 - (2) the Agent is entitled to sell the Property on behalf of the Client; and
 - (3) any particulars about the Property provided to the Agent by the Client are correct.
- 6.2 The Client authorises the Agent at the Clients cost to:
- (1) take reasonable steps to find out or verify:
 - (a) the ownership of the Property; and
 - (b) the description of the Property; and
 - (2) take such other reasonable steps to find out or verify the facts material to the sale or exchange that a prudent agent would find out or verify in order to avoid error, omission, exaggeration or misrepresentation.
- These steps may be taken before listing the Property and afterwards as the occasion arises.
- 6.3 The Client will produce to the Agent at the Agent's request, such information as required by the Agent to satisfy the Agent of the matters referred to in this Clause 6.
- 6.4 This Clause 6 does not oblige the Agent to undertake searches with public authorities.

7. NOTIFICATION OF SALE TO TENANT

- 7.1 If the Property is a business that is tenanted, the Client states that the managing agent for the Property is as stated in Item C of the Items Schedule.
- 7.2 The Client acknowledges that in accordance with the Code of Conduct, where the Agent accepts an appointment to sell a property that is a place of residence or business that is tenanted:
- (1) The Agent must immediately give written notice of the appointment to any managing agent of the Property; and
 - (2) The managing agent must immediately give the tenant notice of the appointment of the Agent to sell the Property.

8. NO PRIOR APPOINTMENT OF ANOTHER AGENT

The Client states that there are no unexpired sole agencies or exclusive agencies for the sale of the Property.

(Note: If this statement is not correct, this clause must be deleted and the Client must sign a written statement in accordance with the Code of Conduct acknowledging the appointment of another agent under the sole agency or exclusive agency prior to entering into the appointment.)

9. AUCTION (SALE ONLY)

- 9.1 The Reserve Price shall be the amount specified in Item 7 of the Appointment or as instructed by the Client in writing prior to the time of Auction.
- 9.2 The date, place and time for the Auction shall be as specified in Item F of the Items Schedule or as otherwise agreed with the Client in writing from time to time.
- 9.3 The general conditions of sale shall be those set out in:
- (1) the Conditions of Sale by Public Auction for Real Property adopted by the REIQ; and
 - (2) the copyright form of Contract and the Terms of Contract/Standard Conditions of Sale adopted by the REIQ and approved by the Queensland Law Society as at the date of this Schedule.
- 9.4 The Agent may, in the Agents sole discretion, subcontract the performance of the Agents services in relation to holding the Public Auction by engaging a person licensed as an Auctioneer under the Act to conduct the Public Auction on behalf of the Agent. If the Agent employs an Auctioneer then the Client shall pay the amount specified in Item F(4) of the Items Schedule as a fee for the Auctioneers services.

10. DEFINITIONS

In this Schedule:

- (1) **"Act"** means the *Property Agents and Motor Dealers Act 2000*;
- (2) **"Agent"** means the party named as Agent in Item 2 of the Appointment;
- (3) **"Appointment"** means the PAMD Form 21a Appointment of Real Estate Agent (Commercial and Industrial Sales, Leasing and Property Management) appointment form prescribed under the Act;
- (4) **"Client"** means the party named as Client in Item 1 of the Appointment;
- (5) **"Code of Conduct"** means the *Property Agents and Motor Dealers (Real Estate Agency Practice Code of Conduct) Regulation 2001*;
- (6) **"Commission"** means the commission stated in Item 10 of the Appointment;
- (7) **"Conjunction Sale"** means a sale conducted in conjunction with other agents;
- (8) **"Items Schedule"** means the Items Schedule forming part of this Schedule;
- (9) **"Property"** means the property described in Item 3 of the Appointment;
- (10) **"REIQ"** means The Real Estate Institute of Queensland;
- (11) **"Schedule"** means the Items Schedule, Terms and Conditions and any annexures attached to this Appointment;
- (12) **"Term"** means the term of the Appointment.