

Contract of Sale

Lot

30 Fisken Street, Maddingley
VIC 3340

Contract of sale of land

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IMPORTANT NOTICE TO PURCHASERS – COOLING-OFF

Cooling-off period (Section 31 of the *Sale of Land Act* 1962)

You may end this contract within 3 clear business days of the day that you sign the contract if none of the exceptions listed below applies to you.

You must either give the vendor or the vendor's agent **written** notice that you are ending the contract or leave the notice at the address of the vendor or the vendor's agent to end this contract within this time in accordance with this cooling-off provision.

You are entitled to a refund of all the money you paid EXCEPT for \$100 or 0.2% of the purchase price (whichever is more) if you end the contract in this way.

EXCEPTIONS: the 3-day cooling-off period does not apply if:

- you bought the property at a publicly advertised auction or on the day on which the auction was held; or
- you bought the land within 3 clear business days before a publicly advertised auction was to be held; or
- you bought the land within 3 clear business days after a publicly advertised auction was held; or
- the property is used primarily for industrial or commercial purposes; or
- the property is more than 20 hectares in size and is used primarily for farming; or
- you and the vendor previously signed a contract for the sale of the same land in substantially the same terms; or
- you are an estate agent or a corporate body.

NOTICE TO PURCHASERS OF PROPERTY OFF-THE-PLAN

Off-the-plan sales (Section 9AA(1A) of the *Sale of Land Act* 1962)

You may negotiate with the vendor about the amount of the deposit moneys payable under the contract of sale, up to 10 per cent of the purchase price.

A substantial period of time may elapse between the day on which you sign the contract of sale and the day on which you become the registered proprietor of the lot.

The value of the lot may change between the day on which you sign the contract of sale of that lot and the day on which you become the registered proprietor.

Approval

This contract is approved as a standard form of contract under section 53A of the *Estate Agents Act* 1980 by the Law Institute of Victoria Limited. The Law Institute of Victoria Limited is authorised to approve this form under the *Legal Profession Uniform Law Application Act* 2014.

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WARNING TO ESTATE AGENTS

DO NOT USE THIS CONTRACT FOR SALES OF 'OFF THE PLAN' PROPERTIES UNLESS IT HAS BEEN PREPARED BY A LEGAL PRACTITIONER

WARNING: YOU SHOULD CONSIDER THE EFFECT (IF ANY) THAT THE WINDFALL GAINS TAX MAY HAVE ON THE SALE OF LAND UNDER THIS CONTRACT.

Contract of sale of land

The vendor agrees to sell and the purchaser agrees to buy the property, being the land and the goods, for the price and on the terms set out in this contract.

The terms of this contract are contained in the –

- particulars of sale; and
- special conditions, if any; and
- general conditions (which are in standard form: see general condition 6.1)

in that order of priority.

SIGNING OF THIS CONTRACT

WARNING: THIS IS A LEGALLY BINDING CONTRACT. YOU SHOULD READ THIS CONTRACT BEFORE SIGNING IT.

Purchasers should ensure that they have received a section 32 statement from the vendor before signing this contract. In this contract, "section 32 statement" means the statement required to be given by a vendor under section 32 of the *Sale of Land Act 1962*.

The authority of a person signing –

- under power of attorney; or
- as director of a corporation; or
- as agent authorised in writing by one of the parties –

must be noted beneath the signature.

Any person whose signature is secured by an estate agent acknowledges being given by the agent at the time of signing a copy of the terms of this contract.

SIGNED BY THE PURCHASER: See execution page.....

..... on/...../20.....

Print name(s) of person(s) signing:

.....

State nature of authority, if applicable:

This offer will lapse unless accepted within [] clear business days (3 clear business days if none specified)

In this contract, “business day” has the same meaning as in section 30 of the *Sale of Land Act 1962*

SIGNED BY THE VENDOR: See execution page.....

..... on/...../20.....

Print name(s) of person(s) signing:

.....

State nature of authority, if applicable:

The **DAY OF SALE** is the date by which both parties have signed this contract.

Execution Page

SIGNED BY THE PURCHASER on/...../20.....

[Name]

.....
Signature

[Name]

.....
Signature

[Name]

.....
Signature of director

.....
Name of director

.....
Signature of company secretary/director

.....
Name of company secretary/director

[Name]

.....
Signature of sole director and sole company secretary

.....
Name of sole director and sole company secretary

SIGNED BY THE VENDOR on/...../20.....

Fisken Property Holdings Pty Ltd ACN 658 052 905

.....
Signature of director

.....
Name of director

.....
Signature of company secretary/director

.....
Name of company secretary/director

Particulars of sale

Vendor's estate agent

Name:

Address:

Email:

Tel: Mob: Fax: Ref:

Vendor

Name: Fisken Property Holdings Pty Ltd.....

Address: c/- 20-30 Baldwin Road, Altona North, VIC 3025.....

ABN/ACN: 658 052 905.....

Email: pjmyers@proximitygroup.co

Vendor's legal practitioner or conveyancer

Name: Kain Lawyers.....

Address: Level 36, 55 Collins Street

Email: Jeremy.Collins@kainlawyers.com.au.....

Tel: 0407 020 383..... Mob: Fax: Ref:

Purchaser's estate agent

Name:

Address:

Email:

Tel: Mob: Fax: Ref:

Purchaser

Name:

Address:

ABN/ACN:

Email:

Purchaser's legal practitioner or conveyancer

Name:

Address:

Email:

Tel: Fax: DX: Ref:

Land (general conditions 7 and 13)

The land is described in the table below –

Lot on Proposed Plan of Subdivision 922533K, being part of the land described in:

Certificate of Title reference	being lot	on plan
Volume 12361 Folio 152	A	PS846439L

If no title or plan references are recorded in the table, the land is as described in the section 32 statement or the register search statement and the document referred to as the diagram location in the register search statement attached to the section 32 statement

The land includes all improvements and fixtures.

Property address

The address of the land is: Lot 30 Fisken Street, Maddingley, 3340

Goods sold with the land (general condition 6.3(f)) (*list or attach schedule*)

.....

Payment

Price \$

Deposit \$ by / / 20..... (of which \$ has been paid)

Balance \$ payable at settlement

Deposit bond

~~General condition 15 applies only if the box is checked~~

Bank guarantee

~~General condition 16 applies only if the box is checked~~

GST (general condition 19)

Subject to general condition 19.2, the price includes GST (if any), unless the next box is checked

GST (if any) must be paid in addition to the price if the box is checked

This sale is a sale of land on which a 'farming business' is carried on which the parties consider meets the requirements of section 38-480 of the GST Act if the box is checked

This sale is a sale of a 'going concern' if the box is checked

The margin scheme will be used to calculate GST if the box is checked

Settlement (general conditions 17 & 26.2)

is due on / /20.....

unless the land is a lot on an unregistered plan of subdivision, in which case settlement is due on the later of:

- the above date; and
- the 14th day after the vendor gives notice in writing to the purchaser of registration of the plan of subdivision.

Lease (general condition 5.1)

At settlement the purchaser is entitled to vacant possession of the property unless the box is checked, in which case the property is sold subject to*:

(*only one of the boxes below should be checked after carefully reading any applicable lease or tenancy document)

a lease for a term ending on / /20..... with [.....] options to renew, each of [.....] years

OR

a residential tenancy for a fixed term ending on / /20.....

OR

a periodic tenancy determinable by notice

Terms contract (general condition 30)

This contract is intended to be a terms contract within the meaning of the Sale of Land Act 1962 if the box is checked. (Reference should be made to general condition 30 and any further applicable provisions should be added as special conditions)

Loan (general condition 20)

This contract is subject to a loan being approved and the following details apply if the box is checked:

Lender:

(or another lender chosen by the purchaser)

Loan amount: no more than \$ Approval date: / /20.....

Building report

General condition 21 applies only if the box is checked

Pest report

General condition 22 applies only if the box is checked

Special conditions

Instructions: *It is recommended that when adding special conditions:*

- *each special condition is numbered;*
- *the parties initial each page containing special conditions;*
- *a line is drawn through any blank space remaining on the last page; and*
- *attach additional pages if there is not enough space.*

GC 23 – special condition

For the purposes of general condition 23, the expression “periodic outgoings” does not include any amounts to which section 10G of the Sale of Land Act 1962 applies.

GC 28 – special condition

General condition 28 does not apply to any amounts to which section 10G or 10H of the Sale of Land Act 1962 applies.

General conditions

Contract signing

1. ELECTRONIC SIGNATURE

- 1.1 In this general condition "electronic signature" means a digital signature or a visual representation of a person's handwritten signature or mark which is placed on a physical or electronic copy of this contract by electronic or mechanical means, and "electronically signed" has a corresponding meaning.
- 1.2 The parties' consent to this contract being signed by or on behalf of a party by an electronic signature.
- 1.3 Where this contract is electronically signed by or on behalf of a party, the party warrants and agrees that the electronic signature has been used to identify the person signing and to indicate that the party intends to be bound by the electronic signature.
- 1.4 This contract may be electronically signed in any number of counterparts which together will constitute the one document.
- 1.5 Each party consents to the exchange of counterparts of this contract by delivery by email or such other electronic means as may be agreed in writing.
- 1.6 Each party must upon request promptly deliver a physical counterpart of this contract with the handwritten signature or signatures of the party and all written evidence of the authority of a person signing on their behalf, but a failure to comply with the request does not affect the validity of this contract.

2. LIABILITY OF SIGNATORY

Any signatory for a proprietary limited company purchaser is personally liable for the due performance of the purchaser's obligations as if the signatory were the purchaser in the case of a default by a proprietary limited company purchaser.

3. GUARANTEE

The vendor may require one or more directors of the purchaser to guarantee the purchaser's performance of this contract if the purchaser is a proprietary limited company.

4. NOMINEE

The purchaser may no later than 14 days before the due date for settlement nominate a substitute or additional person to take a transfer of the land, but the named purchaser remains personally liable for the due performance of all the purchaser's obligations under this contract.

Title

5. ENCUMBRANCES

- 5.1 The purchaser buys the property subject to:
 - (a) any encumbrance shown in the section 32 statement other than mortgages or caveats; and
 - (b) any reservations, exceptions and conditions in the crown grant; and
 - (c) any lease or tenancy referred to in the particulars of sale.
- 5.2 The purchaser indemnifies the vendor against all obligations under any lease or tenancy that are to be performed by the landlord after settlement.

6 VENDOR WARRANTIES

- 6.1 The vendor warrants that these general conditions 1 to 35 are identical to the general conditions 1 to 35 in the form of contract of sale of land published by the Law Institute of Victoria Limited and the Real Estate Institute of Victoria Ltd in the month and year set out at the foot of this page.

6.2 The warranties in general conditions 6.3 and 6.4 replace the purchaser's right to make requisitions and inquiries.

6.3 The vendor warrants that the vendor:

- (a) has, or by the due date for settlement will have, the right to sell the land; and
- (b) is under no legal disability; and
- (c) is in possession of the land, either personally or through a tenant; and
- (d) has not previously sold or granted any option to purchase, agreed to a lease or granted a pre-emptive right which is current over the land and which gives another party rights which have priority over the interest of the purchaser; and
- (e) will at settlement be the holder of an unencumbered estate in fee simple in the land; and
- (f) will at settlement be the unencumbered owner of any improvements, fixtures, fittings and goods sold with the land.

6.4 The vendor further warrants that the vendor has no knowledge of any of the following:

- (a) public rights of way over the land;
- (b) easements over the land;
- (c) lease or other possessory agreement affecting the land;
- (d) notice or order directly and currently affecting the land which will not be dealt with at settlement, other than the usual rate notices and any land tax notices;
- (e) legal proceedings which would render the sale of the land void or voidable or capable of being set aside.

6.5 The warranties in general conditions 6.3 and 6.4 are subject to any contrary provisions in this contract and disclosures in the section 32 statement.

6.6 If sections 137B and 137C of the *Building Act* 1993 apply to this contract, the vendor warrants that:

- (a) all domestic building work carried out in relation to the construction by or on behalf of the vendor of the home was carried out in a proper and workmanlike manner; and
- (b) all materials used in that domestic building work were good and suitable for the purpose for which they were used and that, unless otherwise stated in the contract, those materials were new; and
- (c) domestic building work was carried out in accordance with all laws and legal requirements, including, without limiting the generality of this warranty, the *Building Act* 1993 and regulations made under the *Building Act* 1993.

6.7 Words and phrases used in general condition 6.6 which are defined in the *Building Act* 1993 have the same meaning in general condition 6.6.

7. IDENTITY OF THE LAND

7.1 An omission or mistake in the description of the property or any deficiency in the area, description or measurements of the land does not invalidate the sale.

7.2 The purchaser may not:

- (a) make any objection or claim for compensation for any alleged misdescription of the property or any deficiency in its area or measurements; or
- (b) require the vendor to amend title or pay any cost of amending title.

8. SERVICES

8.1 The vendor does not represent that the services are adequate for the purchaser's proposed use of the property and the vendor advises the purchaser to make appropriate inquiries. The condition of the services may change between the day of sale and settlement and the vendor does not promise that the services will be in the same condition at settlement as they were on the day of sale.

8.2 The purchaser is responsible for the connection of all services to the property after settlement and the payment of any associated cost.

9. CONSENTS

The vendor must obtain any necessary consent or licence required for the vendor to sell the property. The contract will be at an end and all money paid must be refunded if any necessary consent or licence is not obtained by settlement.

10. TRANSFER & DUTY

10.1 The purchaser must prepare and deliver to the vendor at least 7 days before the due date for settlement any paper transfer of land document which is necessary for this transaction. The delivery of the transfer of land document is not acceptance of title.

10.2 The vendor must promptly initiate the Duties on Line or other form required by the State Revenue Office in respect of this transaction, and both parties must co-operate to complete it as soon as practicable.

11. RELEASE OF SECURITY INTEREST

11.1 This general condition applies if any part of the property is subject to a security interest to which the *Personal Property Securities Act 2009* (Cth) applies.

11.2 For the purposes of enabling the purchaser to search the Personal Property Securities Register for any security interests affecting any personal property for which the purchaser may be entitled to a release, statement, approval or correction in accordance with general condition 11.4, the purchaser may request the vendor to provide the vendor's date of birth to the purchaser. The vendor must comply with a request made by the purchaser under this condition if the purchaser makes the request at least 21 days before the due date for settlement.

11.3 If the purchaser is given the details of the vendor's date of birth under general condition 11.2, the purchaser must

- (a) only use the vendor's date of birth for the purposes specified in general condition 11.2; and
- (b) keep the date of birth of the vendor secure and confidential.

11.4 The vendor must ensure that at or before settlement, the purchaser receives—

- (a) a release from the secured party releasing the property from the security interest; or
- (b) a statement in writing in accordance with section 275(1)(b) of the *Personal Property Securities Act 2009* (Cth) setting out that the amount or obligation that is secured is nil at settlement; or
- (c) a written approval or correction in accordance with section 275(1)(c) of the *Personal Property Securities Act 2009* (Cth) indicating that, on settlement, the personal property included in the contract is not or will not be property in which the security interest is granted.

11.5 Subject to general condition 11.6, the vendor is not obliged to ensure that the purchaser receives a release, statement, approval or correction in respect of personal property—

- (a) that—
 - (i) the purchaser intends to use predominantly for personal, domestic or household purposes; and
 - (ii) has a market value of not more than \$5000 or, if a greater amount has been prescribed for the purposes of section 47(1) of the *Personal Property Securities Act 2009* (Cth), not more than that prescribed amount; or
- (b) that is sold in the ordinary course of the vendor's business of selling personal property of that kind.

11.6 The vendor is obliged to ensure that the purchaser receives a release, statement, approval or correction in respect of personal property described in general condition 11.5 if—

- (a) the personal property is of a kind that may or must be described by serial number in the Personal Property Securities Register; or
- (b) the purchaser has actual or constructive knowledge that the sale constitutes a breach of the security agreement that provides for the security interest.

11.7 A release for the purposes of general condition 11.4(a) must be in writing.

11.8 A release for the purposes of general condition 11.4(a) must be effective in releasing the goods from the security interest and be in a form which allows the purchaser to take title to the goods free of that security interest.

11.9 If the purchaser receives a release under general condition 11.4(a) the purchaser must provide the vendor with a copy of the release at or as soon as practicable after settlement.

- 11.10 In addition to ensuring that a release is received under general condition 11.4(a), the vendor must ensure that at or before settlement the purchaser receives a written undertaking from a secured party to register a financing change statement to reflect that release if the property being released includes goods of a kind that are described by serial number in the Personal Property Securities Register.
- 11.11 The purchaser must advise the vendor of any security interest that is registered on or before the day of sale on the Personal Property Securities Register, which the purchaser reasonably requires to be released, at least 21 days before the due date for settlement.
- 11.12 The vendor may delay settlement until 21 days after the purchaser advises the vendor of the security interests that the purchaser reasonably requires to be released if the purchaser does not provide an advice under general condition 11.11.
- 11.13 If settlement is delayed under general condition 11.12 the purchaser must pay the vendor—
 - (a) interest from the due date for settlement until the date on which settlement occurs or 21 days after the vendor receives the advice, whichever is the earlier; and
 - (b) any reasonable costs incurred by the vendor as a result of the delay—
as though the purchaser was in default.
- 11.14 The vendor is not required to ensure that the purchaser receives a release in respect of the land. This general condition 11.14 applies despite general condition 11.1.
- 11.15 Words and phrases which are defined in the *Personal Property Securities Act 2009* (Cth) have the same meaning in general condition 11 unless the context requires otherwise.

12. BUILDER WARRANTY INSURANCE

The vendor warrants that the vendor will provide at settlement details of any current builder warranty insurance in the vendor's possession relating to the property if requested in writing to do so at least 21 days before settlement.

13. GENERAL LAW LAND

- 13.1 The vendor must complete a conversion of title in accordance with section 14 of the *Transfer of Land Act 1958* before settlement if the land is the subject of a provisional folio under section 23 of that Act.
- 13.2 The remaining provisions of this general condition 13 only apply if any part of the land is not under the operation of the *Transfer of Land Act 1958*.
- 13.3 The vendor is taken to be the holder of an unencumbered estate in fee simple in the land if there is an unbroken chain of title starting at least 30 years before the day of sale proving on the face of the documents the ownership of the entire legal and equitable estate without the aid of other evidence.
- 13.4 The purchaser is entitled to inspect the vendor's chain of title on request at such place in Victoria as the vendor nominates.
- 13.5 The purchaser is taken to have accepted the vendor's title if:
 - (a) 21 days have elapsed since the day of sale; and
 - (b) the purchaser has not reasonably objected to the title or reasonably required the vendor to remedy a defect in the title.
- 13.6 The contract will be at an end if:
 - (a) the vendor gives the purchaser a notice that the vendor is unable or unwilling to satisfy the purchaser's objection or requirement and that the contract will end if the objection or requirement is not withdrawn within 14 days of the giving of the notice; and
 - (b) the objection or requirement is not withdrawn in that time.
- 13.7 If the contract ends in accordance with general condition 13.6, the deposit must be returned to the purchaser and neither party has a claim against the other in damages.
- 13.8 General condition 17.1 [settlement] should be read as if the reference to 'registered proprietor' is a reference to 'owner' in respect of that part of the land which is not under the operation of the *Transfer of Land Act 1958*.

Money

14. DEPOSIT

- 14.1 The purchaser must pay the deposit:
 - (a) to the vendor's licensed estate agent; or
 - (b) if there is no estate agent, to the vendor's legal practitioner or conveyancer; or
 - (c) if the vendor directs, into a special purpose account in an authorised deposit-taking institution in Victoria specified by the vendor in the joint names of the purchaser and the vendor.
- 14.2 If the land sold is a lot on an unregistered plan of subdivision, the deposit:
 - (a) must not exceed 10% of the price; and
 - (b) must be paid to the vendor's estate agent, legal practitioner or conveyancer and held by the estate agent, legal practitioner or conveyancer on trust for the purchaser until the registration of the plan of subdivision.
- 14.3 The deposit must be released to the vendor if:
 - (a) the vendor provides particulars, to the satisfaction of the purchaser, that either-
 - (i) there are no debts secured against the property; or
 - (ii) if there are any debts, the total amount of those debts together with any amounts to be withheld in accordance with general conditions 24 and 25 does not exceed 80% of the sale price; and
 - (b) at least 28 days have elapsed since the particulars were given to the purchaser under paragraph (a); and
 - (c) all conditions of section 27 of the *Sale of Land Act* 1962 have been satisfied.
- 14.4 The stakeholder must pay the deposit and any interest to the party entitled when the deposit is released, the contract is settled, or the contract is ended.
- 14.5 The stakeholder may pay the deposit and any interest into court if it is reasonable to do so.
- 14.6 Where the purchaser is deemed by section 27(7) of the *Sale of Land Act* 1962 to have given the deposit release authorisation referred to in section 27(1), the purchaser is also deemed to have accepted title in the absence of any prior express objection to title.
- 14.7 Payment of the deposit may be made or tendered:
 - (a) in cash up to \$1,000 or 0.2% of the price, whichever is greater; or
 - (b) by cheque drawn on an authorised deposit-taking institution; or
 - (c) by electronic funds transfer to a recipient having the appropriate facilities for receipt.

However, unless otherwise agreed:

 - (d) payment may not be made by credit card, debit card or any other financial transfer system that allows for any chargeback or funds reversal other than for fraud or mistaken payment, and
 - (e) any financial transfer or similar fees or deductions from the funds transferred, other than any fees charged by the recipient's authorised deposit-taking institution, must be paid by the remitter.
- 14.8 Payment by electronic funds transfer is made when cleared funds are received in the recipient's bank account.
- 14.9 Before the funds are electronically transferred the intended recipient must be notified in writing and given sufficient particulars to readily identify the relevant transaction.
- 14.10 As soon as the funds have been electronically transferred the intended recipient must be provided with the relevant transaction number or reference details.

14.11 For the purpose of this general condition 'authorised deposit-taking institution' means a body corporate for which an authority under section 9(3) of the *Banking Act 1959* (Cth) is in force.

15. DEPOSIT BOND

- 15.1 This general condition only applies if the applicable box in the particulars of sale is checked.
- 15.2 In this general condition "deposit bond" means an irrevocable undertaking to pay on demand an amount equal to the deposit or any unpaid part of the deposit. The issuer and the form of the deposit bond must be satisfactory to the vendor. The deposit bond must have an expiry date at least 45 days after the due date for settlement.
- 15.3 The purchaser may deliver a deposit bond to the vendor's estate agent, legal practitioner or conveyancer within 7 days after the day of sale.
- 15.4 The purchaser may at least 45 days before a current deposit bond expires deliver a replacement deposit bond on the same terms and conditions.
- 15.5 Where a deposit bond is delivered, the purchaser must pay the deposit to the vendor's legal practitioner or conveyancer on the first to occur of:
 - (a) settlement;
 - (b) the date that is 45 days before the deposit bond or any replacement deposit bond expires;
 - (c) the date on which this contract ends in accordance with general condition 35.2 [default not remedied] following breach by the purchaser; and
 - (d) the date on which the vendor ends this contract by accepting repudiation of it by the purchaser.
- 15.6 The vendor may claim on the deposit bond without prior notice if the purchaser defaults under this contract or repudiates this contract and the contract is ended. The amount paid by the issuer satisfies the obligations of the purchaser under general condition 15.5 to the extent of the payment.
- 15.7 Nothing in this general condition limits the rights of the vendor if the purchaser defaults under this contract or repudiates this contract, except as provided in general condition 15.6.
- 15.8 This general condition is subject to general condition 14.2 [deposit].

16. BANK GUARANTEE

- 16.1 This general condition only applies if the applicable box in the particulars of sale is checked.
- 16.2 In this general condition:
 - (a) "bank guarantee" means an unconditional and irrevocable guarantee or undertaking by a bank in a form satisfactory to the vendor to pay on demand any amount under this contract agreed in writing, and
 - (b) "bank" means an authorised deposit-taking institution under the *Banking Act 1959* (Cth).
- 16.3 The purchaser may deliver a bank guarantee to the vendor's legal practitioner or conveyancer.
- 16.4 The purchaser must pay the amount secured by the bank guarantee to the vendor's legal practitioner or conveyancer on the first to occur of:
 - (a) settlement;
 - (b) the date that is 45 days before the bank guarantee expires;
 - (c) the date on which this contract ends in accordance with general condition 35.2 [default not remedied] following breach by the purchaser; and
 - (d) the date on which the vendor ends this contract by accepting repudiation of it by the purchaser.
- 16.5 The vendor must return the bank guarantee document to the purchaser when the purchaser pays the amount secured by the bank guarantee in accordance with general condition 16.4.
- 16.6 The vendor may claim on the bank guarantee without prior notice if the purchaser defaults under this contract or repudiates this contract and the contract is ended. The amount paid by the bank satisfies the obligations of the purchaser under general condition 16.4 to the extent of the payment.

16.7 Nothing in this general condition limits the rights of the vendor if the purchaser defaults under this contract or repudiates this contract except as provided in general condition 16.6.

16.8 This general condition is subject to general condition 14.2 [deposit].

17. SETTLEMENT

17.1 At settlement:

(a) the purchaser must pay the balance; and

(b) the vendor must:

(i) do all things necessary to enable the purchaser to become the registered proprietor of the land; and

(ii) give either vacant possession or receipt of rents and profits in accordance with the particulars of sale.

17.2 Settlement must be conducted between the hours of 10.00 am and 4.00 pm unless the parties agree otherwise.

17.3 The purchaser must pay all money other than the deposit in accordance with a written direction of the vendor or the vendor's legal practitioner or conveyancer.

18. ELECTRONIC SETTLEMENT

18.1 Settlement and lodgement of the instruments necessary to record the purchaser as registered proprietor of the land will be conducted electronically in accordance with the Electronic Conveyancing National Law. This general condition 18 has priority over any other provision of this contract to the extent of any inconsistency.

18.2 A party must immediately give written notice if that party reasonably believes that settlement and lodgement can no longer be conducted electronically. General condition 18 ceases to apply from when such a notice is given.

18.3 Each party must:

(a) be, or engage a representative who is, a subscriber for the purposes of the Electronic Conveyancing National Law,

(b) ensure that all other persons for whom that party is responsible and who are associated with this transaction are, or engage, a subscriber for the purposes of the Electronic Conveyancing National Law, and

(c) conduct the transaction in accordance with the Electronic Conveyancing National Law.

18.4 The vendor must open the electronic workspace ("workspace") as soon as reasonably practicable and nominate a date and time for settlement. The inclusion of a specific date and time for settlement in a workspace is not of itself a promise to settle on that date or at that time. The workspace is an electronic address for the service of notices and for written communications for the purposes of any electronic transactions legislation.

18.5 This general condition 18.5 applies if there is more than one electronic lodgement network operator in respect of the transaction. In this general condition 18.5 "the transaction" means this sale and purchase and any associated transaction involving any of the same subscribers.

To the extent that any interoperability rules governing the relationship between electronic lodgement network operators do not provide otherwise:

(a) the electronic lodgement network operator to conduct all the financial and lodgement aspects of the transaction after the workspace locks must be one which is willing and able to conduct such aspects of the transaction in accordance with the instructions of all the subscribers in the workspaces of all the electronic lodgement network operators after the workspace locks;

(b) if two or more electronic lodgement network operators meet that description, one may be selected by purchaser's incoming mortgagee having the highest priority but if there is no mortgagee of the purchaser, the vendor must make the selection.

18.6 Settlement occurs when the workspace records that:

(a) there has been an exchange of funds or value between the exchange settlement account or accounts in the Reserve Bank of Australia of the relevant financial institutions or their financial settlement agents in accordance with the instructions of the parties; or

(b) if there is no exchange of funds or value, the documents necessary to enable the purchaser to become registered proprietor of the land have been accepted for electronic lodgement.

18.7 The parties must do everything reasonably necessary to effect settlement:

- (a) electronically on the next business day, or
- (b) at the option of either party, otherwise than electronically as soon as possible –

if, after the locking of the workspace at the nominated settlement time, settlement in accordance with general condition 18.6 has not occurred by 4.00 pm, or 6.00 pm if the nominated time for settlement is after 4.00 pm.

18.8 Each party must do everything reasonably necessary to assist the other party to trace and identify the recipient of any missing or mistaken payment and to recover the missing or mistaken payment.

18.9 The vendor must before settlement:

- (a) deliver any keys, security devices and codes ("keys") to the estate agent named in the contract,
- (b) direct the estate agent to give the keys to the purchaser or the purchaser's nominee on notification of settlement by the vendor, the vendor's subscriber or the electronic lodgement network operator;
- (c) deliver all other physical documents and items (other than the goods sold by the contract) to which the purchaser is entitled at settlement, and any keys if not delivered to the estate agent, to the vendor's subscriber or, if there is no vendor's subscriber, confirm in writing to the purchaser that the vendor holds those documents, items and keys at the vendor's address set out in the contract, and

give, or direct its subscriber to give, all those documents and items and any such keys to the purchaser or the purchaser's nominee on notification by the electronic lodgement network operator of settlement.

19. GST

19.1 The purchaser does not have to pay the vendor any amount in respect of GST in addition to the price if the particulars of sale specify that the price includes GST (if any).

19.2 The purchaser must pay to the vendor any GST payable by the vendor in respect of a taxable supply made under this contract in addition to the price if:

- (a) the particulars of sale specify that GST (if any) must be paid in addition to the price; or
- (b) GST is payable solely as a result of any action taken or intended to be taken by the purchaser after the day of sale, including a change of use; or
- (c) the particulars of sale specify that the supply made under this contract is of land on which a 'farming business' is carried on and the supply (or part of it) does not satisfy the requirements of section 38-480 of the GST Act; or
- (d) the particulars of sale specify that the supply made under this contract is of a going concern and the supply (or a part of it) does not satisfy the requirements of section 38-325 of the GST Act.

19.3 The purchaser is not obliged to pay any GST under this contract until a tax invoice has been given to the purchaser, unless the margin scheme applies.

19.4 If the particulars of sale specify that the supply made under this contract is of land on which a 'farming business' is carried on:

- (a) the vendor warrants that the property is land on which a farming business has been carried on for the period of 5 years preceding the date of supply; and
- (b) the purchaser warrants that the purchaser intends that a farming business will be carried on after settlement on the property.

19.5 If the particulars of sale specify that the supply made under this contract is a 'going concern':

- (a) the parties agree that this contract is for the supply of a going concern; and
- (b) the purchaser warrants that the purchaser is, or prior to settlement will be, registered for GST; and

- (c) the vendor warrants that the vendor will carry on the going concern until the date of supply.

19.6 If the particulars of sale specify that the supply made under this contract is a 'margin scheme' supply, the parties agree that the margin scheme applies to this contract.

19.7 In this general condition:

- (a) 'GST Act' means *A New Tax System (Goods and Services Tax) Act 1999* (Cth); and
- (b) 'GST' includes penalties and interest.

20. LOAN

20.1 If the particulars of sale specify that this contract is subject to a loan being approved, this contract is subject to the lender approving the loan on the security of the property by the approval date or any later date allowed by the vendor.

20.2 The purchaser may end the contract if the loan is not approved by the approval date, but only if the purchaser:

- (a) immediately applied for the loan; and
- (b) did everything reasonably required to obtain approval of the loan; and
- (c) serves written notice ending the contract, together with written evidence of rejection or non-approval of the loan, on the vendor within 2 clear business days after the approval date or any later date allowed by the vendor; and
- (d) is not in default under any other condition of this contract when the notice is given.

20.3 All money must be immediately refunded to the purchaser if the contract is ended.

21. BUILDING REPORT

21.1 This general condition only applies if the applicable box in the particulars of sale is checked.

21.2 The purchaser may end this contract within 14 days from the day of sale if the purchaser:

- (a) obtains a written report from a registered building practitioner or architect which discloses a current defect in a structure on the land and designates it as a major building defect;
- (b) gives the vendor a copy of the report and a written notice ending this contract; and
- (c) is not then in default.

21.3 All money paid must be immediately refunded to the purchaser if the contract ends in accordance with this general condition.

21.4 A notice under this general condition may be served on the vendor's legal practitioner, conveyancer or estate agent even if the estate agent's authority has formally expired at the time of service.

21.5 The registered building practitioner may inspect the property at any reasonable time for the purpose of preparing the report.

22. PEST REPORT

22.1 This general condition only applies if the applicable box in the particulars of sale is checked.

22.2 The purchaser may end this contract within 14 days from the day of sale if the purchaser:

- (a) obtains a written report from a pest control operator licensed under Victorian law which discloses a current pest infestation on the land and designates it as a major infestation affecting the structure of a building on the land;
- (b) gives the vendor a copy of the report and a written notice ending this contract; and
- (c) is not then in default.

22.3 All money paid must be immediately refunded to the purchaser if the contract ends in accordance with this general condition.

22.4 A notice under this general condition may be served on the vendor's legal practitioner, conveyancer or estate agent even if the estate agent's authority has formally expired at the time of service.

22.5 The pest control operator may inspect the property at any reasonable time for the purpose of preparing the report.

23. ADJUSTMENTS

23.1 All periodic outgoings payable by the vendor, and any rent and other income received in respect of the property must be apportioned between the parties on the settlement date and any adjustments paid and received as appropriate.

23.2 The periodic outgoings and rent and other income must be apportioned on the following basis:

- (a) the vendor is liable for the periodic outgoings and entitled to the rent and other income up to and including the day of settlement; and
- (b) the land is treated as the only land of which the vendor is owner (as defined in the *Land Tax Act 2005*); and
- (c) the vendor is taken to own the land as a resident Australian beneficial owner; and
- (d) any personal statutory benefit available to each party is disregarded in calculating apportionment.

23.3 The purchaser must provide copies of all certificates and other information used to calculate the adjustments under general condition 23, if requested by the vendor.

24. FOREIGN RESIDENT CAPITAL GAINS WITHHOLDING

24.1 Words defined or used in Subdivision 14-D of Schedule 1 to the *Taxation Administration Act 1953* (Cth) have the same meaning in this general condition unless the context requires otherwise.

24.2 Every vendor under this contract is a foreign resident for the purposes of this general condition unless the vendor gives the purchaser a clearance certificate issued by the Commissioner under section 14-220 (1) of Schedule 1 to the *Taxation Administration Act 1953* (Cth). The specified period in the clearance certificate must include the actual date of settlement.

24.3 The remaining provisions of this general condition 24 only apply if the purchaser is required to pay the Commissioner an amount in accordance with section 14-200(3) or section 14-235 of Schedule 1 to the *Taxation Administration Act 1953* (Cth) ("the amount") because one or more of the vendors is a foreign resident, the property has or will have a market value not less than the amount set out in section 14-215 of the legislation just after the transaction, and the transaction is not excluded under section 14-215(1) of the legislation.

24.4 The amount is to be deducted from the vendor's entitlement to the contract consideration. The vendor must pay to the purchaser at settlement such part of the amount as is represented by non-monetary consideration.

24.5 The purchaser must:

- (a) engage a legal practitioner or conveyancer ("representative") to conduct all the legal aspects of settlement, including the performance of the purchaser's obligations under the legislation and this general condition; and
- (b) ensure that the representative does so.

24.6 The terms of the representative's engagement are taken to include instructions to have regard to the vendor's interests and instructions that the representative must:

- (a) pay, or ensure payment of, the amount to the Commissioner in the manner required by the Commissioner and as soon as reasonably and practicably possible, from moneys under the control or direction of the representative in accordance with this general condition if the sale of the property settles;

- (b) promptly provide the vendor with proof of payment; and

- (c) otherwise comply, or ensure compliance, with this general condition;

despite:

- (d) any contrary instructions, other than from both the purchaser and the vendor; and

- (e) any other provision in this contract to the contrary.

24.7 The representative is taken to have complied with the requirements of general condition 24.6 if:

- (a) the settlement is conducted through an electronic lodgement network; and
- (b) the amount is included in the settlement statement requiring payment to the Commissioner in respect of this transaction.

24.8 Any clearance certificate or document evidencing variation of the amount in accordance with section 14-235(2) of Schedule 1 to the *Taxation Administration Act 1953* (Cth) must be given to the purchaser at least 5 business days before the due date for settlement.

24.9 The vendor must provide the purchaser with such information as the purchaser requires to comply with the purchaser's obligation to pay the amount in accordance with section 14-200 of Schedule 1 to the *Taxation Administration Act 1953* (Cth). The information must be provided within 5 business days of request by the purchaser. The vendor warrants that the information the vendor provides is true and correct.

24.10 The purchaser is responsible for any penalties or interest payable to the Commissioner on account of late payment of the amount.

25. GST WITHHOLDING

25.1 Words and expressions defined or used in Subdivision 14-E of Schedule 1 to the *Taxation Administration Act 1953* (Cth) or in *A New Tax System (Goods and Services Tax) Act 1999* (Cth) have the same meaning in this general condition unless the context requires otherwise. Words and expressions first used in this general condition and shown in italics and marked with an asterisk are defined or described in at least one of those Acts.

25.2 The purchaser must notify the vendor in writing of the name of the recipient of the *supply for the purposes of section 14-255 of Schedule 1 to the *Taxation Administration Act 1953* (Cth) at least 21 days before the due date for settlement unless the recipient is the purchaser named in the contract.

25.3 The vendor must at least 14 days before the due date for settlement provide the purchaser and any person nominated by the purchaser under general condition 4 with a GST withholding notice in accordance with section 14-255 of Schedule 1 to the *Taxation Administration Act 1953* (Cth), and must provide all information required by the purchaser or any person so nominated to confirm the accuracy of the notice.

25.4 The remaining provisions of this general condition 25 apply if the purchaser is or may be required to pay the Commissioner an *amount in accordance with section 14-250 of Schedule 1 to the *Taxation Administration Act 1953* (Cth) because the property is *new residential premises or *potential residential land in either case falling within the parameters of that section, and also if the sale attracts the operation of section 14-255 of the legislation. Nothing in this general condition 25 is to be taken as relieving the vendor from compliance with section 14-255.

25.5 The amount is to be deducted from the vendor's entitlement to the contract *consideration and is then taken to be paid to the vendor, whether or not the vendor provides the purchaser with a GST withholding notice in accordance with section 14-255 of Schedule 1 to the *Taxation Administration Act 1953* (Cth). The vendor must pay to the purchaser at settlement such part of the amount as is represented by non-monetary consideration.

25.6 The purchaser must:

- (a) engage a legal practitioner or conveyancer ("representative") to conduct all the legal aspects of settlement, including the performance of the purchaser's obligations under the legislation and this general condition; and
- (b) ensure that the representative does so.

25.7 The terms of the representative's engagement are taken to include instructions to have regard to the vendor's interests relating to the payment of the amount to the Commissioner and instructions that the representative must:

- (a) pay, or ensure payment of, the amount to the Commissioner in the manner required by the Commissioner and as soon as reasonably and practicably possible, from moneys under the control or direction of the representative in accordance with this general condition on settlement of the sale of the property;
- (b) promptly provide the vendor with evidence of payment, including any notification or other document provided by the purchaser to the Commissioner relating to payment; and
- (c) otherwise comply, or ensure compliance, with this general condition;

despite:

- (d) any contrary instructions, other than from both the purchaser and the vendor; and
- (e) any other provision in this contract to the contrary.

25.8 The representative is taken to have complied with the requirements of general condition 25.7 if:

- (a) settlement is conducted through an electronic lodgement network; and
- (b) the amount is included in the settlement statement requiring payment to the Commissioner in respect of this transaction.

25.9 The purchaser may at settlement give the vendor a bank cheque for the amount in accordance with section 16-30 (3) of Schedule 1 to the *Taxation Administration Act 1953* (Cth), but only if:

- (a) so agreed by the vendor in writing; and
- (b) the settlement is not conducted through an electronic lodgement network.

However, if the purchaser gives the bank cheque in accordance with this general condition 25.9, the vendor must:

- (c) immediately after settlement provide the bank cheque to the Commissioner to pay the amount in relation to the supply; and
- (d) give the purchaser a receipt for the bank cheque which identifies the transaction and includes particulars of the bank cheque, at the same time the purchaser gives the vendor the bank cheque.

25.10 A party must provide the other party with such information as the other party requires to:

- (a) decide if an amount is required to be paid or the quantum of it, or
- (b) comply with the purchaser's obligation to pay the amount,

in accordance with section 14-250 of Schedule 1 to the *Taxation Administration Act 1953* (Cth). The information must be provided within 5 business days of a written request. The party providing the information warrants that it is true and correct.

25.11 The vendor warrants that:

- (a) at settlement, the property is not new residential premises or potential residential land in either case falling within the parameters of section 14-250 of Schedule 1 to the *Taxation Administration Act 1953* (Cth) if the vendor gives the purchaser a written notice under section 14-255 to the effect that the purchaser will not be required to make a payment under section 14-250 in respect of the supply, or fails to give a written notice as required by and within the time specified in section 14-255; and
- (b) the amount described in a written notice given by the vendor to the purchaser under section 14-255 of Schedule 1 to the *Taxation Administration Act 1953* (Cth) is the correct amount required to be paid under section 14-250 of the legislation.

25.12 The purchaser is responsible for any penalties or interest payable to the Commissioner on account of non-payment or late payment of the amount, except to the extent that:

- (a) the penalties or interest arise from any failure on the part of the vendor, including breach of a warranty in general condition 25.11; or
- (b) the purchaser has a reasonable belief that the property is neither new residential premises nor potential residential land requiring the purchaser to pay an amount to the Commissioner in accordance with section 14-250 (1) of Schedule 1 to the *Taxation Administration Act 1953* (Cth).

The vendor is responsible for any penalties or interest payable to the Commissioner on account of non-payment or late payment of the amount if either exception applies.

Transactional

26. TIME & CO OPERATION

26.1 Time is of the essence of this contract.

26.2 Time is extended until the next business day if the time for performing any action falls on a day which is not a business day.

26.3 Each party must do all things reasonably necessary to enable this contract to proceed to settlement, and must act in a prompt and efficient manner.

26.4 Any unfulfilled obligation will not merge on settlement.

27. SERVICE

27.1 Any document required to be served by or on any party may be served by or on the legal practitioner or conveyancer for that party.

27.2 A cooling off notice under section 31 of the *Sale of Land Act 1962* or a notice under general condition 20 [loan approval], 21 [building report] or 22 [pest report] may be served on the vendor's legal practitioner, conveyancer or estate agent even if the estate agent's authority has formally expired at the time of service.

27.3 A document is sufficiently served:

- (a) personally, or
- (b) by pre-paid post, or
- (c) in any manner authorized by law or by the Supreme Court for service of documents, including any manner authorised for service on or by a legal practitioner, whether or not the person serving or receiving the document is a legal practitioner, or
- (d) by email.

27.4 Any document properly sent by:

- (a) express post is taken to have been served on the next business day after posting, unless proved otherwise;
- (b) priority post is taken to have been served on the fourth business day after posting, unless proved otherwise;
- (c) regular post is taken to have been served on the sixth business day after posting, unless proved otherwise;
- (d) email is taken to have been served at the time of receipt within the meaning of section 13A of the *Electronic Transactions (Victoria) Act 2000*.

27.5 In this contract 'document' includes 'demand' and 'notice', 'serve' includes 'give', and 'served' and 'service' have corresponding meanings.

28. NOTICES

28.1 The vendor is responsible for any notice, order, demand or levy imposing liability on the property that is issued or made before the day of sale, and does not relate to periodic outgoings.

28.2 The purchaser is responsible for any notice, order, demand or levy imposing liability on the property that is issued or made on or after the day of sale, and does not relate to periodic outgoings.

28.3 The purchaser may enter the property to comply with that responsibility where action is required before settlement.

29. INSPECTION

The purchaser and/or another person authorised by the purchaser may inspect the property at any reasonable time during the 7 days preceding and including the settlement day.

30. TERMS CONTRACT

30.1 If this is a 'terms contract' as defined in the *Sale of Land Act 1962*:

- (a) any mortgage affecting the land sold must be discharged as to that land before the purchaser becomes entitled to possession or to the receipt of rents and profits unless the vendor satisfies section 29M of the *Sale of Land Act 1962*; and
- (b) the deposit and all other money payable under the contract (other than any money payable in excess of the amount required to so discharge the mortgage) must be paid to a legal practitioner or conveyancer or a licensed estate agent to be applied in or towards discharging the mortgage.

30.2 While any money remains owing each of the following applies:

- (a) the purchaser must maintain full damage and destruction insurance of the property and public risk insurance noting all parties having an insurable interest with an insurer approved in writing by the vendor;
- (b) the purchaser must deliver copies of the signed insurance application forms, the policies and the insurance receipts to the vendor not less than 10 days before taking possession of the property or becoming entitled to receipt of the rents and profits;
- (c) the purchaser must deliver copies of any amendments to the policies and the insurance receipts on each amendment or renewal as evidence of the status of the policies from time to time;
- (d) the vendor may pay any renewal premiums or take out the insurance if the purchaser fails to meet these obligations;
- (e) insurance costs paid by the vendor under paragraph (d) must be refunded by the purchaser on demand without affecting the vendor's other rights under this contract;
- (f) the purchaser must maintain and operate the property in good repair (fair wear and tear excepted) and keep the property safe, lawful, structurally sound, weatherproof and free from contaminations and dangerous substances;
- (g) the property must not be altered in any way without the written consent of the vendor which must not be unreasonably refused or delayed;
- (h) the purchaser must observe all obligations that affect owners or occupiers of land;
- (i) the vendor and/or other person authorised by the vendor may enter the property at any reasonable time to inspect it on giving 7 days written notice, but not more than twice in a year.

31. LOSS OR DAMAGE BEFORE SETTLEMENT

- 31.1 The vendor carries the risk of loss or damage to the property until settlement.
- 31.2 The vendor must deliver the property to the purchaser at settlement in the same condition it was in on the day of sale, except for fair wear and tear.
- 31.3 The purchaser must not delay settlement because one or more of the goods is not in the condition required by general condition 31.2, but may claim compensation from the vendor after settlement.
- 31.4 The purchaser may nominate an amount not exceeding \$5,000 to be held by a stakeholder to be appointed by the parties if the property is not in the condition required by general condition 31.2 at settlement.
- 31.5 The nominated amount may be deducted from the amount due to the vendor at settlement and paid to the stakeholder, but only if the purchaser also pays an amount equal to the nominated amount to the stakeholder.
- 31.6 The stakeholder must pay the amounts referred to in general condition 31.5 in accordance with the determination of the dispute, including any order for payment of the costs of the resolution of the dispute.

32. BREACH

A party who breaches this contract must pay to the other party on demand:

- (a) compensation for any reasonably foreseeable loss to the other party resulting from the breach; and
- (b) any interest due under this contract as a result of the breach.

Default

33. INTEREST

Interest at a rate of 2% per annum plus the rate for the time being fixed by section 2 of the *Penalty Interest Rates Act 1983* is payable at settlement on any money owing under the contract during the period of default, without affecting any other rights of the offended party.

34. DEFAULT NOTICE

- 34.1 A party is not entitled to exercise any rights arising from the other party's default, other than the right to receive interest and the right to sue for money owing, until the other party is given and fails to comply with a written default notice.
- 34.2 The default notice must:

- (a) specify the particulars of the default; and
- (b) state that it is the offended party's intention to exercise the rights arising from the default unless, within 14 days of the notice being given -
 - (i) the default is remedied; and
 - (ii) the reasonable costs incurred as a result of the default and any interest payable are paid.

35. DEFAULT NOT REMEDIED

- 35.1 All unpaid money under the contract becomes immediately payable to the vendor if the default has been made by the purchaser and is not remedied and the costs and interest are not paid.
- 35.2 The contract immediately ends if:
 - (a) the default notice also states that unless the default is remedied and the reasonable costs and interest are paid, the contract will be ended in accordance with this general condition; and
 - (b) the default is not remedied and the reasonable costs and interest are not paid by the end of the period of the default notice.
- 35.3 If the contract ends by a default notice given by the purchaser:
 - (a) the purchaser must be repaid any money paid under the contract and be paid any interest and reasonable costs payable under the contract; and
 - (b) all those amounts are a charge on the land until payment; and
 - (c) the purchaser may also recover any loss otherwise recoverable.
- 35.4 If the contract ends by a default notice given by the vendor:
 - (a) the deposit up to 10% of the price is forfeited to the vendor as the vendor's absolute property, whether the deposit has been paid or not; and
 - (b) the vendor is entitled to possession of the property; and
 - (c) in addition to any other remedy, the vendor may within one year of the contract ending either:
 - (i) retain the property and sue for damages for breach of contract; or
 - (ii) resell the property in any manner and recover any deficiency in the price on the resale and any resulting expenses by way of liquidated damages; and
 - (d) the vendor may retain any part of the price paid until the vendor's damages have been determined and may apply that money towards those damages; and
 - (e) any determination of the vendor's damages must take into account the amount forfeited to the vendor.
- 35.5 The ending of the contract does not affect the rights of the offended party as a consequence of the default.

Purchaser Sales Information Form

SECTION (1) MUST BE COMPLETED BY ALL PURCHASERS

Foreign Person

1. Is the Purchaser a Foreign Person? A Foreign person does not include:
 - (a) an Australian or New Zealand citizen;
 - (b) the holder of an Australian permanent resident visa;
 - (c) an individual purchasing property as joint tenants with their Australian citizen spouse, New Zealand citizen spouse or Australian permanent resident spouse (but excluding purchasing the property as tenants in common);
 - (d) an Australian corporation that would not be a foreign person if interests directly held in it by Australian citizens living abroad, Australian permanent visa holders or New Zealand citizens were disregarded;
 - (e) the trustee of a resident trust, if at the time of the acquisition, the trustee would not be a foreign person if interests directly held by the Australian citizens living abroad, Australian permanent visa holders or New Zealand citizens were disregarded; or
 - (f) a charity operating in Australia primarily for the benefit of persons ordinarily resident in Australia.

No Nationality of Purchaser: _____

Yes Nationality of Purchaser: _____

(If 'Yes' the Purchaser must provide a copy of their passport and (if applicable) their permanent residence visa. These must be provided at the time of signing this Contract)

Corporations

2. If the Purchaser is a corporation, please list all shareholders, their full names and usual residential addresses and the percentage of issued share capital held by each of them;

Name	Address	% held

Trusts

3. If the Purchaser is a trustee of a trust, please complete the following details;

(a) Name of Trust; and

(b) Name of each major beneficiary and percentage held by each beneficiary.

Name	Address	% held

The Purchaser and any natural person signing on behalf of the Purchaser warrants that the answers given in this form are accurate.

Schedule to the Particulars of Sale

Encumbrances:

All registered and unregistered encumbrances, easements, covenants and restrictions including:

- (a) any disclosed in the statement required to be given by a vendor under section 32 of the *Sale of Land Act*;
- (b) any apparent or implied easements;
- (c) any created by section 98 of the *Transfer of Land Act* or implied under the *Subdivision Act*;
- (d) any referred to or described in the *Plan of Subdivision*;
- (e) any provided in or contemplated by the *Rules*;
- (f) the lot liability of the Property;
- (g) any contemplated by any *Planning Permit* relating to the Site or required by any Authority including any conditions which may be imposed in connection with any Application including any agreement entered into or to be entered into under section 173 of the *Planning and Environment Act 1987* (Vic);
- (h) any vested in any Authority;
- (i) any electrical substation lease required to be entered into; and
- (j) any required or contemplated by this Contract.

Special Conditions

1 Further Definitions

1.1 Defined Terms

In this Contract:

Term	Meaning
Application	any application to the Responsible Authority for permission to develop, use or subdivide the Site generally as contemplated by the Plans or the Plan of Subdivision or any combination of these
Authority	includes any government or public, governmental, semi-government, local governmental, administrative, fiscal, statutory or judicial body, department, commission, tribunal, agency, entity or authority and includes a Minister of the Crown (in any right), the Responsible Authority and any person, body, department, commission, tribunal, agency, entity or authority exercising a power pursuant to any statute or regulation
Bank	an Australia-owned bank, a foreign subsidiary bank, a branch of a foreign bank, or on the list, current on the day of sale, of authorised deposit-taking institutions regulated by the Australian Prudential Regulation Authority
Builder	the builder or builders selected by the Vendor (in its absolute discretion) to carry out the Building Works
Building	the building constructed on the Site in accordance with the Plans
Building Permit	the building permit granted or to be granted with respect to the Planning Permit and includes any amendment, addition, variation, extension or endorsement to the Planning Permit from time to time whether pursuant to an Application or otherwise
Business Day	any day on which banks are open for business in Melbourne, Victoria excluding Saturdays and Sundays
Caveat	a caveat pursuant to section 89 of the Transfer of Land Act

Term	Meaning
CGT Withholding Amount	an amount or amounts, if any, determined under s 14-200(3) of Schedule 1 to the Tax Act which may be payable to the Commissioner of Taxation under s 14-200(1) of Schedule 1 to the Tax Act
Claim	any and all claims, actions, disputes, differences, demands, proceedings, accounts, interest, costs (whether or not the subject of a court order), loss, expenses and debts or liabilities of any kind (including those which are prospective or contingent and those that amount of which is not ascertained) of whatever nature and however arising
Clearance Certificate	a certificate issued under s 14-220(1) of Schedule 1 to the Tax Act
Common Property	the common property created on registration of the Plan of Subdivision and which is under the control of the Owners Corporation
Contract	this Contract of Sale of Real Estate including the General Conditions, the Particulars of Sale, these special conditions and any Schedule, Appendix or Annexure
Deed of Agreement	a deed effecting a transfer of this Contract substantially as prepared and completed as reasonably determined by the Vendor and by the Vendor's Legal Practitioner naming a purchaser of the Site as the New Vendor
Development	the proposed development of the Site generally in accordance with the Planning Permit, the Building Permit and the Plans and the Specifications (subject to any variations or amendments which may be made under the Contract)
FIRB	the Foreign Investment Review Board responsible for administering the Commonwealth of Australia's foreign investment policy under the provisions of the Takeovers Act and includes the Treasurer of the Commonwealth of Australia
Foreign Person	a 'Foreign Person' as defined in Section 5 or Section 21A of the Takeovers Act or a person to whom section 21A of that Act applies
GST	GST within the meaning of the GST Act

Term	Meaning
GST Act	<i>A New Tax System (Goods and Services Tax) Act 1999 (Cth)</i>
Guarantee	a deed of guarantee and indemnity in the form attached in schedule 1
Land	the land described in the Particulars of Sale
Laws	any law (including principles of law or equity established by decisions of courts) that applies in Victoria, and any rule, regulation, ordinance, order, by-law, local law, statutory instrument, control, restriction, direction or notice made under a law by any Authority
Loss	<p>includes any cost, liability, loss, fine, penalty, suit, claim, damage or proceeding and includes, but is not limited to:</p> <ul style="list-style-type: none"> <li data-bbox="573 900 1335 965">(a) all costs associated with bridging finance to complete the Vendor's purchase of another property; <li data-bbox="573 1001 1335 1066">(b) expenses payable by the Vendor under any existing loans secured over the Site or other property of the Vendor; <li data-bbox="573 1102 1251 1134">(c) accommodation expenses incurred by the Vendor; <li data-bbox="573 1170 1362 1271">(d) any commission or other expenses claimed by the Vendor's agents or other representing the Vendor relating to the sale of the Property; and <li data-bbox="573 1307 1367 1417">(e) penalties and any other expenses payable by the Vendor due to any delay in completion of the purchase of another property
Lot	a lot on the Plan of Subdivision including any additional lots created by the Vendor out of the Common Property
New Vendor	the purchaser of the Site named in the Deed of Agreement
Nominee Purchaser	the purchaser nominated by the Purchaser to take transfer of the Property on the Settlement Date under special condition 5
Nomination Form	the form of notice of nomination contained in schedule 4

Term	Meaning
Notice	a notice or other communication in relation to this Contract
Owners Corporation	the owners corporation or owners corporations of which, on registration of the Plan of Subdivision, the owner of the Land will be a member
Owners Corporation Act	the <i>Owners Corporation Act 2006 (Vic)</i>
Owners Corporation Regulations	the <i>Owners Corporation Regulations 2018 (Vic)</i>
Personal Information	the information or an opinion (including information or an opinion forming part of a database), whether true or not, and whether recorded in a material form or not, about a natural person whose identity is apparent, or can reasonably be ascertained from the information or opinion
Planning Permit	the planning permit for the Site issued by the Responsible Authority for the Development and includes any amendment, addition, variation, extension or endorsement to that planning permit from time to time whether pursuant to an Application or otherwise
Plan of Subdivision	proposed Plan of Subdivision No. 922533K, a copy of which is attached to the Vendor's Statement and includes any amendment or alteration of that plan from time to time and, on registration by the Registrar, means that plan in the form in which it is registered
Purchaser's Legal Practitioner	the Legal Practitioner (if any) described as the purchaser's Legal Practitioner in the Particulars of Sale and includes any Legal Practitioner and any conveyancer notified to the Vendor's Legal Practitioner as acting on behalf of the Purchaser or who may correspond with the Vendor's Legal Practitioner on behalf of the Purchaser from time to time
Purchaser's Proportion	the proportion that the total lot liability of the Land, as set out in the Plan of Subdivision in respect of the unlimited Owners Corporation, bears to the total lot liability of all Lots in the unlimited Owners Corporation

Term	Meaning
Purchaser Rights	<ul style="list-style-type: none"> <li data-bbox="576 271 1384 316">(a) claiming compensation; <li data-bbox="576 339 1384 384">(b) rescinding or purporting to rescind; <li data-bbox="576 406 1384 496">(c) calling on the Vendor to amend title or bear any costs in so doing; <li data-bbox="576 518 1384 563">(d) delaying settlement; <li data-bbox="576 586 1384 631">(e) avoiding any of the Purchaser's obligations; and <li data-bbox="576 653 1384 691">(f) making any other Claims
Purchaser Sales Information Form	the form relating to FIRB requirements that is attached to this Contract after the Particulars of Sale
Registrar	the Registrar of Titles
Registration Date	48 calendar months from the Day of Sale
Related Body Corporate	has the meaning given in the <i>Corporations Act 2001</i> (Cth)
Responsible Authority	the Moorabool Shire Council, the Department of Environment, Land Water and Planning, the Minister for Planning and any other Authority responsible for the issue of planning permission in connection with the Development under the <i>Planning and Environment Act 1987</i> (Vic) and includes each relevant referral authority for the purposes of section 66 of that Act
Restrictive Covenant	the restrictive covenant on PS 846439L benefitting and burdening the Land and benefitting and burdening Lot B on PS 846439L, which prohibits the development of the Land or Lot B for the purposes of residential premises, childcare centre, preschool, primary school, education centre or informal outdoor recreation site
Rules	the proposed rules attached in schedule 2 and includes any variations to those rules that are made in accordance with this Contract
Sale of Land Act	the <i>Sale of Land Act 1962</i> (Vic)

Term	Meaning
Section 173 Agreement	any agreement or agreements made in connection with the Development pursuant to section 173 of the <i>Planning and Environment Act 1987</i> (Vic) at the request or direction of any Authority
Settlement Date	the date as stated in the Particulars of Sale
Site	all of the land described in Certificate of Title Volume 12361 Folio 152, which is located at 30 Fisken Street, Maddingley, Victoria 3340 and any adjoining or nearby land which the Vendor may require for use in connection with the Development
Subdivision	enabling the Land to be dealt with as a separate parcel without being further subdivided
Subdivision Act	the <i>Subdivision Act 1988</i> (Vic)
Subdivision Permit	a planning permit for the Subdivision
Tax Act	the <i>Taxation Administration Act 1953</i> (Cth)
Takeovers Act	the <i>Foreign Acquisitions and Takeovers Act 1975</i> (Cth)
Transfer	the instrument of transfer referred to in general condition 10
Transfer of Land Act	the <i>Transfer of Land Act 1958</i> (Vic)
Utilities	include but is not limited to the supply of electricity, solar power, gas, water, hot water, telephone services, cable television, internet, or other such telecommunications or electronic data or services
Variation Certificate	a certificate issued under s 14-235(2) of Schedule 1 of the Tax Act
Vendor's Legal Practitioner	the Legal Practitioner (if any) described as the Vendor's Legal Practitioner in the Particulars of Sale and includes any Legal Practitioner and any conveyancer notified to the Purchaser's Legal Practitioner as acting on behalf of the Vendor or who may correspond with the Purchaser's Legal Practitioner on behalf of the Vendor from time to time

Term	Meaning
Vendor's Statement	the statement made by the Vendor under section 32 of the Sale of Land Act

1.2 Terms Defined in the Particulars of Sale

Words and phrases appearing in bold in the Particulars of Sale have the meaning given beside them and are incorporated in this Contract.

2 Acknowledgement by Purchaser

2.1 Receipt of documents

The Purchaser acknowledges receiving, before paying any money or signing any document relating to this Contract:

- (a) a copy of this Contract;
- (b) a Vendor's Statement (signed by the Vendor).

3 General conditions

3.1 Amendments to general conditions

- (a) In relation to the warranties in General Condition 6.4, the Vendor only has knowledge of decisions of public authorities and government departments affecting the Property which are communicated to the Vendor.
- (b) General conditions 11, 13, 14, 15, 16, 20, 21, 22 23.2(b), 31.4, 31.5 and 31.6 do not apply to this Contract.
- (c) In general condition 2, at the end of the general condition, insert the words 'On the Day of Sale, each director must sign the guarantee and indemnity contained in annexure A.'
- (d) In general condition 23, the term 'periodic outgoings' does not include any amounts to which section 10G of the Sale of Land Act applies.
- (e) General condition 28 does not apply to any amounts to which section 10G or 10H of the Sale of Land Act applies.
- (f) General condition 35.3, delete (a), (b) and (c) and replace with 'the Purchaser must be repaid any money paid under the contract and any interest on that money and will not be able to make any other claim against the Vendor'.

(g) General condition 35.4(a) is amended to read: 'an amount equal to 10% of the price is forfeited to the Vendor as the Vendor's absolute priority'.

3.2 Special conditions take precedence

The general conditions apply as amended by special condition 3.1. The special conditions take precedence over the general conditions.

4 Deposit

4.1 Deposit monies

(a) The Deposit monies paid or payable under this Contract must not exceed ten per cent of the Price. Any interest on the Deposit will be payable to the Vendor.

(b) The Deposit must be paid to the Vendor's Legal Practitioner named in this Contract to be held on trust for the Purchaser held in the Vendor's Legal Practitioner's trust account until the registration of the Plan of Subdivision after which it will be held as stakeholder in accordance with the Sale of Land Act.

(c) The Vendor and the Purchaser authorise the Vendor's Legal Practitioner to invest the Deposit and agree that any interest which accrues on the Deposit money does not form part of the Deposit. When the investment is withdrawn the parties authorise the Vendor's Legal Practitioner to deduct from the balance withdrawn the costs in connection with the investment of the Deposit under this special condition 4.1(c), which costs are to be determined by the Vendor's Legal Practitioner.

(d) Upon registration of the Plan of Subdivision, the Deposit will be held or invested by the Vendor's Legal Practitioner upon the terms set out in this special condition as stakeholder for the parties.

(e) Within seven days after the Day of Sale, the Purchaser must give the Purchaser's tax file number either to the Vendor's Legal Practitioner or to the Bank. If the Purchaser gives its tax file number to the Bank it must, as soon as it has done so, give the Vendor's Legal Practitioner verification of this.

(f) If the Purchaser breaches special condition 4.1(e), and then becomes entitled to a refund of the Deposit, the Purchaser must within seven days of becoming entitled to a refund of the Deposit, provide the Purchaser's tax file number either to the Vendor's Legal Practitioner or to the Bank prior to receiving the Interest, whereupon the Interest will be payable to the Purchaser.

(g) Special conditions 4.1(e) and 4.1(f) do not apply to a party who does not hold a tax file number, however, in these circumstances, the Purchaser acknowledges that withholding tax may be deducted from any interest to which the Purchaser would otherwise have been entitled.

(h) The Vendor and the Vendor's Legal Practitioner are under no obligation to provide to the Purchaser or the Purchaser's Legal Practitioner a statement in respect of the interest earned on the Deposit.

4.2 Deposit as security

- (a) The Purchaser pays the Deposit as part of the Price and as reasonable and equitable security for performance of its obligations under this Contract.
- (b) Any part of the Deposit that is specified as being due and payable on a date that is after the day that this Contract is rescinded as a result of default by the Purchaser becomes immediately due and payable on the day that this Contract is rescinded.

5 Nomination

5.1 Nomination form

The Purchaser may only exercise the Purchaser's rights under general condition 4, if the Vendor approves the nomination (which approval is at the absolute discretion of the Vendor), and if the Purchaser delivers to the Vendor a Nomination Form:

- (a) properly completed with all of the relevant details;
- (b) executed by the Purchaser and the Nominee Purchaser; and
- (c) accompanied by the guarantee and indemnity if required by special condition 5.2.

5.2 Guarantee by nominated purchaser

The Purchaser must deliver to the Vendor with the Nomination Form required by special condition 5.1 a deed in the form of the Guarantee:

- (a) securing the Nominee Purchaser's obligations under this contract;
- (b) amending the Guarantee as follows:
 - (i) by substituting paragraph A of the introduction to read: 'At the request of the Guarantor, the Purchaser nominated the Nominee Purchaser under the Contract and the Vendor accepted that nomination';
 - (ii) by substituting clause 2 to read: 'The Guarantor has requested the Purchaser to nominate the Nominee Purchaser under the Contract and the Vendor accepts that nomination in consideration of this guarantee and indemnity';
 - (iii) by including the name and address of the Nominee Purchaser where required; and
 - (iv) by inserting the name and address of the Guarantor where required;

- (c) executed by the Nominee Purchaser and each director of the Nominee Purchaser; and
- (d) with any other consequential amendments required to complete the Guarantee.

5.3 Costs

The Purchaser must pay the Vendor's costs associated with the Nomination at the time of the Nomination, which are \$500 plus GST.

6 Corporate Purchaser

6.1 Warranties

If the Purchaser is or includes a corporation not listed on the Australian Stock Exchange Ltd, then:

- (a) each person who signs this Contract on behalf of that corporation:
 - (i) warrants that he or she is duly authorised to sign this Contract and the Vendor's Statement on behalf of the Purchaser and is not prevented from doing so by any legal or other disability;
 - (ii) will be personally liable for the due performance of the Purchaser's obligations under this Contract to the same extent as if the signatory had signed as purchaser; and
- (b) must procure the execution by all directors of the Purchaser of the Guarantee and deliver the duly completed and executed Guarantee to the Vendor's Legal Practitioner within seven days of the Day of Sale; and
- (c) the Purchaser represents and warrants to the Vendor that:
 - (i) if the Purchaser is an Australian corporation, it is duly incorporated under the Corporations Act and, if the Purchaser is a foreign corporation, it is duly incorporated pursuant to the laws of its country of registration;
 - (ii) the consent or licence of any person or body is not required for the Purchaser to enter into this Contract or to purchase the Land; and
 - (iii) the Purchaser is duly empowered to enter into this Contract and is not prevented from entering into this Contract for any reason whatsoever including by reason of any trust, charge or undertaking.

6.2 Failure to guarantee

If the Purchaser fails to produce the Guarantee referred to in special condition 6.1(b) within seven days of the Day of Sale, the Vendor may end this Contract by giving written Notice to the Purchaser with immediate effect upon it being served on the Purchaser.

7 Foreign investment restrictions

The Purchaser warrants that it has complied with the Takeovers Act and is responsible for and indemnifies the Vendor against any Loss which the Vendor suffers in connection with any breach by the Purchaser of this special condition.

8 Registration of the plan of subdivision

8.1 Registration of Plan

- (a) The Vendor must at its own cost endeavour to procure registration of the Plan of Subdivision by the Registrar by the Registration Date.
- (b) If the Plan of Subdivision is not registered by the Registrar by the Registration Date then the Purchaser has the right to rescind this Contract by giving notice in writing to that effect to the Vendor prior to the Plan of Subdivision being registered.
- (c) If the Plan of Subdivision is not registered by the Registrar by the Registration Date then the Vendor may rescind this Contract by:
 - (i) giving the Purchaser written notice containing:
 - (A) the reason the Vendor proposes to rescind this Contract;
 - (B) the reason for the delay in registration of the Plan of Subdivision; and
 - (C) a statement that the Purchaser is not obliged to consent to the proposed rescission; or
 - (ii) applying to the Supreme Court of Victoria ('Supreme Court') for a court order granting the Vendor the right to rescind this Contract under this special condition 8.
- (d) If the Vendor issues a written notice to the Purchaser to rescind this Contract then the Vendor must obtain the written consent of the Purchaser, not less than 28 days prior to the proposed date of rescission before this Contract is rescinded under this special condition 8.

8.2 Rescission

If this Contract is rescinded pursuant to special condition 8.1(c) the:

- (a) Vendor is required to give notice of a proposed rescission of the Contract under the Sunset Clause;
- (b) Purchaser has a right to consent to the proposed rescission of the Contract but is not obliged to consent;

- (c) Vendor has the right to apply to the Supreme Court for an order permitting the Vendor to rescind the Contract; and
- (d) Supreme Court may make an order permitting the rescission of the Contract if satisfied that making the order is just and equitable in all the circumstances.

For the purpose of this special condition 8.2, 'Sunset Clause' refers to this special condition 8.

8.3 Rescission - onerous conditions

- (a) Despite special condition 8.1(a), if any requirement or condition imposed by the Responsible Authority, the Registrar or any other Authority in connection with the approval, certification or registration of the Plan of Subdivision is, in the opinion of the Vendor, too onerous for the Vendor to perform or if registration of the Plan of Subdivision is refused (other than as a result of a wrongful act or omission of the Vendor) the Vendor will be entitled to rescind this Contract by giving Notice to the Purchaser with immediate effect.
- (b) Notwithstanding any other term or condition of this Contract, if the Vendor cannot obtain a Planning Permit or the Building Permit, or obtain amendments to the Planning Permit or Building Permit under which terms are acceptable to the Vendor, or cannot obtain finance to undertake the development on terms acceptable to the Vendor then the Vendor will be entitled to rescind this Contract at any time by giving Notice to the Purchaser with immediate effect.

8.4 Consequences of rescission

- (a) If this Contract is rescinded pursuant to special condition 8, the Deposit will be refunded to the Purchaser and neither party will have any further liability to the other in relation to this Contract.
- (b) The Purchaser must not claim any compensation if the Contract is rescinded pursuant to special condition 8.
- (c) The right to a refund of the Deposit shall be the sole right of the Purchaser in connection with such rescission.

8.5 Alterations to plan of subdivision and consolidation

- (a) Subject to section 9AC of the Sale of Land Act, the Vendor may make such alterations to the Plan of Subdivision as it requires including without limitation amendments that are:
 - (i) necessary to ensure that the Plan of Subdivision accords with the Property as proposed, designed or built from time to time;
 - (ii) required to accord with good surveying practice and all laws, including the Owners Corporation Act and the Owners Corporation Regulations;

- (iii) required in order to deliver services to each Lot and the Common Property;
- (iv) required to meet any requirement, recommendation or requisition of the Responsible Authority, the Registrar, any Authority or any combination of them to enable the Plan of Subdivision to be certified by the Responsible Authority or registered by the Registrar; or
- (v) considered by the Vendor to be necessary or desirable for the purposes of the Development which may include:
 - (A) creating additional lots or reducing the number of Lots including reducing or altering the Common Property to create such additional Lots; or
 - (B) altering or varying the position of any car park, storage lot or any other Lot; or
 - (C) any changes to the Planning Permit.

(b) If the Vendor makes any amendment contemplated by special condition 8.5(a) then, subject to section 9AC of the Sale of Land Act, the Purchaser must not make any requisition or objection, rescind or terminate this Contract, delay settlement or claim any compensation on the grounds that the Plan of Subdivision as registered by the Registrar does not accord with the Plan of Subdivision.

(c) If on the Day of Sale, the Land is described as more than one Lot, the Vendor may consolidate those lots into one or more titles as the Vendor sees fit (but is not obliged to do so) and the Purchaser may not object to any such consolidation.

8.6 Vendor not required to amend title or plan

The Purchaser is not entitled to call on the Vendor to amend title or to amend the Plan of Subdivision or contribute to the expense of any amendment of title or amendment of the Plan of Subdivision.

9 Owners Corporation

9.1 Establishment of Owners Corporation

The Vendor shall upon Registration and before the Settlement Date of this Contract attend to the establishment of the relevant Owners Corporation and cause the relevant Owners Corporation to:

- (a) appoint one or more managing agents for the various Owners Corporation (as applicable) on such terms and conditions determined by it;
- (b) make rules in the form of the Rules subject to any changes made by the Vendor;

- (c) enter into the leasing and licensing arrangements in respect to parts of the Common Property to any person, including but not limited to the Vendor and third parties to use for any purpose on any terms the Vendor in its absolute discretion determines necessary or desirable;
- (d) determine the Owners Corporation fees or levies payable by owners of all Lots;
- (e) insure the Development for an adequate and proper amount with a reputable insurer;
- (f) pass any resolutions:
 - (i) to enter into service and/or management agreements for the caretaking, lifts, utilities, leasing of Lots, service cupboards, facilities and any other matter pertaining to the Building and the Development;
 - (ii) to enter into any arrangements or agreements contemplated in special condition 19;
 - (iii) to grant the Vendor or any entity appointed by the Vendor the leases and/or licences required by the Vendor;
 - (iv) to permit others to install, affix, or erect structures, cabling, line links, wiring, conduits, boxes, wall plates or other electronic requirement on or to the roof or walls of any building and any other part of the Common Property;
 - (v) to screen, cordon, wall or fence off parts of the Common Property or install fixtures, tables, chairs, bicycle racks or other equipment in the Common Property;
 - (vi) to create or reserve or procure the Owners Corporation to create or reserve such easements, licences or reservations over the Common Property as may be necessary to give effect to and to protect the rights of ownership of and access to any structures, equipment or facilities installed or affixed to the Building or Common Property;
 - (vii) to authorise the Vendor's activities referred to in special condition 9.4; and
 - (viii) any other matter required by the Vendor pertaining to the Development and/or the Common Property.

9.2 Encumbrances and restrictions

The Purchaser acquires its interest in the Common Property subject to all rights over the Common Property:

- (a) contemplated, granted or to be granted under this Contract;
- (b) disclosed in the Plan of Subdivision;

- (c) disclosed in the Vendor's Statement;
- (d) of the Vendor to conduct works after settlement; and
- (e) of the Vendor for signage and naming.

9.3 Rules

- (a) The Purchaser authorises the Vendor to modify the Rules in its absolute discretion, including any modifications necessary to adapt the Rules for any limited Owners Corporation.
- (b) The Purchaser must not make any requisition or objection, delay settlement or claim any compensation because of:
 - (i) anything express or implied in the Rules; or
 - (ii) any additions to, variations of or deletions from the Rules notified to the Purchaser at any time prior to the Settlement Date.

9.4 Vendor may conduct activities

The Purchaser authorises the Vendor and must cause the Owners Corporation to authorise the Vendor and all persons authorised by the Vendor to:

- (a) conduct any marketing activities whatsoever in the Development;
- (b) place and maintain in, on and about the Development (excluding the Property) signs in connection with those marketing activities; and
- (c) place and maintain in, on and about the Development an office or facility from which marketing activities can be conducted,

and this authorisation continues with full force and effect after settlement until the Vendor is not a member of the Owners Corporation.

9.5 Owners Corporation authorisations

- (a) The Purchaser acknowledges that after registration of the Plan of Subdivision and before the Settlement Date, the Vendor as owner of all Lots on the Plan of Subdivision may vote in favour of resolutions of the Owners Corporation to:
 - (i) grant rights and give and make all consents, authorisations, directions and permissions for the management and administration of the Owners Corporation and the Common Property;
 - (ii) grant rights, including by way of lease, licence or easement over the Common Property to purchasers or occupiers of a Lot or in connection with the Vendor, the Builder or others undertaking work on the Site;

- (iii) further subdivide or dispose of the Common Property or any Lots under the Subdivision Act; and
- (iv) grant and give effect to the rights of the Vendor and others contemplated or intended by this Contract.

(b) The Purchaser consents to the Vendor voting on resolutions contemplated by this special condition 9 and causing the Owners Corporation to grant such rights over the Common Property as the Vendor sees fit.

9.6 Proxy

- (a) The Purchaser may offer the Vendor an executed appointment in the form attached in Schedule 3 at settlement, appointing either the Vendor or a nominee of the Vendor as proxy for the Purchaser.
- (b) The Purchaser authorises the Vendor to complete the details of any appointment offered by the Purchaser.

9.7 Restriction

While the Vendor is registered or entitled to be registered as proprietor of any Lot, the Purchaser must not without first obtaining the written consent of the Vendor cast any vote in exercise of any of the rights, powers or privileges that the Purchaser is entitled to as a member of the Owners Corporation in any way that would curtail or inhibit the rights of the Vendor referred to in this Contract or special condition 9.

9.8 Subdivision Act

The Purchaser admits that the Land is sold subject to the provisions of the Subdivision Act and in particular subject to:

- (a) the lot entitlement and lot liability and all other information set out in the Plan of Subdivision; and
- (b) the provisions of the Owners Corporation Regulations.

9.9 Further assurance

The Purchaser must ensure that its Related Bodies Corporate, employees, agents and representatives comply with this special condition 9.

9.10 Damages insufficient remedy

Without limiting any right of the Vendor:

- (a) the Purchaser acknowledges that damages of themselves will not be a sufficient remedy for breach by the Purchaser of this special condition 9.

(b) the Purchaser agrees that the Vendor will be entitled to orders for specific performance if the Purchaser fails to comply with its obligations under this special condition 9.

10 Building Works

10.1 Variations

The Purchaser agrees that it is not entitled to make any requisition, objection or claim for compensation or rescind or determine this Contract on the grounds that the plan as registered does not accord with the Plan of Subdivision in a manner which materially affects the Lot hereby sold if any variation or discrepancy between the Lot sold and the corresponding Lot as shown on the Plan of Subdivision when registered, or any variation or discrepancy between the number, size or location of any Lot as presently appearing on the Plan of Subdivision and as appears on the Plan of Subdivision when registered is not greater than 5% variation or discrepancy, on the basis that the Purchaser agrees that such variation or discrepancy does not constitute a material variation or discrepancy.

10.2 Purchaser obliged to settle

(a) It is a fundamental term of this Contract that if at the Settlement Date any dispute arises or has arisen in relation to any matter referred to in this special condition 10 the Purchaser must not make any objection or requisition and is not entitled to delay or postpone settlement.

(b) For avoidance of doubt, the Purchaser shall not be entitled to delay or postpone settlement on the basis that there remain parts of the Development which are incomplete or that the works on the Common Property have not been completed.

10.3 Access rights after settlement

(a) The Purchaser acknowledges:

(i) that the Property is part of the Development on which surveying, engineering, construction and other works contemplated by this Contract are being, or may, after the Settlement Date, be carried out; and

(ii) that the Builder or others authorised by the Vendor may need access to the Property for the purpose of carrying out works to the Property or lots adjoining the Property or undertaking works, tests or inspection of the Common Property.

(b) The Purchaser agrees with the Vendor to allow the Builder, its employees and contractors access to the Site (including the Property) after the Settlement Date for the purpose of carrying out construction works on the lots adjoining the Property, on the conditions that:

- (i) the access rights only be exercised where it is impracticable, in the opinion of the Builder acting reasonably, for the construction work to be carried out without obtaining such access and then only to the extent necessary;
- (ii) the Vendor endeavours to ensure, except in unforeseen circumstances, that before the access rights are exercised the Builder or the Vendor gives the Purchaser at least 24 hours' Notice; and
- (iii) the Vendor endeavours to ensure that the Builder ensures that as little damage is done to the Property and disturbance to its occupants as is practicable having regard to the nature of the work to be carried out and, where there is damage to the Property, it be made good as soon as practicable at the Vendor's reasonable expense.

10.4 Following settlement

The Purchaser must not make any requisition or objection or claim any compensation or rescind or delay completion of the Contract or bring any injunctive proceedings against the Vendor or the Builder or any other person as a consequence of any nuisance, noise, dust and other discomfort that may result from:

- (a) any construction work or repair and rectification works being carried out from time to time in or about the Development or the Property after the Settlement Date; or
- (b) marketing of unsold lots in the Development after the Settlement Date including the presence on Common Property or other parts of the Development (but excluding the Property) of any sale signs, insignia and other fixtures and fittings.

11 Title

11.1 No objection

On registration by the Registrar of the Plan of Subdivision, the Purchaser must accept as identical with the Property the Lot corresponding to the Property and the Purchaser must not make any requisition or objection, delay settlement, rescind or terminate this Contract or claim any compensation in respect of:

- (a) alterations to the Plan of Subdivision made in accordance with this Contract (including but not limited to changes to the location and number of car parks, motorcycle parks or storage cages);
- (b) any matter contained in, endorsed upon or annexed to the Plan of Subdivision when it is registered by the Registrar;
- (c) any Section 173 Agreement entered into by the Vendor whether or not registered on title;
- (d) any variations between the number, size or location of the Lots presently appearing on the Plan of Subdivision and as appearing on the Plan of Subdivision as registered

(including but not limited to any additional Lots created on the podium level of the Building); or

(e) any renumbering of any Lot on the Plan of Subdivision.

11.2 Restrictions and conditions

The Purchaser buys the Property subject to any statute, order, regulation, by-law and local law, restriction and condition imposed on the Property by or with the authority of any Authority including under the Planning Permit, as a result of the Application, any Section 173 Agreement or under any applicable planning scheme and any other applicable planning controls.

11.3 Subdivision Act

Without limiting the General Conditions, the Purchaser admits that the Property is sold subject to the provisions of the Subdivision Act and purchases the Property subject to any easements, covenants or similar encumbrances affecting the Land including those required by this Contract, created or implied by the Subdivision Act and any easements affecting the Common Property and the Purchaser must not make any requisition or objection, delay settlement, rescind or terminate this Contract or claim any compensation in relation to those easements, covenants or encumbrances.

11.4 Sale of Land Act

The Vendor and the Purchaser agree that:

- (a) section 10(1) of the Sale of Land Act will not apply to this Contract in respect of the final location of any easement on the Plan of Subdivision;
- (b) easements for services may need to be created; and
- (c) lot and Common Property boundaries may need to be realigned to accommodate services.

11.5 Section 173 agreement

- (a) The Purchaser acknowledges that it may be necessary or desirable for the Vendor to enter into Section 173 Agreements that affect the Site, including any which may be required by a Responsible Authority in connection with the Planning Permit.
- (b) The Purchaser irrevocably authorises the Vendor to:
 - (i) negotiate the terms of any Section 173 Agreement contemplated by this special condition 11.5; and
 - (ii) enter into and vary such agreements.
- (c) The Purchaser must:

- (i) not make any requisition or objection, rescind or terminate this Contract, delay settlement or claim any compensation in relation to any act, matter or thing contained in or required by any Section 173 Agreement referred to in special condition 11.5(a); and
- (ii) if required by the Vendor do all acts, matters and things including executing all consents, orders and applications necessary in order to have any Section 173 Agreement registered by the Registrar.

(d) Without limiting special conditions 11.5(a), 11.5(b) or 11.5(c), the Purchaser acknowledges that:

- (i) the Responsible Authority may require a Section 173 Agreement as a condition of granting planning permission to subdivide any car parks as separate Lots. Car parks, whether granted as separate lots or registered on the Plan of Subdivision as part lots, can only be sold to a registered proprietor of another lot at the Building;
- (ii) any planning permission may include a requirement that such car parks may only be sold with the storage lot with which they are sold (if applicable); and
- (iii) any Section 173 Agreement entered into as contemplated by this special condition 11.5 will not constitute a defect in title to the Property or to the Common Property.

11.6 No caveat

- (a) The Purchaser must not lodge nor cause or allow any person claiming through it or acting on its behalf to lodge any Caveat over any certificate of title relating to the Development, the Land or the land of which the Property forms a part.
- (b) The Purchaser acknowledges that a breach of special condition 11.6(a):
 - (i) may delay or prevent registration of the Plan of Subdivision by the Registrar;
 - (ii) may delay or prevent settlement by the Vendor of sales of all or some of the Lots; and
 - (iii) to the extent that it delays any such settlement, entitles the Vendor to recover from the Purchaser interest, holding costs and other charges including under any other contract of sale for any Lot or any agreement relating to financing of the Development.
- (c) The Purchaser irrevocably appoints the Vendor and each director, officer and manager of the Vendor as its joint and several attorney to sign and lodge a withdrawal of any Caveat lodged by the Purchaser in breach of special condition 11.6(a).

11.7 Vendor may deal with the Site

Without limiting any of the Vendor's rights, the Vendor has the right to:

- (a) grant a mortgage or charge over the Site, the Land, the Property or any land which may be affected by the Development;
- (b) sell the Site, the Land or the Property to another person and assign or novate its rights and obligations under this Contract to another party in accordance with special condition 11.8;
- (c) deal with any or all of its rights, privileges, benefits or obligations under this Contract whether by way of security or absolute assignment; and
- (d) execute any mortgage, charge, assignment and other document relating to the Site, the Land, the Property, this Contract or any land affected by the Development as may be required by any mortgagee, chargee or assignee.

11.8 Sale of the Site and Assignment by Vendor

- (a) If prior to settlement, a party other than the Vendor is or becomes registered proprietor of the Land or the Vendor's rights under this Contract are assigned to another party then, upon receipt of a notice of assignment from the Vendor, the Purchaser must perform any obligations imposed upon the Purchaser under this Contract in favour of the party who is or becomes registered proprietor of the Land or to whom the Vendor's rights under this Contract are assigned. The Purchaser must not raise any objection, delay settlement, rescind or terminate this Contract or seek compensation of any kind in respect of any of the matters set out in this special condition.
- (b) The Purchaser must, if requested by the Vendor to do so, promptly execute and deliver the Deed of Agreement to the Vendor's Legal Practitioner.
- (c) The Purchaser irrevocably appoints the Vendor and each director, officer and manager of the Vendor as joint and several attorneys to execute the Deed of Agreement if the Purchaser fails to execute the Deed of Agreement within fourteen (14) days of being requested in writing by the Vendor to do so.

11.9 Additional lots

- (a) The Purchaser acknowledges that the Vendor may before or after settlement create additional Lots by:
 - (i) further subdividing any Lots and/or amalgamating any Lots in any stage of the Plan of Subdivision; or
 - (ii) reducing the area of the Common Property.
- (b) The Purchaser acknowledges that the Vendor may before or after the Settlement Date change the address of the Property.

(c) The Purchaser must not make any requisition or objection, delay settlement, rescind or terminate this Contract or claim any compensation in connection with the creation of additional Lots and/or the additional level as contemplated under this special condition 11.9.

11.10 Additional encumbrances

(a) The Purchaser acknowledges that it is aware of the possibility that as at the Day of Sale:

- (i) all the easements, restrictions on use and positive covenants may not have been created;
- (ii) all the leases, agreements and arrangements may not have been entered into; and
- (iii) all of the rights and privileges may not have been granted,

which it may be considered necessary or desirable for any Authority, the Owners Corporation or the Vendor to create, enter into, or grant in relation to the Property, the Development or the Common Property.

(b) If at any time it is considered necessary or desirable for an Authority, the Owners Corporation or the Vendor to:

- (i) create those easements, restrictions on use or positive covenants;
- (ii) enter into those leases, agreements or arrangements, or
- (iii) grant those rights or privileges,

then subject to the Purchaser's rights (if any) under the Sale of Land Act, the Purchaser must not make any requisition or objection, rescind or terminate this Contract, claim compensation or delay completion of this Contract because of that creation, entering into or grant.

11.11 Staged Subdivision

The purchaser acknowledges that the Vendor may stage the Development and the Plan of Subdivision at its discretion. As part of staging the Development, the Purchaser acknowledges and agrees the following:

- (a) any lots designated 'S', 'Superlot' or 'Stage' on the Plan of Subdivision may be amended by second or subsequent plans of subdivision and a second or subsequent plan of subdivision may do any of the things specified in section 37(3)(c) of the Subdivision Act;
- (b) amendments to the plan of subdivision or to any stage of the Development or the Plan of Subdivision pursuant to section 37 of the Subdivision Act will be an

alteration to the Plan of Subdivision made in accordance with this Contract within the meaning of special condition 11;

- (c) amendments to the Plan of Subdivision or to any stage of the Development may include changes and/or configuration of lots to be used for apartments or car parks or storage;
- (d) the Purchaser acknowledges that if building works are to be undertaken at the Site following settlement of the Property there will be disturbance which includes but is not limited to noise, construction works and dust;
- (e) the Purchaser must not exercise any Purchaser Right in connection with any changes to the Development made under this special condition;
- (f) the Purchaser must not object to the Vendor's Application for any Application in relation to any approval required from any Authority in relation to the second or any later stage of the Development; and
- (g) this special condition will not merge on Settlement Date but will continue in full force and effect.

11.12 Restriction on re-sales

- (a) The Purchaser must not until after settlement sell, transfer, assign or otherwise in any way whatsoever deal with its interest in the Property or any of the Purchaser's right or interest in, to or under this Contract without the prior written consent of the Vendor (which may be given or withheld in the absolute discretion of the Vendor).
- (b) The Purchaser acknowledges that special condition 11.12(a) is an essential term of this Contract.

11.13 Display Suite

If, for marketing purposes, the Vendor establishes a display suite on the Land or elsewhere for the purpose of marketing activities in relation to the Development then the Purchaser acknowledges that:

- (a) the Vendor makes no representation that the display suite was constructed in accordance with the Plans and Specifications; and
- (b) the display suite is not intended to replicate the improvements, fixtures or fittings to be constructed on the land pursuant to this Contract.

11.14 Marketing Materials

- (a) The Purchaser acknowledges that:
 - (i) any photographs and other images created for the marketing of the Development are for illustrative purposes only and cannot be relied upon

by the Purchaser including without limitation, all colours, finishes, materials, depictions of landscaping and laneways and other representations of images used in marketing materials;

(ii) the Vendor has no control over development by parties unrelated to the Vendor of property surrounding or nearby the Development; and

(iii) the Plan of Subdivision, Plans and Specifications may change.

(b) The Purchaser may not make any requisition or objection, rescind or terminate this Contract, claim compensation or delay completion of this Contract because of any views depicted in the Vendor's marketing materials differing from the potential views depicted in the marketing materials due to:

(i) development of property surrounding or nearby the Development;

(ii) changes to the Plan of Subdivision, Plans or Specifications contemplated by this Contract; or

(iii) as a result of any other act, matter or thing including without limitation, all colours, finishes, materials, depictions of landscaping and laneways and other representations of images used in marketing materials.

(c) The description of areas and measurements appearing in any marketing material with respect to the Development are approximations only and may differ from such actual areas and measurements on completion of the Development.

(d) The area and dimensions of any display suite or model of the Development are not representative of actual area or dimensions of the Lot or any part thereof or the Common Property.

(e) The information contained in any promotional material is for illustration purposes only and is subject to change. Statements, figures, calculations, plans, images and representations are indicative only.

(f) The information contained in promotional material is a guide only and does not constitute an offer, inducement, representation, warranty or contract.

11.15 Branding Rights

(a) The Purchaser acknowledges that the Vendor will retain all branding and naming rights for the Site.

(b) Without limiting special condition 11.15(a), the Vendor may at any time and without reference to the Purchaser vary the naming and branding of the Building.

11.16 Other Licences and Agreements

(a) The Purchaser acknowledges and agrees that the Vendor may, but is not obliged, to cause the Owners Corporation to pass the necessary resolution or resolutions to:

- (i) grant the Vendor a licence and/or lease for signage and other purposes related to the Development (for example: to grant signage rights to the Vendor or over the Building);
- (ii) enter into facilities management agreements, service agreements or management plans in relation to the Common Property including but not limited to plans relating to general maintenance, environmental health, public open space, heritage and occupational health and safety; or
- (iii) enter into agreements with third parties to the extent that it is able, and subject to compliance with all Laws, for the exclusive right to provide the Property and/or Building services or Utilities.

(b) If the Owners Corporation(s) enters into such licences or agreements, the Purchaser purchases the Property subject to such licences or agreements.

(c) The Purchaser acknowledges and agrees that the Vendor may enter an agreement with a third party for the sale of the management rights ('Management Rights') in relation to the Building, and if it does so, the Vendor will be entitled to retain any moneys paid to the Vendor for the sale of the Management Rights as the Vendor's absolute property. The Purchaser confirms its consent to the sale of the Management Rights and the entitlement of the Vendor to retain all moneys received by the Vendor from the sale of the Management Rights.

(d) The Purchaser agrees that it must not, nor cause anybody on its behalf to either directly, or indirectly, claim that:

- (i) by selling the Management Rights, the Vendor has not acted honestly, in good faith and in the best interests of the Owner's Corporation or any of its members;
- (ii) the Owners Corporation or any member is entitled to receive the whole or any part of the money paid to the Vendor for the sale of the Management Rights; or
- (iii) the Owners Corporation or any member is entitled to equitable compensation or an account for profits from the Vendor as a consequence of the sale of the Management Rights. The Purchaser must not exercise the Purchaser Rights because of anything contemplated by this special condition 11.16.

11.17 Restrictive Covenant

- (a) The Purchaser acknowledges that the Plan of Subdivision will contain the Restrictive Covenant and the Purchaser must not exercise any Purchaser Rights in relation to the Restrictive Covenant.
- (b) The Purchaser indemnifies and will keep indemnified the Vendor against all claims, damages and costs for which the Vendor may suffer due to a breach of special

condition 11.17. The Purchaser agrees that the indemnity will not merge on completion.

12 Natural Surface Level

- (a) The Purchaser acknowledges it has satisfied itself, by reviewing any plans and specifications attached to this contract, as to works affecting the natural surface levels of the Land, any abutting land and any contemplated changes.
- (b) The Vendor may carry out works which affect the natural surface level of the Land which are required by any Authority.
- (c) The Purchaser must not exercise any Purchaser Rights in respect of any of the matters or works referred to in this special condition 12

13 Development

- (a) The Purchaser acknowledges that the:
 - (i) Land forms part of the Development by the Vendor, which may occur in stages; and
 - (ii) Vendor cannot and does not give any assurances as at the Day of Sale as to:
 - (A) the timetable for carrying out the Development;
 - (B) the nature of the Development (including the number of lots, types of uses and the facilities to be provided); and/or
 - (C) the manner in which the Development will be carried out.
- (b) The Purchaser must (whether before or after the Settlement Date) do all things and execute all documents as may be reasonably required by the Vendor to give effect to provisions of this special condition 13.
- (c) The Purchaser covenants with the Vendor that it will not, nor cause anybody on its behalf to either directly or indirectly hinder, delay, impede, object or prevent the Vendor exercising the rights set out in this special condition 13.
- (d) The Purchaser must not exercise any Purchaser Rights or seek compensation of any kind by reason of:
 - (i) any alteration:
 - (A) to the Development (including changes in uses, layouts or facilities and services);
 - (B) in the number of lots or any other stage of the Development; or

- (C) to the number, size, shape or location or permitted use of or restrictions effecting any lot in the Plan (other than the Property) or in any future stage or plan of subdivision relating to any other part of the Development;
- (ii) any delay in the completion of the Development; or
- (iii) the abandonment of any part of the Development.

- (e) The Purchaser must not object to or oppose or procure any other person to object to or oppose any application which the Vendor or any person with the authority of the Vendor makes or any planning or other approval required to vary the Development or to carry out any part of the Development (including any part of the Development as varied).
- (f) The Purchaser indemnifies and will keep indemnified the Vendor against all claims, damages and costs for which the Vendor may suffer due to a breach of special condition 13. The Purchaser agrees that the indemnity will not merge on completion.
- (g) This special condition will not merge on Settlement Date but will continue in full force and effect.

14 Duty

14.1 No duty warranty

The Purchaser acknowledges and agrees that no warranties have been given to the Purchaser on or before the Day of Sale as to the duty payable by the Purchaser in connection with the purchase of the Property under this Contract.

14.2 No reliance on any representation

If an amount of duty was estimated by the Vendor or its agent and that estimate was made known to the Purchaser, the Purchaser warrants to the Vendor that it did not rely on that estimate and instead made its own assessment.

14.3 Purchaser liable

The Purchaser:

- (a) acknowledges that it is solely responsible for all duty that may be assessed on the Transfer delivered under this contact or the transaction effected by this Contract and any nomination which the Purchaser may choose to make;
- (b) is responsible for and indemnifies the Vendor against any stamp duty, interest and costs or any of them that become payable in respect of the Transfer delivered under this contact or the transaction effected by this Contract and any nomination which the Purchaser may choose to make; and

- (c) acknowledges that the Vendor may in its absolute discretion elect to use any permitted method to calculate the dutiable value of the Land.

14.4 No warranty as to tax deductibility

The Purchaser acknowledges that the Vendor does not make any warranty as to the availability of any building allowances or depreciation under the *Income Tax Assessment Act 1936* (Cth) or otherwise. The Purchaser acknowledges that the Purchaser has made the Purchaser's own independent enquiries as to the matters referred to in the preceding sentence and does not rely upon anything stated by or on behalf of the Vendor.

14.5 Depreciation

If an amount of depreciation was estimated by the Vendor or its agent and the estimate was made known to the Purchaser, the Purchaser warrants to the Vendor that it did not rely on that estimate and instead made its own assessment.

15 Settlement

15.1.1 Risk and title

Risk in and title to the Property passes to the Purchaser upon payment of the Price.

15.1.2 Payment of Balance

- (a) The Purchaser must pay the Balance by 3.00 pm on the Date for Payment of the Balance at the office of the Vendor's Legal Practitioner or at any other place nominated by the Vendor's Legal Practitioner.
- (b) If the Purchaser does not pay the Balance by 3.00 pm on the Date for Payment of the Balance or any later date on which the Purchaser tenders the Balance then:
 - (i) the Vendor may complete this Contract on the following Business Day; and
 - (ii) the Purchaser must pay interest on the Balance for the period from the Date for Payment of the Balance until the Contract is completed as prescribed by these special conditions.

15.1.3 Pre-Settlement Inspection

- (a) Once a certificate of occupancy has been issued for the Property, but before Settlement, the Purchaser may inspect the Property by making an appointment with the Vendor or the Vendor's Agent.
- (b) The Purchaser acknowledges that:
 - (i) it may not be able to undertake an inspection if, in the Vendor's absolute discretion, works at the Site render the inspection unsafe or undesirable;

- (ii) it may be required to undertake a Site induction program before conducting the inspection;
- (iii) it must comply with all reasonable requirements of the Vendor in relation to the inspection including, without limitation, all requirements relating to occupational health and safety;
- (iv) it must not make any objection, requisition or claim nor exercise any Purchaser Rights if, as a result of special conditions 15.1.3(b)(i), 15.1.3(b)(ii) or 15.1.3(b)(iii), the Purchaser is not able to undertake an inspection;
- (v) the Works may be incomplete at the inspection; and
- (vi) a failure by the Purchaser to undertake an inspection must not, in any way, delay Settlement.

15.1.4 Personal Property Securities

- (a) Notwithstanding any other provision to the contrary, the Purchaser agrees that the Vendor is not obliged to provide a release, statement, undertaking or approval in respect of any security interest granted in favour of a secured party who is also the proprietor of a registered mortgage over the Land.
- (b) The Purchaser must not make any requisition or objection, rescind or terminate this Contract, delay settlement or claim any compensation in relation to any matters concerning this special condition 15.1.4.

16 Adjustments

16.1 General Condition 23.1

General condition 23.1 shall be read to include as outgoings the Purchaser's Proportion of any rates, taxes, assessments, fire insurance premiums, charges, levies or contributions or other property outgoings not separately assessed on the Property.

16.2 Vendor to prepare adjustments

The Purchaser acknowledges and agrees that:

- (a) the Vendor's Legal Practitioner will prepare a statement of adjustments and provide this to the Purchaser's Legal Practitioner at least three days prior to the Settlement Date;
- (b) if the Purchaser does not object to the statement of adjustments before 5.00 pm on the day which is two days prior to the Settlement Date, the parties must settle the Contract on the basis of that statement of adjustments; and
- (c) unless the Purchaser notified the Vendor of an objection to that statement of adjustments prior to the time specified in special condition 16.2(b), any error

discovered in the statement of adjustments may only be resolved after settlement has been effected.

16.3 No adjustment

Despite any other provision in this Contract, the parties agree that any land tax and/or windfall tax will not be adjusted at settlement unless the Sale Price is more than \$10,000,000 (or such other amount as prescribed under the Sale of Land Act) where land tax will be adjusted on a proportionate basis.

16.4 Adjustment of council rates

If council rates have been assessed on land of which the Property forms part for the rating year in which settlement falls due (**Council Rates Assessment**), then the council rates must be adjusted in accordance with the following formula:

$$A = B \times (C/D)$$

where:

A = the amount of council rates to be adjusted between the parties;

B = the amount of council rates payable under the Council Rates Assessment;

C = the lot liability of the Property set out in the Plan of Subdivision; and

D = the sum of all lot liability of the Lots forming part of the land to which the Council Rates Assessment relates.

16.5 Adjustment of water rates

If water rates have been assessed on land of which the Property forms part for the rating year or quarter (as the case may be) in which settlement falls due (**Water Rates Assessment**), then the water rates must be adjusted in accordance with the following formula:

$$A = B \times (C/D)$$

where:

A = the amount of water rates to be adjusted between the parties;

B = the amount of water rates payable under the Water Rates Assessment;

C = the lot liability of the Property set out in the Plan of Subdivision; and

D = the sum of all lot liability of the Lots forming part of the land to which the Water Rates Assessment relates.

16.6 Payment of outgoings

The Vendor may, in its absolute discretion, elect to pay any outgoings (including land tax, council rates and water rates) in respect of the Property at any time prior to or after settlement, provided that the Vendor must pay each outgoing prior to its respective due date for payment. The Vendor may also adjust against the Purchaser at settlement for the first quarter of any Owners Corporation fees payable or to be paid.

16.7 Purchaser not to object

The Purchaser may not make any requisition or objection, rescind or terminate this Contract, claim compensation or delay completion of this Contract because of any matter relating to or in connection with special conditions 16.1, 16.2, 16.4, 16.5 or 16.6.

16.8 Insurance premiums

The Purchaser acknowledges and agrees that if the Purchaser is in breach of this Contract by not completing this Contract on the date set out in this Contract then the Purchaser must allow to the Vendor, as an increase to the Price, the Purchaser's Proportion of any amount paid by the Vendor to or on behalf of the Owners Corporation in respect of premiums for insurances required to be effected under the Owners Corporations Act, the Subdivision Act or the Owners Corporation Regulations (whichever applies):

- (a) from the due date for payment of any money payable by the Purchaser under this Contract until the money is paid; and
- (b) on demand or whenever other monies are paid under this Contract, whichever occurs first.

16.9 Supplementary rates

If any supplementary rates or outgoings are assessed, levied or charged against the Property in or after the rating year in which the Date for Payment of the Balance falls, the Purchaser shall be solely responsible to bear or pay the supplementary amount.

16.10 Special levy

The Purchaser acknowledges and agrees that if the Purchaser is in breach of this Contract by not completing this Contract on the date set out in this Contract then the Purchaser must allow to the Vendor, as an increase to the Price, the Purchaser's Proportion of any special levy made on the Vendor pursuant to the Owners Corporations Act, the Subdivision Act or the Owners Corporation Regulations in respect of the liabilities of the Owners Corporation:

- (a) from the due date for payment of any money payable by the Purchaser under this Contract until the money is paid; and
- (b) on demand or whenever other monies are paid under this Contract, whichever occurs first.

16.11 Owners Corporation Certificate

If required by the Vendor, the Purchaser must pay, by way of adjustment, the cost of obtaining the Owners Corporation Certificate prior to settlement.

17 Default

17.1 Loss

The Purchaser is responsible for all Loss incurred or suffered directly or indirectly by the Vendor caused or contributed to by the Purchaser:

- (a) breaching any warranty in this Contract;
- (b) failing to comply with this Contract; or
- (c) both of **17.1(a)** and **17.1(b)**,

including:

- (d) loss incurred or suffered directly or indirectly under another contract of sale, financing arrangement, construction contract or other agreement relating to the Development or the Vendor's affairs;
- (e) legal fees and disbursements on a full indemnity basis and any legal counsel or consultant's fees and expenses at the rate charged to the Vendor incurred in obtaining any advice or representation in relation to a breach or a failure to comply; and
- (f) additional costs and expenses including interest, discount on bills and borrowing expenses which exceed interest payable under this Contract.

17.2 Additional rights

Special condition 17.1 operates in addition to and does not in any way limit any other right or remedy of the Vendor.

17.3 Default continues

The Purchaser must pay to the Vendor upon demand all Loss without the necessity for any Notice and any default in respect of which the costs are incurred shall be deemed not to have been remedied unless and until such payment is made.

17.4 Loss not incurred or made

The Vendor need not incur a Loss or make a payment before enforcing a right of indemnity conferred by this Contract and the Purchaser must pay the amount owing under the indemnity in special condition 17.1 on demand by the Vendor.

17.5 Continuing indemnity

Each indemnity in this Contract is a continuing obligation, separate and independent from the other obligations of the Purchaser and survives rescission of this Contract.

17.6 Time of the essence

Time shall remain the essence of this Contract notwithstanding any waiver given or indulgence granted by the Vendor to the Purchaser and the Vendor shall be entitled to serve a Default Notice under general condition 34 at any time after the date of default in respect of which the Notice is given.

17.7 Default interest

- (a) The Purchaser must pay interest on any money payable by it under this Contract:
 - (i) from the due date for payment until the money is paid; and
 - (ii) on demand or whenever other monies are paid under this Contract, whichever occurs first.
- (b) The interest shall be calculated and capitalised daily and the rate of interest to be applied to each daily balance is a rate that is 4% higher than the rate fixed under section 2 of the *Penalty Interest Rates Act 1983* (Vic) at the relevant time.
- (c) The Vendor's right to interest does not limit any right of the Vendor or:
 - (i) prevent the Vendor recovering any amount exceeding the interest as a consequence of any default by the Purchaser; or
 - (ii) affect the Purchaser's obligation to pay the outstanding amount on the date it becomes due for payment.

18 Insolvency Event Deemed Default

18.1 Right to rescind

If an insolvency event occurs, the Purchaser is deemed to have fundamentally breached a term of this Contract at the time that the insolvency event occurs and the Vendor may rescind this Contract at any time after the insolvency event by Notice to the Purchaser with immediate effect.

18.2 Insolvency Event

For the purposes of special condition 18, an insolvency event occurs when:

- (a) an application is made to a Court for an order or an order is made that the Purchaser be wound up;

- (b) an application is made to a Court for an order appointing a liquidator or provisional liquidator for the Purchaser, or one of them is appointed, whether or not under an order;
- (c) a meeting is convened or a resolution is passed to appoint an official manager for the Purchaser;
- (d) except to reconstruct or amalgamate on terms approved by the Vendor, the Purchaser enters into, or resolves to enter into, a scheme of arrangement or composition with, or assignment for the benefit of, all or any class of its creditors, or it proposes a reorganisation, moratorium or other administration involving them or any of them;
- (e) the Purchaser resolves to wind itself up, or otherwise dissolve itself, or gives Notice of intention to do so, except to reconstruct or amalgamate while solvent on terms approved by the Vendor, or is otherwise wound up or dissolved;
- (f) the Purchaser is or states it is unable to pay its debts when they fall due;
- (g) the Purchaser is, or make a statement from which it may be reasonably deduced by the Vendor that the Purchaser is, unable to pay its debts as and when they fall due;
- (h) the Purchaser takes any step to obtain protection or is granted protection from its creditors under any applicable legislation;
- (i) the Purchaser becomes an insolvent under administration as defined in the Corporations Act or action is taken which could result in that event;
- (j) the Purchaser commits an act of bankruptcy or the Purchaser's estate comes within the operation of any law relating to bankrupts; or
- (k) anything analogous or having a substantially similar effect to any of the events specified above happens under an applicable law.

19 Supply of services

19.1 Vendor may make arrangements

The Vendor may in its absolute discretion determine to enter into arrangements for, or causes, the connection and provision of the following amenities or services to the Property prior to the Settlement Date:

- (a) electricity, water or gas supply;
- (b) telecommunication services (for example, cable television);
- (c) intranet and internet services;
- (d) technology; and

- (e) communications.

19.2 Connection

If the Vendor enters into an arrangement, or causes, the connection and provision of amenities or services in accordance with special condition 19.1, it may pay the supply bodies' customer supply charge for the Property and/or new meter fee and/or a connection fee in respect of such arrangement, connection or provision.

19.3 Reimbursement

On the Settlement Date, the Purchaser must reimburse the Vendor the charges referred to in special condition 19.2 in addition to the Price. Any fees or charges referred to in this special condition 19 will not be subject to apportionment between the Vendor and Purchaser and are payable in full by the Purchaser.

19.4 Connection of services

The Purchaser acknowledges that it is otherwise responsible for the connection of all services to the Property and that the Vendor is not obliged to connect any services to the Property.

20 Information and ancillary negotiations

20.1 Information provided by Vendor

The Purchaser acknowledges:

- (a) no information, representation or warranty provided or made by the Vendor, the Vendor's Agent or the Vendor's Legal Practitioner was provided or made with the intention or knowledge that it would be relied upon by the Purchaser;
- (b) no information, representation or warranty has been relied upon;
- (c) the Purchaser relies only on the Purchaser's inspection of, and searches and enquiries in connection with, the Property; and
- (d) to the extent permissible by law, the Vendor is not liable to the Purchaser in connection with any information, representation or warranty provided or made by or on behalf of the Vendor.

20.2 Expressed warranties

Nothing in this special condition affects any warranty in this Contract.

20.3 Entire agreement

- (a) This Contract:

- (i) contains the entire agreement and understanding between the parties on everything connected with the subject matter of this Contract; and
- (ii) supersedes any prior agreement or understanding on anything connected with that subject matter.

- (b) The Purchaser acknowledges that there is no other agreement or collateral warranty subsisting at the time of signing this Contract which relates to the Property sold.
- (c) This special condition 20 is for the benefit of the Vendor, the Vendor's Agent and their respective servants, agents and employees.

21 Notices etc

21.1 Waiver and Variation

A provision of or a right created under this Contract cannot be:

- (a) waived except in writing signed by the party granting the waiver; or
- (b) varied except in writing signed by or on behalf of the parties.

21.2 No Merger

The provisions of this Contract capable of having effect after the Settlement Date do not merge on settlement or the transfer of the Land and continue to have full force and effect after settlement.

21.3 Notice required

A Notice has no legal effect unless it is in writing.

21.4 Method

In addition to any other method of service provided by law, a Notice may be:

- (a) sent by prepaid post to; or
- (b) delivered at;

the address of the addressee set out in this Contract or subsequently notified,

- (c) delivered at the address for service of the addressee; or
- (d) sent by email to the email address of the addressee.

21.5 Receipt

If a Notice is sent or delivered in a manner provided by special condition 21.4, it must be treated as given to and received by the party to which it is addressed:

- (a) if sent by post from within Australia to an address in Australia, on the second (2nd) Business Day (at the address to which it is posted) after posting; or
- (b) if sent by post to an address outside Australia or sent by post from outside Australia, on the fifth (5th) Business Day (at the address to which it is posted) after posting; or
- (c) if sent by email, the time of receipt within the meaning of section 13A of the *Electronic Transactions (Victoria) Act 2000*; or
- (d) if otherwise delivered before 5.00 pm on a Business Day at the place of delivery, upon delivery, and otherwise on the next Business Day at the place of delivery.

21.6 Business Days

If a Notice is served by a method which is provided by law but is not provided by special condition 21, and the service takes place after 5.00 pm on a Business Day, or on a day which is not a Business Day, it must be treated as taking place on the next Business Day.

21.7 Valid service

A Notice sent or delivered in a manner provided by special condition 21.4 must be treated as validly given to and received by the party to which it is addressed even if:

- (a) the addressee has been liquidated or deregistered or is absent from the place at which the Notice is delivered or to which it is sent; or
- (b) the Notice is returned unclaimed.

21.8 Change of address

- (a) A party may change its address for service or facsimile number by giving Notice of that change to each other party. If the Purchaser changes their address prior to the Settlement Date then the Purchaser must immediately notify the Vendor in writing of this change.
- (b) If the Purchaser fails to comply with this special condition 21.8, this does not relieve the Purchaser of its responsibilities under this Contract if the Vendor is unable to serve a Notice under special condition 21.4 because the Vendor no longer has knowledge of where to serve any Notice.

21.9 Multiple parties

If the party to which a Notice is intended to be given consists of more than one person then the Notice must be treated as given to that party if given to any of those persons.

21.10 Notice by Legal Practitioner

Any Notice by a party may be given and may be signed by its Legal Practitioner, conveyancer or other representative.

21.11 Notice to Purchaser's Legal Practitioner effective

Without limiting other addresses for service, a Notice under this Contract may properly be served on the Purchaser's Legal Practitioner whether or not their details are stated in the Particulars of Sale.

22 Interpretation

22.1 References

Reference to:

- (a) one gender includes the others;
- (b) the singular includes the plural and the plural includes the singular;
- (c) a person includes a body corporate;
- (d) a party includes the party's executors, administrators, successors and permitted assigns;
- (e) a statute, regulation or provision of a statute or regulation (Statutory Provision) includes:
 - (i) that Statutory Provision as amended or re-enacted from time to time; and
 - (ii) a statute, regulation or provision enacted in replacement of that Statutory Provision; and
- (f) money is in Australian dollars, unless otherwise stated.

22.2 Things and groups

A reference to a thing (including an amount) is a reference to the whole and each part of it and a reference to a group is a reference to all members of the group collectively, to any two or more of them collectively and to each of them individually.

22.3 Including

'Including' and similar expressions are not words of limitation.

22.4 Grammatical forms

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.

22.5 Headings

Headings are inserted for convenience and do not affect the interpretation of this Contract.

22.6 Drafting responsibility

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.

22.7 Time for acts

If an act must be done on a specified day which is not a Business Day, it must be done instead on the next Business Day.

22.8 Severance

If any part of this Contract is invalid, unenforceable, illegal, void or voidable for any reason, this Contract will be construed and be binding on the parties as if the invalid, unenforceable, illegal, void or voidable part had been deleted from this Contract or read down to the extent necessary to overcome the difficulty.

22.9 Parties

- (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) An obligation, representation or warranty in favour of more than one person is for the benefit of them separately and jointly.
- (c) A party which is a trustee is bound both personally and in its capacity as a trustee.
- (d) If the Purchaser acts as trustee of a trust, the Purchaser enters into this Contract personally and in its capacity as trustee of that trust.
- (e) The Purchaser must cause any successor of the Purchaser and any person who becomes a trustee of the trust jointly with the Purchaser to execute all documents required by the Vendor to ensure that this Contract is binding on them.
- (f) The Purchaser warrants to the Vendor that:
 - (i) it is the sole trustee of the trust and no action has been taken to remove or replace it;
 - (ii) the copies of the trust deed and any other documents relating to the trust and the constitution of the Purchaser have been delivered to the Vendor before the Purchaser executed this Contract and they are true copies of those documents as in force at the date of this Contract;
 - (iii) the documents delivered to the Vendor contain full particulars of all the terms of the trust;

- (iv) it has power under the trust deed to execute and perform its obligations under this Contract;
- (v) all necessary action has been taken to authorise the execution and performance of this Contract under the trust deed and the constitution of the Purchaser;
- (vi) this Contract is executed and all transactions relating to this Contract are or will be entered into as part of the due and proper administration of the trust and are or will be for the benefit of the beneficiaries;
- (vii) it is not in default under the trust deed;
- (viii) no vesting date for the trust fund has been determined;
- (ix) it has complied with all fiduciary obligations directly or indirectly imposed on it;
- (x) it has a right to be indemnified out of the assets of the trust in respect of all of its obligations and liabilities incurred by it under this Contract; and
- (xi) each of the warranties contained in this special condition 22.9(f) will remain true as long as this Contract remains in force.

(g) Except with the prior written consent of the Vendor, the Purchaser must:

- (i) ensure that the trust deed is not varied, terminated or revoked;
- (ii) not retire as trustee of the trust or appoint any new or additional trustee;
- (iii) not default in its duties as trustee of the trust;
- (iv) not exercise any power to appoint new beneficiaries or class of beneficiaries;
- (v) not vest or distribute or advance any capital of the trust to any beneficiary;
- (vi) not sell any of the property of the trust except in the ordinary course of the ordinary conduct of its business; and
- (vii) not do anything which effects or facilitates the resettlement of the trust funds.

22.10 No right to set off

Unless this Contract states otherwise, a party has no right of set off against a payment due to another party.

23 Privacy

23.1 Collection of personal information

The Purchaser acknowledges that while negotiating, entering into and performing this Contract, the Vendor will collect Personal Information about the Purchaser.

23.2 Disclosure of Personal Information

The Purchaser consents to the Vendor collecting, using and disclosing the Personal Information about the Purchaser to:

- (a) allow the Vendor to comply with the Vendor's obligations under this Contract, or
- (b) enable the Vendor's contractors, for example the Builder, engineers or architects to do works which affect the Property.

The Purchaser consents to Personal Information being provided to third party financiers or brokers.

24 Electronic Conveyancing

- (a) In this special condition:

'E-Conveyancing Variations' means variations effected to the General Conditions to allow for an Electronic Settlement to occur;

'Election date' means the date (if any), prior to settlement, on which the Vendor elects to effect an Electronic Settlement;

'Electronic Settlement' means settlement of a conveyance transaction by the use of an Electronic Lodgement Network within the meaning of the ECNL operated by an ELNO;

'ECNL' means the Electronic Conveyancing National Law Victoria;

'ELNO' means the Electronic Lodgement Network Operator within the meaning of the ECNL;

'Settlement Parties' means the Vendor, Purchaser, their respective financiers (if any) and any other parties that are required to be a party to the ELN to effect settlement.

- (b) If, prior to settlement, the Vendor elects to effect an Electronic Settlement the Purchaser agrees to act in good faith to do all things necessary to give effect to an Electronic Settlement including:
 - (i) making any necessary variations to this Contract to effect an Electronic Settlement;

- (ii) signing all necessary documents and compelling the Settlement Parties to do so;
- (iii) reimbursing the Vendor at settlement any fee charged by the ELNO to effect an Electronic Settlement; and
- (iv) complying with any requirements of the ECNL and an ELNO and compelling the Settlement Parties to do so.

(c) If an Election Date occurs the Vendor and Purchaser agrees that the variations required to this Contract as contemplated by special condition 24(b)(i) will be:

- (i) the E-Conveyance Variations in their proposed form as at the Election Date; and
- (ii) any further variations required by the Vendor (acting reasonably) to effect an Electronic Settlement.

25 CGT Withholding Regime

- (a) On or before Completion the Seller will deliver to the Buyer a Clearance Certificate in respect of the Seller.
- (b) If the Buyer receives the Clearance Certificate in accordance with special condition 25(a), it must not pay a CGT Withholding Amount to the Commissioner of Taxation in connection with this contract under s 14-210(2) of Schedule 1 of the Tax Act.
- (c) If the Seller delivers to the Buyer a Variation Certificate obtained from the Commissioner of Taxation, the Buyer must pay a CGT Withholding Amount to the Commissioner of Taxation in connection with the contract corresponding to the CGT Withholding Amount required to be paid in accordance with the Variation Certificate.

26 GST Withholding

- (a) In this special condition, section references are to schedule 1 of the *Taxation Administration Act 1953* (Cth) as amended by *Treasury Laws Amendment (2018 Measures No.1) Act 2018* (Cth).
- (b) The Vendor must give the Purchaser, or its nominee (if any), the written notice required by section 14-255(1) before settlement.
- (c) If section 14-250 requires the recipient of the supply to withhold an amount ('withholding sum') from the consideration payable to the Vendor and pay it to the Commissioner, the Purchaser must:
 - (i) complete and lodge such returns as the Commissioner may require to enable payment of the withholding sum and promptly notify the Vendor

when this had been done on each occasion by providing a copy of the lodgement to the Vendor; and

- (ii) at settlement, comply with sub-sections 16-30(3)(a) and (b) by giving the Vendor a bank cheque payable to the 'Commissioner for Taxation' for the withholding sum with a completed 'Payment Slip' in the form approved by the Commissioner; or
- (iii) with the prior approval of the Vendor, on the settlement date or within such further period (if any) as may be allowed by the Commissioner, remit the withholding sum to the Commissioner.

(d) If the Purchaser gives to the Vendor at settlement a bank cheque payable to the Commissioner for the withholding sum, the Vendor must on the settlement date, or within such further period (if any) as may be allowed by the Commissioner, remit the bank cheque to the Commissioner.

(e) An amount withheld and paid as required by section 14-250 is treated as having been paid to the Vendor.

(f) Except as expressly set out in this special condition, the rights and obligations of the parties under this contract including, without restriction, any agreement to apply the margin scheme, are unchanged.

27 Execution

- (a) This Agreement (and any other document contemplated by this Agreement) may be signed in counterparts. Each counterpart is taken to be an original. All counterparts together constitute one agreement. A signed counterpart may be exchanged or delivered by PDF attachment to an email transmission.
- (b) A person signing this Agreement on behalf of a party warrants that they have authority to bind that party for that purpose.

Schedule 1

Guarantee and Indemnity

Date

Name Fisken Property Holdings Pty Ltd ('Vendor')

ACN 658 052 905

Address 20-30 Baldwin Road, Altona North 3205

Name [Insert Name] ('Guarantor')

ACN [insert]

Address [insert]

Introduction

- A. At the request of the Guarantor, the Vendor has agreed to enter into the Contract.
- B. Each Guarantor guarantees the Purchaser's obligations under the Contract and indemnifies the Vendor on the terms stated in this Deed.

Operative terms

1 Definitions and interpretation

1.1 Reference Schedule

Capitalised words in this guarantee and indemnity that appear in the Reference Schedule have the meaning given to them in the Reference Schedule.

1.2 Defined terms

In this guarantee and indemnity:

'Business Day' means a day that is not a Saturday, Sunday or any other day which is a public holiday or a bank holiday in the place where an act is to be performed or a payment is to be made; and

‘Notice’ means a notice or other communication connected with this guarantee and indemnity.

1.3 Interpretation

In this guarantee and indemnity:

- (c) Reference to:
 - (i) one gender includes the other genders;
 - (ii) the singular includes the plural and the plural includes the singular;
 - (iii) a person includes a body corporate; and
 - (iv) a party includes the party's executors, administrators, successors and permitted assigns.
- (d) 'Including' and similar expressions are not words of limitation.
- (e) 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.
- (f) Headings are for convenience of reference only and do not form part of this guarantee and indemnity or affect its interpretation.
- (g) This guarantee and indemnity or a provision of this guarantee and indemnity must not be construed to the disadvantage of a party merely because that party was responsible for the preparation of this guarantee and indemnity or the inclusion of the provision in this guarantee and indemnity.
- (h) If an act must be done on a specified day which is not a Business Day, it must be done instead on the next Business Day.

2 Consideration

The Guarantor has requested the Vendor to enter into the Contract with the Purchaser and the Vendor does so in consideration of this guarantee and indemnity.

3 Contract

The Guarantor acknowledges that it has been given a copy of the Contract and has had full opportunity to consider its provisions before entering into this guarantee and indemnity.

4 Guarantee

4.1 Prompt performance

The Guarantor guarantees to the Vendor prompt performance of all of the obligations of the Purchaser contained or implied in the Contract.

4.2 Payment

If the obligation of the Purchaser is to pay money, the Vendor may if the Purchaser has not paid the money when due immediately recover the money from the Guarantor as a liquidated debt without first commencing proceedings or enforcing any other right against the Purchaser or any other person.

5 Indemnity

5.1 Loss or damage

The Guarantor indemnifies the Vendor against any cost (including legal fees and disbursements on a full indemnity basis and any Counsel or consultant's fees and expenses at the rate charged to the Vendor), liability, loss, fine, penalty, suit, claim or damage that the Vendor may suffer because of:

- (a) a failure by the Purchaser to pay any money to the Vendor under the Contract; or
- (b) the Vendor having no legal right to recover any money from the Purchaser under the Contract; or
- (c) any money payable by the Purchaser to the Vendor under the Contract not otherwise being payable.

5.2 Principal and separate obligation

The indemnity in **clause 5.1**:

- (a) is in addition to and separate from the guarantee in **clause 4**; and
- (b) is a principal obligation and is independent of the Purchaser's obligations to the Vendor.

5.3 Demand

The Guarantor must pay the Vendor the amount owing under the indemnity in **clause 5.1** on demand by the Vendor.

6 Continuing security

This guarantee and indemnity is a continuing security, and is not discharged or prejudicially affected by any settlement of accounts, but remains in full force until a final release is given by the Vendor.

7 Matters not affecting Guarantor's liability

The Guarantor's liability under **clauses 4** and **5** is not affected by:

- (a) the granting of time, forbearance or other concession by the Vendor to the Purchaser or any Guarantor;

- (b) any delay or failure by the Vendor to take action against the Purchaser or any Guarantor;
- (c) an absolute or partial release of the Purchaser or any Guarantor or a compromise with the Purchaser or any Guarantor;
- (d) a variation, novation, renewal or assignment of the Contract by the Vendor, whether or not this increases the liability of the Purchaser or the liability of the Guarantor under this guarantee and indemnity;
- (e) the termination of the Contract;
- (f) the fact that this guarantee and indemnity or the Contract is wholly or partially void, voidable or unenforceable;
- (g) the non-execution of this guarantee and indemnity by the Vendor or 1 or more of the persons named as Guarantor or the unenforceability of the guarantee or indemnity against 1 or more of the Guarantors;
- (h) the exercise or purported exercise by the Vendor of its rights under this guarantee and indemnity or the Contract;
- (i) a problem that means:
 - (i) the Vendor has no legal right to recover any money from the Purchaser;
 - (ii) the Purchaser does not owe any money that otherwise would be payable under Contract;
 - (iii) the Vendor knew of the problem, or should have known; or
 - (iv) the Purchaser could never have been required to pay the Vendor the money referred to in **clause 5.1**; or
- (j) the nomination by the Purchaser of a nominee or substitute purchaser under the Contract.

8 Payment later avoided

The Guarantor's liability is not discharged by a payment to the Vendor, which is later avoided by law. If that happens, the Vendor, the Purchaser and the Guarantor will be restored to their respective rights and obligations as if the payment had not been made.

9 Indemnity on disclaimer

If a liquidator or trustee in bankruptcy disclaims the Contract or this guarantee and indemnity, the Guarantor indemnifies the Vendor against all resulting loss.

10 Guarantor not to prove in liquidation or bankruptcy

Until the Vendor has received all money payable to it by the Purchaser:

- (a) the Guarantor must not prove or claim in any liquidation, bankruptcy, composition, arrangement or assignment for the benefit of creditors of the Purchaser; and
- (b) the Guarantor must hold any claim it has and any dividend it receives on trust for the Vendor.

11 Guarantor not to claim benefits or enforce rights

Until the Guarantor's liability under this guarantee and indemnity is discharged the Guarantor may not, without the consent of the Vendor:

- (a) claim the benefit or seek the transfer (in whole or in part) of any other guarantee, indemnity or security held or taken by the Vendor;
- (b) make a claim or enforce a right against the Purchaser or any other guarantor or against the estate or any of the property of any of them (except for the benefit of the Vendor); or
- (c) raise a set-off or counterclaim available to it or the Purchaser against the Vendor in reduction of its liability under this guarantee and indemnity.

12 Costs and expenses

12.1 Reimbursement on demand

The Guarantor agrees to pay or reimburse the Vendor on demand for:

- (a) its costs, charges and expenses of making, enforcing and doing anything in connection with this guarantee and indemnity, including all costs actually payable by the Vendor to its legal representatives (whether under a costs agreement or otherwise); and
- (b) all taxes (except income tax) which are payable in connection with this guarantee and indemnity or any payment, receipt or other transaction contemplated by it.

12.2 Application of money

Money paid to the Vendor by the Guarantor must be applied first against payment of costs, charges and expenses under this **clause 12** and then against other obligations under this guarantee and indemnity.

13 Continuation on assignment

If the Vendor assigns its rights under this guarantee and indemnity, the benefit of the guarantee and indemnity extends to the assignee and continues concurrently for the benefit of the Vendor regardless of the assignment unless the Vendor releases the Guarantor in writing.

14 General

14.1 Joint and several

- (a) If a party consists of more than one person this guarantee and indemnity binds each of them separately and any two or more of them jointly.
- (b) An obligation, representation or warranty in favour of more than one person is for the benefit of them separately and jointly.
- (c) A party which is a trustee is bound both personally and in its capacity as a trustee.

14.2 Notices

- (a) A Notice has no legal effect unless it is in writing.
- (b) In addition to any other method of service provided by law, a Notice may be:
 - (i) sent by prepaid post to; or
 - (ii) delivered at;
the address of the addressee set out in this guarantee and indemnity or as subsequently notified.
- (c) If a Notice is sent or delivered in a manner provided by **clause 27(b)**, it must be treated as given to and received by the party to which it is addressed:
 - (i) if sent by post, on the second Business Day (at the address to which it is posted) after posting; or
 - (ii) if otherwise delivered before 4.00 pm on a Business Day at the place of delivery, upon delivery, and otherwise on the next Business Day at the place of delivery.
- (d) Any Notice by a party may be given and may be signed by its Legal Practitioner.

14.3 Governing law and jurisdiction

- (a) The law of Victoria governs this guarantee and indemnity.
- (b) The parties submit to the non-exclusive jurisdiction of the courts of Victoria and of the Commonwealth of Australia.

14.4 Severability

If anything in this guarantee and indemnity is unenforceable, illegal or void then it is severed and the rest of this guarantee and indemnity remains in full force.

14.5 Entire Agreement

This guarantee and indemnity and the documents referred to in it are the entire agreement between the parties and supersede and discharge all previous negotiations and agreements.

14.6 Waiver and variation

A provision of or a right created under this guarantee and indemnity cannot be:

- (a) waived except in writing signed by the party granting the waiver; or
- (b) varied except in writing signed by or on behalf of the parties.

Executed as an agreement.

[Insert Guarantor Name]

.....
Signature

.....
Signature of witness

.....
Name of witness

Fisken Property Holdings Pty Ltd ACN 658 052 905

.....
Signature of director

.....
Name of director

.....
Signature of company secretary/director

.....
Name of company secretary/director

Reference Schedule

Vendor	As named in the Contract of Sale
Property	Lot [insert] on proposed Plan of Subdivision No. 933533K being part of the land described in Certificate of Title Volume 12361 Folio 152, which is located at 30 Fiskin Street, Maddingley, Victoria 3340.
Purchaser	As named in the Contract of Sale
Guarantor	[insert] of [insert]
Price	AUD\$
Contract	The Contract of Sale of the Property made between the Vendor and the Purchaser at the Price stated above and dated the [insert] day of [insert] 2025

Schedule 2

Rules

1 Definitions

In these rules:

Term	Meaning
Building	any building constructed on the Land
Common Property	the areas designated as Common Property on the Plan
Developer	Fisken Property Holdings Pty Ltd or related body corporate responsible for the creation of Lots and includes the Developer's successors and assigns and where it is consistent with the context includes the Developer's employees, agents, contractors, subcontractors and invitees
Governmental Agency	any governmental or semi-governmental, administrative, fiscal or judicial department, commission, authority, tribunal, agency or entity
Land	the land on the Plan, otherwise known as 30 Fisken Street, Maddingley
Lot	a Lot shown on the Plan
Manager	the person for the time being appointed by the Owners Corporation as its manager or if no person is for the time being appointed, the secretary of the Owners Corporation
Occupier	the person or entity authorised by the Proprietor to occupy the designated Lot as tenant or licensee and where the context requires includes the Occupier's invitees
Plan	Plan of Subdivision 933533K
Proprietor	the registered proprietor of a Lot
Security Key	a key, magnetic card or other device used to open and close doors, gates, locks or to generate alarms, security systems or communication systems in respect of a Lot or the Common Property

Interpretation

(a) Unless the context otherwise requires:

- (i) headings are for convenience only;
- (ii) words importing a gender include any gender;
- (iii) an expression importing a natural person includes any company, partnership, joint venture, association, corporation or other Owners Corporation and any Governmental Agency;
- (iv) a reference to a person includes a reference to the person's executors, administrators, successors, substitutes (including, without limitation, persons taking by novation) and assigns;
- (v) a reference to any statute, regulation proclamation, ordinance or by-law includes all statutes, regulations, proclamations, ordinances or by-laws varying, consolidating or replacing them, and a reference to a statute includes all regulations, proclamations, ordinances and by-laws issued under that statute;
- (vi) a reference to an Owners Corporation includes any elected committee of the Owners Corporation;
- (vii) a reference to a thing includes part of that thing; and
- (viii) as the context permits, the singular includes the plural and vice-versa.

(b) The obligations and restrictions set out in these rules shall be read subject to the rights, grants or privileges that may be given to any person or persons by the Owners Corporation from time to time and to the extent of any inconsistency, such rights, grants or privileges prevail over these rules in respect of the person or persons to whom they are given.

(c) Where these Rules require or provide for the Owners Corporation Manager or the Owners Corporation Committee to do something it means that the Owners Corporation Manager or the Owners Corporation Committee (as the case may be) has been duly appointed and is acting under the delegated authority of the Owners Corporation to do the relevant act or thing or provide the relevant approval.

(d) Where in these Rules it refers to Owners Corporation, it may be the case that the Owners Corporation has duly appointed and delegated to the Owners Corporation Manager or Owners Corporation Committee (as the case may be) the power and authority required to do the relevant act or thing referred to in the Rules.

3 Support and Provision of Services

Except for the purposes of maintenance and renewal and with the written consent of the Owners Corporation, a Proprietor or Occupier of a Lot must not do anything or permit anything to be done on or in relation to that Lot or the Common Property so that:

- (a) any support or shelter provided by that Lot or the Common Property for any other Lot or the Common Property is interfered with;
- (b) the structural and functional integrity of any part of the Common Property is impaired; or
- (c) the passage or provision of services through the Lot or the Common Property is interfered with.

4 Behaviour by Proprietors and Occupiers

- (a) A Proprietor or Occupier of a Lot must not:
 - (i) use the Common Property or permit the Common Property to be used in such a manner as to unreasonably interfere with or prevent its use by other Proprietors or Occupiers of Lots or their visitors;
 - (ii) make or permit to be made any undue noise in or about the Common Property or any Lot affected by the Owners Corporation;
 - (iii) create any noise or behave in a manner likely to interfere with peaceful enjoyment of the Proprietor or Occupier of another Lot or of any person lawfully using Common Property; or
 - (iv) obstruct the lawful use of Common Property by any person.
- (b) A Proprietor or Occupier of a Lot must not smoke in the car parks, loading docks, areas set aside for plant and storage, forming part of the Common Property or such other parts of the Common Property as the Owners Corporation or its Manager may designate from time to time.
- (c) A Proprietor or Occupier of a Lot must not dispose or permit the disposal of cigarette butts, cigarette ash or any other materials on Common Property.

5 Cleaning of a Lot

A Proprietor or Occupier of a Lot must keep that Lot clean and in good repair.

6 Damage to Common Property

A Proprietor or Occupier of a Lot shall not mark, paint or otherwise damage or deface any structure that forms part of the Common Property.

7 Interference with Common Property

- (a) A Proprietor or Occupier of a Lot must not, without the prior written consent of the Owners Corporation, remove any article from the Common Property placed there by direction or authority of the Owners Corporation and must use all reasonable endeavours to ensure that those articles are used only for their intended use and not damaged.
- (b) A Proprietor or Occupier of a Lot must not, without the written authority of the Owners Corporation or its Manager, interfere with the operation of any plant and equipment owned by the Owners Corporation installed on the Common Property.

8 Notification of Defects

A Proprietor or Occupier of a Lot must promptly notify the Owners Corporation or its Manager on becoming aware of any damage to or defect in the Common Property or any personal property vested in the Owners Corporation.

9 Compensation

The Proprietor or Occupier of a Lot shall compensate the Owners Corporation in respect of any damage to the Common Property or personal property vested in the Owners Corporation caused by that Proprietor or Occupier or their respective licensees or invitees.

10 Garbage

- (a) A Proprietor or Occupier of a Lot must not deposit or throw garbage onto the Common Property except into a receptacle or area specifically provided for that purpose.
- (b) A Proprietor or Occupier of a Lot must dispose of garbage in the manner specified by the Owners Corporation or its Manager from time to time but otherwise:
 - (i) glass items must be completely drained, cleaned and deposited in unbroken condition in the area designated for such items by the Owners Corporation;
 - (ii) recyclable items, without limitation, paper, cardboard and plastic as from time to time nominated by the Owners Corporation must be stored in the area designated for the items by the Owners Corporation; and
 - (iii) all cardboard boxes and packaging must be broken down and neatly packed in the garbage area.

11 Complaints and Applications

Any complaint or application to the Owners Corporation must be addressed in writing to the Manager, or where there is no Manager, the secretary of the Owners Corporation.

12 Vehicles on Common Property

A Proprietor or Occupier of a Lot must not.

- (a) park or leave a vehicle or permit a vehicle to be parked or left on the Common Property so as to obstruct a driveway or entrance to a Lot, or in any place other than in a parking area specified by the Owners Corporation for such purpose by the Owners Corporation;
- (b) permit oil leakages from any motor vehicle, trailer or motorcycle onto Common Property and must reimburse the Owners Corporation for the cost of cleaning or removing any oil stains to the garage or other part of the Common Property after due notice has been served;
- (c) store any items in their car park other than a vehicle, motorcycle or trailer, unless approved by the Owners Corporation; or
- (d) permit the use of those spaces allocated for visitors parking for more than 48 hours or as permitted by the Owners Corporation from time to time, without the prior written consent of the Owners Corporation or Manager.

13 Insurance Premiums

A Proprietor or Occupier of a Lot must not without the prior written consent of the Owners Corporation do or permit anything to be done which may invalidate, suspend or increase the premium for any insurance policy effected by the Owners Corporation.

14 Signs, Blinds & Awnings

- (a) A Proprietor or Occupier of a Lot must not without the prior written consent of the Owners Corporation erect or affix any sign or notice to any part of the Common Property.
- (b) A Proprietor or Occupier of a Lot must not install or permit the installation of any external blind or awnings to the Lot without the written consent of the Owners Corporation.

15 Painting and Finishing

A Proprietor or Occupier of a Lot must not paint, finish or otherwise alter the external facade of any improvement forming part of the Common Property.

16 Compliance with Rules by Invitees

- (a) A Proprietor or Occupier of a Lot must, take all reasonable steps to ensure that invitees of the Proprietor or Occupier comply with these rules and in default take all reasonable steps to ensure that their invitees leave the Building.
- (b) A Proprietor of a Lot which is the subject of a lease or licence agreement must take all reasonable steps, including any action available under the lease or licence agreement, to ensure that any lessee or licensee of the Lot and any invitees of the lessee or licensee comply with these rules.

17 Compliance with Laws

- (a) A Proprietor or Occupiers must comply with all statutory and other requirements, including those issued from time to time by Building Management or the Owners Corporate Committee.
- (b) A Proprietor or Occupier of a Lot must, at the Proprietor's or Occupier's own expense, promptly comply with all laws relating to the Lot including, without limitation, any requirements, notices and orders of any governmental authority.
- (c) A Proprietor or Occupier of a Lot must not use or permit a Lot affected by the Owners Corporation to be used for any purpose that may be illegal or injurious to the reputation of the development or may cause a nuisance or hazard to any other Proprietor or Occupier of any Lot or the families or visitors of any such Proprietor or Occupier;
- (d) A Proprietor or Occupier of a Lot must grant to the Owners Corporation its servants and agents upon the Proprietor or Occupier being given twenty-four (24) hours prior written notice, the right of access to any balcony forming part of the Lot for the purpose of maintenance of the external walls of the Common Property and the cleaning of the outside of the windows and the external façade/roof of the Common Property.
- (e) A Proprietor or Occupier of a Lot must comply with the planning permit including the endorsed plans in connection with the planning permit, including any landscaping plans, tree management plans, waste management plans and construction plans.

18 Building Works

- (a) If a Proprietor or Occupier of a Lot undertakes any building works within or about or a Lot it must at all times ensure that such works are undertaken in a reasonable manner so as to minimise any nuisance annoyance disturbance and inconvenience from building operations to other Proprietors and Occupiers.
- (b) The Proprietor or Occupier of a Lot must not proceed with any such works until the Proprietor or Occupier ensures that the Proprietor or Occupier and the Proprietor or Occupier's servants agents and contractors undertaking such works comply with the proper and reasonable directions of the Owners Corporation concerning the method of building operations, means of access, use of Common Property and on-site management and building protection, and hours of work (and the main Building entrance and lobby must not be used for the purposes of taking building material or building workmen to and from the relevant Lot unless the Owners Corporation gives written consent to do so) and that such servants agents and contractors are supervised in the carrying out of such works so as to minimise any damage to or dirtying of the Common Property and the services therein.
- (c) Without limiting the generality of clause 27(b) the Proprietor or Occupier of a Lot must ensure that the Proprietor or Occupier and the Proprietor's or Occupier's

servants, agents and contractors undertaking such works observe the following restrictions in respect of the works:

- (i) building materials must not be stacked or stored in locations as directed by the Manager;
- (ii) scaffolding must not be erected on the Common Property or the exterior of the Building;
- (iii) construction work must comply with all laws of the relevant Governmental Agencies;
- (iv) the exterior and Common Property of the Building must at all times be maintained in a clean tidy and safe state; and
- (v) construction vehicles and construction worker's vehicles must not be brought onto or parked in the Common Property.

(d) Before any of the Proprietor's or Occupier's works commence the Proprietor or the Occupier must:

- (i) cause to be effected and maintained during the period of the building works a contractors all risk insurance policy to the satisfaction of the Owners Corporation; and
- (ii) deliver a copy of the policy and certificate of currency in respect of the policy to the Owners Corporation.

(e) Access shall not be available to other Lots on the Plan or Common Property on the Plan for the installation and maintenance of services and associated building works without the consent or license of the owner of the relevant Lot or the Owners Corporation in the case of Common Property.

(f) The Proprietor or Occupier of a Lot shall immediately make good all damage to and dirtying of the Common Property, the services thereto or therein or any fixtures fittings or finishes thereof or therein which are caused by such works and if the Proprietor or Occupier fails to immediately do so the Owners Corporation may in its absolute discretion (or if the Proprietor or Occupier fails to do so within a reasonable period of time) make good the damage and dirtying and in that event the Proprietor or Occupier shall indemnify and keep indemnified the Owners Corporation against any costs or liabilities incurred by the Owners Corporation in so making good the damage or dirtying.

(g) The Proprietor or Occupier of a Lot must forthwith make good any damage occasioned to the Common Property, the services thereof and all fixtures, fittings and finishes resulting from such works or (at the Owners Corporation's election) reimburse to the Owners Corporation the cost incurred or to be incurred by the Owners Corporation in making good any such damage.

19 Access to Lots

- (a) A Proprietor or Occupier in occupation of a Lot must allow any person authorised by and on behalf of the Owners Corporation:
 - (i) to enter the Lot or in order to have access to the exterior of the building, or;
 - (ii) to enter the Lot to facilitate the repair and maintenance of and other works on Common Property including the structure of the building and the exterior face of the building and any service that is for the benefit of more than one Lot or the Common Property being areas of Common Property that would otherwise be difficult to access.
- (b) The Owners Corporation must give at least one days' notice in writing to the Proprietor or Occupier of a Lot or other Occupier of a Lot of an intention to enter:
 - (i) unless the Occupier agrees to a lesser time and where the Occupier is a tenant under a residential tenancy agreement the Occupier must be given the same notice as that required to be given by a landlord under Section 85 of the *Residential Tenancies Act 1997*;
 - (ii) entry to and use of the relevant part of the Lot must be between the hours of 8.00 am and 6.00 pm on any day Monday to Friday; and
 - (iii) unless there is an emergency when no notice and no time restrictions apply, and then in such a manner as to cause as little interruption or inconvenience to the occupier as is possible in the circumstances.

20 Control of Noise and Other Sounds

A Proprietor or Occupier of a Lot must not make any changes, alterations, modifications or additions to the Lot, structure or otherwise which diminishes or may diminish noise attenuation within the building in providing insulation against the transmission of airborne and impact generated sound and must obtain the prior written approval of the Owners Corporation to:

- (a) the installation and or removal whether or not replacement is proposed of existing fixed or loose carpet, rugs or other floor coverings or parquetry, floating or other timber floors; or
- (b) any other change to existing floor treatments or floor coverings, which approval will be given only if the Owners Corporation is satisfied that noise attenuation within the building will be maintained or improved and then only on such conditions as the Owners Corporation sees fit including requiring that further works be undertaken by the Proprietor or Occupier of the Lot to maintain or improve noise attenuation within the building so that occupiers of other Lots and users of Common Property continue to enjoy the existing or an improved amenity.

21 Conduct of Meeting

The conduct of meetings of the Owners Corporation shall otherwise be regulated in accordance with the relevant legislation.

22 Selling and Leasing

- (c) A Proprietor or Occupier of a Lot shall ensure that any selling or leasing agent engaged by such Proprietor or Occupier shall not place any exhibit or advertising boards at the entry-way to the property, in common areas or on the footpath at the entry-ways. Any such selling or leasing agent shall be required at any inspection time to ensure the front entry is manned as well as the respective apartment floor level lobby with personnel suitably attired at all times during any open for inspection or auction and to ensure that all persons attending such open for inspection or auction are escorted from the entry to the respective floor level and the relevant property open for inspection or auction.
- (d) A Proprietor of a Lot, which is subject to a lease or licence must procure that the lessee or licensee of the Lot complies with these Rules and any subsequent amendment to these Rules. This includes ensuring that the lessee or licensee has read and is bound by these Rules under the terms of their lease or licence agreement. A Proprietor who grants a lease or licence over its Lot indemnifies the Owners Corporation and agrees to keep it indemnified against any costs or liabilities incurred by the Owners Corporation associated with the failure of the lessee or licensee to strictly comply with these Rules and against the failure of the lessee or licensee to pay the Owners Corporation any charges validly levied by the Owners Corporation against the lessee or licensee.

23 Use of Appurtenances

The water closets, conveniences and other water apparatus including waste pipes and drains shall not be used for any purpose other than those which they were constructed, and the sweeping of rubbish or other unsuitable substances shall not be deposited therein. Any costs or expenses resulting from any damage or blockage shall be borne by the Proprietor or Occupier causing the damage or blockage.

24 Infectious Diseases

In the event of any infectious disease which may require notification by virtue of any statute, regulation or ordinance affecting any person in any Lot, the Proprietor of such Lot shall give, or cause to be given, written notice thereof and any other information which may be required relative thereto the Owners Corporation and shall pay to the Owners Corporation the expenses of disinfecting the Building where necessary and replacing any articles or things the destruction of which may be rendered necessary by such disease.

25 Recovery of Owners Corporation Contribution Fees/Legal/Costs

- (a) The Proprietor or Occupier of a Lot shall pay on demand by the Owners Corporation:

- (i) all legal costs on a solicitor-own client basis which the Owners Corporation pays, incurs or expends in consequence of any default by the Proprietor or Occupier in the performance or observance of any term, covenant or condition contained in these rules including but not limited to recovery of Owners Corporation contribution fees;
- (ii) all costs associated with repairs, maintenance, leak investigations or other works or services performed for the benefit of or relevant to a Lot, which are incurred by the Owners Corporation. The costs charges and expenses shall be due and payable as a debt due by the Proprietor or Occupier in default or breach to the Owners Corporation; and
- (iii) all costs incurred by the Owners Corporation as a result of charges arising from a breach or default of an obligation by a Proprietor or Occupier of a Lot (such as though not limited to; false fire alarms, fire brigade charges, authority charges), shall be payable by any Proprietor or Occupier in default or breach. The costs charges and expenses shall be due and payable as a debt due by Proprietor or Occupier in default or breach to the Owners Corporation.

(b) The Manager and Owners Corporation shall take all steps necessary for the recovery of outstanding fees, levies and other charges due by any Proprietor or Occupier to the Owners Corporation including commencing proceedings in VCAT, the Magistrates Court and for bankruptcy or the winding up of a company in the Federal or relevant Court. The Manager of the Owners Corporation and/or the committee of the Owners Corporation shall have the power pursuant to this resolution to appoint a lawyer to act on its behalf in relation to any necessary debt recovery action taken.

26 Penalty Interest

- (a) The Owners Corporation will charge penalty interest at the rate for the time being fixed under Section 2 of the *Penalty Interest Rates Act 1983*.
- (b) The Manager and Owners Corporation shall take all steps necessary for the recovery of outstanding fees, levies and other charges due by any Proprietor to the Owners Corporation including commencing proceedings in VCAT or of relevant jurisdiction. The Manager of the Owners Corporation and/or the Committee shall have the power pursuant to this resolution to appoint a lawyer to act on its behalf in relation to any necessary debt recovery action taken.

27 Use of Common Property

A Proprietor or Occupier of a Lot must observe the rules in relation to the use of the Common Property as determined by the Owners Corporation from time to time and ensure that any invitees of the Proprietor or Occupier do not use the area except in accordance with rules as permitted by the Owners Corporation from time to time.

28 Pets and Animals

A Proprietor or Occupier of a Lot must not keep any animal on a Lot.

29 Storage of Flammable Goods

A Proprietor or Occupier of a Lot must not:

- (a) except with the written consent of the Owners Corporation, use or store on the Lot or the Common Property any flammable chemical, liquid, gas or other flammable material other than chemicals, liquids, gases or other material used or intended to be used for domestic purposes or in the fuel tank of a motor vehicle; or
- (b) do or permit anything which may invalidate or suspend any insurance policy effected by the Owners Corporation or cause any premium to be increased without the prior written consent of the Owners Corporation.

30 Dispute resolution

- (a) The grievance procedure set out in this rule applies to disputes involving a Proprietor, Manager, or an Occupier or the Owners Corporation.
- (b) The party making the complaint must prepare a written statement in the approved form.
- (c) If there is a grievance committee of the Owners Corporation, it must be notified of the dispute by the complainant.
- (d) If there is no grievance committee, the Owners Corporation must be notified of any dispute by the complainant, regardless of whether the Owners Corporation is an immediate party to the dispute.
- (e) The parties to the dispute must meet and discuss the matter in dispute, along with either the grievance committee or the Owners Corporation, within 14 working days after the dispute comes to the attention of all the parties.
- (f) A party to the dispute may appoint a person to act or appear on his or her behalf at the meeting.
- (g) If the dispute is not resolved, the grievance committee or Owners Corporation must notify each party of his or her right to take further action under Part 10 of the *Owners Corporations Act 2006*.

31 Signage & Other Licences

- (a) The Owners Corporation, by ordinary resolution, may grant the Developer:
 - (i) a lease or licence including but not limited to for the provision of information technology infrastructure relating to broadband services to the Land;

- (ii) a licence to host festivals, parties or other celebratory or promotional events on the Common Property;
- (iii) a licence to place and maintain sale signs, insignias, logos and other fixtures and fittings for marketing purposes on the Common Property; or
- (iv) allow the Developer's representatives and their invitees to conduct selling activities from a Lot, if not sold prior to completion, which will serve as a display unit, provided the Developer uses its best endeavours to minimise disturbance and inconvenience to others Proprietors' or Occupiers' use of the Common Property and at all times acts honestly and in good faith and with due care and diligence in the interests of the Owners Corporation.

- (b) A Proprietor or Occupier must not hinder or impede the Developer from exercising its rights under any agreement entered into under this rule.
- (c) The Owners Corporation must procure all the necessary consents and resolutions to give effect to the matters set out in this rule.
- (d) A Proprietor must not vote in favour of any motion for a resolution proposed for consideration by a general meeting of the Owners Corporation which would impede the powers of the Owners Corporation under this rule.

32 Danger

- (a) If the Proprietor or Occupier is aware of a risk or a danger (including, hazards, bomb threats, a fire or a riot) in the Building or the Lot, the Occupier or Proprietor must advise the Landlord or Owners Corporation immediately.
- (b) If there is, or could be, anything that is a risk or a danger to the Building or people in it (such as a bomb threat, a fire or a riot) the Occupier or Proprietor must obey the instructions of the police or the fire brigade or other emergency authority including leaving the Lot or Common Property. The Occupier or Proprietor must not re-enter the Lot, Common Property or Building unless the Proprietor, Owners Corporation or the police or fire brigade or other appropriate authority tells the Occupier or Proprietor it is safe to do so.

Schedule 3

Proxy

Owners Corporation Plan No [*]

Proxy form

Under regulation 6 of the *Owners Corporation Regulations 2018*,

I/We	
of (address)	
being the owner/s of lot/s	
authorise	
of	
as *my /*our proxy	

A. *to attend, speak and vote in person on *my/*our behalf up until ____/____/____ [insert date until which proxy authorisation will be valid, up to a maximum period of 12 months]

OR

*to attend, speak and vote in person on *my/*our behalf at the annual or special general meeting of the owners corporation to be held on ____/____/____ [insert date]

OR

*to vote for *me/*us and on *my/*our behalf at the ballot having a closing date of
____/____/____ [insert date]

OR

*I/*we direct the proxy to vote in relation to the following resolutions or matters as follows:
[If relevant, set out specific instructions to your proxy concerning how to vote in relation to particular resolutions or matters]

B. *To represent *me/*us on the committee of the owners corporation:

Dated	
Signed (by member/s giving proxy)	
Print Name	

*Delete if inapplicable

Schedule 4

Sale of Real Estate Nomination Form

Contract:	Contract of Sale between the Vendor and Purchaser dated ____/____/2025
Vendor:	of
Purchaser:	of
Property:	of
Nominee:	of

TO THE VENDOR

Under the Contract the Purchaser nominates the Nominee as additional / substitute purchaser to take a transfer or conveyance, as applicable, of the Property instead of the Purchaser.

The Purchaser and the Nominee acknowledge that they are jointly and severally liable for performing the obligations of the Purchaser under the Contract and for paying any expenses resulting from this nomination (including, but not limited to any stamp duty) and the Nominee is bound by the Contract as if the Contract had been entered into by the Nominee and the Vendor.

Dated:

[Insert Purchaser Name]

.....
Signature

.....
Signature of witness

.....
Name of witness

[Insert Nominee Name]

.....
Signature

.....
Signature of witness

.....
Name of witness