

Title Reference [50322905]

2 RENT AND OTHER PAYMENTS

2.1 Payments

The Tenant must pay the Landlord:

- (a) the Rent
- (b) the Agreed Proportion of Outgoings
- (c) charges for Services to the Premises during the Term
- (d) stamp duty assessed on the Lease and costs of registering the Lease
- (e) costs of the survey plan attached to the Lease
- (f) the Landlord's reasonable legal costs and expenses of and incidental to the negotiation, preparation and execution of this Lease, if permitted by law
- (g) all reasonable costs and expenses incurred by the Landlord in relation to any notice given to the Tenant in accordance with this Lease, lawful determination or attempted determination of this Lease, the surrender of this Lease, the granting of any consents, proceedings lawfully brought by the Landlord to enforce the Tenant's performance and obligations under this Lease
- (h) any reasonable additional or unusual charges and expenses incurred by the Landlord at the request of the Tenant
- (i) any tax or levy in the nature of a goods and services tax or consumption tax or other tax levied directly on or relating to the receipt of payments including Rent incurred by the Landlord during the Term
- (j) any other payments arising from the Tenant's use of the Premises.

2.2 Manner of Payment

- (1) The Tenant must pay the Rent:
 - (a) by equal monthly instalments in advance on the first day of each month
 - (b) the first payment must be made on the Commencement Date
 - (c) if necessary the first and last instalments must be apportioned on a daily basis.
- (2) The Tenant must pay the Agreed Proportion of Outgoings for each Financial Year in the manner notified in writing by the Landlord and in the absence of notification in the same manner as Rent. A certificate by the Landlord or authorised representative of the Landlord is prima facie evidence of the Outgoings for each Financial Year.
- (3) The Tenant must make all other payments promptly to the relevant assessing authority if assessed directly against the Tenant but otherwise to the Landlord upon receipt of an invoice.
- (4) Payments must be made as the Landlord directs.

2.3 Interest

If the Tenant is late in paying the Landlord any money, the Landlord may charge the Tenant daily interest on any late payments at the rate of two percent (2%) per month or any part of a month. All interest charged must be paid on demand.

Category B - Contrary to Public
Interest (47(3)(b) RTI Act)

Title Reference [50322905]

3 RENT REVIEWS

3.1 CPI Review

Where **CPI Review Dates** are inserted in Item 3(a) of the Reference Schedule the Rent must be reviewed on each **CPI Review Date** to an amount represented by A where:

$$A = \frac{B}{C} \times D$$

Where B = the **CPI** for the quarter ending immediately before the relevant **CPI review date**.

C = the **CPI** for the quarter one (1) year before the quarter in B; and

D = the **Rent** payable immediately before the **CPI Review Date**.

PROVIDED ALWAYS that the rental to be reviewed in accordance with the above formula shall not in any case be less than the immediately preceding year's rental.

3.2 Market Review

(1) Where **Market Review Dates** are inserted in Item 3(b) of the Reference Schedule the **Rent** must be reviewed in each **Market Review Date** to an amount equal to the current market rent for the **Premises** at the commencement of the year under review provided always that the rental shall in no circumstances be less than the immediately preceding year's rental.

(2) The current market rent must be agreed upon between the **Landlord** and the **Tenant** and if agreement on the current market rent is not reached by one month after commencement of the year under review, must be determined by a **Valuer**, acting as an expert and not an arbitrator, to be agreed upon by the **Landlord** and the **Tenant** or failing agreement, as nominated by the **President of the API**.

(3) In arriving at a decision, the **Valuer** must take no account of any increase in rental value of the **Premises** attributable at the review date of any improvements to the **Premises** carried out by the **Tenant**.

(4) The costs of the **Valuer** must be borne equally by the **Landlord** and the **Tenant**.

3.3 Fixed Review

Where **Fixed Increase Dates** are inserted in Item 3(c)(i) of the Reference Schedule that from and including each **Fixed Increase Dates** the **Rent** increases by the corresponding percentage set out in Item 3(c)(ii) of the Reference Schedule.

3.4 Rent Not to Decrease

The **Rent** in any year will not in any circumstances be less than the immediately preceding year's rental.

3.5 Payment of Rent Prior to Review

(1) Until a determination of **Rent** is made, the **Tenant** must pay the **Rent** payable before the date of the relevant review.

(2) Any variation in **Rent** resulting from a review takes effect on the relevant review date.

(3) Within fourteen (14) days of a determination, the **Landlord** must refund any overpaid **Rent** or the **Tenant** must pay any shortfall.

Category B - Contrary to Public
Interest (47(3)(b) RTI Act)

Title Reference [50322905]

4 USE OF THE PREMISES

4.1 Use of Premises

- (1) The **Tenant** must bring the **Premises** into active and bonafide use for the **Permitted Use** and for no other purpose.
- (2) The **Landlord** does not warrant the **Premises** are suitable for any purpose or may be used for the **Permitted Use**.

4.2 Conduct

The **Tenant** must not:

- (a) allow the **Premises** to be used for annoying, offensive or illegal acts which cause annoyance, nuisance, grievance, damage or disturbance to the occupants of adjacent **Premises** or to the **Landlord**
- (b) hold or permit to be held any auction or similar sale in the **Premises**
- (c) use any form of power other than gas or electric current or gas supplied through meters
- (d) overload the **Services**
- (e) damage the **Landlord's Property**
- (f) alter the **Premises**, install any partitions or equipment or do any **Building work**
- (g) do anything that may invalidate the **Landlord's** insurance or increase the **Landlord's** premiums
- (h) display, paint or erect any signs, save standard business signage
- (i) knowingly use or allow the **Landlord's Property** to be used for any purpose other than those for which they were designed
- (j) interfere with any drains, water supply, gas, electrical, plumbing, airconditioning equipment or other services or any of the **Landlord's Property**
- (k) prepare or cook for sale or other commercial purpose any food on the **Premises** and keep the **Premises** free from vermin
- (l) use any apparatus which radiates heat
- (m) bring any heavy machinery, plant or equipment onto the **Premises** unless it is reasonably necessary for the **Permitted Use** and in any case must not overload the floors, walls or ceilings
- (n) make holes, deface or damage floors, walls or ceilings or other parts of the **Premises**
- (o) install any vending or amusement machines
- (p) use or install any product or property in the **Premises** likely to cause damage

4.3 Consent

The **Tenant** may seek the **Landlord's** written consent to any of the matters in Clause 4.2 which can be granted at the **Landlord's** discretion.

4.4 Tenant's Obligation

The **Tenant** must:

Category B - Contrary to
Public Interest (47(3)(b) RTI
Act)

Title Reference [50322905]

- (a) obtain and maintain all permits or consents required from any government authority to carry on the **Permitted Use** in the **Premises**
- (b) obey all reasonable directions and rules given by the **Landlord** relating to use of the **Common Areas**
- (c) obey any rules made by the **Landlord** relating to the operation, safety, use, occupation and management of the **Building**
- (e) immediately notify the **Landlord** of any damage to, defect or disrepair in the **Services** or the **Landlord's Property**
- (f) immediately notify the **Landlord** of any infectious diseases notifiable to the relevant Health Authority occurring on the **Premises** of which it is aware
- (g) immediately provide the **Landlord** with copies of all notices, which it is required to serve on or receive pursuant to any legislation relating to the **Premises**
- (h) at the expiration or sooner determination of the **Term** return all keys of the **Premises** to the **Landlord**
- (i) lock all exterior doors and windows in the **Premises** and the **Building** when the **Premises** or the **Building** are not being used
- (j) pay all charges, assessments or impositions which may be levied in respect of the **Premises** during the **Term** and arising as a result of the use and occupation of the **Premises** by the **Tenant**.
- (k) maintain all fire safety equipment and, if required by the **Landlord**, employ a service contractor to inspect and service such equipment.

5 MAINTENANCE AND REPAIR

5.1 Repair

The Tenant must:

- (a) keep the **Premises**, including all signage, in good repair and condition except for fair wear and tear, and structural defects and/or repairs
- (b) fix any damage caused by the **Tenant** or its employees use
- (c) repair, maintain or replace all glass in the **Premises**, the doors locks windows and window fittings, all broken, faulty or blown light tubes and associated electrical apparatus in the **Premises**
- (d) during the last year of the **Term**, and more often if reasonably required by the **Landlord** having regard to the condition of the **Premises**, paint the walls, ceilings and other painted surfaces of the interior of the **Premises** with two (2) coats of first quality paint in a proper and workmanlike manner, in the original colours or in such other colours approved by the **Landlord**.
- (e) repair, maintain and (if necessary) renew all airconditioning equipment servicing the **Premises** **PROVIDED ALWAYS** that the **Tenant** shall not be required to replace structural or capital items relating to such airconditioning equipment unless their replacement is attributable to the **Tenant's** failure to repair and maintain same.

5.2 Cleaning

The Tenant must:

- (a) keep the **Premises** clean and tidy, consistent with the nature of the business conducted on the **Premises**
- (b) keep the **Tenant's Property** clean and tidy

Category B - Contrary to Public Interest (47(3)(b) RTI Act)

Title Reference [50322905]

- (c) if the Landlord and Tenant agree to use a cleaning service supplied by the Landlord to the Premises the Tenant must pay to the Landlord on demand the reasonable cost of cleaning the Premises
- (d) any cleaning of the Premises by a service supplied by the Landlord must be of a satisfactory commercial standard and the cleaners will be allowed access to the Premises at all reasonable times.

5.3 Landlord's Right to Inspect and Repair

- (1) Upon giving the Tenant two (2) days notice in writing, the Landlord may inspect or carry out repairs, maintenance, or Building work in or around the Premises at any reasonable time. In an emergency, the Landlord may enter at any time without giving the Tenant notice.
- (2) The Landlord may carry out any of the Tenant's obligations under this Lease if the Tenant does not carry them out on time or as reasonably directed by the Landlord. If the Landlord does so, then the Tenant must pay the Landlord's expenses.

5.4 Tenant's Works

- (1) The Tenant must not carry out any Building work without the Landlord's consent. The Landlord cannot unreasonably refuse to give its consent if:
 - (a) the Landlord approves the Tenant's drawings and specifications for the works
 - (b) the Tenant and the Landlord agree on the type, quality, colour and size of the materials to be used
 - (c) the Landlord reasonably approves of the Tenant's builder.
- (2) The Tenant must:
 - (a) pay for any work approved under Clause 5.4(1)
 - (b) indemnify the Landlord against all injury or damage to the Premises or the Building caused by those works, and
 - (c) maintain the works.

5.5 Landlord's Fitout

If the Landlord has provided any fitout to the Premises then:

- (a) that fitout is Landlord's Property
- (b) the Tenant must not damage any fitout provided by the Landlord or install any additional fitout without the consent of the Landlord which must not be unreasonably withheld
- (c) if during the Term of this Lease or any renewed term, any fitout provided by the Landlord needs to be replaced because of fair wear and tear, then the Landlord will replace that fitout with fitout of a like quality
- (d) if during the Term of this Lease or any renewed term, the Tenant requires any fitout by the Landlord to be replaced for reason other than fair wear and tear, the Landlord or the Tenant with the Landlord's consent will replace that fitout at the cost of the Tenant.

5.6 Air Conditioning

- (1) For the avoidance of doubt, the Tenant must ensure that any air conditioning equipment must be maintained at and in accordance with all applicable and recommended standards.

Category B - Contrary to
Public Interest (47(3)(b) RTI
Act)

Title Reference [50322905]

- (2) All labour parts and material which may from time to time be required to keep and maintain the air conditioning equipment in good and efficient working order and condition must be provided by the Tenant at the Tenant's own expense.
- (3) The Tenant must at the Tenant's own expense take out, maintain and where necessary enter into service contracts upon terms and conditions satisfactory to the Landlord to standards as required by the manufactures of the air conditioning equipment, and in accordance with the maintenance schedules for that equipment and with specialist contractors satisfactory to the Landlord for the inspection, maintenance, servicing and testing of that equipment.
- (4) The service contracts referred to above must provide for the supply of all labour parts and materials which are supplied pursuant to standard preventative maintenance contracts. The Tenant must forward to the Landlord copies of maintenance sheets completed by tradesman upon completion of any service together with copies of all reports prepared by the contractors providing services under this clause.
- (5) Nothing in this Clause 5.6 shall impose any obligation on the Tenant in respect of structural maintenance or repair of the said air conditioning equipment provided any structural maintenance or repair or replacement that may be required has not been contributed to by the Tenant through its deliberate, wilful or negligent conduct.

6 ASSIGNMENT AND SUBLETTING

- 6.1 The Tenant may only assign, sublet, grant another entity occupancy rights, mortgage, charge or deal with the Lease or the Premises with the Landlord's consent which must not be unreasonably withheld.
- 6.2 The Landlord must give its consent if:
 - (a) the Landlord is satisfied that the new Tenant is suitable, respectable, responsible and financially secure and is capable of carrying out the Tenant's obligations under this Lease
 - (b) then Tenant and the new Tenant signs any agreement and gives any security which the Landlord reasonably requires
 - (c) the Tenant complies with any other reasonable requirements of the Landlord
 - (d) the Tenant is not in breach of the Lease
 - (e) the Tenant releases the Landlord from all claims the Tenant has or may have in respect of this Lease
 - (f) the Tenant pays the Landlord's reasonable costs and expenses of giving its consent including legal costs, stamp duty and registration fees.
- 6.3 If the Tenant is a corporation, any change in the principal shareholding or composition of the board of directors altering the effective control or control of one half or greater of the shares of the board is an assignment of this Lease and must be dealt with in accordance with this Lease.

7 LANDLORD'S RIGHTS AND OBLIGATIONS

7.1 Variations In Tenant's Agreed Proportion

If the Landlord modifies the Building or alters the Lettable Area, the Landlord can recalculate the Agreed Proportion of Outgoings on the same basis as the Agreed Proportion of Outgoings was calculated before the Commencement Date but taking into account the increased or reduced (as the case may be) Lettable Area. Every such recalculation shall be binding on the parties to this Lease from the date the Landlord notifies the Tenant in writing.

Category B - Contrary to
Public Interest (47(3)(b) RTI
Act)

Title Reference [50322905]

7.2 Head Lease or Other Interests

The **Tenant** must allow any person having any estate or interest in the **Premises** superior to or concurrent with the **Landlord** to exercise the powers to enter and view the **Premises** and to carry out repairs renovations maintenance and other work and otherwise to exercise or perform their lawful rights or obligations.

7.3 Rules

The **Landlord** may make rules relating to the **Building** and **Common Areas** dealing with:

- (a) their use, care and cleanliness
- (b) the preservation of good order
- (c) the comfort of persons
- (d) the location of garbage and refuse pending its removal
- (e) the closure of any part outside normal business hours
- (f) the external appearance.

7.4 Complex Exterior

The **Landlord** has the exclusive right to use of the exterior of the **Building**, provided that any use of the exterior of the **Building** must not interfere with or adversely impact upon the **Tenant's** use of the **Premises**.

7.5 Licences For Use of Common Areas

The **Landlord**, can to grant to any person a licence to use any part of the **Common Areas** (other than toilets) provided such licence must not substantially adversely affect the **Tenant's** rights under this Lease.

7.6 Quiet Enjoyment

Provided the **Tenant** complies with the terms of this Lease the **Tenant** can peaceably hold and enjoy the **Premises** during the continuance of this Lease without any interruption by the **Landlord** or any other person lawfully claiming under the **Landlord**.

7.7 Insurance

The **Landlord** must insure the **Building** (but excluding all additions to the **Premises** carried out by the **Tenant** and the **Tenant's Property**) for its full replacement value and unless the insurance becomes void or voidable through or by reason of some default by the **Tenant** keep it insured.

7.8 Rates and Taxes

The **Landlord** must pay all **Outgoings** not payable by the **Tenant** or other occupant of the **Building**.

7.9 Maintenance

The **Landlord** must keep the **Common Areas** tidy and in good repair and must maintain the structural integrity of the **Premises** and **Building**.

7.10 Services

The **Landlord** must do everything reasonable to ensure the **Services** and **Landlord** supplied fixtures, fittings and equipment operate efficiently during normal working hours but the **Landlord** is not liable if they do not.

Category B - Contrary to Public Interest (47(3)(b) RTI Act)

Title Reference [50322905]

7.11 Directory Boards

Any directory boards provided by the Landlord are under its control.

7.12 Consent of Mortgagee

The Landlord must obtain from any mortgagee an unconditional consent in writing to this Lease.

8 RISK

8.1 Own Risk

The Tenant occupies and uses the Premises at its own risk. The Tenant also carries out Building work in the Premises at its own risk.

8.2 Release

The Tenant releases to the fullest extent permitted by Law, the Landlord and its agents, employees and contractors from all claims and demands resulting from any accident, damage, loss, injury or death occurring in the Premises or in any part of the Building or outside the Building except to the extent that it is caused by a deliberate act, negligence or default by the Landlord or its agents, employees or contractors or from structural defects.

8.3 Indemnity

Without limiting the generality of Clause 8.2 the Tenant indemnifies and holds indemnified the Landlord and its agents, employees and contractors from and against all actions, claims, losses, damages and costs for or in respect of which the Landlord may sustain or incur or for which the Landlord or its agents, employees and contractors shall or may be or become liable whether during or after the Term in respect of or arising from:

- (1) **Breach of Covenant** - Loss, damage or injury to property or person from or contributed to by the neglect or default of the Tenant to observe or perform any of the covenants, conditions and restrictions on the part of the Tenant whether positive or negative expressed or implied
- (2) **Misuse** - Negligent use or misuse, waste or abuse by the Tenant or any servant, agent or sub-Tenant of any Services to the Premises or to the Building
- (3) **Escape of Harmful Agent** - Overflow or escape of water, fire, gas, electricity or any other harmful agent whatsoever in or from the Premises caused or contributed to by any act or omission on the part of the Tenant its servants, agents or sub-Tenants
- (4) **Failure to Notify** - Failure of the Tenant to notify the Landlord of any defect of which it is aware in the Premises whatsoever
- (5) **Use of Premises** - Loss damage or injury from any cause whatsoever to property or person caused or contributed to by the use of the Premises by the Tenant or any servant, agent or sub-Tenant
- (6) **Personal Injury** - Any personal injury sustained by any person in or about the Premises or the Building howsoever caused other than the wilful or negligent act or omission of the Landlord or its servants or agents.

8.4 Insurance

- (1) At all times during the continuance of this Lease the Tenant must effect and keep current:
 - (a) a public liability insurance policy in respect of the Premises having endorsement to include the risks and indemnities contained in Clause 8.3 in the names of the Landlord and all persons having superior title to the Landlord and the Tenant for their respective interests in an amount set out in Item 7 of the Reference Schedule or any higher amount that the Landlord may from time to time reasonably require the Tenant by notice in writing to effect for of any single claim, accident or event, with an insurance office or company approved by the Landlord (such approval not to be unreasonably withheld)

Category B - Contrary to
Public Interest (47(3)(b) RTI
Act)

Title Reference [50322905]

- (b) a policy of insurance in the names of the Landlord and the Tenant for their respective interests to cover:
- (i) the full reinstatement replacement costs of plate glass in the Premises
 - (ii) special industrial risks (if any) due to the specific Permitted Use of the Premises by the Tenant (if any)

with an insurance office or company approved by the Landlord (such approval not to be unreasonably withheld)

- (c) worker's compensation including employer's liability insurance (unlimited cover).

(2) The Tenant must give the Landlord:

- (a) a duplicate copy of each such policy immediately it is effected
- (b) a copy of the receipt issued for payment of each premium within five (5) business days of it being paid
- (c) a copy of the certificate of currency when requested.

8.5 Notice of Accident

The Tenant must give the Landlord prompt notice in writing of any accident in or want of repair to the Premises or defect in any Services which it is aware.

8.6 Conduct Voiding Insurance

The Tenant must not knowingly do or permit to be done or omit to do any act in the Premises or on the Common Areas which may render void or voidable any insurances on the Building or that may cause the rate of premium on any such insurance policies to be increased or be liable to be increased and the Tenant must do or permit to be done immediately upon request by the Landlord, everything necessary to ensure the continuance of any insurances effected by the Landlord.

9 DEFAULT AND TERMINATION

9.1 Essential Terms

The essential terms are:

- (a) Payments [Clause 2.1]
- (b) Use of Premises [Clause 4.1]
- (c) Conduct [Clause 4.2]
- (d) Tenant's Obligations [Clause 4.4]
- (e) Repair [Clause 5.1]
- (f) Cleaning [Clause 5.2]
- (g) Obtain consent before assignment, subletting, mortgaging or charging [Clause 6.1].

9.2 Default

The Tenant is in default of this Lease if:

- (a) it breaches an essential term of this Lease

Category B - Contrary to
Public Interest (47(3)(b) RTI
Act)

Title Reference [50322905]

- (b) it repudiates its obligations under this Lease
- (c) it is insolvent
- (d) its interest under this Lease is attached or taken in execution under any legal process, or
- (e) it does not comply with any other term of this Lease within a reasonable time after receiving notice from the Landlord to do so.

9.3 Termination of Tenancy

- (1) If the Tenant is in default and does not remedy the default within the time stated in any notice from the Landlord, the Landlord may do any one or more of the following without prejudice to any other right which it may have against the Tenant:
 - (a) by notice to the Tenant, convert this Lease to a month to month tenancy on the terms of this Lease as far as they can be applied to a monthly tenancy
 - (b) by notice to the Tenant, terminate the Lease and take possession of the Premises
 - (c) recover from the Tenant any loss suffered by the Landlord due to default of the Tenant
 - (d) exercise any of its other legal rights.
- (2) The Landlord must take reasonable steps to mitigate its loss.

10 EXPIRY OF TERM

10.1 Tenant's Obligations

On expiry of the Term or earlier termination the Tenant must:

- (a) vacate the Premises in good repair and clean condition fair wear and tear being acceptable
- (b) remove all the Tenant's Property from the Premises
- (c) repair any damage caused by removal of the Tenant's Property
- (d) return all keys, security passes and cards held by the Tenant or its employees, and
- (e) paint the Premises with two coats of first quality paint in a workmanlike manner in colours approved in writing by the Landlord.

10.2 Failure to Remove Tenant's Property

If the Tenant does not remove the Tenant's Property on expiry or earlier termination, the Landlord may:

- (a) remove and store the Tenant's Property at the Tenant's risk and expense, or
- (b) treat the Tenant's Property as being abandoned, in which case title in the Tenant's Property passes to the Landlord who may deal with it as it thinks fit without being liable to account to the Tenant.

10.3 Power of Attorney

The Tenant irrevocably appoints the Landlord and, if the Landlord be a company, each of its officers as the Tenant's attorney,

After the right to re-enter has arisen, the Landlord as the Tenant's attorney may sign:-

Category B - Contrary to Public
Interest (47(3)(b) RTI Act)

Title Reference [50322905]

- (a) a surrender of this Lease;
- (b) a withdrawal of any Caveat lodged by the Tenant; or
- (c) any other document concerning this Lease.

In doing so, the attorney may use the Tenant's name and do anything relating to the Premises which the Tenant could do.

11 MONTHLY TENANCY

11.1 Monthly Tenancy

If the Tenant continues to occupy the Premises after the Expiry Date in accordance with this Lease:

- (a) The Tenant does so as a monthly Tenant on the same conditions as at the last day of the Term; and
- (b) either party may terminate the monthly tenancy by giving to the other one (1) month's notice expiring on any day.

12 DAMAGE AND DESTRUCTION

12.1 Rent Reduction

If the Building is damaged or destroyed and the Tenant or its employees have not caused or contributed to such damage or destruction and as a result the Premises are wholly or partially unfit for use or the Tenant cannot gain access to the Premises then from the date that the Tenant notifies the Landlord of the damage or destruction until the date that the Premises are again fit for use and accessible, the Landlord:

- (a) must reduce the Rent, Agreed Proportion of Outgoings and any other money payable to the Landlord by a reasonable amount depending on the type and extent of damage or destruction, and
- (b) cannot require the Tenant to clean, repair or maintain until the Premises are fit for use and accessible.

12.2 Tenant May Terminate

The Tenant may terminate this Lease by thirty (30) days notice to the Landlord unless:

- (a) within three (3) months of the event causing damage or destruction, the Landlord notifies the Tenant that the Premises will be reinstated, and
- (b) carries out reinstatement works within a reasonable time having regard to the extent of the damage.

12.3 Landlord May Terminate

If the Landlord considers the damage to the Premises renders it impractical or undesirable to reinstate the Premises, it may terminate this Lease by giving to the Tenant notice in writing.

12.4 No Obligation to Rebuild

The Lessor is not obliged to restore the Building or Premises however, if the Landlord wishes to restore the Building or Premises, same shall not necessarily be constructed by the Landlord according to the former specifications so long as the layout and dimensions of the Premises and Services are not substantially different.

12.5 Dispute Resolution

- (1) The Tenant is entitled to dispute the reasonableness of any reduction of rent and other moneys
- (2) Any dispute as to the extent and reasonableness of any reduction in rent and other moneys must be determined by an independent Valuer appointed by the president of the API at the request of either party

Category B - Contrary to
Public Interest (47(3)(b) RTI
Act)

Title Reference [50322905]

- (3) In making the determination, the appointed Valuer acts as an expert and the determination is final and binding on both parties.
- (4) The cost of the determination must be paid by the parties equally unless otherwise decided by the appointed Valuer.

12.6 Antecedent Rights

Termination under Clause 12 or any other provision of this Lease does not affect either parties' accrued rights before termination.

13 SALE BY LANDLORD

If this Lease is not registered, before transferring any interest in the Land, the Landlord must obtain a signed deed from the transferee containing covenants in favour of the Tenant that the transferee will be bound by the terms of this Lease and will not transfer its interest in the Land unless it obtains a similar deed from its transferee.

14 GENERAL

14.1 Naming Rights

The Landlord may:

- (a) name or rename the Building
- (b) alter or build additions to the Building and in so doing interrupt the Services provided any interruption is minimised.

14.2 Landlord May Rectify

If the Tenant does not perform any obligation under this Lease the Landlord may perform that obligation as agent of the Tenant and the full cost to the Landlord of performing that obligation is payable by the Tenant to the Landlord on demand.

14.3 Notices

To be valid or effective a notice or document must be:

- (a) in writing, and
- (b) left at, posted by registered post or sent by facsimile number to the Landlord or Tenant at the address last notified by the receiving party.

14.4 Waiver Negatived

Failure by the Landlord or Tenant to exercise any power or right under this Lease can not be such to be construed or deemed a waiver of the relevant power or right unless it is in writing.

14.5 Entire Agreement

This Lease:

- (a) contains the entire agreement and understanding between the parties on everything connected with the subject matter of this Lease, and
- (b) supersedes any prior agreement or understanding on anything connected with that subject matter.

Category B - Contrary to
Public Interest (47(3)(b) RTI
Act)

Title Reference [50322905]

14.6 Severability

If any provision of this Lease or its application to any person or circumstance is or becomes unenforceable, illegal or void the remaining covenants are not effected and each covenant of this Lease is enforceable to the greatest extent permitted by Law.

14.7 Obligations of Parties

The respective covenants and obligations of the parties as set out in this Lease whether positive or negative must be construed as if each such obligation or covenant is a separate and independent covenant made by one party in favour of the other party and continuing (unless the context otherwise requires) throughout the Term and for so long as it remains to be performed.

14.8 Statutes and Regulations

Reference to statutes regulations ordinances or by-laws are deemed to extend to all statutes regulations ordinances or by-laws amending consolidating or replacing the same.

14.9 Governing Law

This Lease must be governed by and construed in accordance with the law of the State of Queensland.

14.10 Saturdays, Sundays and Public Holidays

If under this Lease the day on or by which any act, matter or thing must to be done is a Saturday, Sunday or a public holiday that act matter or thing must be done on the next succeeding day which is not a Saturday, Sunday or public holiday.

14.11 Goods and Services Tax

(1) In this Clause:-

"GST" means Goods and Services Tax within the meaning of the GST Act

"GST Act" means A New Tax System (Goods and Services Tax) Act 1999 (as amended)

The expressions used in this Clause 14.11 have the meanings given to them under the GST Act

(2) The Tenant must pay to the Landlord any tax or levy incurred by the Landlord in the nature of a goods and services tax or consumption tax or other tax levied directly on or relating to the receipt of payments including rental. The Tenant must pay such tax or levy upon demand in writing by the Landlord. In particular an amount payable by the Tenant under this Lease in respect of a taxable supply by the Landlord represents the value of the supply and the Tenant must in addition to that amount and at the same time pay to the Landlord the GST payable in respect of the supply.

(3) If this Lease requires the Tenant to pay reimburse or contribute to an amount paid or payable by the Landlord in respect of a creditable acquisition from a third party the amount for payment reimbursement or contribution will be the value of the acquisition by the Landlord plus if the Landlord's recovery from the Tenant is a taxable supply, the GST payable in respect of that supply.

(4) The Landlord must deliver to the Tenant when claiming any such payment reimbursement or contribution such documentation as may be required to allow the Tenant to claim any input tax credits to which the Tenant may be entitled in relation to such payment reimbursement or contribution.

Category B - Contrary to
Public Interest (47(3)(b) RTI
Act)

Title Reference [50322905]

15 OPTION FOR FURTHER TENANCY

15.1 Exercise of Option

If further terms have been inserted in Item 8 of the Reference Schedule the Landlord must grant a Renewed Lease of the Premises to the Tenant for each further term inserted in Item 8 of the Reference Schedule if the Tenant:

- (a) gives notice to that effect to the Landlord not earlier than six (6) months and not less than three (3) months before the Term expires, and
- (b) has not breached any of the essential terms of this Lease set out on Clause 9.1.

15.2 Terms of Renewed Lease

The Renewed Lease must be on the same terms as this Lease except:

- (a) the term will be that specified for the relevant Option in Item 8 of the Reference Schedule
- (b) the date of commencement will be the day after expiry of the Term
- (c) the rent will be an amount determined under Clause 3.2 as if the last day of the Term was a Market Review Date
- (d) the amount of public liability insurance in Item 7 of the Reference Schedule will be an amount reasonably required by the Landlord
- (e) the Bank Guarantee in Item 9 of the Reference Schedule will be an amount reasonably required by the Landlord
- (f) Clause 15 will be omitted from the Renewed Lease when no relevant further terms remain in Item 8 of the Reference Schedule or the Tenant does not comply with Clause 15.1.

15.3 Dispute

If rent is not determined at the commencement date of the Renewed Lease, the Tenant must pay the Rent and any adjustment will be made on determination of the relevant rent.

16 BANK GUARANTEE

16.1 If a Bank Guarantee has been inserted in Item 9 of the Reference Schedule the Tenant must deliver the Landlord before the Date of Commencement the Bank Guarantee.

16.2 If the Tenant does not comply with any of its obligations under this Lease, the Landlord may call on the Bank Guarantee.

16.3 If the Landlord makes demand on the Bank Guarantee the Tenant must provide a replacement Bank Guarantee equal to the amount claimed by the Landlord.

16.4 The Landlord must return the Bank Guarantee to the Tenant within 2 months of expiration of the Term unless:

- (a) the Landlord has started proceedings against the Tenant, or
- (b) the Tenant is holding over with the Landlord's consent.

Category B - Contrary to Public
Interest (47(3)(b) RTI Act)

Title Reference [50322905]

17 GUARANTEE

17.1 Guarantee

If Guarantors are inserted in Item 10 of the Reference Schedule this Lease is not binding on the Landlord until the Guarantee annexed to this Lease has been signed by each person named as a Guarantor in Item 10 of the Reference Schedule.

18. INTERNAL BUILDING ADDITIONS

18.1 The Tenant acknowledges and agrees having been advised by the Landlord prior to entry into the within Lease that certain internal additions to the Premises have been effected by the Landlord for purposes of storage only. Should the Tenant wish to use those areas for any purposes other than for storage then the Tenant shall be required to obtain all Council Building and other approvals as are necessary to enable such usage to be implemented and effected and further that the Landlord's prior written consent to such alternative uses will need to be obtained other than in circumstances where such use consistent with the Permitted Use referred to herein.

19. OPTION TO PURCHASE

19.1 The Tenant and the Landlord agree and acknowledge that in consideration of the Tenant's entry into this Lease and the Tenant's payment of the Option Fee that the Landlord grants to the Tenant (or the Tenant's nominee) an Option to Purchase to be exercised on or before the 30th November 2017 at an agreed Purchase Price of \$750,000. The Tenant must make payment of a non-refundable deposit of \$74,000 on or before the 30th November 2016 ("Option Fee") as a pre-condition to its exercise of the within Option. Such Option Fee shall be non-refundable and shall be released to the Landlord/Seller immediately upon payment. Should the Tenant proceed to exercise the Option then such Option Fee shall be applied towards the Purchase Price referred to herein and shall be regarded as a Deposit payable pursuant to the Contract such Contract to be in the form of the attached Contract.

20 TRUSTEE

20.1 The Lessee has entered into this lease in the capacity of trustee and the premises are held by the Lessee upon the terms of the subject trust (all or any of which trust is hereinafter in this clause referred to as "the Trust") (and whether or not the Lessor has notice of the Trust):

- (a) the Lessee hereby accepts this lease both as trustee of the Trust and in its personal capacity and acknowledges that it is personally liable for the performance and observance and observance of any obligation on the Lessee's part to be performed and observed hereunder and covenants with the Lessor that in the event of any default hereunder which is unremedied the Lessee will take those steps and proceedings necessary to ensure that the assets of the Trust are made available for the purpose of rectifying that breach and that upon demand by the Lessor the Lessee will assign to the Lessor all rights of indemnity which the Lessee may have against the assets of the Trust;
- (b) the Lessee covenants with the Lessor that the Lessee has power and authority to enter into this lease pursuant to the terms of the Trust and that the entering into of this lease by the Lessee is in the due administration of the Trust

Category B - Contrary to
Public Interest (47(3)(b) RTI
Act)

Title Reference [50322905]

GUARANTEE

To: **COLLBURY PTY LTD A.C.N. 078 482 032 trustee under instrument 710452396 of + Queensland, (hereinafter together with their executors and assigns called "the Landlord")**

IN CONSIDERATION OF your having agreed at the request of **Category B - Contrary to Public Interest (47(3)(b) RTI Act)** in the State of Queensland (hereinafter called, or if more than one, collectively called "the Guarantor") to grant to **MACS WORKOUT PTY LTD A.C.N. 608 974 367 as trustee for the MAC Family Trust (hereinafter together with its successors and permitted assigns called "the Tenant")** the foregoing Lease (which, together with any fresh demise or extension arising out of the exercise of any option for renewal contained therein, is hereinafter called "the Lease"), which request is testified by the Guarantor's execution hereof, the Guarantor covenants and agrees with the Landlord as follows:-

- (a) The Guarantor guarantees to the Landlord the due and punctual payment of all rent and other moneys, to be paid by the Tenant to the Landlord, under the Lease and the performance and observance by the Tenant of all the covenants, terms and conditions of the Lease on the part of the Tenant to be performed and observed.
- (b) The Guarantor hereby indemnifies the Landlord and agrees at all times hereafter to keep the Landlord indemnified from and against all losses, damages, costs and expenses which the Landlord may suffer or incur in consequence of any breach or non-observance of any of the covenants, terms and conditions of the Lease on the part of the Tenant to be performed or observed, and the Guarantor agrees that the Guarantor shall remain liable to the Landlord under this indemnity, notwithstanding as a consequence of such breach or non-observance, the Landlord has exercised any of its rights under the Lease, including its right of re-entry and notwithstanding that the Tenant (being a Corporation) may be wound up or dissolved or (being a natural person) may be declared bankrupt and notwithstanding that the guarantee given by the Guarantor may for any reason whatsoever, be unenforceable either in whole or in part.
- (c) On any default or failure by the Tenant to observe and perform any of the covenants, terms and conditions of the Lease, the Guarantor will forthwith on demand by the Landlord pay all such rent and other moneys and make good to the Landlord all losses, damages, costs and expenses sustained or incurred by the Landlord, by reason or in consequence of any such default or failure by the Tenant in the payment of rent and other moneys or in performing or observing any of the covenants, terms and conditions of the Lease and the Guarantor shall also pay to the Landlord interest thereon as calculated in accordance with the terms of the Lease from the time of such rent or other moneys respectively falling due to the date of payment, such interest being added without the necessity of any prior demand having been made on the Tenant.
- (d) The liability of the Guarantor under this guarantee and indemnity shall not be affected by the granting of time or any other indulgence to the Tenant or by any assignment or purported assignment of the interest of the Tenant under the Lease or by any renewal or extension of the term of the Lease or by the compounding compromise, release, abandonment, waiver, variation or renewal of any of the rights of the Landlord against the Tenant or by any variation of the Lease, or by any neglect or omission to enforce such rights or by any other thing which under the law relating to sureties would or might but for this provision release the Guarantor in whole or in part from its obligations under this guarantee and indemnity.
- (e) Notwithstanding that as between the Guarantor and the Tenant the Guarantor may be a surety only, nevertheless as between the Guarantor and the Landlord, the Guarantor shall be deemed to be a primary debtor and contractor, jointly and severally with the Tenant.
- (f) To the fullest extent permitted by law, the Guarantor hereby waives such of its rights as surety or Indemnifier (legal, equitable, statutory or otherwise) which may at any time be inconsistent with any of the provisions of the Guarantee and indemnity contained herein.

Category B - Contrary to Public Interest (47(3)(b) RTI Act)

Title Reference [50322905]

- (g) The covenants and agreements made or given by the Guarantor shall not be conditional or contingent in any way or dependent upon the validity or enforceability of the covenants and agreements of any other person and shall be and remain binding notwithstanding that any other person shall not have executed or duly executed the Lease or this guarantee and Indemnity.
- (h) The obligations of the Guarantor under the guarantee and indemnity contained herein shall continue to remain in force until all rent and other moneys payable pursuant to the Lease shall have been paid and until all other obligations and indemnities shall have been performed, observed and satisfied and such obligations shall not be reduced or affected by any notice to quit given by either party to the Lease or the death, insolvency, liquidation or dissolution of the Tenant or the Guarantor or either one or more of them.
- (i) The Guarantor does not execute this guarantee and indemnity as a result of or by reason of any promise, representation, statement, information or inducement of any nature or kind whatsoever, given or offered to the Guarantor by the Landlord or on the Landlord's behalf, whether in answer to any enquiry by or on behalf of the Guarantor or not and (except as provided in this guarantee and indemnity) the Tenant was not prior to the execution of this guarantee and indemnity by the Guarantor and is not thereafter under any duty to disclose to the Guarantor or to do or execute any act, matter or thing relating to the affairs of the Tenant or its transactions with the Landlord.
- (j) The Guarantor hereby further acknowledges, agrees and declares that the Landlord may assign the benefit of this guarantee and indemnity by notice in writing to the Guarantor without affecting or discharging the Guarantor's liability as surety hereunder and thereupon this guarantee and indemnity shall extend to and endure for the benefit of the assignee or assignees but without prejudice to any rights which the Landlord may have against the Guarantor, either as a surety or by way of indemnity arising before the date of assignment.
- (k) All notices or demands to be given or made to or upon the Guarantor shall be deemed to be duly given and served on the Guarantor if signed by the Landlord or the solicitors for the Landlord, or if the Landlord is a Corporation, then by any officer of the corporate Landlord or the solicitors for the Corporate Landlord, and delivered to the Guarantor (or if there is more than one Guarantor then to any one or more of them) personally or if the Guarantor is a corporation then to any person at its registered office or principal place of business in this State, or if left at the last known place of business or abode of the Guarantor, or left at or sent to the Guarantor through the post in a prepaid envelope addressed to the Guarantor at the address (if any) of the Guarantor set out herein. A notice or demand which is posted shall be deemed to have been served on the Guarantor on the business day next following the date of posting thereof. Notices and demands may also be served in any other manner permitted by Law.
- (l) In the event of the invalidity of any part or provision of this guarantee and indemnity such invalidity shall not affect the validity or the enforceability of any other part of the provision of the same.
- (m) Where there is more than one person or corporation which together constitute the Guarantor, the obligations and liabilities of each and every such person or corporation shall be joint and several.
- (n) All stamp duty on this guarantee and indemnity and on any duplicate hereof shall be borne and paid by the Guarantor.
- (o) For the purpose of this guarantee and indemnity, the expression "the Guarantor" means the Guarantor or collectively the Guarantors. If the Guarantor is one person the expression "the Guarantor" includes that person, his executors, administrators and successors and if the Guarantor is more persons than one, the expression includes those persons and each of them, and their and each of their respective executors, administrators and successors and if the Guarantor is or includes a corporation, the expression includes that corporation and its successors.

Category B - Contrary to Public
Interest (47(3)(b) RTI Act)

Title Reference [50322905]

DATED this 20th day of November 2015

SIGNED SEALED AND DELIVERED

by [Redacted] in the presence of:)

[Redacted]
Category B - Contrary to Public Interest (47(3)(b) RTI Act)

A

A Name of witness (print)

[Redacted]
Category B - Contrary to Public Interest (47(3)(b) RTI Act)

A

SIGNED SEALED AND DELIVERED

by [Redacted] in the presence of:)

[Redacted]
Category B - Contrary to Public Interest (47(3)(b) RTI Act)

A

A Name of witness (print)

[Redacted]
Category B - Contrary to Public Interest (47(3)(b) RTI Act)

A

SIGNED SEALED AND DELIVERED

by [Redacted] in the presence of:)

[Redacted]
Category B - Contrary to Public Interest (47(3)(b) RTI Act)

A

A Name of witness (print)

[Redacted]
Category B - Contrary to Public Interest (47(3)(b) RTI Act)

A

[Redacted]
Category B - Contrary to Public Interest (47(3)(b) RTI Act)

Title Reference [50322905]

Table of Contents

Clause	Page
1 INTERPRETATION.....	3
1.1 TERMS AND REFERENCE SCHEDULE.....	3
1.2 DEFINITIONS.....	3
1.3 REFERENCE.....	4
2 RENT AND OTHER PAYMENTS.....	5
2.1 PAYMENTS.....	5
2.2 MANNER OF PAYMENT.....	5
2.3 INTEREST.....	5
3 RENT REVIEWS.....	6
3.1 CPI REVIEW.....	6
3.2 MARKET REVIEW.....	6
3.3 FIXED REVIEW.....	6
3.4 RENT NOT TO DECREASE.....	6
3.5 PAYMENT OF RENT PRIOR TO REVIEW.....	6
4 USE OF THE PREMISES.....	7
4.1 USE OF PREMISES.....	7
4.2 CONDUCT.....	7
4.3 CONSENT.....	7
4.4 TENANT'S OBLIGATION.....	7
5 MAINTENANCE AND REPAIR.....	8
5.1 REPAIR.....	8
5.2 CLEANING.....	8
5.3 LANDLORD'S RIGHT TO INSPECT AND REPAIR.....	9
5.4 TENANT'S WORKS.....	9
5.5 LANDLORD'S FITOUT.....	9
5.6 AIR CONDITIONING.....	9
6 ASSIGNMENT AND SUBLETTING.....	10
7 LANDLORD'S RIGHTS AND OBLIGATIONS.....	10
7.1 VARIATIONS IN TENANT'S AGREED PROPORTION.....	10
7.2 HEAD LEASE OR OTHER INTERESTS.....	11
7.3 RULES.....	11
7.4 COMPLEX EXTERIOR.....	11
7.5 LICENSES FOR USE OF COMMON AREAS.....	11
7.6 QUIET ENJOYMENT.....	11
7.7 INSURANCE.....	11
7.8 RATES AND TAXES.....	11
7.9 MAINTENANCE.....	11
7.10 SERVICES.....	11
7.11 DIRECTORY BOARDS.....	12
7.12 CONSENT OF MORTGAGEE.....	12
RISK.....	12
8.1 OWN RISK.....	12
8.2 RELEASE.....	12
8.3 INDEMNITY.....	12
8.4 INSURANCE.....	12
8.5 NOTICE OF ACCIDENT.....	13
8.6 CONDUCT VOIDING INSURANCE.....	13
9 DEFAULT AND TERMINATION.....	13

Category B - Contrary to
Public Interest (47(3)(b) RTI
Act)

Title Reference [50322905]

9.1	ESSENTIAL TERMS.....	13
9.2	DEFAULT.....	13
9.3	TERMINATION OF TENANCY.....	14
10	EXPIRY OF TERM.....	14
10.1	TENANT'S OBLIGATIONS.....	14
10.2	FAILURE TO REMOVE TENANT'S PROPERTY.....	14
10.3	POWER OF ATTORNEY.....	14
11	MONTHLY TENANCY.....	15
11.1	MONTHLY TENANCY.....	15
12	DAMAGE AND DESTRUCTION.....	15
12.1	RENT REDUCTION.....	15
12.2	TENANT MAY TERMINATE.....	15
12.3	LANDLORD MAY TERMINATE.....	15
12.4	NO OBLIGATION TO REBUILD.....	15
12.5	DISPUTE RESOLUTION.....	15
12.6	ANTECEDENT RIGHTS.....	16
13	SALE BY LANDLORD.....	16
14	GENERAL.....	16
14.1	NAMING RIGHTS.....	16
14.2	LANDLORD MAY RECTIFY.....	16
14.3	NOTICES.....	16
14.4	WAIVER NEGATIVED.....	16
14.5	ENTIRE AGREEMENT.....	16
14.6	SEVERABILITY.....	17
14.7	OBLIGATIONS OF PARTIES.....	17
14.8	STATUTES AND REGULATIONS.....	17
14.9	GOVERNING LAW.....	17
14.10	SATURDAYS, SUNDAYS AND PUBLIC HOLIDAYS.....	17
14.11	GOODS AND SERVICES TAX.....	17
15	OPTION FOR FURTHER TENANCY.....	18
15.1	EXERCISE OF OPTION.....	18
15.2	TERMS OF RENEWED LEASE.....	18
15.3	DISPUTE.....	18
16	BANK GUARANTEE.....	18
17	GUARANTEE.....	19
17.1	GUARANTEE.....	19
18	INTERNAL BUILDING ADDITIONS.....	19
19	OPTION TO PURCHASE.....	19
20	TRUSTEE.....	19
	GUARANTEE.....	20

Category B - Contrary to
Public Interest (47(3)(b) RTI
Act)

Annexure **80**

Category B - Contrary to Public Interest (47(3)(b) RTI Act)

TITLE SEARCH - See Attached

Released under Right to Information Act 2009

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CURRENT TITLE SEARCH

NATURAL RESOURCES, MINES AND ENERGY, QUEENSLAND

Request No: 31678378

Search Date: 16/07/2019 19:59

Title Reference: 50322905

Date Created: 27/07/2000

Previous Title: 50031163

REGISTERED OWNER

Dealing No: 710452396 27/03/2007

COLLBURY PTY LTD A.C.N. 078 482 032

TRUSTEE

UNDER INSTRUMENT 710452396

ESTATE AND LAND

Estate in Fee Simple

LOT 2

SURVEY PLAN 130704

Local Government: BUNDABERG

COMMUNITY MANAGEMENT STATEMENT 28385

EASEMENTS, ENCUMBRANCES AND INTERESTS

1. Rights and interests reserved to the Crown by Deed of Grant No. 10228180 (ALLOT 1)
2. LEASE No 716938839 08/12/2015 at 11:41
MACS WORKOUT PTY LTD A.C.N. 608 974 367 TRUSTEE
UNDER INSTRUMENT 716938839
OF THE WHOLE OF THE LAND
TERM: 01/12/2015 TO 30/11/2020 OPTION 5 YEARS

ADMINISTRATIVE ADVICES - NIL

UNREGISTERED DEALINGS - NIL

CERTIFICATE OF TITLE ISSUED - No

Caution - Charges do not necessarily appear in order of priority

** End of Current Title Search **

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Requested By: D-ENQ PROPERTY & TITLE SEARCH

TERMS OF CONTRACT
For Commercial Lots in a Community Titles Scheme

1. DEFINITIONS

1.1 In this Contract:

- (1) terms in **bold** in the Reference Schedule and the Disclosure Statement have the meanings shown opposite them unless the context requires otherwise; and
- (a) **"ATO"** means the Australian Taxation Office;
- (b) **"ATO Clearance Certificate"** means a certificate issued under section 14-220(1) of the Withholding Law which is current on the date it is given to the Buyer;
- (c) **"Balance Purchase Price"** means the Purchase Price, less the Deposit, adjusted under clause 2.5;
- (d) **"Bank"** means an authorised deposit-taking institution within the meaning of the *Banking Act 1959* (Cth);
- (e) **"Body Corporate"** means the body corporate of the Scheme;
- (f) **"Body Corporate Debt"** has the meaning in the Regulation Module but excludes the Body Corporate Levies for the period which includes the Settlement Date;
- (g) **"Body Corporate Levies"** means regular periodic contributions levied on the owner of the Lot (including, if applicable, levied under an exclusive use by-law) excluding any Special Contribution;
- (h) **"Bond"** includes any security for payment of Rent or other monies or performance of any obligation pursuant to any Lease;
- (i) **"Building"** means any building that forms part of the Lot or in which the Lot is situated;
- (j) **"Business Day"** means a day other than:
- (i) a Saturday or Sunday;
- (ii) a public holiday in the Place for Settlement; and
- (iii) a day in the period 27 to 31 December (inclusive);
- (k) **"CGT Withholding Amount"** means the amount determined under section 14-200(3)(a) of the Withholding Law or, if a copy is provided to the Buyer prior to settlement, a lesser amount specified in a variation notice under section 14-235.
- (l) **"Commercial Tenancies"** means the tenancies referred to in the Commercial Tenancies Schedule and any additional tenancies granted by the Seller with the Buyer's consent under clause 10.6(1)(a);
- (m) **"Commercial Tenancy Documents"** means all agreements, deeds of covenant and other documents relating to the Commercial Tenancies;
- (n) **"Contractor Date"** or **"Date of Contract"** means the date inserted in the Reference Schedule.
- (o) **"Contractor"** means any party performing services under a Service Agreement;
- (p) **"Court"** includes any tribunal established under statute;
- (q) **"Disclosure Statement"** means the statement under section 206 (existing lot) or section 213 (proposed lot) of the *Body Corporate and Community Management Act 1997*;
- (r) **"Electronic Signature"** means an electronic method of signing that identifies the person and indicates their intention to sign the contract;
- (s) **"Encumbrances"** includes:
- (i) unregistered encumbrances
- (ii) statutory encumbrances; and
- (iii) Security Interests.
- (t) **"Essential Term"** includes, in the case of breach by:
- (i) the Buyer: clauses 2.1, 2.4(1), 2.4(5), 5.1 and 6.1; and
- (ii) the Seller: clauses 2.4(5), 5.1, 5.3(1)(a) - (d), 5.3(1)(e)(i) & (iii), 5.7 and 6.1;
- but nothing in this definition precludes a Court from finding other terms to be essential;
- (u) **"Exclusive Use Areas"** means parts of the common property for the Scheme allocated to the Lot under an exclusive use by-law;
- (v) **"Financial Institution"** means a Bank, building society or credit union;
- (w) **"GST"** means the goods and services tax under the *GST Act*;
- (x) **"GST Act"** means *A New Tax System (Goods and Services Tax) Act* and includes other GST related legislation;
- (y) **"GST Withholding Amount"** means the amount (if any) determined under section 14-250 of the Withholding Law required to be paid to the Commissioner of Taxation;
- (z) **"Improvements"** means fixed structures in the Lot (such as stoves, hot water systems, fixed carpets, curtains, blinds and their fittings, clothes lines, fixed satellite dishes and television antennae, in-ground plants) but does not include the Reserved Items;
- (aa) **"ITAA"** means the *Income Tax Assessment Act 1936* ("**1936 Act**") and the *Income Tax Assessment Act 1997* ("**1997 Act**"), or if a specific provision is referred to, the Act which contains the provision; however if a specific provision of the 1936 Act is referred to which has been replaced by a provision of the 1997 Act, the reference must be taken to be to the replacement provision;
- (bb) **"Keys"** means keys, codes or devices in the Seller's possession or control for all locks or security systems on the Property or necessary to access the Property;
- (cc) **"Land"** means the scheme land for the Scheme;
- (dd) **"Outgoings"** means:
- (i) rates or charges on the Lot by any competent authority (for example, council rates, water rates, fire service levies);
- (ii) land tax; and
- (iii) Body Corporate Levies;
- (ee) **"PPSR"** means the Personal Property Securities Register established under the *Personal Property Securities Act 2009* (Cth);
- (ff) **"Property"** means:
- (i) the Lot;
- (ii) the right to any Exclusive Use Areas;
- (iii) the Improvements;
- (iv) the Included Chattels;

INITIALS (Note: initials not required if signed with Electronic Signature)

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Page 8 of 19

- (gg) "Regulation Module" means the regulation module for the Scheme;
- (hh) "Rent" means any periodic amount, including outgoings, payable under the Tenancies;
- (ii) "Reserved Items" means the Excluded Fixtures and all chattels in the Lot and Exclusive Use Areas other than the Included Chattels;
- (jj) "Scheme" means the community titles scheme containing the Lot;
- (kk) "Security Interests" means all security interests registered on the PPSR over Included Chattels and Improvements;
- (ll) "Service Agreement" means any agreement between the Seller and another party in connection with services performed for the benefit of the Property and set out in the Service Agreement Schedule;
- (mm) "Service Agreement Documents" means the Service Agreements and all other documents relating to the Service Agreements;
- (nn) "Site Value" means:
 - (i) in the case of non-rural land, site value under the *Land Valuation Act 2010*; or
 - (ii) in the case of rural land, the unimproved value of the land under the *Land Valuation Act 2010*;
- (oo) "Special Contribution" means an amount: levied by the Body Corporate under the Regulation Module for a liability for which no provision or inadequate provision has been made in the budget of the Body Corporate;
- (pp) "Tenant" means a Tenant under the Commercial Tenancies;
- (qq) "Transfer Documents" means:
 - (i) the form of transfer under the *Land Title Act 1994* required to transfer title in the Lot to the Buyer; and
 - (ii) any other document to be signed by the Seller necessary for stamping or registering the transfer;
- (rr) "Transport Infrastructure" has the meaning defined in the *Transport Infrastructure Act 1994*; and
- (ss) "Withholding Law" means Schedule 1 to the *Taxation Administration Act 1953* (Cth).

1.2 Words and phrases defined in the *Body Corporate and Community Management Act 1997* have the same meaning in this contract unless the context indicates otherwise.

2. PURCHASE PRICE

2.1 Deposit

- (1) The Buyer must pay the Deposit to the Deposit Holder at the times shown in the Reference Schedule. The Deposit Holder will hold the Deposit until a party becomes entitled to it.
- (2) The Buyer will be in default if it:
 - (a) does not pay the Deposit when required;
 - (b) pays the Deposit by post-dated cheque; or
 - (c) pays the Deposit by cheque which is dishonored on presentation.
- (3) The Seller may recover from the Buyer as a liquidated debt any part of the Deposit which is not paid when required.

2.2 Investment of Deposit

- (1) If:
 - (a) the Deposit Holder is instructed by either the Seller or the Buyer; and
 - (b) it is lawful to do so;
 the Deposit Holder must:
 - (c) invest as much of the Deposit as has been paid with any Financial Institution in an interest-bearing account in the names of the parties; and
 - (d) provide the parties' tax file numbers to the Financial Institution (if they have been supplied).
- (2) If there is income from the investment of the Deposit in respect of any financial year to which no beneficiary is presently entitled for the purpose of Division 6 of Part III of ITAA as at 30 June of that financial year:
 - (a) the parties must pay to the Deposit Holder the tax assessed to it in respect of that income (other than tax in the nature of a penalty for late lodgement ("Penalty") which the Deposit Holder must bear itself) and all expenses of the Deposit Holder in connection with the preparation and lodgement of the tax return, payment of the tax, and furnishing to the parties the information and copy documents they reasonably require;
 - (b) if the tax (other than Penalty) and the Deposit Holder's expenses are not paid to the Deposit Holder on demand, it may deduct them from the Deposit and income;
 - (c) if tax is not assessed on the income when the Deposit and income are due to be paid to the party entitled, the Deposit Holder may deduct and retain its estimate of the assessment; and
 - (d) as between the parties, the tax must be paid by the party receiving the income on which the tax is assessed, and the Deposit Holder's expenses.

2.3 Entitlement to Deposit and Interest

- (1) The party entitled to receive the Deposit is:
 - (a) if this contract settles, the Seller;
 - (b) if this contract is terminated without default by the Buyer, the Buyer; and
 - (c) if this Contract is terminated owing to the Buyer's default, the Seller.
- (2) The interest on the Deposit must be paid to the person who is entitled to the Deposit.
- (3) If this contract is terminated, the Buyer has no further claim once it receives the Deposit and interest unless the termination is due to the Seller's default or breach of warranty.
- (4) The Deposit is invested at the risk of the party who is ultimately entitled to it.

2.4 Payment of Balance Purchase Price

- (1) On the Settlement Date, the Buyer must pay the Balance Purchase Price by Bank cheque as the Seller or the Seller's Solicitor directs.
- (2) Despite any other provision of this contract, reference to a "Bank cheque" in clause 2.4:
 - (a) includes a cheque drawn by a building society or credit union on itself;
 - (b) does not include a cheque drawn by a building society or credit union on a Bank;
 and the Seller is not obliged to accept a cheque referred to in clause 2.4(2)(b) on the Settlement Date.

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000011046167

EF004 09/18

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Page 9 of 19

- (3) If both of the following apply:
- the sale is not an excluded transaction under section 14-215 of the Withholding Law; and
 - the Seller has not given the Buyer on or before settlement for each person comprising the Seller either:
 - an ATO Clearance Certificate; or
 - a variation notice under section 14-235 of the Withholding Law which remains current at the Settlement Date varying the CGT Withholding Amount to nil,

then:

- for clause 2.4(1), the Seller irrevocably directs the Buyer to draw a bank cheque for the CGT Withholding Amount in favour of the Commissioner of Taxation or, if the Buyer's Solicitor requests, the Buyer's Solicitor's Trust Account;
 - the Buyer must lodge a *Foreign Resident Capital Gains Withholding Purchaser Notification Form* with the ATO for each person comprising the Buyer and give copies to the Seller with the payment reference numbers (PRN) on or before settlement;
 - the Seller must return the bank cheque in paragraph (c) to the Buyer's Solicitor (or if there is no Buyer's Solicitor, the Buyer) at settlement; and
 - the Buyer must pay the CGT Withholding Amount to the ATO in accordance with section 14-200 of the Withholding Law and give the Seller evidence that it has done so within 2 Business Days of settlement occurring.
- (4) For clause 2.4(3) and section 14-215 of the Withholding Law, the market value of the CGT asset is taken to be the Purchase Price less any GST included in the Purchase Price for which the Buyer is entitled to an input tax credit unless:
- the Property includes items in addition to the Lot and Improvements; and
 - no later than 2 Business Days prior to the Settlement Date, the Seller gives the Buyer a valuation of the Lot and Improvements prepared by a registered valuer,

In which case the market value of the Lot and Improvements will be as stated in the valuation.

- (5) If the Buyer is required to pay the GST Withholding Amount to the Commission of Taxation at settlement pursuant to section 14-250 of the Withholding Law:
- the Seller must give the Buyer a notice in accordance with section 14-255(1) of the Withholding Law;
 - prior to settlement the Buyer must lodge with the ATO:
 - a *GST Property Settlement Withholding Notification form* ("Form 1"); and
 - a *GST Property Settlement Date Confirmation form* ("Form 2");
 - on or before settlement, the Buyer must give the Seller copies of:
 - the Form 1;
 - confirmation from the ATO that the Form 1 has been lodged specifying the Buyer's lodgement reference number and payment reference number;
 - confirmation from the ATO that the Form 2 has been lodged; and
 - a completed ATO payment slip for the Withholding Amount.

- the Seller irrevocably directs the Buyer to draw a bank cheque for the GST Withholding Amount in favour of the Commissioner of Taxation and deliver it to the Seller at settlement; and
 - the Seller must pay the GST Withholding Amount to the ATO in compliance with section 14-250 of the Withholding Law promptly after settlement.
- (6) The Buyer warrants that the statements made by the Buyer in the Reference Schedule under GST Withholding Obligations are true and correct.

2.5 Adjustments to Balance Purchase Price

- The Seller is liable for Outgoings and is entitled to Rent up to and including the Settlement Date. The Buyer is liable for Outgoings and is entitled to Rent after the Settlement Date.
- Subject to clauses 2.5(3), 2.5(4), 2.5(5), 2.5(6), 2.5(7), 2.5(15) and 2.5(18), Outgoings for periods including the Settlement Date must be adjusted:
 - for those paid, on the amount paid;
 - for those assessed but unpaid, on the amount payable (excluding any discount); and
 - for those not assessed:
 - on the amount the relevant authority or the Body Corporate advises will be assessed (excluding any discount); or
 - if no advice on the assessment to be made is available, on the amount of the latest assessment (excluding any discount).
- If there is no separate assessment of rates for the Lot at the Settlement Date and the Local Government informs the Buyer that it will not apportion rates between the Buyer and the Seller, then:
 - the amount of rates to be adjusted is that proportion of the assessment equal to the ratio of the interest schedule lot entitlement of the Lot to the aggregate interest schedule lot entitlement of the Scheme; and
 - if an assessment of rates includes charges imposed on a "per lot" basis, then the portion of those charges to be adjusted is the amount assessed divided by the number of lots in that assessment.
- Land tax must be adjusted:
 - on the assessment that the Office of State Revenue would issue for the land tax year current at the Settlement Date if the Seller was one natural person resident in Queensland and the Lot was the Seller's only land; or
 - based on the assumptions in clause 2.5(4)(a), if there is no separate Site Value for the Lot, on a notional Site Value equal to:

Site Value of the Land	x	Interest schedule lot entitlement of Lot
		Aggregate interest schedule lot entitlement
- If land tax is unpaid at the Settlement Date and the Office of State Revenue advises that it will issue a final clearance for the Lot on payment of a specified amount, then the Buyer may deduct the specified amount from the Balance Purchase Price at settlement and must pay it promptly to the Office of State Revenue. If an amount is deducted under this clause, then land tax will be treated as paid at the Settlement Date for the purposes of clause 2.5(2).

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EF004 09/18

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Page 10 of 10

- (6) Any Outgoings assessable on the amount of water used must be adjusted on the charges that would be assessed on the total water usage for the assessment period, determined by assuming that the actual rate of usage shown by the meter reading made before settlement continues throughout the assessment period. The Buyer must obtain and pay for the meter reading.
- (7) If any Outgoings are assessed but unpaid at the Settlement Date, then the Buyer may deduct the amount payable from the Balance Purchase Price at settlement and pay it promptly to the relevant authority or the Body Corporate, as appropriate. If an amount is deducted under this clause, the relevant Outgoing will be treated as paid at the Settlement Date for the purpose of clause 2.5(2).
- (8) Arrears of Rent for any rental period ending on or before the Settlement Date belong to the Seller and are not adjusted at settlement.
- (9) Unpaid Rent for the rental period including both the Settlement Date and the following day ("Current Period") is not adjusted until it is paid.
- (10) Rent already paid for the Current Period or beyond must be adjusted at settlement.
- (11) If Rent payments are reassessed after the Settlement Date for periods including the Settlement Date, any additional Rent payment from a Tenant or refund due to a Tenant must be apportioned under clauses 2.5(8), 2.5(9), 2.5(10) and 2.5(11).
- (12) Payments under clause 2.5(11) must be made within 14 days after notification by one party to the other but only after any additional payment from a Tenant has been received.
- (13) The Seller is liable for:
- any Special Contribution for which a levy notice has been issued on or before the Contract Date; and
 - any other Body Corporate Debt (including any penalty or recovery cost resulting from non-payment of a Body Corporate Debt) owing in respect of the Lot at settlement.
- The Buyer is liable for any Special Contribution levied after the Contract Date.
- (14) If an amount payable by the Seller under clause 2.5(13) is unpaid at the Settlement Date, the Buyer may deduct the specified amount from the Balance Purchase Price at settlement and must pay it promptly to the Body Corporate.
- (15) For the purposes of clause 2.5(13), an amount payable under an exclusive use by-law will be treated as levied on the date it is due.
- (16) The cost of Bank cheques payable at Settlement:
- to the Seller or its mortgagee are the responsibility of the Buyer; and
 - to parties other than the Seller or its mortgagee are the responsibility of the Seller.
- (17) The Seller is not entitled to require payment of the Balance Purchase Price by means other than Bank cheque without the consent of the Buyer.
- (18) Upon written request by the Buyer, the Seller will, prior to Settlement, give the Buyer a written statement, supported by reasonable evidence, of:
- all Outgoings and all Rent for the Property to the extent they are not capable of discovery by search or enquiry at any office of public record or pursuant to the provisions of any statute; and

- any other information which the Buyer may reasonably require for the purpose of calculating or apportioning any Outgoings or Rent under this clause 2.5.

If the Seller becomes aware of a change to the information provided the Seller will as soon as practicably provide the updated information to the Buyer.

3. FINANCE

- 3.1 This contract is conditional on the Buyer obtaining approval of a loan for the Finance Amount from the Financier by the Finance Date on terms satisfactory to the Buyer. The Buyer must take all reasonable steps to obtain approval.
- 3.2 The Buyer must give notice to the Seller that:
- approval has not been obtained by the Finance Date and the Buyer terminates this contract; or
 - the finance condition has been either satisfied or waived by the Buyer.
- 3.3 The Seller may terminate this contract by notice to the Buyer if notice is not given under clause 3.2 by 5pm on the Finance Date. This is the Seller's only remedy for the Buyer's failure to give notice.
- 3.4 The Seller's right under clause 3.3 is subject to the Buyer's continuing right to give written notice to the Seller of satisfaction, termination or waiver pursuant to clause 3.2.

4. BUILDING AND PEST INSPECTION REPORTS

- 4.1 This contract is conditional on the Buyer obtaining a written building report and a written pest report (which may be a single report) on the Property by the Inspection Date on terms satisfactory to the Buyer. The Buyer must take all reasonable steps to obtain the reports (subject to the right of the Buyer to elect to obtain only one of the reports).
- 4.2 The Buyer must give notice to the Seller that:
- a satisfactory report under clause 4.1 has not been obtained by the Inspection Date and the Buyer terminates this contract. The Buyer must act reasonably; or
 - clause 4.1 has been either satisfied or waived by the Buyer.
- 4.3 If the Buyer terminates this contract and the Seller asks the Buyer for a copy of the building and pest reports, the Buyer must give a copy of each report to the Seller without delay.
- 4.4 The Seller may terminate this contract by notice to the Buyer if notice is not given under clause 4.2 by 5pm on the Inspection Date. This is the Seller's only remedy for the Buyer's failure to give notice.
- 4.5 The Seller's right under clause 4.4 is subject to the Buyer's continuing right to give written notice to the Seller of satisfaction, termination or waiver pursuant to clause 4.2.

5. SETTLEMENT

5.1 Time and Date

- Settlement must occur between 9am and 4pm AEST on the Settlement Date.
- If the parties do not agree on where settlement is to occur, it must take place in the Place for Settlement at the office of a solicitor or Financial Institution nominated by the Seller, or, if the Seller does not make a nomination, at the land registry office in or nearest to the Place for Settlement.

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EF004 09/18

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Page 11 of 19

5.2 Transfer Documents

- (1) The Transfer Documents must be prepared by the Buyer's Solicitor and delivered to the Seller a reasonable time before the Settlement Date.
- (2) If the Buyer pays the Seller's reasonable expenses, it may require the Seller to produce the Transfer Documents at the Office of State Revenue nearest the Place for Settlement for stamping before settlement.

5.3 Documents and Keys at Settlement

- (1) In exchange for payment of the Balance Purchase Price, the Seller must deliver to the Buyer at settlement:
 - (a) any instrument of title for the Lot required to register the transfer to the Buyer; and
 - (b) unstamped Transfer Documents capable of immediate registration after stamping; and
 - (c) any instrument necessary to release any Encumbrance over the Property in compliance with the Seller's obligation in clause 7.2; and
 - (d) if requested by the Buyer not less than 2 clear Business Days before the Settlement Date, the Keys; and
 - (e) if there are Commercial Tenancies or Service Agreements:
 - (i) the Seller's copy of any Commercial Tenancy Documents or Service Agreement Documents;
 - (ii) a notice to each Tenant and Contractor advising of the sale and assignment of rights under this contract in the form required by law (if applicable); and
 - (iii) any notice required by law to transfer to the Buyer the Seller's interest in any Bond.
- (2) If the Keys are not delivered at Settlement under clause 5.3 (1)(d), the Seller must deliver the Keys to the Buyer. The Seller may discharge its obligation under this provision by authorising the Seller's Agent to release the Keys to the Buyer.

5.4 Assignment of Covenants and Warranties

At Settlement, the Seller assigns to the Buyer, the benefit of all:

- (1) covenants by the Tenant under the Commercial Tenancies;
- (2) guarantees and Bonds supporting the Commercial Tenancies;
- (3) the Seller's rights under the Service Agreements;
- (4) manufacturers' warranties for the Included Chattels; and
- (5) builders' warranties on the improvements, to the extent that they are assignable and the Buyer accepts the assignment. However, the right to recover arrears of Rent is not assigned to the Buyer and section 117 of the *Property Law Act 1974* does not apply.

5.5 Bonds

On settlement, the Seller will:

- (1) allow as a deduction from the Balance Purchase Price any Bond received by the Seller from any Tenant and held by the Seller;
- (2) transfer control to the Buyer over any trust account or fund held on trust for Tenants as Bond; and
- (3) assign to the Buyer, Bank guarantees held in respect of any Tenant as a Bond. If any Bank guarantee is not assignable, the Seller will enforce the guarantee at the written direction and expense of the Buyer for the Buyer's benefit.

5.6 Indemnity

The Buyer indemnifies the Seller in respect of claims by Tenants for the return of Bonds held or controlled by the Seller before settlement which are dealt with under clause 5.5 of this contract.

5.7 Possession of Property and Title to Included Chattels

On the Settlement Date, in exchange for the Balance Purchase Price, the Seller must give the Buyer vacant possession of the Lot and Exclusive Use Areas except for the Tenancies. Title to the Included Chattels passes at settlement.

5.8 Reservations

- (1) The Seller must remove the Reserved Items from the Property before settlement.
- (2) The Seller must repair at its expense any damage done to the Property in removing the Reserved Items. If the Seller fails to do so, the Buyer may repair that damage.
- (3) Any Reserved Items not removed before settlement will be considered abandoned and the Buyer may, without limiting its other rights, complete this contract and appropriate those Reserved Items or dispose of them in any way.
- (4) The Seller indemnifies the Buyer against any damages and expenses resulting from the Buyer's actions under clauses 5.8(2) or 5.8(3).

6. TIME

6.1 Time is of the essence of this contract, except regarding any agreement between the parties on a time of day for settlement.

6.2 Suspension of Time

- (1) This clause 6.2 applies if a party is unable to perform a Settlement Obligation solely as a consequence of a Natural Disaster but does not apply where the inability is attributable to:
 - (a) damage to, destruction of or diminution in value of the Property or other property of the Seller or Buyer; or
 - (b) termination or variation of any agreement between a party and another person whether relating to the provision of finance, the release of an Encumbrance, the sale or purchase of another property or otherwise.
- (2) Time for the performance of the parties' Settlement Obligations is suspended and ceases to be of the essence of the contract and the parties are deemed not to be in breach of their Settlement Obligations.
- (3) An Affected Party must take reasonable steps to minimise the effect of the Natural Disaster on its ability to perform its Settlement Obligations.
- (4) When an Affected Party is no longer prevented from performing its Settlement Obligations due to the Natural Disaster, the Affected Party must give the other party a notice of that fact, promptly.
- (5) When the Suspension Period ends, whether notice under clause 6.2(4) has been given or not, either party may give the other party a Notice to Settle.
- (6) A Notice to Settle must be in writing and state:
 - (a) that the Suspension Period has ended;
 - (b) a date, being not less than 5 nor more than 10 Business Days after the date the Notice to Settle is given, which shall become the Settlement Date; and
 - (c) that time is of the essence.

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Page 12 of 19

- (7) When Notice to Settle is given, time is again of the essence of the contract.
- (8) In this clause 6.2:
- (a) "Affected Party" means a party referred to in clause 6.2(1);
- (b) "Natural Disaster" means a tsunami, flood, cyclone, earthquake, bushfire or other act of nature;
- (c) "Settlement Obligations" means, in the case of the Buyer, its obligations under clauses 2.4(1) and 5.1(1) and, in the case of the Seller, its obligations under clauses 5.1(1), 5.3(1)(a)-(e) and 5.7;
- (d) "Suspension Period" means the period during which the Affected Party (or if both the Buyer and Seller are Affected Parties, either of them) remains unable to perform a Settlement Obligation solely as a consequence of a Natural Disaster.

7. MATTERS AFFECTING THE PROPERTY

7.1 Title

The Lot is sold subject to the *Body Corporate and Community Management Act 1997* and the by-laws of the Body Corporate.

7.2 Encumbrances

The Property is sold free of all Encumbrances other than the Title Encumbrances, Tenancies, statutory easements implied by part 6A of the *Land Title Act 1994* and interests registered on the common property for the Scheme.

7.3 Requisitions

The Buyer may not deliver any requisitions or enquiries on title.

7.4 Seller's Warranties

- (1) The Seller warrants that, except as disclosed in this contract, at settlement:
- (a) it will be the registered owner of an estate in fee simple in the Lot and will own the Improvements and Included Chattels;
- (b) it will be capable of completing this contract (unless the Seller dies or becomes mentally incapable after the Contract Date); and
- (c) there will be no unsatisfied judgment, order (except for an order referred to in clause 7.6(1)(b)) or writ affecting the Property.
- (2) The Seller warrants that, except as disclosed in this contract, at the Contract Date and at settlement there are no current or threatened claims, notices or proceedings that may lead to a judgement, order or writ affecting the Property.
- (3) The Seller warrants that, except as disclosed in this contract, at the Contract Date:
- (a) there is no unregistered lease, easement or other right capable of registration and which is required to be registered to give indefeasibility affecting the common property or Body Corporate assets;
- (b) there is no proposal to record a new community management statement for the Scheme and it has not received a notice of a meeting of the Body Corporate to be held after the Contract Date or notice of any proposed resolution or a decision of the Body Corporate to consent to the recording of a new community management statement for the Scheme;

- (c) all Body Corporate consents to improvements made to common property and which benefit the Lot, or the registered owner of the Lot, are in force; and

- (d) the Additional Body Corporate Information is correct (if completed).
- (4) If the Seller breaches a warranty in clause 7.4(1) or clause 7.4(2), the Buyer may terminate this contract by notice to the Seller.
- (5) If:
- (a) the Seller breaches a warranty in clause 7.4(3); or
- (b) the Additional Body Corporate Information is not completed;
- and, as a result, the Buyer is materially prejudiced, the Buyer may terminate this contract by notice to the Seller given with 14 days after the Contract Date but may not claim damages or compensation.
- (6) Clauses 7.4(4) and 7.4(5) do not restrict and statutory rights the Buyer may have which cannot be excluded by this contract.

- (7) (a) The Seller warrants that, except as disclosed in this contract or a notice is given by the Seller to the Buyer under the *Environmental Protection Act 1994* ("EPA"), at the Contract Date:
- (i) there is no outstanding obligation on the Seller to give notice to the administering authority under EPA of notifiable activity being conducted on the Land; and
- (ii) the Seller is not aware of any facts or circumstances that may lead to the Land being classified as contaminated land within the meaning of EPA.
- (b) If the Seller breaches a warranty in clause 7.4(7), the Buyer may:
- (i) terminate this contract by notice in writing to the Seller given no later than 2 Business Days before the Settlement Date; or
- (ii) complete this contract and claim compensation, but only if the Buyer claims it in writing before the Settlement Date.

- (8) The Seller does not warrant that the Present Use is lawful.

7.5 Survey and Mistake

- (1) The Buyer may survey the Lot.
- (2) If there is:
- (a) an error in the boundaries or area of the Lot;
- (b) an encroachment by structures onto or from the Lot; or
- (c) a mistake or omission in describing the Lot or the Seller's title to it;
- which is:
- (d) immaterial; or
- (e) material, but the Buyer elects to complete this contract;
- the Buyer's only remedy against the Seller is for compensation, but only if claimed by the Buyer in writing on or before settlement.
- (3) The Buyer may not delay settlement or withhold any part of the Balance Purchase Price because of any compensation claim under clause 7.5(2).
- (4) If there is a material error, encroachment or mistake, the Buyer may terminate this contract before settlement.

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Page 13 of 19

7.6 Requirements of Authorities

- (1) Subject to clause 7.6(5), any valid notice or order by any competent authority or Court requiring work to be done or money spent in relation to the Property ("Work or Expenditure") must be fully complied with:
 - (a) if issued before the Contract Date, by the Seller before the Settlement Date;
 - (b) if issued on or after the Contract Date, by the Buyer.
- (2) If any Work or Expenditure that is the Seller's responsibility under clause 7.6(1)(a) is not done before the Settlement Date, the Buyer is entitled to claim the reasonable cost of work done by the Buyer in accordance with the notice or order referred to in clause 7.6(1) from the Seller after settlement as a debt.
- (3) Any Work or Expenditure that is the Buyer's responsibility under clause 7.6(1)(b), which is required to be done before the Settlement Date, must be done by the Seller unless the Buyer directs the Seller not to and indemnifies the Seller against any liability for not carrying out the work. If the Seller does the work, or spends the money, the reasonable cost of that Work or Expenditure must be added to the Balance Purchase Price.
- (4) The Buyer may terminate this contract by notice to the Seller if there is an outstanding notice at the Contract Date under section 246AG of the *Building Act 1975* that affects the Property. The Buyer may terminate this contract by notice to the Seller if there is an outstanding notice at the Contract Date under sections 247 or 248 of the *Building Act 1975* or sections 167 or 168 of the *Planning Act 2016* that affects the Property or Land.
- (5) Clause 7.6(1) does not apply to orders disclosed under section 83 or the *Neighbourhood Disputes (Dividing Fences and Trees) Act 2011*.

7.7 Property Adversely Affected

- (1) If at the Contract Date:
 - (a) the Present Use is not lawful under the relevant town planning scheme;
 - (b) the Land is affected by a proposal of any competent authority to alter the dimensions of any Transport Infrastructure or locate Transport Infrastructure on the Land;
 - (c) access or any service to the Land passes unlawfully through other land;
 - (d) any competent authority has issued a current notice to treat, or notice of intention to resume, regarding any part of the Land;
 - (e) there is an outstanding condition of a development approval attaching to the Lot under section 73 of the *Planning Act 2016* or section 96 of the *Economic Development Queensland Act 2012* which, if complied with, would constitute a material mistake or omission in the Seller's title under clause 7.5(2)(c);
 - (f) the Property is affected by the *Queensland Heritage Act 1992* or is included in the World Heritage List;
 - (g) the Property is declared acquisition land under the *Queensland Reconstruction Authority Act 2011*; or
 - (h) there is a charge against the Lot under section 104 of the *Foreign Acquisitions and Takeovers Act 1975*,

and that has not been disclosed in this contract, the Buyer may terminate this contract by notice to the Seller given on or before settlement.

- (2) If no notice is given under clause 7.7(1), the Buyer will be treated as having accepted the Property subject to all of the matters referred to in that clause.
- (3) The Seller authorises the Buyer to:
 - (a) inspect records held by any authority, including Security Interests on the PPSR, relating to the Property or the Lot; and
 - (b) apply for a certificate of currency of the Body Corporate's insurance from any insurer.

7.8 Dividing Fences

Notwithstanding any provision in the *Neighbourhood Disputes (Dividing Fences and Trees) Act 2011*, the Seller need not contribute to the cost of construction of any dividing fence between the Lot and any adjoining land owned by it. The Buyer waives any right to claim contribution from the Seller.

8. RIGHTS AND OBLIGATIONS UNTIL SETTLEMENT

8.1 Risk

The Property is at the Buyer's risk from 5pm on the first Business Day after the Contract Date.

8.2 Access

After reasonable notice to the Seller, the Buyer and its consultants may enter the Property:

- (1) once to read any meter;
- (2) for inspections under clause 4;
- (3) once to inspect the Property before settlement; and
- (4) once to value the Property before settlement.

8.3 Seller's Obligations After Contract Date

- (1) The Seller must use the Property reasonably until settlement. The Seller must not do anything regarding the Property or Commercial Tenancies that may significantly alter them or result in later expense for the Buyer.
- (2) The Seller must promptly upon receiving any notice, proceeding or order that affects the Property or requires work on the Property, give a copy to the Buyer.
- (3) Without limiting clause 8.3(1), the Seller must not without prior written consent of the Buyer, give any notice or seek or consent to any order that affects the Property or make any agreement affecting the Property that binds the Buyer to perform.

8.4 Body Corporate Meetings

- (1) The Seller must promptly give the Buyer a copy of:
 - (a) any notice it receives of a proposed meeting of the Body Corporate to be held after the Contract Date; and
 - (b) resolutions passed at that meeting and prior to settlement.
- (2) The Buyer may terminate this Contract by Notice in writing to the Seller given before settlement if it is materially prejudiced by:
 - (a) any resolution of the Body Corporate passed after the Contract Date, other than a resolution, details of which are disclosed to the Buyer in this Contract; or
 - (b) where the Scheme is a subsidiary scheme, any resolution of a body corporate of a higher scheme.

- (3) In clause 8.4(2) a resolution includes a decision of the Body Corporate Committee to consent to recording a new community management statement.
- (4) If the Buyer is not given a copy of the resolutions before settlement, it may sue the Seller for damages.

8.5 Information Regarding the Property

Upon written request of the Buyer but in any event before settlement, the Seller must give the Buyer:

- (1) copies of all documents relating to any unregistered interests in the Property;
- (2) full details of the Tenancies to allow the Buyer to properly manage the Property after settlement;
- (3) sufficient details (including date of birth of each Seller who is an individual) to enable the Buyer to undertake a search of the PPSR.

8.6 Possession Before Settlement

If possession is given before settlement:

- (1) the Buyer must maintain the Property in substantially its condition at the date of possession, fair wear and tear excepted;
- (2) entry into possession is under a licence personal to the Buyer revocable at any time and does not:
 - (a) create a relationship of landlord and tenant; or
 - (b) waive the Buyer's rights under this contract;
- (3) the Buyer must insure the Property to the Seller's satisfaction; and
- (4) the Buyer indemnifies the Seller against any expense or damages incurred by the Seller as a result of the Buyer's possession of the Property.

8.7 Seller's Obligations After Contract Date

- (1) The Seller must promptly upon receiving any notice, proceeding or order that affects the Property or requires work on the Property, give a copy to the Buyer.
- (2) After the Contract Date, the Seller must not without written consent of the Buyer, give any notice, seek or consent to any order or make an agreement that affects the Property.

9. PARTIES' DEFAULT

9.1 Seller and Buyer May Affirm or Terminate

Without limiting any other right or remedy of the parties including those under this contract, or any right at common law, if the Seller or Buyer, as the case may be, fails to comply with an Essential Term, or makes a fundamental breach of an intermediate term, the Seller (in the case of the Buyer's default) or the Buyer (in the case of the Seller's default) may affirm or terminate this contract.

9.2 If Seller Affirms

If the Seller affirms this contract under clause 9.1, it may sue the Buyer for:

- (1) damages;
- (2) specific performance; or
- (3) damages and specific performance.

9.3 If Buyer Affirms

If the Buyer affirms this contract under clause 9.1, it may sue the Seller for:

- (1) damages;
- (2) specific performance; or
- (3) damages and specific performance.

9.4 If Seller Terminates

If the Seller terminates this contract under clause 9.1, it may do all or any of the following:

- (1) resume possession of the Property;
- (2) forfeit the Deposit and interest earned;
- (3) sue the Buyer for damages;
- (4) resell the Property.

9.5 If Buyer Terminates

If the Buyer terminates this contract under clause 9.1, it may do all or any of the following:

- (1) recover the Deposit and any interest earned;
- (2) sue the Seller for damages.

9.6 Seller's Resale

- (1) If the Seller terminates this contract and resells the Property, the Seller may recover from the Buyer as liquidated damages:
 - (a) any deficiency in price on a resale; and
 - (b) its expenses connected with any repossession, any failed attempt to resell, and the resale, provided the resale settles within 2 years of termination of this contract.
- (2) Any profit on a resale belongs to the Seller.

9.7 Seller's Damages

The Seller may claim damages for any loss it suffers as a result of the Buyer's default, including its legal costs on an indemnity basis and the cost of any Work or Expenditure under clause 7.6(3).

9.8 Buyer's Damages

The Buyer may claim damages for any loss it suffers as a result of the Seller's default, including its legal costs on an indemnity basis.

9.9 Interest on Late Payments

- (1) The Buyer must pay interest at the Default Rate:
 - (a) on any amount payable under this contract which is not paid when due; and
 - (b) on any judgement for money payable under this contract.
- (2) Interest continues to accrue:
 - (a) under clause 9.9(1)(a), from the date it is due until paid; and
 - (b) under clause 9.9(1)(b), from the date of judgement until paid.
- (3) Any amount payable under clause 9.9(1)(a) in respect of a period prior to settlement must be paid by the Buyer at settlement. If this contract is terminated or if any amount remains unpaid after settlement, interest continues to accrue.
- (4) Nothing in this clause affects any other rights of the Seller under this contract or at law.

10. COMMERCIAL TENANCIES

10.1 Seller's Statement

- (1) Within a reasonable time after written request by the Buyer, the Seller must give the Buyer:
 - (a) a statement of Outgoings which cannot be discovered by search; and
 - (b) a notice under section 262A(4AH) of ITAA (if applicable to the Property).
- (2) The Seller must update the statement if the Seller becomes aware that it has become inaccurate in a material respect.

- (3) The Seller warrants that the statement and notice will be accurate at the Settlement Date.

10.2 Commercial Tenancies and Service Agreements

The Seller states that details of all Commercial Tenancies and Service Agreements affecting the Property are disclosed in the Commercial Tenancy Schedule and Service Agreement Schedule respectively.

10.3 Commercial Tenancy Warranties

The Seller warrants that, except as disclosed in this contract, the following are correct at the Contract Date:

- (1) details of the Commercial Tenancies set out in the Commercial Tenancy Schedule;
- (2) each of the Commercial Tenancies is valid and subsisting;
- (3) no Tenant is in arrears with the payment of any Rent or other money payable under any Commercial Tenancy;
- (4) there is no subsisting breach of a provision of any Tenancy Document;
- (5) there is no notice or correspondence between the Seller and any Tenant relating to Rent review or the exercise of an option for renewal;
- (6) for each Commercial Tenancy, the relevant Commercial Tenancy Documents constitute the entire agreement between the Seller and each Tenant and there is no written, oral or other agreement between the Seller and any Tenant varying the terms of a Commercial Tenancy or granting any additional option for renewal of the term of any Commercial Tenancy;
- (7) no Tenant received any incentive or inducement to enter into its initial or current Commercial Tenancy;
- (8) there is no pending litigation or arbitration between the Seller and any Tenant arising out of any of the Commercial Tenancies; and
- (9) if any Commercial Tenancy is a retail shop lease within the meaning of the *Retail Shop Leases Act 1994*
 - (a) as far as the Seller is aware the Seller has complied with the *Retail Shop Leases Act 1994* in relation to the Commercial Tenancy;
 - (b) there is no existing or renewed retail tenancy dispute in relation to a Commercial Tenancy;
 - (c) there are no mediation agreements, proceedings or orders in existence under the *Retail Shop Leases Act 1994* in respect of a Commercial Tenancy;
 - (d) no Tenant has notified the Seller requesting a right to renew any Commercial Tenancy for a further period; and
 - (e) no Tenant has made a claim against the Seller for compensation for loss or damage suffered by the Tenant under sections 43, 46G or 46K of the *Retail Shop Leases Act 1994* and there are no circumstances existing to the Seller's knowledge which might give rise to a claim for compensation.

10.4 Inaccuracies

The Buyer may terminate this contract by notice in writing to the Seller if a warranty contained in clause 10.3 is inaccurate and the Buyer is materially prejudiced by that inaccuracy.

10.5 Commercial Tenancy Documents

- (1) The Seller must produce to the Buyer's Solicitor within 7 days after the Contract Date copies of all Commercial Tenancy Documents and Service Agreements.
- (2) If the Seller does not deliver the Commercial Tenancy Documents when required under clause 10.5(1), the Buyer may terminate this contract by notice to the Seller given no later than 14 days after the Contract Date.
- (3) If the Buyer is not satisfied with the terms of the Commercial Tenancies, it may terminate this contract by notice to the Seller given no later than 7 days after the Buyer's receipt of the Commercial Tenancy Documents.
- (4) If no notice is given under this clause 10.5, the Buyer will be treated as having accepted the Commercial Tenancies and all matters referred to in the Commercial Tenancy Documents.

10.6 Dealings with Commercial Tenancies

- (1) Unless it would breach a provision of, or waive or prejudice the Seller's rights under, a Commercial Tenancy, the Seller must not, after the Contract Date:
 - (a) deal with the Property or any of the Commercial Tenancies without the Buyer's consent (which must not be unreasonably withheld);
 - (b) accept a surrender of any Commercial Tenancy;
 - (c) consent to a transfer of any Commercial Tenancy;
 - (d) terminate any Commercial Tenancy;
 - (e) consent to any request by a Tenant;
 - (f) grant or agree to grant a new Commercial Tenancy of any part of the Property or an extension of a Commercial Tenancy other than where a Tenant validly exercises an option in a Commercial Tenancy; or
 - (g) initiate or negotiate a Rent review or respond to any Rent review notice from a Tenant.
- (2) If any Tenant seeks the Seller's consent under a Commercial Tenancy before Settlement:
 - (a) the Seller must inform the Buyer and give the Buyer a copy of any written material received from the Tenant;
 - (b) the Buyer must co-operate with the Seller in dealing with the application;
 - (c) the Buyer must inform the Seller whether it agrees to the Seller giving consent and any conditions which should be imposed by the Seller;
 - (d) the Buyer must not withhold or delay its agreement to the Seller giving consent except on reasonable grounds which must be indicated in writing to the Seller; and
 - (e) the Seller must not give its consent to any Tenant without having first obtained the Buyer's agreement to do so in accordance with this clause.
- (3) If any Tenant defaults in the payment of Rent, the Seller must promptly inform the Buyer in writing. The Buyer may require the Seller to do either or both of the following actions at the Seller's expense:
 - (a) serve on the Tenant a notice of breach of covenant if required by law;
 - (b) terminate the Commercial Tenancy by physical re-entry (subject to the provisions of the Commercial Tenancy).

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EF004 09/18

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Page 16 of 19

- (4) The Seller must give the Buyer copies of any documents relating to the Commercial Tenancies that come within the control or possession of the Seller between the Contract Date and settlement.

10.7 Service Agreements

- (1) The Seller:
- may terminate any Service Agreement which is not capable of assignment (subject to the provisions of the relevant Service Agreement); and
 - indemnifies the Buyer against claims under the Service Agreements prior to the Settlement Date.
- (2) The Buyer:
- assumes the obligations of the Seller under those Service Agreements which are assigned until their termination; and
 - indemnifies the Seller against claims under Service Agreements after the Settlement Date.
- (3) If:
- the Seller cannot terminate a Service Agreement; or
 - the Seller's rights under a Service Agreement cannot be assigned or are not effectively assigned to the Buyer;
- the Seller must enforce that Service Agreement at the direction of the Buyer for the Buyer's benefit.

10.8 Counterparts

- This contract may be executed in two or more counterparts, all of which will together be deemed to constitute one and the same contract.
- A counterpart may be electronic and may be signed using an Electronic Signature.

11. GOODS AND SERVICES TAX

11.1 Definitions

Words and phrases defined in the GST Act have the same meaning in this Contract unless the context indicates otherwise.

11.2 GST Table

The GST Table and the notes in it are part of this clause 11.

11.3 Taxable Supply

This clause 11 applies where the transaction is:

- a Taxable Supply; or
- not a Taxable Supply because it is the Supply of a Going Concern.

11.4 Purchase Price Includes GST

If this clause 11.4 applies, the Purchase Price includes the Seller's liability for GST on the Supply of the Property. The Buyer is not obliged to pay any additional amount to the Seller on account of GST on the Supply of the Property.

11.5 Purchase Price Does Not Include GST

If this clause 11.5 applies, the Purchase Price does not include the Seller's liability for GST on the Supply of the Property. The Buyer must on the Settlement Date pay to the Seller in addition to the Purchase Price an amount equivalent to the amount payable by the Seller as GST on the Supply of the Property.

11.6 Margin Scheme

Warning: The Seller is warranting that the Margin Scheme can apply. If in doubt about using the Margin Scheme you should seek professional advice.

If this clause 11.6 applies:

- the Purchase Price includes the Seller's liability for GST on the Supply of the Property. The Buyer is not obliged to pay any additional amount to the Seller on account of GST on the Supply of the Property.
- the Seller:
 - must apply the Margin Scheme to the Supply of the Property; and
 - warrants that the Margin Scheme is able to be applied.
- if the Seller breaches clause 11.6(2)(a) or its warranty under clause 11.6(2)(b) then:
 - the Buyer may terminate this contract if it becomes aware of the breach prior to the Settlement Date;
 - if the Buyer does not terminate this contract under clause 11.6(3)(a) or does not become aware of the breach until after the Settlement Date, it must pay to the Seller an amount equal to the Input Tax Credit which the Buyer will receive for GST payable for the Supply of the Property. Payment must be made when the Buyer receives the benefit of the Input Tax Credit;
 - the Buyer is entitled to compensation from the Seller if there is a breach of clause 11.6(2).

11.7 If the Supply is a Going Concern

Warning: The parties are providing certain warranties under this clause. If there is doubt about whether there is a Supply of a Going Concern you should seek professional advice.

If this clause 11.7 applies:

- the Purchase Price does not include any amount for GST;
- the parties agree the Supply of the Property is a Supply (or part of a Supply) of a Going Concern;
- the Seller warrants that:
 - between the Contract Date and the Settlement Date the Seller will carry on the Enterprise; and
 - the Property (together with any other things that must be provided by the Seller to the Buyer at the Settlement Date under a related agreement for the same Supply) is all of the things necessary for the continued operation of the Enterprise;
- the Buyer warrants that at the Settlement Date it is Registered or Required to be Registered under the GST Act;
- if either of the warranties in clause 11.7(3) is breached:
 - the Buyer may terminate this contract if it becomes aware of the breach prior to the Settlement Date;
 - if the Buyer does not terminate this contract then, at the Settlement Date, the Buyer must pay to the Seller the amount payable by the Seller as GST on the Supply of the Property;
 - if the Buyer does not become aware of the breach until after the Settlement Date, it must pay to the Seller an amount equal to the input Tax Credit which the Buyer will receive for GST payable in respect of the Supply of the Property. Payment must be made when the Buyer receives the benefit of the Input Tax Credit;
 - the Buyer is entitled to compensation from the Seller if there is a breach of the warranty.

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EF004 09/18

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Page 17 of 19

- (6) if the warranty in clause 11.7(4) is not correct the Buyer must pay to the Seller an amount equal to the GST payable in respect of the Supply of the Property. Payment must be made at the Settlement Date or, if settlement has occurred, immediately on demand;
- (7) if for any reason other than a breach of a warranty by the Seller or the Buyer this transaction is not a Supply of a Going Concern, the Buyer must pay to the Seller the amount payable by the Seller as GST on the Supply of the Property. Payment must be made at the Settlement Date or, if settlement has occurred, immediately on demand.

11.8 Adjustments

Where this Contract requires an adjustment or apportionment of Outgoings or Rent and profits of the Property, that adjustment or apportionment must be made on the amount of the Outgoing, Rent or profit exclusive of GST.

11.9 Tax Invoice

Where GST is payable on the Supply of the Property, the Seller must give to the Buyer a Tax Invoice at the Settlement Date.

11.10 No Merger

To avoid doubt, the clauses in this clause 11 do not merge on settlement.

11.11 Remedies

The remedies provided in clauses 11.6(3), 11.7(5) and 11.7(6) are in addition to any other remedies available to the aggrieved party.

12. GENERAL

12.1 Agent

The Agent is appointed as the Seller's agent to introduce a buyer.

12.2 Foreign Buyer Approval

The Buyer warrants that either:

- (1) the Buyer's purchase of the Property is not a notifiable action; or
- (2) the Buyer has received a no objection notification, under the *Foreign Acquisitions and Takeovers Act 1975*.

12.3 Duty

The Buyer must pay all duty on this contract.

12.4 Notices

- (1) Notices under this contract must be in writing.
- (2) Notices under this contract or notices required to be given by law may be given and received by the party's solicitor.
- (3) Notices under this contract or notices required to be given by law may be given by:
 - (a) delivering or posting to the other party or its solicitor; or
 - (b) sending it to the facsimile number of the other party or its solicitor stated in the Reference Schedule (or another facsimile number notified by the recipient to the sender); or
 - (c) sending it to the email address of the other party or its solicitor stated in the Reference Schedule (or another email address notified by the recipient to the sender).
- (4) Subject to clause 12.4(5), a notice given after this contract is entered into in accordance with clause 12.4(3) will be treated as given:
 - (a) 5 Business Days after posting;
 - (b) if sent by facsimile, at the time indicated on a clear transmission report; and
 - (c) if sent by email, at the time it is sent.

(5) Notices given by facsimile, by personal delivery or by email between 5pm on a Business Day (the "first Business Day") and 9am on the next Business Day (the "second Business Day") will be treated as given or delivered at 9am on the second Business Day.

(6) If two or more notices are treated as given at the same time under clause 12.4(5), they will be treated as given in the order in which they were sent or delivered.

(7) Notices or other written communications by a party's solicitor (for example, varying the Inspection Date, Finance Date or Settlement Date) will be treated as given with that party's authority.

(8) For the purposes of clause 12.4(3)(c) and clause 13.2 the notice or information may be contained within an email, as an attachment to an email or located in an electronic repository accessible by the recipient by clicking a link in an email.

12.5 Business Days

(1) If anything is required to be done on a day that is not a Business Day, it must be done instead on the next Business Day.

(2) If the Finance Date or Inspection Date fall on a day that is not a Business Day, then it falls on the next Business Day.

12.6 Rights After Settlement

Despite settlement and registration of the transfer, any term of this contract that can take effect after settlement or registration remains in force.

12.7 Further Acts

If requested by the other party, each party must, at its own expense, do everything reasonably necessary to give effect to this contract.

12.8 Severance

If any term or part of a term of this contract is or becomes legally ineffective, invalid or unenforceable in any jurisdiction it will be severed and the effectiveness, validity or enforceability of the remainder will not be affected.

12.9 Interpretation

(1) Plurals and Genders

Reference to:

- (a) the singular includes the plural and the plural includes the singular;
- (b) one gender includes each other gender;
- (c) a person includes a body corporate; and
- (d) a party includes the party's executors, administrators, successors and permitted assigns.

(2) Parties

- (a) If a party consists of more than one person, this contract binds them jointly and each of them individually.
- (b) A party that is a trustee is bound both personally and in its capacity as a trustee.

(3) Statutes and Regulations

Reference to statutes includes all statutes amending, consolidating or replacing them.

(4) Inconsistencies

If there is any inconsistency between any provision added to this contract and the printed provisions, the added provision prevails.

(5) Headings

Headings are for convenience only and do not form part of this Contract or affect its interpretation.

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Page 18 of 19

12.10 Counterparts

- (1) This contract may be executed in two or more counterparts, all of which will together be deemed to constitute one and the same contract.
- (2) A counterpart may be electronic and signed using an Electronic Signature.

13. ELECTRONIC CONTRACT AND DISCLOSURE

13.1 Electronic Signing

If this contract is signed by any person using an Electronic Signature, the Buyer and Seller;

- (a) agree to enter into this contract in electronic form; and
- (b) consent to either or both parties signing the contract using an Electronic Signature.

13.2 Pre-contract Disclosure

The Buyer consents to the Seller's use of electronic communication to give any notice or information required by law to be given to the Buyer and which was given before the Buyer signed this contract.

Released under Right to Information Act 2009

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Page 19 of 19

Contract for Houses and Residential Land

Fifteenth Edition

This document has been approved by The Real Estate Institute of Queensland Limited and the Queensland Law Society Incorporated as being suitable for the sale and purchase of houses and residential land in Queensland except for new residential property in which case the issue of GST liability must be dealt with by special condition.

The Seller and Buyer agree to sell and buy the Property under this contract.

REFERENCE SCHEDULE

Contract Date: 16.12.2019

SELLER'S AGENT

NAME:	WITHOUT THE INTERVENTION OF AN AGENT			
ABN:		LICENCE NO:		
ADDRESS:				
SUBURB:		STATE:	POSTCODE:	
PHONE:	MOBILE:	FAX:	EMAIL:	

SELLER

NAME:	C A O'Brien Pty Ltd A.C.N. 133 591 116 as Trustee		ABN:	87 925 729 474	
ADDRESS:	2 Bingera Street				
SUBURB:	BUNDABERG WEST	STATE:	QLD	POSTCODE:	4670
PHONE:	MOBILE:	FAX:	EMAIL:		

NAME:		ABN:			
ADDRESS:					
SUBURB:		STATE:		POSTCODE:	
PHONE:	MOBILE:	FAX:	EMAIL:		

SELLER'S SOLICITOR

■ or any other solicitor notified to the Buyer

NAME:	FINEMORE WALTERS & STORY SOLICITORS				
REF:		CONTACT:	MARK STORY		
ADDRESS:					
SUBURB:		STATE:		POSTCODE:	
PHONE:	MOBILE:	FAX:	EMAIL:		
07 4153 0000			enquiries@fws.com.au		

INITIALS (Note: Initials not required if signed with Electronic Signature)

BUYER

NAME:	BUNDABERG REGIONAL COUNCIL			ABN:	72 427 835 198
ADDRESS:	PO Box 3130				
SUBURB:	Bundaberg	STATE:	Qld	POSTCODE:	4670
PHONE:	1300 883 699	MOBILE:		FAX:	
EMAIL:	ceo@bundaberg.qld.gov.au Category B - (47(3)(b) RTI Act)				

NAME:				ABN:	
ADDRESS:					
SUBURB:		STATE:		POSTCODE:	
PHONE:		MOBILE:		FAX:	
EMAIL:					

BUYER'S AGENT *(If applicable)*

NAME:			
ABN:		LICENCE NO:	
ADDRESS:			
SUBURB:		STATE:	POSTCODE:
PHONE:		MOBILE:	FAX:
EMAIL:			

BUYER'S SOLICITOR

■ *or any other solicitor notified to the Seller*

NAME:	SELF ACTING		
REF:		CONTACT	
ADDRESS:			
SUBURB:		STATE:	POSTCODE:
PHONE:		MOBILE:	FAX:
EMAIL:			

PROPERTY

Land:	ADDRESS:	PART OF 18 ALOHA DRIVE			
	SUBURB:	AVOCA	STATE:	QLD	POSTCODE: 4670
		<input type="checkbox"/> Built On	<input checked="" type="checkbox"/> Vacant		
Description:	Lot: See Special Conditions				
	On: See Special Conditions				
Title Reference:	See Special Conditions				
Area:	approx. 100m2	<input type="checkbox"/> more or less	Land sold as:	<input checked="" type="checkbox"/> Freehold	<input type="checkbox"/> Leasehold
	■ <i>if neither is selected, the land is treated as being Freehold</i>				
Present Use:	Vacant Land				
Local Government	Bundaberg Regional Council				

INITIALS (Note: Initials not required if signed with Electronic Signature)

Excluded Fixtures: NIL

Included Chattels: NIL

PRICE

Deposit Holder:

Deposit Holder's Trust Account:

Bank:

BSB:

Account No:

Purchase Price: \$ 8,000.00 excluding GST

■ Unless otherwise specified in this contract, the Purchase Price includes any GST payable on the supply of the Property to the Buyer.

Deposit: \$ 0.00

Initial Deposit payable on the day the Buyer signs this contract unless another time is specified below.

Default Interest Rate: %

\$ Balance Deposit (if any) payable on:

■ If no figure is inserted, the Contract Rate applying at the Contract Date published by the Queensland Law Society Inc will apply.

FINANCE

Finance Amount: \$ Not Applicable

■ Unless all of "Finance Amount", "Financier" and "Finance Date" are completed, this contract is not subject to finance and clause 3 does not apply.

Financier:

Finance Date:

BUILDING AND/OR PEST INSPECTION DATE

Inspection Date: Not Applicable

■ If "Inspection Date" is not completed, the contract is not subject to an inspection report and clause 4.1 does not apply.

MATTERS AFFECTING PROPERTY

Title Encumbrances:

Is the Property sold subject to any Encumbrances? No Yes, listed below:

■ **WARNING TO SELLER:** You are required to disclose all Title Encumbrances which will remain after settlement (for example, easements on your title and statutory easements for sewerage and drainage which may not appear on a title search). Failure to disclose these may entitle the Buyer to terminate the contract or to compensation. It is NOT sufficient to state "refer to title", "search will reveal", or similar.

Tenancies:

TENANTS NAME: NIL

■ If the property is sold with vacant possession from settlement, insert 'Nil'. Otherwise complete details from Residential Tenancy Agreement.

TERM AND OPTIONS:

STARTING DATE OF TERM:

ENDING DATE OF TERM:

RENT

BOND:

\$

\$

INITIALS (Note: Initials not required if signed with Electronic Signature)

Managing Agent:

AGENCY NAME: Not Applicable

PROPERTY MANAGER:

ADDRESS:

SUBURB:

STATE:

POSTCODE:

PHONE:

FAX:

MOBILE:

EMAIL:

POOL SAFETY

Q1. Is there a pool on the Land or on an adjacent land used in association with the Land?

- Yes
 No Clause 4.2 of this contract does not apply

Q2. If the answer to Q1 is Yes, is there a Compliance or Exemption Certificate for the pool at the time of contract?

- Yes Clause 5.3(1)(f) applies
 No Clause 4.2 applies (except for auction and some other excluded sales)

Q3. If the answer to Q2 is No, has a Notice of no pool safety certificate been given prior to contract?

- Yes
 No

■ **WARNING TO SELLER:** Failure to comply with the Pool Safety Requirements is an offence with substantial penalties.

■ **WARNING TO BUYER:** If there is no Compliance or Exemption Certificate at settlement, the Buyer becomes responsible at its cost to obtain a Pool Safety Certificate within 90 days after settlement. The Buyer can also become liable to pay any costs of rectification necessary to comply with the Pool Safety Requirements to obtain a Pool Safety Certificate. The Buyer commits an offence and can be liable to substantial penalties if the Buyer fails to comply with this requirement.

■ If there is a pool on the Land and Q2 is not completed then clause 4.2 applies.

■ Note: This is an obligation of the Seller under Section 16 of the Building Regulation 2006.

POOL SAFETY INSPECTOR

Pool Safety Inspector:

Pool Safety Inspection Date:

■ The Pool Safety Inspector must be licensed under the Building Act 1975 and Building Regulation 2006.

■ Clause 4.2(2) applies except where this contract is formed on a sale by auction and some other excluded sales.

ELECTRICAL SAFETY SWITCH AND SMOKE ALARM

This section must be completed unless the Land is vacant.

The Seller gives notice to the Buyer that an Approved Safety Switch for the General Purpose Socket Outlets is:
(select whichever is applicable)

- Installed in the residence
 Not installed in the residence

The Seller gives notice to the Buyer that a Compliant Smoke Alarm(s) is/are:
(select whichever is applicable)

- Installed in the residence
 Not installed in the residence

■ **WARNING:** By giving false or misleading information in this section, the Seller may incur a penalty. The Seller should seek expert and qualified advice about completing this section and not rely on the Seller's Agent to complete this section.

■ **WARNING:** Failure to install a Compliant Smoke Alarm is an offence under the Fire and Emergency Services Act 1990.

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The Seller gives notice to the Buyer in accordance with Section 83 of the *Neighbourhood Disputes (Dividing Fences and Trees) Act 2011* that the Land:
(select whichever is applicable)

- is not affected by any application to, or an order made by, the Queensland Civil and Administrative Tribunal (QCAT) in relation to a tree on the Land or
- is affected by an application to, or an order made by, QCAT in relation to a tree on the Land, a copy of which has been given to the Buyer prior to the Buyer signing the contract.

■ **WARNING:** Failure to comply with s83 *Neighbourhood Disputes (Dividing Fences and Trees Act) 2011* by giving a copy of an order or application to the Buyer (where applicable) prior to Buyer signing the contract will entitle the Buyer to terminate the contract prior to Settlement.

GST WITHHOLDING OBLIGATIONS

Is the Buyer registered for GST and acquiring the Land for a creditable purpose?
(select whichever is applicable)

Yes

No

[Note: An example of an acquisition for a creditable purpose would be the purchase of the Land by a building contractor, who is registered for GST, for the purposes of building a house on the Land and selling it in the ordinary course of its business.]

The Seller gives notice to the Buyer in accordance with section 14-255(1)(a) of the Withholding Law that:
(select whichever is applicable)

<input type="checkbox"/>	the Buyer <i>is not</i> required to make a payment under section 14-250 of the Withholding Law in relation to the supply of the Property
<input checked="" type="checkbox"/>	the Buyer <i>is</i> required to make a payment under section 14-250 of the Withholding Law in relation to the supply of the Property. Under section 14-255(1) of the Withholding Law, the Seller is required to give further details prior to settlement.

■ **WARNING:** the Buyer warrants in clause 2.5(6) that this information is true and correct.

■ **WARNING:** All sellers of residential premises or potential residential land are required to complete this notice. Section 14-250 of the Withholding Law applies to the sale of 'new residential premises' or 'potential residential land' (subject to some exceptions) and requires an amount to be withheld from the Purchase Price and paid to the ATO. The Seller should seek legal advice if unsure about completing this section.

SPECIAL CONDITIONS

See Annexure A

SETTLEMENT

SETTLEMENT DATE:	See Special Conditions	■ or the next Business Day if that is not a Business Day in the Place for Settlement.
PLACE FOR SETTLEMENT:	Bundaberg	■ if Brisbane is inserted, this is a reference to Brisbane CBD.

SIGNATURES

The contract may be subject to a 5 business day statutory cooling-off period. A termination penalty of 0.25% of the purchase price applies if the Buyer terminates the contract during the statutory cooling-off period. It is recommended the Buyer obtain an independent property valuation and independent legal advice about the contract and his or her cooling-off rights, before signing.

BUYER:	Category B - Contrary to Public Interest (47(3)(b) RTI Act)	WITNESS:	Category B - Contrary to Public Interest (47(3)(b) RTI Act)
STEPHEN JOHNSTON - CEO			

BUYER:		WITNESS:	
By placing my signature above I warrant that I am the Buyer named in the Reference Schedule or authorised by the Buyer to sign.		[Note: No witness is required if the Buyer signs using an Electronic Signature]	

SELLER:	CA O'BRIEN PTY LTD ACN 133 591 116 -	WITNESS:	
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SELLER:	Category B - Contrary to Public Interest (47(3)(b) RTI Act)	WITNESS:	- Director
By placing my signature above I warrant that I am the Seller named in the Reference Schedule or authorised by the Seller to sign.		[Note: No witness is required if the Seller signs using an Electronic Signature]	

DEPOSIT HOLDER:		■ Who acknowledges having received the Initial Deposit and agrees to hold that amount and any Balance Deposit when received as Deposit Holder for the parties as provided in the Contract.
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INITIALS (Note: Initials not required if signed with Electronic Signature)

TERMS OF CONTRACT

FOR HOUSES AND RESIDENTIAL LAND

1. DEFINITIONS

1.1 In this contract:

- (1) terms in **bold** in the Reference Schedule have the meanings shown opposite them; and
- (2) unless the context otherwise indicates:
- (a) **"Approved Safety Switch"** means a residual current device as defined in the *Electrical Safety Regulation 2013*;
- (b) **"ATO"** means the Australian Taxation Office;
- (c) **"ATO Clearance Certificate"** means a certificate issued under s14-220(1) of the Withholding Law which is current on the date it is given to the Buyer;
- (d) **"Balance Purchase Price"** means the Purchase Price, less the Deposit, adjusted under clause 2.6;
- (e) **"Bank"** means an authorised deposit-taking institution within the meaning of the *Banking Act 1959 (Cth)*;
- (f) **"Bond"** means a bond under the Residential Tenancies and Rooming Accommodation Act 2008;
- (g) **"Building Inspector"** means a person licensed to carry out completed residential building inspections under the *Queensland Building and Construction Commission Regulations 2003*;
- (h) **"Business Day"** means a day other than:
- (i) a Saturday or Sunday;
 - (ii) a public holiday in the Place for Settlement; and
 - (iii) a day in the period 27 to 31 December (inclusive);
- (i) **"CGT Withholding Amount"** means the amount determined under section 14-200(3)(a) of the Withholding Law or, if a copy is provided to the Buyer prior to settlement, a lesser amount specified in a variation notice under section 14-235;
- (j) **"Compliance or Exemption Certificate"** means:
- (i) a Pool Safety Certificate; or
 - (ii) a building certificate that may be used instead of a Pool Safety Certificate under section 246AN(2) of the *Building Act 1975*; or
 - (iii) an exemption from compliance on the grounds of impracticality under section 245B of the *Building Act 1975*;
- (k) **"Compliant Smoke Alarm"** means a smoke alarm complying with the requirements for smoke alarms in domestic dwellings under the *Fire and Emergency Services Act 1990*;
- (l) **"Contract Date"** or **"Date of Contract"** means the date inserted in the Reference Schedule;
- (m) **"Court"** includes any tribunal established under statute.
- (n) **"Electronic Signature"** means an electronic method of signing that identifies the person and indicates their intention to sign the contract;
- (o) **"Encumbrances"** includes:
- (i) unregistered encumbrances;
 - (ii) statutory encumbrances; and
 - (iii) Security Interests.
- (p) **"Essential Term"** includes, in the case of breach by:
- (i) the Buyer: clauses 2.2, 2.5(1), 2.5(5), 5.1 and 6.1; and
 - (ii) the Seller: clauses 2.5(5), 5.1, 5.3(1)(a)-(d), 5.3(1)(e)(ii) & (iii), 5.3(1)(f), 5.5 and 6.1;
- but nothing in this definition precludes a Court from finding other terms to be essential.
- (q) **"Financial Institution"** means a Bank, building society or credit union;
- (r) **"General Purpose Socket Outlet"** means an electrical socket outlet as defined in the *Electrical Safety Regulations 2013*;
- (s) **"GST"** means the goods and services tax under the GST Act;
- (t) **"GST Act"** means *A New Tax System (Goods and Services Tax) Act* and includes other GST related legislation;
- (u) **"GST Withholding Amount"** means the amount (if any) determined under section 14-250 of the Withholding Law required to be paid to the Commissioner of Taxation.
- (v) **"Improvements"** means fixed structures on the Land and includes all items fixed to them (such as stoves, hot water systems, fixed carpets, curtains, blinds and their fittings, clothes lines, fixed satellite dishes and television antennae, in-ground plants) but does not include the Reserved Items;
- (w) **"Keys"** means keys, codes or devices in the Seller's possession or control for all locks or security systems on the Property or necessary to access the Property;
- (x) **"Notice of no pool safety certificate"** means the Form 36 under the *Building Regulation 2006* to the effect that there is no Pool Safety Certificate issued for the Land;
- (y) **"Notice of nonconformity"** means a Form 26 under the *Building Regulation 2006* advising how the pool does not comply with the relevant pool safety standard;
- (z) **"Outgoings"** means rates or charges on the Land by any competent authority (for example, council rates, water rates, fire service levies) but excludes land tax;
- (aa) **"Pest Inspector"** means a person licensed to undertake termite inspections on completed buildings under the *Queensland Building and Construction Commission Regulations 2003*;
- (bb) **"Pool Safety Certificate"** has the meaning in section 231C(a) of the *Building Act 1975*;
- (cc) **"Pool Safety Inspection Date"** means the Pool Safety Inspection Date inserted in the Reference Schedule. If no date is inserted in the Reference Schedule, the Pool Safety Inspection Date is taken to be the earlier of the following:
- (i) the Inspection Date for the Building and/or Pest Inspection; or
 - (ii) 2 Business Days before the Settlement Date
- (dd) **"Pool Safety Requirements"** means the requirements for pool safety contained in the *Building Act 1975* and *Building Regulation 2006*;
- (ee) **"Pool Safety Inspector"** means a person authorised to give a Pool Safety Certificate;
- (ff) **"PPSR"** means the Personal Property Securities Register established under *Personal Property Securities Act 2009 (Cth)*;
- (gg) **"Property"** means:
- (i) the Land;
 - (ii) the Improvements; and
 - (iii) the Included Chattels;
- (hh) **"Rent"** means any periodic amount payable under the Tenancies;
- (ii) **"Reserved Items"** means the Excluded Fixtures and all chattels on the Land other than the Included Chattels;
- (jj) **"Security Interests"** means all security interests registered on the PPSR over Included Chattels and Improvements;
- (kk) **"Transfer Documents"** means:
- (i) the form of transfer under the *Land Title Act 1994* required to transfer title in the Land to the Buyer; and
 - (ii) any other document to be signed by the Seller necessary for stamping or registering the transfer;

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- (ii) "Transport Infrastructure" has the meaning defined in the *Transport Infrastructure Act 1994*; and
- (mm) "Withholding Law" means Schedule 1 to the *Taxation Administration Act 1953 (Cth)*.

2. PURCHASE PRICE

2.1 GST

- (1) Unless otherwise specified in this contract, the Purchase Price includes any GST payable on the supply of the Property to the Buyer.
- (2) If a party is required to make any other payment or reimbursement under this contract, that payment or reimbursement will be reduced by the amount of any input tax credits to which the other party (or the representative member for a GST group of which it is a member) is entitled.

2.2 Deposit

- (1) The Buyer must pay the Deposit to the Deposit Holder at the times shown in the Reference Schedule. The Deposit Holder will hold the Deposit until a party becomes entitled to it.
- (2) The Buyer will be in default if it:
 - (a) does not pay the Deposit when required;
 - (b) pays the Deposit by a post-dated cheque; or
 - (c) pays the Deposit by cheque which is dishonoured on presentation.
- (3) The Seller may recover from the Buyer as a liquidated debt any part of the Deposit which is not paid when required.

2.3 Investment of Deposit

- If:
- (1) the Deposit Holder is instructed by either the Seller or the Buyer; and
 - (2) it is lawful to do so;
- the Deposit Holder must:
- (3) invest as much of the Deposit as has been paid with any Financial Institution in an interest-bearing account in the names of the parties; and
 - (4) provide the parties' tax file numbers to the Financial Institution (if they have been supplied).

2.4 Entitlement to Deposit and Interest

- (1) The party entitled to receive the Deposit is:
 - (a) if this contract settles, the Seller;
 - (b) if this contract is terminated without default by the Buyer, the Buyer; and
 - (c) if this contract is terminated owing to the Buyer's default, the Seller.
- (2) The interest on the Deposit must be paid to the person who is entitled to the Deposit.
- (3) If this contract is terminated, the Buyer has no further claim once it receives the Deposit and interest, unless the termination is due to the Seller's default or breach of warranty.
- (4) The Deposit is invested at the risk of the party who is ultimately entitled to it.

2.5 Payment of Balance Purchase Price

- (1) On the Settlement Date, the Buyer must pay the Balance Purchase Price by bank cheque as the Seller or the Seller's Solicitor directs.
- (2) Despite any other provision of this contract, a reference to a "bank cheque" in clause 2.5:
 - (a) includes a cheque drawn by a building society or credit union on itself;
 - (b) does not include a cheque drawn by a building society or credit union on a Bank;

and the Seller is not obliged to accept a cheque referred to in clause 2.5(2)(b) on the Settlement Date.
- (3) If both the following apply:
 - (a) the sale is not an excluded transaction under s14-215 of the Withholding Law; and
 - (b) the Seller has not given the Buyer on or before settlement for each person comprising the Seller either:
 - (i) an ATO Clearance Certificate; or
 - (ii) a variation notice under s14-235 of the Withholding Law which remains current at the Settlement Date varying the CGT Withholding Amount to nil,

then:

- (c) for clause 2.5(1), the Seller irrevocably directs the Buyer to draw a bank cheque for the CGT Withholding Amount in favour of the Commissioner of Taxation or, if the Buyer's Solicitor requests, the Buyer's Solicitor's Trust Account;
 - (d) the Buyer must lodge a Foreign Resident Capital Gains Withholding Purchaser Notification Form with the ATO for each person comprising the Buyer and give copies to the Seller with the payment reference numbers (PRN) on or before settlement;
 - (e) the Seller must return the bank cheque in paragraph (c) to the Buyer's Solicitor (or if there is no Buyer's Solicitor, the Buyer) at settlement; and
 - (f) the Buyer must pay the CGT Withholding Amount to the ATO in accordance with section 14-200 of the Withholding Law and give the Seller evidence that it has done so within 2 Business Days of settlement occurring.
- (4) For clause 2.5(3) and section 14-215 of the Withholding Law, the market value of the CGT asset is taken to be the Purchase Price less any GST included in the Purchase Price for which the Buyer is entitled to an input tax credit unless:
- (a) the Property includes items in addition to the Land and Improvements; and
 - (b) no later than 2 Business Days prior to the Settlement Date, the Seller gives the Buyer a valuation of the Land and Improvements prepared by a registered valuer, in which case the market value of the Land and Improvements will be as stated in the valuation.
- (5) If the Buyer is required to pay the GST Withholding Amount to the Commissioner of Taxation at settlement pursuant to section 14-250 of the Withholding Law:
- (a) the Seller must give the Buyer a notice in accordance with section 14-255(1) of the Withholding Law;
 - (b) prior to settlement the Buyer must lodge with the ATO:
 - (i) a *GST Property Settlement Withholding Notification* form ("Form 1"); and
 - (ii) a *GST Property Settlement Date Confirmation* form ("Form 2");
 - (c) on or before settlement, the Buyer must give the Seller copies of:
 - (i) the Form 1;
 - (ii) confirmation from the ATO that the Form 1 has been lodged specifying the Buyer's lodgement reference number and payment reference number;
 - (iii) confirmation from the ATO that the Form 2 has been lodged; and
 - (iv) a completed ATO payment slip for the Withholding Amount;
 - (d) the Seller irrevocably directs the Buyer to draw a bank cheque for the GST Withholding Amount in favour of the Commissioner of Taxation and deliver it to the Seller at settlement; and
 - (e) the Seller must pay the GST Withholding Amount to the ATO in compliance with section 14-250 of the Withholding Law promptly after settlement.
- (6) The Buyer warrants that the statements made by the Buyer in the Reference Schedule under GST Withholding Obligations are true and correct.

2.6 Adjustments to Balance Purchase Price

- (1) The Seller is liable for Outgoings and is entitled to Rent up to and including the Settlement Date. The Buyer is liable for Outgoings and is entitled to Rent after the Settlement Date.
- (2) Subject to clauses 2.6(3), 2.6(5) and 2.6(14), Outgoings for periods including the Settlement Date must be adjusted:
 - (a) for those paid, on the amount paid;
 - (b) for those assessed but unpaid, on the amount payable (excluding any discount); and
 - (c) for those not assessed:
 - (i) on the amount the relevant authority advises will be assessed (excluding any discount); or

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- (ii) if no advice on the assessment to be made is available, on the amount of the latest separate assessment (excluding any discount).
- (3) If there is no separate assessment of rates for the Land at the Settlement Date and the Local Government informs the Buyer that it will not apportion rates between the Buyer and the Seller, then:
 - (a) the amount of rates to be adjusted is that proportion of the assessment equal to the ratio of the area of the Land to the area of the parcel in the assessment; and
 - (b) if an assessment of rates includes charges imposed on a "per lot" basis, then the portion of those charges to be adjusted is the amount assessed divided by the number of lots in that assessment.
- (4) The Seller is liable for land tax assessed on the Land for the financial year current at the Settlement Date. If land tax is unpaid at the Settlement Date and the Office of State Revenue advises that it will issue a final clearance for the Land on payment of a specified amount, then the Buyer may deduct the specified amount from the Balance Purchase Price at settlement and must pay it promptly to the Office of State Revenue.
- (5) Any Outgoings assessable on the amount of water used must be adjusted on the charges that would be assessed on the total water usage for the assessment period, determined by assuming that the actual rate of usage shown by the meter reading made before settlement continues throughout the assessment period. The Buyer must obtain and pay for the meter reading.
- (6) If any Outgoings are assessed but unpaid at the Settlement Date, then the Buyer may deduct the amount payable from the Balance Purchase Price at settlement and pay it promptly to the relevant authority. If an amount is deducted under this clause, the relevant Outgoing will be treated as paid at the Settlement Date for the purposes of clause 2.6(2).
- (7) Arrears of Rent for any rental period ending on or before the Settlement Date belong to the Seller and are not adjusted at settlement.
- (8) Unpaid Rent for the rental period including both the Settlement Date and the following day ("Current Period") is not adjusted until it is paid.
- (9) Rent already paid for the Current Period or beyond must be adjusted at settlement.
- (10) If Rent payments are reassessed after the Settlement Date for periods including the Settlement Date, any additional Rent payment from a Tenant or refund due to a Tenant must be apportioned under clauses 2.6(7), 2.6(8) and 2.6(9).
- (11) Payments under clause 2.6(10) must be made within 14 days after notification by one party to the other but only after any additional payment from a Tenant has been received.
- (12) The cost of Bank cheques payable at settlement:
 - (a) to the Seller or its mortgagee are the responsibility of the Buyer; and
 - (b) to parties other than the Seller or its mortgagee are the responsibility of the Seller.
- (13) The Seller is not entitled to require payment of the Balance Purchase Price by means other than Bank cheque without the consent of the Buyer.
- (14) Upon written request by the Buyer, the Seller will, prior to Settlement, give the Buyer a written statement, supported by reasonable evidence, of –
 - (a) all Outgoings and all Rent for the Property to the extent they are not capable of discovery by search or enquiry at any office of public record or pursuant to the provisions of any statute; and
 - (b) any other information which the Buyer may reasonably require for the purpose of calculating or apportioning any Outgoings or Rent under this clause 2.6.

If the Seller becomes aware of a change to the information provided the Seller will as soon as practicably provide the updated information to the Buyer.

3. FINANCE

- 3.1 This contract is conditional on the Buyer obtaining approval of a loan for the Finance Amount from the Financier by the Finance Date on terms satisfactory to the Buyer. The Buyer must take all reasonable steps to obtain approval.
- 3.2 The Buyer must give notice to the Seller that:
 - (1) approval has not been obtained by the Finance Date and the Buyer terminates this contract; or
 - (2) the finance condition has been either satisfied or waived by the Buyer.
- 3.3 The Seller may terminate this contract by notice to the Buyer if notice is not given under clause 3.2 by 5pm on the Finance Date. This is the Seller's only remedy for the Buyer's failure to give notice.
- 3.4 The Seller's right under clause 3.3 is subject to the Buyer's continuing right to give written notice to the Seller of satisfaction, termination or waiver pursuant to clause 3.2.

4. BUILDING AND PEST INSPECTION REPORTS AND POOL SAFETY

4.1 Building and Pest Inspection

- (1) This contract is conditional upon the Buyer obtaining a written building report from a Building Inspector and a written pest report from a Pest Inspector (which may be a single report) on the Property by the Inspection Date on terms satisfactory to the Buyer. The Buyer must take all reasonable steps to obtain the reports (subject to the right of the Buyer to elect to obtain only one of the reports).
- (2) The Buyer must give notice to the Seller that:
 - (a) a satisfactory Inspector's report under clause 4.1(1) has not been obtained by the Inspection Date and the Buyer terminates this contract. The Buyer must act reasonably; or
 - (b) clause 4.1(1) has been either satisfied or waived by the Buyer.
- (3) If the Buyer terminates this contract and the Seller asks the Buyer for a copy of the building and pest reports, the Buyer must give a copy of each report to the Seller without delay.
- (4) The Seller may terminate this contract by notice to the Buyer if notice is not given under clause 4.1(2) by 5pm on the Inspection Date. This is the Seller's only remedy for the Buyer's failure to give notice.
- (5) The Seller's right under clause 4.1(4) is subject to the Buyer's continuing right to give written notice to the Seller of satisfaction, termination or waiver pursuant to clause 4.1(2).

4.2 Pool Safety

- (1) This clause 4.2 applies if:
 - (a) the answer to Q2 of the Reference Schedule is No or Q2 is not completed; and
 - (b) this contract is not a contract of a type referred to in section 160(1)(b) of the *Property Occupations Act 2014*.
- (2) This contract is conditional upon:
 - (a) the issue of a Pool Safety Certificate; or
 - (b) a Pool Safety Inspector issuing a Notice of nonconformity stating the works required before a Pool Safety Certificate can be issued, by the Pool Safety Inspection Date.
- (3) The Buyer is responsible for arranging an inspection by a Pool Safety Inspector at the Buyer's cost. The Seller authorises:
 - (a) the Buyer to arrange the inspection; and
 - (b) the Pool Safety Inspector to advise the Buyer of the results of the inspection and to give the Buyer a copy of any notice issued.
- (4) If a Pool Safety Certificate has not issued by the Pool Safety Inspection Date, the Buyer may give notice to the Seller that the Buyer:
 - (a) terminates this contract; or
 - (b) waives the benefit of this clause 4.2; The Buyer must act reasonably.
- (5) The Seller may terminate this contract by notice to the Buyer if notice is not given under clause 4.2(4) by 5pm on the Pool Safety Inspection Date.
- (6) The Seller's right under clause 4.2(5) is subject to the Buyer's continuing right to give written notice to the Seller of termination or waiver pursuant to clause 4.2(4).

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- (7) The right of a party to terminate under this clause 4.2, ceases upon receipt by that party of a copy of a current Pool Safety Certificate.
- (8) If the Buyer terminates this contract under clause 4.2(4)(a), and the Seller has not obtained a copy of the Notice of nonconformity issued by the Pool Safety Inspector, the Seller may request a copy and the Buyer must provide this to the Seller without delay.

5. SETTLEMENT

5.1 Time and Date

- (1) Settlement must occur between 9am and 4pm AEST on the Settlement Date.
- (2) If the parties do not agree on where settlement is to occur, it must take place in the Place for Settlement at the office of a solicitor or Financial Institution nominated by the Seller, or, if the Seller does not make a nomination, at the land registry office in or nearest to the Place for Settlement.

5.2 Transfer Documents

- (1) The Transfer Documents must be prepared by the Buyer's Solicitor and delivered to the Seller a reasonable time before the Settlement Date.
- (2) If the Buyer pays the Seller's reasonable expenses, it may require the Seller to produce the Transfer Documents at the Office of State Revenue nearest the Place for Settlement for stamping before settlement.

5.3 Documents and Keys at Settlement

- (1) In exchange for payment of the Balance Purchase Price, the Seller must deliver to the Buyer at settlement:
 - (a) any instrument of title for the Land required to register the transfer to the Buyer; and
 - (b) unstamped Transfer Documents capable of immediate registration after stamping; and
 - (c) any instrument necessary to release any Encumbrance over the Property in compliance with the Seller's obligation in clause 7.2; and
 - (d) if requested by the Buyer not less than 2 clear Business Days before the Settlement Date, the Keys; and
 - (e) if there are Tenancies:
 - (i) the Seller's copy of any Tenancy agreements;
 - (ii) a notice to each tenant advising of the sale in the form required by law; and
 - (iii) any notice required by law to transfer to the Buyer the Seller's interest in any Bond; and
 - (f) if the answer to Q2 in the Reference Schedule is Yes, a copy of a current Compliance or Exemption Certificate, if not already provided to the Buyer.
- (2) If the instrument of title for the Land also relates to other land, the Seller need not deliver it to the Buyer, but the Seller must make arrangements satisfactory to the Buyer to produce it for registration of the transfer.
- (3) If the Keys are not delivered at Settlement under clause 5.3(1)(d), the Seller must deliver the Keys to the Buyer. The Seller may discharge its obligation under this provision by authorising the Seller's Agent to release the Keys to the Buyer.

5.4 Assignment of Covenants and Warranties

- At settlement, the Seller assigns to the Buyer the benefit of all:
- (1) covenants by the tenants under the Tenancies;
 - (2) guarantees and Bonds (subject to the requirements of the *Residential Tenancies and Rooming Accommodation Act 2008*) supporting the Tenancies;
 - (3) manufacturers' warranties regarding the Included Chattels; and
 - (4) builders' warranties on the Improvements; to the extent they are assignable. However, the right to recover arrears of Rent is not assigned to the Buyer and section 117 of the *Property Law Act 1974* does not apply.

5.5 Possession of Property and Title to Included Chattels

On the Settlement Date, in exchange for the Balance Purchase Price, the Seller must give the Buyer vacant possession of the Land and the Improvements except for the Tenancies. Title to the Included Chattels passes at settlement.

5.6 Reservations

- (1) The Seller must remove the Reserved Items from the Property before settlement.

- (2) The Seller must repair at its expense any damage done to the Property in removing the Reserved Items. If the Seller fails to do so, the Buyer may repair that damage.
- (3) Any Reserved Items not removed before settlement will be considered abandoned and the Buyer may, without limiting its other rights, complete this contract and appropriate those Reserved Items or dispose of them in any way.
- (4) The Seller indemnifies the Buyer against any damages and expenses resulting from the Buyer's actions under clauses 5.6(2) or 5.6(3).

5.7 Consent to Transfer

- (1) If the Land sold is leasehold, this contract is subject to any necessary consent to the transfer of the lease to the Buyer being obtained by the Settlement Date.
- (2) The Seller must apply for the consent required as soon as possible.
- (3) The Buyer must do everything reasonably required to help obtain this consent.

6. TIME

6.1 Time of the Essence

Time is of the essence of this contract, except regarding any agreement between the parties on a time of day for settlement.

6.2 Suspension of Time

- (1) This clause 6.2 applies if a party is unable to perform a Settlement Obligation solely as a consequence of a Natural Disaster but does not apply where the inability is attributable to:
 - (a) damage to, destruction of or diminution in value of the Property or other property of the Seller or Buyer; or
 - (b) termination or variation of any agreement between a party and another person whether relating to the provision of finance, the release of an Encumbrance, the sale or purchase of another property or otherwise.
- (2) Time for the performance of the parties' Settlement Obligations is suspended and ceases to be of the essence of the contract and the parties are deemed not to be in breach of their Settlement Obligations.
- (3) An Affected Party must take reasonable steps to minimise the effect of the Natural Disaster on its ability to perform its Settlement Obligations.
- (4) When an Affected Party is no longer prevented from performing its Settlement Obligations due to the Natural Disaster, the Affected Party must give the other party a notice of that fact, promptly.
- (5) When the Suspension Period ends, whether notice under clause 6.2(4) has been given or not, either party may give the other party a Notice to Settle.
- (6) A Notice to Settle must be in writing and state:
 - (a) that the Suspension Period has ended;
 - (b) a date, being not less than 5 nor more than 10 Business Days after the date the Notice to Settle is given, which shall become the Settlement Date; and
 - (c) that time is of the essence.
- (7) When Notice to Settle is given, time is again of the essence of the contract.
- (8) In this clause 6.2:
 - (a) "Affected Party" means a party referred to in clause 6.2(1);
 - (b) "Natural Disaster" means a tsunami, flood, cyclone, earthquake, bushfire or other act of nature;
 - (c) "Settlement Obligations" means, in the case of the Buyer, its obligations under clauses 2.5(1) and 5.1(1) and, in the case of the Seller, its obligations under clauses 5.1(1), 5.3(1)(a) – (e) and 5.5;
 - (d) "Suspension Period" means the period during which the Affected Party (or if both the Buyer and Seller are Affected Parties, either of them) remains unable to perform a Settlement Obligation solely as a consequence of a Natural Disaster.

7. MATTERS AFFECTING THE PROPERTY

7.1 Title

The Land is sold subject to:

- (1) any reservations or conditions on the title or the original Deed of Grant (if freehold); or
- (2) the Conditions of the Crown Lease (if leasehold).

7.2 Encumbrances

The Property is sold free of all Encumbrances other than the Title Encumbrances and Tenancies.

7.3 Requisitions

The Buyer may not deliver any requisitions or enquiries on title.

7.4 Seller's Warranties

- (1) The Seller warrants that, except as disclosed in this contract at settlement:
 - (a) if the Land is freehold: it will be the registered owner of an estate in fee simple in the Land and will own the rest of the Property;
 - (b) if the Land is leasehold: it will be the registered lessee, the lease is not liable to forfeiture because of default under the lease, and it will own the rest of the Property;
 - (c) it will be capable of completing this contract (unless the Seller dies or becomes mentally incapable after the Contract Date); and
 - (d) there will be no unsatisfied judgment, order (except for an order referred to in clause 7.6(1)(b)) or writ affecting the Property.
- (2) The Seller warrants that, except as disclosed in this contract at the Contract Date and at settlement there are no current or threatened claims, notices or proceedings that may lead to a judgment, order or writ affecting the Property.
- (3)(a) The Seller warrants that, except as disclosed in this contract or a notice given by the Seller to the Buyer under the *Environmental Protection Act 1994* ("EPA"), at the Contract Date:
 - (i) there is no outstanding obligation on the Seller to give notice to the administering authority under EPA of notifiable activity being conducted on the Land; and
 - (ii) the Seller is not aware of any facts or circumstances that may lead to the Land being classified as contaminated land within the meaning of EPA.
- (b) If the Seller breaches a warranty in clause 7.4(3), the Buyer may:
 - (i) terminate this contract by notice in writing to the Seller given within 2 Business Days before the Settlement Date; or
 - (ii) complete this contract and claim compensation, but only if the Buyer claims it in writing before the Settlement Date.
- (4) If the Seller breaches a warranty in clause 7.4(1) or clause 7.4(2), the Buyer may terminate this contract by notice to the Seller.
- (5) The Seller does not warrant that the Present Use is lawful.

7.5 Survey and Mistake

- (1) The Buyer may survey the Land.
- (2) If there is:
 - (a) an error in the boundaries or area of the Land;
 - (b) an encroachment by structures onto or from the Land; or
 - (c) a mistake or omission in describing the Property or the Seller's title to it;

which is:

- (d) immaterial; or
- (e) material, but the Buyer elects to complete this contract; the Buyer's only remedy against the Seller is for compensation, but only if claimed by the Buyer in writing on or before settlement.
- (3) The Buyer may not delay settlement or withhold any part of the Balance Purchase Price because of any compensation claim under clause 7.5(2).
- (4) If there is a material error, encroachment or mistake, the Buyer may terminate this contract before settlement.

7.6 Requirements of Authorities

- (1) Subject to clause 7.6(5), any valid notice or order by any competent authority or Court requiring work to be done or money spent in relation to the Property ("Work or Expenditure") must be fully complied with:
 - (a) if issued before the Contract Date, by the Seller before the Settlement Date;
 - (b) if issued on or after the Contract Date, by the Buyer.

- (2) If any Work or Expenditure that is the Seller's responsibility under clause 7.6(1)(a) is not done before the Settlement Date, the Buyer is entitled to claim the reasonable cost of work done by the Buyer in accordance with the notice or order referred to in clause 7.6(1) from the Seller after settlement as a debt.
- (3) Any Work or Expenditure that is the Buyer's responsibility under clause 7.6(1)(b), which is required to be done before the Settlement Date, must be done by the Seller unless the Buyer directs the Seller not to and indemnifies the Seller against any liability for not carrying out the work. If the Seller does the work, or spends the money, the reasonable cost of that Work or Expenditure must be added to the Balance Purchase Price.
- (4) The Buyer may terminate this contract by notice to the Seller if there is an outstanding notice at the Contract Date under sections 246AG, 247 or 248 of the *Building Act 1975* or sections 167 or 168 of the *Planning Act 2016* that affects the Property.
- (5) Clause 7.6(1) does not apply to orders disclosed under section 83 of the *Neighbourhood Disputes (Dividing Fences and Trees) Act 2011*.

7.7 Property Adversely Affected

- (1) If at the Contract Date:
 - (a) the Present Use is not lawful under the relevant town planning scheme;
 - (b) the Land is affected by a proposal of any competent authority to alter the dimensions of any Transport Infrastructure or locate Transport Infrastructure on the Land;
 - (c) access or any service to the Land passes unlawfully through other land;
 - (d) any competent authority has issued a current notice to treat, or notice of intention to resume, regarding any part of the Land;
 - (e) there is an outstanding condition of a development approval attaching to the Land under section 73 of the *Planning Act 2016* or section 96 of the *Economic Development Queensland Act 2012* which, if complied with, would constitute a material mistake or omission in the Seller's title under clause 7.5(2)(c);
 - (f) the Property is affected by the *Queensland Heritage Act 1992* or is included in the World Heritage List;
 - (g) the Property is declared acquisition land under the *Queensland Reconstruction Authority Act 2011*;
 - (h) there is a charge against the Land under s104 of the *Foreign Acquisitions and Takeovers Act 1975*,and that has not been disclosed in this contract, the Buyer may terminate this contract by notice to the Seller given on or before settlement.
- (2) If no notice is given under clause 7.7(1), the Buyer will be treated as having accepted the Property subject to all of the matters referred to in that clause.
- (3) The Seller authorises the Buyer to inspect records held by any authority, including Security Interests on the PPSR relating to the Property.

7.8 Dividing Fences

Notwithstanding any provision in the *Neighbourhood Disputes (Dividing Fences and Trees) Act 2011*, the Seller need not contribute to the cost of building any dividing fence between the Land and any adjoining land owned by it. The Buyer waives any right to claim contribution from the Seller.

8. RIGHTS AND OBLIGATIONS UNTIL SETTLEMENT

8.1 Risk

The Property is at the Buyer's risk from 5pm on the first Business Day after the Contract Date.

8.2 Access

After reasonable notice to the Seller, the Buyer and its consultants may enter the Property:

- (1) once to read any meter;
- (2) for inspections under clause 4;
- (3) once to inspect the Property before settlement; and
- (4) once to value the Property before settlement.

8.3 Seller's Obligations After Contract Date

- (1) The Seller must use the Property reasonably until settlement. The Seller must not do anything regarding the Property or

Tenancies that may significantly alter them or result in later expense for the Buyer.

- (2) The Seller must promptly upon receiving any notice, proceeding or order that affects the Property or requires work on the Property, give a copy to the Buyer.
- (3) Without limiting clause 8.3(1), the Seller must not without the prior written consent of the Buyer, give any notice or seek or consent to any order that affects the Property or make any agreement affecting the Property that binds the Buyer to perform.

8.4 Information Regarding the Property

Upon written request of the Buyer but in any event before settlement, the Seller must give the Buyer:

- (1) copies of all documents relating to any unregistered interests in the Property;
- (2) full details of the Tenancies to allow the Buyer to properly manage the Property after settlement;
- (3) sufficient details (including the date of birth of each Seller who is an individual) to enable the Buyer to undertake a search of the PPSR; and
- (4) further copies or details if those previously given cease to be complete and accurate.

8.5 Possession Before Settlement

If possession is given before settlement:

- (1) the Buyer must maintain the Property in substantially its condition at the date of possession, fair wear and tear excepted;
- (2) entry into possession is under a licence personal to the Buyer revocable at any time and does not:
 - (a) create a relationship of landlord and tenant; or
 - (b) waive the Buyer's rights under this contract;
- (3) the Buyer must insure the Property to the Seller's satisfaction; and
- (4) the Buyer indemnifies the Seller against any expense or damages incurred by the Seller as a result of the Buyer's possession of the Property.

9. PARTIES' DEFAULT

9.1 Seller and Buyer May Affirm or Terminate

Without limiting any other right or remedy of the parties including those under this contract or any right at common law, if the Seller or Buyer, as the case may be, fails to comply with an Essential Term, or makes a fundamental breach of an intermediate term, the Seller (in the case of the Buyer's default) or the Buyer (in the case of the Seller's default) may affirm or terminate this contract.

9.2 If Seller Affirms

If the Seller affirms this contract under clause 9.1, it may sue the Buyer for:

- (1) damages;
- (2) specific performance; or
- (3) damages and specific performance.

9.3 If Buyer Affirms

If the Buyer affirms this contract under clause 9.1, it may sue the Seller for:

- (1) damages;
- (2) specific performance; or
- (3) damages and specific performance.

9.4 If Seller Terminates

If the Seller terminates this contract under clause 9.1, it may do all or any of the following:

- (1) resume possession of the Property;
- (2) forfeit the Deposit and any interest earned;
- (3) sue the Buyer for damages;
- (4) resell the Property.

9.5 If Buyer Terminates

If the Buyer terminates this contract under clause 9.1, it may do all or any of the following:

- (1) recover the Deposit and any interest earned;
- (2) sue the Seller for damages.

9.6 Seller's Resale

(1) If the Seller terminates this contract and resells the Property, the Seller may recover from the Buyer as liquidated damages:

- (a) any deficiency in price on a resale; and
- (b) its expenses connected with any repossession, any failed attempt to resell, and the resale;

provided the resale settles within 2 years of termination of this contract.

- (2) Any profit on a resale belongs to the Seller.

9.7 Seller's Damages

The Seller may claim damages for any loss it suffers as a result of the Buyer's default, including its legal costs on an indemnity basis and the cost of any Work or Expenditure under clause 7.6(3).

9.8 Buyer's Damages

The Buyer may claim damages for any loss it suffers as a result of the Seller's default, including its legal costs on an indemnity basis.

9.9 Interest on Late Payments

- (1) The Buyer must pay interest at the Default Rate:
 - (a) on any amount payable under this contract which is not paid when due; and
 - (b) on any judgement for money payable under this contract.
- (2) Interest continues to accrue:
 - (a) under clause 9.9(1)(a), from the date it is due until paid; and
 - (b) under clause 9.9(1)(b), from the date of judgement until paid.
- (3) Any amount payable under clause 9.9(1)(a) in respect of a period prior to settlement must be paid by the Buyer at settlement. If this contract is terminated or if any amount remains unpaid after settlement, interest continues to accrue.
- (4) Nothing in this clause affects any other rights of the Seller under this contract or at law.

10. GENERAL

10.1 Seller's Agent

The Seller's Agent is appointed as the Seller's agent to introduce a buyer.

10.2 Foreign Buyer Approval

The Buyer warrants that either:

- (1) the Buyer's purchase of the Property is not a notifiable action; or
- (2) the Buyer has received a no objection notification, under the *Foreign Acquisitions and Takeovers Act 1975*.

10.3 Duty

The Buyer must pay all duty on this contract.

10.4 Notices

- (1) Notices under this contract must be in writing.
- (2) Notices under this contract or notices required to be given by law may be given and received by the party's solicitor.
- (3) Notices under this contract or required to be given by law may be given by:
 - (a) delivering or posting to the other party or its solicitor; or
 - (b) sending it to the facsimile number of the other party or its solicitor stated in the Reference Schedule (or another facsimile number notified by the recipient to the sender); or
 - (c) sending it to the email address of the other party or its solicitor stated in the Reference Schedule (or another email address notified by the recipient to the sender).
- (4) Subject to clause 10.4(5), a notice given after this contract is entered into in accordance with clause 10.4(3) will be treated as given:
 - (a) 5 Business Days after posting;
 - (b) if sent by facsimile, at the time indicated on a clear transmission report; and
 - (c) if sent by email, at the time it is sent.
- (5) Notices given by facsimile, by personal delivery or by email between 5pm on a Business Day (the "first Business Day") and 9am on the next Business Day (the "second Business Day") will be treated as given or delivered at 9am on the second Business Day.
- (6) If two or more notices are treated as given at the same time under clause 10.4(5), they will be treated as given in the order in which they were sent or delivered.
- (7) Notices or other written communications by a party's solicitor (for example, varying the Inspection Date, Finance Date or Settlement Date) will be treated as given with that party's authority.
- (8) For the purposes of clause 10.4(3)(c) and clause 12.2 the notice or information may be contained within an email, as an attachment to an email or located in an electronic repository accessible by the recipient by clicking a link in an email.

10.5 Business Days

- (1) If anything is required to be done on a day that is not a Business Day, it must be done instead on the next Business Day.
- (2) If the Finance Date or Inspection Date fall on a day that is not a Business Day, then it falls on the next Business Day.

10.6 Rights After Settlement

Despite settlement and registration of the transfer, any term of this contract that can take effect after settlement or registration remains in force.

10.7 Further Acts

If requested by the other party, each party must, at its own expense, do everything reasonably necessary to give effect to this contract.

10.8 Severance

If any term or part of a term of this contract is or becomes legally ineffective, invalid or unenforceable in any jurisdiction it will be severed and the effectiveness, validity or enforceability of the remainder will not be affected.

10.9 Interpretation

(1) Plurals and Genders

Reference to:

- (a) the singular includes the plural and the plural includes the singular;
- (b) one gender includes each other gender;
- (c) a person includes a body corporate; and
- (d) a party includes the party's executors, administrators, successors and permitted assigns.

(2) Parties

- (a) If a party consists of more than one person, this contract binds them jointly and each of them individually.
- (b) A party that is a trustee is bound both personally and in its capacity as a trustee.

(3) Statutes and Regulations

Reference to statutes includes all statutes amending, consolidating or replacing them.

(4) Inconsistencies

If there is any inconsistency between any provision added to this contract and the printed provisions, the added provision prevails.

(5) Headings

Headings are for convenience only and do not form part of this contract or affect its interpretation.

10.10 Counterparts

- (1) This contract may be executed in two or more counterparts, all of which will together be deemed to constitute one and the same contract.
- (2) A counterpart may be electronic and signed using an Electronic Signature.

11. ELECTRONIC SETTLEMENT

11.1 Application of Clause

- (1) Clause 11 applies if the Buyer, Seller and each Financial Institution involved in the transaction agree to an Electronic Settlement and overrides any other provision of this contract to the extent of any inconsistency.
- (2) Acceptance of an invitation to an Electronic Workspace is taken to be an agreement for clause 11.1(1).
- (3) Clause 11 (except clause 11.5(2)) ceases to apply if either party gives notice under clause 11.5 that settlement will not be an Electronic Settlement.

11.2 Completion of Electronic Workspace

- (1) The parties must:
 - (a) ensure that the Electronic Workspace is completed and all Electronic Conveyancing Documents and the Financial Settlement Schedule are Digitally Signed prior to settlement; and
 - (b) do everything else required in the Electronic Workspace to enable settlement to occur on the Settlement Date.
- (2) If the parties cannot agree on a time for settlement, the time to be nominated in the Workspace is 4pm AEST.
- (3) If any part of the Purchase Price is to be paid to discharge an Outgoing:
 - (a) the Buyer may, by notice in writing to the Seller, require that the amount is paid to the Buyer's Solicitor's trust account and the Buyer is responsible for paying the amount to the relevant authority;

- (b) for amounts to be paid to destination accounts other than the Buyer's Solicitor's trust account, the Seller must give the Buyer a copy of the current account for the Outgoing to enable the Buyer to verify the destination account details in the Financial Settlement Schedule.

- (4) If the Deposit is required to discharge any Encumbrance or pay an Outgoing at settlement:
 - (a) the Deposit Holder must, if directed by the Seller at least 2 Business Days prior to Settlement, pay the Deposit (and any interest accrued on investment of the Deposit) less commission as clear funds to the Seller's Solicitor;
 - (b) the Buyer and the Seller authorise the Deposit Holder to make the payment in clause 11.2(4)(a);
 - (c) the Seller's Solicitor will hold the money as Deposit Holder under the Contract;
 - (d) the Seller and Buyer authorise the Seller's Solicitor to pay the money as directed by the Seller in accordance with the Financial Settlement Schedule.

11.3 Electronic Settlement

- (1) Clauses 5.1(2) and 5.2 do not apply.
- (2) Payment of the Balance Purchase Price electronically as directed by the Seller's Solicitor in the Financial Settlement Schedule satisfies the Buyer's obligation in clause 2.5(1) and 2.5(3)(f).
- (3) The Seller and Buyer will be taken to have complied with:
 - (a) clause 2.5(3)(c), (e) and (f); and
 - (b) clause 2.5(5)(d) and (e),
(as applicable) if at settlement the Financial Settlement Schedule specifies payment of the relevant amount to the account nominated by the Commissioner of Taxation.
- (4) The Seller will be taken to have complied with clauses 5.3(1)(b) and (c) if, at settlement, the Electronic Workspace contains Transfer Documents and (if applicable) releases of the Encumbrances (other than releases of Encumbrances referred to in clause 11.3(5)) for Electronic Lodgement in the Land Registry.
- (5) The Seller will be taken to have complied with clause 5.3(1)(c), (d), (e) and (f) if the Seller's Solicitor:
 - (a) confirms in writing prior to settlement that it holds all relevant documents which are not suitable for Electronic Lodgement and all Keys (if requested under clause 5.3(1)(d)) in escrow on the terms contained in the QLS E-Conveyancing Guidelines; and
 - (b) gives a written undertaking to send the documents and Keys (if applicable) to the Buyer or Buyer's Solicitor no later than the Business Day after settlement; and
 - (c) if requested by the Buyer, provides copies of documents in the Seller's Solicitors possession.
- (6) A party is not in default to the extent it is prevented from complying with an obligation because the other party or the other party's Financial Institution has not done something in the Electronic Workspace.
- (7) Any rights under the contract or at law to terminate the contract may not be exercised during the time the Electronic Workspace is locked for Electronic Settlement.

11.4 Computer System Unavailable

- (1) If settlement fails and cannot occur by 4pm AEST on the Settlement Date because a computer system operated by the Land Registry, Office of State Revenue, Reserve Bank, a Financial Institution or PEXA is inoperative, neither party is in default and the Settlement Date is deemed to be the next Business Day. Time remains of the essence.
- (2) A party is not required to settle if Electronic Lodgement is not available. If the parties agree to Financial Settlement without Electronic Lodgement, settlement is deemed to occur at the time of Financial Settlement.

11.5 Withdrawal from Electronic Settlement

- (1) Either party may elect not to proceed with an Electronic Settlement by giving written notice to the other party.
- (2) A notice under clause 11.5(1) may not be given later than 5 Business Days before the Settlement Date unless an Electronic Settlement cannot be effected because:
 - (a) the transaction is not a Qualifying Conveyancing Transaction; or

INITIALS (Note: Initials not required if signed with Electronic Signature)

- (b) a party's solicitor is unable to complete the transaction due to death, a loss of legal capacity or appointment of a receiver or administrator (or similar) to their legal practice or suspension of their access to PEXA; or
 - (c) the Buyer's or Seller's Financial Institution is unable to settle using PEXA.
- (3) If clause 11.5(2) applies:
- (a) the party giving the notice must provide satisfactory evidence of the reason for the withdrawal; and
 - (b) the Settlement Date will be extended to the date 5 Business Days after the Settlement Date.

11.6 Costs

Each party must pay its own fees and charges of using PEXA for Electronic Settlement.

11.7 Definitions for clause 11

In clause 11:

"Digitally Sign" and "Digital Signature" have the meaning in the ECNL.

"ECNL" means the Electronic Conveyancing National Law (Queensland).

"Electronic Conveyancing Documents" has the meaning in the *Land Title Act 1994*.

"Electronic Lodgement" means lodgement of a document in the Land Registry in accordance with the ECNL.

"Electronic Settlement" means settlement facilitated by PEXA.

"Electronic Workspace" means a shared electronic workspace within PEXA that allows the Buyer and Seller to affect Electronic Lodgement and Financial Settlement.

"Financial Settlement" means the exchange of value between Financial Institutions in accordance with the Financial Settlement Schedule.

"Financial Settlement Schedule" means the electronic settlement schedule within the Electronic Workspace listing the source accounts and destination accounts.

"PEXA" means the system operated by Property Exchange Australia Ltd for settlement of conveyancing transactions and lodgement of Land Registry documents.

"Qualifying Conveyancing Transaction" means a transaction that is not excluded for Electronic Settlement by the rules issued by PEXA, Office of State Revenue, Land Registry, or a Financial Institution involved in the transaction.

12. ELECTRONIC CONTRACT AND DISCLOSURE

12.1 Electronic Signing

If this contract is signed by any person using an Electronic Signature, the Buyer and the Seller:

- (a) agree to enter into this contract in electronic form; and
- (b) consent to either or both parties signing the contract using an Electronic Signature.

12.2 Pre-contract Disclosure

The Buyer consents to the Seller's use of electronic communication to give any notice or information required by law to be given to the Buyer and which was given before the Buyer signed this contract.

**ANNEXURE A
Special Conditions**

1. REGISTRATION OF SURVEY PLAN

- 1.1. This Contract is subject to and conditional upon the registration of a Survey Plan to create the Property and the registration of the Seller under a separate title as the registered owner of the Property on or before 12 months from the Contract Date. The Survey Plan will substantially reflect the plan contained in Annexure B.
- 1.2. The Buyer will pay all the costs and expenses in relation to the preparation and lodgement of the Survey Plan for registration with the Department of Natural Resources Mines and Energy.

2. POSSESSION

- 2.1. The Seller agrees to provide early possession of the Property to the Buyer in accordance with Standard Condition 8.5 of the Terms of Contract for Houses and Residential Land from the date the surveyor pegs out the Property ("the Date of Possession"). The Buyer may from the Date of Possession commence works on the Property as the Buyer deems fit.
- 2.2. If this Contract is terminated for any reason other than the Seller's default, the Buyer must reinstate the Land to its condition as at the Contract Date.

3. GST

- 3.1. Standard Condition 2.1(1) is removed.
- 3.2. The Seller warrants that the Trust is not registered for GST and accordingly the Buyer will not be required to pay an additional amount to the Seller on top of the Purchase Price for GST.

4. SETTLEMENT DATE

- 4.1. The Settlement Date of this Contract will be the date that is 14 days after the date the Buyer gives notice to the Seller that Special Condition 1.1 has been satisfied.

5. COSTS

- 5.1. The Buyer agrees to pay the Seller's reasonable legal costs associated with this Contract.

Buyer: _____

Witness: _____

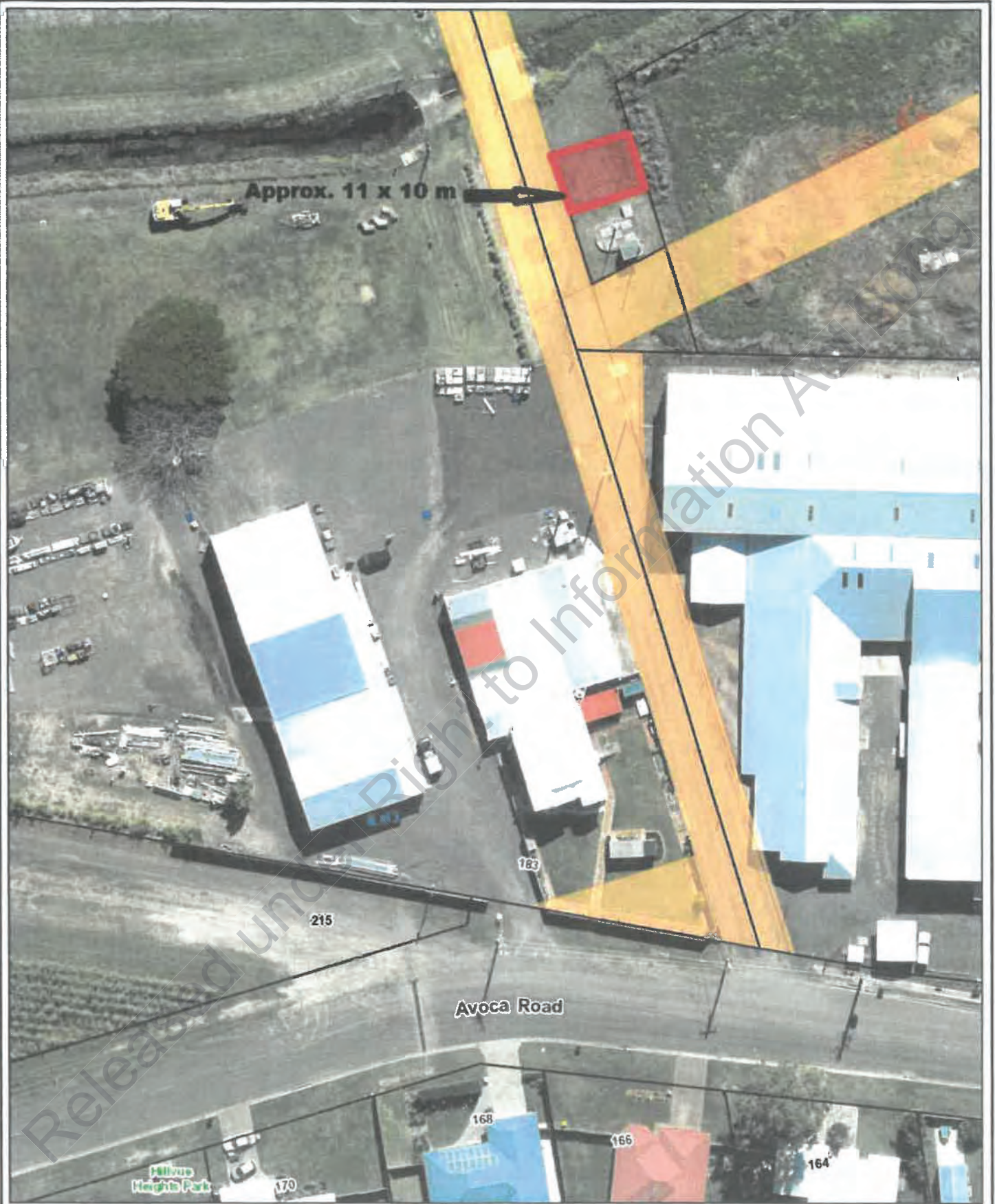
Seller: _____

Witness: _____

Category B - Contrary to Public Interest (47(3)(b) RTI Act)

Category B - (47(3)(b) RTI Act)

ANNEXURE B



Possible site for Odour Control Facility



Projection: GDA_1994_MGA_Zone_56

Date: 24/9/2018 11:23 AM

Scale 1 : 741.49

on A4 Sheet

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Author: Paul Viljoen

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Contract for Houses and Residential Land

Fifteenth Edition

This document has been approved by The Real Estate Institute of Queensland Limited and the Queensland Law Society Incorporated as being suitable for the sale and purchase of houses and residential land in Queensland except for new residential property in which case the issue of GST liability must be dealt with by special condition.

The Seller and Buyer agree to sell and buy the Property under this contract.

REFERENCE SCHEDULE

Contract Date: 17-4-2018

Client No: 1066524
Assessment No: 517-608-758
Duty Paid \$ ~~13,862.50~~ Exempt
LICENCE NO: 17/6/18

Category B - (47(3)(b) RTI Act)

SELLER'S AGENT

NAME:

ABN:

ADDRESS:

SUBURB:

STATE:

POSTCODE:

PHONE:

MOBILE:

FAX:

EMAIL:

SELLER

NAME:

ABN:

BUNDABERG GFM PTY LTD AS TRUSTEE FOR BUNDABERG GFM UNIT TRUST

58 957 340 404

ADDRESS: 171 EILDON ROAD

SUBURB: WINDSOR

STATE: QLD

POSTCODE: 4030

PHONE:

MOBILE:

FAX:

EMAIL:

07 3356 7055

NAME:

ABN:

ADDRESS:

SUBURB:

STATE:

POSTCODE:

PHONE:

MOBILE:

FAX:

EMAIL:

SELLER'S SOLICITOR

& or any other solicitor notified to the Buyer

NAME:

REDCHIP LAWYERS

REF:

CONTACT:

ROB LALOR

ADDRESS: 100 SKYRING TERRACE

SUBURB: NEWSTEAD

STATE: QLD

POSTCODE: 4008

PHONE:

MOBILE:

FAX:

EMAIL:

07 3223 6100

INITIALS (Note: initials not required if signed with Electronic Signature)

Category B - Contrary to Public Interest (47(3)(b) RTI Act)

BUYER

NAME: BUNDABERG REGIONAL COUNCIL

ABN:

ADDRESS: PO BOX 3130

SUBURB: BUNDABERG

STATE: QLD POSTCODE: 4670

PHONE: 1300 883 699

MOBILE:

FAX:

EMAIL: CEO@BUNDABERG.QLD.GOV.AU

NAME:

ABN:

ADDRESS:

SUBURB:

STATE: POSTCODE:

PHONE:

MOBILE:

FAX:

EMAIL:

BUYER'S AGENT (if applicable)

NAME:

ABN:

LICENCE NO:

ADDRESS:

SUBURB:

STATE: POSTCODE:

PHONE:

MOBILE:

FAX:

EMAIL:

BUYER'S SOLICITOR

← or any other solicitor notified to the Seller

NAME:

SELF ACTING

REF:

CONTACT:

CHRISTINE LARGE

ADDRESS:

SUBURB:

STATE: POSTCODE:

PHONE:

MOBILE:

FAX:

EMAIL:

Category B

Category B - (47(3)(b) RTI Act)

PROPERTY

Land: ADDRESS: 8 PARK STREET

SUBURB: BUNDABERG SOUTH

STATE: QLD POSTCODE: 4670

Built On Vacant

Description: Lot: L3-5 RP381, L1-3 RP383 & L4.6 RP384 & L1-3 RP40520 & L1-2 RP45636 & L1 -2 RP69545

on:

Title Reference:

Area: 3.23HA

← (more or less)

Land sold as: Freehold

Leasehold

← if neither is selected, the land is treated as being Freehold.

Present Use: VACANT LAND

Local Government: BUNDABERG REGIONAL COUNCIL

INITIALS (Note: initials not required if signed with Electronic Signature)

EF001 06/18

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Page 2 of 15

Category B - Contrary to Public Interest (47(3)(b) RTI Act)

Excluded Fixtures:

Included Chattels:

PRICE

Deposit Holder:

Deposit Holder's Trust Account:

Bank:

BSB:

Account No:

Purchase Price: \$ 375,000.00 +GST

← Unless otherwise specified in this contract, the Purchase Price includes any GST payable on the supply of the Property to the Buyer.

Deposit: \$ 37,500.00

Initial Deposit payable on the day the Buyer signs this contract unless another time is specified below.

UPON SELLER SIGNING CONTRACT

\$

Balance Deposit (if any) payable on:

Default Interest Rate:

%

← If no figure is inserted, the Contract Rate applying at the Contract Date published by the Queensland Law Society Inc will apply.

FINANCE

Finance Amount: \$ NA

← Unless all of "Finance Amount", "Finance" and "Finance Date" are completed, this contract is not subject to finance and clause 9 does not apply.

Financier:

Finance Date:

BUILDING AND/OR PEST INSPECTION DATE:

Inspection Date: NA

← If "Inspection Date" is not completed, the contract is not subject to an inspection report and clause 4.1 does not apply.

MATTERS AFFECTING PROPERTY

Title Encumbrances:

Is the Property sold subject to any Encumbrances?

No

Yes, listed below:

← **WARNING TO SELLER:** You are required to disclose all Title Encumbrances which will remain after settlement (for example, easements on your title and statutory easements for sewerage and drainage which may not appear on a title search). Failure to disclose these may entitle the Buyer to terminate the contract or to compensation. It is NOT sufficient to state "refer to title", "search will reveal", or similar.

Tenancies:

TENANTS NAME:

← If the property is sold with vacant possession from settlement, insert "Nil". Otherwise complete details from Residential Tenancy Agreement.

TERM AND OPTIONS:

STARTING DATE OF TERM:

ENDING DATE OF TERM:

RENT:

BOND:

\$

\$

INITIALS (Note: Initials not required if signed with Electronic Signature)

EF001 06/18

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Page 3 of 11

Category B - Contrary to Public Interest (47(3)(b) RTI Act)

Managing Agent:

AGENCY NAME:

PROPERTY MANAGER:

ADDRESS:

SUBURB:

STATE: POSTCODE:

PHONE:

MOBILE:

FAX:

EMAIL:

POOL SAFETY

Q1 Is there a pool on the Land or on an adjacent land used in association with the Land?

- Yes
 No Clause 4.2 of this contract does not apply

Q2 If the answer to Q1 is Yes, is there a Compliance or Exemption Certificate for the pool at the time of contract?

- Yes Clause 5.3(1)(f) applies
 No Clause 4.2 applies (except for auction and some other excluded sales)

Q3 If the answer to Q2 is No, has a Notice of no pool safety certificate been given prior to contract?

- Yes
 No

← WARNING TO SELLER: Failure to comply with the Pool Safety Requirements is an offence with substantial penalties.

← WARNING TO BUYER: If there is no Compliance or Exemption Certificate at settlement, the Buyer becomes responsible at its cost to obtain a Pool Safety Certificate within 90 days after settlement. The Buyer can also become liable to pay any costs of rectification necessary to comply with the Pool Safety Requirements to obtain a Pool Safety Certificate. The Buyer commits an offence and can be liable to substantial penalties if the Buyer fails to comply with this requirement.

← If there is a pool on the Land and Q2 is not completed then clause 4.2 applies.

← Note: This is an obligation of the Seller under section 16 of the Building Regulation 2006.

POOL SAFETY INSPECTOR

Pool Safety Inspector:

Pool Safety Inspection Date:

← The Pool Safety Inspector must be licensed under the Building Act 1975 and Building Regulation 2006.

← Clause 4.2(2) applies except where this contract is formed on a sale by auction and some other excluded sales.

ELECTRICAL SAFETY SWITCH AND SMOKE ALARM

This section must be completed unless the Land is vacant.

The Seller gives notice to the Buyer that an Approved Safety Switch for the General Purpose Socket Outlets is:
(select whichever is applicable)

- installed in the residence
 not installed in the residence

The Seller gives notice to the Buyer that a Compliant Smoke Alarm(s) is/are:
(select whichever is applicable)

- installed in the residence
 not installed in the residence

← WARNING: By giving false or misleading information in this section, the Seller may incur a penalty. The Seller should seek expert and qualified advice about completing this section and not rely on the Seller's Agent to complete this section.

← WARNING: Failure to install a Compliant Smoke Alarm is an offence under the Fire and Emergency Services Act 1990.

NEIGHBOURHOOD DISPUTES (DIVIDING FENCES AND TREES) ACT 2011

The Seller gives notice to the Buyer in accordance with section 83 of the Neighbourhood Disputes (Dividing Fences and Trees) Act 2011 that the Land:

(select whichever is applicable)

- is not affected by any application to, or an order made by, the Queensland Civil and Administrative Tribunal (QCAT) in relation to a tree on the Land or
 is affected by an application to, or an order made by, QCAT in relation to a tree on the Land, a copy of which has been given to the Buyer prior to the Buyer signing the contract.

← WARNING: Failure to comply with section 83 Neighbourhood Disputes (Dividing Fences and Trees) Act 2011 by giving a copy of an order or application to the Buyer (where applicable) prior to Buyer signing the contract will entitle the Buyer to terminate the contract prior to Settlement.

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Page 4 of 15

Category B - Contrary to Public Interest (47(3)(b) RTI Act)

SIGNATURES

The contract may be subject to a 5 business day statutory cooling-off period. A termination penalty of 0.25% of the purchase price applies if the Buyer terminates the contract during the statutory cooling-off period. It is recommended the Buyer obtain an independent property valuation and independent legal advice about the contract and his or her cooling-off rights, before signing.

Buyer: **Category B - Contrary to Public Interest (47(3)(b) RTI Act)**

Witness: **Category B - Contrary to Public Interest (47(3)(b) RTI Act)**

Buyer: BUNDABERG REGIONAL COUNCIL (CEO)

Witness: HELEN SWANSON

By placing my signature above, I warrant that I am the Buyer named in the Reference Schedule or authorised by the Buyer to sign.

(Note: No witness is required if the Buyer signs using an Electronic Signature)

Seller: **Category B - Contrary to Public Interest (47(3)(b) RTI Act)**

Witness: **Category B - Contrary to Public Interest (47(3)(b) RTI Act)**

Seller: **Category B - Contrary to Public Interest (47(3)(b) RTI Act)**

Witness: **Category B - Contrary to Public Interest (47(3)(b) RTI Act)**

By placing my signature above, I warrant that I am the Seller named in the Reference Schedule or authorised by the Seller to sign.

(Note: No witness is required if the Seller signs using an Electronic Signature)

Deposit Holder:

← Who acknowledges having received the Initial Deposit and agrees to hold that amount and any Balance Deposit when received as Deposit Holder for the parties as provided in the Contract.

Released under Right to Information Act 2009

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000010143658

Page 6 of 15

Category B - Contrary to Public Interest (47(3)(b) RTI Act)

GST WITHHOLDING OBLIGATIONS

Is the Buyer registered for GST and acquiring the Land for a creditable purpose?

(select whichever is applicable)

Yes

No

[Note: An example of an acquisition for a creditable purpose would be the purchase of the Land by a building contractor, who is registered for GST, for the purposes of building a house on the Land and selling it in the ordinary course of its business.]

← WARNING: the Buyer warrants in clause 2.5(6) that this information is true and correct.

The Seller gives notice to the Buyer in accordance with section 14-255(1)(a) of the Withholding Law that:

(select whichever is applicable)

the Buyer is not required to make a payment under section 14-250 of the Withholding Law in relation to the supply of the Property

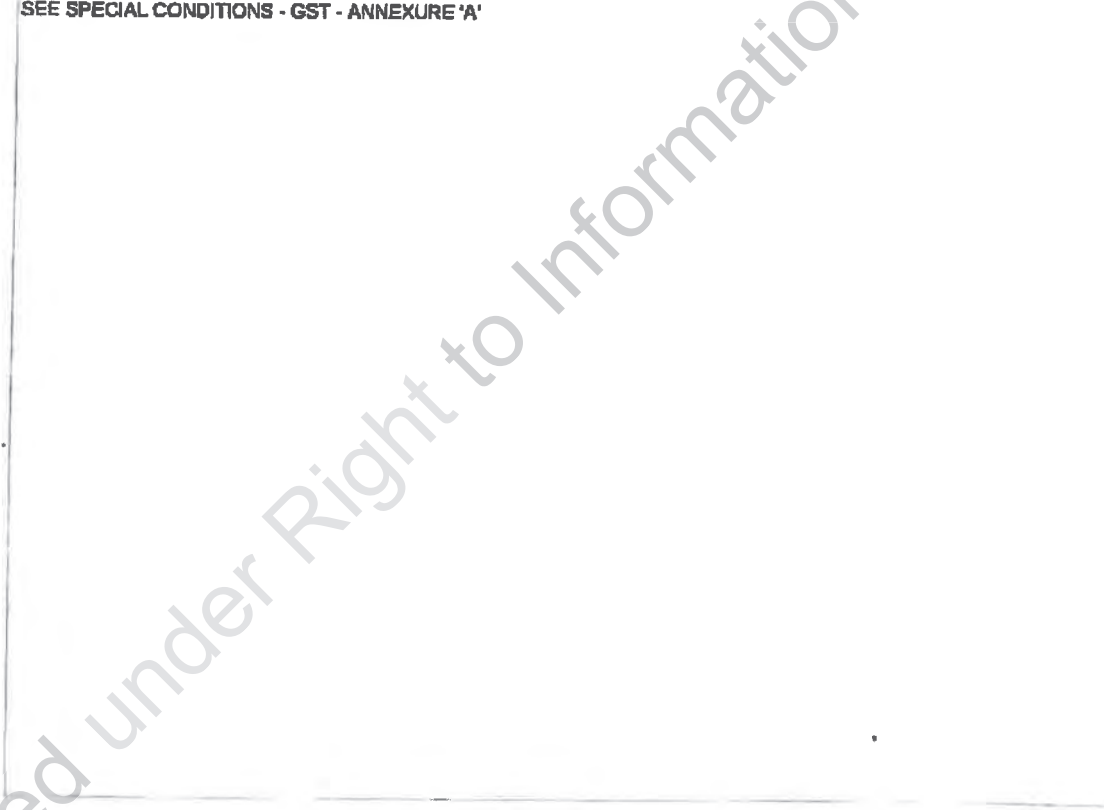
the Buyer is required to make a payment under section 14-250 of the Withholding Law in relation to the supply of the Property. Under section 14-255(1) of the Withholding Law, the Seller is required to give further details prior to settlement.

← WARNING: All sellers of residential premises or potential residential land are required to complete this notice. Section 14-250 of the Withholding Law applies to the sale of new residential premises or potential residential land (subject to some exceptions) and requires an amount to be withheld from the Purchase Price and paid to the ATO. The Seller should seek legal advice if unsure about completing this section.

The REIQ Terms of Contract for Houses and Residential Land (Pages 7-15) (Fifteenth Edition) contain the Terms of this Contract.

SPECIAL CONDITIONS

SEE SPECIAL CONDITIONS - GST - ANNEXURE 'A'



SETTLEMENT

Settlement Date: 30 DAYS FROM DATE OF CONTRACT

← or the next Business Day if that is not a Business Day in the Place for

Place for Settlement: BUNDABERG

Cat B

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this is a CBD.

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Page 5 of 15

ANNEXURE "A"
Special Conditions

1 GST

1.1 The parties agree that Standard Term 2.1 of the Terms of Contract for Houses and Residential Land is deleted.

1.2 Definitions

Words and phrases defined in the GST Act have the same meaning in this Special Condition unless the context indicates otherwise.

1.3 Purchase Price does not include GST

The Purchase price does not include the Seller's liability for GST on the Supply of the Property. The Buyer must on the Settlement Date pay to the Seller in addition to the Purchase Price an amount equivalent to the amount payable by the Seller as GST on the Supply of the Property.

1.4 Tax Invoice

Where GST is payable on the Supply of the Property, the Seller must give to the Buyer a Tax Invoice at the Settlement Date.

1.5 No Merger

To avoid doubt, the conditions in this special condition 1 do not merge on settlement.

Category B - Contrary to Public Interest (47(3)(b)
RTI Act)

**TERMS OF CONTRACT
FOR HOUSES AND RESIDENTIAL LAND**

1. DEFINITIONS

1.1 In this contract:

- (1) Terms in bold in the Reference Schedule have the meanings shown opposite them; and
- (2) Unless the context otherwise indicates:
- (a) **"Approved Safety Switch"** means a residual current device as defined in the *Electrical Safety Regulation 2013*;
 - (b) **"ATO"** means the Australian Taxation Office;
 - (c) **"ATO Clearance Certificate"** means a certificate issued under section 14-220(1.) of the Withholding Law which is current on the date it is given to the Buyer;
 - (d) **"Balance Purchase Price"** means the Purchase Price, less the Deposit, adjusted under clause 2.6;
 - (e) **"Bank"** means an authorised deposit-taking institution within the meaning of the *Banking Act 1959* (Cth);
 - (f) **"Bond"** means a bond under the *Residential Tenancies and Rooming Accommodation Act 2008*;
 - (g) **"Building Inspector"** means a person licensed to carry out completed residential building inspections under the *Queensland Building and Construction Commission Regulations 2003*;
 - (h) **"Business Day"** means a day other than:
 - (i) a Saturday or Sunday;
 - (ii) a public holiday in the Place for Settlement; and
 - (iii) a day in the period 27 to 31 December (inclusive);
 - (i) **"CGT Withholding Amount"** means the amount determined under section 14-200(3)(a) of the Withholding Law or, if a copy is provided to the Buyer prior to settlement, a lesser amount specified in a variation notice under section 14-235;
 - (j) **"Compliance or Exemption Certificate"** means:
 - (i) a Pool Safety Certificate; or
 - (ii) a Building Certificate that may be used instead of a Pool Safety Certificate under section 246AN(2) of the *Building Act 1975*; or
 - (iii) an exemption from compliance on the grounds of impracticality under section 245B of the *Building Act 1975*;
 - (k) **"Compliant Smoke Alarm"** means a smoke alarm complying with the requirements for smoke alarms in domestic dwellings under the *Fire and Emergency Services Act 1990*;
 - (l) **"Contract Date"** or **"Date of Contract"** means the date inserted in the Reference Schedule;
 - (m) **"Court"** includes any tribunal established under statute;
 - (n) **"Electronic Signature"** means an electronic method of signing that identifies the person and indicates their intention to sign the contract;
 - (o) **"Encumbrances"** includes:
 - (i) unregistered encumbrances;
 - (ii) statutory encumbrances; and
 - (iii) Security Interests;
 - (p) **"Essential Term"** includes, in the case of breach by:
 - (i) the Buyer: clauses 2.2, 2.5(1), 2.5(5), 5.1 and 6.1; and
 - (ii) the Seller: clauses 2.5(5), 5.1, 5.3(1)(a)-(d), 5.3(1)(a)(ii) & (iii), 5.3(1)(f), 5.5 and 6.1; but nothing in this definition precludes a Court from finding other terms to be essential;
 - (q) **"Financial Institution"** means a Bank, Building Society or Credit Union;
 - (r) **"General Purpose Socket Outlet"** means an electrical socket outlet as defined in the *Electrical Safety Regulations 2013*;
 - (s) **"GST"** means the goods and services tax under the *GST Act*;
 - (t) **"GST Act"** means *A New Tax System (Goods and Services Tax) Act* and includes other GST related legislation;
 - (u) **"GST Withholding Amount"** means the amount (if any) determined under section 14-250 of the Withholding Law required to be paid to the Commissioner of Taxation;
 - (v) **"Improvements"** means fixed structures on the Land and includes all items fixed to them (such as stoves, hot water systems, fixed carpets, curtains, blinds and their fittings, clothes lines, fixed satellite dishes and television antennae, in-ground plants) but does not include the Reserved Items;
 - (w) **"Keys"** means keys, codes or devices in the Seller's possession or control for all locks or security systems on the Property or necessary to access the Property;
 - (x) **"Notice of No Pool Safety Certificate"** means the Form 36 under the *Building Regulation 2006* to the effect that there is no Pool Safety Certificate issued for the Land;
 - (y) **"Notice of Nonconformity"** means a Form 26 under the *Building Regulation 2006* advising how the pool does not comply with the relevant pool safety standard;
 - (z) **"Outgoings"** means rates or charges on the Land by any competent authority (for example, council rates, water rates, fire service levies) but excludes land tax;
 - (aa) **"Pest Inspector"** means a person licensed to undertake termite inspections on completed buildings under the *Queensland Building and Construction Commission Regulations 2003*;
 - (bb) **"Pool Safety Certificate"** has the meaning in section 231C(a) of the *Building Act 1975*;
 - (cc) **"Pool Safety Inspection Date"** means the Pool Safety Inspection Date inserted in the Reference Schedule. If no date is inserted in the Reference Schedule, the Pool Safety Inspection Date is taken to be the earlier of the following:
 - (i) the Inspection Date for the Building and/or Pest Inspection; or
 - (ii) 2 Business Days before the Settlement Date;
 - (dd) **"Pool Safety Requirements"** means the requirements for pool safety contained in the *Building Act 1975* and *Building Regulation 2006*;
 - (ee) **"Pool Safety Inspector"** means a person authorised to give a Pool Safety Certificate;
 - (ff) **"PPSR"** means the Personal Property Securities Register established under *Personal Property Securities Act 2009* (Cth);
 - (gg) **"Property"** means:
 - (i) the Land;
 - (ii) the Improvements; and
 - (iii) the Included Chattels;
 - (hh) **"Rent"** means any periodic amount payable under the Tenancies;
 - (ii) **"Reserved Items"** means the Excluded Fixtures and all Chattels on the Land other than the Included Chattels;

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- (j) "Security Interests" means all security interests registered on the PPSR over Included Chattels and Improvements;
- (kk) "Transfer Documents" means:
 - (i) the form of transfer under the Land Title Act 1994 required to transfer title in the Land to the Buyer; and
 - (ii) any other document to be signed by the Seller necessary for stamping or registering the transfer;
- (ll) "Transport Infrastructure" has the meaning defined in the Transport Infrastructure Act 1994; and
- (mm) "Withholding Law" means Schedule 1 to the Taxation Administration Act 1953 (Cth).

2. PURCHASE PRICE

2.1 GST

- (1) Unless otherwise specified in this contract, the Purchase Price includes any GST payable on the supply of the Property to the Buyer.
- (2) If a party is required to make any other payment or reimbursement under this contract, that payment or reimbursement will be reduced by the amount of any input tax credits to which the other party (or the representative member for a GST group of which it is a member) is entitled.

2.2 Deposit

- (1) The Buyer must pay the Deposit to the Deposit Holder at the times shown in the Reference Schedule. The Deposit Holder will hold the Deposit until a party becomes entitled to it.
- (2) The Buyer will be in default if it:
 - (a) does not pay the Deposit when required;
 - (b) pays the Deposit by a post-dated cheque; or
 - (c) pays the Deposit by cheque which is dishonoured on presentation.
- (3) The Seller may recover from the Buyer as a liquidated debt any part of the Deposit which is not paid when required.

2.3 Investment of Deposit

- if:
 - (1) the Deposit Holder is instructed by either the Seller or the Buyer; and
 - (2) it is lawful to do so;
 the Deposit Holder must:
 - (3) invest as much of the Deposit as has been paid with any Financial Institution in an interest-bearing account in the names of the parties; and
 - (4) provide the parties' tax file numbers to the Financial Institution (if they have been supplied).

2.4 Entitlement to Deposit and Interest

- (1) The party entitled to receive the Deposit is:
 - (a) if this contract settles, the Seller;
 - (b) if this contract is terminated without default by the Buyer, the Buyer; and
 - (c) if this contract is terminated owing to the Buyer's default, the Seller.
- (2) The interest on the Deposit must be paid to the person who is entitled to the Deposit.
- (3) If this contract is terminated, the Buyer has no further claim once it receives the Deposit and interest, unless the termination is due to the Seller's default or breach of warranty.
- (4) The Deposit is invested at the risk of the party who is ultimately entitled to it.

2.5 Payment of Balance Purchase Price

- (1) On the Settlement Date, the Buyer must pay the Balance Purchase Price by bank cheque as the Seller or the Seller's Solicitor directs.
- (2) Despite any other provision of this contract, a reference to a "bank cheque" in clause 2.5:
 - (a) includes a cheque drawn by a Building Society or Credit Union on itself;
 - (b) does not include a cheque drawn by a Building Society or Credit Union on a Bank; and the Seller is not obliged to accept a cheque referred to in clause 2.5(2)(b) on the Settlement Date.
- (3) If both the following apply:
 - (a) the sale is not an excluded transaction under section 14-215 of the Withholding Law; and
 - (b) the Seller has not given the Buyer on or before settlement for each person comprising the Seller either:
 - (i) an ATO Clearance Certificate; or
 - (ii) a variation notice under section 14-235 of the Withholding Law which remains current at the Settlement Date varying the CGT Withholding Amount to nil,
 then:
 - (c) for clause 2.5(1), the Seller irrevocably directs the Buyer to draw a bank cheque for the CGT Withholding Amount in favour of the Commissioner of Taxation or, if the Buyer's Solicitor requests, the Buyer's Solicitor's Trust Account;
 - (d) the Buyer must lodge a Foreign Resident Capital Gains Withholding Purchaser Notification Form with the ATO for each person comprising the Buyer and give copies to the Seller with the payment reference numbers (PRN) on or before settlement;
 - (e) the Seller must return the bank cheque in paragraph (c) to the Buyer's Solicitor (or if there is no Buyer's Solicitor, the Buyer) at settlement; and
 - (f) the Buyer must pay the CGT Withholding Amount to the ATO in accordance with section 14-200 of the Withholding Law and give the Seller evidence that it has done so within 2 Business Days of settlement occurring.
- (4) For clause 2.5(3) and section 14-215 of the Withholding Law, the market value of the CGT asset is taken to be the Purchase Price less any GST included in the Purchase Price for which the Buyer is entitled to an input tax credit unless:
 - (a) the Property includes items in addition to the Land and Improvements; and
 - (b) no later than 2 Business Days prior to the Settlement Date, the Seller gives the Buyer a valuation of the Land and Improvements prepared by a registered valuer, in which case the market value of the Land and Improvements will be as stated in the valuation.
- (5) If the Buyer is required to pay the GST Withholding Amount to the Commissioner of Taxation at settlement pursuant to section 14-250 of the Withholding Law:
 - (a) the Seller must give the Buyer a notice in accordance with section 14-255(1) of the Withholding Law;
 - (b) prior to settlement the Buyer must lodge with the ATO:
 - (i) a GST Property Settlement Withholding Notification form ("Form 1"); and
 - (ii) a GST Property Settlement Date Confirmation form ("Form 2");

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- (c) on or before settlement, the Buyer must give the Seller copies of:
- (i) the Form 1;
 - (ii) confirmation from the ATO that the Form 1 has been lodged specifying the Buyer's lodgement reference number and payment reference number;
 - (iii) confirmation from the ATO that the Form 2 has been lodged; and
 - (iv) a completed ATO payment slip for the Withholding Amount.
- (d) the Seller irrevocably directs the Buyer to draw a bank cheque for the GST Withholding Amount in favour of the Commissioner of Taxation and deliver it to the Seller at settlement; and
- (e) the Seller must pay the GST Withholding Amount to the ATO in compliance with section 14-250 of the Withholding Law promptly after settlement.
- (6) The Buyer warrants that the statements made by the Buyer in the Reference Schedule under GST Withholding Obligations are true and correct.
- 2.6 Adjustments to Balance Purchase Price**
- (1) The Seller is liable for Outgoings and is entitled to Rent up to and including the Settlement Date. The Buyer is liable for Outgoings and is entitled to Rent after the Settlement Date.
- (2) Subject to clauses 2.6(3), 2.6(5), and 2.6(14), Outgoings for periods including the Settlement Date must be adjusted:
- (a) for those paid, on the amount paid;
 - (b) for those assessed but unpaid, on the amount payable (excluding any discount); and
 - (c) for those not assessed:
 - (i) on the amount the relevant authority advises will be assessed (excluding any discount); or
 - (ii) if no advice on the assessment to be made is available, on the amount of the latest separate assessment (excluding any discount).
- (3) If there is no separate assessment of rates for the Land at the Settlement Date and the Local Government informs the Buyer that it will not apportion rates between the Buyer and the Seller, then:
- (a) the amount of rates to be adjusted is that proportion of the assessment equal to the ratio of the area of the Land to the area of the parcel in the assessment; and
 - (b) if an assessment of rates includes charges imposed on a "per lot" basis, then the portion of those charges to be adjusted is the amount assessed divided by the number of lots in that assessment.
- (4) The Seller is liable for land tax assessed on the Land for the financial year current at the Settlement Date. If land tax is unpaid at the Settlement Date and the Office of State Revenue advises that it will issue a final clearance for the Land on payment of a specified amount, then the Buyer may deduct the specified amount from the Balance Purchase Price at settlement and must pay it promptly to the Office of State Revenue.
- (5) Any Outgoings assessable on the amount of water used must be adjusted on the charges that would be assessed on the total water usage for the assessment period, determined by assuming that the actual rate of usage shown by the meter reading made before settlement continues throughout the assessment period. The Buyer must obtain and pay for the meter reading.
- (6) If any Outgoings are assessed but unpaid at the Settlement Date, then the Buyer may deduct the amount payable from the Balance Purchase Price at settlement and pay it promptly to the relevant authority. If an amount is deducted under this clause, the relevant Outgoing will be treated as paid at the Settlement Date for the purposes of clause 2.6(2).
- (7) Arrears of Rent for any rental period ending on or before the Settlement Date belong to the Seller and are not adjusted at settlement.
- (8) Unpaid Rent for the rental period including both the Settlement Date and the following day ("Current Period") is not adjusted until it is paid.
- (9) Rent already paid for the Current Period or beyond must be adjusted at settlement.
- (10) If Rent payments are reassessed after the Settlement Date for periods including the Settlement Date, any additional Rent payment from a Tenant or refund due to a Tenant must be apportioned under clauses 2.6(7), 2.6(8) and 2.6(9).
- (11) Payments under clause 2.6(10) must be made within 14 days after notification by one party to the other but only after any additional payment from a Tenant has been received.
- (12) The cost of bank cheques payable at settlement:
- (a) to the Seller or its mortgagee are the responsibility of the Buyer; and
 - (b) to parties other than the Seller or its mortgagee are the responsibility of the Seller.
- (13) The Seller is not entitled to require payment of the Balance Purchase Price by means other than bank cheque without the consent of the Buyer.
- (14) Upon written request by the Buyer, the Seller will, prior to settlement, give the Buyer a written statement, supported by reasonable evidence, of:
- (a) all Outgoings and all Rent for the Property to the extent they are not capable of discovery by search or enquiry at any office of public record or pursuant to the provisions of any statute; and
 - (b) any other information which the Buyer may reasonably require for the purpose of calculating or apportioning any Outgoings or Rent under this clause 2.6.
- If the Seller becomes aware of a change to the information provided the Seller will as soon as practicable provide the updated information to the Buyer.

3. FINANCE

- 3.1** This contract is conditional on the Buyer obtaining approval of a loan for the Finance Amount from the Financier by the Finance Date on terms satisfactory to the Buyer. The Buyer must take all reasonable steps to obtain approval.
- 3.2** The Buyer must give notice to the Seller that:
- (1) approval has not been obtained by the Finance Date and the Buyer terminates this contract; or
 - (2) the finance condition has been either satisfied or waived by the Buyer.
- 3.3** The Seller may terminate this contract by notice to the Buyer if notice is not given under clause 3.2 by 5pm on the Finance Date. This is the Seller's only remedy for the Buyer's failure to give notice.
- 3.4** The Seller's right under clause 3.3 is subject to the Buyer's continuing right to give written notice to the Seller of satisfaction, termination or waiver pursuant to clause 3.2.

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Page 3 of 15

Category B - Contrary to Public Interest (47(3)(b) RTI Act)

4. BUILDING AND PEST INSPECTION REPORTS AND POOL SAFETY

4.1 Building and Pest Inspection

- (1) This contract is conditional upon the Buyer obtaining a written Building Report from a Building Inspector and a written Pest Report from a Pest Inspector (which may be a single report) on the Property by the Inspection Date on terms satisfactory to the Buyer. The Buyer must take all reasonable steps to obtain the reports (subject to the right of the Buyer to elect to obtain only one of the reports).
- (2) The Buyer must give notice to the Seller that:
 - (a) a satisfactory Inspector's report under clause 4.1(1) has not been obtained by the Inspection Date and the Buyer terminates this contract. The Buyer must act reasonably; or
 - (b) clause 4.1(1) has been either satisfied or waived by the Buyer.
- (3) If the Buyer terminates this contract and the Seller asks the Buyer for a copy of the building and pest reports, the Buyer must give a copy of each report to the Seller without delay.
- (4) The Seller may terminate this contract by notice to the Buyer if notice is not given under clause 4.1(2) by 5pm on the Inspection Date. This is the Seller's only remedy for the Buyer's failure to give notice.
- (5) The Seller's right under clause 4.1(4) is subject to the Buyer's continuing right to give written notice to the Seller of satisfaction, termination or waive pursuant to clause 4.1(2).

4.2 Pool Safety

- (1) This clause 4.2 applies if:
 - (a) the answer to Q2 of the Reference Schedule is No or Q2 is not completed; and
 - (b) this contract is not a contract of a type referred to in section 160(1)(b) of the *Property Occupations Act 2014*.
- (2) This contract is conditional upon:
 - (a) the issue of a Pool Safety Certificate; or
 - (b) a Pool Safety Inspector issuing a Notice of Nonconformity stating the works required before a Pool Safety Certificate can be issued;by the Pool Safety Inspection Date.
- (3) The Buyer is responsible for arranging an inspection by a Pool Safety Inspector at the Buyer's cost. The Seller authorises:
 - (a) the Buyer to arrange the inspection; and
 - (b) the Pool Safety Inspector to advise the Buyer of the results of the inspection and to give the Buyer a copy of any notice issued.
- (4) If a Pool Safety Certificate has not been issued by the Pool Safety Inspection Date, the Buyer may give notice to the Seller that the Buyer:
 - (a) terminates this contract; or
 - (b) waives the benefit of this clause 4.2.The Buyer must act reasonably.
- (5) The Seller may terminate this contract by notice to the Buyer if notice is not given under clause 4.2(4) by 5pm on the Pool Safety Inspection Date.
- (6) The Seller's right under clause 4.2(5) is subject to the Buyer's continuing right to give written notice to the Seller of termination or waiver pursuant to clause 4.2(4).
- (7) The right of a party to terminate under this clause 4.2 ceases upon receipt by that party of a copy of a current Pool Safety Certificate.

- (8) If the Buyer terminates this contract under clause 4.2(4)(a), and the Seller has not obtained a copy of the Notice of Nonconformity issued by the Pool Safety Inspector, the Seller may request a copy and the Buyer must provide this to the Seller without delay.

5. SETTLEMENT

5.1 Time and Date

- (1) Settlement must occur between 9am and 4pm AEST on the Settlement Date.
- (2) If the parties do not agree on where settlement is to occur, it must take place in the Place for Settlement at the office of a solicitor or Financial Institution nominated by the Seller, or, if the Seller does not make a nomination, at the Land Registry Office in or nearest to the Place for Settlement.

5.2 Transfer Documents

- (1) The Transfer Documents must be prepared by the Buyer's Solicitor and delivered to the Seller a reasonable time before the Settlement Date.
- (2) If the Buyer pays the Seller's reasonable expenses, it may require the Seller to produce the Transfer Documents at the Office of State Revenue nearest the Place for Settlement for stamping before settlement.

5.3 Documents and Keys at Settlement

- (1) In exchange for payment of the Balance Purchase Price, the Seller must deliver to the Buyer at settlement:
 - (a) any instrument of title for the Land required to register the transfer to the Buyer; and
 - (b) unstamped Transfer Documents capable of immediate registration after stamping; and
 - (c) any instrument necessary to release any Encumbrance over the Property in compliance with the Seller's obligation in clause 7.2; and
 - (d) if requested by the Buyer not less than 2 clear Business Days before the Settlement Date, the Keys; and
 - (e) if there are Tenancies:
 - (i) the Seller's copy of any Tenancy agreements;
 - (ii) a notice to each Tenant advising of the sale in the form required by law; and
 - (iii) any notice required by law to transfer to the Buyer the Seller's interest in any Bond; and
 - (f) if the answer to Q2 in the Reference Schedule is Yes, a copy of a current Compliance or Exemption Certificate, if not already provided to the Buyer.
- (2) If the instrument of title for the Land also relates to other land, the Seller need not deliver it to the Buyer, but the Seller must make arrangements satisfactory to the Buyer to produce it for registration of the transfer.
- (3) If the Keys are not delivered at settlement under clause 5.3(1)(d), the Seller must deliver the Keys to the Buyer. The Seller may discharge its obligation under this provision by authorising the Seller's Agent to release the Keys to the Buyer.

5.4 Assignment of Covenants and Warranties

- At settlement, the Seller assigns to the Buyer the benefit of all:
- (1) covenants by the Tenants under the Tenancies;
 - (2) guarantees and Bonds (subject to the requirements of the *Residential Tenancies and Rooming Accommodation Act 2008*) supporting the Tenancies;

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EF001 06/18

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0001018956

Page 10 of 15

Category B - Contrary to Public Interest
(47(3)(b) RTI Act)

(3) manufacturer's warranties regarding the Included Chattels; and

(4) builders' warranties on the Improvements; to the extent they are assignable. However, the right to recover arrears of Rent is not assigned to the Buyer and section 117 of the *Property Law Act 1974* does not apply.

5.5 Possession of Property and Title to Included Chattels

On the Settlement Date, in exchange for the Balance Purchase Price, the Seller must give the Buyer vacant possession of the Land and the Improvements except for the Tenancies. Title to the Included Chattels passes at settlement.

5.6 Reservations

- (1) The Seller must remove the Reserved Items from the Property before settlement.
- (2) The Seller must repair at its expense any damage done to the Property in removing the Reserved Items. If the Seller fails to do so, the Buyer may repair that damage.
- (3) Any Reserved Items not removed before settlement will be considered abandoned and the Buyer may, without limiting its other rights, complete this contract and appropriate those Reserved Items or dispose of them in any way.
- (4) The Seller indemnifies the Buyer against any damages and expenses resulting from the Buyer's actions under clauses 5.6(2) or 5.6(3).

5.7 Consent to Transfer

- (1) If the Land sold is leasehold, this contract is subject to any necessary consent to the transfer of the lease to the Buyer being obtained by the Settlement Date.
- (2) The Seller must apply for the consent required as soon as possible.
- (3) The Buyer must do everything reasonably required to help obtain this consent.

6. TIME

6.1 Time of the Essence

Time is of the essence of this contract, except regarding any agreement between the parties on a time of day for settlement.

6.2 Suspension of Time

- (1) This clause 6.2 applies if a party is unable to perform a settlement obligation solely as a consequence of a Natural Disaster but does not apply where the inability is attributable to:
 - (a) damage to, destruction of or diminution in value of the Property or other property of the Seller or Buyer; or
 - (b) termination or variation of any agreement between a party and another person whether relating to the provision of finance, the release of an Encumbrance, the sale or purchase of another property or otherwise.
- (2) Time for the performance of the parties' settlement obligations is suspended and ceases to be of the essence of the contract and the parties are deemed not to be in breach of their settlement obligations.
- (3) An Affected Party must take reasonable steps to minimise the affect of the Natural Disaster on its ability to perform its settlement obligations.
- (4) When an Affected Party is no longer prevented from performing its settlement obligations due to the Natural Disaster, the Affected Party must give the other party a notice of that fact, promptly.
- (5) When the Suspension Period ends, whether notice under clause 6.2(4) has been given or not, either party may give the other party a Notice to Settle.

(6) A Notice to Settle must be in writing and state:

- (a) that the Suspension Period has ended; and
- (b) a date, being not less than 5 nor more than 10 Business Days after the date the Notice to Settle is given, which shall become the Settlement Date;

(c) that time is of the essence.

(7) When Notice to Settle is given, time is again of the essence of the contract.

(8) In this clause 6.2:

- (a) "Affected Party" means a party referred to in clause 6.2(1);
- (b) "Natural Disaster" means a tsunami, flood, cyclone, earthquake, bushfire or other act of nature;
- (c) "Settlement Obligations" means, in the case of the Buyer, its obligations under clauses 2.5(1) and 5.1(1) and, in the case of the Seller, its obligations under clauses 5.1(1), 5.3(1)(a) - (e) and 5.5;
- (d) "Suspension Period" means the period during which the Affected Party (or if both the Buyer and Seller are Affected Parties, either of them) remains unable to perform a settlement obligation solely as a consequence of a Natural Disaster.

7. MATTERS AFFECTING THE PROPERTY

7.1 Title

The Land is sold subject to:

- (1) any reservations or conditions on the title or the original Deed of Grant (if freehold); or
- (2) the Conditions of the Crown Lease (if leasehold).

7.2 Encumbrances

The Property is sold free of all Encumbrances other than the Title Encumbrances and Tenancies.

7.3 Requisitions

The Buyer may not deliver any requisitions or enquiries on title.

7.4 Seller's Warranties

- (1) The Seller warrants that, except as disclosed in this contract at settlement:
 - (a) if the Land is freehold: it will be the registered owner of an estate in fee simple in the Land and will own the rest of the Property;
 - (b) if the Land is leasehold: it will be the registered lessee, the lease is not liable to forfeiture because of default under the lease, and it will own the rest of the Property;
 - (c) it will be capable of completing this contract (unless the Seller dies or becomes mentally incapable after the Contract Date); and
 - (d) there will be no unsatisfied judgment, order (except for an order referred to in clause 7.6(1)(b)) or writ affecting the Property.
- (2) The Seller warrants that, except as disclosed in this contract at the Contract Date and at settlement there are no current or threatened claims, notices or proceedings that may lead to a judgment, order or writ affecting the Property.
- (3) (a) The Seller warrants that, except as disclosed in this contract or a notice given by the Seller to the Buyer under the *Environmental Protection Act 1994* ("EPA"), at the Contract Date:
 - (i) there is no outstanding obligation on the Seller to give notice to the administering authority under EPA of nonifiable activity being conducted on the Land; and

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EF001 06/18

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EX0010142558

Page 11 of 15

Category B - Contrary to Public Interest
(47(3)(b) RTI Act)

- (ii) the Seller is not aware of any facts or circumstances that may lead to the Land being classified as contaminated land within the meaning of EPA.
- (b) If the Seller breaches a warranty in clause 7.4(3), the Buyer may:
 - (i) terminate this contract by notice in writing to the Seller given within 2 Business Days before the Settlement Date; or
 - (ii) complete this contract and claim compensation, but only if the Buyer claims it in writing before the Settlement Date.
- (4) If the Seller breaches a warranty in clause 7.4(1) or clause 7.4(2), the Buyer may terminate this contract by notice to the Seller.
- (5) The Seller does not warrant that the Present Use is lawful.

7.5 Survey and Mistake

- (1) The Buyer may survey the Land.
- (2) If there is:
 - (a) an error in the boundaries or area of the Land;
 - (b) an encroachment by structures onto or from the Land; or
 - (c) a mistake or omission in describing the Property or the Seller's title to it;
 which is:
 - (d) immaterial; or
 - (e) material, but the Buyer elects to complete this contract,
 the Buyer's only remedy against the Seller is for compensation, but only if claimed by the Buyer in writing on or before settlement.
- (3) The Buyer may not delay settlement or withhold any part of the Balance Purchase Price because of any compensation claim under clause 7.5(2).
- (4) If there is a material error, encroachment or mistake, the Buyer may terminate this contract before settlement.

7.6 Requirements of Authorities

- (1) Subject to clause 7.6(5), any valid notice or order by any competent authority or Court requiring work to be done or money spent in relation to the Property ("Work or Expenditure") must be fully complied with:
 - (a) if issued before the Contract Date, by the Seller before the Settlement Date;
 - (b) if issued on or after the Contract Date, by the Buyer.
- (2) If any Work or Expenditure that is the Seller's responsibility under clause 7.6(1)(a) is not done before the Settlement Date, the Buyer is entitled to claim the reasonable cost of work done by the Buyer in accordance with the notice or order referred to in clause 7.6(1) from the Seller after settlement as a debt.
- (3) Any Work or Expenditure that is the Buyer's responsibility under clause 7.6(1)(b), which is required to be done before the Settlement Date, must be done by the Seller unless the Buyer directs the Seller not to and indemnifies the Seller against any liability for not carrying out the work. If the Seller does the work, or spends the money, the reasonable cost of that Work or Expenditure must be added to the Balance Purchase Price.
- (4) The Buyer may terminate this contract by notice to the Seller if there is an outstanding notice at the Contract Date under sections 246AG, 247 or 248 of the Building Act 1975 or sections 167 or 168 of the Planning Act 2016 that affects the Property.

- (5) Clause 7.6(1) does not apply to orders disclosed under section 83 of the Neighbourhood Disputes (Dividing Fences and Trees) Act 2011.

7.7 Property Adversely Affected

- (1) If at the Contract Date:
 - (a) the Present Use is not lawful under the relevant town planning scheme;
 - (b) the Land is affected by a proposal of any competent authority to alter the dimensions of any Transport Infrastructure or locate Transport Infrastructure on the Land;
 - (c) access or any service to the Land passes unlawfully through other land;
 - (d) any competent authority has issued a current notice to treat, or notice of intention to resume, regarding any part of the Land;
 - (e) there is an outstanding condition of a development approval attaching to the Land under section 73 of the Planning Act 2016 or section 96 of the Economic Development Queensland Act 2012 which, if complied with, would constitute a material mistake or omission in the Seller's title under clause 7.5(2)(c);
 - (f) the Property is affected by the Queensland Heritage Act 1992 or is included in the World Heritage List;
 - (g) the Property is declared acquisition land under the Queensland Reconstruction Authority Act 2011;
 - (h) there is a charge against the Land under section 104 of the Foreign Acquisitions and Takeovers Act 1975,

and that has not been disclosed in this contract, the Buyer may terminate this contract by notice to the Seller given on or before settlement.

- (2) If no notice is given under clause 7.7(1), the Buyer will be treated as having accepted the Property subject to all of the matters referred to in that clause.
- (3) The Seller authorises the Buyer to inspect records held by any authority, including Security Interests on the PPSR relating to the Property.

7.8 Dividing Fences

Notwithstanding any provision in the Neighbourhood Disputes (Dividing Fences and Trees) Act 2011, the Seller need not contribute to the cost of building any dividing fence between the Land and any adjoining land owned by it. The Buyer waives any right to claim contribution from the Seller.

8. RIGHTS AND OBLIGATIONS UNTIL SETTLEMENT

8.1 Risk

The Property is at the Buyer's risk from 5pm on the first Business Day after the Contract Date.

8.2 Access

After reasonable notice to the Seller, the Buyer and its consultants may enter the Property:

- (1) once to read any meter;
- (2) for inspections under clause 4;
- (3) once to inspect the Property before settlement; and
- (4) once to value the Property before settlement.

8.3 Seller's Obligations After Contract Date

- (1) The Seller must use the Property reasonably until settlement. The Seller must not do anything regarding the Property or Tenancies that may significantly alter them or result in later expense for the Buyer.
- (2) The Seller must promptly upon receiving any notice, proceeding or order that affects the Property or requires work on the Property, give a copy to the Buyer.

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Page 12 of 15

Category B - Contrary to Public Interest (47(3)(b) RTI Act)

- (3) Without limiting clause 8.3(1), the Seller must not without the prior written consent of the Buyer, give any notice or seek or consent to any order that affects the Property or make any agreement affecting the Property that binds the Buyer to perform.

8.4 Information Regarding the Property

Upon written request of the Buyer but in any event before settlement, the Seller must give the Buyer:

- (1) copies of all documents relating to any unregistered interests in the Property;
- (2) full details of the Tenancies to allow the Buyer to properly manage the Property after settlement;
- (3) sufficient details (including the date of birth of each Seller who is an individual) to enable the Buyer to undertake a search of the PPSR; and
- (4) further copies or details if those previously given cease to be complete and accurate.

8.5 Possession Before Settlement

If possession is given before settlement:

- (1) the Buyer must maintain the Property in substantially its condition at the date of possession, fair wear and tear excepted;
- (2) entry into possession is under a licence personal to the Buyer revocable at any time and does not:
 - (a) create a relationship of Landlord and Tenant; or
 - (b) waive the Buyer's rights under this contract;
- (3) the Buyer must insure the Property to the Seller's satisfaction; and
- (4) the Buyer indemnifies the Seller against any expense or damages incurred by the Seller as a result of the Buyer's possession of the Property.

9. PARTIES' DEFAULT

9.1 Seller and Buyer May Affirm or Terminate

Without limiting any other right or remedy of the parties including those under this contract or any right at common law, if the Seller or Buyer, as the case may be, fails to comply with an Essential Term, or makes a fundamental breach of an intermediate term, the Seller (in the case of the Buyer's default) or the Buyer (in the case of the Seller's default) may affirm or terminate this contract.

9.2 If Seller Affirms

If the Seller affirms this contract under clause 9.1, it may sue the Buyer for:

- (1) damages;
- (2) specific performance; or
- (3) damages and specific performance.

9.3 If Buyer Affirms

If the Buyer affirms this contract under clause 9.1, it may sue the Seller for:

- (1) damages;
- (2) specific performance; or
- (3) damages and specific performance.

9.4 If Seller Terminates

If the Seller terminates this contract under clause 9.1, it may do all or any of the following:

- (1) resume possession of the Property;
- (2) forfeit the Deposit and any interest earned;
- (3) sue the Buyer for damages;
- (4) resell the Property.

9.5 If Buyer Terminates

If the Buyer terminates this contract under clause 9.1, it may do all or any of the following:

- (1) recover the Deposit and any interest earned;
- (2) sue the Seller for damages.

9.6 Seller's Resale

(1) If the Seller terminates this contract and resells the Property, the Seller may recover from the Buyer as liquidated damages:

- (a) any deficiency in price on a resale; and
- (b) its expenses connected with any repossession, any failed attempt to resell, and the resale, provided the resale settles within 2 years of termination of this contract.

(2) Any profit on a resale belongs to the Seller.

9.7 Seller's Damages

The Seller may claim damages for any loss it suffers as a result of the Buyer's default, including its legal costs on an indemnity basis and the cost of any Work or Expenditure under clause 7.6(3).

9.8 Buyer's Damages

The Buyer may claim damages for any loss it suffers as a result of the Seller's default, including its legal costs on an indemnity basis.

9.9 Interest on Late Payments

(1) The Buyer must pay interest at the Default Rate:

- (a) on any amount payable under this contract which is not paid when due; and
- (b) on any judgement for money payable under this contract.

(2) Interest continues to accrue:

- (a) under clause 9.9(1)(a), from the date it is due until paid; and
- (b) under clause 9.9(1)(b), from the date of judgement until paid.

(3) Any amount payable under clause 9.9(1)(a) in respect of a period prior to settlement must be paid by the Buyer at settlement. If this contract is terminated or if any amount remains unpaid after settlement, interest continues to accrue.

(4) Nothing in this clause affects any other rights of the Seller under this contract or at law.

10. GENERAL

10.1 Seller's Agent

The Seller's Agent is appointed as the Seller's agent to introduce a Buyer.

10.2 Foreign Buyer Approval

The Buyer warrants that either:

- (1) the Buyer's purchase of the Property is not a notifiable action; or
- (2) the Buyer has received a no objection notification, under the *Foreign Acquisitions and Takeovers Act 1975*.

10.3 Duty

The Buyer must pay all duty on this contract.

10.4 Notices

- (1) Notices under this contract must be in writing.
- (2) Notices under this contract or notices required to be given by law may be given and received by the party's solicitor.
- (3) Notices under this contract or notices required to be given by law may be given by:
 - (a) delivering or posting to the other party or its solicitor; or
 - (b) sending it to the facsimile number of the other party or its solicitor stated in the Reference Schedule (or another facsimile number notified by the recipient to the sender); or
 - (c) sending it to the email address of the other party or its solicitor stated in the Reference Schedule (or another email address notified by the recipient to the sender).

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Page 13 of 11

Category B - Contrary to Public Interest (47(3)(b) RTI Act)

- (4) Subject to clause 10.4(5), a notice given after this contract is entered into in accordance with clause 10.4(3) will be treated as given:
- 5 Business Days after posting;
 - if sent by facsimile, at the time indicated on a clear transmission report; and
 - if sent by email, at the time it is sent.
- (5) Notices given by facsimile, by personal delivery or by email between 5pm on a Business Day (the "first Business Day") and 9am on the next Business Day (the "second Business Day") will be treated as given or delivered at 9am on the second Business Day.
- (6) If two or more notices are treated as given at the same time under clause 10.4(5), they will be treated as given in the order in which they were sent or delivered.
- (7) Notices or other written communications by a party's solicitor (for example, varying the Inspection Date, Finance Date or Settlement Date) will be treated as given with that party's authority.
- (8) For the purposes of clause 10.4(3)(c) and clause 12.2 the notice or information may be contained within an email, as an attachment to an email or located in an electronic repository accessible by the recipient by clicking a link in an email.

10.5 Business Days

- If anything is required to be done on a day that is not a Business Day, it must be done instead on the next Business Day.
- If the Finance Date or Inspection Date fall on a day that is not a Business Day, then it falls on the next Business Day.

10.6 Rights After Settlement

Despite settlement and registration of the transfer, any term of this contract that can take effect after settlement or registration remains in force.

10.7 Further Acts

If requested by the other party, each party must, at its own expense, do everything reasonably necessary to give effect to this contract.

10.8 Severance

If any term or part of a term of this contract is or becomes legally ineffective, invalid or unenforceable in any jurisdiction it will be severed and the effectiveness, validity or enforceability of the remainder will not be affected.

10.9 Interpretation

(1) Plurals and Genders

Reference to:

- the singular includes the plural and the plural includes the singular;
- one gender includes each other gender;
- a person includes a Body Corporate; and
- a party includes the party's executors, administrators, successors and permitted assigns.

(2) Parties

- If a party consists of more than one person, this contract binds them jointly and each of them individually.
- A party that is a trustee is bound both personally and in its capacity as a trustee.

(3) Statutes and Regulations

Reference to statutes includes all statutes amending, consolidating or replacing them.

(4) Inconsistencies

If there is any inconsistency between any provision added to this contract and the printed provisions, the added provision prevails.

(5) Headings

Headings are for convenience only and do not form part of this contract or affect its interpretation.

10.10 Counterparts

- This contract may be executed in two or more counterparts, all of which will together be deemed to constitute one and the same contract.
- A counterpart may be electronic and signed using an Electronic Signature.

11 ELECTRONIC SETTLEMENT

11.1 Application of Clause

- Clause 11 applies if the Buyer, Seller and each Financial Institution involved in the transaction agree to an Electronic Settlement and overrides any other provision of this contract to the extent of any inconsistency.
- Acceptance of an invitation to an Electronic Workspace is taken to be an agreement for clause 11.1(1).
- Clause 11 (except Clause 11.5(2)) ceases to apply if either party gives notice under clause 11.5 that settlement will not be an Electronic Settlement.

11.2 Completion of Electronic Workspace

- The parties must:
 - ensure that the Electronic Workspace is completed and all Electronic Conveyancing Documents and the Financial Settlement Schedule are Digitally Signed prior to settlement; and
 - do everything else required in the Electronic Workspace to enable settlement to occur on the Settlement Date.
- If the parties cannot agree on a time for settlement, the time to be nominated in the Workspace is 4pm AEST.
- If any part of the Purchase Price is to be paid to discharge an Outgoing:
 - the Buyer may, by notice in writing to the Seller, require that the amount is paid to the Buyer's Solicitor's trust account and the Buyer is responsible for paying the amount to the relevant authority;
 - for amounts to be paid to destination accounts other than the Buyer's Solicitor's trust account, the Seller must give the Buyer a copy of the current account for the Outgoing to enable the Buyer to verify the destination account details in the Financial Settlement Schedule.
- If the Deposit is required to discharge any Encumbrance or pay an Outgoing at settlement:
 - the Deposit Holder must, if directed by the Seller at least 2 Business Days prior to Settlement, pay the Deposit (and any interest accrued on investment of the Deposit) less commission as clear funds to the Seller's Solicitor;
 - the Buyer and the Seller authorise the Deposit Holder to make the payment in clause 11(4)(a);
 - the Seller's Solicitor will hold the money as Deposit Holder under the Contract;
 - the Seller and Buyer authorise the Seller's Solicitor to pay the money as directed by the Seller in accordance with the Financial Settlement Schedule.

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Page 14 of 17

Category B - Contrary to Public Interest
(47(3)(b) RTI Act)

11.3 Electronic Settlement

- (1) Clauses 5.1(2) and 5.2 do not apply.
- (2) Payment of the Balance Purchase Price electronically as directed by the Seller's Solicitor in the Financial Settlement Schedule satisfies the Buyer's obligation in clause 2.5(1) and 2.5(3)(f).
- (3) The Seller and Buyer will be taken to have complied with:
 - (a) clause 2.5(3)(c), (e) and (f); and
 - (b) clause 2.5(5)(d) and (e),(as applicable) if at settlement the Financial Settlement Schedule specifies payment of the relevant amount to the account nominated by the Commissioner of Taxation.
- (4) The Seller will be taken to have complied with clauses 5.3(1)(b) and (c) if, at settlement, the Electronic Workspace contains Transfer Documents and (if applicable) releases of the Encumbrances (other than releases of Encumbrances referred to in clause 11.3(5)) for Electronic Lodgement in the Land Registry.
- (5) The Seller will be taken to have complied with clause 5.3(1)(c), (d), (e) and (f) if the Seller's Solicitor:
 - (a) confirms in writing prior to settlement that it holds all relevant documents which are not suitable for Electronic Lodgement and all Keys (if requested under clause 5.3(1)(d)) in escrow on the terms contained in the QLS E-Conveyancing Guidelines; and
 - (b) gives a written undertaking to send the documents and Keys (if applicable) to the Buyer or Buyer's Solicitor no later than the Business Day after settlement; and
 - (c) if requested by the Buyer, provides copies of documents in the Seller's Solicitors possession.
- (6) A party is not in default to the extent it is prevented from complying with an obligation because the other party or the other party's Financial Institution has not done something in the Electronic Workspace.
- (7) Any rights under the contract or at law to terminate the contract may not be exercised during the time the Electronic Workspace is locked for Electronic Settlement.

11.4 Computer System Unavailable

- (1) If settlement fails and cannot occur by 4pm AEST on the Settlement Date because a computer system operated by the Land Registry, Office of State Revenue, Reserve Bank, a Financial Institution or PEXA is inoperative, neither party is in default and the Settlement Date is deemed to be the next Business Day. Time remains of the essence.
- (2) A party is not required to settle if Electronic Lodgement is not available. If the parties agree to Financial Settlement without Electronic Lodgement, settlement is deemed to occur at the time of Financial Settlement.

11.5 Withdrawal from Electronic Settlement

- (1) Either party may elect not to proceed with an Electronic Settlement by giving written notice to the other party.
- (2) A notice under clause 11.5(1) may not be given later than 5 Business Days before the Settlement Date unless an Electronic Settlement cannot be effected because:
 - (a) the transaction is not a Qualifying Conveyancing Transaction; or

- (b) a party's solicitor is unable to complete the transaction due to death, a loss of legal capacity or appointment of a receiver or administrator (or similar) to their legal practice or suspension of their access to PEXA; or
 - (c) the Buyer's or Seller's Financial Institution is unable to settle using PEXA.
- (3) If clause 11.5(2) applies:
- (a) the party giving the notice must provide satisfactory evidence of the reason for the withdrawal; and
 - (b) the Settlement Date will be extended to the date 5 Business Days after the Settlement Date.

11.6 Costs

Each party must pay its own fees and charges of using PEXA for Electronic Settlement.

11.7 Definitions for clause 11

In clause 11:

Digitally Sign and Digital Signature have the meaning in the ECNL.

ECNL means the Electronic Conveyancing National Law (Queensland).

Electronic Conveyancing Documents has the meaning in the Land Title Act 1994.

Electronic Lodgement means lodgement of a document in the Land Registry in accordance with the ECNL.

Electronic Settlement means settlement facilitated by PEXA.

Electronic Workspace means a shared electronic workspace within PEXA that allows the Buyer and Seller to affect Electronic Lodgement and Financial Settlement.

Financial Settlement means the exchange of value between Financial Institutions in accordance with the Financial Settlement Schedule.

Financial Settlement Schedule means the electronic settlement schedule within the Electronic Workspace listing the source accounts and destination accounts.

PEXA means the system operated by Property Exchange Australia Ltd for settlement of conveyancing transactions and lodgement of Land Registry documents.

Qualifying Conveyancing Transaction means a transaction that is not excluded for Electronic Settlement by the rules issued by PEXA, Office of State Revenue, Land Registry, or a Financial Institution involved in the transaction.

12. ELECTRONIC CONTRACT AND DISCLOSURE

12.1 Electronic Signing

If this contract is signed by any person using an Electronic Signature, the Buyer and the Seller:

- (a) agree to enter into this contract in electronic form; and
- (b) consent to either or both parties signing the contract using an Electronic Signature.

12.2 Pre-contract Disclosure

The Buyer consents to the Seller's use of electronic communication to give any notice or information required by law to be given to the Buyer and which was given before the Buyer signed this contract.

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(b) RTI Act)

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Page 15 of 15

HABITAT IN BRANYAN
SALE CONTRACT

Contract Date

24 - 4 - 2020
(if not completed then the date this Contract is signed by the Seller)

Agent:

(address)
(telephone)

Without the intervention of an agent
..... (facsimile)

Parties Seller:

Jamworth Pty Ltd ACN 010 962 133 (ABN 65 010 962 133)
PO Box 373
Agnes Water QLD 4677

Seller's Solicitor:

(telephone)

Clinton Mohr Lawyers
622 Wickham Street Fortitude Valley Qld 4006
PO Box 597 Spring Hill Qld 4004
07 3227 1500 (facsimile) 07 3854 1822

Deposit Holder:

Clinton Mohr Lawyers

Buyer:

(name)
(address)
(telephone)
(tax file no)

Bundaberg Regional Council
190 Bourong Street, Bundaberg QLD 4670
1300 883 699 (facsimile)
..... (email) ceo@bundaberg.qld.gov.au

Buyer's Solicitor:

(name)
(address)
(contact name)
(email)

.....
.....
..... (telephone) Category B
Category B - (47(3)(b) RTI Act) (facsimile)

Lot

(address)

Proposed lot 62 as shown on the plans contained in section 3 of the Disclosure Statement being part of the Development Land situated at 417 Branyan Drive, Branyan in the State of Queensland as it may be amended pursuant to the terms of this Contract.

Purchase Price (\$)
Deposit (\$)

(\$)
(\$)

105,000.00 including GST
10,000.00 payable within 7 days from the date of formation of the Contract.

Guarantor/s

If the Buyer is a company, all directors of the Buyer must give a guarantee. If the Buyer is a trust then all primary beneficiaries of the Buyer must give a guarantee.

(name/s)
.....
(addresses)
.....

Is Buyer a Foreign Person?

Yes No

GST Withholding Amount

Not applicable

Finance

Finance Amount:

Financier:

Finance Date: days from the
Contract Date

Unless the Finance Amount and the Finance Date
are completed, this Contract is not subject to
finance

and Special Condition 1 does not apply

Place for Settlement

Brisbane, Queensland

Settlement Date

As set out in clause 8.3 of this Contract

The Seller agrees to sell and the Buyer agrees to buy the Lot on the terms of this Contract.

Released under Right to Information Act 2009

Terms and Conditions

1. PRE - CONDITIONS

1.1. Pre- Conditions

This Contract is conditional upon the satisfaction of the following conditions by the Sunset Date:

- (a) completion of the Development in accordance with the Local Authority subdivision and operational works approvals; and
- (b) the registration of the Survey Plans pursuant to the Land Title Act.

1.2. Seller's Obligations

Subject to the terms of this Contract, the Seller must take all reasonable steps to satisfy the conditions in clause 1.1

1.3. Delays

If the satisfaction of any of the conditions is delayed due in whole or in part to one or more of the following:

- (a) damage by fire, explosion, earthquake, lightning, storm, tempest, war, civil commotion or strikes;
- (b) in consequence of disputes arising or proceedings being taken or threatened by adjoining or neighbouring owners;
- (c) on account of the delay of any local or other authority in giving any necessary approval, provided the Seller has taken all reasonable steps to obtain such approval;
- (d) inclement weather;
- (e) by any other cause, matter or thing beyond the control of the Seller;

the Seller may extend the Sunset Date by a period equal to the period of delay by giving the Buyer notice in writing specifying the cause of the delay and the period of the delay and the new Sunset Date.

1.4. Termination if Pre- Conditions not Satisfied

- (a) The Seller may terminate this Contract by notice in writing to the Buyer if clause 1.1(a) is not satisfied by the date specified in clause 1.1.
- (b) Either party may terminate this Contract by notice in writing to the other if the condition in clause 1.1(b) is not satisfied by the date specified in clause 1.1.
- (c) If the Contract is terminated under this clause 1.4, the Deposit must be refunded to the Buyer and neither party will have any further claim against the other.

2. Finance

- (a) This contract is conditional on the Buyer obtaining approval of a loan for the Finance Amount from the Financier by the Finance Date on terms satisfactory to the Buyer. The Buyer must take all reasonable steps to obtain the approval.
- (b) The buyer must give notice to the Seller that:

- (i) approval has not been obtained by the Finance Date and the Buyer terminates this contract; or
- (ii) the finance condition has been either satisfied or waived by the Buyer.
- (c) The Seller may terminate this contract by notice to the Buyer if notice is not given under clause 2.5(b) by 5pm on the Finance Date. This is the Seller's only remedy for the Buyer's failure to give notice.
- (d) The Seller's right under clause 2.5(c) is subject to the Buyer's continuing right to give written notice to the Seller of satisfaction, termination, or waiver pursuant to clause 2.5(b).

3. TITLE

3.1. Title

The Title to the Lot is subject to the provisions of the Land Title Act.

3.2. Easements, Restrictions on Title and other Rights

The Buyer accepts title to the Lot subject to the Buyer's rights, the Seller's disclosure obligations and all notifications, easements and restrictions (other than a mortgage) in relation to the Lot reasonably required in order to satisfy the requirements of the Local Authority as a condition to approving the registration of the Survey Plans or the approval of the Development by the Local Authority.

3.3. Requisitions

The Buyer may not deliver any requisitions or enquiries on title.

3.4. Seller's Warranties

The Seller warrants that:

- (a) the Seller has full legal capacity to enter into this Contract and to complete this sale, and that no consent from any other person or authority to this sale is required on the Seller's part.
- (b) the Seller is not aware of any proposed resumption or road realignment affecting the Lot not disclosed or provided for in this Contract.
- (c) at settlement there will be no unsatisfied judgments, orders, decrees, or executions affecting the Lot.
- (d) the Seller is not and will not at settlement be under external administration.

3.5. Mistake or Breach of Warranty

Subject to clause 12, any mistake in the description of the Lot or any breach of warranty by the Seller:

- (a) does not entitle the Buyer to terminate this Contract;
- (b) entitles the Buyer (unless that right is limited elsewhere in this Contract) to compensation for any loss suffered by the Buyer;
- (c) does not entitle the Buyer to delay Settlement or retain any part of the Purchase Price.

4. BUYER

4.1. Delivery and Receipt of Contract and Disclosure Statement

- (a) The Buyer warrants to the Seller that it received the Disclosure Statement before signing this Contract.
- (b) The Buyer warrants that:
 - (i) It has read the Disclosure Statement;
 - (ii) It is aware of the limitations and restrictions set out in this Contract regarding variations which do not materially prejudice the Buyer

4.2. No Caveat

The Buyer must not lodge a caveat affecting the Development Land or the Lot. This clause is reasonably necessary to protect the interests of the Seller. Any caveat lodged may affect the completion of the Development including other purchasers' interests.

4.3. Death or Insolvency of Buyer

If at any time before Settlement:

- (a) the Buyer (or any person comprising the Buyer), if a natural person:
 - (i) dies;
 - (ii) becomes bankrupt or enters into a scheme of arrangement, composition or assignment with or in favour of his or her creditors;
 - (iii) in the opinion of the Seller acting reasonably, is unable to pay his or her debts; or
 - (iv) becomes of unsound mind; or
- (b) The Buyer (or any company comprising the Buyer) being a company:
 - (i) is subject to an application for winding up;
 - (ii) is ordered to be wound up or is placed into provisional liquidation;
 - (iii) enters into a scheme of arrangement for the benefit of its creditors;
 - (iv) resolves to go into liquidation; or
 - (v) is put into the control of a receiver, receiver and manager, official manager or administrator;

the Seller may at its option, terminate this Contract by written notice to the Buyer

5. VARIATIONS

5.1. Seller's Variation Rights

- (a) It may be that during the course of Development, changes, which are outside the control of the Seller, to the Development or the Lot are necessary, to enable practical completion of the Development or the Lot. The Seller's right to make such changes is reasonably

necessary to protect the legitimate interests of the Seller.

- (b) The Seller may:
- (i) vary any part of the Development;
 - (ii) vary any part of the Survey Plans or any other plan for the Development;
 - (iii) make changes to easements granted or proposed to be granted with respect to services to be provided to the Development;
 - (iv) make any Minor variations to the Lot. A minor variation includes without limitation:
 - (A) a reduction in area of less than 5%; or
 - (B) a variation to the layout and/or location of the Lot which is necessary for the proper execution of the Development.
- (c) The Buyer shall not be entitled to make any objection, requisition or claim for compensation regarding:
- (A) any Minor variation in the numbering, size or layout of the Lot from the Disclosure Statement;
 - (B) any boundary of the Development Land not being fenced or any boundary fence or wall not being upon a boundary to the Development Land;
 - (C) the existence or passage through or on the Development Land or any adjoining property of mains, pipes, wires or connections of any water, sewerage, drainage, gas, electricity, telephone or other system or service whether to the Development Land or other adjoining or nearby property or jointly to both or otherwise except if the aforementioned relate to the Lot;
 - (D) any transfer, lease, easement, licence or other right over any part of the Development Land given to the Local Authority, any other statutory or governmental authority, the owner of any lot in the Development or the owner of any nearby land except if the aforementioned relate to the Lot;
- if such changes are outside the control of the seller and are necessary to enable completion of the Development or Lot.

5.2. **Buyer's Remedies**

- (a) The Buyer accepts the Lot and Development with any variation within the terms of this Contract and may not terminate this Contract, retain any money payable under this Contract, delay settlement or claim compensation or damages on account of such variation.
- (b) If the Buyer has a right to terminate this Contract due to any variation, the Buyer's sole remedy is to terminate the Contract and recover the Deposit. The Buyer has no right to:
- (i) damages arising out of such termination;
 - (ii) retain any money payable under this Contract;
 - (iii) delay Settlement; or
 - (iv) claim compensation or damages.

6. DEPOSIT & PURCHASE PRICE

6.1. Payment of Deposit

The Buyer must pay the Deposit to the Deposit Holder at the times shown in the Contract Particulars. The Deposit Holder is appointed as the trustee pursuant to the Land Sales Act and must hold the Deposit until a party becomes entitled to it.

Where the Buyer has paid a holding deposit to the Stakeholder pursuant to an expression of interest, the Buyer acknowledges and agrees that the holding deposit will form part of the Deposit payable under this Contract and authorises the Stakeholder to deal with that amount pursuant to the terms of this Contract.

6.2. Deposit Default

- (a) The Buyer will be in default if it:-
 - (i) does not pay the Deposit when required;
 - (ii) pays the Deposit by post-dated cheque;
 - (iii) pays the Deposit by cheque which is dishonoured on presentation.
- (b) The Seller may recover from the Buyer as a liquidated debt any part of the Deposit which is not paid when required.

6.3. Entitlement to Deposit

- (a) The party entitled to receive the Deposit is:
 - (i) if this Contract settles: the Seller;
 - (ii) if this Contract is terminated without the default by the Buyer: the Buyer;
 - (iii) if this Contract is terminated owing to the Buyer's default: the Seller.
- (b) If this Contract is terminated by the Seller, the Buyer has no further claim once it receives the Deposit and interest unless otherwise provided in this Contract.

6.4. Payment of Balance Price

On the Settlement Date the Buyer must pay the Balance Price by bank cheque(s) as the Seller directs.

6.5. Adjustments

- (a) The Seller is liable for Outgoings up to but not including the Settlement Date and the Buyer is liable for Outgoings on and after the Settlement Date.
- (b) Subject to this clause 6.5, Outgoings must be adjusted on the following basis:-
 - (i) for those paid, on the amount paid;
 - (ii) for those assessed but unpaid, on the amount payable (excluding any discount);
 - (iii) for those not assessed:
 - (A) on the amount the relevant authority advises will be assessed (excluding any discount); or
 - (B) if no advice on the assessment to be made is available, then the Buyer

agrees to accept an undertaking by the Seller (which is hereby given) that it will pay and discharge its proportion (in accordance with the terms of this Contract) of any Outgoings once a separate assessment has issued and the Buyer shall not be entitled to retain any part of the purchase price on settlement if the relevant adjustments cannot be made pursuant to this clause 5.5.

- (c) The Seller is liable for land tax assessed on the Land for the financial year current at the Settlement Date. No adjustment for land tax will be made at the Settlement Date.
- (d) If the land tax is unpaid at settlement, and the Office of State Revenue advises that it will issue a final clearance on payment of a specified amount then the Buyer may deduct the specified amount from the Balance Price at settlement and must pay it promptly to the Office of State Revenue.
- (e) Any Outgoings assessable of the amount of water used must be adjusted on the charges that would be assessed on the total water usage for the assessable period, determined by assuming that the actual rate of usage shown by the water meter reading made before settlement continues throughout the assessment period.
- (f) If any Outgoings are assessed but unpaid at the Settlement Date, then the Buyer may deduct the amount payable from the Balance Price and pay it to the relevant authority in which case the amount will be treated as paid for the purpose of clause 6.5(b).

7. GST

- 7.1. The Purchase Price (subject to adjustments under this contract) includes any GST payable on the supply.
- 7.2. The parties acknowledge that the Buyer is purchasing the Property for a creditable purpose and the Seller must give to the Buyer a Tax Invoice at the date for Settlement.

8. SETTLEMENT

8.1. Time and Place

Settlement must take place on the Settlement Date at Brisbane or such place as the Seller's Solicitor directs, between the hours of 9 am and 4 pm at the time nominated by the Seller's Solicitor.

8.2. Notice of Registration

The Seller must give notice to the Buyer as soon as practicable but not more than 5 Business Days after it received notification that the Survey Plans have registered under the Land Title Act creating a separate title for the Lot.

8.3. Settlement Date

The Settlement Date will be the later of the date which is:

- (a) 30 days from the date of formation of the Contract; and
- (b) 30 days from the date the Seller gives notice pursuant to clause 8.2 provided that Settlement must take place by the Sunset Date.

8.4. Transfer Documents

- (a) The Transfer Documents must be prepared by the Buyer or the Buyer's Solicitor and delivered to the Seller's Solicitor at least 7 days before the Settlement Date.

- (b) If the Buyer pays the Seller's reasonable expenses, it may require the Seller to produce the Transfer Documents at the nearest Office of State Revenue to the place for settlement for stamping before settlement.
- (c) On receipt of an undertaking from the Buyer's Solicitor to use the Transfer Documents for stamping purposes only pending settlement, the Seller must lend the Transfer Documents to the Buyer's Solicitor.

8.5. Procedure for Settlement

- (a) In exchange for the payment of the Balance Price the Seller must deliver to the Buyer at settlement:
 - (i) any instrument of title for the Lot required to register the transfer to the Buyer;
 - (ii) unstamped Transfer Documents capable of immediate registration after signing by the Buyer;
 - (iii) any document necessary to release any mortgage, charge or other encumbrance not provided in this Contract or the Disclosure Statement and if registrable, in a form capable of immediate registration; and
 - (iv) vacant possession of the Lot.

9. ACCESS

- 9.1. When the Seller is of the opinion that the Lot is substantially complete, the Seller must give notice to the Buyer that the Lot is available for inspection ("Inspection Notice")
- 9.2. Within 14 days of giving an Inspection Notice, after giving the Seller 3 business days prior notice, or in any case prior to Settlement, the Buyer may arrange for the Lot to be inspected by the Buyer and/or its representative in company with a representative of the Seller to inspect the property.
- 9.3. The Seller will allow a maximum of two inspections, one for the purposes of a valuation and one for a pre-settlement inspection.

10. FURTHER DEVELOPMENT

- 10.1 The Buyer acknowledges and agrees that:
 - (a) the Seller intends to, but is not obliged to, complete the Development in stages.
 - (b) the Lot is in the first stage of the Development and further stages may be completed after the Buyer has completed the purchase of the Lot;
 - (c) that there may be disturbance caused to the Buyer after settlement as a result of the further development; and
 - (d) the Seller may require access through the Development Land to facilitate the further construction of the development and that services utilised in the first stage may be temporarily interrupted by construction of the further stages.
- 10.2. The Seller will use its best endeavours to minimise any disturbance caused to the Buyer as a result of construction of further stages of the Development. The Buyer must not do, or omit to do, anything which would prevent the Seller completing the further stages of the Development.

11. DEFAULT

11.1 Seller and Buyer May Affirm or Terminate

Without limiting any other right or remedy of the parties including those under this contract or any right at common law, if the Seller or Buyer, as the case may be, fails to comply with an Essential Term, or makes a fundamental breach of an intermediate term, the Seller (in the case of the Buyer's default) or the Buyer (in the case of the Seller's default) may affirm or terminate this contract.

11.2. If Seller Affirms

If the Seller affirms this contract under clause 11.1, it may sue the Buyer for:

- (a) damages;
- (b) specific performance; or
- (c) damages and specific performance.

11.3. If Buyer Affirms

If the Buyer affirms this contract under clause 11.1, it may sue the Seller for:

- (a) damages;
- (b) specific performance; or
- (c) damages and specific performance.

11.4. If Seller Terminates

If the Seller terminates this contract under clause 11.1, it may do all or any of the following:

- (a) resume possession of the Property;
- (b) forfeit the Deposit;
- (c) sue the Buyer for damages;
- (d) resell the Property.

11.5. If Buyer Terminates

If the Buyer terminates this contract under clause 11.1, it may do all or any of the following:

- (a) recover the Deposit;
- (b) sue the Seller for damages.

11.6. Seller's Resale

(a) If the Seller terminates this contract and resells the Property, the Seller may recover from the Buyer as liquidated damages:

- (i) any deficiency in price on a resale; and
- (ii) its expenses connected with any repossession, including but not limited to its legal costs on a solicitor and own client basis, agency fees for any failed attempt to resell, and the resale.

(b) Any profit on a resale belongs to the Seller.

11.7. Seller's Damages

The Seller may claim damages for any loss it suffers as a result of the Buyer's default, including its legal costs on an indemnity basis.

11.8. Buyer's Damages

The Buyer may claim damages for any loss it suffers as a result of the Seller's default, including its legal costs on an indemnity basis.

11.9. Interest on Late Payments

(a) Without derogating from the Seller's other rights, if any money payable by the Buyer under this Contract is not paid when due, the Buyer must pay the Seller at settlement interest on that money calculated at the rate of 12% per annum from the due date until the date payment is made (inclusive of both dates). The Seller may recover that interest from the Buyer as liquidated damages.

(b) Any judgment for money payable under this Contract will bear interest from the date of judgment to the date of payment and the provisions of this clause 11.9(a) apply to calculation of that interest.

12. FOREIGN INVESTMENT REVIEW BOARD

12.1. If the Buyer is a foreign person this sale is subject to the consent of the Treasurer of Australia and the following provisions apply:

- (a) The Buyer must within 14 days after the date of formation of this Contract apply for consent from the Treasurer of Australia to acquire the Lot and deliver a copy of that application to the Seller;
- (b) If the Treasurer of Australia does not approve the acquisition of the Lot by the Buyer within 45 days from the date of formation of this Contract this Contract will be automatically terminated in which case the Deposit will be refunded to the Buyer. The Buyer must deliver to the Seller a copy of the response from the Treasurer of Australia to the Buyers application within 7 days after receiving it.
- (c) The Buyer must, within 14 days of receiving a copy of this Contract signed by the Seller, give to the Seller's Solicitors a statement showing:-
 - (i) the Buyers, citizenship and ordinary residence;
 - (ii) if the Buyer is a company, the names, citizenship and ordinary residential addresses of all directors and shareholders of the company;
 - (iii) if the Buyer is acting as trustee, the names, citizenship and ordinary residential addresses of all principal beneficiaries of the trust;
 - (iv) such other information and documentation reasonably required by the Seller;
- (d) If any of the particulars given pursuant to preceding paragraph (c) change during the course of this Contract, the Buyer must give a further notice to the Seller's solicitor within 7 days of the change occurring.
- (e) A failure by the Buyer to deliver to the Seller any material required to be delivered by the Buyer to the Seller under this special condition, will amount to a fundamental breach of this Contract by the Buyer, entitling the Seller to give notice to the Buyer terminating this Contract and forfeiting the Deposit.

13. PERSONAL GUARANTEE

13.1. Guarantee and Indemnity

- (a) In consideration of the Seller at the request of the Buyer agreeing to sell the Lot to the Buyer, the Guarantor/s jointly and severally guarantee to the Seller payment of all money and punctual performance of all obligations by the Buyer under this Contract.
- (b) The Guarantors jointly and severally covenant and agree that they will indemnify and keep indemnified the Seller against any loss and damage however arising which the Seller may suffer in consequence of any failure by the Buyer and/or the Buyer's nominee or assignee to perform the Buyer's obligations under this Contract and that this guarantee and indemnity is not affected or discharged by the granting to the Buyer of any time or other indulgence or by any other consideration or transaction where the Guarantors liability as guarantors or sureties would, but for the provisions of this guarantee and indemnity, have been affected or discharged.

13.2. Liability not affected

The Guarantor's liability under this clause will not be affected:

- (a) if the Seller allows any concession to the Buyer;
- (b) if the Seller does not sue the Buyer;
- (c) if the Seller terminates or exercises any other right under this Contract;
- (d) if the Buyer dies or becomes incompetent or insolvent;
- (e) if there is more than one Guarantor, if any other of them has not signed this Contract;
- (f) if any provision in this Contract is varied without the consent of the Guarantor;
- (g) if the purported rights the Seller has against the Buyer under this Contract are invalid, void or unenforceable.

13.3. Liability to Continue

The liability of the Guarantor will continue until the Buyer has paid all money, and performed all the Buyer's other obligations under this Contract.

14. MISCELLANEOUS

14.1. Parties to Contract

- (a) If a party consists of more than one person, this Contract binds each of them separately and any two or more of them jointly.
- (b) A party which is a trustee is bound both personally and in its capacity as a trustee.

14.2. Assignment

- (a) The Seller may assign its interest or part of its interest in this Contract and/or the Lot (or the relevant parcel) to an assignee who signs a written agreement in favour of the Buyer agreeing to be bound by the Contract in place of the Seller, and the Seller shall then be released from any further obligations under the Contract.
- (b) The Buyer hereby covenants in favour of any such assignee to observe all of the terms and conditions of this Contract in favour of that assignee as if that assignee was the party originally named in this Contract as the seller and the Buyer agrees to sign any deed of covenant which the Seller may consider necessary to this effect on the condition that the Seller must pay reasonable additional costs incurred by the Buyer.

14.3. Time

Time shall in all cases and in every respect, be of the essence of this Contract.

14.4. Risk

The Lot is at the Seller's risk until settlement except in the case that clause 13 applies.

14.5. Costs and Stamp Duty

Each party must bear their own costs in relation to this Contract. The Buyer must pay all stamp duty on this Contract.

14.6. Notices

Notices under this Contract may be signed by a party or its solicitor.

(a) Notices are effectively given if:-

- (i) delivered or posted to the other party or its solicitor;
- (ii) sent by facsimile to the other party or its solicitor; or
- (iii) sent by electronic mail.

(b) Notices are deemed to be given:-

- (i) if posted, on the next Business Day after posting;
- (ii) if sent by facsimile, when the sender receives a successful transmission report;
- (iii) if sent by electronic mail, where no electronic error notification is received by the sender on the date and at the time the electronic mail indicates it was sent.

(c) Notices sent by a party's solicitor to the other party are deemed to be sent with the first party's authority.

14.7. Entire Agreement/No Representations

(a) This Contract and the Disclosure Statement contain the entire terms agreed between the Seller and the Buyer.

(b) The Buyer warrants to the Seller that it has not been induced to enter into this Contract by any representation or assurance made by or on behalf of the Seller or its agent or any party which is not set out in this Contract.

(c) The Buyer acknowledges that no real estate agent, tradesman, consultant or other person employed or engaged by the Seller has authority to waive or amend any term of this Contract.

(d) The Buyer warrants that it has not relied on any artists' impressions, model, display unit, plan, sketch, specification or sales aid or any description except this Contract and the Disclosure Statement.

14.8. Sale of Other Lots

The Seller reserves the right to use any other lot in the Development as a display office and to place signage and marketing material in or on any part of such lot for the sale of lots in the

Development generally. The Buyer agrees not to raise any objection to such use of any lot nor to the use by the Seller of any other part of the Development for the purpose of selling units in the Development as described in this clause.

14.9. Estimated Area of Lot

The Seller places the Buyer on notice and the Buyer acknowledges that any statement made by or on behalf of the Seller regarding the area of the Lot sold prior to the completion of the construction of the Lot, represents the Seller's best estimate of the area of the Lot noting the tolerances and allowances for construction set out of the Lot including but not limited to architectural and structural considerations, and requirements imposed by any Local Authority may impact of the area of the Lot, once constructed.

14.10. Street Address

The Buyer acknowledges and accepts that the final street address of the Lot will be determined by the Local Authority and no representation or warranty with respect to the street address is given by the Seller.

14.11. No Merger

Despite Settlement and the registration of the transfer of the Lot, any term of this Contract that can take affect after Settlement or registration remains in force.

14.12. Applicable Law

Queensland law applies to this Contract.

14.13. Seller's Agent

The Seller acknowledges that:-

- (a) the Seller's Agent is appointed as the Seller's agent for the Property to introduce a buyer, and
- (b) the Buyer was introduced by the Seller's Agent or the Seller.

14.14. Severance

If any term or part of a term of this Contract is or becomes legally ineffective, invalid or unenforceable in any jurisdiction it will be severed and the effectiveness, validity or enforceability of the remainder will not be affected.

14.15. Privacy Statement

Personal information given by the Buyer to the Seller will be handled by the Seller in accordance with the National Privacy Principles (NPPS) as set out in the Privacy Act 1988 (Cth). The Seller:-

- (a) requires the personal information set out in this Contract for the purpose of entering into this Contract with the Buyer, to fulfil purposes associated with this Contract and for marketing purposes;
- (b) may disclose personal information to related companies and other organisations with which the Seller is affiliated which may use and disclose personal information for marketing purposes;
- (c) may disclose personal information to other third parties including professional advisers, printing houses, insurers and marketing agents;

- (d) will allow access to personal information in accordance with the NPPS; and
- (e) will not be able to enter into this Contract with the Buyer unless the personal information required to be supplied with this Contract is supplied.

14.16. Special Conditions

The special conditions (if any) included in this Contract form part of this Contract and vary the terms of this Contract in the event of any inconsistency with this Contract.

14.17. Counterparts and Electronic Execution

This Contract may be executed in any number of counterparts each of which will be considered an original but all of which will constitute one and the same instrument. A party who has executed a copy of this Contract may deliver it to, or exchange it with, another party by faxing; or emailing a pdf (portable document format) copy of the executed contract to that other party.

15. Definitions

15.1. Contract Particulars

Terms listed in the Contract Particulars have the meaning shown opposite them

15.2. Defined Terms

Unless the context indicates otherwise:-

- (a) **ATO** means the Australian Taxation Office;
- (b) **Balance Price** means the Purchase Price less the Deposit, adjusted pursuant to this Contract;
- (c) **Business Day** means any week day which is not a public holiday in the Place for Settlement;
- (d) **Concept Plan** means the concept plan for the Development contained in the Disclosure Statement;
- (e) **Court** includes any tribunal established under statute;
- (f) **Development Land** means Lot 207 on SP310975 having title reference 51182400;
- (g) **Development** means the proposed development on the Development Land as contemplated in the Concept Plan;
- (h) **Disclosure Statement** means the compilation so named given to the Buyer before the Buyer signed this Contract and which contains the statements required to be given under the Land Sales Act, other information about the Development and any further statement given to the Buyer;
- (i) **Essential Term** includes, in the case of breach by:
 - (i) the Buyer: clauses 6.1, 6.4, 6.5, 8.1 and 14.4; and
 - (ii) the Seller: clauses 8.1, 8.5(a) and 14.4;but nothing in this definition precludes a Court from finding other terms to be essential.
- (j) intentionally deleted;

- (k) intentionally deleted;
- (l) **GST** means the goods and services tax under the GST Law;
- (m) **GST Law** means A New Tax System (Goods and Services Tax) Act 1999 (Cth) and includes other GST related legislation, regulations and other publicly available rulings;
- (n) **GST Withholding Amount** means the amount determined under s 14-250 of the Withholding Law required to be paid to the Commissioner for Taxation as specified in the Reference Schedule;
- (o) **Land Title Act** means the Land Title Act (Qld) 1994;
- (p) **Local Authority** means the Bundaberg Regional Council;
- (q) **Lot** means the proposed lot to be sold under this Contract as created by the Survey Plans;
- (r) intentionally deleted;
- (s) **Minor** means any defect, omission, part or variation that a reasonable person would consider is minor in its nature;
- (t) **Outgoings** means the outgoings for the Lot and Development Land including but not limited to:
- (i) rates or charges by any competent authority (for example, council rates, water rates and consumption charges, fire services levy); and
 - (ii) land tax.
- (u) intentionally deleted;
- (v) **Planning Scheme** means the planning scheme made by the Local Government under the *Sustainable Planning Act 2009* (as amended or replaced) which is applicable to the Development Land;
- (w) **Settlement** means settlement of this Contract pursuant to its terms;
- (x) **Settlement Date** means the settlement date determined pursuant to clause 8.3 of this Contract;
- (y) **Sunset Date** means the date which is 12 months after the Contract Date;
- (z) **Survey Plans** means the survey plans to be registered under the Land Title Act to create the separate title for the Lot;
- (aa) **Tax Invoice** has the meaning given to that term under the GST Law;
- (bb) **Transfer Documents** means:
- (i) the form of transfer under the Land Title Act required to transfer title to the Lot to the Buyer;
 - (ii) any other document to be signed by the Seller which is required for stamping or registering the transfer;
- (cc) intentionally deleted.

15.3. Interpretation

- (a) Reference to:
 - (i) one gender includes each other gender;
 - (ii) the singular includes the plural and the plural includes the singular;
 - (iii) a person includes a body corporate;
 - (iv) an associate of a person means another person who is associated with that person by application of any of the provisions of Division 2 of Part 1.2 of the Corporations Act (Cth) 2001;
 - (v) a party includes the party's executors, administrators, successors and permitted assigns; and
 - (vi) a statute, regulation or provision of a statute or regulation ("Statutory Provision") includes:
 - (A) that Statutory Provision as amended or re-enacted from time to time; and
 - (B) a statute, regulation or provision enacted in replacement of that Statutory Provision.
- (b) "Including" and similar expressions are not words of limitation.
- (c) Where a word or expression is given a particular meaning, other parts of speech and grammatical forms of that word or expression have a corresponding meaning.
- (d) Headings and any table of contents or index are for convenience only and do not form part of this Contract or affect its interpretation.
- (e) A provision of this Contract must not be construed to the disadvantage of a party merely because that party was responsible for the preparation of the Contract or the inclusion of the provision in the Contract.
- (f) All monetary amounts are in Australian dollars, unless otherwise stated.
- (g) If an act must be done on a specified day which is not a Business Day, the act must be done instead on the next Business Day.

SIGNED AS A DEED

This Contract may be subject to a 5 business day statutory cooling-off period. A termination penalty of 0.25% of the purchase price applies if the Buyer terminates the contract during the statutory cooling-off period.

It is recommended the Buyer obtain an independent property valuation and independent legal advice about the contract and his or her cooling-off rights, before signing.

SIGNED by Bundaberg Regional Council in the presence of:)

Category B - Contrary to Public Interest (47(3)(b) RTI Act)

Signature of Witness

CHRISTINE LYNDIA LARGE

Category B - Contrary to Public Interest (47(3)(b) RTI Act)

~~SIGNED~~ for and on behalf of the Seller)

by its/his/her attorney)

under Power of Attorney No)
in the presence of:)

Category B - Contrary to Public Interest (47(3)(b) RTI Act)

[Redacted Signature]

Name of Witness (Print)

Category B - Contrary to Public Interest (47(3)(b) RTI Act)

Signature of Stephen Johnston
Chief Executive Officer
Authorised delegate

SOLE DIRECTOR

Signature of Attorney

Client No: 1 0 6 6 5 2 4 Duties Act 2001
 Assessment No: 5 1 9 7 3 8 7 5 1
 Duty Paid \$ 900.00
 UTI \$
 Date: 28/8/20 Signed: Category B - Contrary to Public Interest (47(3)(b) RTI Act)



Contract for Houses and Residential Land

Sixteenth Edition

This document has been approved by The Real Estate Institute of Queensland Limited and the Queensland Law Society Incorporated as being suitable for the sale and purchase of houses and residential land in Queensland except for new residential property in which case the issue of GST liability must be dealt with by special condition.

The Seller and Buyer agree to sell and buy the Property under this contract.

REFERENCE SCHEDULE

Contract Date: 23/06/2020 24-06-2020

SELLER'S AGENT

NAME: WITHOUT THE INTERVENTION OF AN AGENT
 ABN: _____ LICENCE NO: _____
 ADDRESS: _____
 SUBURB: _____ STATE: _____ POSTCODE: _____
 PHONE: _____ MOBILE: _____ FAX: _____ EMAIL: _____

SELLER

Category B - Contrary to Public Interest (47(3)(b) RTI Act)
 NAME: _____
 ADDRESS: _____
 SUBURB: _____
 PHONE: 4159 8106 MOBILE: _____ FAX: _____ EMAIL: _____
 NAME: _____ ABN: _____
 ADDRESS: _____
 SUBURB: _____ STATE: _____ POSTCODE: _____
 PHONE: _____ MOBILE: _____ FAX: _____ EMAIL: _____

SELLER'S SOLICITOR

or any other solicitor notified to the Buyer

NAME: Finemore Walters and Story Solicitors
 REF: _____ CONTACT: Hal Ing
 ADDRESS: 31 Woongarra Street
 SUBURB: BUNDABERG STATE: QLD POSTCODE: 4670
 PHONE: 4153 0000 MOBILE: _____ FAX: _____ EMAIL: haling@fws.com.au

INITIALS (Note: Initials not required if signed with Electronic Signature)

BUYER

NAME:	BUNDABERG REGIONAL COUNCIL			ABN:	
ADDRESS:	190 Bourbong Street				
SUBURB:	BUNDABERG	STATE:	QLD	POSTCODE:	4670
PHONE:	MOBILE:	FAX:	EMAIL:		
Cat B			ceo@bundaberg.qld.gov.au		
NAME:				ABN:	
ADDRESS:					
SUBURB:		STATE:		POSTCODE:	
PHONE:	MOBILE:	FAX:	EMAIL:		

BUYER'S AGENT (if applicable)

NAME:					
ABN:		LICENCE NO:			
ADDRESS:					
SUBURB:		STATE:		POSTCODE:	
PHONE:	MOBILE:	FAX:	EMAIL:		

BUYER'S SOLICITOR

■ or any other solicitor notified to the Seller

NAME:	Self Acting				
REF:		CONTACT:	Christine Large		
ADDRESS:					
SUBURB:		STATE:		POSTCODE:	
PHONE:	MOBILE:	FAX:	EMAIL:		
			Category B - (47(3)(b) RTI Act		

PROPERTY

Land:	ADDRESS:	32 QUEEN STREET				
	SUBURB:	CORDALBA	STATE:	QLD	POSTCODE:	4660
		<input type="checkbox"/> Built On	<input checked="" type="checkbox"/> Vacant			
Description:	Lot: 701					
	On: CP C3581					
Title Reference:	10862146					
Area:	2,959 m2	■ more or less	Land sold as:	<input checked="" type="checkbox"/> Freehold	<input type="checkbox"/> Leasehold	■ if neither is selected, the land is treated as being Freehold
Present Use:	Vacant Land					
Local Government	Bundaberg Regional Council					

INITIALS (Note: Initials not required if signed with Electronic Signature)

Excluded Fixtures: NIL

Included Chattels: NIL

PRICE

Deposit Holder: Finemore Walters and Story Solicitors

Deposit Holder's Trust Account: Finemore Walters and Story Trust Account

Bank:

BSB: Account No:

Purchase Price: \$ 65,000.00 ■ Unless otherwise specified in this contract, the Purchase Price includes any GST payable on the supply of the Property to the Buyer.

Deposit: \$ 3,250.00 Initial Deposit payable on the day the Buyer signs this contract unless another time is specified below.

7 days from the Contract Date

Default Interest Rate: % Balance Deposit (if any) payable on:

■ If no figure is inserted, the Contract Rate applying at the Contract Date published by the Queensland Law Society Inc will apply.

FINANCE

Finance Amount: \$ Not Applicable ■ Unless all of "Finance Amount", "Financier" and "Finance Date" are completed, this contract is not subject to finance and clause 3 does not apply.

Financier: Not Applicable

Finance Date: Not Applicable

BUILDING AND/OR PEST INSPECTION DATE

Inspection Date: Not Applicable ■ If "Inspection Date" is not completed, the contract is not subject to an inspection report and clause 4.1 does not apply.

MATTERS AFFECTING PROPERTY

Title Encumbrances:

Is the Property sold subject to any Encumbrances? No Yes, listed below:

■ **WARNING TO SELLER:** You are required to disclose all Title Encumbrances which will remain after settlement (for example, easements on your title and statutory easements for sewerage and drainage which may not appear on a title search). Failure to disclose these may entitle the Buyer to terminate the contract or to compensation. It is NOT sufficient to state "refer to title", "search will reveal", or similar.

Tenancies:

TENANTS NAME: NIL ■ If the property is sold with vacant possession from settlement, insert 'Nil'. Otherwise complete details from Residential Tenancy Agreement.

TERM AND OPTIONS:

STARTING DATE OF TERM:	ENDING DATE OF TERM:	RENT:	BOND:
		\$	\$

INITIALS (Note: Initials not required if signed with Electronic Signature)

Managing Agent:

AGENCY NAME: Not Applicable

PROPERTY MANAGER:

ADDRESS:

SUBURB:

STATE:

POSTCODE:

PHONE:

FAX:

MOBILE:

EMAIL:

POOL SAFETY

Q1. Is there a pool on the Land or on an adjacent land used in association with the Land?

Yes

No Clause 4.2 of this contract does not apply

■ **WARNING TO SELLER:** Failure to comply with the Pool Safety Requirements is an offence with substantial penalties.

■ **WARNING TO BUYER:** If there is no Compliance or Exemption Certificate at settlement, the Buyer becomes responsible at its cost to obtain a Pool Safety Certificate within 90 days after settlement. The Buyer can also become liable to pay any costs of rectification necessary to comply with the Pool Safety Requirements to obtain a Pool Safety Certificate. The Buyer commits an offence and can be liable to substantial penalties if the Buyer fails to comply with this requirement.

Q2. If the answer to Q1 is Yes, is there a Compliance or Exemption Certificate for the pool at the time of contract?

Yes Clause 5.3(1)(f) applies

No Clause 4.2 applies (except for auction and some other excluded sales)

■ If there is a pool on the Land and Q2 is not completed then clause 4.2 applies.

■ **Note:** This is an obligation of the Seller under Section 16 of the Building Regulation 2006.

Q3. If the answer to Q2 is No, has a Notice of no pool safety certificate been given prior to contract?

Yes

No

POOL SAFETY INSPECTOR

Pool Safety Inspector:

■ The Pool Safety Inspector must be licensed under the Building Act 1975 and Building Regulation 2006.

Pool Safety Inspection Date:

■ Clause 4.2(2) applies except where this contract is formed on a sale by auction and some other excluded sales.

ELECTRICAL SAFETY SWITCH AND SMOKE ALARM

This section must be completed unless the Land is vacant.

The Seller gives notice to the Buyer that an Approved Safety Switch for the General Purpose Socket Outlets is:
(select whichever is applicable)

Installed in the residence

Not installed in the residence

■ **WARNING:** By giving false or misleading information in this section, the Seller may incur a penalty. The Seller should seek expert and qualified advice about completing this section and not rely on the Seller's Agent to complete this section.

The Seller gives notice to the Buyer that a Compliant Smoke Alarm(s) is/are:
(select whichever is applicable)

Installed in the residence

Not installed in the residence

■ **WARNING:** Failure to install a Compliant Smoke Alarm is an offence under the Fire and Emergency Services Act 1990.

INITIALS (Note: Initials not required if signed with Electronic Signature)

NEIGHBOURHOOD DISPUTES (DIVIDING FENCES AND TREES) ACT 2011

The Seller gives notice to the Buyer in accordance with Section 83 of the *Neighbourhood Disputes (Dividing Fences and Trees) Act 2011* that the Land:
(select whichever is applicable)

- is not affected by any application to, or an order made by, the Queensland Civil and Administrative Tribunal (QCAT) in relation to a tree on the Land or
- is affected by an application to, or an order made by, QCAT in relation to a tree on the Land, a copy of which has been given to the Buyer prior to the Buyer signing the contract.

■ **WARNING:** Failure to comply with s83 *Neighbourhood Disputes (Dividing Fences and Trees Act) 2011* by giving a copy of an order or application to the Buyer (where applicable) prior to Buyer signing the contract will entitle the Buyer to terminate the contract prior to Settlement.

GST WITHHOLDING OBLIGATIONS

Is the Buyer registered for GST and acquiring the Land for a creditable purpose?
(select whichever is applicable)

- Yes
- No

[Note: An example of an acquisition for a creditable purpose would be the purchase of the Land by a building contractor, who is registered for GST, for the purposes of building a house on the Land and selling it in the ordinary course of its business.]

The Seller gives notice to the Buyer in accordance with section 14-255(1)(a) of the Withholding Law that:
(select whichever is applicable)

<input checked="" type="checkbox"/>	the Buyer is not required to make a payment under section 14-250 of the Withholding Law in relation to the supply of the Property
<input type="checkbox"/>	the Buyer is required to make a payment under section 14-250 of the Withholding Law in relation to the supply of the Property. Under section 14-255(1) of the Withholding Law, the Seller is required to give further details prior to settlement

■ **WARNING:** the Buyer warrants in clause 2.5(6) that this information is true and correct.

■ **WARNING:** All sellers of residential premises or potential residential land are required to complete this notice. Section 14-250 of the Withholding Law applies to the sale of 'new residential premises' or 'potential residential land' (subject to some exceptions) and requires an amount to be withheld from the Purchase Price and paid to the ATO. The Seller should seek legal advice if unsure about completing this section.

Released under Right to Information Act 2009

INITIALS (Note: Initials not required if signed with Electronic Signature)

The REIQ Terms of Contract for Houses and Residential Land (Pages 7-14) (Sixteenth Edition) contain the Terms of this Contract.

SPECIAL CONDITIONS

[Empty box for special conditions]

SETTLEMENT

SETTLEMENT DATE:	30 days from the Contract Date	■ or the next Business Day if that is not a Business Day in the Place for Settlement.
PLACE FOR SETTLEMENT:	Bundaberg	■ If Brisbane is inserted, this is a reference to Brisbane CBD.

SIGNATURES

The contract may be subject to a 5 business day statutory cooling-off period. A termination penalty of 0.25% of the purchase price applies if the Buyer terminates the contract during the statutory cooling-off period. It is recommended the Buyer obtain an independent property valuation and independent legal advice about the contract and his or her cooling-off rights, before signing.

BUYER:	Category B - Contrary to Public Interest (47(3)(b) RTI Act)	WITNESS:	Category B - Contrary to Public Interest (47(3)(b) RTI Act)
--------	--	----------	--

BUYER:	By placing my signature above I warrant that I am the Buyer named in the Reference Schedule or authorised by the Buyer to sign.	WITNESS:	[Note: No witness is required if the Buyer signs using an Electronic Signature]
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SELLER:	Category B - Contrary to Public Interest (47(3)(b) RTI Act)	WITNESS:	Category B - Contrary to Public Interest (47(3)(b) RTI Act)
---------	--	----------	--

SELLER:	By placing my signature above I warrant that I am the Seller named in the Reference Schedule or authorised by the Seller to sign.	WITNESS:	[Note: No witness is required if the Seller signs using an Electronic Signature]
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DEPOSIT HOLDER:	■ Who acknowledges having received the Initial Deposit and agrees to hold that amount and any Balance Deposit when received as Deposit Holder for the parties as provided in the Contract.
-----------------	--

INITIALS (Note: Initials not required if signed with Electronic Signature)

TERMS OF CONTRACT

FOR HOUSES AND RESIDENTIAL LAND

1. DEFINITIONS

1.1 In this contract:

- (1) terms in **bold** in the Reference Schedule have the meanings shown opposite them; and
- (2) unless the context otherwise indicates:
- (a) **"Approved Safety Switch"** means a residual current device as defined in the *Electrical Safety Regulation 2013*;
- (b) **"ATO"** means the Australian Taxation Office;
- (c) **"ATO Clearance Certificate"** means a certificate issued under s14-220(1) of the Withholding Law which is current on the date it is given to the Buyer;
- (d) **"Balance Purchase Price"** means the Purchase Price, less the Deposit paid by the Buyer, adjusted under clause 2.6;
- (e) **"Bank"** means an authorised deposit-taking institution within the meaning of the *Banking Act 1959 (Cth)*;
- (f) **"Bond"** means a bond under the Residential Tenancies and Rooming Accommodation Act 2008;
- (g) **"Building Inspector"** means a person licensed to carry out completed residential building inspections under the *Queensland Building and Construction Commission Regulations 2003*;
- (h) **"Business Day"** means a day other than:
- (i) a Saturday or Sunday;
- (ii) a public holiday in the Place for Settlement; and
- (iii) a day in the period 27 to 31 December (inclusive);
- (i) **"CGT Withholding Amount"** means the amount determined under section 14-200(3)(a) of the Withholding Law or, if a copy is provided to the Buyer prior to settlement, a lesser amount specified in a variation notice under section 14-235;
- (j) **"Compliance or Exemption Certificate"** means:
- (i) a Pool Safety Certificate; or
- (ii) a building certificate that may be used instead of a Pool Safety Certificate under section 246AN(2) of the *Building Act 1975*; or
- (iii) an exemption from compliance on the grounds of impracticality under section 245B of the *Building Act 1975*;
- (k) **"Compliant Smoke Alarm"** means a smoke alarm complying with the requirements for smoke alarms in domestic dwellings under the *Fire and Emergency Services Act 1990*;
- (l) **"Contract Date"** or **"Date of Contract"** means the date inserted in the Reference Schedule;
- (m) **"Court"** includes any tribunal established under statute.
- (n) **"Electronic Signature"** means an electronic method of signing that identifies the person and indicates their intention to sign the contract;
- (o) **"Encumbrances"** includes:
- (i) unregistered encumbrances;
- (ii) statutory encumbrances; and
- (iii) Security Interests.
- (p) **"Essential Term"** includes, in the case of breach by:
- (i) the Buyer: clauses 2.2, 2.5(1), 2.5(5), 5.1 and 6.1; and
- (ii) the Seller: clauses 2.5(5), 5.1, 5.3(1)(a)-(d), 5.3(1)(e)(ii) & (iii), 5.3(1)(f), 5.5 and 6.1;
- but nothing in this definition precludes a Court from finding other terms to be essential.
- (q) **"Financial Institution"** means a Bank, building society or credit union;
- (r) **"General Purpose Socket Outlet"** means an electrical socket outlet as defined in the *Electrical Safety Regulations 2013*;
- (s) **"GST"** means the goods and services tax under the GST Act;
- (t) **"GST Act"** means *A New Tax System (Goods and Services Tax) Act* and includes other GST related legislation;
- (u) **"GST Withholding Amount"** means the amount (if any) determined under section 14-250 of the Withholding Law required to be paid to the Commissioner of Taxation.
- (v) **"Improvements"** means fixed structures on the Land and includes all items fixed to them (such as stoves, hot water systems, fixed carpets, curtains, blinds and their fittings, clothes lines, fixed satellite dishes and television antennae, in-ground plants) but does not include the Reserved Items;
- (w) **"Keys"** means keys, codes or devices in the Seller's possession or control for all locks or security systems on the Property or necessary to access the Property;
- (x) **"Notice of no pool safety certificate"** means the Form 36 under the *Building Regulation 2006* to the effect that there is no Pool Safety Certificate issued for the Land;
- (y) **"Notice of nonconformity"** means a Form 26 under the *Building Regulation 2006* advising how the pool does not comply with the relevant pool safety standard;
- (z) **"Outgoings"** means rates or charges on the Land by any competent authority (for example, council rates, water rates, fire service levies) but excludes land tax;
- (aa) **"Pest Inspector"** means a person licensed to undertake termite inspections on completed buildings under the *Queensland Building and Construction Commission Regulations 2003*;
- (bb) **"Pool Safety Certificate"** has the meaning in section 231C(a) of the *Building Act 1975*;
- (cc) **"Pool Safety Inspection Date"** means the Pool Safety Inspection Date inserted in the Reference Schedule. If no date is inserted in the Reference Schedule, the Pool Safety Inspection Date is taken to be the earlier of the following:
- (i) the Inspection Date for the Building and/or Pest Inspection; or
- (ii) 2 Business Days before the Settlement Date
- (dd) **"Pool Safety Requirements"** means the requirements for pool safety contained in the *Building Act 1975* and *Building Regulation 2006*;
- (ee) **"Pool Safety Inspector"** means a person authorised to give a Pool Safety Certificate;
- (ff) **"PPSR"** means the Personal Property Securities Register established under *Personal Property Securities Act 2009 (Cth)*;
- (gg) **"Property"** means:
- (i) the Land;
- (ii) the Improvements; and
- (iii) the Included Chattels;
- (hh) **"Rent"** means any periodic amount payable under the Tenancies;
- (ii) **"Reserved Items"** means the Excluded Fixtures and all chattels on the Land other than the Included Chattels;
- (jj) **"Security Interests"** means all security interests registered on the PPSR over Included Chattels and Improvements;
- (kk) **"Transfer Documents"** means:

INITIALS (Note: Initials not required if signed with Electronic Signature)

- (i) the form of transfer under the *Land Title Act 1994* required to transfer title in the Land to the Buyer; and
- (ii) any other document to be signed by the Seller necessary for stamping or registering the transfer;
- (ll) "Transport Infrastructure" has the meaning defined in the *Transport Infrastructure Act 1994*; and
- (mm) "Withholding Law" means Schedule 1 to the *Taxation Administration Act 1953 (Cth)*.

2. PURCHASE PRICE

2.1 GST

- (1) Unless otherwise specified in this contract, the Purchase Price includes any GST payable on the supply of the Property to the Buyer.
- (2) If a party is required to make any other payment or reimbursement under this contract, that payment or reimbursement will be reduced by the amount of any input tax credits to which the other party (or the representative member for a GST group of which it is a member) is entitled.

2.2 Deposit

- (1) The Buyer must pay the Deposit to the Deposit Holder at the times shown in the Reference Schedule. The Deposit Holder will hold the Deposit until a party becomes entitled to it.
- (2) The Buyer will be in default if it:
 - (a) does not pay the Deposit when required;
 - (b) pays the Deposit by a post-dated cheque; or
 - (c) pays the Deposit by cheque which is dishonoured on presentation.
- (3) The Seller may recover from the Buyer as a liquidated debt any part of the Deposit which is not paid when required.

2.3 Investment of Deposit

- If:
- (1) the Deposit Holder is instructed by either the Seller or the Buyer; and
 - (2) it is lawful to do so;
- the Deposit Holder must:
- (3) invest as much of the Deposit as has been paid with any Financial Institution in an interest-bearing account in the names of the parties; and
 - (4) provide the parties' tax file numbers to the Financial Institution (if they have been supplied).

2.4 Entitlement to Deposit and Interest

- (1) The party entitled to receive the Deposit is:
 - (a) if this contract settles, the Seller;
 - (b) if this contract is terminated without default by the Buyer, the Buyer; and
 - (c) if this contract is terminated owing to the Buyer's default, the Seller.
- (2) The interest on the Deposit must be paid to the person who is entitled to the Deposit.
- (3) If this contract is terminated, the Buyer has no further claim once it receives the Deposit and interest, unless the termination is due to the Seller's default or breach of warranty.
- (4) The Deposit is invested at the risk of the party who is ultimately entitled to it.

2.5 Payment of Balance Purchase Price

- (1) On the Settlement Date, the Buyer must pay the Balance Purchase Price by bank cheque as the Seller or the Seller's Solicitor directs.
- (2) Despite any other provision of this contract, a reference to a "bank cheque" in clause 2.5:
 - (a) includes a cheque drawn by a building society or credit union on itself;
 - (b) does not include a cheque drawn by a building society or credit union on a Bank;

and the Seller is not obliged to accept a cheque referred to in clause 2.5(2)(b) on the Settlement Date.
- (3) If both the following apply:
 - (a) the sale is not an excluded transaction under s14-215 of the Withholding Law; and
 - (b) the Seller has not given the Buyer on or before settlement for each person comprising the Seller either:
 - (i) an ATO Clearance Certificate; or

- (ii) a variation notice under s14-235 of the Withholding Law which remains current at the Settlement Date varying the CGT Withholding Amount to nil,

then:

- (c) for clause 2.5(1), the Seller irrevocably directs the Buyer to draw a bank cheque for the CGT Withholding Amount in favour of the Commissioner of Taxation or, if the Buyer's Solicitor requests, the Buyer's Solicitor's Trust Account;
 - (d) the Buyer must lodge a Foreign Resident Capital Gains Withholding Purchaser Notification Form with the ATO for each person comprising the Buyer and give copies to the Seller with the payment reference numbers (PRN) on or before settlement;
 - (e) the Seller must return the bank cheque in paragraph (c) to the Buyer's Solicitor (or if there is no Buyer's Solicitor, the Buyer) at settlement; and
 - (f) the Buyer must pay the CGT Withholding Amount to the ATO in accordance with section 14-200 of the Withholding Law and give the Seller evidence that it has done so within 2 Business Days of settlement occurring.
 - (4) For clause 2.5(3) and section 14-215 of the Withholding Law, the market value of the CGT asset is taken to be the Purchase Price less any GST included in the Purchase Price for which the Buyer is entitled to an input tax credit unless:
 - (a) the Property includes items in addition to the Land and Improvements; and
 - (b) no later than 2 Business Days prior to the Settlement Date, the Seller gives the Buyer a valuation of the Land and Improvements prepared by a registered valuer, in which case the market value of the Land and Improvements will be as stated in the valuation.
 - (5) If the Buyer is required to pay the GST Withholding Amount to the Commissioner of Taxation at settlement pursuant to section 14-250 of the Withholding Law:
 - (a) the Seller must give the Buyer a notice in accordance with section 14-255(1) of the Withholding Law;
 - (b) prior to settlement the Buyer must lodge with the ATO:
 - (i) a *GST Property Settlement Withholding Notification* form ("Form 1"); and
 - (ii) a *GST Property Settlement Date Confirmation* form ("Form 2");
 - (c) on or before settlement, the Buyer must give the Seller copies of:
 - (i) the Form 1;
 - (ii) confirmation from the ATO that the Form 1 has been lodged specifying the Buyer's lodgement reference number and payment reference number;
 - (iii) confirmation from the ATO that the Form 2 has been lodged; and
 - (iv) a completed ATO payment slip for the Withholding Amount;
 - (d) the Seller irrevocably directs the Buyer to draw a bank cheque for the GST Withholding Amount in favour of the Commissioner of Taxation and deliver it to the Seller at settlement; and
 - (e) the Seller must pay the GST Withholding Amount to the ATO in compliance with section 14-250 of the Withholding Law promptly after settlement.
 - (6) The Buyer warrants that the statements made by the Buyer in the Reference Schedule under GST Withholding Obligations are true and correct.
- ### 2.6 Adjustments to Balance Purchase Price
- (1) The Seller is liable for Outgoings and is entitled to Rent up to and including the Settlement Date. The Buyer is liable for Outgoings and is entitled to Rent after the Settlement Date. Subject to clauses 2.6(3), 2.6(5) and 2.6(14), Outgoings for periods including the Settlement Date must be adjusted:
 - (a) for those paid, on the amount paid;
 - (b) for those assessed but unpaid, on the amount payable (excluding any discount); and
 - (c) for those not assessed:

INITIALS (Note: Initials not required if signed with Electronic Signature)

- (i) on the amount the relevant authority advises will be assessed (excluding any discount); or
 - (ii) if no advice on the assessment to be made is available, on the amount of the latest separate assessment (excluding any discount).
- (3) If there is no separate assessment of rates for the Land at the Settlement Date and the Local Government informs the Buyer that it will not apportion rates between the Buyer and the Seller, then:
- (a) the amount of rates to be adjusted is that proportion of the assessment equal to the ratio of the area of the Land to the area of the parcel in the assessment; and
 - (b) if an assessment of rates includes charges imposed on a "per lot" basis, then the portion of those charges to be adjusted is the amount assessed divided by the number of lots in that assessment.
- (4) The Seller is liable for land tax assessed on the Land for the financial year current at the Settlement Date. If land tax is unpaid at the Settlement Date and the Office of State Revenue advises that it will issue a final clearance for the Land on payment of a specified amount, then the Buyer may deduct the specified amount from the Balance Purchase Price at settlement and must pay it promptly to the Office of State Revenue.
- (5) Any Outgoings assessable on the amount of water used must be adjusted on the charges that would be assessed on the total water usage for the assessment period, determined by assuming that the actual rate of usage shown by the meter reading made before settlement continues throughout the assessment period. The Buyer must obtain and pay for the meter reading.
- (6) If any Outgoings are assessed but unpaid at the Settlement Date, then the Buyer may deduct the amount payable from the Balance Purchase Price at settlement and pay it promptly to the relevant authority. If an amount is deducted under this clause, the relevant Outgoing will be treated as paid at the Settlement Date for the purposes of clause 2.6(2).
- (7) Arrears of Rent for any rental period ending on or before the Settlement Date belong to the Seller and are not adjusted at settlement.
- (8) Unpaid Rent for the rental period including both the Settlement Date and the following day ("Current Period") is not adjusted until it is paid.
- (9) Rent already paid for the Current Period or beyond must be adjusted at settlement.
- (10) If Rent payments are reassessed after the Settlement Date for periods including the Settlement Date, any additional Rent payment from a Tenant or refund due to a Tenant must be apportioned under clauses 2.6(7), 2.6(8) and 2.6(9).
- (11) Payments under clause 2.6(10) must be made within 14 days after notification by one party to the other but only after any additional payment from a Tenant has been received.
- (12) The cost of Bank cheques payable at settlement:
- (a) to the Seller or its mortgagee are the responsibility of the Buyer; and
 - (b) to parties other than the Seller or its mortgagee are the responsibility of the Seller.
- (13) The Seller is not entitled to require payment of the Balance Purchase Price by means other than Bank cheque without the consent of the Buyer.
- (14) Upon written request by the Buyer, the Seller will, prior to Settlement, give the Buyer a written statement, supported by reasonable evidence, of –
- (a) all Outgoings and all Rent for the Property to the extent they are not capable of discovery by search or enquiry at any office of public record or pursuant to the provisions of any statute; and
 - (b) any other information which the Buyer may reasonably require for the purpose of calculating or apportioning any Outgoings or Rent under this clause 2.6.
- If the Seller becomes aware of a change to the information provided the Seller will as soon as practicably provide the updated information to the Buyer.

3. FINANCE

- 3.1 This contract is conditional on the Buyer obtaining approval of a loan for the Finance Amount from the Financier by the Finance

Date on terms satisfactory to the Buyer. The Buyer must take all reasonable steps to obtain approval.

- 3.2 The Buyer must give notice to the Seller that:
- (1) approval has not been obtained by the Finance Date and the Buyer terminates this contract; or
 - (2) the finance condition has been either satisfied or waived by the Buyer.
- 3.3 The Seller may terminate this contract by notice to the Buyer if notice is not given under clause 3.2 by 5pm on the Finance Date. This is the Seller's only remedy for the Buyer's failure to give notice.
- 3.4 The Seller's right under clause 3.3 is subject to the Buyer's continuing right to give written notice to the Seller of satisfaction, termination or waiver pursuant to clause 3.2.

4. BUILDING AND PEST INSPECTION REPORTS AND POOL SAFETY

4.1 Building and Pest Inspection

- (1) This contract is conditional upon the Buyer obtaining a written building report from a Building Inspector and a written pest report from a Pest Inspector (which may be a single report) on the Property by the Inspection Date on terms satisfactory to the Buyer. The Buyer must take all reasonable steps to obtain the reports (subject to the right of the Buyer to elect to obtain only one of the reports).
- (2) The Buyer must give notice to the Seller that:
 - (a) a satisfactory Inspector's report under clause 4.1(1) has not been obtained by the Inspection Date and the Buyer terminates this contract. The Buyer must act reasonably; or
 - (b) clause 4.1(1) has been either satisfied or waived by the Buyer.
- (3) If the Buyer terminates this contract and the Seller asks the Buyer for a copy of the building and pest reports, the Buyer must give a copy of each report to the Seller without delay.
- (4) The Seller may terminate this contract by notice to the Buyer if notice is not given under clause 4.1(2) by 5pm on the Inspection Date. This is the Seller's only remedy for the Buyer's failure to give notice.
- (5) The Seller's right under clause 4.1(4) is subject to the Buyer's continuing right to give written notice to the Seller of satisfaction, termination or waiver pursuant to clause 4.1(2).

4.2 Pool Safety

- (1) This clause 4.2 applies if:
 - (a) the answer to Q2 of the Reference Schedule is No or Q2 is not completed; and
 - (b) this contract is not a contract of a type referred to in section 160(1)(b) of the *Property Occupations Act 2014*.
- (2) This contract is conditional upon:
 - (a) the issue of a Pool Safety Certificate; or
 - (b) a Pool Safety Inspector issuing a Notice of nonconformity stating the works required before a Pool Safety Certificate can be issued,
 by the Pool Safety Inspection Date.
- (3) The Buyer is responsible for arranging an inspection by a Pool Safety Inspector at the Buyer's cost. The Seller authorises:
 - (a) the Buyer to arrange the inspection; and
 - (b) the Pool Safety Inspector to advise the Buyer of the results of the inspection and to give the Buyer a copy of any notice issued.
- (4) If a Pool Safety Certificate has not issued by the Pool Safety Inspection Date, the Buyer may give notice to the Seller that the Buyer:
 - (a) terminates this contract; or
 - (b) waives the benefit of this clause 4.2;
 The Buyer must act reasonably.
- (5) The Seller may terminate this contract by notice to the Buyer if notice is not given under clause 4.2(4) by 5pm on the Pool Safety Inspection Date.
- (6) The Seller's right under clause 4.2(5) is subject to the Buyer's continuing right to give written notice to the Seller of termination or waiver pursuant to clause 4.2(4).
- (7) The right of a party to terminate under this clause 4.2, ceases upon receipt by that party of a copy of a current Pool Safety Certificate.

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- (8) If the Buyer terminates this contract under clause 4.2(4)(a), and the Seller has not obtained a copy of the Notice of nonconformity issued by the Pool Safety Inspector, the Seller may request a copy and the Buyer must provide this to the Seller without delay.

5. SETTLEMENT

5.1 Time and Date

- (1) Settlement must occur between 9am and 4pm AEST on the Settlement Date.
- (2) If the parties do not agree on where settlement is to occur, it must take place in the Place for Settlement at the office of a solicitor or Financial Institution nominated by the Seller, or, if the Seller does not make a nomination, at the land registry office in or nearest to the Place for Settlement.

5.2 Transfer Documents

- (1) The Transfer Documents must be prepared by the Buyer's Solicitor and delivered to the Seller a reasonable time before the Settlement Date.
- (2) If the Buyer pays the Seller's reasonable expenses, it may require the Seller to produce the Transfer Documents at the Office of State Revenue nearest the Place for Settlement for stamping before settlement.

5.3 Documents and Keys at Settlement

- (1) In exchange for payment of the Balance Purchase Price, the Seller must deliver to the Buyer at settlement:
 - (a) any instrument of title for the Land required to register the transfer to the Buyer; and
 - (b) unstamped Transfer Documents capable of immediate registration after stamping; and
 - (c) any instrument necessary to release any Encumbrance over the Property in compliance with the Seller's obligation in clause 7.2; and
 - (d) if requested by the Buyer not less than 2 clear Business Days before the Settlement Date, the Keys; and
 - (e) if there are Tenancies:
 - (i) the Seller's copy of any Tenancy agreements;
 - (ii) a notice to each tenant advising of the sale in the form required by law; and
 - (iii) any notice required by law to transfer to the Buyer the Seller's interest in any Bond; and
 - (f) if the answer to Q2 in the Reference Schedule is Yes, a copy of a current Compliance or Exemption Certificate, if not already provided to the Buyer.
- (2) If the instrument of title for the Land also relates to other land, the Seller need not deliver it to the Buyer, but the Seller must make arrangements satisfactory to the Buyer to produce it for registration of the transfer.
- (3) If the Keys are not delivered at Settlement under clause 5.3(1)(d), the Seller must deliver the Keys to the Buyer. The Seller may discharge its obligation under this provision by authorising the Seller's Agent to release the Keys to the Buyer.

5.4 Assignment of Covenants and Warranties

- At settlement, the Seller assigns to the Buyer the benefit of all:
- (1) covenants by the tenants under the Tenancies;
 - (2) guarantees and Bonds (subject to the requirements of the *Residential Tenancies and Rooming Accommodation Act 2008*) supporting the Tenancies;
 - (3) manufacturers' warranties regarding the Included Chattels; and
 - (4) builders' warranties on the Improvements;
- to the extent they are assignable. However, the right to recover arrears of Rent is not assigned to the Buyer and section 117 of the *Property Law Act 1974* does not apply.

5.5 Possession of Property and Title to Included Chattels

On the Settlement Date, in exchange for the Balance Purchase Price, the Seller must give the Buyer vacant possession of the Land and the Improvements except for the Tenancies. Title to the Included Chattels passes at settlement.

5.6 Reservations

- (1) The Seller must remove the Reserved Items from the Property before settlement.
- (2) The Seller must repair at its expense any damage done to the Property in removing the Reserved Items. If the Seller fails to do so, the Buyer may repair that damage.
- (3) Any Reserved Items not removed before settlement will be considered abandoned and the Buyer may, without limiting its

other rights, complete this contract and appropriate those Reserved Items or dispose of them in any way.

- (4) The Seller indemnifies the Buyer against any damages and expenses resulting from the Buyer's actions under clauses 5.6(2) or 5.6(3).

5.7 Consent to Transfer

- (1) If the Land sold is leasehold, this contract is subject to any necessary consent to the transfer of the lease to the Buyer being obtained by the Settlement Date.
- (2) The Seller must apply for the consent required as soon as possible.
- (3) The Buyer must do everything reasonably required to help obtain this consent.

6. TIME

6.1 Time of the Essence

Time is of the essence of this contract, except regarding any agreement between the parties on a time of day for settlement.

6.2 Suspension of Time

- (1) This clause 6.2 applies if a party is unable to perform a Settlement Obligation solely as a consequence of a Delay Event but does not apply where the inability is attributable to:
 - (a) damage to, destruction of or diminution in value of the Property or other property of the Seller or Buyer; or
 - (b) termination or variation of any agreement between a party and another person whether relating to the provision of finance, the release of an Encumbrance, the sale or purchase of another property or otherwise.
- (2) Time for the performance of the parties' Settlement Obligations is suspended and ceases to be of the essence of the contract and the parties are deemed not to be in breach of their Settlement Obligations.
- (3) An Affected Party must take reasonable steps to minimise the effect of the Delay Event on its ability to perform its Settlement Obligations.
- (4) When an Affected Party is no longer prevented from performing its Settlement Obligations due to the Delay Event, the Affected Party must give the other party a notice of that fact, promptly.
- (5) When the Suspension Period ends, whether notice under clause 6.2(4) has been given or not, either party may give the other party a Notice to Settle.
- (6) A Notice to Settle must be in writing and state:
 - (a) that the Suspension Period has ended;
 - (b) a date, being not less than 5 nor more than 10 Business Days after the date the Notice to Settle is given, which shall become the Settlement Date; and
 - (c) that time is of the essence.
- (7) When Notice to Settle is given, time is again of the essence of the contract.
- (8) In this clause 6.2:
 - (a) "Affected Party" means a party referred to in clause 6.2(1);
 - (b) "Delay Event" means:
 - (i) a tsunami, flood, cyclone, earthquake, bushfire or other act of nature;
 - (ii) riot, civil commotion, war, invasion or a terrorist act;
 - (iii) an imminent threat of an event in paragraphs (i) or (ii); or
 - (iv) compliance with any lawful direction or order by a Government Agency;
 - (c) "Government Agency" means the government of the Commonwealth of Australia or an Australian State, Territory or local government and includes their authorities, agencies, government owned corporations and authorised officers, courts and tribunals;
 - (d) "Settlement Obligations" means, in the case of the Buyer, its obligations under clauses 2.5(1) and 5.1(1) and, in the case of the Seller, its obligations under clauses 5.1(1), 5.3(1)(a) – (e) and 5.5;
 - (e) "Suspension Period" means the period during which the Affected Party (or if both the Buyer and Seller are Affected Parties, either of them) remains unable to perform a Settlement Obligation solely as a consequence of a Delay Event.

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7. MATTERS AFFECTING THE PROPERTY

7.1 Title

The Land is sold subject to:

- (1) any reservations or conditions on the title or the original Deed of Grant (if freehold); or
- (2) the Conditions of the Crown Lease (if leasehold).

7.2 Encumbrances

The Property is sold free of all Encumbrances other than the Title Encumbrances and Tenancies.

7.3 Requisitions

The Buyer may not deliver any requisitions or enquiries on title.

7.4 Seller's Warranties

- (1) The Seller warrants that, except as disclosed in this contract at settlement:
 - (a) if the Land is freehold: it will be the registered owner of an estate in fee simple in the Land and will own the rest of the Property;
 - (b) if the Land is leasehold: it will be the registered lessee, the lease is not liable to forfeiture because of default under the lease, and it will own the rest of the Property;
 - (c) it will be capable of completing this contract (unless the Seller dies or becomes mentally incapable after the Contract Date); and
 - (d) there will be no unsatisfied judgment, order (except for an order referred to in clause 7.6(1)(b)) or writ affecting the Property.
- (2) The Seller warrants that, except as disclosed in this contract at the Contract Date and at settlement there are no current or threatened claims, notices or proceedings that may lead to a judgment, order or writ affecting the Property.
- (3)(a) The Seller warrants that, except as disclosed in this contract or a notice given by the Seller to the Buyer under the *Environmental Protection Act 1994* ("EPA"), at the Contract Date:
 - (i) there is no outstanding obligation on the Seller to give notice to the administering authority under EPA of notifiable activity being conducted on the Land; and
 - (ii) the Seller is not aware of any facts or circumstances that may lead to the Land being classified as contaminated land within the meaning of EPA.
- (b) If the Seller breaches a warranty in clause 7.4(3), the Buyer may:
 - (i) terminate this contract by notice in writing to the Seller given within 2 Business Days before the Settlement Date; or
 - (ii) complete this contract and claim compensation, but only if the Buyer claims it in writing before the Settlement Date.
- (4) If the Seller breaches a warranty in clause 7.4(1) or clause 7.4(2), the Buyer may terminate this contract by notice to the Seller.
- (5) The Seller does not warrant that the Present Use is lawful.

7.5 Survey and Mistake

- (1) The Buyer may survey the Land.
- (2) If there is:
 - (a) an error in the boundaries or area of the Land;
 - (b) an encroachment by structures onto or from the Land; or
 - (c) a mistake or omission in describing the Property or the Seller's title to it;which is:
 - (d) immaterial; or
 - (e) material, but the Buyer elects to complete this contract;the Buyer's only remedy against the Seller is for compensation, but only if claimed by the Buyer in writing on or before settlement.
- (3) The Buyer may not delay settlement or withhold any part of the Balance Purchase Price because of any compensation claim under clause 7.5(2).
- (4) If there is a material error, encroachment or mistake, the Buyer may terminate this contract before settlement.

7.6 Requirements of Authorities

- (1) Subject to clause 7.6(5), any valid notice or order by any competent authority or Court requiring work to be done or money spent in relation to the Property ("Work or Expenditure") must be fully complied with:
 - (a) if issued before the Contract Date, by the Seller before the Settlement Date;
 - (b) if issued on or after the Contract Date, by the Buyer.
- (2) If any Work or Expenditure that is the Seller's responsibility under clause 7.6(1)(a) is not done before the Settlement Date, the Buyer is entitled to claim the reasonable cost of work done by the Buyer in accordance with the notice or order referred to in clause 7.6(1) from the Seller after settlement as a debt.
- (3) Any Work or Expenditure that is the Buyer's responsibility under clause 7.6(1)(b), which is required to be done before the Settlement Date, must be done by the Seller unless the Buyer directs the Seller not to and indemnifies the Seller against any liability for not carrying out the work. If the Seller does the work, or spends the money, the reasonable cost of that Work or Expenditure must be added to the Balance Purchase Price.
- (4) The Buyer may terminate this contract by notice to the Seller if there is an outstanding notice at the Contract Date under sections 246AG, 247 or 248 of the *Building Act 1975* or sections 167 or 168 of the *Planning Act 2016* that affects the Property.
- (5) Clause 7.6(1) does not apply to orders disclosed under section 83 of the *Neighbourhood Disputes (Dividing Fences and Trees) Act 2011*.

7.7 Property Adversely Affected

- (1) If at the Contract Date:
 - (a) the Present Use is not lawful under the relevant town planning scheme;
 - (b) the Land is affected by a proposal of any competent authority to alter the dimensions of any Transport Infrastructure or locate Transport Infrastructure on the Land;
 - (c) access or any service to the Land passes unlawfully through other land;
 - (d) any competent authority has issued a current notice to treat, or notice of intention to resume, regarding any part of the Land;
 - (e) there is an outstanding condition of a development approval attaching to the Land under section 73 of the *Planning Act 2016* or section 96 of the *Economic Development Queensland Act 2012* which, if complied with, would constitute a material mistake or omission in the Seller's title under clause 7.5(2)(c);
 - (f) the Property is affected by the *Queensland Heritage Act 1992* or is included in the World Heritage List;
 - (g) the Property is declared acquisition land under the *Queensland Reconstruction Authority Act 2011*;
 - (h) there is a charge against the Land under s104 of the *Foreign Acquisitions and Takeovers Act 1975*,and that has not been disclosed in this contract, the Buyer may terminate this contract by notice to the Seller given on or before settlement.
- (2) If no notice is given under clause 7.7(1), the Buyer will be treated as having accepted the Property subject to all of the matters referred to in that clause.
- (3) The Seller authorises the Buyer to inspect records held by any authority, including Security Interests on the PPSR relating to the Property.

7.8 Dividing Fences

Notwithstanding any provision in the *Neighbourhood Disputes (Dividing Fences and Trees) Act 2011*, the Seller need not contribute to the cost of building any dividing fence between the Land and any adjoining land owned by it. The Buyer waives any right to claim contribution from the Seller.

8. RIGHTS AND OBLIGATIONS UNTIL SETTLEMENT

8.1 Risk

The Property is at the Buyer's risk from 5pm on the first Business Day after the Contract Date.

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8.2 Access

After reasonable notice to the Seller, the Buyer and its consultants may enter the Property:

- (1) once to read any meter;
- (2) for inspections under clause 4;
- (3) once to inspect the Property before settlement; and
- (4) once to value the Property before settlement.

8.3 Seller's Obligations After Contract Date

- (1) The Seller must use the Property reasonably until settlement. The Seller must not do anything regarding the Property or Tenancies that may significantly alter them or result in later expense for the Buyer.
- (2) The Seller must promptly upon receiving any notice, proceeding or order that affects the Property or requires work on the Property, give a copy to the Buyer.
- (3) Without limiting clause 8.3(1), the Seller must not without the prior written consent of the Buyer, give any notice or seek or consent to any order that affects the Property or make any agreement affecting the Property that binds the Buyer to perform.

8.4 Information Regarding the Property

Upon written request of the Buyer but in any event before settlement, the Seller must give the Buyer:

- (1) copies of all documents relating to any unregistered interests in the Property;
- (2) full details of the Tenancies to allow the Buyer to properly manage the Property after settlement;
- (3) sufficient details (including the date of birth of each Seller who is an individual) to enable the Buyer to undertake a search of the PPSR; and
- (4) further copies or details if those previously given cease to be complete and accurate.

8.5 Possession Before Settlement

If possession is given before settlement:

- (1) the Buyer must maintain the Property in substantially its condition at the date of possession, fair wear and tear excepted;
- (2) entry into possession is under a licence personal to the Buyer revocable at any time and does not:
 - (a) create a relationship of landlord and tenant; or
 - (b) waive the Buyer's rights under this contract;
- (3) the Buyer must insure the Property to the Seller's satisfaction; and
- (4) the Buyer indemnifies the Seller against any expense or damages incurred by the Seller as a result of the Buyer's possession of the Property.

9. PARTIES' DEFAULT

9.1 Seller and Buyer May Affirm or Terminate

Without limiting any other right or remedy of the parties including those under this contract or any right at law or in equity, if the Seller or Buyer, as the case may be, fails to comply with an Essential Term, or makes a fundamental breach of an intermediate term, the Seller (in the case of the Buyer's default) or the Buyer (in the case of the Seller's default) may affirm or terminate this contract.

9.2 If Seller Affirms

If the Seller affirms this contract under clause 9.1, it may sue the Buyer for:

- (1) damages;
- (2) specific performance; or
- (3) damages and specific performance.

9.3 If Buyer Affirms

If the Buyer affirms this contract under clause 9.1, it may sue the Seller for:

- (1) damages;
- (2) specific performance; or
- (3) damages and specific performance.

9.4 If Seller Terminates

If the Seller terminates this contract under clause 9.1, it may do all or any of the following:

- (1) resume possession of the Property;
- (2) forfeit the Deposit and any interest earned;
- (3) sue the Buyer for damages;
- (4) resell the Property.

9.5 If Buyer Terminates

If the Buyer terminates this contract under clause 9.1, it may do all or any of the following:

- (1) recover the Deposit and any interest earned;
- (2) sue the Seller for damages.

9.6 Seller's Resale

- (1) If the Seller terminates this contract and resells the Property, the Seller may recover from the Buyer as liquidated damages:
 - (a) any deficiency in price on a resale; and
 - (b) its expenses connected with any repossession, any failed attempt to resell, and the resale;

provided the resale settles within 2 years of termination of this contract.

- (2) Any profit on a resale belongs to the Seller.

9.7 Seller's Damages

The Seller may claim damages for any loss it suffers as a result of the Buyer's default, including its legal costs on an indemnity basis and the cost of any Work or Expenditure under clause 7.6(3).

9.8 Buyer's Damages

The Buyer may claim damages for any loss it suffers as a result of the Seller's default, including its legal costs on an indemnity basis.

9.9 Interest on Late Payments

- (1) The Buyer must pay interest at the Default Rate:
 - (a) on any amount payable under this contract which is not paid when due; and
 - (b) on any judgement for money payable under this contract.
- (2) Interest continues to accrue:
 - (a) under clause 9.9(1)(a), from the date it is due until paid; and
 - (b) under clause 9.9(1)(b), from the date of judgement until paid.
- (3) Any amount payable under clause 9.9(1)(a) in respect of a period prior to settlement must be paid by the Buyer at settlement. If this contract is terminated or if any amount remains unpaid after settlement, interest continues to accrue.
- (4) Nothing in this clause affects any other rights of the Seller under this contract or at law.

10. GENERAL

10.1 Seller's Agent

The Seller's Agent is appointed as the Seller's agent to introduce a buyer.

10.2 Foreign Buyer Approval

The Buyer warrants that either:

- (1) the Buyer's purchase of the Property is not a notifiable action; or
- (2) the Buyer has received a no objection notification, under the *Foreign Acquisitions and Takeovers Act 1975*.

10.3 Duty

The Buyer must pay all duty on this contract.

10.4 Notices

- (1) Notices under this contract must be in writing.
- (2) Notices under this contract or notices required to be given by law may be given and received by the party's solicitor.
- (3) Notices under this contract or required to be given by law may be given by:
 - (a) delivering or posting to the other party or its solicitor; or
 - (b) sending it to the facsimile number of the other party or its solicitor stated in the Reference Schedule (or another facsimile number notified by the recipient to the sender); or
 - (c) sending it to the email address of the other party or its solicitor stated in the Reference Schedule (or another email address notified by the recipient to the sender).
- (4) Subject to clause 10.4(5), a notice given after this contract is entered into in accordance with clause 10.4(3) will be treated as given:
 - (a) 5 Business Days after posting;
 - (b) if sent by facsimile, at the time indicated on a clear transmission report; and
 - (c) if sent by email, at the time it is sent.
- (5) Notices given by facsimile, by personal delivery or by email between 5pm on a Business Day (the "first Business Day") and 9am on the next Business Day (the "second Business Day") will be treated as given or delivered at 9am on the second Business Day.
- (6) If two or more notices are treated as given at the same time under clause 10.4(5), they will be treated as given in the order in which they were sent or delivered.

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- (7) Notices or other written communications by a party's solicitor (for example, varying the Inspection Date, Finance Date or Settlement Date) will be treated as given with that party's authority.
- (8) For the purposes of clause 10.4(3)(c) and clause 12.2 the notice or information may be contained within an email, as an attachment to an email or located in an electronic repository accessible by the recipient by clicking a link in an email.

10.5 Business Days

- (1) If anything is required to be done on a day that is not a Business Day, it must be done instead on the next Business Day.
- (2) If the Finance Date or Inspection Date fall on a day that is not a Business Day, then it falls on the next Business Day.

10.6 Rights After Settlement

Despite settlement and registration of the transfer, any term of this contract that can take effect after settlement or registration remains in force.

10.7 Further Acts

If requested by the other party, each party must, at its own expense, do everything reasonably necessary to give effect to this contract.

10.8 Severance

If any term or part of a term of this contract is or becomes legally ineffective, invalid or unenforceable in any jurisdiction it will be severed and the effectiveness, validity or enforceability of the remainder will not be affected.

10.9 Interpretation

(1) Plurals and Genders

Reference to:

- (a) the singular includes the plural and the plural includes the singular;
- (b) one gender includes each other gender;
- (c) a person includes a body corporate; and
- (d) a party includes the party's executors, administrators, successors and permitted assigns.

(2) Parties

- (a) If a party consists of more than one person, this contract binds them jointly and each of them individually.
- (b) A party that is a trustee is bound both personally and in its capacity as a trustee.

(3) Statutes and Regulations

Reference to statutes includes all statutes amending, consolidating or replacing them.

(4) Inconsistencies

If there is any inconsistency between any provision added to this contract and the printed provisions, the added provision prevails.

(5) Headings

Headings are for convenience only and do not form part of this contract or affect its interpretation.

10.10 Counterparts

- (1) This contract may be executed in two or more counterparts, all of which will together be deemed to constitute one and the same contract.
- (2) A counterpart may be electronic and signed using an Electronic Signature.

11. ELECTRONIC SETTLEMENT

11.1 Application of Clause

- (1) Clause 11 applies if the Buyer, Seller and each Financial Institution involved in the transaction agree to an Electronic Settlement using the same ELNO System and overrides any other provision of this contract to the extent of any inconsistency.
- (2) Acceptance of an invitation to an Electronic Workspace is taken to be an agreement for clause 11.1(1).
- (3) Clause 11 (except clause 11.5(3)) ceases to apply if either party gives notice under clause 11.5 that settlement will not be an Electronic Settlement.

11.2 Completion of Electronic Workspace

- (1) The parties must:
- (a) ensure that the Electronic Workspace is completed and all Electronic Conveyancing Documents and the Financial Settlement Schedule are Digitally Signed prior to settlement; and

- (b) do everything else required in the Electronic Workspace or otherwise to enable settlement to occur on the Settlement Date.

- (2) If the parties cannot agree on a time for settlement, the time to be nominated in the Workspace is 4pm AEST.
- (3) If any part of the Purchase Price is to be paid to discharge an Outgoing:
- (a) the Buyer may, by notice in writing to the Seller, require that the amount is paid to the Buyer's Solicitor's trust account and the Buyer is responsible for paying the amount to the relevant authority;
- (b) for amounts to be paid to destination accounts other than the Buyer's Solicitor's trust account, the Seller must give the Buyer a copy of the current account for the Outgoing to enable the Buyer to verify the destination account details in the Financial Settlement Schedule.
- (4) If the Deposit is required to discharge any Encumbrance or pay an Outgoing at settlement:
- (a) the Deposit Holder must, if directed by the Seller at least 2 Business Days prior to Settlement, pay the Deposit (and any interest accrued on investment of the Deposit) less commission as clear funds to the Seller's Solicitor;
- (b) the Buyer and the Seller authorise the Deposit Holder to make the payment in clause 11.2(4)(a);
- (c) the Seller's Solicitor will hold the money as Deposit Holder under the Contract;
- (d) the Seller and Buyer authorise the Seller's Solicitor to pay the money as directed by the Seller in accordance with the Financial Settlement Schedule.

11.3 Electronic Settlement

- (1) Clauses 5.1(2) and 5.2 do not apply.
- (2) Payment of the Balance Purchase Price electronically as directed by the Seller's Solicitor in the Financial Settlement Schedule satisfies the Buyer's obligation in clause 2.5(1).
- (3) The Seller and Buyer will be taken to have complied with:
- (a) clause 2.5(3)(c),(e) and (f); and
- (b) clause 2.5(5)(d) and (e),
- (as applicable) if at settlement the Financial Settlement Schedule specifies payment of the relevant amount to the account nominated by the Commissioner of Taxation.
- (4) The Seller will be taken to have complied with clause 5.3(1)(b), (c), (d), (e) and (f) if:
- (a) in relation to documents which are suitable for Electronic Lodgement in the Land Registry at settlement, the documents are Digitally Signed within the Electronic Workspace; and
- (b) in relation to any other document or thing, the Seller's Solicitor:
- (i) confirms in writing prior to settlement that it holds all relevant documents which are not suitable for Electronic Lodgement and all Keys (if requested under clause 5.3(1)(d)) in escrow on the terms contained in the QLS E-Conveyancing Guidelines; and
- (ii) gives a written undertaking to send the documents and Keys (if applicable) to the Buyer or Buyer's Solicitor no later than the Business Day after settlement; and
- (iii) if requested by the Buyer, provides copies of documents in the Seller's Solicitors possession.
- (5) A party is not in default to the extent it is prevented from complying with an obligation because the other party or the other party's Financial Institution has not done something in the Electronic Workspace.
- (6) Any rights under the contract or at law to terminate the contract may not be exercised during the time the Electronic Workspace is locked for Electronic Settlement.
- (7) Electronic Settlement is taken to occur when Financial Settlement is effected, whether or not Electronic Lodgement has occurred.

INITIALS (Note: Initials not required if signed with Electronic Signature)

11.4 Computer System Unavailable

If settlement fails and cannot occur by 4pm AEST on the Settlement Date because a computer system operated by the Land Registry, Office of State Revenue, Reserve Bank, a Financial Institution or the relevant ELNO System is inoperative, neither party is in default and the Settlement Date is deemed to be the next Business Day. Time remains of the essence.

11.5 Withdrawal from Electronic Settlement

- (1) Either party may elect not to proceed with an Electronic Settlement by giving written notice to the other party.
- (2) A notice under clause 11.5(1) may not be given later than 5 Business Days before the Settlement Date unless an Electronic Settlement cannot be effected because:
 - (a) the transaction is not a Qualifying Conveyancing Transaction; or
 - (b) a party's solicitor is unable to complete the transaction due to death, a loss of legal capacity or appointment of a receiver or administrator (or similar) to their legal practice or suspension of their access to the ELNO System; or
 - (c) the Buyer's or Seller's Financial Institution is unable to use the relevant ELNO System to effect Electronic Settlement.
- (3) If clause 11.5(2) applies:
 - (a) the party giving the notice must provide satisfactory evidence of the reason for the withdrawal; and
 - (b) the Settlement Date will be extended to the date 5 Business Days after the Settlement Date.

11.6 Costs

Each party must pay its own fees and charges of using the relevant ELNO System for Electronic Settlement.

11.7 Definitions for clause 11

In clause 11:

"Digitally Sign" and "Digital Signature" have the meaning in the ECNL.

"ECNL" means the Electronic Conveyancing National Law (Queensland).

"Electronic Conveyancing Documents" has the meaning in the *Land Title Act 1994*.

"Electronic Lodgement" means lodgement of a document in the Land Registry in accordance with the ECNL.

"Electronic Settlement" means settlement facilitated by an ELNO System.

"Electronic Workspace" means a shared electronic workspace within an ELNO System that allows the Buyer and Seller to effect Electronic Lodgement and Financial Settlement.

"ELNO" has the meaning in the ECNL.

"ELNO System" means a system provided by the ELNO for facilitating Financial Settlement and Electronic Lodgement.

"Financial Settlement" means the exchange of value between Financial Institutions facilitated by an ELNO System in accordance with the Financial Settlement Schedule.

"Financial Settlement Schedule" means the electronic settlement schedule within the Electronic Workspace listing the source accounts and destination accounts.

"Qualifying Conveyancing Transaction" means a transaction that is not excluded for Electronic Settlement by the rules issued by the relevant ELNO, Office of State Revenue, Land Registry, or a Financial Institution involved in the transaction.

12. ELECTRONIC CONTRACT AND DISCLOSURE

12.1 Electronic Signing

If this contract is signed by any person using an Electronic Signature, the Buyer and the Seller:

- (a) agree to enter into this contract in electronic form; and
- (b) consent to either or both parties signing the contract using an Electronic Signature.

12.2 Pre-contract Disclosure

The Buyer consents to the Seller's use of electronic communication to give any notice or information required by law to be given to the Buyer and which was given before the Buyer signed this contract.

INITIALS (Note: Initials not required if signed with Electronic Signature)

Contract for Houses and Residential Land

Fifteenth Edition

This document has been approved by The Real Estate Institute of Queensland Limited and the Queensland Law Society Incorporated as being suitable for the sale and purchase of houses and residential land in Queensland except for new residential property in which case the issue of GST liability must be dealt with by special condition.

The Seller and Buyer agree to sell and buy the Property under this contract.

REFERENCE SCHEDULE

Contract Date:

26 April 2019

SELLER'S AGENT

NAME:	WITHOUT THE INTERVENTION OF AN AGENT		
ABN:		LICENCE NO:	
ADDRESS:			
SUBURB:	STATE:	POSTCODE:	
PHONE:	MOBILE:	FAX:	EMAIL:

SELLER

NAME:	Category B - Contrary to Public Interest (47(3)(b) RTI Act)		
ADDRESS:	[REDACTED]		
SUBURB:	[REDACTED]		
PHONE:	MOBILE:	FAX:	EMAIL:
Category B	Category B		

NAME:			ABN:	
ADDRESS:				
SUBURB:	STATE:	POSTCODE:		
PHONE:	MOBILE:	FAX:	EMAIL:	

SELLER'S SOLICITOR

■ or any other solicitor notified to the Buyer

NAME:			
REF:	CONTACT:		
ADDRESS:			
SUBURB:	STATE:	POSTCODE:	
PHONE:	MOBILE:	FAX:	EMAIL:

Cat B

INITIALS (Note: Initials not required if signed with Electronic Signature)

BUYER

NAME:	BUNDABERG REGIONAL COUNCIL			ABN:	72 427 835 198
ADDRESS:	PO Box 3130				
SUBURB:	Bundaberg	STATE:	Qld	POSTCODE:	4670
PHONE:	MOBILE:	FAX:	EMAIL:		
1300 883 699			ceo@bundaberg.qld.gov.au and Category B - (47(3)(b) RTI Act)		

NAME:				ABN:	
ADDRESS:					
SUBURB:		STATE:		POSTCODE:	
PHONE:	MOBILE:	FAX:	EMAIL:		

BUYER'S AGENT (if applicable)

NAME:				LICENCE NO:	
ABN:					
ADDRESS:					
SUBURB:		STATE:		POSTCODE:	
PHONE:	MOBILE:	FAX:	EMAIL:		

BUYER'S SOLICITOR

■ or any other solicitor notified to the Seller

NAME:	SELF ACTING				
REF:		CONTACT			
ADDRESS:					
SUBURB:		STATE:		POSTCODE:	
PHONE:	MOBILE:	FAX:	EMAIL:		

PROPERTY

Land:	ADDRESS:	Part of Woodgate Road				
	SUBURB:	WOODGATE	STATE:	QLD	POSTCODE:	4670
		<input type="checkbox"/> Built On	<input checked="" type="checkbox"/> Vacant			
Description:	Lot: See Special Conditions					
	On: See Special Conditions					
Title Reference:	See Special Conditions					
Area:	<input type="checkbox"/> more or less	Land sold as:	<input checked="" type="checkbox"/> Freehold	<input type="checkbox"/> Leasehold	■ if neither is selected, the land is treated as being Freehold	
Present Use:	Vacant Land					
Local Government	Bundaberg Regional Council					

Cat B

INITIALS (Note: Initials not required if signed with Electronic Signature)

Excluded Fixtures: NIL

Included Chattels: NIL

PRICE

Deposit Holder:

Deposit Holder's Trust Account:

Bank:

BSB:

Account No:

Purchase Price: \$ 6,500.00

■ Unless otherwise specified in this contract, the Purchase Price includes any GST payable on the supply of the Property to the Buyer.

Deposit: \$ 0.00

Initial Deposit payable on the day the Buyer signs this contract unless another time is specified below.

Default Interest Rate:

\$ %

Balance Deposit (if any) payable on:

■ If no figure is inserted, the Contract Rate applying at the Contract Date published by the Queensland Law Society Inc will apply.

FINANCE

Finance Amount: \$ Not Applicable

■ Unless all of "Finance Amount", "Financier" and "Finance Date" are completed, this contract is not subject to finance and clause 3 does not apply.

Financier:

Not Applicable

Finance Date:

Not Applicable

BUILDING AND/OR PEST INSPECTION DATE

Inspection Date: Not Applicable

■ If "Inspection Date" is not completed, the contract is not subject to an inspection report and clause 4.1 does not apply.

MATTERS AFFECTING PROPERTY

Title Encumbrances:

Is the Property sold subject to any Encumbrances? No Yes, listed below.

■ **WARNING TO SELLER:** You are required to disclose all Title Encumbrances which will remain after settlement (for example, easements on your title and statutory easements for sewerage and drainage which may not appear on a title search). Failure to disclose these may entitle the Buyer to terminate the contract or to compensation. It is NOT sufficient to state "refer to title", "search will reveal", or similar.

Tenancies:

TENANTS NAME: N/A

■ If the property is sold with vacant possession from settlement, insert 'Nil' Otherwise complete details from Residential Tenancy Agreement.

TERM AND OPTIONS:

STARTING DATE OF TERM:

ENDING DATE OF TERM:

RENT:

BOND:

\$

\$

Cat B

INITIALS (Note: Initials not required if signed with Electronic Signature)

Managing Agent:

AGENCY NAME: N/A

PROPERTY MANAGER:

ADDRESS:

SUBURB:

STATE:

POSTCODE:

PHONE:

FAX:

MOBILE:

EMAIL:

POOL SAFETY

Q1. Is there a pool on the Land or on an adjacent land used in association with the Land?

Yes

No Clause 4.2 of this contract does not apply

Q2. If the answer to Q1 is Yes, is there a Compliance or Exemption Certificate for the pool at the time of contract?

Yes Clause 5.3(1)(f) applies

No Clause 4.2 applies (except for auction and some other excluded sales)

Q3. If the answer to Q2 is No, has a Notice of no pool safety certificate been given prior to contract?

Yes

No

■ **WARNING TO SELLER:** Failure to comply with the Pool Safety Requirements is an offence with substantial penalties.

■ **WARNING TO BUYER:** If there is no Compliance or Exemption Certificate at settlement, the Buyer becomes responsible at its cost to obtain a Pool Safety Certificate within 90 days after settlement. The Buyer can also become liable to pay any costs of rectification necessary to comply with the Pool Safety Requirements to obtain a Pool Safety Certificate. The Buyer commits an offence and can be liable to substantial penalties if the Buyer fails to comply with this requirement.

■ If there is a pool on the Land and Q2 is not completed then clause 4.2 applies.

■ Note: This is an obligation of the Seller under Section 16 of the Building Regulation 2006.

POOL SAFETY INSPECTOR

Pool Safety Inspector:

Pool Safety Inspection Date:

■ The Pool Safety Inspector must be licensed under the Building Act 1975 and Building Regulation 2006.

■ Clause 4.2(2) applies except where this contract is formed on a sale by auction and some other excluded sales.

ELECTRICAL SAFETY SWITCH AND SMOKE ALARM

This section must be completed unless the Land is vacant.

The Seller gives notice to the Buyer that an Approved Safety Switch for the General Purpose Socket Outlets is:
(select whichever is applicable)

Installed in the residence

Not installed in the residence

The Seller gives notice to the Buyer that a Compliant Smoke Alarm(s) is/are:
(select whichever is applicable)

Installed in the residence

Not installed in the residence

■ **WARNING:** By giving false or misleading information in this section, the Seller may incur a penalty. The Seller should seek expert and qualified advice about completing this section and not rely on the Seller's Agent to complete this section.

■ **WARNING:** Failure to install a Compliant Smoke Alarm is an offence under the Fire and Emergency Services Act 1990.

Cat B

INITIALS (Note: Initials not required if signed with Electronic Signature)

NEIGHBOURHOOD DISPUTES (DIVIDING FENCES AND TREES) ACT 2011

The Seller gives notice to the Buyer in accordance with Section 83 of the *Neighbourhood Disputes (Dividing Fences and Trees) Act 2011* that the Land: *(select whichever is applicable)*

- Is not affected by any application to, or an order made by, the Queensland Civil and Administrative Tribunal (QCAT) in relation to a tree on the Land or
- Is affected by an application to, or an order made by, QCAT in relation to a tree on the Land, a copy of which has been given to the Buyer prior to the Buyer signing the contract.

■ **WARNING:** Failure to comply with s83 *Neighbourhood Disputes (Dividing Fences and Trees Act) 2011* by giving a copy of an order or application to the Buyer (where applicable) prior to Buyer signing the contract will entitle the Buyer to terminate the contract prior to Settlement.

GST WITHHOLDING OBLIGATIONS

Is the Buyer registered for GST and acquiring the Land for a creditable purpose? *(select whichever is applicable)*

- Yes
- No

[Note: An example of an acquisition for a creditable purpose would be the purchase of the Land by a building contractor, who is registered for GST, for the purposes of building a house on the Land and selling it in the ordinary course of its business.]

The Seller gives notice to the Buyer in accordance with section 14-255(1)(a) of the Withholding Law that: *(select whichever is applicable)*

<input checked="" type="checkbox"/>	the Buyer is <i>not</i> required to make a payment under section 14-250 of the Withholding Law in relation to the supply of the Property
<input type="checkbox"/>	the Buyer is required to make a payment under section 14-250 of the Withholding Law in relation to the supply of the Property. Under section 14-255(1) of the Withholding Law, the Seller is required to give further details prior to settlement.

■ **WARNING:** the Buyer warrants in clause 2.5(6) that this information is true and correct.

■ **WARNING:** All sellers of residential premises or potential residential land are required to complete this notice. Section 14-250 of the Withholding Law applies to the sale of 'new residential premises' or 'potential residential land' (subject to some exceptions) and requires an amount to be withheld from the Purchase Price and paid to the ATO. The Seller should seek legal advice if unsure about completing this section.

Cat B

INITIALS (Note: Initials not required if signed with Electronic Signature)

SPECIAL CONDITIONS

See Annexure A

SETTLEMENT

SETTLEMENT DATE:	See Special Conditions	■ or the next Business Day if that is not a Business Day in the Place for Settlement.
PLACE FOR SETTLEMENT:	Bundaberg	■ If Brisbane is inserted, this is a reference to Brisbane CBD.

SIGNATURES

The contract may be subject to a 5 business day statutory cooling-off period. A termination penalty of 0.25% of the purchase price applies if the Buyer terminates the contract during the statutory cooling-off period. It is recommended the Buyer obtain an independent property valuation and independent legal advice about the contract and his or her cooling-off rights, before signing.

BUYER: _____ Category B - Contrary to Public Interest (47(3)(b) RTI Act) **WITNESS:** WENDY ELIZABETH SAUNDERS

BUYER: _____

By placing my signature above I warrant that I am the Buyer named in the Reference Schedule or authorised by the Buyer to sign.




[Note: No witness is required if the Buyer signs using an Electronic Signature]

SELLER: _____ Category B - Contrary to Public Interest (47(3)(b) RTI Act) **WITNESS:** JTPQual

SELLER: _____

By placing my signature above I warrant that I am the Seller named in the Reference Schedule or authorised by the Seller to sign.

[Note: No witness is required if the Seller signs using an Electronic Signature]



DEPOSIT HOLDER: _____

■ Who acknowledges having received the Initial Deposit and agrees to hold that amount and any Balance Deposit when received as Deposit Holder for the parties as provided in the Contract.

Cat B

INITIALS (Note: Initials not required if signed with Electronic Signature)

**ANNEXURE A
Special Conditions**

1. REGISTRATION OF SURVEY PLAN

1.1. This Contract is subject to and conditional upon the registration of a Survey Plan to create the Property and the registration of the Seller under a separate title as the registered owner of the Property on or before 12 months from the Contract Date. The Survey Plan will substantially reflect the plan contained in Annexure B and the Property will be created from part of the parent title being Lot 2 on RP188463, Title Reference 16499245.

1.2. The Buyer will pay all the costs and expenses in relation to the preparation and lodgement of the Survey Plan for registration with the Department of Natural Resources Mines and Energy.

2. SETTLEMENT DATE

2.1. The Settlement Date of this Contract will be the date that is 14 days after the date the Buyer gives notice to the Seller that Special Condition 1.1 has been satisfied.

3. COSTS

3.1. The Buyer agrees to pay the Seller's reasonable legal costs associated with this Contract.

Buyer: [Redacted]
Seller: [Redacted]



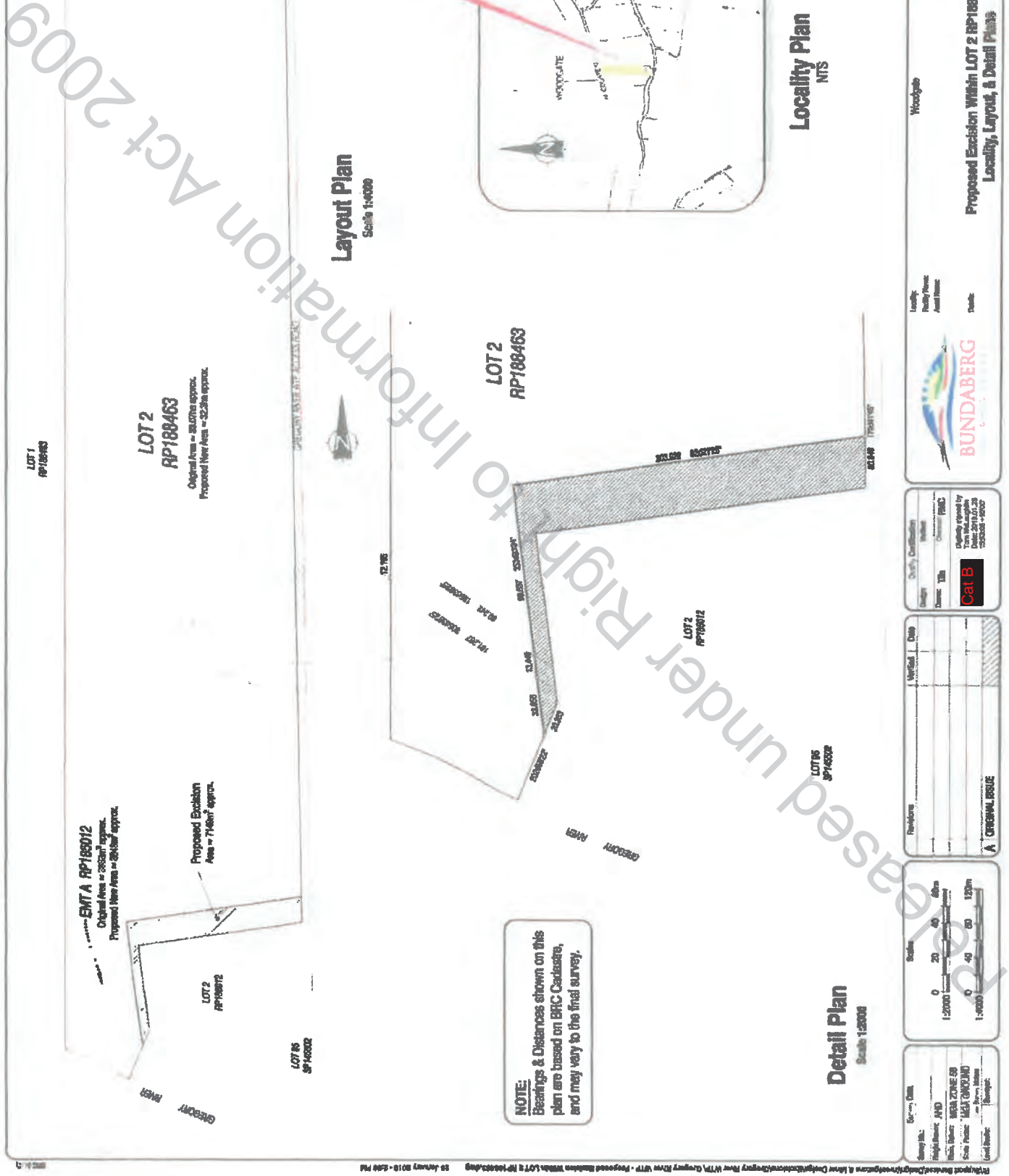
Witness: ELIZABETH SAUNDERS

Witness: [Redacted] TPQval



Released

Annexure "B"



Category B
- (47)(3)(b)
RTI Act

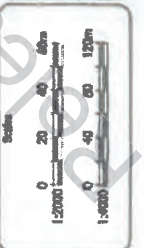
Approved Drawing No:	133062
1 of 1	
Project No:	AS
Drawing No:	A

Proposed Excision Within LOT 2 RP188463
Locality, Layout, & Detail Plans



Locality: Woodgate
Ready To Go: Yes
Area: 22.20
Date: 13/03/2009

Design:	City's Certification:	City's Date:
Drawn: 12/3	Checked: PMS	City's Name: Cat B
City's No: 12/3	City's No: PMS	City's No: Cat B
City's No: 12/3	City's No: PMS	City's No: Cat B
City's No: 12/3	City's No: PMS	City's No: Cat B



City's Date:	13/03/2009
City's Name:	Cat B
City's No:	12/3
City's No:	PMS
City's No:	Cat B

TERMS OF CONTRACT

FOR HOUSES AND RESIDENTIAL LAND

1. DEFINITIONS

1.1 In this contract:

- (1) terms in **bold** in the Reference Schedule have the meanings shown opposite them; and
- (2) unless the context otherwise indicates:
- (a) **"Approved Safety Switch"** means a residual current device as defined in the *Electrical Safety Regulation 2013*;
- (b) **"ATO"** means the Australian Taxation Office;
- (c) **"ATO Clearance Certificate"** means a certificate issued under s14-220(1) of the Withholding Law which is current on the date it is given to the Buyer;
- (d) **"Balance Purchase Price"** means the Purchase Price, less the Deposit, adjusted under clause 2.6;
- (e) **"Bank"** means an authorised deposit-taking institution within the meaning of the *Banking Act 1959 (Cth)*;
- (f) **"Bond"** means a bond under the Residential Tenancies and Rooming Accommodation Act 2008;
- (g) **"Building Inspector"** means a person licensed to carry out completed residential building inspections under the *Queensland Building and Construction Commission Regulations 2003*;
- (h) **"Business Day"** means a day other than:
- (i) a Saturday or Sunday;
- (ii) a public holiday in the Place for Settlement; and
- (iii) a day in the period 27 to 31 December (inclusive);
- (i) **"CGT Withholding Amount"** means the amount determined under section 14-200(3)(a) of the Withholding Law or, if a copy is provided to the Buyer prior to settlement, a lesser amount specified in a variation notice under section 14-235;
- (j) **"Compliance or Exemption Certificate"** means:
- (i) a Pool Safety Certificate; or
- (ii) a building certificate that may be used instead of a Pool Safety Certificate under section 246AN(2) of the *Building Act 1975*; or
- (iii) an exemption from compliance on the grounds of impracticality under section 245B of the *Building Act 1975*;
- (k) **"Compliant Smoke Alarm"** means a smoke alarm complying with the requirements for smoke alarms in domestic dwellings under the *Fire and Emergency Services Act 1990*;
- (l) **"Contract Date"** or **"Date of Contract"** means the date inserted in the Reference Schedule;
- (m) **"Court"** includes any tribunal established under statute.
- (n) **"Electronic Signature"** means an electronic method of signing that identifies the person and indicates their intention to sign the contract;
- (o) **"Encumbrances"** includes:
- (i) unregistered encumbrances;
- (ii) statutory encumbrances; and
- (iii) Security Interests.
- (p) **"Essential Term"** includes, in the case of breach by:
- (i) the Buyer: clauses 2.2, 2.5(1), 2.5(5), 5.1 and 6.1; and
- (ii) the Seller: clauses 2.5(5), 5.1, 5.3(1)(a)-(d), 5.3(1)(e)(ii) & (iii), 5.3(1)(f), 5.5 and 6.1;
- but nothing in this definition precludes a Court from finding other terms to be essential.
- (q) **"Financial Institution"** means a Bank, building society or credit union;
- (r) **"General Purpose Socket Outlet"** means an electrical socket outlet as defined in the *Electrical Safety Regulations 2013*;
- (s) **"GST"** means the goods and services tax under the GST Act;
- (t) **"GST Act"** means *A New Tax System (Goods and Services Tax) Act* and includes other GST related legislation;
- (u) **"GST Withholding Amount"** means the amount (if any) determined under section 14-250 of the Withholding Law required to be paid to the Commissioner of Taxation.
- (v) **"Improvements"** means fixed structures on the Land and includes all items fixed to them (such as stoves, hot water systems, fixed carpets, curtains, blinds and their fittings, clothes lines, fixed satellite dishes and television antennae, in-ground plants) but does not include the Reserved Items;
- (w) **"Keys"** means keys, codes or devices in the Seller's possession or control for all locks, or security systems on the Property or necessary to access the Property;
- (x) **"Notice of no pool safety certificate"** means the Form 36 under the *Building Regulation 2006* to the effect that there is no Pool Safety Certificate issued for the Land;
- (y) **"Notice of nonconformity"** means a Form 26 under the *Building Regulation 2006* advising how the pool does not comply with the relevant pool safety standard;
- (z) **"Outgoings"** means rates or charges on the Land by any competent authority (for example, council rates, water rates, fire service levies) but excludes land tax;
- (aa) **"Pest Inspector"** means a person licensed to undertake termite inspections on completed buildings under the *Queensland Building and Construction Commission Regulations 2003*;
- (bb) **"Pool Safety Certificate"** has the meaning in section 231C(a) of the *Building Act 1975*;
- (cc) **"Pool Safety Inspection Date"** means the Pool Safety Inspection Date inserted in the Reference Schedule. If no date is inserted in the Reference Schedule, the Pool Safety Inspection Date is taken to be the earlier of the following:
- (i) the Inspection Date for the Building and/or Pest Inspection; or
- (ii) 2 Business Days before the Settlement Date
- (dd) **"Pool Safety Requirements"** means the requirements for pool safety contained in the *Building Act 1975* and *Building Regulation 2006*;
- (ee) **"Pool Safety Inspector"** means a person authorised to give a Pool Safety Certificate;
- (ff) **"PPSR"** means the Personal Property Securities Register established under *Personal Property Securities Act 2009 (Cth)*;
- (gg) **"Property"** means:
- (i) the Land;
- (ii) the Improvements; and
- (iii) the Included Chattels;
- (hh) **"Rent"** means any periodic amount payable under the Tenancies;
- (ii) **"Reserved Items"** means the Excluded Fixtures and all chattels on the Land other than the Included Chattels;
- (jj) **"Security Interests"** means all security interests registered on the PPSR over Included Chattels and Improvements;
- (kk) **"Transfer Documents"** means:
- (i) the form of transfer under the *Land Title Act 1994* required to transfer title in the Land to the Buyer; and
- (ii) any other document to be signed by the Seller necessary for stamping or registering the transfer;

Cat B

INITIALS (Note: Initials not required if signed with Electronic Signature)

- (ll) "Transport Infrastructure" has the meaning defined in the *Transport Infrastructure Act 1994*; and
- (mm) "Withholding Law" means Schedule 1 to the *Taxation Administration Act 1953 (Cth)*.

2. PURCHASE PRICE

2.1 GST

- (1) Unless otherwise specified in this contract, the Purchase Price includes any GST payable on the supply of the Property to the Buyer.
- (2) If a party is required to make any other payment or reimbursement under this contract, that payment or reimbursement will be reduced by the amount of any input tax credits to which the other party (or the representative member for a GST group of which it is a member) is entitled.

2.2 Deposit

- (1) The Buyer must pay the Deposit to the Deposit Holder at the times shown in the Reference Schedule. The Deposit Holder will hold the Deposit until a party becomes entitled to it.
- (2) The Buyer will be in default if it:
- does not pay the Deposit when required;
 - pays the Deposit by a post-dated cheque; or
 - pays the Deposit by cheque which is dishonoured on presentation.
- (3) The Seller may recover from the Buyer as a liquidated debt any part of the Deposit which is not paid when required.

2.3 Investment of Deposit

- If:
- the Deposit Holder is instructed by either the Seller or the Buyer; and
 - it is lawful to do so;
- the Deposit Holder must:
- invest as much of the Deposit as has been paid with any Financial Institution in an interest-bearing account in the names of the parties; and
 - provide the parties' tax file numbers to the Financial Institution (if they have been supplied).

2.4 Entitlement to Deposit and Interest

- (1) The party entitled to receive the Deposit is:
- if this contract settles, the Seller;
 - if this contract is terminated without default by the Buyer, the Buyer; and
 - if this contract is terminated owing to the Buyer's default, the Seller.
- (2) The interest on the Deposit must be paid to the person who is entitled to the Deposit.
- (3) If this contract is terminated, the Buyer has no further claim once it receives the Deposit and interest, unless the termination is due to the Seller's default or breach of warranty.
- (4) The Deposit is invested at the risk of the party who is ultimately entitled to it.

2.5 Payment of Balance Purchase Price

- (1) On the Settlement Date, the Buyer must pay the Balance Purchase Price by bank cheque as the Seller or the Seller's Solicitor directs.
- (2) Despite any other provision of this contract, a reference to a "bank cheque" in clause 2.5:
- includes a cheque drawn by a building society or credit union on itself;
 - does not include a cheque drawn by a building society or credit union on a Bank;
- and the Seller is not obliged to accept a cheque referred to in clause 2.5(2)(b) on the Settlement Date.
- (3) If both the following apply:
- the sale is not an excluded transaction under s14-215 of the Withholding Law; and
 - the Seller has not given the Buyer on or before settlement for each person comprising the Seller either:
 - an ATO Clearance Certificate; or
 - a variation notice under s14-235 of the Withholding Law which remains current at the Settlement Date varying the CGT Withholding Amount to nil,

then:

- for clause 2.5(1), the Seller irrevocably directs the Buyer to draw a bank cheque for the CGT Withholding Amount in favour of the Commissioner of Taxation or, if the Buyer's Solicitor requests, the Buyer's Solicitor's Trust Account;
- the Buyer must lodge a Foreign Resident Capital Gains Withholding Purchaser Notification Form with the ATO for each person comprising the Buyer and give copies to the Seller with the payment reference numbers (PRN) on or before settlement;
- the Seller must return the bank cheque in paragraph (c) to the Buyer's Solicitor (or if there is no Buyer's Solicitor, the Buyer) at settlement; and
- the Buyer must pay the CGT Withholding Amount to the ATO in accordance with section 14-200 of the Withholding Law and give the Seller evidence that it has done so within 2 Business Days of settlement occurring.

- (4) For clause 2.5(3) and section 14-215 of the Withholding Law, the market value of the CGT asset is taken to be the Purchase Price less any GST included in the Purchase Price for which the Buyer is entitled to an input tax credit unless:
- the Property includes items in addition to the Land and Improvements; and
 - no later than 2 Business Days prior to the Settlement Date, the Seller gives the Buyer a valuation of the Land and Improvements prepared by a registered valuer,

in which case the market value of the Land and Improvements will be as stated in the valuation.

- (5) If the Buyer is required to pay the GST Withholding Amount to the Commissioner of Taxation at settlement pursuant to section 14-250 of the Withholding Law:
- the Seller must give the Buyer a notice in accordance with section 14-255(1) of the Withholding Law;
 - prior to settlement the Buyer must lodge with the ATO:
 - a GST Property Settlement Withholding Notification form ("Form 1"); and
 - a GST Property Settlement Date Confirmation form ("Form 2");
 - on or before settlement, the Buyer must give the Seller copies of:
 - the Form 1;
 - confirmation from the ATO that the Form 1 has been lodged specifying the Buyer's lodgement reference number and payment reference number;
 - confirmation from the ATO that the Form 2 has been lodged; and
 - a completed ATO payment slip for the Withholding Amount;
 - the Seller irrevocably directs the Buyer to draw a bank cheque for the GST Withholding Amount in favour of the Commissioner of Taxation and deliver it to the Seller at settlement; and
 - the Seller must pay the GST Withholding Amount to the ATO in compliance with section 14-250 of the Withholding Law promptly after settlement.
- (6) The Buyer warrants that the statements made by the Buyer in the Reference Schedule under GST Withholding Obligations are true and correct.

2.6 Adjustments to Balance Purchase Price

- (1) The Seller is liable for Outgoings and is entitled to Rent up to and including the Settlement Date. The Buyer is liable for Outgoings and is entitled to Rent after the Settlement Date.
- (2) Subject to clauses 2.6(3), 2.6(5) and 2.6(14), Outgoings for periods including the Settlement Date must be adjusted:
- for those paid, on the amount paid;
 - for those assessed but unpaid, on the amount payable (excluding any discount); and
 - for those not assessed:
 - on the amount the relevant authority advises will be assessed (excluding any discount); or

Cat B

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- (ii) if no advice on the assessment to be made is available, on the amount of the latest separate assessment (excluding any discount).
- (3) If there is no separate assessment of rates for the Land at the Settlement Date and the Local Government informs the Buyer that it will not apportion rates between the Buyer and the Seller, then:
- the amount of rates to be adjusted is that proportion of the assessment equal to the ratio of the area of the Land to the area of the parcel in the assessment; and
 - if an assessment of rates includes charges imposed on a "per lot" basis, then the portion of those charges to be adjusted is the amount assessed divided by the number of lots in that assessment.
- (4) The Seller is liable for land tax assessed on the Land for the financial year current at the Settlement Date. If land tax is unpaid at the Settlement Date and the Office of State Revenue advises that it will issue a final clearance for the Land on payment of a specified amount, then the Buyer may deduct the specified amount from the Balance Purchase Price at settlement and must pay it promptly to the Office of State Revenue.
- (5) Any Outgoings assessable on the amount of water used must be adjusted on the charges that would be assessed on the total water usage for the assessment period, determined by assuming that the actual rate of usage shown by the meter reading made before settlement continues throughout the assessment period. The Buyer must obtain and pay for the meter reading.
- (6) If any Outgoings are assessed but unpaid at the Settlement Date, then the Buyer may deduct the amount payable from the Balance Purchase Price at settlement and pay it promptly to the relevant authority. If an amount is deducted under this clause, the relevant Outgoing will be treated as paid at the Settlement Date for the purposes of clause 2.6(2).
- (7) Arrears of Rent for any rental period ending on or before the Settlement Date belong to the Seller and are not adjusted at settlement.
- (8) Unpaid Rent for the rental period including both the Settlement Date and the following day ("Current Period") is not adjusted until it is paid.
- (9) Rent already paid for the Current Period or beyond must be adjusted at settlement.
- (10) If Rent payments are reassessed after the Settlement Date for periods including the Settlement Date, any additional Rent payment from a Tenant or refund due to a Tenant must be apportioned under clauses 2.6(7), 2.6(8) and 2.6(9).
- (11) Payments under clause 2.6(10) must be made within 14 days after notification by one party to the other but only after any additional payment from a Tenant has been received.
- (12) The cost of Bank cheques payable at settlement:
- to the Seller or its mortgagee are the responsibility of the Buyer; and
 - to parties other than the Seller or its mortgagee are the responsibility of the Seller.
- (13) The Seller is not entitled to require payment of the Balance Purchase Price by means other than Bank cheque without the consent of the Buyer.
- (14) Upon written request by the Buyer, the Seller will, prior to Settlement, give the Buyer a written statement, supported by reasonable evidence, of –
- all Outgoings and all Rent for the Property to the extent they are not capable of discovery by search or enquiry at any office of public record or pursuant to the provisions of any statute; and
 - any other information which the Buyer may reasonably require for the purpose of calculating or apportioning any Outgoings or Rent under this clause 2.6.
- If the Seller becomes aware of a change to the information provided the Seller will as soon as practicably provide the updated information to the Buyer.

3. FINANCE

- 3.1 This contract is conditional on the Buyer obtaining approval of a loan for the Finance Amount from the Financier by the Finance Date on terms satisfactory to the Buyer. The Buyer must take all reasonable steps to obtain approval.
- 3.2 The Buyer must give notice to the Seller that:
- approval has not been obtained by the Finance Date and the Buyer terminates this contract; or
 - the finance condition has been either satisfied or waived by the Buyer.
- 3.3 The Seller may terminate this contract by notice to the Buyer if notice is not given under clause 3.2 by 5pm on the Finance Date. This is the Seller's only remedy for the Buyer's failure to give notice.
- 3.4 The Seller's right under clause 3.3 is subject to the Buyer's continuing right to give written notice to the Seller of satisfaction, termination or waiver pursuant to clause 3.2.

4. BUILDING AND PEST INSPECTION REPORTS AND POOL SAFETY

4.1 Building and Pest Inspection

- (1) This contract is conditional upon the Buyer obtaining a written building report from a Building Inspector and a written pest report from a Pest Inspector (which may be a single report) on the Property by the Inspection Date on terms satisfactory to the Buyer. The Buyer must take all reasonable steps to obtain the reports (subject to the right of the Buyer to elect to obtain only one of the reports).
- (2) The Buyer must give notice to the Seller that:
- a satisfactory Inspector's report under clause 4.1(1) has not been obtained by the Inspection Date and the Buyer terminates this contract. The Buyer must act reasonably; or
 - clause 4.1(1) has been either satisfied or waived by the Buyer.
- (3) If the Buyer terminates this contract and the Seller asks the Buyer for a copy of the building and pest reports, the Buyer must give a copy of each report to the Seller without delay.
- (4) The Seller may terminate this contract by notice to the Buyer if notice is not given under clause 4.1(2) by 5pm on the Inspection Date. This is the Seller's only remedy for the Buyer's failure to give notice.
- (5) The Seller's right under clause 4.1(4) is subject to the Buyer's continuing right to give written notice to the Seller of satisfaction, termination or waiver pursuant to clause 4.1(2).

4.2 Pool Safety

- (1) This clause 4.2 applies if:
- the answer to Q2 of the Reference Schedule is No or Q2 is not completed; and
 - this contract is not a contract of a type referred to in section 160(1)(b) of the *Property Occupations Act 2014*.
- (2) This contract is conditional upon:
- the issue of a Pool Safety Certificate; or
 - a Pool Safety Inspector issuing a Notice of nonconformity stating the works required before a Pool Safety Certificate can be issued,
- by the Pool Safety Inspection Date.
- (3) The Buyer is responsible for arranging an inspection by a Pool Safety Inspector at the Buyer's cost. The Seller authorises:
- the Buyer to arrange the inspection; and
 - the Pool Safety Inspector to advise the Buyer of the results of the inspection and to give the Buyer a copy of any notice issued.
- (4) If a Pool Safety Certificate has not Issued by the Pool Safety Inspection Date, the Buyer may give notice to the Seller that the Buyer:
- terminates this contract; or
 - waives the benefit of this clause 4.2;
- The Buyer must act reasonably.
- (5) The Seller may terminate this contract by notice to the Buyer if notice is not given under clause 4.2(4) by 5pm on the Pool Safety Inspection Date.
- (6) The Seller's right under clause 4.2(5) is subject to the Buyer's continuing right to give written notice to the Seller of termination or waiver pursuant to clause 4.2(4).

Cat B

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- (7) The right of a party to terminate under this clause 4.2, ceases upon receipt by that party of a copy of a current Pool Safety Certificate.
- (8) If the Buyer terminates this contract under clause 4.2(4)(a), and the Seller has not obtained a copy of the Notice of nonconformity issued by the Pool Safety Inspector, the Seller may request a copy and the Buyer must provide this to the Seller without delay.

5. SETTLEMENT

5.1 Time and Date

- (1) Settlement must occur between 9am and 4pm AEST on the Settlement Date.
- (2) If the parties do not agree on where settlement is to occur, it must take place in the Place for Settlement at the office of a solicitor or Financial Institution nominated by the Seller, or, if the Seller does not make a nomination, at the land registry office in or nearest to the Place for Settlement.

5.2 Transfer Documents

- (1) The Transfer Documents must be prepared by the Buyer's Solicitor and delivered to the Seller a reasonable time before the Settlement Date.
- (2) If the Buyer pays the Seller's reasonable expenses, it may require the Seller to produce the Transfer Documents at the Office of State Revenue nearest the Place for Settlement for stamping before settlement.

5.3 Documents and Keys at Settlement

- (1) In exchange for payment of the Balance Purchase Price, the Seller must deliver to the Buyer at settlement:
 - (a) any instrument of title for the Land required to register the transfer to the Buyer; and
 - (b) unstamped Transfer Documents capable of immediate registration after stamping; and
 - (c) any instrument necessary to release any Encumbrance over the Property in compliance with the Seller's obligation in clause 7.2; and
 - (d) if requested by the Buyer not less than 2 clear Business Days before the Settlement Date, the Keys; and
 - (e) if there are Tenancies:
 - (i) the Seller's copy of any Tenancy agreements;
 - (ii) a notice to each tenant advising of the sale in the form required by law; and
 - (iii) any notice required by law to transfer to the Buyer the Seller's interest in any Bond; and
 - (f) if the answer to Q2 in the Reference Schedule is Yes, a copy of a current Compliance or Exemption Certificate, if not already provided to the Buyer.
- (2) If the instrument of title for the Land also relates to other land, the Seller need not deliver it to the Buyer, but the Seller must make arrangements satisfactory to the Buyer to produce it for registration of the transfer.
- (3) If the Keys are not delivered at Settlement under clause 5.3(1)(d), the Seller must deliver the Keys to the Buyer. The Seller may discharge its obligation under this provision by authorising the Seller's Agent to release the Keys to the Buyer.

5.4 Assignment of Covenants and Warranties

- At settlement, the Seller assigns to the Buyer the benefit of all:
- (1) covenants by the tenants under the Tenancies;
 - (2) guarantees and Bonds (subject to the requirements of the *Residential Tenancies and Rooming Accommodation Act 2008*) supporting the Tenancies;
 - (3) manufacturers' warranties regarding the Included Chattels; and
 - (4) builders' warranties on the Improvements; to the extent they are assignable. However, the right to recover arrears of Rent is not assigned to the Buyer and section 117 of the *Property Law Act 1974* does not apply.

5.5 Possession of Property and Title to Included Chattels

On the Settlement Date, in exchange for the Balance Purchase Price, the Seller must give the Buyer vacant possession of the Land and the Improvements except for the Tenancies. Title to the Included Chattels passes at settlement.

5.6 Reservations

- (1) The Seller must remove the Reserved Items from the Property before settlement.

- (2) The Seller must repair at its expense any damage done to the Property in removing the Reserved Items. If the Seller fails to do so, the Buyer may repair that damage.
- (3) Any Reserved Items not removed before settlement will be considered abandoned and the Buyer may, without limiting its other rights, complete this contract and appropriate those Reserved Items or dispose of them in any way.
- (4) The Seller indemnifies the Buyer against any damages and expenses resulting from the Buyer's actions under clauses 5.6(2) or 5.6(3).

5.7 Consent to Transfer

- (1) If the Land sold is leasehold, this contract is subject to any necessary consent to the transfer of the lease to the Buyer being obtained by the Settlement Date.
- (2) The Seller must apply for the consent required as soon as possible.
- (3) The Buyer must do everything reasonably required to help obtain this consent.

6. TIME

6.1 Time of the Essence

Time is of the essence of this contract, except regarding any agreement between the parties on a time of day for settlement.

6.2 Suspension of Time

- (1) This clause 6.2 applies if a party is unable to perform a Settlement Obligation solely as a consequence of a Natural Disaster but does not apply where the inability is attributable to:
 - (a) damage to, destruction of or diminution in value of the Property or other property of the Seller or Buyer; or
 - (b) termination or variation of any agreement between a party and another person whether relating to the provision of finance, the release of an Encumbrance, the sale or purchase of another property or otherwise.
- (2) Time for the performance of the parties' Settlement Obligations is suspended and ceases to be of the essence of the contract and the parties are deemed not to be in breach of their Settlement Obligations.
- (3) An Affected Party must take reasonable steps to minimise the effect of the Natural Disaster on its ability to perform its Settlement Obligations.
- (4) When an Affected Party is no longer prevented from performing its Settlement Obligations due to the Natural Disaster, the Affected Party must give the other party a notice of that fact, promptly.
- (5) When the Suspension Period ends, whether notice under clause 6.2(4) has been given or not, either party may give the other party a Notice to Settle.
- (6) A Notice to Settle must be in writing and state:
 - (a) that the Suspension Period has ended;
 - (b) a date, being not less than 5 nor more than 10 Business Days after the date the Notice to Settle is given, which shall become the Settlement Date; and
 - (c) that time is of the essence.
- (7) When Notice to Settle is given, time is again of the essence of the contract.
- (8) In this clause 6.2:
 - (a) "Affected Party" means a party referred to in clause 6.2(1);
 - (b) "Natural Disaster" means a tsunami, flood, cyclone, earthquake, bushfire or other act of nature;
 - (c) "Settlement Obligations" means, in the case of the Buyer, its obligations under clauses 2.5(1) and 5.1(1) and, in the case of the Seller, its obligations under clauses 5.1(1), 5.3(1)(a) – (e) and 5.5;
 - (d) "Suspension Period" means the period during which the Affected Party (or if both the Buyer and Seller are Affected Parties, either of them) remains unable to perform a Settlement Obligation solely as a consequence of a Natural Disaster.

7. MATTERS AFFECTING THE PROPERTY

7.1 Title

The Land is sold subject to:

- (1) any reservations or conditions on the title or the original Deed of Grant (if freehold); or
- (2) the Conditions of the Crown Lease (if leasehold).

Cat B

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7.2 Encumbrances

The Property is sold free of all Encumbrances other than the Title Encumbrances and Tenancies.

7.3 Requisitions

The Buyer may not deliver any requisitions or enquiries on title.

7.4 Seller's Warranties

- (1) The Seller warrants that, except as disclosed in this contract at settlement:
 - (a) If the Land is freehold: it will be the registered owner of an estate in fee simple in the Land and will own the rest of the Property;
 - (b) If the Land is leasehold: it will be the registered lessee, the lease is not liable to forfeiture because of default under the lease, and it will own the rest of the Property;
 - (c) it will be capable of completing this contract (unless the Seller dies or becomes mentally incapable after the Contract Date); and
 - (d) there will be no unsatisfied judgment, order (except for an order referred to in clause 7.6(1)(b)) or writ affecting the Property.
- (2) The Seller warrants that, except as disclosed in this contract at the Contract Date and at settlement there are no current or threatened claims, notices or proceedings that may lead to a judgment, order or writ affecting the Property.
- (3)(a) The Seller warrants that, except as disclosed in this contract or a notice given by the Seller to the Buyer under the *Environmental Protection Act 1994* ("EPA"), at the Contract Date:
 - (i) there is no outstanding obligation on the Seller to give notice to the administering authority under EPA of notifiable activity being conducted on the Land; and
 - (ii) the Seller is not aware of any facts or circumstances that may lead to the Land being classified as contaminated land within the meaning of EPA.
- (b) If the Seller breaches a warranty in clause 7.4(3), the Buyer may:
 - (i) terminate this contract by notice in writing to the Seller given within 2 Business Days before the Settlement Date; or
 - (ii) complete this contract and claim compensation, but only if the Buyer claims it in writing before the Settlement Date.
- (4) If the Seller breaches a warranty in clause 7.4(1) or clause 7.4(2), the Buyer may terminate this contract by notice to the Seller.
- (5) The Seller does not warrant that the Present Use is lawful.

7.5 Survey and Mistake

- (1) The Buyer may survey the Land.
- (2) If there is:
 - (a) an error in the boundaries or area of the Land;
 - (b) an encroachment by structures onto or from the Land; or
 - (c) a mistake or omission in describing the Property or the Seller's title to it;which is:
 - (d) immaterial; or
 - (e) material, but the Buyer elects to complete this contract;the Buyer's only remedy against the Seller is for compensation, but only if claimed by the Buyer in writing on or before settlement.
- (3) The Buyer may not delay settlement or withhold any part of the Balance Purchase Price because of any compensation claim under clause 7.5(2).
- (4) If there is a material error, encroachment or mistake, the Buyer may terminate this contract before settlement.

7.6 Requirements of Authorities

- (1) Subject to clause 7.6(5), any valid notice or order by any competent authority or Court requiring work to be done or money spent in relation to the Property ("Work or Expenditure") must be fully complied with:
 - (a) if issued before the Contract Date, by the Seller before the Settlement Date;
 - (b) if issued on or after the Contract Date, by the Buyer.

- (2) If any Work or Expenditure that is the Seller's responsibility under clause 7.6(1)(a) is not done before the Settlement Date, the Buyer is entitled to claim the reasonable cost of work done by the Buyer in accordance with the notice or order referred to in clause 7.6(1) from the Seller after settlement as a debt.
- (3) Any Work or Expenditure that is the Buyer's responsibility under clause 7.6(1)(b), which is required to be done before the Settlement Date, must be done by the Seller unless the Buyer directs the Seller not to and indemnifies the Seller against any liability for not carrying out the work. If the Seller does the work, or spends the money, the reasonable cost of that Work or Expenditure must be added to the Balance Purchase Price.
- (4) The Buyer may terminate this contract by notice to the Seller if there is an outstanding notice at the Contract Date under sections 246AG, 247 or 248 of the *Building Act 1975* or sections 167 or 168 of the *Planning Act 2016* that affects the Property.
- (5) Clause 7.6(1) does not apply to orders disclosed under section 83 of the *Neighbourhood Disputes (Dividing Fences and Trees) Act 2011*.

7.7 Property Adversely Affected

- (1) If at the Contract Date:
 - (a) the Present Use is not lawful under the relevant town planning scheme;
 - (b) the Land is affected by a proposal of any competent authority to alter the dimensions of any Transport Infrastructure or locate Transport Infrastructure on the Land;
 - (c) access or any service to the Land passes unlawfully through other land;
 - (d) any competent authority has issued a current notice to treat, or notice of intention to resume, regarding any part of the Land;
 - (e) there is an outstanding condition of a development approval attaching to the Land under section 73 of the *Planning Act 2016* or section 96 of the *Economic Development Queensland Act 2012* which, if complied with, would constitute a material mistake or omission in the Seller's title under clause 7.5(2)(c);
 - (f) the Property is affected by the *Queensland Heritage Act 1992* or is included in the World Heritage List;
 - (g) the Property is declared acquisition land under the *Queensland Reconstruction Authority Act 2011*;
 - (h) there is a charge against the Land under s104 of the *Foreign Acquisitions and Takeovers Act 1975*,and that has not been disclosed in this contract, the Buyer may terminate this contract by notice to the Seller given on or before settlement.
- (2) If no notice is given under clause 7.7(1), the Buyer will be treated as having accepted the Property subject to all of the matters referred to in that clause.
- (3) The Seller authorises the Buyer to inspect records held by any authority, including Security Interests on the PPSR relating to the Property.

7.8 Dividing Fences

Notwithstanding any provision in the *Neighbourhood Disputes (Dividing Fences and Trees) Act 2011*, the Seller need not contribute to the cost of building any dividing fence between the Land and any adjoining land owned by it. The Buyer waives any right to claim contribution from the Seller.

8. RIGHTS AND OBLIGATIONS UNTIL SETTLEMENT

8.1 Risk

The Property is at the Buyer's risk from 5pm on the first Business Day after the Contract Date.

8.2 Access

After reasonable notice to the Seller, the Buyer and its consultants may enter the Property:

- (1) once to read any meter;
- (2) for inspections under clause 4;
- (3) once to inspect the Property before settlement; and
- (4) once to value the Property before settlement.

8.3 Seller's Obligations After Contract Date

- (1) The Seller must use the Property reasonably until settlement. The Seller must not do anything regarding the Property or

Cat B

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Tenancies that may significantly alter them or result in later expense for the Buyer.

- (2) The Seller must promptly upon receiving any notice, proceeding or order that affects the Property or requires work on the Property, give a copy to the Buyer.
- (3) Without limiting clause 8.3(1), the Seller must not without the prior written consent of the Buyer, give any notice or seek or consent to any order that affects the Property or make any agreement affecting the Property that binds the Buyer to perform.

8.4 Information Regarding the Property

Upon written request of the Buyer but in any event before settlement, the Seller must give the Buyer:

- (1) copies of all documents relating to any unregistered interests in the Property;
- (2) full details of the Tenancies to allow the Buyer to properly manage the Property after settlement;
- (3) sufficient details (including the date of birth of each Seller who is an individual) to enable the Buyer to undertake a search of the PPSR; and
- (4) further copies or details if those previously given cease to be complete and accurate.

8.5 Possession Before Settlement

If possession is given before settlement:

- (1) the Buyer must maintain the Property in substantially its condition at the date of possession, fair wear and tear excepted;
- (2) entry into possession is under a licence personal to the Buyer revocable at any time and does not:
 - (a) create a relationship of landlord and tenant; or
 - (b) waive the Buyer's rights under this contract;
- (3) the Buyer must insure the Property to the Seller's satisfaction; and
- (4) the Buyer indemnifies the Seller against any expense or damages incurred by the Seller as a result of the Buyer's possession of the Property.

9. PARTIES' DEFAULT

9.1 Seller and Buyer May Affirm or Terminate

Without limiting any other right or remedy of the parties including those under this contract or any right at common law, if the Seller or Buyer, as the case may be, fails to comply with an Essential Term, or makes a fundamental breach of an intermediate term, the Seller (in the case of the Buyer's default) or the Buyer (in the case of the Seller's default) may affirm or terminate this contract.

9.2 If Seller Affirms

If the Seller affirms this contract under clause 9.1, it may sue the Buyer for:

- (1) damages;
- (2) specific performance; or
- (3) damages and specific performance.

9.3 If Buyer Affirms

If the Buyer affirms this contract under clause 9.1, it may sue the Seller for:

- (1) damages;
- (2) specific performance; or
- (3) damages and specific performance.

9.4 If Seller Terminates

If the Seller terminates this contract under clause 9.1, it may do all or any of the following:

- (1) resume possession of the Property;
- (2) forfeit the Deposit and any interest earned;
- (3) sue the Buyer for damages;
- (4) resell the Property.

9.5 If Buyer Terminates

If the Buyer terminates this contract under clause 9.1, it may do all or any of the following:

- (1) recover the Deposit and any interest earned;
- (2) sue the Seller for damages.

9.6 Seller's Resale

(1) If the Seller terminates this contract and resells the Property, the Seller may recover from the Buyer as liquidated damages:

- (a) any deficiency in price on a resale; and
 - (b) its expenses connected with any repossession, any failed attempt to resell, and the resale;
- provided the resale settles within 2 years of termination of this contract.

(2) Any profit on a resale belongs to the Seller.

9.7 Seller's Damages

The Seller may claim damages for any loss it suffers as a result of the Buyer's default, including its legal costs on an indemnity basis and the cost of any Work or Expenditure under clause 7.6(3).

9.8 Buyer's Damages

The Buyer may claim damages for any loss it suffers as a result of the Seller's default, including its legal costs on an indemnity basis.

9.9 Interest on Late Payments

- (1) The Buyer must pay interest at the Default Rate:
 - (a) on any amount payable under this contract which is not paid when due; and
 - (b) on any judgement for money payable under this contract.
- (2) Interest continues to accrue:
 - (a) under clause 9.9(1)(a), from the date it is due until paid; and
 - (b) under clause 9.9(1)(b), from the date of judgement until paid.
- (3) Any amount payable under clause 9.9(1)(a) in respect of a period prior to settlement must be paid by the Buyer at settlement. If this contract is terminated or if any amount remains unpaid after settlement, interest continues to accrue.
- (4) Nothing in this clause affects any other rights of the Seller under this contract or at law.

10. GENERAL

10.1 Seller's Agent

The Seller's Agent is appointed as the Seller's agent to introduce a buyer.

10.2 Foreign Buyer Approval

The Buyer warrants that either:

- (1) the Buyer's purchase of the Property is not a notifiable action; or
- (2) the Buyer has received a no objection notification, under the *Foreign Acquisitions and Takeovers Act 1975*.

10.3 Duty

The Buyer must pay all duty on this contract.

10.4 Notices

- (1) Notices under this contract must be in writing.
- (2) Notices under this contract or notices required to be given by law may be given and received by the party's solicitor.
- (3) Notices under this contract or required to be given by law may be given by:
 - (a) delivering or posting to the other party or its solicitor; or
 - (b) sending it to the facsimile number of the other party or its solicitor stated in the Reference Schedule (or another facsimile number notified by the recipient to the sender); or
 - (c) sending it to the email address of the other party or its solicitor stated in the Reference Schedule (or another email address notified by the recipient to the sender).
- (4) Subject to clause 10.4(5), a notice given after this contract is entered into in accordance with clause 10.4(3) will be treated as given:
 - (a) 5 Business Days after posting;
 - (b) if sent by facsimile, at the time indicated on a clear transmission report; and
 - (c) if sent by email, at the time it is sent.
- (5) Notices given by facsimile, by personal delivery or by email between 5pm on a Business Day (the "first Business Day") and 9am on the next Business Day (the "second Business Day") will be treated as given or delivered at 9am on the second Business Day.
- (6) If two or more notices are treated as given at the same time under clause 10.4(5), they will be treated as given in the order in which they were sent or delivered.
- (7) Notices or other written communications by a party's solicitor (for example, varying the Inspection Date, Finance Date or Settlement Date) will be treated as given with that party's authority.
- (8) For the purposes of clause 10.4(3)(c) and clause 12.2 the notice or information may be contained within an email, as an attachment to an email or located in an electronic repository accessible by the recipient by clicking a link in an email.

Cat B

INITIALS (Note: Initials not required if signed with Electronic Signature)

10.5 Business Days

- (1) If anything is required to be done on a day that is not a Business Day, it must be done instead on the next Business Day.
- (2) If the Finance Date or Inspection Date fall on a day that is not a Business Day, then it falls on the next Business Day.

10.6 Rights After Settlement

Despite settlement and registration of the transfer, any term of this contract that can take effect after settlement or registration remains in force.

10.7 Further Acts

If requested by the other party, each party must, at its own expense, do everything reasonably necessary to give effect to this contract.

10.8 Severance

If any term or part of a term of this contract is or becomes legally ineffective, invalid or unenforceable in any jurisdiction it will be severed and the effectiveness, validity or enforceability of the remainder will not be affected.

10.9 Interpretation

(1) Plurals and Genders

Reference to:

- (a) the singular includes the plural and the plural includes the singular;
- (b) one gender includes each other gender;
- (c) a person includes a body corporate; and
- (d) a party includes the party's executors, administrators, successors and permitted assigns.

(2) Parties

- (a) If a party consists of more than one person, this contract binds them jointly and each of them individually.
- (b) A party that is a trustee is bound both personally and in its capacity as a trustee.

(3) Statutes and Regulations

Reference to statutes includes all statutes amending, consolidating or replacing them.

(4) Inconsistencies

If there is any inconsistency between any provision added to this contract and the printed provisions, the added provision prevails.

(5) Headings

Headings are for convenience only and do not form part of this contract or affect its interpretation.

10.10 Counterparts

- (1) This contract may be executed in two or more counterparts, all of which will together be deemed to constitute one and the same contract.
- (2) A counterpart may be electronic and signed using an Electronic Signature.

11. ELECTRONIC SETTLEMENT

11.1 Application of Clause

- (1) Clause 11 applies if the Buyer, Seller and each Financial Institution involved in the transaction agree to an Electronic Settlement and overrides any other provision of this contract to the extent of any inconsistency.
- (2) Acceptance of an invitation to an Electronic Workspace is taken to be an agreement for clause 11.1(1).
- (3) Clause 11 (except clause 11.5(2)) ceases to apply if either party gives notice under clause 11.5 that settlement will not be an Electronic Settlement.

11.2 Completion of Electronic Workspace

- (1) The parties must:
 - (a) ensure that the Electronic Workspace is completed and all Electronic Conveyancing Documents and the Financial Settlement Schedule are Digitally Signed prior to settlement; and
 - (b) do everything else required in the Electronic Workspace to enable settlement to occur on the Settlement Date.
- (2) If the parties cannot agree on a time for settlement, the time to be nominated in the Workspace is 4pm AEST.
- (3) If any part of the Purchase Price is to be paid to discharge an Outgoing:
 - (a) the Buyer may, by notice in writing to the Seller, require that the amount is paid to the Buyer's Solicitor's trust account and the Buyer is responsible for paying the amount to the relevant authority;

- (b) for amounts to be paid to destination accounts other than the Buyer's Solicitor's trust account, the Seller must give the Buyer a copy of the current account for the Outgoing to enable the Buyer to verify the destination account details in the Financial Settlement Schedule.

- (4) If the Deposit is required to discharge any Encumbrance or pay an Outgoing at settlement:
 - (a) the Deposit Holder must, if directed by the Seller at least 2 Business Days prior to Settlement, pay the Deposit (and any interest accrued on investment of the Deposit) less commission as clear funds to the Seller's Solicitor;
 - (b) the Buyer and the Seller authorise the Deposit Holder to make the payment in clause 11.2(4)(a);
 - (c) the Seller's Solicitor will hold the money as Deposit Holder under the Contract;
 - (d) the Seller and Buyer authorise the Seller's Solicitor to pay the money as directed by the Seller in accordance with the Financial Settlement Schedule.

11.3 Electronic Settlement

- (1) Clauses 5.1(2) and 5.2 do not apply.
- (2) Payment of the Balance Purchase Price electronically as directed by the Seller's Solicitor in the Financial Settlement Schedule satisfies the Buyer's obligation in clause 2.5(1) and 2.5(3)(f).
- (3) The Seller and Buyer will be taken to have complied with:
 - (a) clause 2.5(3)(c),(e) and (f); and
 - (b) clause 2.5(5)(d) and (e),(as applicable) if at settlement the Financial Settlement Schedule specifies payment of the relevant amount to the account nominated by the Commissioner of Taxation.
- (4) The Seller will be taken to have complied with clauses 5.3(1)(b) and (c) if, at settlement, the Electronic Workspace contains Transfer Documents and (if applicable) releases of the Encumbrances (other than releases of Encumbrances referred to in clause 11.3(5)) for Electronic Lodgement in the Land Registry.
- (5) The Seller will be taken to have complied with clause 5.3(1)(c), (d), (e) and (f) if the Seller's Solicitor:
 - (a) confirms in writing prior to settlement that it holds all relevant documents which are not suitable for Electronic Lodgement and all Keys (if requested under clause 5.3(1)(d)) in escrow on the terms contained in the QLS E-Conveyancing Guidelines; and
 - (b) gives a written undertaking to send the documents and Keys (if applicable) to the Buyer or Buyer's Solicitor no later than the Business Day after settlement; and
 - (c) if requested by the Buyer, provides copies of documents in the Seller's Solicitors possession.
- (6) A party is not in default to the extent it is prevented from complying with an obligation because the other party or the other party's Financial Institution has not done something in the Electronic Workspace.
- (7) Any rights under the contract or at law to terminate the contract may not be exercised during the time the Electronic Workspace is locked for Electronic Settlement.

11.4 Computer System Unavailable

- (1) If settlement fails and cannot occur by 4pm AEST on the Settlement Date because a computer system operated by the Land Registry, Office of State Revenue, Reserve Bank, a Financial Institution or PEXA is Inoperative, neither party is in default and the Settlement Date is deemed to be the next Business Day. Time remains of the essence.
- (2) A party is not required to settle if Electronic Lodgement is not available. If the parties agree to Financial Settlement without Electronic Lodgement, settlement is deemed to occur at the time of Financial Settlement.

11.5 Withdrawal from Electronic Settlement

- (1) Either party may elect not to proceed with an Electronic Settlement by giving written notice to the other party.
- (2) A notice under clause 11.5(1) may not be given later than 5 Business Days before the Settlement Date unless an Electronic Settlement cannot be effected because:
 - (a) the transaction is not a Qualifying Conveyancing Transaction; or

Cat B

INITIALS (Note: Initials not required if signed with Electronic Signature)

- (b) a party's solicitor is unable to complete the transaction due to death, a loss of legal capacity or appointment of a receiver or administrator (or similar) to their legal practice or suspension of their access to PEXA; or
 - (c) the Buyer's or Seller's Financial Institution is unable to settle using PEXA.
- (3) If clause 11.5(2) applies:
- (a) the party giving the notice must provide satisfactory evidence of the reason for the withdrawal; and
 - (b) the Settlement Date will be extended to the date 5 Business Days after the Settlement Date.

11.6 Costs

Each party must pay its own fees and charges of using PEXA for Electronic Settlement.

11.7 Definitions for clause 11

In clause 11:

"Digitally Sign" and "Digital Signature" have the meaning in the ECNL.

"ECNL" means the Electronic Conveyancing National Law (Queensland).

"Electronic Conveyancing Documents" has the meaning in the *Land Title Act 1994*.

"Electronic Lodgement" means lodgement of a document in the Land Registry in accordance with the ECNL.

"Electronic Settlement" means settlement facilitated by PEXA.

"Electronic Workspace" means a shared electronic workspace within PEXA that allows the Buyer and Seller to affect Electronic Lodgement and Financial Settlement.

"Financial Settlement" means the exchange of value between Financial Institutions in accordance with the Financial Settlement Schedule.

"Financial Settlement Schedule" means the electronic settlement schedule within the Electronic Workspace listing the source accounts and destination accounts.

"PEXA" means the system operated by Property Exchange Australia Ltd for settlement of conveyancing transactions and lodgement of Land Registry documents.

"Qualifying Conveyancing Transaction" means a transaction that is not excluded for Electronic Settlement by the rules issued by PEXA, Office of State Revenue, Land Registry, or a Financial Institution involved in the transaction.

12. ELECTRONIC CONTRACT AND DISCLOSURE

12.1 Electronic Signing

If this contract is signed by any person using an Electronic Signature, the Buyer and the Seller:

- (a) agree to enter into this contract in electronic form; and
- (b) consent to either or both parties signing the contract using an Electronic Signature.

12.2 Pre-contract Disclosure

The Buyer consents to the Seller's use of electronic communication to give any notice or information required by law to be given to the Buyer and which was given before the Buyer signed this contract.

Cat B

INITIALS (Note: Initials not required if signed with Electronic Signature)

Vanessa Langtry

From: Simon Muggeridge
Sent: Tuesday, 18 August 2020 11:25 AM
To: Councillors
Cc: Executive Leadership Team
Subject: Capital Projects List for 2021 - Queries
Attachments: Capital Revisions 2020-2021 Council PDF.pdf

Categories: Filed in Objective

Category A - Irrelevant Information (s73 RTI Act)



- Project #3133 had two budgeted acquisitions @ 6 Ernest St Childers and 1 Dear St Gin Gin deferred to this financial year.

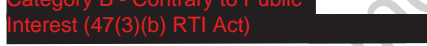
Category A - Irrelevant Information (s73 RTI Act)



Thanks

SIMON MUGGERIDGE
Deputy Chief Financial Officer

Category B - Contrary to Public
Interest (47(3)(b) RTI Act)



Vanessa Langtry

From: Christine Large
Sent: Wednesday, 5 December 2018 1:21 PM
To: Amanda Sapolu; Simon Muggeridge; Steve Johnston - CEO
Subject: FW: 72a Churchill Street, Childers
Attachments: BRC-05122018103438.pdf; CONTRACT-05122018103834.pdf

Hello Steve, Amanda and Simon.

For your information, the Contract for Council purchasing 72a Churchill Street, Childers has been signed.

I will prepare for settlement which is due on Tuesday, 8 January 2019.

Regards
Christine

CHRISTINE LARGE

Property & Leases Officer
Category B - Contrary to Public Interest
(47(3)(b) RTI Act)



From: Melinda Bryant [mailto:MBryant@butlermcdermott.com.au]
Sent: Wednesday, 5 December 2018 10:40 AM
To: Christine Large
Cc: Category B
Subject: 72a Churchill Street, Childers



Dear Christine
Please see attached.

Regards
Category B

Butler McDermott Lawyers
PO Box 117
Nambour 4560
Ph: (07) 5441 1044
Fax: (07) 5441 5096

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Released under Right to Information Act 2009



**BUTLER
McDERMOTT**
LAWYERS

5 December 2018

Our ref: MB:nr:181844

Your ref:

Bundaberg Regional Council
Attention: Christine Large
via email - Category B - Contrary to Public Interest (47(3)(b) RTI Act)

Dear Christine,

RE: BUNDABERG REGIONAL COUNCIL PROPOSED SALE TO BUNDABERG REGIONAL COUNCIL
PROPERTY: 72a CHURCHILL STREET, CHILDERS

We refer to the above matter and now enclose Contract of Sale executed by our client for your attention.

We advise that the Trustees of the Trust are Category B - (47(3)(b) RTI Act)
both of Category B - (47(3)(b) RTI Act)

We note settlement is to be effected on 8 January 2018. If you require anything further at this time, please do not hesitate to contact our office.

Yours faithfully,
BUTLER McDERMOTT LAWYERS

Category B - Contrary to Public Interest (47(3)(b) RTI Act)

Direct Email: mbryant@butlermcdermott.com.au
Direct Fax: (07) 5441 7044

CC: Category B - Contrary to Public Interest (47(3)(b) RTI Act)

Contract for Commercial Land and Buildings

Seventh Edition

This document has been approved by The Real Estate Institute of Queensland Limited and the Queensland Law Society Incorporated as being suitable for the sale and purchase of Commercial Land and Buildings in Queensland.

The Seller and Buyer agree to sell and buy the Property under this contract.

REFERENCE SCHEDULE

A CONTRACT DATE

5 December 2018

NOTE 1

B AGENT:

NAME: WITHOUT THE INTERVENTION OF AN AGENT

ADDRESS: STREET: _____

 SUBURB: _____ STATE: _____ POSTCODE: _____

PHONE: _____ FAX: _____ EMAIL: _____

ABN/ACN: _____ LICENCE NO: _____

C SELLER:

NAME: T & S RYAN CUSTODIAN PTY LTD ACN 161 692 977 TRUSTEE UNDER INSTRUMENT 715265588

ADDRESS: STREET: PO BOX 597

SUBURB: MOOLOOLABA STATE: QLD POSTCODE: 4557

PHONE: _____ FAX: _____ MOBILE: _____ EMAIL: _____
 _____ Category B _____ Category B

ABN/ACN: 28012102042 / 161 692 977

D SELLER'S SOLICITOR:

NAME: BUTLER MCDERMOTT LAWYERS

ADDRESS: STREET: 6-8 WILLIAM STREET
 PO BOX 117

SUBURB: NAMBOUR STATE: QLD POSTCODE: 4560

PHONE: 07 5441 1044 FAX: _____ MOBILE: _____ EMAIL: mbryant@butlermcdermott.com.au

ABN/ACN: _____

INITIALS (Note: Initials not required if signed with Electronic Signature)

E BUYER:

NAME: BUNDABERG REGIONAL COUNCIL

ADDRESS: STREET: PO BOX 3130

SUBURB: BUNDABERG STATE: QLD POSTCODE: 4670

PHONE: Category B FAX: MOBILE: EMAIL: Category B - (47(3)(b) RTI Act)

ABN/ACN:

F BUYER'S SOLICITOR:

NAME:

ADDRESS: STREET:

SUBURB: STATE: POSTCODE:

PHONE: 07 5479 4646 FAX: MOBILE: EMAIL:

ABN/ACN:

G DEPOSIT HOLDER:

NAME: BUTLER MCDERMOTT LAWYERS TRUST ACCOUNT PHONE: 07 5441 1044

H LAND:

Address: 72A CHURCHILL STREET

Suburb: CHILDERS STATE: QLD POSTCODE: 4660

Present use: (if any) Commercial

Description: VOLUMETRIC LOT 18 ON SP 161707

Title reference: 50479950 Area: ■ more or less

NOTE 2
(See
warning)

NOTE 3

Type of holding: Lease No:

Local Government: Bundaberg Regional Council

I IMPROVEMENTS INCLUDED IN SALE:

NOTE 4

Nature of Buildings: Restaurant

Unless excluded below, the Purchase Price includes all partitions, stoves, hot water systems, wall-to-wall floor coverings, drapes and tracks, blinds, light fittings, clothes lines, hoists, fixed television or satellite antennae or dishes, in-ground shrubs and all fixtures as inspected by the Buyer.

Exclusions: TENANT FIXTURES AND FITTINGS

J OTHER CHATTELS INCLUDED IN SALE: ■ Attach inventory if insufficient space

INITIALS (Note: Initials not required if signed with Electronic Signature)

K THE LAND IS SOLD AS:

Choose which applies

Freehold

Subject to the reservations exceptions and conditions in the deed of grant

Leasehold

Subject to the conditions of the Crown leasehold title

L ENCUMBRANCES:

Is the Property sold subject to any Encumbrances? No Yes, listed below

BMS No. 708074025; Easement No. 708074038; Easement 708074048; Easement No. 708074063; Easement No. 708074087; Easement 708074101; Easement No. 70915510

WARNING TO SELLER: You are required to disclose all Title Encumbrances which will remain after settlement (for example, easements on your title and statutory easements for sewerage and drainage which may not appear on a title search). Failure to disclose these may entitle the Buyer to terminate the contract or to compensation. It is NOT sufficient to state "refer to title", "search will reveal", or similar.

M LEASES AND SERVICE CONTRACTS:

NOTE 5 See Lease Schedule and Service Contract Schedule.

N PURCHASE PRICE:

\$ 280,000.00

O DEPOSIT:

\$ Initial Deposit payable on the day the Buyer signs this contract unless another time is specified below:

\$ Balance Deposit (if any) payable on:

Deposit Holder's Trust Account: BUTLER MCDERMOTT LAWYERS TRUST ACCOUNT

Bank: BANK OF QLD

BSB: Cat B

Account No: Cat B

P DEFAULT INTEREST RATE:

CLAUSE 11 & NOTE 6

% If no figure is inserted, the Contract Rate applying at the Contract Date published by the Queensland Law Society Inc will apply.

Q SETTLEMENT DATE:

8 January 2019
or the next Business Day if that is not a Business Day in the city or town in Item R

R CITY OR TOWN FOR SETTLEMENT:

CLAUSES 25.1 & 25.2

NAMBOUR

NOTE 7

SUBJECT TO FINANCE:

If this Contract is subject to finance then Items S, T and U must be completed in every respect and Item V must be deleted and initialled.

CLAUSE 31

NOT SUBJECT TO FINANCE:

If this Contract is not to be subject to finance then Items S, T and U must be deleted and initialled and Item V shall apply.

S LENDER OR CLASS OF LENDER:

INITIALS (Note: Initials not required if signed with Electronic Signature)

T THE APPROVAL DATE:

The _____ day of _____ MONTH YEAR

OR the next Business Day if that is not a Business Day in the city or town in Item R

U AMOUNT OF LOAN:

\$ _____

V

THIS CONTRACT IS NOT SUBJECT TO FINANCE AND CLAUSE 31 OF THE STANDARD COMMERCIAL CONDITIONS DOES NOT APPLY.

W NEIGHBOURHOOD DISPUTES (DIVIDING FENCES AND TREES) ACT 2011

The Seller gives notice to the Buyer in accordance with Section 83 of the Neighbourhood Disputes (Dividing Fences and Trees) Act 2011 that the Land: (select whichever is applicable)

*is not affected by any application to, or an order made by, the Queensland Civil and Administrative Tribunal (QCAT) in relation to a tree on the Land

*is affected by an application to, or an order made by, QCAT in relation to a tree on the Land, a copy of which has been given to the Buyer prior to the Buyer signing the contract.

■ **WARNING:** Failure to comply with s83 Neighbourhood Disputes (Dividing Fences and Trees Act 2011) by giving a copy of an order or application to the Buyer (where applicable) prior to Buyer signing the contract will entitle the Buyer to terminate the contract prior to Settlement.

X BUILDING AND/OR PEST INSPECTION DATE

Inspection Date: _____

■ If 'Inspection Date' is not completed, the contract is not subject to an inspection report and clause 35 does not apply.

INITIALS (Note: Initials not required if signed with Electronic Signature)

GST TABLE

GOODS AND SERVICES TAX – WARNING

Marking the GST items in the GST Table may have significant consequences for the Seller and Buyer. The Seller and Buyer should seek professional advice about completion of the GST items and not rely on the Agent to complete the GST items.

Notes to completion:

- A. Only 1 box in the selected item must be marked.
- B. If the Yes box in item GST1 is marked:
 - Items GST2 and GST3 must not be marked;
 - despite any markings of Items GST2 and GST3, Clauses 34.4, 34.5 and 34.6 do not apply.
- C. If the Yes box in item GST2 is marked:
 - items GST1 and GST3 must not be marked;
 - despite any marking of Items GST1 and GST3, Clauses 34.4, 34.5 and 34.7 do not apply.

GST1 Going Concern:

Is this a sale of a Going Concern? Yes
 If Yes, clause 34.7 (If the Supply is a Going Concern) applies.
 Otherwise clause 34.7 (If the Supply is a Going Concern) does not apply.
 If the Yes box is marked, do not complete items GST2 and GST3.

■ **WARNING:** There are strict requirements for the sale of a Going Concern under the GST Act. If in doubt about complying with those provisions, seek professional advice before marking this item.

GST2 Margin Scheme:

Is the Margin Scheme to apply to the sale of the Property? Yes
 If Yes, clause 34.6 (Margin Scheme) applies. Otherwise clause 34.6 (Margin Scheme) does not apply.
 The Seller must not apply the Margin Scheme to the Supply of the Property if clause 34.6 does not apply.

■ If the Yes box is marked, do not complete Items GST1 and GST3.

GST3 Inclusive or Exclusive Purchase Price:

Does the Purchase Price include GST? Mark 1 box only

<input type="checkbox"/> Yes	If Yes, clause 34.4 (Purchase Price includes GST) applies.
<input type="checkbox"/> No	If No, clause 34.5 (Purchase Price Does Not Include GST) applies.

■ Do not complete Item GST3 if Item GST1 (Going Concern) or Item GST2 (Margin Scheme) are marked Yes.

If neither box is marked or if both boxes are marked, clause 34.4 (Purchase Price Includes GST) applies.

GST WITHHOLDING OBLIGATIONS

Buyer Warranty

Is the Buyer registered for GST and acquiring the Land for a creditable purpose? (select whichever is applicable)

Yes

No

[Note: If the Buyer selects [No] the Seller may be required to give a notice under section 14-255 of the Withholding Law prior to settlement.]

■ **WARNING:** the Buyer warrants in clause 4.5 that this information is true and correct.

INITIALS (Note: Initials not required if signed with Electronic Signature)

LEASE SCHEDULE*

See Clause 32 of Standard Commercial Terms

LEASE 1:

Name of Tenant: SUBWAY REALTY PTY LTD A.C.N. 009 277 374

Use: SUBWAY FRANCHISE RESTAURANT

Location/Tenancy No: THE WHOLE OF THE LOT

Area of Tenancy (m² approx.): 1,182 m3

Current Rent per Annum: \$ 20,645.00 inclusive of outgoings exclusive of outgoings

Current Commencement Date:

Current Lease Term:

Remaining Options:

Option 1	Term	4	years
Option 2	Term	4	years
Option 3	Term		years

Tenant Car Park: No.: _____ Rate \$ _____ per annum per month

LEASE 2:

Name of Tenant:

Use:

Location/Tenancy No:

Area of Tenancy (m² approx.):

Current Rent per Annum: \$ _____ inclusive of outgoings exclusive of outgoings

Current Commencement Date:

Current Lease Term:

Remaining Options:

Option 1	Term		years
Option 2	Term		years
Option 3	Term		years

Tenant Car Park: No.: _____ Rate \$ _____ per annum per month

* Attach further Schedule if insufficient space.

SERVICE CONTRACT SCHEDULE*

See Clause 32 of Standard Commercial Terms

CONTRACT 1:

Contractor: N/A

Service Performed:

Cost: \$ _____ per annum per quarter per month

CONTRACT 2:

Contractor:

Service Performed:

Cost: \$ _____ per annum per quarter per month

CONTRACT 3:

Contractor:

Service Performed:

Cost: \$ _____ per annum per quarter per month

INITIALS (Note: Initials not required if signed with Electronic Signature)

CONTRACT 4:

Contractor:

Service Performed:

Cost:

\$	<input type="checkbox"/> per annum <input type="checkbox"/> per quarter <input type="checkbox"/> per month

CONTRACT 5:

Contractor:

Service Performed:

Cost:

\$	<input type="checkbox"/> per annum <input type="checkbox"/> per quarter <input checked="" type="checkbox"/> per month

**Attach further Schedule if insufficient space.*

Released under Right to Information Act 2009

INITIALS (Note: Initials not required if signed with Electronic Signature)

SPECIAL CONDITIONS

1. This Contract is subject to and conditional upon the Seller providing to the Buyer on or before the Settlement Date a signed Form 20 Statutory Declaration providing that the Property is not being transferred to the Buyer as sole trustee, in accordance with section 117 of the Trusts Act 1973 (Qld).

Released under Right to Information Act 2009

The approval by The Real Estate Institute of Queensland Limited and the Queensland Law Society Inc does not extend to any alterations to the printed text of the Standard Commercial Terms or to any Special Conditions of this Contract. The Standard Commercial Terms may need to be added to or varied by inserting specifically prepared Special Conditions in this Contract. If the printed text of the Standard Commercial Terms is altered, or Special Conditions are included, it is recommended that the Seller and the Buyer consult their respective legal advisers prior to signing this Contract.

INITIALS (Note: Initials not required if signed with Electronic Signature)

SIGNATURES:

BUYER'S SIGNATURE:

X **Category B - Contrary to Public Interest (47(3)(b) RTI Act)**

By signing this contract I warrant that I am the Buyer named in the Reference Schedule or authorised by the Buyer to sign.

NAME OF PERSON SIGNING:
(INSERT IN BLOCK LETTERS)

STEVE JOHNSTON - CEO - BUNDABERG REGIONAL COUNCIL

WITNESS:

Category B - Contrary to Public Interest (47(3)(b) RTI Act)

[Note: No witness is required if the Buyer signs using an Electronic Signature]

WITNESS NAME:

X ROBIN PILCOX

BUYER'S SIGNATURE:

By signing this contract I warrant that I am the Buyer named in the Reference Schedule or authorised by the Buyer to sign.

NAME OF PERSON SIGNING:
(INSERT IN BLOCK LETTERS)

WITNESS:

[Note: No witness is required if the Buyer signs using an Electronic Signature]

WITNESS NAME:

SELLER'S SIGNATURE:

X **Category B - Contrary to Public Interest (47(3)(b) RTI Act)**

By signing this contract I warrant that I am the Seller named in the Reference Schedule or authorised by the Seller to sign.

NAME OF PERSON SIGNING:
(INSERT IN BLOCK LETTERS)

Category B - (47(3)(b) RTI Act)
T/S RYAN CUSTODIAN PTY LTD ACN 161 692 977 AS TRUSTEE

WITNESS:

[Note: No witness is required if the Seller signs using an Electronic Signature]

WITNESS NAME:

SELLER'S SIGNATURE:

X **Category B - (47(3)(b) RTI Act)**

By signing this contract I warrant that I am the Seller named in the Reference Schedule or authorised by the Seller to sign.

NAME OF PERSON SIGNING:
(INSERT IN BLOCK LETTERS)

Category B - (47(3)(b) RTI Act)
T/S RYAN CUSTODIAN PTY LTD ACN 161 692 977 AS TRUSTEE

WITNESS:

[No witness is required if the Seller signs using an Electronic Signature]

WITNESS NAME:

DEPOSIT HOLDER'S ACKNOWLEDGEMENT:

NOTE 8 The Deposit Holder acknowledges having received \$ _____ as the Deposit or on account of the Deposit and agrees to hold that amount and any balance of the Deposit when received as Deposit Holder for the parties as provided in this Contract.

Deposit Holder's Signature:

Licence No.:

INITIALS (Note: Initials not required if signed with Electronic Signature)

Standard Commercial Terms | Commercial Land and Buildings

Seventh Edition © Copyright

1. DEFINITIONS

11 In this Contract, terms in **bold** in the Reference Schedule have the meanings shown opposite them and unless the context otherwise indicates:

- (a) **"Agent"** means the person named in Item B and includes auctioneer;
- (b) **"ATO"** means the Australian Taxation Office;
- (c) **"ATO Clearance Certificate"** means a certificate issued under section 14-220(1) of the Withholding Law which is current on the date it is given to the Buyer;
- (d) **"Bond"** includes any security for payment of rent or other monies or performance of any obligation pursuant to any Lease;
- (e) **"Business Day"** means a day other than:
 - (i) a Saturday or Sunday;
 - (ii) a public holiday in the city or town named in Item R; or
 - (iii) a day in the period 27 to 31 December (inclusive)
- (f) **"Buyer"** means the party named in Item E;
- (g) **"CGT Withholding Amount"** means the amount determined under section 14-200(3)(a) of the Withholding Law or, if a copy is provided to the Buyer prior to settlement, a lesser amount specified in a variation notice under section 14-235;
- (h) **"Contract Rate"** means the rate of interest at the Contract Date published by the Queensland Law Society Incorporated for the purposes of clause 11;
- (i) **"Deposit"** means the sum stated in Item O;
- (j) **"Deposit Holder"** means the person named in Item G or, where no person is named in Item G, the Agent;
- (k) **"Electronic Signature"** means an electronic method of signing that identifies the person and indicates their intention to sign the contract;
- (l) **"Encumbrances"** includes but is not limited to:
 - (i) unregistered encumbrances;
 - (ii) statutory encumbrances; and
 - (iii) Security Interests.
- (m) **"Enterprise"** means the enterprise (as the term is defined in the GST Act) carried on using the Property;
- (n) **"Financial Institution"** means a bank, building society or credit union;
- (o) **"GST"** means the goods and services tax under the GST Act;
- (p) **"GST Act"** means A New Tax System (Goods and Services Tax) Act and includes other GST related legislation;
- (q) **"GST Withholding Amount"** means the amount (if any) determined under section 14-250 of the Withholding Law required to be paid to the Commissioner of Taxation;
- (r) **"Guarantee"** means a guarantee or an undertaking in relation to any tenant or occupier under a Lease;
- (s) **"ITAA"** means the Income Tax Assessment Act 1936 and the Income Tax Assessment Act 1997;
- (t) **"Item"** means an item of particulars in the Reference Schedule;
- (u) **"Keys"** means implements or instruments necessary for the purposes of fastening or unfastening:

- (i) the lock on any gate, door, grille, shutter or lift which secures any means of entrance to or exit from the Land (whether or not such gate, door, grille, shutter or lift forms part of the Property);
 - (ii) any other lock attached to or included in the property; and includes electronic devices and written records of all codes and combinations necessary for the purposes of fastening or unfastening any such lock;
 - (v) **"Land"** means the land described in Item H;
 - (w) **"Lease"** means all leases, subleases, agreements for lease, agreements for sublease and tenancy agreements whether oral or in writing, and as the context admits, licences and rights to occupy, and which are set out in the Lease Schedule;
 - (x) **"Local Government"** means the relevant local government (and includes the Brisbane City Council);
 - (y) **"PPSR"** means the Personal Property Securities Register established under *Personal Property Securities Act 2009* (Cth).
 - (z) **"Property"** means the property listed in Items H, I and J and includes any part of the Property;
 - (aa) **"Purchase Price"** means the sum stated in Item N;
 - (bb) **"Rent"** means base rent, turnover rent, percentage rent, contributions to outgoings and any money payable by a tenant to the Seller.
 - (cc) **"Security Interests"** means all security interests registered on the PPSR over the Property;
 - (dd) **"Seller"** means the party named in Item C;
 - (ee) **"Service Contract"** for the purposes of clause 32 of this Contract means any contract between the Seller and another party pertaining to services performed for the benefit of the Property, which are capable of assignment, and which are set out in the Service Contract Schedule and **"Service Contractor"** means any party performing those services;
 - (ff) **"Settlement Date"** means the date stated in Item Q or such other date as may be agreed in writing by the parties or fixed pursuant to the conditions of this Contract;
 - (gg) **"Site Value"** means:
 - (i) in the case of non-rural land, site value under the *Land Valuation Act 2010*; or
 - (ii) in the case of rural land, the *unimproved* value of the Land under the *Land Valuation Act 2010*;
 - (hh) **"Solicitor"** means a solicitor currently entitled to practice in Australia whether acting as principal or agent;
 - (ii) **"Transport Infrastructure"** has the meaning in the *Transport Infrastructure Act 1994*; and
 - (jj) **"Withholding Law"** means Schedule 1 to the *Taxation Administration Act 1953* (Cth).
- 12 Unless the contrary is shown, the contract shall be deemed to have been formed on the date of this Contract and the date of this Contract shall be deemed to be the date stated in Item A.
- 13 Any reference in this Contract to a statute includes:
- (a) any statute amending, consolidating or replacing the statute; and
 - (b) Orders in Council, proclamations, regulations, rules, by-laws and ordinances made under the statute.
- 14 In this Contract, unless inconsistent with the context or subject

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matter, where the term "Item" is used in conjunction with a particular letter of the alphabet, it is a reference to the Item set opposite the letter referred to.

- 15 Any defined terms used in any part of this Contract shall have the same meaning when used in any other part of this Contract.
- 16 The marginal notes in the Reference Schedule are references to clauses or notes, as the case may be, in the Standard Commercial Terms.
- 17 This Contract shall be governed by the laws of Queensland.
- 18 Headings and notes have been included for ease of reference and guidance and this Contract shall be construed without reference to them.

2. BUSINESS DAYS

- 21 If anything is required to be done on a day that is not a Business Day, it must be done instead on the next Business Day.

3. DEPOSIT

- 31 The Deposit shall be paid by the Buyer to the Deposit Holder at the times stated in Item O.

- 32 If the Buyer:

- (a) fails to pay the Deposit as provided in clause 3.1;
- (b) pays the Deposit by cheque which is post-dated; or
- (c) pays the Deposit by cheque which is not honoured on presentation;

then, the Buyer shall be in substantial breach of this Contract and the Seller may:

- (i) affirm this Contract and exercise the rights expressed in clause 13.2; or
- (ii) terminate this Contract and exercise the rights expressed in clause 13.3.

- 33 The rights and powers conferred by clause 3.2 are in addition to any other rights the Seller may have at law or in equity.
- 34 The Deposit shall be retained by the Deposit Holder until settlement or earlier termination of this Contract whereupon the Deposit Holder shall pay the Deposit to the person entitled to it.
- 35 If this Contract is terminated pursuant to the provisions of clauses 7.6, 9.3(a), 19, 20.1, 21.1, 31.2(a), 32.2, 32.3(b) or 35.4, the Deposit and other moneys paid under this Contract shall be refunded to the Buyer by the Seller or the Deposit Holder as the case may be but without interest, costs or damages and the same shall be accepted by the Buyer in full and final satisfaction of all claims.

4. SETTLEMENT AND POSSESSION

- 41 The balance of the Purchase Price shall be paid on the Settlement Date as the Seller or the Seller's Solicitor directs in exchange for:

- (a) possession of the Property (such possession to be vacant except for any Lease);
- NOTE 9 (b) a properly executed transfer for the Land in favour of the Buyer capable of immediate registration (after stamping) in the appropriate office free from Encumbrances (other than those set out in Item L) and title to the Property (other than the Land) free from Encumbrances (other than those set out in Item L) but subject to the conditions of this Contract;
- (c) any declaration required, by the *Duties Act 2001* to be furnished to procure the stamping of the transfer;
- (d) such other instruments or declarations as are required by law to be signed by the Seller to procure the stamping and/or registration of the transfer;
- (e) except as otherwise provided in this Contract, any instrument of title for the Land required to register the transfer;
- (f) notices of assignment issued pursuant to clause 16.5;
- (g) all other instruments (which shall be duly stamped) in the possession or control of the Seller evidencing estates and interests affecting the Property and which are exclusive to

the Property;

- (h) true copies of all other instruments (which shall be duly stamped) in the possession or control of the Seller evidencing estates and interests affecting the Property but which are not exclusive to the Property;
- (i) the Certificate of Classification pursuant to the *Building Act 1975* appropriate to the uses stated in Item H (if the improvements on the Land may not be lawfully occupied unless such certificate has issued);
- (j) all plans and drawings relating to the construction of the improvements on the Land in the possession or control of the Seller; and
- (k) all documents in the possession or control of the Seller which the Buyer would reasonably require to enable the Buyer to manage the Property and to prepare returns under the ITAA.

- 42 If both of the following apply:

- (a) the sale is not an excluded transaction under section 14-215 of the Withholding Law; and
- (b) the Seller has not given the Buyer on or before settlement for each person comprising the Seller either:
 - (i) an ATO Clearance Certificate; or
 - (ii) a variation notice under section 14-235 of the Withholding Law which remains current at the Settlement Date varying the CGT Withholding Amount to nil.

then:

- (c) for clause 4.1, the Seller irrevocably directs the Buyer to draw a bank cheque for the CGT Withholding Amount in favour of the Commissioner of Taxation or, if the Buyer's Solicitor requests, the Buyer's Solicitor's Trust Account;
- (d) the Buyer must lodge a *Foreign Resident Capital Gains Withholding Purchaser Notification Form* with the ATO for each person comprising the Buyer and give copies to the Seller with the payment reference numbers (PRN) on or before settlement;
- (e) the Seller must return the bank cheque in paragraph (c) to the Buyer's Solicitor (or if there is no Buyer's Solicitor, the Buyer) at settlement; and
- (f) the Buyer must pay the CGT Withholding Amount to the ATO in accordance with section 14-200 of the Withholding Law and give the Seller evidence that it has done so within 2 Business Days of settlement occurring.

- 43 For clause 4.2 and section 14-215 of the Withholding Law, the market value of the CGT asset is taken to be the Purchase Price less any GST included in the Purchase Price for which the Buyer is entitled to an input tax credit unless:

- (a) the Property includes items in addition to the Land and Improvements; and
- (b) no later than 2 Business Days prior to the Settlement Date, the Seller gives the Buyer a valuation of the Land and Improvements prepared by a registered valuer,

in which case the market value of the Land and Improvements will be as stated in the valuation.

- 44 If the Buyer is required to pay the GST Withholding Amount to the Commissioner of Taxation at settlement pursuant to section 14-250 of the Withholding Law:

- (a) the Seller must give the Buyer a notice in accordance with section 14-255(1) of the Withholding Law;
- (b) prior to settlement the Buyer must lodge with the ATO:
 - (i) a *GST Property Settlement Withholding Notification form* ("Form 1"); and
 - (ii) a *GST Property Settlement Date Confirmation form* ("Form 2");
- (c) on or before settlement, the Buyer must give the Seller copies

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of:

- (i) the Form 1;
 - (ii) confirmation from the ATO that the Form 1 has been lodged specifying the Buyer's lodgement reference number and payment reference number;
 - (iii) confirmation from the ATO that the Form 2 has been lodged; and
 - (iv) a completed ATO payment slip for the Withholding Amount;
- (d) the Seller irrevocably directs the Buyer to draw a bank cheque for the GST Withholding Amount in favour of the Commissioner of Taxation and deliver it to the Seller at settlement; and
- (e) the Seller must pay the GST Withholding Amount to the ATO in compliance with s 14-250 of the Withholding Law promptly after settlement.
- 4.5 The Buyer warrants that the statements made by the Buyer in the Reference Schedule under GST Withholding Obligations are true and correct.

5. KEYS

- 5.1 Immediately on settlement, the Seller shall deliver all Keys, which are in the possession or under the control of the seller, in accordance with any notice given in writing by the Buyer to the Seller and failing such notice, the Seller shall deliver the Keys:
- (a) to the Buyer, if the Buyer is present personally at settlement;
 - (b) to the Buyer's solicitor at settlement, if the Buyer is not present personally;
 - (c) to the Seller's Agent at the address shown in Item B, if neither the Buyer nor any solicitor acting for the Buyer is present personally at settlement;
 - (d) to and will leave the keys at the Property if none of the provisions of clauses 5.1(a), 5.1(b) or 5.1(c) are applicable.
- 5.2 At or prior to settlement, the Seller shall make a written record of all codes and combinations necessary for the purposes of fastening or unfastening any lock referred to in the definition of Keys.

6. INVESTMENT OF DEPOSIT

- 6.1 If either party directs by notice in writing to the Deposit Holder to invest the Deposit then (where the Deposit Holder is lawfully able) the Deposit Holder shall invest the Deposit with any Financial Institution permitted by law for the investment of trust monies until the Settlement Date.
- 6.2 If this Contract is completed, all interest accruing on the investment of the Deposit shall be shared equally between the Seller and the Buyer. If this Contract is not completed for any reason, the interest accruing on the Deposit shall be paid to the party entitled to the Deposit upon termination of this Contract.
- 6.3 The Deposit and any accrued interest shall be invested at the risk of the party to whom the Deposit and accrued interest is ultimately payable and the Deposit Holder shall not be liable for any loss suffered by the parties in consequence of an investment pursuant to clause 6.1.
- 6.4 To facilitate investment of the Deposit, each party shall notify its tax file number to the Deposit Holder within 4 Business Days following the date of this Contract.
- 6.5 The parties authorise the Deposit Holder to prepare and lodge any taxation return necessary in respect of the Deposit and interest and to pay any tax assessed out of the Deposit and interest and indemnify the Deposit Holder against any taxation assessed in respect of such interest.
- 6.6 The Seller and the Buyer shall be deemed to be presently entitled in equal shares to any interest accrued for the purposes of ITAA.

7. SELLER'S STATEMENT

- 7.1 The Buyer is not entitled to deliver to the Seller requisitions or enquiries on or to the Seller's title to the Property.

- 7.2 The Seller states that, except as disclosed in this Contract, each of the following statements is accurate at the time the Seller executes this Contract:

- (a) the Seller has free and unqualified capacity and power to contract and to complete this Contract;
- (b) the Seller is not under any legal disability which affects the Seller's capacity to contract and to complete this Contract; and
- (c) if the Seller is a trustee, the Seller has free and unqualified power of sale under the instrument creating the trust, and that instrument does not require the consent or authority of any person to the entering into of this Contract or the settlement of this Contract.

- 7.3 The Seller states that, except as disclosed in this Contract, each of the following statements will be accurate at the Settlement Date:

- (a) there is no current litigation by any person claiming an estate or interest in the Property;
- (b) there is no unsatisfied judgment, order or writ of execution which affects the Property;
- (c) no order has been made under Part 11 of the *Property Law Act 1974* which would operate as a charge on the Land;
- (d) there is no order of a Court or other competent authority affecting the ability of the Seller to complete this Contract;
- (e) no notice has been issued by a competent authority or proceedings instituted in a Court pursuant to any statute whereby the interest of the Seller in the Property may be rendered liable to forfeiture to the Crown;
- (f) if the Land is Crown leasehold title, the Crown leasehold title is not rendered liable to forfeiture by reason of the non-observance or non-performance of the covenants or conditions of the lease;
- (g) if the Seller is a natural person, the Seller is not a bankrupt nor has the Seller signed any authority under section 188 of the *Bankruptcy Act 1966* (Cth);
- (h) if the Seller is a corporation within the meaning of the *Corporations Act 2001* (Cth):
 - (i) the Seller is not in liquidation;
 - (ii) no action has been taken by or against the Seller which could lead to the winding up of the Seller;
 - (iii) an administrator, controller or managing controller has not been appointed to the Seller or in respect of the whole or any part of the Property; and
 - (iv) a compromise or arrangement has not been proposed between the Seller and its members or creditors nor agreed to by the members or creditors nor sanctioned by a Court; and
- (i) the Seller is the registered owner or the lessee of the Land (according to the title expressed or implied in this Contract).

- 7.4 If a statement contained in either clause 7.2 or clause 7.3 is not accurate then the Buyer may terminate this Contract by notice in writing to the Seller.

- 7.5 If this Contract is terminated pursuant to clause 7.4, the Deposit and other moneys paid under this Contract shall be refunded to the Buyer by the Seller or the Deposit Holder as the case may be and the Seller shall be liable by way of damages as compensation for the loss suffered by the Buyer in such sum as at the time this Contract was made was reasonably foreseeable as the loss liable to result, and which does in fact result from termination of this Contract due to a statement contained in either clause 7.2 or clause 7.3 not being accurate.

- 7.5 (1) The Seller warrants that, except as disclosed in this Contract or a notice given by the Seller to the Buyer under the *Environmental Protection Act 1994* ("EPA"), at the date of this Contract:

- (a) there is no outstanding obligation on the Seller to give notice to the administering authority under EPA of a notifiable activity being conducted on the Land; and

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- (b) the Seller is not aware of any facts or circumstances that may lead to the Land being classified as contaminated land within the meaning of EPA.
- (2) If the Seller breaches a warranty in clause 7.6(1), the Buyer may:
 - (a) terminate this Contract by notice in writing to the Seller given 14 days after the date of this Contract; or
 - (b) complete this Contract and claim compensation, but only if the Buyer claims it in writing before settlement of this Contract.
- 7.7 If requested by the Buyer, the Seller within 14 days of such request shall:
 - (a) produce to the Buyer all unregistered documents relating to the Property and full and proper particulars of all unregistered dealings that so relate; and
 - (b) deliver to the Buyer photocopies of such documents or dealings (if the dealings are in writing) certified by the Seller or the Seller's solicitor as being true copies.

8. ERRORS AND MISDESCRIPTIONS

- 8.1 If there is any immaterial mistake or error in the description or particulars of the Property or as to title, the Buyer shall not be entitled to terminate this Contract but shall be entitled to such compensation (if demanded in writing on or before the Settlement Date) as the case may require. The Buyer shall not be entitled to delay settlement or to withhold any part of the Purchase Price by reason of any such claim for compensation.
- 8.2 If there is any material mistake or error in the description or particulars of the Property or as to title and the Buyer does not exercise any right which the Buyer has at law to terminate this Contract, the Buyer shall be entitled to such compensation (if demanded in writing on or before the Settlement Date) as the case may require. The Buyer shall not be entitled to delay settlement or to withhold any part of the Purchase Price by reason of any such claim for compensation.

9. SURVEY AND INSPECTION

- 9.1 The Buyer shall be entitled to conduct a survey of the Land to ascertain the boundaries and area of the Land and to establish the location of structures purporting to be on the Land or on adjoining land.
- 9.2 If there is any immaterial error in the boundaries or area of the Land or any immaterial encroachment, the Buyer shall not be entitled to terminate this Contract but shall be entitled to such compensation (if demanded in writing on or before the Settlement Date) as the case may require. The Buyer shall not be entitled to delay settlement or to withhold any part of the Purchase Price by reason of any such claim for compensation.
- 9.3 If there is any material error in the boundaries or area of the Land or any material encroachment, the Buyer shall be entitled to elect by notice in writing to the Seller given on or before the Settlement Date either:
 - (a) to terminate this Contract; or
 - (b) to complete this Contract with compensation, in which event the Buyer shall be entitled to such compensation as the case may require and shall not be entitled to delay settlement or to withhold any part of the Purchase Price by reason of any such claim for compensation.

10. EXECUTION AND PRODUCTION OF DOCUMENTS

- 10.1 Subject to compliance by the Buyer with the Buyer's obligations under or by virtue of this Contract the Seller shall as required do all acts and execute all documents necessary for the purpose of completing the sale and ensuring that the Buyer obtains a good and valid title to the Property but all transfer documents, any declaration required pursuant to clause 4(c), and all instruments or declarations required pursuant to clause 4(d) shall be prepared by and at the expense of the Buyer and delivered to the Seller within a reasonable time prior to the Settlement Date.
- 10.2 If so requested by the Buyer, the Seller shall deliver to the Buyer, prior to the Settlement Date, photocopies of the documents executed by the Seller.

- 10.3 After execution of the transfer, if so requested by the Buyer and upon payment of the usual production fee by the Buyer, the Seller shall cause the transfer to be tendered to the Office of State Revenue for stamping, together with any declaration referred to in clause 4(c) and thereupon the Seller shall be deemed to have complied with the Seller's obligations under clause 4(c).
- 10.4 If an instrument of title is required to register a transfer of the Land and the instrument of title relating to the Land also relates to other land, the Seller shall not be obliged to deliver it to the Buyer but shall enter into such reasonable covenants with the Buyer as the Buyer may require for production of the instrument of title.
- 10.5 If the instrument of title is partially cancelled the Seller shall not be obliged to produce a separate instrument of title on settlement.
- 10.6 Where either clause 10.4 or clause 10.5 applies, the Buyer shall bear the cost of any new instrument of title relating to the Land.

11. INTEREST ON LATE PAYMENTS

- 11.1 The Buyer must pay interest at the annual rate in Item P:
 - (a) on any amount payable under this contract which is not paid when due; and
 - (b) on any judgement for money payable under this contract.
- 11.2 Interest continues to accrue:
 - (a) under clause 11.1(a), from the date it is due until paid; and
 - (b) under clause 11.1(b), from the date of judgement until paid.
- 11.3 Any amount payable under clause 11.1(a) in respect of a period prior to settlement must be paid by the Buyer at settlement. If this contract is terminated or if any amount remains unpaid after settlement, interest continues to accrue.
- 11.4 Nothing in this clause affects any other rights of the Seller under this contract or at law.

12. DIVIDING FENCES

Notwithstanding any provision in the *Neighbourhood Disputes (Dividing Fences and Trees) Act 2011*, the Seller need not contribute to the cost of construction of any dividing fence between the Land and any adjoining land owned by it. The Buyer waives any right to claim contribution from the Seller.

13. BUYER'S DEFAULT

- 13.1 If the Buyer:
 - (a) fails to pay the balance of the Purchase Price as provided in clause 4; or
 - (b) fails to comply with any of the terms or conditions of this Contract;
 then the Seller may:
 - (i) affirm this Contract; or
 - (ii) terminate this Contract.
- 13.2 If the Seller affirms this Contract pursuant to clause 3.2 or clause 13.1, the Seller may:
 - (a) sue the Buyer for damages for breach or for specific performance and damages in addition to or instead of damages for breach; and
 - (b) recover from the Buyer as a liquidated debt the Deposit or any part of it which the Buyer has failed to pay and shall pay the Deposit or any part of the Deposit which is recovered to the Deposit Holder.
- 13.3 If the Seller terminates this Contract pursuant to clause 3.2 or clause 13.1, the Seller may elect to:
 - (a) declare the Deposit (or so much of it as shall have been paid) forfeited and/or sue the Buyer for breach; or
 - (b) declare the Deposit (or so much of it as shall have been paid) forfeited and/or resell the Property and if the resale is completed within 2 years from the date of termination any deficiency and any expense arising from such resale shall be recoverable by the Seller from the Buyer as liquidated damages;
 and in either case the Seller may recover from the Buyer as a liquidated debt the Deposit or any part of it which has not been

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paid by the Buyer.

- 134 The rights and powers conferred upon the Seller by this clause 13 are in addition to any other right or power which the Seller may have at law or in equity.

14. PARTICULARS OF ADJUSTABLE ITEMS

- 141 Within a reasonable time after written request by the Buyer prior to the Settlement Date, the Seller shall deliver to the Buyer:

- (a) a written statement of all rates, taxes, outgoings, rents and profits not capable of discovery by search or enquiry in any office of public record or pursuant to the provisions of any statute in respect of the Property; and
- (b) (where the Land is subject to a Lease) a written statement disclosing to the extent the same is not disclosed in the Lease Schedule:
 - (i) the names and postal addresses of any tenant or other occupier of the Land;
 - (ii) the amounts, the due days for and the manner of payment of all periodic sums payable in respect of the Lease;
 - (iii) the date to which the same shall have been paid; and
 - (iv) the amounts of any Bond held from any such tenant or other occupier and the identity of the party holding such Bond.

- 142 If the Seller becomes aware of any information at any time between the date of delivering any such statement and settlement the effect of which is or may be to render such statement untrue in a material respect the Seller shall immediately disclose that information to the Buyer by notice in writing.

- 143 The Seller warrants that every such statement shall be true at the Settlement Date.

15. ADJUSTMENTS

- 151 The Seller shall pay or discharge all rates, taxes (including land tax) and other outgoings (except insurance premiums on insurances effected by the Buyer) with respect to the Property up to and including the date of possession.

- 152 The Buyer shall pay or discharge all rates, taxes (including land tax) and other outgoings with respect to the Property from the date of possession.

- 153 Except for water charges based on the quantity of water used all rates, taxes and outgoings shall be apportioned:

- (a) in the case of those paid by the Seller, on the amount actually paid;
- (b) in the case of those levied but unpaid, on the amount payable disregarding any discount for early payment;
- (c) in the case of those not levied but the amount can be ascertained by advice from the relevant rating and taxing authority, on the amount advised by the relevant rating and taxing authority disregarding any discount for early payment; and
- (d) in the case of those not levied and not ascertainable from the relevant rating and taxing authority and where a separate assessment was issued for the Land for the assessment period immediately prior to the date of possession, on the amount payable in that separate assessment disregarding any discount for early payment.

- 154 Any rates in the nature of water rates and which are not determined by reference to water usage shall be apportioned in accordance with clause 15.3. Any water charges based on the quantity of water used shall be adjusted in accordance with the following provision:

- (a) the Buyer, at the expense of the Buyer, shall read or procure the reading of any water meter installed on the Land no more than 5 days and no less than 3 days prior to the date of possession, and shall inform the Seller of the results of the water meter reading;
- (b) the deemed water usage in litres for the whole of the current rating period for water charges ("the deemed water usage") shall be calculated as the amount which is directly proportionate to the water usage between the date of

commencement of the current rating period for water charges and the date of the water meter reading referred to in clause 15.4(a) (no allowance being made for seasonal or other factors);

- (c) the likely assessment of water charges for the deemed water usage shall be calculated by using the method and rates then being used by the Local Government or other water supplier ("the likely assessment");

- (d) the likely assessment shall then be apportioned.

- 155 Land tax shall be apportioned

- (a) on the assessment that the Office of State Revenue would issue for the land tax year current at the Settlement Date if the Seller was one natural person resident in Queensland and the Land was the Seller's only land; or

- (b) if there is no separate Site Value for the Land, on a notional Site Value equal to:

$$\frac{\text{Site Value of the parcel} \times \text{Area of the Land}}{\text{Area of the parcel}}$$

- 156 If land tax is unpaid at the Settlement Date and the Office of State Revenue advises that it will issue a final clearance for the Land on payment of a specified amount, then the Buyer may deduct the specified amount from the balance of the Purchase Price at settlement and must pay it promptly to the Office of State Revenue. If an amount is deducted under this clause, then land tax will be treated as paid at the Settlement Date for the purposes of clause 15.3.

16. RENTS AND PROFITS GUARANTEES AND BONDS

- 161 The rents and profits with respect to the Property shall benefit the Seller up to and including the date of possession and thereafter shall benefit the Buyer and shall be dealt with as follows:

- (a) all unpaid rents and profits in respect of any period terminating on or prior to the date of possession shall not be apportioned between the parties on settlement but shall be recoverable by the Seller in accordance with clause 16.3;
- (b) all rents and profits paid in advance of the date of possession shall be apportioned between the parties on settlement;
- (c) all rents and profits payable in respect of any period current at the date of possession which have not been paid at the Settlement Date shall be apportioned when received by either party.

- 162 If on settlement a deduction is made in respect of any Bond, the Buyer shall following settlement keep the Seller indemnified in that respect.

- 163 The Seller assigns to the Buyer, subject to the settlement of this Contract and with effect from the Settlement Date:

- (a) the benefit of all conditions contained in any Leases on the part of the tenant or other occupier of the Land given in favour of the Seller or any predecessors in title of the Seller;
- (b) the benefit of all terms and conditions contained in the Service Contracts (subject to the consent of the Service Contractor); and
- (c) the benefit of all Guarantees or Bonds held by the Seller in respect of the Leases which are capable of assignment, provided that all unpaid rents and profits in respect of any period terminating on or prior to the date of possession not apportioned upon settlement shall not be assigned to the Buyer but be recoverable by the Seller and to that extent Section 117 of the Property Law Act 1974 shall not apply.

- 164 The Buyer agrees to retain records relating to the Leases and to produce the Leases and any records relating to the Leases in any proceedings commenced by the Seller to recover any unpaid rents and profits.

- 165 The Seller shall prepare and execute appropriate notices to give effect to the assignments in clause 16.3.

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17. LIABILITY OF BUYER

- 17.1 The Property shall be at the risk of the Seller until 5:00pm on the next Business Day after the date of this Contract and then the risk shall pass to the Buyer. The Seller whilst continuing in possession will use the Property with reasonable care.
- 17.2 From the date of this Contract until settlement, the Seller shall use best endeavours to administer the Property and properly enforce the Leases in accordance with the usual practice of the Seller. Should any matter or circumstance arise which may materially affect the proper performance of the terms of any Lease by any party, the Seller shall immediately notify the Buyer in writing.
- 17.3 In addition to the obligations contained in clause 17.2, the Seller shall not without the prior written consent of the Buyer which shall not be unreasonably withheld:
- (a) accept or agree to accept a surrender of any Lease;
 - (b) grant any Lease for any part of the Property which is vacant at the date of this Contract or which may become vacant prior to settlement;
 - (c) consent to the variation of any Lease, proposed assignment or any other dealing concerning any Lease; or
 - (d) negotiate or set new rent.

18. ACCESS

- 18.1 The Seller shall permit the Buyer or any person authorised by the Buyer to enter the Property on the Settlement Date for the purpose of checking the inventory of chattels (if any) and ascertaining the existence and state of repair of the Property.
- 18.2 The Seller shall permit any person authorised by the Buyer in writing upon reasonable written notice to enter the Property on one occasion for the purposes of reading any water, gas, electricity or other meter.

19. CONSENTS

If any consent is required by statute to the sale or the performance of any obligation under or by virtue of this Contract, this Contract is subject to such consent being given and the party who is required, by the statute, to obtain such consent ("Applicant") shall apply for the consent and pursue the application. The Applicant shall pay all costs and fees (other than the other party's solicitor's) in respect of the application. The other party shall if and when required by the Applicant immediately join in the application and/or shall supply such information as shall be reasonably required in support of the application. If the consent is refused or not granted by the Settlement Date then either party may by notice in writing to the other terminate this Contract.

20. REQUIREMENTS OF AUTHORITIES

- 20.1 If it is established that at the date of this Contract the Local Government has given to the Seller or some other person a notice in writing pursuant to sections 247 and 248 of the *Building Act 1975* or sections 167 or 168 of the *Planning Act 2016* in respect of any building or structure on the Land and the notice is current at the Settlement Date the Buyer may by notice in writing to the Seller given on the Settlement Date terminate this Contract.
- 20.2 Except for any notice referred to in clause 20.1 or a tree order disclosed under s 83 of the *Neighbourhood Disputes (Dividing Fences and Trees) Act 2011*, any valid notice or order issued pursuant to any statute or by any Local Government or Court necessitating the doing of work or the expenditure of money or in relation to the Property or any path or road adjoining the Land:
- (a) if issued before the date of this Contract shall be fully complied with by the Seller in a proper and workmanlike manner on or before the Settlement Date; or
 - (b) if issued on or after the date of this Contract shall be fully complied with by the Buyer who shall indemnify the Seller in respect of the compliance with the notice or order.

If without default of the Buyer this Contract is terminated, the Seller shall pay to the Buyer on demand any amount expended by the Buyer in complying with any notice or order which was of the nature of a capital expenditure or has resulted in a benefit to the

Seller.

21. PROPERTY ADVERSELY AFFECTED

21.1 If at the Contract Date:

- NOTE 2
- (a) the Present Use is not lawful under the relevant town planning scheme;
 - (b) the Land is affected by a proposal of any competent authority to alter the dimensions of any Transport Infrastructure or locate Transport Infrastructure on the Land;
 - (c) access or any service to the Land passes unlawfully through other land;
 - (d) any competent authority has issued a current notice to treat, or notice of intention to resume, regarding any part of the Land;
 - (e) there is an outstanding condition of a development approval attaching to the Land under section 73 of the *Planning Act 2016* or section 96 of the *Economic Development Queensland Act 2012* which, if complied with, would constitute a material mistake or error as to the Seller's title to the Property;
 - (f) the Property is affected by the *Queensland Heritage Act 1992* or is included in the World Heritage List;
 - (g) the Property is declared acquisition land under the *Queensland Reconstruction Authority Act 2011*;
 - (h) there is a charge against the Land under s104 of the *Foreign Acquisitions and Takeovers Act 1975*, and that has not been disclosed in this contract, the Buyer may terminate this contract by notice to the Seller given on or before settlement.

21.2 If no notice is given under clause 21.1, the Buyer will be treated as having accepted the Property subject to all of the matters referred to in that clause.

21.3 The Seller authorises the Buyer to inspect records held by any authority, including Security Interests on the PPSR relating to the Property.

21.4 Before the Settlement Date, the Seller must give the Buyer:

- (a) copies of all documents relating to any unregistered interests in the Property; and
- (b) further copies of details if those previously given cease to be complete or accurate.
- (c) if requested by the Buyer, copies of all Security Interests or sufficient details of the Security Interests to enable the Buyer to undertake a search of the PPSR.

22. NO WARRANTY ON PRESENT USE

No warranty is implied that the use of the Property as described in Item H is permissible under any town planning scheme and no compensation is payable if the particulars stated in Item H are not correct.

23. COSTS

The parties shall pay their own costs of and incidental to the sale and purchase but all stamp duty on this Contract and any duty in respect of the conveyance by the Seller to the Buyer shall be paid by the Buyer and if not paid by the Buyer may be paid by the Seller and recovered from the Buyer as a liquidated debt.

24. MERGER

Despite settlement and despite the registration of the transfer in favour of the Buyer, any general or special condition (or any part or parts thereof) to which effect is not given by settlement or registration and which is capable of taking effect after settlement or registration shall remain in full force and effect.

25. TIME AND PLACE FOR SETTLEMENT

- 25.1 Settlement shall be effected at such time and place as may be agreed upon by the parties. The time for settlement shall be between the hours of 9:00am and 4:00pm AEST on the Settlement Date. In the absence of agreement as to place, settlement shall be effected in the city or town named in Item R at:
- (a) the office of a solicitor or financial institution nominated by the Seller; or

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(b) if the Seller does not make a nomination at the land registry office in or nearest to the city or town in Item R.

25.2 Despite clause 25.1 if a mortgage is to be discharged on settlement the Seller may by notice in writing to the Buyer given not less than 2 Business Days prior to the Settlement Date require settlement to take place at the office of the Seller's mortgagee in the city or town named in Item R or if such mortgagee does not have an office in that city or town at the office of such mortgagee in Queensland nearest to that city or town.

26. TIME OF THE ESSENCE

26.1 Time is of the essence of this contract, except regarding any agreement between the parties on a time of day for settlement and except as otherwise provided in this Contract.

26.2 Clauses 26.2 to 26.8 apply if a party is unable to perform a Settlement Obligation solely as a consequence of a Natural Disaster but does not apply where the inability is attributable to:

- (i) damage to, destruction of or diminution in value of the Property or other property of the Seller or Buyer; or
- (ii) termination or variation of any agreement between a party and another person whether relating to the provision of finance, the release of an Encumbrance, the sale or purchase of another property or otherwise.

26.3 Time for the performance of the parties' Settlement Obligations is suspended and ceases to be of the essence of the contract and the parties are deemed not to be in breach of their Settlement Obligations.

26.4 An Affected Party must take reasonable steps to minimise the effect of the Natural Disaster on its ability to perform its Settlement Obligations.

26.5 When an Affected Party is no longer prevented from performing its Settlement Obligations due to the Natural Disaster, the Affected Party must give the other party a notice of that fact, promptly.

26.6 When the Suspension Period ends, whether notice under clause 26.5 has been given or not, either party may give the other party a Notice to Settle.

26.7 A Notice to Settle must be in writing and state:

- (i) that the Suspension Period has ended; and
- (ii) a date, being not less than 5 nor more than 10 Business Days after the date the Notice to Settle is given, which shall become the Settlement Date;
- (iii) that time is of the essence.

26.8 When Notice to Settle is given, time is again of the essence of the contract.

26.9 In this clause 26:

- (i) "Affected Party" means a party referred to in clause 26.2;
- (ii) "Natural Disaster" means a tsunami, flood, cyclone, earthquake, bushfire or other act of nature;
- (iii) "Settlement Obligations" means, the obligations of the buyer and Seller under clause 4;
- (iv) "Suspension Period" means the period during which the Affected Party (or if both the Buyer and Seller are Affected Parties, either of them) remains unable to perform a Settlement Obligation solely as a consequence of a Natural Disaster.

27. NOTICES, COMMUNICATIONS, AUTHORITY DIRECTIONS, ETC

27.1 Notices under this contract must be in writing.

27.2 Notices under this contract or notices required to be given by law may be given and received by the party's solicitor.

27.3 Notices under this contract or required to be given by law may be given by:

- (a) delivering or posting to the other party or its solicitor; or
- (b) sending it to the facsimile number of the other party or its solicitor stated in the Reference Schedule (or another facsimile number notified by the recipient to the sender); or
- (c) sending it to the email address of the other party or its solicitor

stated in the Reference Schedule (or another email address notified by the recipient to the sender).

27.4 Subject to clause 27.5, a notice given after this contract is entered into in accordance with clause 27.3 will be treated as given:

- (a) 5 Business Days after posting;
- (b) if sent by facsimile, at the time indicated on a clear transmission report; and
- (c) if sent by email, at the time it is sent.

27.5 Notices given by facsimile, by personal delivery or by email between 5pm on a Business Day (the "first Business Day") and 9am on the next Business Day (the "second Business Day") will be treated as given or delivered at 9am on the second Business Day.

27.6 If two or more notices are treated as given at the same time under clause 27.5, they will be treated as given in the order in which they were sent or delivered.

27.7 Notices or other written communications by a party's solicitor (for example, varying the Inspection Date, Finance Date or Settlement Date) will be treated as given with that party's authority.

27.8 For the purposes of clause 27.3(c) and clause 36.2 the notice or information may be contained within an email, as an attachment to an email or located in an electronic repository accessible by the recipient by clicking a link in an email.

28. REMOVAL OF FIXTURES FITTINGS AND CHATTELS

28.1 Unless otherwise agreed between the parties any property not sold under this Contract (other than property of any tenant or other occupier of the Land) shall be removed from the Land prior to delivery of possession.

28.2 The Seller shall at the Seller's own expense reinstate and make good prior to delivery of possession any damage done to the improvements in removing that property and if the Seller fails to do so the Buyer may do so and recover the costs of so doing from the Seller as a liquidated debt.

28.3 Any of that property not so removed shall be deemed abandoned by the Seller and the Buyer may without prejudice to any other remedy complete this Contract and appropriate or remove or otherwise dispose of that property as the Buyer thinks fit.

28.4 Any costs incurred by the Buyer in removing that property or in making good any damage done to the improvements in such removal may be recovered by the Buyer from the Seller and the Seller shall indemnify and hold indemnified the Buyer from and against all claims, demands, actions, costs, judgments and expenses which the Buyer may suffer or incur by reason of any other person claiming any interest in that property.

29. CHATTELS

29.1 Title to any chattels agreed to be sold by or under this Contract shall pass at settlement.

29.2 The Seller assigns to the Buyer subject to the settlement of this Contract and with effect from the Settlement Date, the benefit of all warranties capable of assignment held by the Seller in respect of the chattels agreed to be sold. The Seller shall deliver to the Buyer at settlement all documents in the possession or control of the Seller evidencing the warranties referred to in this clause which would be sufficient to enable the Buyer to enforce those warranties.

30. APPOINTMENT OF AGENT

In the absence of any specific appointment the Seller by executing this Contract confirms the appointment of the Seller's Agent (jointly with any other agent in conjunction with whom the Seller's Agent has sold) as the agent of the Seller to introduce a buyer.

31. FINANCE CLAUSE

31.1 If Items S, T and U are not deleted, this Contract is subject to the Buyer obtaining approval of a loan from the lender or class of lender specified in Item S on or before the approval date specified in Item T not less than the amount of loan specified in Item U on terms satisfactory to the Buyer. The Buyer must take reasonable steps to obtain the approval.

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NOTE 7

- 31.2** The Buyer may give notice to the Seller that:
- (a) approval has not been obtained by the approval date and the Buyer terminates this contract; or
 - (b) the finance condition has been either satisfied or waived by the Buyer.
- 31.3** The Seller may terminate this contract by notice to the Buyer if notice is not given under clause 31.2 by 5pm on the approval date. This is the Seller's only remedy for the Buyer's failure to give notice.
- 31.4** The Seller's right under clause 31.3 is subject to the Buyer's continuing right to give written notice to the Seller of satisfaction, termination or waiver pursuant to clause 31.2.

32. PROPERTY SOLD SUBJECT TO LEASES AND SERVICE CONTRACTS

32.1 Seller's Statement

Where the Property is sold subject to any Lease or Service Contract, the Seller states that, except as disclosed in this Contract, each of the following statements shall be accurate at the Settlement Date:

- (a) the particulars in the Lease Schedule and the Service Contract Schedule are true and correct;
- (b) that no circumstances exist as far as the Seller is aware that would render any Lease liable to forfeiture nor has the Seller agreed to a surrender of any Lease;
- (c) that all Leases and Service Contracts have been disclosed to the Buyer prior to execution of this Contract;
- (d) the Seller is not aware of any breach by the Seller of any Lease or Service Contract;
- (e) where any of the Leases are subject to the application of the *Retail Shop Leases Act 1994* ("Act"), the following further statements by the Seller apply:
 - (i) as far as the Seller is aware the Seller has in all respects complied with the Act in relation to the Leases;
 - (ii) no Lease is subject to an existing or renewed retail tenancy dispute within the meaning of the Act;
 - (iii) there are no mediation agreements, Queensland Civil and Administrative Tribunal proceedings or orders in existence in respect of any Lease;
 - (iv) no tenant has notified the Seller requesting the right to renew any Leases for a further period;
 - (v) no tenant has made a claim upon the Seller to pay compensation for loss or damage suffered by the tenant by virtue of sections 43, 46G or 46K of the Act nor are there any circumstances existing to the Seller's knowledge which might give rise to a claim for such compensation.

32.2 Inaccurate Statement

If a statement contained in clause 32.1 is not accurate then the Buyer may terminate this Contract by notice in writing to the Seller.

32.3 Acceptance of Lease and Service Contract Terms

- (a) Within 7 days of the date of this Contract, the Seller will deliver to the Buyer or the Buyer's solicitor true copies of all Leases and Service Contracts together with a written statement that they constitute the whole of every agreement or arrangement with each of the tenants stated in those Leases or with each of the Service Contractors in those Service Contracts.
- (b) If:
 - (i) the Seller does not deliver to the Buyer or the Buyer's solicitor true copies of all Leases and Service Contracts pursuant to clause 32.3(a); or
 - (ii) true copies of all Leases and Service Contracts have been delivered pursuant to clause 32.3(a) and the Buyer is not satisfied with any of the terms and conditions of any Lease or Service Contract,

then in the case of clause 32.3(b)(i) the Buyer shall be entitled to terminate this Contract by notice in writing to the Seller or in the case of clause 32.3(b)(ii) the Buyer shall be entitled to terminate this Contract by written notice to the Seller within 7 days from the date upon which all Leases and Service Contracts have been delivered.

- (c) If the Buyer does not give written notice to the Seller pursuant to clause 32.3(b)(i) or 32.3(b)(ii), the Buyer agrees to be bound by the terms and conditions of each Lease and Service Contract disclosed by the Seller in the Lease Schedule and the Service Contract Schedule from the Settlement Date as if the Buyer were named as lessor in such Lease or as a contracting party in such Service Contract in substitution for the Seller.
- (d) With respect to Service Contracts, clause 32.3(c) will apply subject to the consent of the Service Contractor.
- (e) The amounts paid or payable in respect of the Service Contracts shall be outgoings for the purposes of clause 15 and shall be apportioned accordingly.

33. FOREIGN BUYER APPROVAL

NOTE 10 The Buyer warrants that either:

- (1) the Buyer's purchase of the Property is not a notifiable action; or
- (2) the Buyer has received a no objection notification, under the *Foreign Acquisitions and Takeovers Act 1975*.

34. GOODS AND SERVICES TAX

34.1 Definitions

Words and phrases defined in the GST Act have the same meaning in this Contract unless the context indicates otherwise.

34.2 Reference Schedule and Notes

The Reference Schedule and the Notes to Completion are part of this clause 34.

34.3 Taxable Supply

This clause 34 applies where the transaction is:

- (a) a Taxable Supply; or
- (b) not a Taxable Supply because it is the Supply of a Going Concern.

34.4 Purchase Price Includes GST

If this clause 34.4 applies, the Purchase Price includes the Seller's liability for GST on the Supply of the Property. The Buyer is not obliged to pay any additional amount to the Seller on account of GST on the Supply of the Property.

34.5 Purchase Price Does Not Include GST

If this clause 34.5 applies, the Purchase Price does not include the Seller's liability for GST on the Supply of the Property. The Buyer must on the Settlement Date pay to the Seller in addition to the Purchase Price an amount equivalent to the amount payable by the Seller as GST on the Supply of the Property.

34.6 Margin Scheme

Warning: The Seller is warranting that the Margin Scheme can apply. If in doubt about using the Margin Scheme you should seek professional advice.

If this clause 34.6 applies:

- (a) the Purchase Price includes the Seller's liability for GST on the Supply of the Property. The Buyer is not obliged to pay any additional amount to the Seller on account of GST on the Supply of the Property;
- (b) the Seller:
 - (i) must apply the Margin Scheme to the Supply of the Property; and
 - (ii) warrants that the Margin Scheme is able to be applied;
- (c) if the Seller breaches clause 34.6(b)(i) or its warranty.

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under clause 34.6(b)(ii) then:

- (i) the Buyer may terminate this Contract if it becomes aware of the breach prior to the Settlement Date.
- (ii) if the Buyer does not terminate this Contract under clause 34.6(c)(i) or does not become aware of the breach until after the Settlement Date, it must pay to the Seller an amount equal to the Input Tax Credit which the Buyer will receive for GST payable for the Supply of the Property. Payment must be made when the Buyer receives the benefit of the Input Tax Credit;
- (iii) the Buyer is entitled to compensation from the Seller if there is a breach of clause 34.6(b).

34.7 If the Supply is a Going Concern

Warning: The parties are providing certain warranties under this clause. If there is doubt about whether there is a Supply of a Going Concern you should seek professional advice.

If this clause 34.7 applies:

- (a) the Purchase price does not include any amount for GST;
- (b) the parties agree the Supply of the Property is a Supply (or part of a Supply) of a Going Concern;
- (c) the Seller warrants that:
 - (i) between the date of this Contract and the Settlement Date the Seller will carry on the Enterprise; and
 - (ii) the Property (together with any other things that must be provided by the Seller to the Buyer at the Settlement Date under a related agreement for the same Supply) is all of the things necessary for the continued operation of the Enterprise;
- (d) the Buyer warrants that at the Settlement Date it is Registered or Required to be Registered under the GST Act;
- (e) if either of the warranties in clause 34.7(c) is breached:
 - (i) the Buyer may terminate this Contract if it becomes aware of the breach prior to the Settlement Date;
 - (ii) if the Buyer does not terminate this Contract then, at the Settlement Date, the Buyer must pay to the Seller the amount payable by the Seller as GST on the Supply of the Property;
 - (iii) if the Buyer does not become aware of the breach until after the Settlement Date, it must pay to the Seller an amount equal to the Input Tax Credit which the Buyer will receive for GST payable in respect of the Supply of the Property. Payment must be made when the Buyer receives the benefit of the Input Tax Credit;
 - (iv) the Buyer is entitled to compensation from the Seller if there is a breach of the warranty;
- (f) if the warranty in clause 34.7(d) is not correct the Buyer must pay to the Seller an amount equal to the GST payable in respect of the Supply of the Property. Payment must be made at the Settlement Date or, if settlement has occurred, immediately on demand;
- (g) if for any reason other than a breach of a warranty by the Seller or the Buyer this transaction is not a Supply of a Going Concern, the Buyer must pay to the Seller the amount payable by the Seller as GST on the Supply of the Property. Payment must be made at the Settlement Date or, if settlement has occurred, immediately on demand.

34.8 Adjustments

Where this Contract requires an adjustment or apportionment of outgoings or rent and profits of the Property, that adjustment or apportionment must be made on the amount of the outgoing, rent or profit exclusive of GST.

34.9 Tax Invoice

Where GST is payable on the Supply of the Property, the Seller must give to the Buyer a Tax Invoice at the Settlement Date.

34.10 No Merger

To avoid doubt, the clauses in this clause 34 do not merge on settlement.

34.11 Remedies

The remedies provided in clauses 34.6(c), 34.7(e) and 34.7(f) are in addition to any other remedies available to the aggrieved party.

35. BUILDING AND PEST INSPECTION REPORTS

35.1 This contract is conditional on the Buyer obtaining a written building report and a written pest report (which may be a single report) on the Property by the Inspection Date on terms satisfactory to the Buyer. The Buyer must take all reasonable steps to obtain the reports (subject to the right of the Buyer to elect to obtain only one of the reports).

35.2 The Buyer must give notice to the Seller that:

- (1) a satisfactory report under clause 35.1 has not been obtained by the Inspection Date and the Buyer terminates this contract. The Buyer must act reasonably; or
- (2) clause 35.1 has been either satisfied or waived by the Buyer.

35.3 If the Buyer terminates this contract and the Seller asks the Buyer for a copy of the building and pest reports, the Buyer must give a copy of each report to the Seller without delay.

35.4 The Seller may terminate this contract by notice to the Buyer if notice is not given under clause 35.2 by 5pm on the Inspection Date. This is the Seller's only remedy for the Buyer's failure to give notice.

35.5 The Seller's right under clause 35.4 is subject to the Buyer's continuing right to give written notice to the Seller of satisfaction, termination or waiver pursuant to clause 35.2.

36. ELECTRONIC CONTRACT AND DISCLOSURE

36.1 Electronic Signing

If this contract is signed by any person using an Electronic Signature, the Buyer and the Seller:

- (a) agree to enter into this contract in electronic form; and
- (b) consent to either or both parties signing the contract using an Electronic Signature.

36.2 Pre-contract Disclosure

The Buyer consents to the Seller's use of electronic communication to give any notice or information required by law to be given to the Buyer and which was given before the Buyer signed this contract.

37. COUNTERPARTS

- (1) This contract may be executed in two or more counterparts, all of which will together be deemed to constitute one and the same contract.
- (2) A counterpart may be electronic and signed using an Electronic Signature.

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NOTES AND WARNINGS

NB. where any specific items are not required delete and initial

- NOTE 1** Insert, in Item A, the date of signing by the last party to sign.
- NOTE 2** Describe, in Item H, the actual use presently being made of the Land and/or the improvements, e.g. commercial etc.
- WARNING -** Refer to clause 21.1(a). **Before this Contract is signed the Seller should ensure that the present use described in Item H is a lawful use.**
- For example, if a business is being carried on at a dwelling house in a residential zone, that use may be unlawful unless town planning consent exists. This warning applies whether the Buyer intends to continue the use stated in Item H or not. If the use is not lawful or if there is a doubt about the use, this should be drawn to the Buyer's attention and, if the Buyer agrees, a special condition should be inserted in this Contract so as to modify or avoid the operation of clause 21.1(a).
- NOTE 3** If freehold, do not complete "Type of Holding" or "Lease No".
- NOTE 4** Describe in general terms, e.g. factory, warehouse etc.
- NOTE 5** Particulars should be inserted in the Lease Schedule and the Service Contract Schedule.
- NOTE 6** The Contract Rate is published each month in "The Proctor".
- NOTE 7** If this Contract is to be subject to finance then Items S, T and U must be completed in every respect and Item V must be deleted and initialled.
- If this Contract is not to be subject to finance Items S, T and U must be deleted and initialled and Item V shall apply.
- If known, state name of lender in Item S. If not known, state class, e.g. trading bank, savings bank, building society, insurance company, credit union, or other class of lending institution. Do not insert the words "finance company" but insert the specific name (or names) of a finance company.
- The date in Item T should be at least 14 days prior to the Settlement Date.
- The dollar amount of the loan being sought must be inserted in Item U. Do not insert the words "sufficient to complete this purchase" or words of a similar effect.
- NOTE 8** The Deposit Holder should sign with his or her personal signature.
- If the Deposit Holder is a partnership, a member of the partnership should sign in the partnership name.
- If the Deposit Holder is a company, the acknowledgment should be signed in accordance with the *Corporations Act 2001*, s 127 or by a person duly authorised to sign acknowledgments of Deposit Holder on behalf of the company.
- NOTE 9** A Seller which is a corporation should note that to ensure the Property is free from Encumbrances it may be necessary to provide evidence at settlement that the Property has been released from or is not subject to a security interest given by the Seller.
- NOTE 10** If this Contract is to be made subject to the approval of the Commonwealth Treasurer being obtained, a special condition should be inserted in this Contract so as to modify or avoid the operation of clause 33.

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