**Code 002**

# Exclusive Sale Authority©

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## Particulars of Appointment

**Agent** **Chandler and Co Real Estate** Attention **Sharyn Chandler**

Address **1689 Burwood Hwy, Belgrave VIC 3160**

ACN _____ ABN **59149199244**

Phone **03 9754 6888** Fax **03 9754 4955** Mobile _____

Email **office@chandlerandco.com.au**

**Vendor** **Stephen & Liz Davies**

Address **3 Adelaide Av, Kallista VIC 3791**

ACN _____ ABN _____

Phone _____ Mobile **S - 0408 356 950**

Email **L - lizdaviesaustralia@hotmail.com**

**Property** **3 Adelaide Av, Kallista VIC 3791**

**with goods being** **ALL FIXTURES AND FITTINGS AS INSPECTED**

**Exclusive authority period: 60 days.**

The Property is being sold ☒ with vacant possession **OR** ☐ subject to (a) tenancy

**OR** ☐ with either vacant possession or subject to (a) tenancy

**Vendor's price $ 790,000.00** payable in **30, 60, 90 OR 120** days

**Agent's estimate of selling price** (Section 47A of the Estate Agents Act 1980). Note: 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 **$** _____ or between **$ 790,000.00** and **$ 850,000.00**

**Commission**

**A fixed *commission** (including GST) of **$** _____ **OR**

A *commission (including GST) being the following % of the sale price or calculated as follows:

**1.8%**

Dollar amount of estimated commission: **$ 15,300.00** which includes GST of **$ 1,390.90**

if sold at a ~~*GST inclusive~~ / ~~*GST exclusive price~~ / *Not subject to GST of **$ 850,000.00**

***(*Commission: Vendor please read the payment of commission terms at Item 1 before you sign this Authority)***

**Marketing Expenses** (including GST).

Advertising **$ 4,471.90** Other Expenses **$** _____ TOTAL **$ 4,471.90**

**Marketing Expenses are payable on ~~*the signing of this Authority~~ / *written request** *(*delete the one that does NOT apply)*

**Date of this Agreement**

**Signature of Agent** **Signature of Vendor(s)**

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**Item 1. Agent's entitlement to commission**
(*If this is an off the plan sale check Item 1 reflects the agreement about payment of commission and 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** 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

**1.3** 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 on the Property being sold.

Items **1.2** and **1.3** 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. Making a complaint**
Any complaint relating to commission or outgoings can be made to the Director, Consumer Affairs Victoria GPO Box 4567, Melbourne, Victoria, 3001 or by telephoning 1300 73 70 30. 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 later.

**Item 3. Dispute resolution**
The Agent has 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 4. Warranty of REIV membership**
The Agent is a member of the REIV, at the date of this Authority. The Agent will confirm membership, if requested. If the warranty is false, this Authority is void. *(This warranty cannot be deleted or modified)*

**Item 5. Warranty of VicForms subscription**
The Agent has an active REIV VicForms subscription, at the date of this authority. The Agent will confirm their VicForms subscription, if requested. If no active subscription is found, this authority is void.

**Item 6. *Rebate Statement - no rebate will be received**

**Instructions**

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.

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.

In addition to the statement approved by the Director of Consumer Affairs Victoria, the following statements are provided in compliance with sections 49A (4)(a) and (c) of the *Estate Agents Act 1980* -
The agent will not be, or is not likely to be, entitled to any rebate in respect of -

**(i)** any outgoings; or

**(ii)** any prepayments made by a 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.

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

(*If the agent will be, or is likely to be, entitled to a rebate then the agent must cross out this item, the amendment should be initialled by the parties to this agreement and the agent is to complete the rebate statement approved by the Director of Consumer Affairs Victoria for use where a rebate will be, or is likely to be, received. The approved rebate statement must be attached to each part of this authority at the time that it is signed. The rebate statement is available at https://www.consumer.vic.gov.au/).

**Item 7. 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: 60 days after the date the agreement is signed by, or on behalf of, the seller of the real estate or business.

**Item 8. Agent's role**
The Agent will advertise, market, and endeavor to sell the Property.

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**Item 9. Commission sharing**

* The Agent may share the commission with an employee who is an estate agent or an agent's representative, or with an estate agent who is the Agent's business partner. *(* If commission will be shared with anyone else, complete and attach the notice of commission sharing approved by the Director of Consumer Affairs Victoria, at the time of signing this Authority. The notice can be downloaded at www.consumer.vic.gov.au)*

**Item 10. Vendor acknowledgements**

The Vendor acknowledges:

**10.1** being informed by the Agent the commission and Marketing Expenses are negotiable and having read Item 1 at page 2, before signing this Authority;

**10.2** Marketing Expenses incurred during the period of this Authority must be paid, whether or not the Property is sold;

**10.3** commission is payable in accordance with this Authority, if the Property is sold;

**10.4** and agrees that his / her personal information will be collected and may be used, as provided in this Authority;

**10.5** being informed the Agent has procedures for resolving complaints and disputes, before signing this Authority;

**10.6** receipt of a copy of this Authority, at the time of signing;

**10.7** if the Property is "residential property" as defined by the Estate Agents Act 1980, 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 person.

REIV

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## General Conditions (GC)

These General Conditions apply to this Authority.

**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 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 and "Vendor's 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 other 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 -

**(a)** the result of obtaining a binding offer; unless

**(b)** the Property is in a retirement village in which case "sold" is completion of the settlement of the contract of sale and the purchaser, or resident who will reside at the Property, having entered into a contract for services with the manager of the retirement village; and

**(c)** in sub-clause (b) "resident" and "retirement village" have the meanings in the Retirement Villages Act 1986

and "sale" and "sell" have corresponding meanings.

**1.14** "Vendor's price" means a price equal to or greater than the Vendor's 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.

**5.** If while a stakeholder the Agent is requested to transfer the 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 the 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 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.

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**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 the Marketing Expenses and state and 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.** On the written request of the Vendor, the Agent may sign a contract of sale which contains terms of sale agreed to by the Vendor.

**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 or all 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 content 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 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.

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