

Title	Prepare Agreement for Sale and Purchase of a Business relating to sale of franchise operations		
Level	4	Credits	4

Purpose	<p>This unit standard is for salespersons preparing to enter into, or who are currently working in, the business broking sector of the real estate industry.</p> <p>People credited with this unit standard are able to:</p> <ul style="list-style-type: none"> – identify and correct errors and omissions in an Agreement for Sale and Purchase of a Business form; – prepare clauses for an Agreement for Sale and Purchase of a Business form to cover purchase of a franchise operation; and – draft an Agreement for Sale and Purchase of a Business form for a franchise operation.
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Classification	Real Estate > Rural, Residential, Commercial and Business Sales
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Available grade	Achieved
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Prerequisites	Unit 23145, <i>Facilitate the sale and purchase of businesses</i> , or demonstrate equivalent knowledge and skills.
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Guidance Information

- 1 References
- Building Act 2004;
 - Consumer Guarantees Act 1993;
 - Contractual Remedies Act 1979;
 - Fair Trading Act 1986;
 - Goods and Services Tax Act 1985;
 - Human Rights Act 1993;
 - Land Transfer Act 1952;
 - Overseas Investment Act 2005;
 - Overseas Investment Regulations 2005;
 - Privacy Act 2020;
 - Property Law Act 2007;
 - Real Estate Agents Act 2008;
 - Residential Tenancies Act 1986;
 - Resource Management Act 1991;
 - Unit Titles Act 2010;
 - and all subsequent amendments and replacements.

2 Definitions

Common Law is also known as case law – judgements made by courts, rather than laws written by parliament. Judgements relating to the duties of an ‘agent’ may be applicable to this unit standard.

Industry requirements mean all actions must comply with relevant professional body standards, legislation, codes of professional conduct and client care, and approved guides. Legislation is available from <http://www.legislation.govt.nz> and codes of professional conduct and client care, and approved guides are available from <http://www.rea.govt.nz>.

Approved guides mean the two approved guides developed by the Real Estate Agents Authority covering an agency agreement and a sale and purchase agreement. These are available from <http://www.rea.govt.nz>.

Client means the person on whose behalf an agent carries out real estate agency work and is commonly known in the industry as a vendor or seller.

Customer means a person who is a buyer or potential buyer of land or a business and is commonly known in the industry as purchaser or buyer.

Prospective customer means a person who is considering or intending to enter into an agency agreement with an agent to carry out real estate agency work.

Agent means a real estate agent who holds or is deemed to hold a current license as an agent under the Real Estate Agents Act 2008.

The Agreement for Sale and Purchase of Real Estate form is the REINZ and Auckland District Law Society (ADLS) approved form.

Agency Agreement means an agreement under which an agent is authorised to undertake real estate agency work for a client in respect of a transaction. It is commonly known in the industry as a listing form.

Real estate includes property or businesses.

REINZ means the Real Estate Institute of New Zealand.

Licensee means an agent, branch manager or salespersons.

Plain English is language that either does not use industry-specific words, or that limits or explains industry-specific words so that people outside the real estate industry can more easily understand.

- 3 REINZ Useful Clauses and Authorities (Auckland: REINZ Publishing, 2000) is available from REINZ National Office or on <http://www.reinz.co.nz>.

4 Assessment

This unit standard must be assessed on the basis of evidence of demonstrated performance in the workplace or in simulated work situations designed to draw upon similar performance to that required in the workplace.

- 5 For assessment against this unit standard, a copy of the Agreement for Sale and Purchase of a Business form must be supplied by the Assessor.

Outcomes and performance criteria

Outcome 1

Identify and correct errors and omissions in an Agreement for Sale and Purchase of a Business form.

Performance criteria

- 1.1 Errors and omissions in Agreement for Sale and Purchase of a Business form are identified that are not consistent with legal, client, and industry requirements.
- 1.2 Errors and omissions in Agreement for Sale and Purchase of a Business are corrected to meet legal, client, and industry requirements.
- 1.3 Agreement is valid and enforceable in accordance with industry requirements.

Outcome 2

Prepare clauses for an Agreement for Sale and Purchase of a Business form to cover purchase of a franchise operation.

Performance criteria

- 2.1 Clauses meet legal requirements and the requirements of the parties, and are in plain English.

Range clauses from the REINZ *Useful Clauses and Authorities* may be used.

Outcome 3

Draft an Agreement for Sale and Purchase of a Business form for a franchise operation.

Performance criteria

- 3.1 Agreement for Sale and Purchase of a Business form is drafted consistent with prospective customer's instructions, client requirements, and industry requirements.

Range draft includes but is not limited to – financing arrangements, GST content requirements, clauses for use on the further terms of sale page of the agreement.
- 3.2 Special clauses are drafted consistent with industry requirements, and are in plain English.
- 3.3 Rapport is maintained throughout the drafting process in accordance with industry requirements.
- 3.4 Need for written offers and accuracy of information recorded on the draft agreement is explained in accordance with industry requirements.

Range includes but is not limited to – timeframes for various clauses used in the agreement.
- 3.5 Accuracy of information recorded on the draft is demonstrated and explained in terms of industry requirements and client and customer requirements.

Range includes but is not limited to – timeframes for various clauses used in the Agreement, correct legal descriptions, correct client and customer name.

3.6 The Agreement for Sale and Purchase of a Business form is explained to the customer before obtaining customer’s signature.

3.7 Sufficient originals and copies are identified and provided to meet legislative requirements and the obligation of the licensee to retain copies is explained in terms of industry requirements.

3.8 Restrictions on a salesperson and implications are explained in terms of s 50 and schedule 2 s 36 (2a) of the Real Estate Agents Act 2008.

3.9 Obligations of client, licensee, and customer are explained consistent with industry requirements.

Range includes but is not limited to – codes of professional conduct and client care explanation of specific clauses and obligations of confidence or trust between the parties, disclosure requirements.

Replacement information	This unit standard and unit standard 23145 were replaced by unit standard 30491.
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This unit standard is expiring. Assessment against the standard must take place by the last date for assessment set out below.

Status information and last date for assessment for superseded versions

Process	Version	Date	Last Date for Assessment
Registration	1	18 December 2006	31 December 2013
Review	2	12 February 2010	31 December 2013
Rollover and Revision	3	16 August 2012	31 December 2020
Review	4	26 October 2017	31 December 2020
Rollover	5	1 November 2018	31 December 2020
Rollover	6	26 March 2020	31 December 2021
Rollover	7	26 November 2020	31 December 2022
Rollover	8	29 April 2021	30 June 2023

Consent and Moderation Requirements (CMR) reference	0003
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This CMR can be accessed at <http://www.nzqa.govt.nz/framework/search/index.do>.