



# EXCLUSIVE SALES AUTHORITY PARTICULARS OF APPOINTMENT

## Agent Details

**Agent:** Impact Realty Mornington Pty Ltd T/A Impact Realty Group - Mornington | Mt Martha **ACN:** 637 168 346  
**Address:** 37A / 210 Dunns Road, Mornington Victoria 3931  
**Attention:** Adam Dureau  
**Phone:** 03 5924 0073 **Mobile:** 0419432669 **Email:** mornington@impactrealtygroup.com.au

## Vendor Details

**Vendor:** Ian James Smith **ACN:**  
**Address:** 77 Peninsula Sands Boulevard, Rosebud Victoria 3939  
**Attention:**  
**Phone:** **Mobile:** 0447877079 **Email:** lauren.ian@icloud.com  
**Vendor:** Lauren Smith **ACN:**  
**Address:** 77 Peninsula Sands Boulevard, Rosebud Victoria 3939  
**Attention:**  
**Phone:** **Mobile:** 0449259935 **Email:** lauren.ian@icloud.com

## Property Details

**Property:** 77 Peninsula Sands Boulevard, Rosebud Victoria 3939  
**Chattels included:** All fixed floor coverings, window furnishings, electric light fittings, fixtures and fittings.  
**Chattels excluded:**

## Sale Terms

**Exclusive authority period:** 90 days after the date of this Authority.  
**Continuing authority period:** days after the end of the Exclusive Authority Period.  
**The Property is being sold:**  with vacant possession OR  subject to any tenancy  
**and upon payment of:**  full purchase price OR  upon terms of payment of full deposit  
and  the sum of  
**Vendor's asking price:** To Be Advised payable in 60, 90, 120 days

## Agent's Estimate of Selling Price

Section 47A of the Estate Agents Act 1980: if a price range is specified, the difference between the upper and lower amounts cannot be more than 10% of the lower amount.

Single amount: OR a range between: \$1,600,000 and \$1,750,000

Section 47AE of the Estate Agents Act: if the Agent knows or could be reasonably expected to know that the ESP is no longer reasonable, the ESP is to be revised as follows:

Revised amount: OR a range between: and

**Agent's Commission (incl GST)**

An amount equal to 2.00% (including GST) of the Sale Price.

**Example**

If sold at price of: \$1,750,000 GST N/A

Dollar amount of estimated commission: \$35,000

Including GST of \$3,181.82

**Marketing and Other Expenses**

Advertising: \$3,637.00

Other: \$0

Total: \$3,637.00

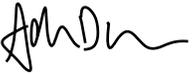
Marketing expenses are payable on:  signing of this Authority OR

written request

Dated: Wed 16 Mar 2022

Signature of Agent:

Signature of Vendor(s):



16/03/2022

Adam Dureau



16/03/2022

Ian James Smith



16/03/2022

Lauren Smith

## Item 1. Agent's entitlement to commission

(If this is an off the plan sale check Item 1 reflects the agreement about payments of commission & alter if needed)

The Vendor agrees to pay the Agent the commission on the terms of this Authority if the property is sold:

- 1.1 during the exclusive authority period by the Agent or by any other person (including the Vendor or another agent); or
- 1.2 during the continuing authority period by the Agent; or
- 1.3 to a person introduced to the Property by the Agent before the Vendor signed this Authority and to whom, as a result of the introduction, the Property is sold; or
- 1.4 within 120 days after the expiration of the exclusive authority period to a person introduced to the Property by the Agent within the exclusive authority period and to whom, as a result of the introduction, the Property is sold.

The commission is due and payable by the Vendor on the Property being sold.

Items 1.2, 1.3 and 1.4 will not apply if the Vendor may incur a liability to pay an agent a commission under an exclusive agency agreement signed by the Vendor with another agent after the expiration of the exclusive authority period.

(See the definition of "sold", "sale" and "sell" in GC 1.13).

## Item 2. Continuing authority period

- 2.1 If there is a continuing authority period, it starts on the day after the day on which the exclusive authority period ends and
  - 2.1.1 lasts for the number of days specified in the Particulars of Appointment, unless cancelled, and
  - 2.1.2 on the day it starts, the Agent's exclusive appointment ends.
- 2.2 The Vendor may cancel the continuing authority period at any time by written notice to the Agent.
- 2.3 If the continuing authority period is cancelled, Item 1 continues to apply.

## Item 3. Making a complaint

Any complaint relating to commission or outgoings can be made to the Director, Consumer Affairs Victoria GPO Box 4567, Melbourne, Victoria, Australia, 3001 or by telephoning 1300 73 70 73. Unless there are exceptional circumstances Consumer Affairs Victoria cannot deal with any dispute concerning commission or outgoings unless it is given notice of the dispute within 28 days of the client receiving an account for, or notice that the Agent has taken the amount in dispute, whichever is the later.

## Item 4. Dispute resolution

The Agent procedures for resolving complaints and disputes arising from the operation of the Agent's estate agency practice. If a complaint or dispute arises, please ask to be informed about the procedures.

## Item 5. Rebate Statement

(a) This statement is approved by the Director of Consumer Affairs Victoria for the purposes of section 49A(4) of the Estate Agents Act 1980. It may only be included in an agency authority if an agent is not entitled to any rebate. It should not be used if there is a possibility that an agent may receive a rebate.

(b) A rebate includes any discount, commission, or other benefit, and includes non-monetary benefits. It is illegal for an Agent to keep any rebate they receive for advertising or other outgoings purchased by the Agent on your behalf. Section 48A of the Estate Agents Act 1980 requires the Agent to immediately pay you any rebate they receive in relation to the sale, management or leasing of your property.

(c) The Agent will not be, or is not likely to be, entitled to any rebates. A rebate includes any discount, commission, or other benefit, and includes non-monetary benefits. The Agent is not entitled to retain any rebate and must not charge the client for an amount for any expenses that is more than the cost of those expenses.

(d) Further and in addition to the abovementioned statement, pursuant to sections 49A(4)(a) and (c) of the Estate Agents Act 1980 the Agent is not, or is likely not to be, entitled to any rebate in respect of –

- (i) any outgoings;
- (ii) any prepayments made by the person engaging or appointing the Agent (the client) in respect of any intended expenditure by the Agent on the client's behalf; or
- (iii) any payments made by the client to another person in respect of the work.

## Item 6. Exclusive Authority Period (no time stated)

If an agreement stating that an estate agent is to act as the sole agent for the sale of any real estate or business does not state when the sole agency is to end, the sole agency ends:

(a) in the case of a sale by auction, 30 days after the date of the auction; or

(b) in any other case, 60 days after the date the agreement is signed by, or on behalf of, the seller of the real estate or business.

#### **Item 7. Agent's role**

The Agent will advertise, market and endeavour to sell the Property.

#### **Item 8. Commission sharing**

The Agent may share the commission with an employee who is an estate agent or an estate agent's representative, or with an estate agent who is the Agent's business partner.

#### **Item 9. Vendor acknowledgments**

The Vendor acknowledges:

- 9.1 being informed by the Agent the commission and Marketing Expenses are negotiable, and having read Item 1, before signing this Authority;
- 9.2 Marketing Expenses incurred during the period of this Authority must be paid, whether or not the Property is sold;
- 9.3 commission is payable in accordance with this Authority, if the property is sold;
- 9.4 agrees that his/her personal information will be collected and may be used, as provided in this Authority;
- 9.5 being informed the Agent has procedures for resolving complaints and disputes, before signing this Authority;
- 9.6 receipt of a copy of this Authority, at the time of signing; and
- 9.7 if the Property is "residential property" as defined by the Act, the Agent may be required by law to disclose details relating to the Property, including the sale price and date of sale, and also acknowledges this requirement cannot be altered by an agreement, arrangement or understanding between the Agent and the Vendor or between the Agent or the Vendor and any other persons.

#### **Item 10. Privacy**

If you are an individual on you, or in appropriate circumstances on your attorney under power or other person acting as your agent, signing this Authority you consent to us collecting, holding, using and disclosing your personal information for the primary purpose and secondary purposes set out below. Your consent will continue until you, or in appropriate circumstances your attorney under power or other person acting as your agent, informs us your consent is terminated, and this is so even though this Authority has come to an end.

The kinds of personal information we will collect and hold are your name, address, contact details, bank account details, credit or debit card details or both and if appropriate or required, your power of attorney or other agent details.

We will collect your personal information from you, or if appropriate in the circumstances, from your attorney under power or other person acting as your agent. We will hold your personal information in hard copy or electronic form, or both.

The primary purpose is: acting for you in relation to or in connection with the sale of your property and the finalisation of your sale, if your property is sold.

The secondary purposes are: providing your personal information to other estate agents to valuers during the period of this Authority in connection with or in relation to the sale of your property; providing details of your sale to the REIV or commercialview.com.au Ltd or realestateview.com.au Ltd to enable any or all of them to collect and/or disseminate details of the sale of real estate; to enable us to promote our services or seek out potential clients or both; responding to enquiries received from Consumer Affairs Victoria or the REIV or the both of them in connection with the sale of your property; complying with the law.

You also consent to us using your personal information for direct marketing and telemarketing.

We can be contacted between 9:00am and 5:00pm Monday to Friday (excluding public holidays) to provide access to you, or in appropriate circumstances to your attorney under power or other person acting as your agent, to update or seek correction of your personal information. Our contact details are on the first page of this Authority.

If you consider we have breached the Australian Privacy Principles you, or in appropriate circumstances your attorney under power or other person acting as your agent, may complain to us by letter, fax or email. Our contact details appear in this Authority. We will promptly consider your complaint and attempt to resolve it in a timely manner. If we are unable to resolve your complaint you may refer it to the Office of the Australian Information Commissioner GPO Box 5218, Sydney, NSW, 2001 or enquiries@oaic.gov.au.

We are unlikely to disclose your personal information to overseas recipients.

The main consequences for you if all or part of your personal information is not provided is that we may not be able to act for you or effectively perform our role as your estate agent.

#### **Item 11. Liability & Indirect Loss**

(a) If the professional fees are \$299,999.99 or below then to the maximum extent permitted by the law, the Agent's aggregate liability for any claim, demand or proceeding (including for breach of contract, tort (including negligence), in equity or under any statute) made under or in connection with this Authority is limited to the greater of three times the fees or \$250,000.

(b) If the professional fees are \$300,000 or above then to the maximum extent permitted by law, the Agent's aggregate liability for any claim, demand or proceeding (including for breach of contract, tort (including negligence), in equity or under any statute) made under or in connection with this Authority is limited to the greater of the professional fees or \$750,000.

(c) To the full extent permitted by law, neither party will have any liability to the other (whether arising in contract, tort (including negligence), statute, equity or otherwise) for Indirect Loss under or arising out of this Authority.

i. **Indirect Loss** means any:

1. loss of revenue, use, production, goodwill, profit, income, business, contract or anticipated savings; or
2. financing costs or increase in operating costs; or
3. other financial or economic loss or any other special or indirect loss or damage (excluding any losses and damage to the extent arising naturally according to the usual course of things from the relevant conduct or breach).

(d) If a party consists of more than one person, the liability is several. Where only one Agent is in breach of the agreement by an act, omission or representation, the breaching Agent will only be liable. The rights of the non-breaching Agent are unaffected.

**Item 12. Conjunction Agents**

The Agent may appoint in conjunction agents or third-party introducers to assist in selling the Property.

**Item 13. No Variation**

This Authority cannot be amended or varied except in writing signed by the parties.

**Item 14. Insurance**

Both parties will maintain insurance sufficient to comply with their obligations hereunder.

**Item 15. Health & Safety**

The Vendor will:

(a) ensure there is no risk to the environment or health, safety and welfare of the Agent's employees, officers and any prospective purchaser and that all requirements under all legislation applicable or relevant to the Property is met.

(b) Provide the Agent and any other persons who visit the Property with:

- i. any site induction under the Vendor's policies;
- ii. any information about hazards or risks to health and safety; and
- iii. details of any emergency plans and procedures (including evacuation plans) relating to the Property.

**Item 16. Intellectual Property**

The Agent retains all intellectual property rights in any pre-existing intellectual property. Any intellectual property created in the provision of the services vests in the Agent who agrees to grant a worldwide, irrevocable, non-transferable licence to the Vendor to use such intellectual property.

**Item 17. Confidentiality**

The Vendor will not disclose or permit to be disclosed to any third party any information provided to it under this Authority that is not already in the public domain, other than for the provision of the services or as required by law or regulations.

**Item 18. Authority to Receive Notices**

The Vendor authorises the Agent to receive cooling-off notice(s) given under Section 31 of the Sale of Land Act 1962. This authorisation is effective even if this Authority to act for You formally expires on the Sale of the Property.

**Item 19. Agent may sign contract**

On the Vendor's written request, the Agent may sign a contract of sale for the Property which contains terms of the sale agreed upon by the Vendor.

**Item 20. Governing Law and Jurisdiction**

This Authority is governed by the laws of Victoria and the parties submit to the non-exclusive jurisdiction of the courts of Victoria.

**Item 21. Electronic Signature**

This Authority may be executed by way of electronic acceptance, and if so, shall be considered an original.

**Item 22. Interpretation**

In this Authority unless specified to the contrary:

- (a) Words importing the singular number include the plural and vice versa and words importing any gender include all other genders.
- (b) Headings are for reference only and shall not affect the construction of this Authority.
- (c) A reference to a party if more than one is to them jointly and severally.

- (d) All schedules are included as part of this Authority.
- (e) Any reference to "dollars" or "\$" is a reference to Australian currency.
- (f) The expression "person" shall include a corporation.
- (g) Use of the word including and similar expressions are not, nor are they to be interpreted as, words of limitation.
- (h) A reference to a party includes the party's executors, administrators, successors and permitted assigns.
- (i) A reference to a person includes a natural person, a company or other entities recognised by law.
- (j) A reference to any legislation or legislative provision includes any statutory modification or re-enactment of, or legislation or legislative provision substituted for, that legislation or legislative provision.
- (k) The language in all parts of this Authority shall be in all cases construed in accordance with its fair and common meaning and not strictly for or against any of the parties.

**Item 23. Compliance with Law**

This Authority is to be interpreted so that it complies with all applicable laws. If any provision of this Authority does not comply with any law, then it must be read down so as to give it as much effect as possible.

The parties intend to comply with all applicable laws, and agree to facilitate the other party's compliance with the law (insofar as it relates to the terms of this Authority).

The parties agree to do all things necessary to rectify any aspect of this Authority that is not compliant with any law, insofar as is necessary to give effect to the substance of the terms of this Authority (including, agreeing to amend any clause that is not compliant with any law, and/or re-signing a new authority on substantially the same terms).

If it is not possible to rectify any aspect of this Authority that is not compliant with the law, then it is to be severed from this Authority and the remaining clauses will continue to have full force and effect.

You acknowledge that the Agent may enter into an arrangement to share commissions with another entity under this Authority.

**Item 24. Special Conditions**

The following Special Conditions apply to this Authority and, in the event of a conflict, the provisions of any of the Special Conditions will prevail over any other provisions of this Authority:

- (a) Nil

## GENERAL CONDITIONS

1. In this Authority unless otherwise required by the context or subject matter:
  - 1.1 **Act** means the Estate Agents Act 1980.
  - 1.2 **Agent** means the Agent named in the Particulars of Appointment.
  - 1.3 **binding offer** means:
    - 1.3.1 an offer at the Vendor's reserve price and on the terms set out in the Particulars of Appointment which would result in an enforceable contract of sale, if signed by the Vendor and exchanged with the purchaser; or
    - 1.3.2 An enforceable contract of sale signed by the Vendor and the purchaser.  
For the purposes of GC 1.3.1 the offer must be in a contract of sale signed by the purchaser **vendor's reserve price** has the meaning in GC 1.14.  
  
For the purposes of GC 1.3.1 and GC 1.3.2 **enforceable contract of sale** means a contract which may be enforced by an order for specific performance and/or upon the breach of which either the Vendor or the purchaser would be entitled to an award of damages.
  - 1.4 **deposit moneys** has the same meaning as defined in the Sale of Land Act 1962.
  - 1.5 **exclusive authority period** means the period commencing on the date of this Authority and continuing until the expiry of the number of days specified in the Particulars of Appointment.
  - 1.6 **GST** means the goods and services tax payable in accordance with the A New Tax System (Goods and Services Tax) Act 1999.
  - 1.7 **introduced to the Property** means the person was made aware the Property was available to purchase irrespective of the source. Without limiting the generality of the foregoing, a person will be deemed to have been introduced to the Property by the Agent if the person became aware the Property was available for purchase as a result of viewing, hearing, or reading an advertisement of whatever nature or medium or any boards, placards, or other literature referring to the availability of the Property that were connected to the Agent in any way.
  - 1.8 **Marketing Expenses** means the advertising and marketing expenses of the Agent specified in the Particulars of Appointment.
  - 1.9 **person** includes a natural person, a corporation and an incorporated association.
  - 1.10 **professional fees** means the total of the commission and Marketing Expenses as duly authorised and expended.
  - 1.11 **purchaser** means the person to whom the Property is sold.
  - 1.12 **REIV** means The Real Estate Institute of Victoria Ltd (ACN 004 210 897).
  - 1.13 **sold**, is the result of obtaining a binding offer and **sale** and **sell** have corresponding meanings.
  - 1.14 **Vendor's reserve price** means a price equal to or greater than the Vendor's reserve price stated in the Particulars of Appointment.
  - 1.15 A reference to an act of Parliament includes an act amending or superseding the act referred to.
  - 1.16 If the Agent or the Vendor comprises more than one person, their respective obligations are joint and individual.
2. If the purchaser does not complete the purchase and forfeits the deposit, the Vendor will take all reasonable steps to recover any unpaid deposit from the purchaser and/or any other person who may be liable for payment of the deposit and to pay the professional fees from the sum of the deposit paid or recovered.
3. If the Vendor fails to pay the Agent any moneys due under this Authority within 30 days of receipt of the Agent's invoice (**the due date for payment**), then interest at the rate fixed from time to time under section 2 of the Penalty Interest Rates Act 1983 will be charged on the unpaid money (or the balance owing from time to time) calculated from the due date for payment to and including the day on which the unpaid money is paid in full. The interest will be paid, if demanded.
4. A person signing this Authority for or on behalf of the Vendor is personally responsible for the due performance of the Vendor's obligations as if the signatory was the Vendor. If required by the Agent, the signatory will procure the execution of a guarantee and indemnity in favour of the Agent by the directors of a Vendor that is a corporation or the committee members of a Vendor that is an incorporated association, in a form acceptable to the Agent's legal practitioner or conveyancer.
5. If while a stakeholder the Agent is requested to transfer deposit moneys to the Vendor's legal practitioner or conveyancer or to another estate agent acting on behalf of the Vendor, the Vendor agrees the Agent may retain out of the deposit moneys an amount equal to the Agent's commission and/or Marketing Expenses that the Agent is then or will become entitled to and any other moneys that Agent is or will become entitled to by law in relation to the sale of the Property.
6. The Vendor irrevocably authorises the Agent to deduct the professional fees properly incurred and State and Federal taxes required to be deducted by law, including GST, from deposit moneys held by the Agent.
7. If the Property is sold and no deposit moneys are held by the Agent, the Vendor will pay for the professional fees properly incurred and State and federal taxes required to be deducted by law, including GST, on demand.
8. If deposit moneys are held in whole or part by the Vendor's conveyancer or legal practitioner, the Vendor appoints the Agent as the Vendor's attorney under power to direct and authorise the conveyancer or legal practitioner to pay the professional fees properly incurred and State and Federal taxes required to be deducted by law, including GST, to the Agent. The Vendor agrees to promptly ratify and confirm the power of attorney, if requested.
9. Unless otherwise stated in the Particulars of Appointment, the Vendor will pay the maximum amount of Marketing Expenses to the Agent on the signing of this

Authority and in any event the Marketing Expenses will be payable on written request. When this Authority ends, the Agent will provide the Vendor with an itemised list of Marketing Expenses and State or Federal taxes expended or payable. The Agent will provide the itemised list at any other time that may reasonably be required by the Vendor.

10. If this Authority requires the Vendor to pay or reimburse or contribute to an amount paid or payable by the Agent in respect of an acquisition from a third party to which the Agent is entitled to an input tax credit, the amount for payment or reimbursement or contribution will be the GST exclusive value of the acquisition by the Agent plus the GST payable in respect of that supply but only if the Agent's recovery from the Vendor is a GST taxable supply.
11. The Vendor authorises the Agent to sign a contract of sale which contains terms of sale agreed to by the Vendor is, when the Vendor agrees to the terms of sale, the Vendor is unavailable to sign the contract.
12. An agreement of the Vendor and purchaser to cancel a contract of sale or the ending of a contract of sale as a result of a default of the Vendor or purchaser does not relieve the vendor of the obligation to pay the Agent's professional fees.
13. The Vendor authorises the Agent to do any of the following:
  - 13.1 instruct the Vendor's Australian legal practitioner or conveyancer to prepare a Sale of Land Act section 32 statement and a contract of sale, agree the contents of either document and advise and agree other amendments or additions to either document as may be desired or required at any time;
  - 13.2 fill-up a standard form contract or contract to record the sale of the Property as permitted by the Estate Agents Act 1980 (the contract) or under any amending or superseding legislation;
  - 13.3 negotiate and, with the Vendor's prior approval, agree and record – or have the Vendor's Australian Legal Practitioner or conveyancer record – the final terms and conditions of, and then obtain the signatures of the vendor and the purchaser to, the contract;
  - 13.4 attend to the exchange of the contract between the Vendor and the purchaser;
  - 13.5 receive the purchase price, or any part of it, payable for the Property;
  - 13.6 to receive: a cooling-off notice given by a purchaser under the Sale of Land Act 1962 or any amending or superseding legislation, advice or a notice about a loan sought by a purchaser, advice or a notice about a pest inspection report and/or a building condition report, even if the Agent's authority has formally expired on the sale of the Property;
  - 13.7 to make public the sale price paid for, and other details of, the Property without disclosing the name of the Vendor or the purchaser, in the interest of maintaining an informed property market. This authorisation is effective: notwithstanding a condition in the contract of sale for the Property, to which the Agent is not a party, purporting to restrict the availability of information about the sale of the Property and even though the Agent's authority formally expired on the sale of the Property.

Notice of Commission Sharing form approved by the Director in accordance with Section 48 of the Estate Agents Act 1980

**IMPORTANT INFORMATION FOR VENDORS**  
If the Agent has agreed to share the commission that will be payable for selling, leasing or managing your property, before getting your signature to engage or appoint them, they must give you this commission sharing statement. This statement shows details of all other people who will share in the commission.

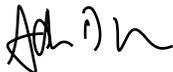
**The Agent's commission will be shared with other people**

(other than a licensed estate agent or an agent's representative employed by the agent, or a licensed estate agent who is in partnership with the agent).

In accordance with Section 48 of the Estate Agents Act 1980, the agent states that the commission the agent is entitled to under the terms of this Authority will be shared with other people as follows:

Name and address of person with whom the commission will be shared	Description of such person
--	----------------------------

Signature of Agent:



16/03/2022

Adam Dureau

Signature of Vendor(s):



16/03/2022

Ian James Smith



16/03/2022

Lauren Smith



Rebate statement form approved by the Director for Sections 48A and 49A of the *Estate Agents Act 1980*

### IMPORTANT INFORMATION FOR VENDORS/LANDLORD(S)

A rebate includes any discount, commission, or other benefit, and includes non-monetary benefits. It is illegal for an Agent to keep any rebate they receive for advertising or other outgoings purchased by the Agent on your behalf. Section 48A of the *Estate Agents Act 1980* requires the Agent to immediately pay you any rebate they receive in relation to the sale, management or leasing of your property.

The agent is not entitled to retain any rebate and must not charge you an amount for any expenses that is more than the cost of those expenses.

Select on of the following options:

- 1) The Agent will not be, or is not likely to be, entitled to any rebates.
- 2) The agent will be, or is likely to be, entitled to rebates.

List of rebates:

- any outgoings;
- any pre-payments made by the person engaging or appointing the agent (the client) in respect of any intended expenditure by the agent on the client's behalf; or
- any payments made by the client to another person in respect of the work.

Goods/services to which rebate relates	Name of person or organisation providing rebate	Amount (including GST)(if amount not known, provide an estimate)
#REBATE_SERVICE#	#REBATE_PROVIDER#	#REBATE_AMOUNT#

Signature of Agent:



16/03/2022

Adam Dureau

Signature of Vendor(s):



16/03/2022

Ian James Smith



16/03/2022

Lauren Smith