

WHAT TO CHECK IN THE CONTRACT OF SALE

Once you've had an offer on a property accepted, the real estate agent will usually give you a Contract of Sale which both you and the Vendor must sign to make the sale legally binding. Below we look at some of the common conditions to check in the Contract.

Note, this checklist is for your information only and should not be construed as legal advice. Before you sign, you should engage a solicitor or conveyancer to act on your behalf and check the Contract of Sale fully. He/she will be able to explain any conditions that are not clear to you.

STANDARD CONTRACT OF SALE

Most States have a standard Contract of Sale. The specific terms will vary from State to State, but typically the Contract of Sale will contain the following information:

The name and address of the Vendor.	<input type="checkbox"/>
Address of the property and in some States the physical dimensions of the land.	<input type="checkbox"/>
Title Reference and Plan Number.	<input type="checkbox"/>
A list of any Chattels and Fittings included in the sale. Chattels are items not attached to the property, such as curtains and unless otherwise stated in the contract can be removed by the Vendor prior to settlement. Fixtures are things like light fittings that are part of the building and which are usually included in the contract.	<input type="checkbox"/>
The purchase price divided into the deposit and the balance. The amount of deposit required varies depending on which State you are in. In some States a deposit is not a legal requirement.	<input type="checkbox"/>
Settlement details.	<input type="checkbox"/>
Building inspection reports.	<input type="checkbox"/>

GENERAL CONDITIONS

General Conditions are written into the standard Contract of Sale and cover issues such as:

Loss or damage before settlement;	<input type="checkbox"/>
What happens if there is a breach of the contract;	<input type="checkbox"/>
How money is paid, etc.	<input type="checkbox"/>

SPECIAL CONDITIONS

Special Conditions are extra conditions that are put in the contract by you or the Vendor. They can be about anything to do with the property. For example:

That the contract is subject to you obtaining finance;	<input type="checkbox"/>
That there will be penalties for a delay in the settlement;	<input type="checkbox"/>
That the sale is subject to a tenancy etc.	<input type="checkbox"/>
That you take the property in its current condition subject to latent and patent defects. In such instances you must ask your Solicitor to make necessary enquiries as there may be a possibility (although not necessarily so) that there may be a defect which if you were aware of, would put you off buying the property.	<input type="checkbox"/>

RESTRICTIONS & EASEMENTS

As the name implies, Restrictions restrict the use of the property.	
An easement is an interest in land which grants a person the right to use the land of another. The most common form of easement is where a Government authority has the right to run electrical mains or drainage through private property. Another example is where a neighbour has the right to use the driveway of an adjoining property.	<input type="checkbox"/>
It is important to check for any registered easements (which appear on Title) and unregistered easements (private agreements).	

SUNSET CLAUSE (IF BUYING OFF-PLAN)

If you buying off-plan, the Contract of Sale should contain a sunset clause. This enables you to cancel the Contract if the Plan or development is not completed by a certain date.	<input type="checkbox"/>
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COOLING-OFF PERIOD

The contract may contain information about a cooling-off period. During the cooling-off period you may change your mind and withdraw from the purchase. A cooling off period is not offered as a general condition in all States, and the length of the cooling-off period may vary. Check your Contract of Sale carefully for details. For example, in NSW if you rescind the contract during the cooling off period you will have to forego. 25% deposit paid to the agent.	<input type="checkbox"/>
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GST

Check whether the property being sold inclusive or exclusive of GST. Failure to ensure that the Contract clearly addresses GST can prove very costly later on.	<input type="checkbox"/>
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