

Contract for the sale and purchase of land 2022 edition

| TERM | MEANING OF TERM | NSW DAN: |
|---|---|---|
| vendor's agent | Raine & Horne Ettalong Beach 414 Ocean View Road, Ettalong Beach NSW 2257 | Phone: (02) 4341 5688 |
| co-agent | | |
| vendor | OVD Investments Pty Ltd 657 485 295 22 Mercator Parade, St Huberts Island, NSW 2257 | |
| vendor's solicitor | Tonkin Drysdale Partners 79 Blackwall Road, Woy Woy NSW 2256 PO Box 40, Woy Woy NSW 2256 DX 8803 Woy Woy | Phone: 02 4341 2355 Email: info@tdplegal.com.au Fax: 02 4344 1420 Ref: PT:SP:2230728 |
| date for completion land (address, plan details and title reference) | 42nd day after the contract date 281 Ocean View Road, Ettalong Beach, New South Wales 2257 Registered Plan: Lot 26 Plan DP 663752 Folio Identifier 26/663752 | (clause 15) |
| improvements | <input type="checkbox"/> VACANT POSSESSION <input checked="" type="checkbox"/> subject to existing tenancies <input type="checkbox"/> HOUSE <input type="checkbox"/> garage <input type="checkbox"/> carport <input type="checkbox"/> home unit <input type="checkbox"/> carspace <input type="checkbox"/> storage space <input type="checkbox"/> none <input checked="" type="checkbox"/> other: Commercial building | |
| attached copies | <input checked="" type="checkbox"/> documents in the List of Documents as marked or as numbered: <input type="checkbox"/> other documents: | |

A real estate agent is permitted by legislation to fill up the items in this box in a sale of residential property.

| | | | | |
|-----------------------|--|--|---|--|
| inclusions | <input type="checkbox"/> air conditioning | <input type="checkbox"/> clothes line | <input checked="" type="checkbox"/> fixed floor coverings | <input checked="" type="checkbox"/> range hood |
| | <input type="checkbox"/> blinds | <input type="checkbox"/> curtains | <input type="checkbox"/> insect screens | <input type="checkbox"/> solar panels |
| | <input type="checkbox"/> built-in wardrobes | <input checked="" type="checkbox"/> dishwasher | <input checked="" type="checkbox"/> light fittings | <input checked="" type="checkbox"/> stove |
| | <input type="checkbox"/> ceiling fans | <input type="checkbox"/> EV charger | <input type="checkbox"/> pool equipment | <input type="checkbox"/> TV antenna |
| | <input type="checkbox"/> other: | | | |
| exclusions | | | | |
| purchaser | | | | |
| purchaser's solicitor | | | | |
| price | | | | |
| deposit | | (10% of the price, unless otherwise stated) | | |
| balance | | | | |
| contract date | (if not stated, the date this contract was made) | | | |

Where there is more than one purchaser JOINT TENANTS
 tenants in common in unequal shares, specify:

GST AMOUNT (optional) The price includes GST of: \$
 buyer's agent

Note: Clause 20.15 provides "Where this contract provides for choices, a choice in BLOCK CAPITALS applies unless a different choice is marked."

SIGNING PAGE

| VENDOR | PURCHASER |
|--|--|
| <p>Signed by</p> <p>_____</p> <p>Vendor</p> <p>_____</p> <p>Vendor</p> | <p>Signed by</p> <p>_____</p> <p>Purchaser</p> <p>_____</p> <p>Purchaser</p> |
| VENDOR (COMPANY) | PURCHASER (COMPANY) |
| <p>Signed by OVD Investments Pty Ltd 657 485 295 in accordance with s127(1) of the Corporations Act 2001 by the authorised person(s) whose signature(s) appear(s) below:</p> <p>_____</p> <p>Signature of authorised person</p> <p><u>Andrew Thomas Tregent</u></p> <p>Name of authorised person</p> <p><u>Sole Director and Sole</u></p> <p><u>Company Secretary</u></p> <p>Office held</p> <p>_____</p> <p>Signature of authorised person</p> <p>_____</p> <p>Name of authorised person</p> <p>_____</p> <p>Office held</p> | <p>Signed by in accordance with s127(1) of the Corporations Act 2001 by the authorised person(s) whose signature(s) appear(s) below:</p> <p>_____</p> <p>Signature of authorised person</p> <p>_____</p> <p>Name of authorised person</p> <p>_____</p> <p>Name of authorised person</p> <p>_____</p> <p>Office held</p> <p>_____</p> <p>Office held</p> |

Choices

- Vendor agrees to accept a **deposit-bond** NO yes
- Nominated Electronic Lodgment Network (ELN)** (clause 4) PEXA
-
- Manual transaction** (clause 30) NO yes
(if yes, vendor must provide further details, including any applicable exemption, in the space below):

Tax information (the parties promise this is correct as far as each party is aware)

- Land tax** is adjustable NO yes
- GST: Taxable supply** NO yes in full yes to an extent
- Margin scheme** will be used in making the taxable supply NO yes

This sale is not a taxable supply because (one or more of the following may apply) the sale is:

- not made in the course or furtherance of an enterprise that the vendor carries on (section 9-5(b))
- by a vendor who is neither registered nor required to be registered for GST (section 9-5(d))
- GST-free because the sale is the supply of a going concern under section 38-325
- GST-free because the sale is subdivided farm land or farm land supplied for farming under Subdivision 38-O
- input taxed because the sale is of eligible residential premises (sections 40-65, 40-75(2) and 195-1)

- Purchaser must make an **GSTRW payment** NO yes (if yes, vendor must provide details)
(GST residential withholding payment)

If the details below are not fully completed at the contract date, the vendor must provide all these details in a separate notice at least 7 days before the date for completion.

GSTRW payment (GST residential withholding payment) – details

Frequently the supplier will be the vendor. However, sometimes further information will be required as to which entity is liable for GST, for example, if the supplier is a partnership, a trust, part of a GST group or a participant in a GST joint venture.

Supplier's name:

Supplier's ABN:

Supplier's GST branch number (if applicable):

Supplier's business address:

Supplier's representative:

Supplier's contact phone number:

Supplier's proportion of **GSTRW payment**:

If more than one supplier, provide the above details for each supplier.

Amount purchaser must pay – price multiplied by the **GSTRW rate** (residential withholding rate):

Amount must be paid: AT COMPLETION at another time (specify):

Is any of the consideration not expressed as an amount in money? NO yes

If "yes", the GST inclusive market value of the non-monetary consideration: \$

Other details (including those required by regulation or the ATO forms):

List of Documents

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| <p>General</p> <p><input checked="" type="checkbox"/> 1 property certificate for the land</p> <p><input checked="" type="checkbox"/> 2 plan of the land</p> <p><input type="checkbox"/> 3 unregistered plan of the land</p> <p><input type="checkbox"/> 4 plan of land to be subdivided</p> <p><input type="checkbox"/> 5 document that is to be lodged with a relevant plan</p> <p><input checked="" type="checkbox"/> 6 section 10.7(2) planning certificate under Environmental Planning and Assessment Act 1979</p> <p><input checked="" type="checkbox"/> 7 additional information included in that certificate under section 10.7(5)</p> <p><input checked="" type="checkbox"/> 8 sewerage infrastructure location diagram (service location diagram)</p> <p><input checked="" type="checkbox"/> 9 sewer lines location diagram (sewerage service diagram)</p> <p><input type="checkbox"/> 10 document that created or may have created an easement, profit à prendre, restriction on use or positive covenant disclosed in this contract</p> <p><input type="checkbox"/> 11 <i>planning agreement</i></p> <p><input type="checkbox"/> 12 section 88G certificate (positive covenant)</p> <p><input type="checkbox"/> 13 survey report</p> <p><input type="checkbox"/> 14 building information certificate or building certificate given under <i>legislation</i></p> <p><input type="checkbox"/> 15 occupation certificate</p> <p><input checked="" type="checkbox"/> 16 lease (with every relevant memorandum or variation)</p> <p><input type="checkbox"/> 17 other document relevant to tenancies</p> <p><input type="checkbox"/> 18 licence benefiting the land</p> <p><input type="checkbox"/> 19 old system document</p> <p><input type="checkbox"/> 20 Crown purchase statement of account</p> <p><input type="checkbox"/> 21 building management statement</p> <p><input checked="" type="checkbox"/> 22 form of requisitions</p> <p><input type="checkbox"/> 23 <i>clearance certificate</i></p> <p><input type="checkbox"/> 24 land tax certificate</p> <p>Home Building Act 1989</p> <p><input type="checkbox"/> 25 insurance certificate</p> <p><input type="checkbox"/> 26 brochure or warning</p> <p><input type="checkbox"/> 27 evidence of alternative indemnity cover</p> <p>Swimming Pools Act 1992</p> <p><input type="checkbox"/> 28 certificate of compliance</p> <p><input type="checkbox"/> 29 evidence of registration</p> <p><input type="checkbox"/> 30 relevant occupation certificate</p> <p><input type="checkbox"/> 31 certificate of non-compliance</p> <p><input type="checkbox"/> 32 detailed reasons of non-compliance</p> | <p>Strata or community title (clause 23 of the contract)</p> <p><input type="checkbox"/> 33 property certificate for strata common property</p> <p><input type="checkbox"/> 34 plan creating strata common property</p> <p><input type="checkbox"/> 35 strata by-laws</p> <p><input type="checkbox"/> 36 strata development contract or statement</p> <p><input type="checkbox"/> 37 strata management statement</p> <p><input type="checkbox"/> 38 strata renewal proposal</p> <p><input type="checkbox"/> 39 strata renewal plan</p> <p><input type="checkbox"/> 40 leasehold strata - lease of lot and common property</p> <p><input type="checkbox"/> 41 property certificate for neighbourhood property</p> <p><input type="checkbox"/> 42 plan creating neighbourhood property</p> <p><input type="checkbox"/> 43 neighbourhood development contract</p> <p><input type="checkbox"/> 44 neighbourhood management statement</p> <p><input type="checkbox"/> 45 property certificate for precinct property</p> <p><input type="checkbox"/> 46 plan creating precinct property</p> <p><input type="checkbox"/> 47 precinct development contract</p> <p><input type="checkbox"/> 48 precinct management statement</p> <p><input type="checkbox"/> 49 property certificate for community property</p> <p><input type="checkbox"/> 50 plan creating community property</p> <p><input type="checkbox"/> 51 community development contract</p> <p><input type="checkbox"/> 52 community management statement</p> <p><input type="checkbox"/> 53 document disclosing a change of by-laws</p> <p><input type="checkbox"/> 54 document disclosing a change in a development or management contract or statement</p> <p><input type="checkbox"/> 55 document disclosing a change in boundaries</p> <p><input type="checkbox"/> 56 information certificate under Strata Schemes Management Act 2015</p> <p><input type="checkbox"/> 57 information certificate under Community Land Management Act 2021</p> <p><input type="checkbox"/> 58 disclosure statement - off the plan contract</p> <p><input type="checkbox"/> 59 other document relevant to the off the plan contract</p> <p>Other</p> <p><input type="checkbox"/> 60</p> |
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HOLDER OF STRATA OR COMMUNITY SCHEME RECORDS – Name, address, email address and telephone number

IMPORTANT NOTICE TO VENDORS AND PURCHASERS

Before signing this contract you should ensure that you understand your rights and obligations, some of which are not written in this contract but are implied by law.

WARNING—SMOKE ALARMS

The owners of certain types of buildings and strata lots must have smoke alarms, or in certain cases heat alarms, installed in the building or lot in accordance with regulations under the *Environmental Planning and Assessment Act 1979*. It is an offence not to comply. It is also an offence to remove or interfere with a smoke alarm or heat alarm. Penalties apply.

WARNING—LOOSE-FILL ASBESTOS INSULATION

Before purchasing land that includes residential premises, within the meaning of the *Home Building Act 1989*, Part 8, Division 1A, built before 1985, a purchaser is strongly advised to consider the possibility that the premises may contain loose-fill asbestos insulation, within the meaning of the *Home Building Act 1989*, Part 8, Division 1A. In particular, a purchaser should—

- (a) search the Register required to be maintained under the *Home Building Act 1989*, Part 8, Division 1A, and
- (b) ask the relevant local council whether it holds records showing that the residential premises contain loose-fill asbestos insulation.

For further information about loose-fill asbestos insulation, including areas in which residential premises have been identified as containing loose-fill asbestos insulation, contact NSW Fair Trading.

Cooling off period (purchaser's rights)

- 1** This is the statement required by the *Conveyancing Act 1919*, section 66X. This statement applies to a contract for the sale of residential property.
- 2** EXCEPT in the circumstances listed in paragraph 3, the purchaser may rescind the contract before 5pm on—
 - (a) for an off the plan contract—the tenth business day after the day on which the contract was made, or
 - (b) in any other case—the fifth business day after the day on which the contract was made.
- 3** There is NO COOLING OFF PERIOD—
 - (a) if, at or before the time the contract is made, the purchaser gives to the vendor, or the vendor's solicitor or agent, a certificate that complies with the Act, section 66W, or
 - (b) if the property is sold by public auction, or
 - (c) if the contract is made on the same day as the property was offered for sale by public auction but passed in, or
 - (d) if the contract is made in consequence of the exercise of an option to purchase the property, other than an option that is void under the Act, section 66ZG.
- 4** A purchaser exercising the right to cool off by rescinding the contract forfeits 0.25% of the purchase price of the property to the vendor.
- 5** The vendor is entitled to recover the forfeited amount from an amount paid by the purchaser as a deposit under the contract. The purchaser is entitled to a refund of any balance.

DISPUTES

If you get into a dispute with the other party, the Law Society and Real Estate Institute encourage you to use informal procedures such as negotiation, independent expert appraisal, the Law Society Conveyancing Dispute Resolution Scheme or mediation (for example mediation under the Law Society Mediation Program).

AUCTIONS

Regulations made under the Property and Stock Agents Act 2002 prescribe a number of conditions applying to sales by auction.

WARNINGS

1. Various Acts of Parliament and other matters can affect the rights of the parties to this contract. Some important matters are actions, claims, decisions, licences, notices, orders, proposals or rights of way involving:

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| <p>APA Group Australian Taxation Office Council County Council Department of Planning and Environment Department of Primary Industries Electricity and gas Land and Housing Corporation Local Land Services</p> | <p>NSW Department of Education NSW Fair Trading Owner of adjoining land Privacy Public Works Advisory Subsidence Advisory NSW Telecommunications Transport for NSW Water, sewerage or drainage authority</p> |
|---|--|

If you think that any of these matters affects the property, tell your solicitor.
2. A lease may be affected by the Agricultural Tenancies Act 1990, the Residential Tenancies Act 2010 or the Retail Leases Act 1994.
3. If any purchase money is owing to the Crown, it will become payable before obtaining consent, or if no consent is needed, when the transfer is registered.
4. If a consent to transfer is required under legislation, see clause 27 as to the obligations of the parties.
5. The vendor should continue the vendor's insurance until completion. If the vendor wants to give the purchaser possession before completion, the vendor should first ask the insurer to confirm this will not affect the insurance.
6. Most purchasers will have to pay transfer duty (and, sometimes, if the purchaser is not an Australian citizen, surcharge purchaser duty) on this contract. Some purchasers may be eligible to choose to pay first home buyer choice property tax instead of transfer duty. If a payment is not made on time, interest and penalties may be incurred.
7. If the purchaser agrees to the release of deposit, the purchaser's right to recover the deposit may stand behind the rights of others (for example the vendor's mortgagee).
8. The purchaser should arrange insurance as appropriate.
9. Some transactions involving personal property may be affected by the Personal Property Securities Act 2009.
10. A purchaser should be satisfied that finance will be available at the time of completing the purchase.
11. Where the market value of the property is at or above a legislated amount, the purchaser may have to comply with a foreign resident capital gains withholding payment obligation (even if the vendor is not a foreign resident). If so, this will affect the amount available to the vendor on completion.
12. Purchasers of some residential properties may have to withhold part of the purchase price to be credited towards the GST liability of the vendor. If so, this will also affect the amount available to the vendor. More information is available from the ATO.

The vendor sells and the purchaser buys the *property* for the price under these provisions instead of Schedule 3 Conveyancing Act 1919, subject to any *legislation* that cannot be excluded.

1 Definitions (a term in italics is a defined term)

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| 1.1 | In this contract, these terms (in any form) mean – |
| <i>adjustment date</i> | the earlier of the giving of possession to the purchaser or completion; |
| <i>adjustment figures</i> | details of the adjustments to be made to the price under clause 14; |
| <i>authorised Subscriber</i> | a <i>Subscriber</i> (not being a <i>party's solicitor</i>) named in a notice served by a <i>party</i> as being authorised for the purposes of clause 20.6.8; |
| <i>bank</i> | the Reserve Bank of Australia or an authorised deposit-taking institution which is a bank, a building society or a credit union; |
| <i>business day</i> | any day except a bank or public holiday throughout NSW or a Saturday or Sunday; |
| <i>cheque</i> | a cheque that is not postdated or stale; |
| <i>clearance certificate</i> | a certificate within the meaning of s14-220 of Schedule 1 to the <i>TA Act</i> , that covers one or more days falling within the period from and including the contract date to completion; |
| <i>completion time</i> | the time of day at which completion is to occur; |
| <i>conveyancing rules</i> | the rules made under s12E of the Real Property Act 1900; |
| <i>deposit-bond</i> | a deposit bond or guarantee with each of the following approved by the vendor – <ul style="list-style-type: none"> • the issuer; • the expiry date (if any); and • the amount; |
| <i>depositholder</i> | vendor's agent (or if no vendor's agent is named in this contract, the vendor's <i>solicitor</i> , or if no vendor's <i>solicitor</i> is named in this contract, the buyer's agent); |
| <i>discharging mortgagee</i> | any discharging mortgagee, chargee, covenant chargee or caveator whose provision of a <i>Digitally Signed</i> discharge of mortgage, discharge of charge or withdrawal of caveat is required in order for unencumbered title to the <i>property</i> to be transferred to the purchaser; |
| <i>document of title</i> | document relevant to the title or the passing of title; |
| <i>ECNL</i> | the Electronic Conveyancing National Law (NSW); |
| <i>electronic document</i> | a dealing as defined in the Real Property Act 1900 which may be created and <i>Digitally Signed</i> in an <i>Electronic Workspace</i> ; |
| <i>electronic transaction</i> | a <i>Conveyancing Transaction</i> to be conducted for the <i>parties</i> by their legal representatives as <i>Subscribers</i> using an <i>ELN</i> and in accordance with the <i>ECNL</i> and the <i>participation rules</i> ; |
| <i>electronic transfer</i> | a transfer of land under the Real Property Act 1900 for the <i>property</i> to be prepared and <i>Digitally Signed</i> in the <i>Electronic Workspace</i> established for the purposes of the <i>parties' Conveyancing Transaction</i> ; |
| <i>FRCGW percentage</i> | the percentage mentioned in s14-200(3)(a) of Schedule 1 to the <i>TA Act</i> (12.5% as at 1 July 2017); |
| <i>FRCGW remittance</i> | a remittance which the purchaser must make under s14-200 of Schedule 1 to the <i>TA Act</i> , being the lesser of the <i>FRCGW percentage</i> of the price (inclusive of GST, if any) and the amount specified in a <i>variation served by a party</i> ; |
| <i>GST Act</i> | A New Tax System (Goods and Services Tax) Act 1999; |
| <i>GST rate</i> | the rate mentioned in s4 of A New Tax System (Goods and Services Tax Imposition - General) Act 1999 (10% as at 1 July 2000); |
| <i>GSTRW payment</i> | a payment which the purchaser must make under s14-250 of Schedule 1 to the <i>TA Act</i> (the price multiplied by the <i>GSTRW rate</i>); |
| <i>GSTRW rate</i> | the rate determined under ss14-250(6), (8) or (9) of Schedule 1 to the <i>TA Act</i> (as at 1 July 2018, usually 7% of the price if the margin scheme applies, 1/11 th if not); |
| <i>incoming mortgagee</i> | any mortgagee who is to provide finance to the purchaser on the security of the <i>property</i> and to enable the purchaser to pay the whole or part of the price; |
| <i>legislation</i> | an Act or a by-law, ordinance, regulation or rule made under an Act; |
| <i>manual transaction</i> | a <i>Conveyancing Transaction</i> in which a dealing forming part of the <i>Lodgment Case</i> at or following completion cannot be <i>Digitally Signed</i> ; |
| <i>normally</i> | subject to any other provision of this contract; |
| <i>participation rules</i> | the participation rules as determined by the <i>ECNL</i> ; |
| <i>party</i> | each of the vendor and the purchaser; |
| <i>property</i> | the land, the improvements, all fixtures and the inclusions, but not the exclusions; |
| <i>planning agreement</i> | a valid voluntary agreement within the meaning of s7.4 of the Environmental Planning and Assessment Act 1979 entered into in relation to the <i>property</i> ; |
| <i>populate</i> | to complete data fields in the <i>Electronic Workspace</i> ; |

| | |
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| <i>requisition</i> | an objection, question or requisition (but the term does not include a claim); |
| <i>rescind</i> | rescind this contract from the beginning; |
| <i>serve</i> | serve in writing on the other <i>party</i> ; |
| <i>settlement cheque</i> | an unendorsed <i>cheque</i> made payable to the person to be paid and – <ul style="list-style-type: none"> • issued by a <i>bank</i> and drawn on itself; or • if authorised in writing by the vendor or the vendor's <i>solicitor</i>, some other <i>cheque</i>; |
| <i>solicitor</i> | in relation to a <i>party</i> , the <i>party's</i> solicitor or licensed conveyancer named in this contract or in a notice <i>served</i> by the <i>party</i> ; |
| <i>TA Act</i> | Taxation Administration Act 1953; |
| <i>terminate</i> | terminate this contract for breach; |
| <i>title data</i> | the details of the title to the <i>property</i> made available to the <i>Electronic Workspace</i> by the <i>Land Registry</i> ; |
| <i>variation</i> | a variation made under s14-235 of Schedule 1 to the <i>TA Act</i> ; |
| <i>within</i> | in relation to a period, at any time before or during the period; and |
| <i>work order</i> | a valid direction, notice or order that requires work to be done or money to be spent on or in relation to the <i>property</i> or any adjoining footpath or road (but the term does not include a notice under s22E of the Swimming Pools Act 1992 or clause 22 of the Swimming Pools Regulation 2018). |

1.2 Words and phrases used in this contract (italicised and in Title Case, such as *Conveyancing Transaction*, *Digitally Signed*, *Electronic Workspace*, *ELN*, *ELNO*, *Land Registry*, *Lodgment Case* and *Subscriber*) have the meanings given in the *participation rules*.

2 Deposit and other payments before completion

2.1 The purchaser must pay the deposit to the *depositholder* as stakeholder.

2.2 *Normally*, the purchaser must pay the deposit on the making of this contract, and this time is essential.

2.3 If this contract requires the purchaser to pay any of the deposit by a later time, that time is also essential.

2.4 The purchaser can pay any of the deposit by –

2.4.1 giving cash (up to \$2,000) to the *depositholder*;

2.4.2 unconditionally giving a *cheque* to the *depositholder* or to the vendor, vendor's agent or vendor's *solicitor* for sending to the *depositholder*; or

2.4.3 electronic funds transfer to the *depositholder's* nominated account and, if requested by the vendor or the *depositholder*, providing evidence of that transfer.

2.5 The vendor can *terminate* if –

2.5.1 any of the deposit is not paid on time;

2.5.2 a *cheque* for any of the deposit is not honoured on presentation; or

2.5.3 a payment under clause 2.4.3 is not received in the *depositholder's* nominated account by 5.00 pm on the third *business day* after the time for payment.

This right to *terminate* is lost as soon as the deposit is paid in full.

2.6 If the vendor accepts a *deposit-bond* for the deposit, clauses 2.1 to 2.5 do not apply.

2.7 If the vendor accepts a *deposit-bond* for part of the deposit, clauses 2.1 to 2.5 apply only to the balance.

2.8 If any of the deposit or of the balance of the price is paid before completion to the vendor or as the vendor directs, it is a charge on the land in favour of the purchaser until *termination* by the vendor or completion, subject to any existing right.

2.9 If each *party* tells the *depositholder* that the deposit is to be invested, the *depositholder* is to invest the deposit (at the risk of the *party* who becomes entitled to it) with a *bank*, in an interest-bearing account in NSW, payable at call, with interest to be reinvested, and pay the interest to the *parties* equally, after deduction of all proper government taxes and financial institution charges and other charges.

3 Deposit-bond

3.1 This clause applies only if the vendor accepts a *deposit-bond* for the deposit (or part of it).

3.2 The purchaser must provide the *deposit-bond* to the vendor's *solicitor* (or if no solicitor the *depositholder*) at or before the making of this contract and this time is essential.

3.3 If the *deposit-bond* has an expiry date and completion does not occur by the date which is 14 days before the expiry date, the purchaser must *serve* a replacement *deposit-bond* at least 7 days before the expiry date. The time for service is essential.

3.4 The vendor must approve a replacement *deposit-bond* if –

3.4.1 it is from the same issuer and for the same amount as the earlier *deposit-bond*; and

3.4.2 it has an expiry date at least three months after its date of issue.

3.5 A breach of clauses 3.2 or 3.3 entitles the vendor to *terminate*. The right to *terminate* is lost as soon as –

3.5.1 the purchaser *serves* a replacement *deposit-bond*; or

3.5.2 the deposit is paid in full under clause 2.

3.6 Clauses 3.3 and 3.4 can operate more than once.

- 3.7 If the purchaser *serves* a replacement *deposit-bond*, the vendor must *serve* the earlier *deposit-bond*.
- 3.8 The amount of any *deposit-bond* does not form part of the price for the purposes of clause 16.5.
- 3.9 The vendor must give the purchaser any original *deposit-bond* –
- 3.9.1 on completion; or
- 3.9.2 if this contract is *rescinded*.
- 3.10 If this contract is *terminated* by the vendor –
- 3.10.1 *normally*, the vendor can immediately demand payment from the issuer of the *deposit-bond*; or
- 3.10.2 if the purchaser *serves* prior to *termination* a notice disputing the vendor's right to *terminate*, the vendor must forward any original *deposit-bond* (or its proceeds if called up) to the *depositholder* as stakeholder.
- 3.11 If this contract is *terminated* by the purchaser –
- 3.11.1 *normally*, the vendor must give the purchaser any original *deposit-bond*; or
- 3.11.2 if the vendor *serves* prior to *termination* a notice disputing the purchaser's right to *terminate*, the vendor must forward any original *deposit-bond* (or its proceeds if called up) to the *depositholder* as stakeholder.
- 4 Electronic transaction**
- 4.1 This *Conveyancing Transaction* is to be conducted as an *electronic transaction* unless –
- 4.1.1 the contract says this transaction is a *manual transaction*, giving the reason, or
- 4.1.2 a *party* *serves* a notice stating why the transaction is a *manual transaction*, in which case the *parties* do not have to complete earlier than 14 days after *service* of the notice, and clause 21.3 does not apply to this provision,
- and in both cases clause 30 applies.
- 4.2 If, because of clause 4.1.2, this *Conveyancing Transaction* is to be conducted as a *manual transaction* –
- 4.2.1 each *party* must –
- bear equally any disbursements or fees; and
 - otherwise bear that *party's* own costs;
- incurred because this *Conveyancing Transaction* was to be conducted as an *electronic transaction*; and
- 4.2.2 if a *party* has paid all of a disbursement or fee which, by reason of this clause, is to be borne equally by the *parties*, that amount must be adjusted under clause 14.
- 4.3 The *parties* must conduct the *electronic transaction* –
- 4.3.1 in accordance with the *participation rules* and the *ECNL*; and
- 4.3.2 using the nominated *ELN*, unless the *parties* otherwise agree. This clause 4.3.2 does not prevent a *party* using an *ELN* which can interoperate with the nominated *ELN*.
- 4.4 A *party* must pay the fees and charges payable by that *party* to the *ELNO* and the *Land Registry*.
- 4.5 *Normally*, the vendor must *within 7 days* of the contract date create and *populate* an *Electronic Workspace* with *title data* and the date for completion, and invite the purchaser to the *Electronic Workspace*.
- 4.6 If the vendor has not created an *Electronic Workspace* in accordance with clause 4.5, the purchaser may create and *populate* an *Electronic Workspace* and, if it does so, the purchaser must invite the vendor to the *Electronic Workspace*.
- 4.7 The *parties* must, as applicable to their role in the *Conveyancing Transaction* and the steps taken under clauses 4.5 or 4.6 –
- 4.7.1 promptly join the *Electronic Workspace* after receipt of an invitation;
- 4.7.2 create and *populate* an *electronic transfer*;
- 4.7.3 invite any *discharging mortgagee* or *incoming mortgagee* to join the *Electronic Workspace*; and
- 4.7.4 *populate* the *Electronic Workspace* with a nominated *completion time*.
- 4.8 If the transferee in the *electronic transfer* is not the purchaser, the purchaser must give the vendor a direction signed by the purchaser personally for that transfer.
- 4.9 The vendor can require the purchaser to include a covenant or easement in the *electronic transfer* only if this contract contains the wording of the proposed covenant or easement, and a description of the land burdened and benefited.
- 4.10 If the purchaser must make a *GSTRW payment* or an *FRCGW remittance*, the purchaser must *populate* the *Electronic Workspace* with the payment details for the *GSTRW payment* or *FRCGW remittance* payable to the Deputy Commissioner of Taxation at least 2 *business days* before the date for completion.
- 4.11 Before completion, the *parties* must ensure that –
- 4.11.1 all *electronic documents* which a *party* must *Digitally Sign* to complete the *electronic transaction* are *populated* and *Digitally Signed*;
- 4.11.2 all certifications required by the *ECNL* are properly given; and
- 4.11.3 they do everything else in the *Electronic Workspace* which that *party* must do to enable the *electronic transaction* to proceed to completion.
- 4.12 If the computer systems of any of the *Land Registry*, the *ELNO*, Revenue NSW or the Reserve Bank of Australia are inoperative for any reason at the *completion time* agreed by the *parties*, a failure to complete this contract for that reason is not a default under this contract on the part of either *party*.

- 4.13 If the computer systems of the *Land Registry* are inoperative for any reason at the *completion time* agreed by the *parties*, and the *parties* choose that financial settlement is to occur despite this, then on financial settlement occurring –
- 4.13.1 all *electronic documents Digitally Signed* by the vendor and any discharge of mortgage, withdrawal of caveat or other *electronic document* forming part of the *Lodgment Case* for the *electronic transaction* are taken to have been unconditionally and irrevocably delivered to the purchaser or the purchaser's mortgagee at the time of financial settlement together with the right to deal with the land; and
- 4.13.2 the vendor is taken to have no legal or equitable interest in the *property*.
- 4.14 If the *parties* do not agree about the delivery before completion of one or more documents or things that cannot be delivered through the *Electronic Workspace*, the *party* required to deliver the documents or things –
- 4.14.1 holds them on completion in escrow for the benefit of; and
- 4.14.2 must immediately after completion deliver the documents or things to, or as directed by; the *party* entitled to them.
- 5 Requisitions**
- 5.1 If a form of *requisitions* is attached to this contract, the purchaser is taken to have made those *requisitions*.
- 5.2 If the purchaser is or becomes entitled to make any other *requisition*, the purchaser can make it only by *servicing* it –
- 5.2.1 if it arises out of this contract or it is a general question about the *property* or title - *within 21 days* after the contract date;
- 5.2.2 if it arises out of anything *served* by the vendor - *within 21 days* after the later of the contract date and that *service*; and
- 5.2.3 in any other case - *within* a reasonable time.
- 6 Error or misdescription**
- 6.1 *Normally*, the purchaser can (but only before completion) claim compensation for an error or misdescription in this contract (as to the *property*, the title or anything else and whether substantial or not).
- 6.2 This clause applies even if the purchaser did not take notice of or rely on anything in this contract containing or giving rise to the error or misdescription.
- 6.3 However, this clause does not apply to the extent the purchaser knows the true position.
- 7 Claims by purchaser**
- Normally*, the purchaser can make a claim (including a claim under clause 6) before completion only by *servicing* it with a statement of the amount claimed, and if the purchaser makes one or more claims before completion –
- 7.1 the vendor can *rescind* if in the case of claims that are not claims for delay –
- 7.1.1 the total amount claimed exceeds 5% of the price;
- 7.1.2 the vendor *serves* notice of intention to *rescind*; and
- 7.1.3 the purchaser does not *serve* notice waiving the claims *within 14 days* after that *service*; and
- 7.2 if the vendor does not *rescind*, the *parties* must complete and if this contract is completed –
- 7.2.1 the lesser of the total amount claimed and 10% of the price must be paid out of the price to and held by the *depositholder* until the claims are finalised or lapse;
- 7.2.2 the amount held is to be invested in accordance with clause 2.9;
- 7.2.3 the claims must be finalised by an arbitrator appointed by the *parties* or, if an appointment is not made *within 1 month* of completion, by an arbitrator appointed by the President of the Law Society at the request of a *party* (in the latter case the *parties* are bound by the terms of the Conveyancing Arbitration Rules approved by the Law Society as at the date of the appointment);
- 7.2.4 the purchaser is not entitled, in respect of the claims, to more than the total amount claimed and the costs of the purchaser;
- 7.2.5 net interest on the amount held must be paid to the *parties* in the same proportion as the amount held is paid; and
- 7.2.6 if the *parties* do not appoint an arbitrator and neither *party* requests the President to appoint an arbitrator *within 3 months* after completion, the claims lapse and the amount belongs to the vendor.
- 8 Vendor's rights and obligations**
- 8.1 The vendor can *rescind* if –
- 8.1.1 the vendor is, on reasonable grounds, unable or unwilling to comply with a *requisition*;
- 8.1.2 the vendor *serves* a notice of intention to *rescind* that specifies the *requisition* and those grounds; and
- 8.1.3 the purchaser does not *serve* a notice waiving the *requisition within 14 days* after that *service*.

- 8.2 If the vendor does not comply with this contract (or a notice under or relating to it) in an essential respect, the purchaser can *terminate* by *servicing* a notice. After the *termination* –
- 8.2.1 the purchaser can recover the deposit and any other money paid by the purchaser under this contract;
- 8.2.2 the purchaser can sue the vendor to recover damages for breach of contract; and
- 8.2.3 if the purchaser has been in possession a *party* can claim for a reasonable adjustment.
- 9 Purchaser's default**
- If the purchaser does not comply with this contract (or a notice under or relating to it) in an essential respect, the vendor can *terminate* by *servicing* a notice. After the *termination* the vendor can –
- 9.1 keep or recover the deposit (to a maximum of 10% of the price);
- 9.2 hold any other money paid by the purchaser under this contract as security for anything recoverable under this clause –
- 9.2.1 for 12 months after the *termination*; or
- 9.2.2 if the vendor commences proceedings under this clause *within* 12 months, until those proceedings are concluded; and
- 9.3 sue the purchaser either –
- 9.3.1 where the vendor has resold the *property* under a contract made *within* 12 months after the *termination*, to recover –
- the deficiency on resale (with credit for any of the deposit kept or recovered and after allowance for any capital gains tax or goods and services tax payable on anything recovered under this clause); and
 - the reasonable costs and expenses arising out of the purchaser's non-compliance with this contract or the notice and of resale and any attempted resale; or
- 9.3.2 to recover damages for breach of contract.
- 10 Restrictions on rights of purchaser**
- 10.1 The purchaser cannot make a claim or *requisition* or *rescind* or *terminate* in respect of –
- 10.1.1 the ownership or location of any fence as defined in the Dividing Fences Act 1991;
- 10.1.2 a service for the *property* being a joint service or passing through another property, or any service for another property passing through the *property* ('service' includes air, communication, drainage, electricity, garbage, gas, oil, radio, sewerage, telephone, television or water service);
- 10.1.3 a wall being or not being a party wall in any sense of that term or the *property* being affected by an easement for support or not having the benefit of an easement for support;
- 10.1.4 any change in the *property* due to fair wear and tear before completion;
- 10.1.5 a promise, representation or statement about this contract, the *property* or the title, not set out or referred to in this contract;
- 10.1.6 a condition, exception, reservation or restriction in a Crown grant;
- 10.1.7 the existence of any authority or licence to explore or prospect for gas, minerals or petroleum;
- 10.1.8 any easement or restriction on use the substance of either of which is disclosed in this contract or any non-compliance with the easement or restriction on use; or
- 10.1.9 anything the substance of which is disclosed in this contract (except a caveat, charge, mortgage, priority notice or writ).
- 10.2 The purchaser cannot *rescind* or *terminate* only because of a defect in title to or quality of the inclusions.
- 10.3 *Normally*, the purchaser cannot make a claim or *requisition* or *rescind* or *terminate* or require the vendor to change the nature of the title disclosed in this contract (for example, to remove a caution evidencing qualified title, or to lodge a plan of survey as regards limited title).
- 11 Compliance with work orders**
- 11.1 *Normally*, the vendor must by completion comply with a *work order* made on or before the contract date and if this contract is completed the purchaser must comply with any other *work order*.
- 11.2 If the purchaser complies with a *work order*, and this contract is *rescinded* or *terminated*, the vendor must pay the expense of compliance to the purchaser.
- 12 Certificates and inspections**
- The vendor must do everything reasonable to enable the purchaser, subject to the rights of any tenant –
- 12.1 to have the *property* inspected to obtain any certificate or report reasonably required;
- 12.2 to apply (if necessary in the name of the vendor) for –
- 12.2.1 any certificate that can be given in respect of the *property* under *legislation*; or
- 12.2.2 a copy of any approval, certificate, consent, direction, notice or order in respect of the *property* given under *legislation*, even if given after the contract date; and
- 12.3 to make 1 inspection of the *property* in the 3 days before a time appointed for completion.

13 Goods and services tax (GST)

- 13.1 Terms used in this clause which are not defined elsewhere in this contract and have a defined meaning in the *GST Act* have the same meaning in this clause.
- 13.2 *Normally*, if a *party* must pay the price or any other amount to the other *party* under this contract, GST is not to be added to the price or amount.
- 13.3 If under this contract a *party* must make an adjustment or payment for an expense of another party or pay an expense payable by or to a third party (for example, under clauses 14 or 20.7) –
- 13.3.1 the *party* must adjust or pay on completion any GST added to or included in the expense; but
- 13.3.2 the amount of the expense must be reduced to the extent the party receiving the adjustment or payment (or the representative member of a GST group of which that party is a member) is entitled to an input tax credit for the expense; and
- 13.3.3 if the adjustment or payment under this contract is consideration for a taxable supply, an amount for GST must be added at the *GST rate*.
- 13.4 If this contract says this sale is the supply of a going concern –
- 13.4.1 the *parties* agree the supply of the *property* is a supply of a going concern;
- 13.4.2 the vendor must, between the contract date and completion, carry on the enterprise conducted on the land in a proper and business-like way;
- 13.4.3 if the purchaser is not registered by the date for completion, the *parties* must complete and the purchaser must pay on completion, in addition to the price, an amount being the price multiplied by the *GST rate* ("the retention sum"). The retention sum is to be held by the *depositholder* and dealt with as follows –
- if *within* 3 months of completion the purchaser serves a letter from the Australian Taxation Office stating the purchaser is registered with a date of effect of registration on or before completion, the *depositholder* is to pay the retention sum to the purchaser; but
 - if the purchaser does not serve that letter *within* 3 months of completion, the *depositholder* is to pay the retention sum to the vendor; and
- 13.4.4 if the vendor, despite clause 13.4.1, serves a letter from the Australian Taxation Office stating the vendor has to pay GST on the supply, the purchaser must pay to the vendor on demand the amount of GST assessed.
- 13.5 *Normally*, the vendor promises the margin scheme will not apply to the supply of the *property*.
- 13.6 If this contract says the margin scheme is to apply in making the taxable supply, the *parties* agree that the margin scheme is to apply to the sale of the *property*.
- 13.7 If this contract says the sale is not a taxable supply –
- 13.7.1 the purchaser promises that the *property* will not be used and represents that the purchaser does not intend the *property* (or any part of the *property*) to be used in a way that could make the sale a taxable supply to any extent; and
- 13.7.2 the purchaser must pay the vendor on completion in addition to the price an amount calculated by multiplying the price by the *GST rate* if this sale is a taxable supply to any extent because of –
- a breach of clause 13.7.1; or
 - something else known to the purchaser but not the vendor.
- 13.8 If this contract says this sale is a taxable supply in full and does not say the margin scheme applies to the *property*, the vendor must pay the purchaser on completion an amount of one-eleventh of the price if –
- 13.8.1 this sale is not a taxable supply in full; or
- 13.8.2 the margin scheme applies to the *property* (or any part of the *property*).
- 13.9 If this contract says this sale is a taxable supply to an extent –
- 13.9.1 clause 13.7.1 does not apply to any part of the *property* which is identified as being a taxable supply; and
- 13.9.2 the payments mentioned in clauses 13.7 and 13.8 are to be recalculated by multiplying the relevant payment by the proportion of the price which represents the value of that part of the *property* to which the clause applies (the proportion to be expressed as a number between 0 and 1). Any evidence of value must be obtained at the expense of the vendor.
- 13.10 *Normally*, on completion the vendor must give the recipient of the supply a tax invoice for any taxable supply by the vendor by or under this contract.
- 13.11 The vendor does not have to give the purchaser a tax invoice if the margin scheme applies to a taxable supply.
- 13.12 If the vendor is liable for GST on rents or profits due to issuing an invoice or receiving consideration before completion, any adjustment of those amounts must exclude an amount equal to the vendor's GST liability.
- 13.13 If the vendor serves details of a *GSTRW payment* which the purchaser must make, the purchaser does not have to complete earlier than 5 *business days* after that *service* and clause 21.3 does not apply to this provision.
- 13.14 If the purchaser must make a *GSTRW payment* the purchaser must, at least 2 *business days* before the date for completion, serve evidence of submission of a *GSTRW payment* notification form to the Australian Taxation Office by the purchaser or, if a direction under either clause 4.8 or clause 30.4 has been given, by the transferee named in the transfer the subject of that direction.

14 Adjustments

- 14.1 *Normally*, the vendor is entitled to the rents and profits and will be liable for all rates, water, sewerage and drainage service and usage charges, land tax, levies and all other periodic outgoings up to and including the *adjustment date* after which the purchaser will be entitled and liable.
- 14.2 The *parties* must make any necessary adjustment on completion, and –
- 14.2.1 the purchaser must provide the vendor with *adjustment figures* at least 2 *business days* before the date for completion; and
- 14.2.2 the vendor must confirm the *adjustment figures* at least 1 *business day* before the date for completion.
- 14.3 If an amount that is adjustable under this contract has been reduced under *legislation*, the *parties* must on completion adjust the reduced amount.
- 14.4 The *parties* must not adjust surcharge land tax (as defined in the Land Tax Act 1956) but must adjust any other land tax for the year current at the *adjustment date* –
- 14.4.1 only if land tax has been paid or is payable for the year (whether by the vendor or by a predecessor in title) and this contract says that land tax is adjustable;
- 14.4.2 by adjusting the amount that would have been payable if at the start of the year –
- the person who owned the land owned no other land;
 - the land was not subject to a special trust or owned by a non-concessional company; and
 - if the land (or part of it) had no separate taxable value, by calculating its separate taxable value on a proportional area basis.
- 14.5 The *parties* must not adjust any first home buyer choice property tax.
- 14.6 If any other amount that is adjustable under this contract relates partly to the land and partly to other land, the *parties* must adjust it on a proportional area basis.
- 14.7 If on completion the last bill for a water, sewerage or drainage usage charge is for a period ending before the *adjustment date*, the vendor is liable for an amount calculated by dividing the bill by the number of days in the period then multiplying by the number of unbilled days up to and including the *adjustment date*.
- 14.8 The vendor is liable for any amount recoverable for work started on or before the contract date on the *property* or any adjoining footpath or road.

15 Date for completion

The *parties* must complete by the date for completion and, if they do not, a *party* can serve a notice to complete if that *party* is otherwise entitled to do so.

16 Completion**• Vendor**

- 16.1 *Normally*, on completion the vendor must cause the legal title to the *property* (being the estate disclosed in this contract) to pass to the purchaser free of any charge, mortgage or other interest, subject to any necessary registration.
- 16.2 The legal title to the *property* does not pass before completion.
- 16.3 If the vendor gives the purchaser a document (other than the transfer) that needs to be lodged for registration, the vendor must pay the lodgment fee to the purchaser.
- 16.4 If a *party* serves a land tax certificate showing a charge on any of the land, by completion the vendor must do all things and pay all money required so that the charge is no longer effective against the land.

• Purchaser

- 16.5 On completion the purchaser must pay to the vendor –
- 16.5.1 the price less any –
- deposit paid;
 - *FRCGW* remittance payable;
 - *GSTRW* payment; and
 - amount payable by the vendor to the purchaser under this contract; and
- 16.5.2 any other amount payable by the purchaser under this contract.
- 16.6 If any of the deposit is not covered by a *deposit-bond*, at least 1 *business day* before the date for completion the purchaser must give the vendor an order signed by the purchaser authorising the *depositholder* to account to the vendor for the deposit, to be held by the vendor in escrow until completion.
- 16.7 On completion the deposit belongs to the vendor.

17 Possession

- 17.1 *Normally*, the vendor must give the purchaser vacant possession of the *property* on completion.
- 17.2 The vendor does not have to give vacant possession if –
- 17.2.1 this contract says that the sale is subject to existing tenancies; and
- 17.2.2 the contract discloses the provisions of the tenancy (for example, by attaching a copy of the lease and any relevant memorandum or variation).
- 17.3 *Normally*, the purchaser can claim compensation (before or after completion) or *rescind* if any of the land is affected by a protected tenancy (a tenancy affected by Schedule 2, Part 7 of the Residential Tenancies Act 2010).

18 Possession before completion

- 18.1 This clause applies only if the vendor gives the purchaser possession of the *property* before completion.
- 18.2 The purchaser must not before completion –
- 18.2.1 let or part with possession of any of the *property*;
 - 18.2.2 make any change or structural alteration or addition to the *property*; or
 - 18.2.3 contravene any agreement between the *parties* or any direction, document, *legislation*, notice or order affecting the *property*.
- 18.3 The purchaser must until completion –
- 18.3.1 keep the *property* in good condition and repair having regard to its condition at the giving of possession; and
 - 18.3.2 allow the vendor or the vendor's authorised representative to enter and inspect it at all reasonable times.
- 18.4 The risk as to damage to the *property* passes to the purchaser immediately after the purchaser enters into possession.
- 18.5 If the purchaser does not comply with this clause, then without affecting any other right of the vendor –
- 18.5.1 the vendor can before completion, without notice, remedy the non-compliance; and
 - 18.5.2 if the vendor pays the expense of doing this, the purchaser must pay it to the vendor with interest at the rate prescribed under s101 Civil Procedure Act 2005.
- 18.6 If this contract is *rescinded* or *terminated* the purchaser must immediately vacate the *property*.
- 18.7 If the *parties* or their *solicitors* on their behalf do not agree in writing to a fee or rent, none is payable.

19 Rescission of contract

- 19.1 If this contract expressly gives a *party* a right to *rescind*, the *party* can exercise the right –
- 19.1.1 only by *servicing* a notice before completion; and
 - 19.1.2 in spite of any making of a claim or *requisition*, any attempt to satisfy a claim or *requisition*, any arbitration, litigation, mediation or negotiation or any giving or taking of possession.
- 19.2 *Normally*, if a *party* exercises a right to *rescind* expressly given by this contract or any *legislation* –
- 19.2.1 the deposit and any other money paid by the purchaser under this contract must be refunded;
 - 19.2.2 a *party* can claim for a reasonable adjustment if the purchaser has been in possession;
 - 19.2.3 a *party* can claim for damages, costs or expenses arising out of a breach of this contract; and
 - 19.2.4 a *party* will not otherwise be liable to pay the other *party* any damages, costs or expenses.

20 Miscellaneous

- 20.1 The *parties* acknowledge that anything stated in this contract to be attached was attached to this contract by the vendor before the purchaser signed it and is part of this contract.
- 20.2 Anything attached to this contract is part of this contract.
- 20.3 An area, bearing or dimension in this contract is only approximate.
- 20.4 If a *party* consists of 2 or more persons, this contract benefits and binds them separately and together.
- 20.5 A *party's solicitor* can receive any amount payable to the *party* under this contract or direct in writing that it is to be paid to another person.
- 20.6 A document under or relating to this contract is –
- 20.6.1 signed by a *party* if it is signed by the *party* or the *party's solicitor* (apart from a direction under clause 4.8 or clause 30.4);
 - 20.6.2 *served* if it is *served* by the *party* or the *party's solicitor*;
 - 20.6.3 *served* if it is *served* on the *party's solicitor*, even if the *party* has died or any of them has died;
 - 20.6.4 *served* if it is *served* in any manner provided in s170 of the Conveyancing Act 1919;
 - 20.6.5 *served* if it is sent by email or fax to the *party's solicitor*, unless in either case it is not received;
 - 20.6.6 *served* on a person if it (or a copy of it) comes into the possession of the person;
 - 20.6.7 *served* at the earliest time it is *served*, if it is *served* more than once; and
 - 20.6.8 *served* if it is provided to or by the *party's solicitor* or an *authorised Subscriber* by means of an *Electronic Workspace* created under clause 4. However, this does not apply to a notice making an obligation essential, or a notice of *rescission* or *termination*.
- 20.7 An obligation to pay an expense of another *party* of doing something is an obligation to pay –
- 20.7.1 if the *party* does the thing personally - the reasonable cost of getting someone else to do it; or
 - 20.7.2 if the *party* pays someone else to do the thing - the amount paid, to the extent it is reasonable.
- 20.8 Rights under clauses 4, 11, 13, 14, 17, 24, 30 and 31 continue after completion, whether or not other rights continue.
- 20.9 The vendor does not promise, represent or state that the purchaser has any cooling off rights.
- 20.10 The vendor does not promise, represent or state that any attached survey report is accurate or current.
- 20.11 A reference to any *legislation* (including any percentage or rate specified in *legislation*) is also a reference to any corresponding later *legislation*.
- 20.12 Each *party* must do whatever is necessary after completion to carry out the *party's* obligations under this contract.
- 20.13 Neither taking possession nor *servicing* a transfer of itself implies acceptance of the *property* or the title.

- 20.14 The details and information provided in this contract (for example, on pages 1 - 4) are, to the extent of each *party's* knowledge, true, and are part of this contract.
- 20.15 Where this contract provides for choices, a choice in BLOCK CAPITALS applies unless a different choice is marked.
- 20.16 Each *party* consents to –
- 20.16.1 any *party* signing this contract electronically; and
- 20.16.2 the making of this contract by the exchange of counterparts delivered by email, or by such other electronic means as may be agreed in writing by the *parties*.
- 20.17 Each *party* agrees that electronic signing by a *party* identifies that *party* and indicates that *party's* intention to be bound by this contract.
- 21 Time limits in these provisions**
- 21.1 If the time for something to be done or to happen is not stated in these provisions, it is a reasonable time.
- 21.2 If there are conflicting times for something to be done or to happen, the latest of those times applies.
- 21.3 The time for one thing to be done or to happen does not extend the time for another thing to be done or to happen.
- 21.4 If the time for something to be done or to happen is the 29th, 30th or 31st day of a month, and the day does not exist, the time is instead the last day of the month.
- 21.5 If the time for something to be done or to happen is a day that is not a *business day*, the time is extended to the next *business day*, except in the case of clauses 2 and 3.2.
- 21.6 *Normally*, the time by which something must be done is fixed but not essential.
- 22 Foreign Acquisitions and Takeovers Act 1975**
- 22.1 The purchaser promises that the Commonwealth Treasurer cannot prohibit and has not prohibited the transfer under the Foreign Acquisitions and Takeovers Act 1975.
- 22.2 This promise is essential and a breach of it entitles the vendor to *terminate*.
- 23 Strata or community title**
- **Definitions and modifications**
- 23.1 This clause applies only if the land (or part of it) is a lot in a strata, neighbourhood, precinct or community scheme (or on completion is to be a lot in a scheme of that kind).
- 23.2 In this contract –
- 23.2.1 'change', in relation to a scheme, means –
- a registered or registrable change from by-laws set out in this contract;
 - a change from a development or management contract or statement set out in this contract; or
 - a change in the boundaries of common property;
- 23.2.2 'common property' includes association property for the scheme or any higher scheme;
- 23.2.3 'contribution' includes an amount payable under a by-law;
- 23.2.4 'information certificate' includes a certificate under s184 Strata Schemes Management Act 2015 and s171 Community Land Management Act 2021;
- 23.2.5 'interest notice' includes a strata interest notice under s22 Strata Schemes Management Act 2015 and an association interest notice under s20 Community Land Management Act 2021;
- 23.2.6 'normal expenses', in relation to an owners corporation for a scheme, means normal operating expenses usually payable from the administrative fund of an owners corporation for a scheme of the same kind;
- 23.2.7 'owners corporation' means the owners corporation or the association for the scheme or any higher scheme;
- 23.2.8 'the *property*' includes any interest in common property for the scheme associated with the lot; and
- 23.2.9 'special expenses', in relation to an owners corporation, means its actual, contingent or expected expenses, except to the extent they are –
- normal expenses;
 - due to fair wear and tear;
 - disclosed in this contract; or
 - covered by moneys held in the capital works fund.
- 23.3 Clauses 11, 14.8 and 18.4 do not apply to an obligation of the owners corporation, or to property insurable by it.
- 23.4 Clauses 14.4.2 and 14.6 apply but on a unit entitlement basis instead of an area basis.
- **Adjustments and liability for expenses**
- 23.5 The *parties* must adjust under clause 14.1 –
- 23.5.1 a regular periodic contribution;
- 23.5.2 a contribution which is not a regular periodic contribution but is disclosed in this contract; and
- 23.5.3 on a unit entitlement basis, any amount paid by the vendor for a normal expense of the owners corporation to the extent the owners corporation has not paid the amount to the vendor.

- 23.6 If a contribution is not a regular periodic contribution and is not disclosed in this contract –
- 23.6.1 the vendor is liable for it if it was determined on or before the contract date, even if it is payable by instalments; and
- 23.6.2 the purchaser is liable for all contributions determined after the contract date.
- 23.7 The vendor must pay or allow to the purchaser on completion the amount of any unpaid contributions for which the vendor is liable under clause 23.6.1.
- 23.8 *Normally*, the purchaser cannot make a claim or *requisition* or *rescind* or *terminate* in respect of –
- 23.8.1 an existing or future actual, contingent or expected expense of the owners corporation;
- 23.8.2 a proportional unit entitlement of the lot or a relevant lot or former lot, apart from a claim under clause 6; or
- 23.8.3 a past or future change in the scheme or a higher scheme.
- 23.9 However, the purchaser can *rescind* if –
- 23.9.1 the special expenses of the owners corporation at the later of the contract date and the creation of the owners corporation when calculated on a unit entitlement basis (and, if more than one lot or a higher scheme is involved, added together), less any contribution paid by the vendor, are more than 1% of the price;
- 23.9.2 in the case of the lot or a relevant lot or former lot in a higher scheme, a proportional unit entitlement for the lot is disclosed in this contract but the lot has a different proportional unit entitlement at the contract date or at any time before completion;
- 23.9.3 a change before the contract date or before completion in the scheme or a higher scheme materially prejudices the purchaser and is not disclosed in this contract; or
- 23.9.4 a resolution is passed by the owners corporation before the contract date or before completion to give to the owners in the scheme for their consideration a strata renewal plan that has not lapsed at the contract date and there is not attached to this contract a strata renewal proposal or the strata renewal plan.
- **Notices, certificates and inspections**
- 23.10 Before completion, the purchaser must *serve* a copy of an interest notice addressed to the owners corporation and signed by the purchaser.
- 23.11 After completion, the purchaser must insert the date of completion in the interest notice and send it to the owners corporation.
- 23.12 The vendor can complete and send the interest notice as agent for the purchaser.
- 23.13 The vendor must *serve* at least 7 days before the date for completion, an information certificate for the lot, the scheme or any higher scheme which relates to a period in which the date for completion falls.
- 23.14 The purchaser does not have to complete earlier than 7 days after *service* of the information certificate and clause 21.3 does not apply to this provision. On completion the purchaser must pay the vendor the prescribed fee for the information certificate.
- 23.15 The vendor authorises the purchaser to apply for the purchaser's own information certificate.
- 23.16 The vendor authorises the purchaser to apply for and make an inspection of any record or other document in the custody or control of the owners corporation or relating to the scheme or any higher scheme.
- **Meetings of the owners corporation**
- 23.17 If a general meeting of the owners corporation is convened before completion –
- 23.17.1 if the vendor receives notice of it, the vendor must immediately notify the purchaser of it; and
- 23.17.2 after the expiry of any cooling off period, the purchaser can require the vendor to appoint the purchaser (or the purchaser's nominee) to exercise any voting rights of the vendor in respect of the lot at the meeting.
- 24 Tenancies**
- 24.1 If a tenant has not made a payment for a period preceding or current at the *adjustment date* –
- 24.1.1 for the purposes of clause 14.2, the amount is to be treated as if it were paid; and
- 24.1.2 the purchaser assigns the debt to the vendor on completion and will if required give a further assignment at the vendor's expense.
- 24.2 If a tenant has paid in advance of the *adjustment date* any periodic payment in addition to rent, it must be adjusted as if it were rent for the period to which it relates.
- 24.3 If the *property* is to be subject to a tenancy on completion or is subject to a tenancy on completion –
- 24.3.1 the vendor authorises the purchaser to have any accounting records relating to the tenancy inspected and audited and to have any other document relating to the tenancy inspected;
- 24.3.2 the vendor must *serve* any information about the tenancy reasonably requested by the purchaser before or after completion; and
- 24.3.3 *normally*, the purchaser can claim compensation (before or after completion) if –
- a disclosure statement required by the Retail Leases Act 1994 was not given when required;
 - such a statement contained information that was materially false or misleading;
 - a provision of the lease is not enforceable because of a non-disclosure in such a statement; or
 - the lease was entered into in contravention of the Retail Leases Act 1994.

- 24.4 If the *property* is subject to a tenancy on completion –
- 24.4.1 the vendor must allow or transfer –
- any remaining bond money or any other security against the tenant's default (to the extent the security is transferable);
 - any money in a fund established under the lease for a purpose and compensation for any money in the fund or interest earned by the fund that has been applied for any other purpose; and
 - any money paid by the tenant for a purpose that has not been applied for that purpose and compensation for any of the money that has been applied for any other purpose;
- 24.4.2 if the security is not transferable, each *party* must do everything reasonable to cause a replacement security to issue for the benefit of the purchaser and the vendor must hold the original security on trust for the benefit of the purchaser until the replacement security issues;
- 24.4.3 the vendor must give to the purchaser –
- at least 2 *business days* before the date for completion, a proper notice of the transfer (an attornment notice) addressed to the tenant, to be held by the purchaser in escrow until completion;
 - any certificate given under the Retail Leases Act 1994 in relation to the tenancy;
 - a copy of any disclosure statement given under the Retail Leases Act 1994;
 - a copy of any document served on the tenant under the lease and written details of its service, if the document concerns the rights of the landlord or the tenant after completion; and
 - any document served by the tenant under the lease and written details of its service, if the document concerns the rights of the landlord or the tenant after completion;
- 24.4.4 the vendor must comply with any obligation to the tenant under the lease, to the extent it is to be complied with by completion; and
- 24.4.5 the purchaser must comply with any obligation to the tenant under the lease, to the extent that the obligation is disclosed in this contract and is to be complied with after completion.
- 25 Qualified title, limited title and old system title**
- 25.1 This clause applies only if the land (or part of it) –
- 25.1.1 is under qualified, limited or old system title; or
- 25.1.2 on completion is to be under one of those titles.
- 25.2 The vendor must *serve* a proper abstract of title *within 7 days* after the contract date.
- 25.3 If an abstract of title or part of an abstract of title is attached to this contract or has been lent by the vendor to the purchaser before the contract date, the abstract or part is *served* on the contract date.
- 25.4 An abstract of title can be or include a list of documents, events and facts arranged (apart from a will or codicil) in date order, if the list in respect of each document –
- 25.4.1 shows its date, general nature, names of parties and any registration number; and
- 25.4.2 has attached a legible photocopy of it or of an official or registration copy of it.
- 25.5 An abstract of title –
- 25.5.1 must start with a good root of title (if the good root of title must be at least 30 years old, this means 30 years old at the contract date);
- 25.5.2 in the case of a leasehold interest, must include an abstract of the lease and any higher lease;
- 25.5.3 *normally*, need not include a Crown grant; and
- 25.5.4 need not include anything evidenced by the Register kept under the Real Property Act 1900.
- 25.6 In the case of land under old system title –
- 25.6.1 in this contract 'transfer' means conveyance;
- 25.6.2 the purchaser does not have to *serve* the transfer until after the vendor has *served* a proper abstract of title; and
- 25.6.3 each vendor must give proper covenants for title as regards that vendor's interest.
- 25.7 In the case of land under limited title but not under qualified title –
- 25.7.1 *normally*, the abstract of title need not include any document which does not show the location, area or dimensions of the land (for example, by including a metes and bounds description or a plan of the land);
- 25.7.2 clause 25.7.1 does not apply to a document which is the good root of title; and
- 25.7.3 the vendor does not have to provide an abstract if this contract contains a delimitation plan (whether in registrable form or not).
- 25.8 On completion the vendor must give the purchaser any *document of title* that relates only to the *property*.
- 25.9 If on completion the vendor has possession or control of a *document of title* that relates also to other property, the vendor must produce it as and where necessary.
- 25.10 The vendor must give a proper covenant to produce where relevant.
- 25.11 The vendor does not have to produce or covenant to produce a document that is not in the possession of the vendor or a mortgagee.
- 25.12 If the vendor is unable to produce an original document in the chain of title, the purchaser will accept a photocopy from the *Land Registry* of the registration copy of that document.

26 Crown purchase money

- 26.1 This clause applies only if purchase money is payable to the Crown, whether or not due for payment.
 26.2 The vendor is liable for the money, except to the extent this contract says the purchaser is liable for it.
 26.3 To the extent the vendor is liable for it, the vendor is liable for any interest until completion.
 26.4 To the extent the purchaser is liable for it, the *parties* must adjust any interest under clause 14.

27 Consent to transfer

- 27.1 This clause applies only if the land (or part of it) cannot be transferred without consent under *legislation* or a *planning agreement*.
 27.2 The purchaser must properly complete and then *serve* the purchaser's part of an application for consent to transfer of the land (or part of it) *within 7 days* after the contract date.
 27.3 The vendor must apply for consent *within 7 days* after *service* of the purchaser's part.
 27.4 If consent is refused, either *party* can *rescind*.
 27.5 If consent is given subject to one or more conditions that will substantially disadvantage a *party*, then that *party* can *rescind* *within 7 days* after receipt by or *service* upon the *party* of written notice of the conditions.
 27.6 If consent is not given or refused –
 27.6.1 *within 42 days* after the purchaser *serves* the purchaser's part of the application, the purchaser can *rescind*; or
 27.6.2 *within 30 days* after the application is made, either *party* can *rescind*.
 27.7 Each period in clause 27.6 becomes 90 days if the land (or part of it) is –
 27.7.1 under a *planning agreement*; or
 27.7.2 in the Western Division.
 27.8 If the land (or part of it) is described as a lot in an unregistered plan, each time in clause 27.6 becomes the later of the time and 35 days after creation of a separate folio for the lot.
 27.9 The date for completion becomes the later of the date for completion and 14 days after *service* of the notice granting consent to transfer.

28 Unregistered plan

- 28.1 This clause applies only if some of the land is described as a lot in an unregistered plan.
 28.2 The vendor must do everything reasonable to have the plan registered *within 6 months* after the contract date, with or without any minor alteration to the plan or any document to be lodged with the plan validly required or made under *legislation*.
 28.3 If the plan is not registered *within* that time and in that manner –
 28.3.1 the purchaser can *rescind*; and
 28.3.2 the vendor can *rescind*, but only if the vendor has complied with clause 28.2 and with any *legislation* governing the rescission.
 28.4 Either *party* can *serve* notice of the registration of the plan and every relevant lot and plan number.
 28.5 The date for completion becomes the later of the date for completion and 21 days after *service* of the notice.
 28.6 Clauses 28.2 and 28.3 apply to another plan that is to be registered before the plan is registered.

29 Conditional contract

- 29.1 This clause applies only if a provision says this contract or completion is conditional on an event.
 29.2 If the time for the event to happen is not stated, the time is 42 days after the contract date.
 29.3 If this contract says the provision is for the benefit of a *party*, then it benefits only that *party*.
 29.4 If anything is necessary to make the event happen, each *party* must do whatever is reasonably necessary to cause the event to happen.
 29.5 A *party* can *rescind* under this clause only if the *party* has substantially complied with clause 29.4.
 29.6 If the event involves an approval and the approval is given subject to a condition that will substantially disadvantage a *party* who has the benefit of the provision, the *party* can *rescind* *within 7 days* after either *party* *serves* notice of the condition.
 29.7 If the *parties* can lawfully complete without the event happening –
 29.7.1 if the event does not happen *within* the time for it to happen, a *party* who has the benefit of the provision can *rescind* *within 7 days* after the end of that time;
 29.7.2 if the event involves an approval and an application for the approval is refused, a *party* who has the benefit of the provision can *rescind* *within 7 days* after either *party* *serves* notice of the refusal; and
 29.7.3 the date for completion becomes the later of the date for completion and 21 days after the earliest of –
 ● either *party* *serving* notice of the event happening;
 ● every *party* who has the benefit of the provision *serving* notice waiving the provision; or
 ● the end of the time for the event to happen.

- 29.8 If the *parties* cannot lawfully complete without the event happening –
- 29.8.1 if the event does not happen *within* the time for it to happen, either *party* can *rescind*;
- 29.8.2 if the event involves an approval and an application for the approval is refused, either *party* can *rescind*;
- 29.8.3 the date for completion becomes the later of the date for completion and 21 days after either *party* serves notice of the event happening.
- 29.9 A *party* cannot *rescind* under clauses 29.7 or 29.8 after the event happens.
- 30 Manual transaction**
- 30.1 This clause applies if this transaction is to be conducted as a *manual transaction*.
- **Transfer**
- 30.2 *Normally*, the purchaser must *serve* the transfer at least 7 days before the date for completion.
- 30.3 If any information needed for the transfer is not disclosed in this contract, the vendor must *serve* it.
- 30.4 If the purchaser *serves* a transfer and the transferee is not the purchaser, the purchaser must give the vendor a direction signed by the purchaser personally for that transfer.
- 30.5 The vendor can require the purchaser to include a covenant or easement in the transfer only if this contract contains the wording of the proposed covenant or easement, and a description of the land burdened and benefited.
- **Place for completion**
- 30.6 *Normally*, the *parties* must complete at the completion address, which is –
- 30.6.1 if a special completion address is stated in this contract – that address; or
- 30.6.2 if none is stated, but a first mortgagee is disclosed in this contract and the mortgagee would usually discharge the mortgage at a particular place – that place; or
- 30.6.3 in any other case – the vendor's *solicitor's* address stated in this contract.
- 30.7 The vendor by reasonable notice can require completion at another place, if it is in NSW, but the vendor must pay the purchaser's additional expenses, including any agency or mortgagee fee.
- 30.8 If the purchaser requests completion at a place that is not the completion address, and the vendor agrees, the purchaser must pay the vendor's additional expenses, including any agency or mortgagee fee.
- **Payments on completion**
- 30.9 On completion the purchaser must pay to the vendor the amounts referred to in clauses 16.5.1 and 16.5.2, by cash (up to \$2,000) or *settlement cheque*.
- 30.10 *Normally*, the vendor can direct the purchaser to produce a *settlement cheque* on completion to pay an amount adjustable under this contract and if so –
- 30.10.1 the amount is to be treated as if it were paid; and
- 30.10.2 the *cheque* must be forwarded to the payee immediately after completion (by the purchaser if the *cheque* relates only to the *property* or by the vendor in any other case).
- 30.11 If the vendor requires more than 5 *settlement cheques*, the vendor must pay \$10 for each extra *cheque*.
- 30.12 If the purchaser must make a *GSTRW payment* the purchaser must –
- 30.12.1 produce on completion a *settlement cheque* for the *GSTRW payment* payable to the Deputy Commissioner of Taxation;
- 30.12.2 forward the *settlement cheque* to the payee immediately after completion; and
- 30.12.3 *serve* evidence of receipt of payment of the *GSTRW payment* and a copy of the settlement date confirmation form submitted to the Australian Taxation Office.
- 30.13 If the purchaser must pay an *FRCGW remittance*, the purchaser must –
- 30.13.1 produce on completion a *settlement cheque* for the *FRCGW remittance* payable to the Deputy Commissioner of Taxation;
- 30.13.2 forward the *settlement cheque* to the payee immediately after completion; and
- 30.13.3 *serve* evidence of receipt of payment of the *FRCGW remittance*.
- 31 Foreign Resident Capital Gains Withholding**
- 31.1 This clause applies only if –
- 31.1.1 the sale is not an excluded transaction within the meaning of s14-215 of Schedule 1 to the *TA Act*; and
- 31.1.2 a *clearance certificate* in respect of every vendor is not attached to this contract.
- 31.2 If the vendor *serves* any *clearance certificate* or *variation*, the purchaser does not have to complete earlier than 5 *business days* after that *service* and clause 21.3 does not apply to this provision.
- 31.3 The purchaser must at least 2 *business days* before the date for completion, *serve* evidence of submission of a purchaser payment notification to the Australian Taxation Office by the purchaser or, if a direction under either clause 4.8 or clause 30.4 has been given, by the transferee named in the transfer the subject of that direction.
- 31.4 The vendor cannot refuse to complete if the purchaser complies with clause 31.3 and, as applicable, clauses 4.10 or 30.13.
- 31.5 If the vendor *serves* in respect of every vendor either a *clearance certificate* or a *variation* to 0.00 percent, clauses 31.3 and 31.4 do not apply.

32 Residential off the plan contract

- 32.1 This clause applies if this contract is an off the plan contract within the meaning of Division 10 of Part 4 of the Conveyancing Act 1919 (the Division).
- 32.2 No provision of this contract has the effect of excluding, modifying or restricting the operation of the Division.
- 32.3 If the purchaser makes a claim for compensation under the terms prescribed by sections 4 to 6 of Schedule 3 to the Conveyancing (Sale of Land) Regulation 2022 –
- 32.3.1 the purchaser cannot make a claim under this contract about the same subject matter, including a claim under clauses 6 or 7; and
- 32.3.2 the claim for compensation is not a claim under this contract.

287 Ocean View Road, Ettalong Beach NSW 2257

ANNEXURE TO AGREEMENT FOR SALE OF LAND

Between: OVD INVESTMENTS PTY LTD ACN 657 485 295 (Vendor)

And: (Purchaser)

1. NO WARRANTY ON FURNISHINGS AND CHATTELS

The Purchaser hereby acknowledges that any furnishings and chattels included in this sale are used goods and are sold without any warranty as to condition and fitness and the Vendor shall not be liable for any fair wear and tear of any such furnishings and chattels as from the date of this Agreement.

2. PROPERTY AND IMPROVEMENTS

The Purchaser hereby acknowledges that the Purchaser has purchased the property and the improvements thereon in their present physical condition and state of repair and the Purchaser hereby agrees not to make any objections, requisitions or claim for compensation with respect to the physical condition and state of repair of the property and/or such improvements.

3. DEATH/MENTAL ILLNESS

Without in any manner negating, limiting or restricting any rights or remedies which would have been available to the parties at law or in equity had this clause not been included herein it is agreed that if a party shall die or become mentally ill then the other party may by notice in writing to the other party's solicitor named herein rescind this contract whereupon the provisions of Clause 19 hereof shall apply.

4. NOTICE TO COMPLETE

In the event that this Contract is not completed by the time stipulated as the Completion Date on the front page of the Contract, either party shall be entitled to issue a Notice to Complete fixing a time for completion which time shall be of the essence of this Contract and such Notice shall be deemed to be sufficient as to time if a period of not less than fourteen (14) days from the date of service of such Notice is allowed for completion.

5. INTEREST

In the event that completion does not take place by the Completion Date stipulated on the front page of the Contract due solely to the Purchaser's fault, the Purchaser shall pay interest on the balance of purchase monies to the Vendor on actual completion at the rate of 8% per annum from and including the said Completion Date up to and including the date of actual completion.

6. RELEASE OF DEPOSIT

It is hereby expressly agreed that the Purchaser will raise no objection to the deposit moneys referred to herein being released on exchange of contracts for the purpose of the Vendor's purchase of another property. It is agreed that such deposit moneys shall be held in a Solicitor's or Real Estate Agent's Trust Account pending completion of this Contract.

7. GUARANTEE AND INDEMNITY

- (a) If the Purchaser is a corporation it is an essential term of this Contract that the directors of the Purchaser ("the Guarantors") by executing this Contract as officers of the Purchaser jointly and severally guarantee to the Vendor the due and punctual performance and observance by the Purchaser of its obligations under this Contract and indemnify the Vendor against all losses, damages, liabilities, costs and expenses accruing to the Vendor resulting or arising from any failure by the Purchaser to perform or observe any of the obligation on its part to be performed or observed.
- (b) This Guarantee and Indemnity is a contributing obligation and cannot be abrogated, prejudiced or discharged by any waiver by the Vendor or by any other matter. Any rescission or termination will not waive the obligations arising under this clause.
- (c) This Guarantee and Indemnity is a principal obligation between the Guarantors and the Vendor.

8. INDEMNITY BY PURCHASER RE COMMISSION BY OTHER AGENTS

The Purchaser warrants to the Vendor that it was not introduced to the property by any agent other than the agent referred to herein. The Purchaser agrees to indemnify and keep indemnified the Vendor against any claim for commission by any agent other than the agent referred to herein arising out of breach of this warranty. This condition shall not merge on completion.

9. DEPOSIT

Notwithstanding the provisions of any other clause in this contract for sale the Purchaser agrees:

In the event that the Vendor at the request of the Purchaser agrees to accept a lesser deposit than 10% of the purchase price on exchange of this Contract, the Vendor will enter this contract in consideration for the Purchaser agreeing that the deposit shall be paid by way of instalments in the following manner:

- (a) A part deposit of 5% of the purchase price on exchange of Contracts; and,
- (b) As an assurance of the bargain the balance of the 10% deposit on the completion date of the Contract, or if not completed on the date of breach by the Purchaser of an essential term of the Contract.
- (c) The Purchaser acknowledges that payment of the balance of the 10% deposit as agreed to in this clause is not a penalty provision.

10. VENDOR DISCLOSURE

The Vendor discloses that the director of the Vendor company is a licenced real estate agent and a director of the Agent company.

COMMERCIAL REQUISITIONS ON TITLE

Vendor: OVD Investments Pty Ltd 657 485 295
Purchaser:
Property: 281 Ocean View Road, Ettalong Beach 2257
Dated:

Possession and tenancies

1. Vacant possession of the Property must be given on completion unless the Contract provides otherwise.
2. Is anyone in adverse possession of the Property or any part of it?
3.
 - (a) What is the nature of any tenancy or occupancy?
 - (b) If it is in writing, all relevant documentation should be produced, found in order and handed over on completion with notices of attornment.
 - (c) Please specify any existing breaches.
 - (d) What is the current rent payable?
 - (e) All rent should be paid up to or beyond the date of completion.
 - (f) Please provide details of any bond money held, which money is to be paid to or allowed to the purchaser on completion.
 - (g) If the bond money is held by the Rental Bond Board, the appropriate transfer documentation duly signed should be handed over on completion.
 - (h) Please provide details of any security deposits and copies of any bank guarantees which are held by the vendor.
 - (i) Appropriate transfer documentation duly signed should be handed over on completion assigning the vendor's interest in the security deposits, bank guarantees and any personal guarantees.
 - (j) Are there any sub-leases? If so, copies should be provided.
 - (k) Please provide details of current insurances held by the tenant over the improvements and/or for public liability and plate glass, in particular the type of the cover, the name of the insurer, the period of the cover and the amount of the cover.
4. Is any tenancy subject to the *Retail Leases Act 1994* (NSW)?
If so:
 - (a) complete copies of the disclosure statements as required by the *Retail Leases Act 1994* (NSW) should be provided;
 - (b) a copy of a certificate given under Section 16(3) of the *Retail Leases Act 1994* (NSW) should be provided or other evidence to confirm that Section 16 would not apply to the lease;
 - (c) is the vendor aware of any provision of the lease which is not enforceable because of a non disclosure in the disclosure statement or any lease which has been entered into in contravention of the *Retail Leases Act 1994* (NSW)?
5. Is any part of the Property affected by a protected tenancy (a tenancy affected by Schedule 2, Part 7 of the *Residential Tenancies Act 2010* (NSW))? If so, please provide details.
6. If any tenancy is subject to the *Residential Tenancies Act 2010* (NSW):
 - (a) has either the vendor or any predecessor or the tenant applied to the NSW Civil and Administrative Tribunal for an order?
 - (b) have any orders been made by the NSW Civil and Administrative Tribunal? If so, please provide details.

Title

7. Subject to the Contract, on completion the vendor should be registered as proprietor in fee simple of the Property free from all encumbrances and notations.
8. On or before completion, any mortgage, caveat, writ or priority notice must be discharged, withdrawn, cancelled or removed as the case may be or, in the case of a mortgage, caveat or priority notice, an executed discharge or withdrawal or removal handed over on completion.
9. Are there any proceedings pending or concluded that could result in the recording of any writ on the title to the Property or in the General Register of Deeds? If so, full details should be provided at least 14 days prior to completion.
10. When and where may the title documents be inspected?
11.
 - (a) **In these requisitions, *personal property*, *secured party*, *security agreement*, *security interest* and *verification certificate* have the same meanings as in the *Personal Property Securities Act 2009* (Cth).**
 - (b) **Are the inclusions or other items of *personal property included in the sale (inclusions)* subject to a security interest or has the vendor entered into any *security agreement* in respect of the inclusions and in respect of which the vendor has received, or waived its right to receive, a *verification certificate*? If so, please provide full details of the property the subject of the security interest, the nature of the *security agreement* giving rise to the security interest and the full name, address, ACN and/or ABN of the secured party or security agreement counterparty.**

- (c) If a security interest has arisen or been granted over **the inclusions**, the vendor must procure a full release and discharge of that security interest by the secured party to the extent that it relates to **the inclusions**. Please provide details of whether the release will be a full or partial release of the security interest and confirm the manner in which the release is to be effected (eg. by provision of a duly executed *Deed Poll of Release and Undertaking to Amend Registration* in the form recommended by the Australian Bankers' Association).
12. A depreciation schedule or all details of the written down values of all fixtures, fittings and chattels included in the Property must be provided.

Rates and taxes

13. All rates, taxes, levies, other charges and assessments, including land tax, affecting the Property must be paid up to the date of completion and receipts produced.
14. Is the vendor liable to pay land tax or is the Property otherwise charged or liable to be charged with land tax? If so:
- (a) to what year has a return been made?
- (b) what is the taxable value of the Property for land tax purposes for the current year?
15. If any land tax certificate shows a charge for land tax on the land, the vendor must produce evidence at completion that the charge is no longer effective against the land.

Survey, Building, fencing, etc

16. Subject to the Contract, survey should be satisfactory and show that the whole of the Property is available and that there are no encroachments by or upon the Property and that all improvements comply with local government/planning legislation.
17. Is the vendor in possession of a survey report? If so, please produce a copy for inspection prior to completion. The original should be handed over on completion.
- 18.
- (a) Have the provisions of the *Local Government Act 1993* (NSW), the *Environmental Planning and Assessment Act 1979* (NSW) and their regulations and instruments or former instruments been complied with?
- (b) Have there been any alterations to improvements since 1959 requiring the consent of the Local Council or other authority? If so, please provide details and evidence of consents.
- (c) Has the vendor a Building Information Certificate or Building Certificate? If so, it should be handed over on completion. Please provide a copy prior to completion.
- (d) Has the vendor a Final Occupation Certificate (as referred to in the former Section 109C of the *Environmental Planning and Assessment Act 1979* (NSW)) or an Occupation Certificate as referred to in Section 6.4 of that Act for all current buildings or structures? If so, it should be handed over on completion. Please provide a copy in advance.
- (e) Has there been any building work on the Property to which provisions of the *Home Building Act 1989* (NSW) apply? If so, please provide details and state whether the work was done pursuant to an owner/builders permit or by a licensed builder and provide details as to the permit, names of the parties and licence number(s).
19. Has any notice been given or received or has an application been made under the *Encroachment of Buildings Act 1922* (NSW) or are there circumstances which would give rise to a notice or application under that Act in respect of the Property. If the answer is yes, please provide full details.
20. Are the improvements affected or have they been previously affected by:
- (a) termite infestation, treatment or repair?
- (b) flooding or dampness of areas below ground levels?
- (c) functional problems with equipment such as air conditioning, roofs or inclinators, pool equipment, building management and security systems?
21. Are there any pipes or structures below the surface of the land which are not disclosed in the Contract?
22. Is there any development approval consent to use the Property which is not disclosed in the Contract?
23. Has all the structural work including any retaining walls been designed by a qualified structural engineer?
24. If the answer to any of Requisitions 20 to 23 is yes, please provide full details.
25. Has the vendor (or any predecessor) entered into any agreement with or granted any indemnity to the local council, any water or sewerage authority or any other authority concerning any development on the Property?
26. Is there any planning agreement or other arrangement referred to in Section 7.4 of the *Environmental Planning and Assessment Act 1979* (NSW), (registered or unregistered) affecting the Property. If so, please provide details and indicate if there are any proposals for amendment or revocation?
27. Is there a swimming pool in the Property to which the *Swimming Pools Act 1992* (NSW) applies? If so:
- (a) did its installation or construction commence before or after 1 August 1990?
- (b) has the swimming pool been installed or constructed in accordance with approvals under the *Local Government Act 1919* (NSW) and *Local Government Act 1993* (NSW)?
- (c) does it comply with the provisions of the *Swimming Pools Act 1992* (NSW) and regulations relating to access? If not, please provide details of the exemptions claimed;
- (d) have any notices or orders issued or been threatened under the *Swimming Pools Act 1992* (NSW) or regulations?
- (e) if a certificate of non-compliance has issued, please provide reasons for its issue if not disclosed in the Contract;
- (f) originals of certificate of compliance or non-compliance and occupation certificate should be handed over on settlement.

- 28.
- (a) To whom do the boundary fences belong?
 - (b) Are there any party walls?
 - (c) If the answer to Requisition 28(b) is yes, specify what rights exist in relation to each party wall and produce any agreement. The benefit of any such agreement should be assigned to the purchaser on completion.
 - (d) Is the vendor aware of any dispute regarding boundary or dividing fences or party walls?
 - (e) Has the vendor received any notice, claim or proceedings under the *Dividing Fences Act 1991* (NSW)?
29. Are any rainwater downpipes connected to the sewer? If so, they must be disconnected prior to completion.

Use and enjoyment of the Property

- 30.
- (a) Is the vendor aware of any rights, licences, easements, covenants or restrictions as to use affecting or benefiting the Property other than those disclosed in the Contract? If a licence benefits the Property please provide a copy and indicate:
 - (i) whether there are any existing breaches by any party to it;
 - (ii) whether there are any matters in dispute; and
 - (iii) whether the licensor holds any deposit, bond or guarantee.
 - (b) In relation to such licence:
 - (i) All licence fees and other moneys payable should be paid up to and beyond the date of completion;
 - (ii) The vendor must comply with all requirements to allow the benefit to pass to the purchaser.
 - (c) Have the covenants and restrictions disclosed in the Contract been complied with?
31. Is the vendor aware of:
- (a) any road, drain, sewer or storm water channel which intersects or runs through the land?
 - (b) any dedication to or use by the public of any right of way or other easement over any part of the land?
 - (c) any building line fixed by the Local Council affecting the land?
 - (d) any judgment, order, decree or execution against the vendor or the Property?
 - (e) any suit current, pending or proposed in respect of the Property?
 - (f) any latent defects in the Property?
 - (g) the existence of any contamination in or on the Property including, but not limited to, materials or substances dangerous to health such as asbestos, fibreglass or polyethylene or other flammable or combustible material including cladding? If the property is a building or part of a building to which external combustible cladding has been applied, has the owner provided to the Planning Secretary details of the building and the external combustible cladding and is the building recorded in the Register maintained by the Secretary?
32. Has the vendor any notice or knowledge that the Property is affected by any of the following:
- (a) any resumption or acquisition or proposed resumption or acquisition?
 - (b) any notice, order or proposed order requiring work to be done or money to be spent on the Property or any footpath or road adjoining? Full details of any notice, order or proposed order must be provided. Any notice or order must be complied with prior to completion.
 - (c) any work done or intended to be done on the Property or the adjacent street which may create a charge on the Property or the cost of which might be or become recoverable from the purchaser?
 - (d) any sum due to any local or public authority? If so, the same must be paid prior to completion.
 - (e) any realignment or proposed realignment of any road adjoining the Property?
 - (f) any contamination including, but not limited to, materials or substances dangerous to health such as asbestos and fibreglass?
 - (g) any charge or liability including liability for restoration of the Property, or proceedings under the *Contaminated Land Management Act 1997* (NSW) or any environment protection legislation (as defined in that Act) or any circumstances which could lead to any such liability, charge or proceedings being commenced?
33. If the answer to any of Requisitions 32(a) to 32(g) is yes, please:
- (a) provide full details;
 - (b) advise whether any applicable notice, order, direction, resolution or liability has been fully complied with; and
 - (c) provide full details regarding the extent of any non-compliance.
- 34.
- (a) Does the Property have the benefit of water, sewerage, drainage, electricity, gas and telephone services?
 - (b) If so, do any of the connections for such services pass through any adjoining land? If so, it must be shown that the vendor has a right thereto which will vest in the purchaser on completion.
 - (c) Do any service connections for any other property pass through the Property?
35. Has asbestos, fibreglass or other material injurious to health been used in the construction of the Property? If the answer is yes, please provide full details.
36. Is the Property required for the purpose of paying a fine or satisfying an order for compensation?

37. Has any claim been made by any person to close, obstruct or limit access to or from the Property or to an easement over any part of the Property?

Warranties and service contracts

38. Please provide copies of any warranty or maintenance or service contract for the Property which is assignable on completion.
39. Please provide details, or copies if available, of any warranty or maintenance or service contract which is not assignable.

Zoning

40. Is the vendor aware of the Property being subject to any existing or proposed instrument or former instruments under the *Environmental Planning and Assessment Act 1979* (NSW) or other restriction on user not disclosed in the Contract? If the answer is yes, please provide full details.

Capacity

41. If the Contract discloses that the vendor is a trustee, evidence should be produced to establish the trustee's power of sale.

Requisitions and transfer

42. If not attached to the Contract and the transaction is not an excluded transaction, any *clearance certificate* under Section 14-220 of Schedule 1 of the *Taxation Administration Act 1953* (Cth) should be served on the purchaser at least 7 days prior to completion.
43. The vendor should furnish completed details within the time specified in the contract, sufficient to enable the purchaser to make any RW payment.
44. If the transfer or any other document to be handed over on completion is executed pursuant to a power of attorney, then at least 7 days prior to completion a copy of the power of attorney should be produced and found in order.
45. If the vendor has or is entitled to have possession of the title deeds the Certificate Authentication Code must be provided 7 days prior to settlement.
46. Searches, surveys, enquiries and inspection of title documents must prove satisfactory.
47. The purchaser reserves the right to make further requisitions prior to completion.
48. Unless we are advised by you to the contrary prior to completion, it will be assumed that your replies to these requisitions remain unchanged as at the completion date.

Completion

49. Please confirm that on completion you will hand to us:
- (a) a discharge of any mortgage, a withdrawal of any caveat and removal of any priority notice;
 - (b) the Certificate of Title Folio Identifier;
 - (c) Transfer executed by the vendor;
 - (d) the vendor's copies of all leases and disclosure statements;
 - (e) notices of attornment;
 - (f) all keys in the possession of the vendor;
 - (g) original of any Building Information Certificate or Building Certificate, Survey Report, occupation certificate and swimming pool compliance or non-compliance certificate;
 - (h) instruction manuals and warranties for any plant belonging to the vendor;
 - (i) any third party guarantees together with appropriate assignments;
 - (j) any documents required for the purchaser to have benefit of any bonds;
 - (k) tax invoice;
 - (l) depreciation schedule;
 - (m) any documents required for the purchaser to have good title to any fixtures, fittings or personal property;
 - (n) information or devices necessary for the operation of the security system, air conditioning systems, building management systems, etc;
 - (o) any security deposits or bank guarantees pursuant to any of the leases; and
 - (p) keys and other mechanisms (such as remote control equipment) for access to the premises (internal and external).

Off the plan contract

50. If the Contract is an off the plan contract:
- (a) Is the vendor aware of an inaccuracy in the disclosure statement attached to the Contract? If so, please provide particulars.
 - (b) The vendor should before completion serve on the purchaser a copy of the registered plan and any document that was registered with the plan.
 - (c) Please provide details, if not already given, of the holding of the deposit or any instalment as trust or controlled monies by a real estate agent, licenced conveyancer or law practice.



FOLIO: 26/663752

| SEARCH DATE | TIME | EDITION NO | DATE |
|-------------|----------|------------|----------|
| 25/5/2023 | 11:12 AM | 6 | 4/7/2022 |

LAND

LOT 26 IN DEPOSITED PLAN 663752
LOCAL GOVERNMENT AREA CENTRAL COAST
PARISH OF PATONGA COUNTY OF NORTHUMBERLAND
TITLE DIAGRAM DP663752

FIRST SCHEDULE

OVD INVESTMENTS PTY LTD (T AS271060)

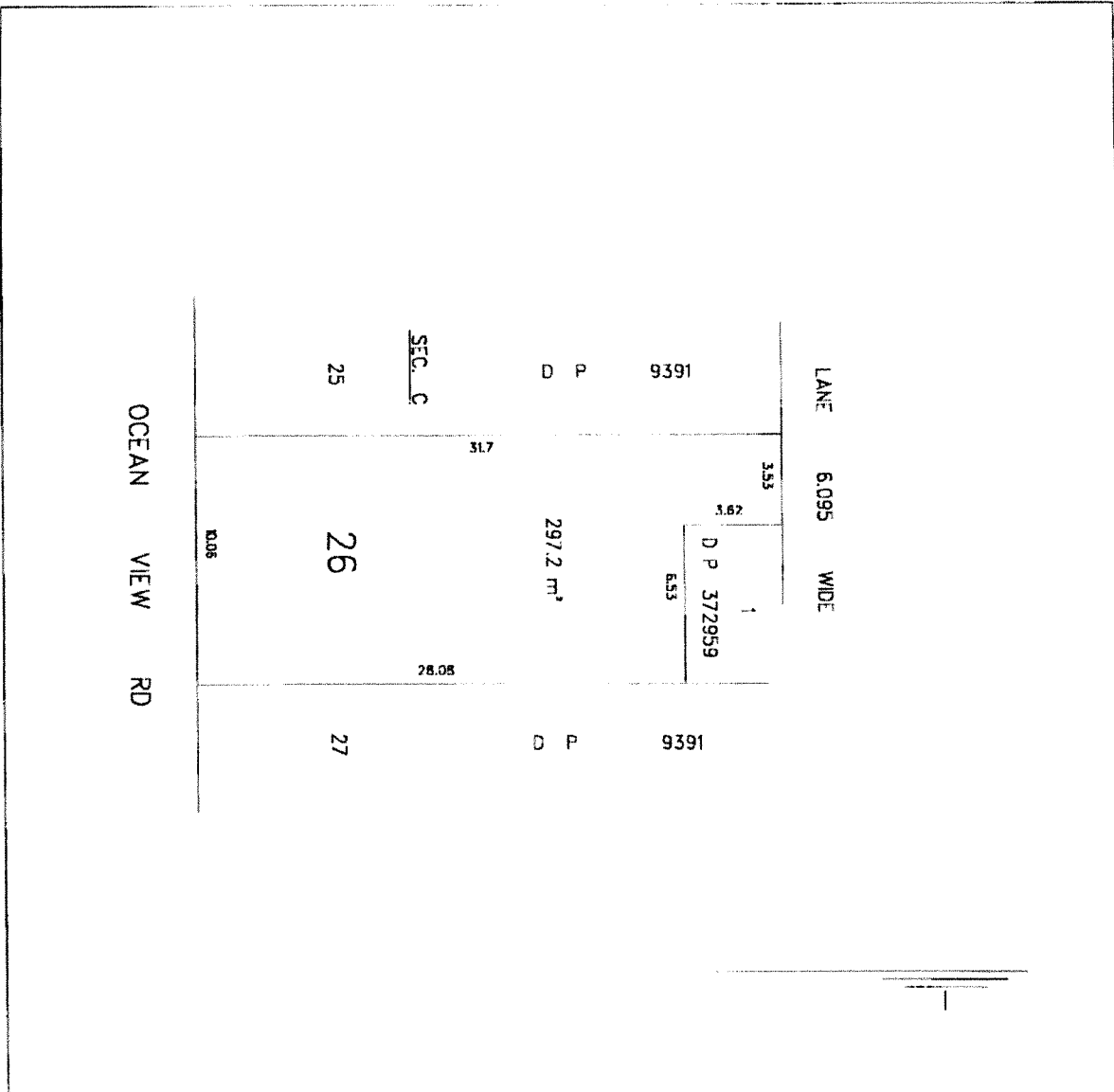
SECOND SCHEDULE (2 NOTIFICATIONS)

- 1 LAND EXCLUDES MINERALS AND IS SUBJECT TO RESERVATIONS AND CONDITIONS IN FAVOUR OF THE CROWN - SEE CROWN GRANT(S)
- 2 AS271061 MORTGAGE TO GENE PTY LTD

NOTATIONS

UNREGISTERED DEALINGS: NIL

*** END OF SEARCH ***



D P 6 6 3 7 5 2

Registered: 20-3-1996
 The System: TORRENS
 Purpose: DEPARTMENTAL
 Ref. Map: U2790-83#
 Lot Plan: DP9391

THIS PLAN HAS BEEN CREATED TO PROVIDE A UNIQUE IDENTIFIER TO ENABLE THE ISSUE OF AN AUTOMATED TORRENS TITLE FOR THE LAND COMPRISED IN FOLIO OF THE REGISTER VOLUME 6359 FOLIO 179 FORMERLY KNOWN AS PART LOT 26 OF SEC. C IN DP9391

Lengths are in metres.
 Reduction Ratio : NOT TO SCALE
 L.G.A.: GOSFORD
 LOCALITY: ETIALONG
 PARISH: PATONGA
 COUNTY: NORTHUMBERLAND

B 1 D 1 O O Z

B.C.B. 1 1 1



Tonkin Drysdale Partners - Woy Woy
79 Blackwall Rd
WOY WOY NSW 2256

SECTION 10.7(2) AND (5) PLANNING CERTIFICATE

Under Section 10.7 of the Environmental Planning and Assessment Act, 1979

| | |
|------------------------------|--|
| Fee paid: | \$156.00 |
| Receipt No: | 18799634 |
| Receipt Date: | 25 May 2023 |
| Property Address: | 281 Ocean View Road, ETTALONG BEACH NSW 2257 |
| Property Description: | Lot 26 DP 663752 |
| Property Owner | OVD Investments Pty Ltd |
| Certificate No: | 62399 |
| Reference No: | SP:2230728:243670 |
| Date of issue: | 25-May-2023 |

The information contained within this certificate relates to the land.



Wyong Office: 2 Hely St / PO Box 20 Wyong NSW 2259
Gosford Office: 91-99 Mann Street, Gosford

P 02 7335 7333 E ask@centralcoast.nsw.gov.au | W centralcoast.nsw.gov.au | ABN 73 149 644 003

**ADVICE PROVIDED PURSUANT TO S.10.7(2) OF THE ENVIRONMENTAL
PLANNING AND ASSESSMENT ACT 1979**

| | |
|----------|---|
| 1 | NAMES OF RELEVANT PLANNING INSTRUMENTS AND DEVELOPMENT CONTROL PLANS |
|----------|---|

**(1) Environmental Planning Instruments and Development Control Plans which
apply to the land**

Central Coast Local Environmental Plan 2022

Central Coast Development Control Plan 2022

State Environment Planning Policy (Exempt and Complying Development Codes) 2008
State Environment Planning Policy (Building Sustainability Index: BASIX) 2004
State Environment Planning Policy No. 65 – Design Quality of Residential Apartment
Development
State Environment Planning Policy (Primary Production) 2021
State Environment Planning Policy (Transport and Infrastructure) 2021
State Environment Planning Policy (Biodiversity and Conservation) 2021
State Environment Planning Policy (Resilience and Hazards) 2021
State Environment Planning Policy (Industry and Employment) 2021
State Environment Planning Policy (Resources and Energy) 2021
State Environment Planning Policy (Planning Systems) 2021
State Environmental Planning Policy (Housing) 2021

**(2) Proposed Environmental Planning Instruments and Draft Development Control
Plans which will apply to the land and is or has been the subject of community
consultation or public exhibition**

Proposed State Environmental Planning Policy (Transport and Infrastructure) 2021
Proposed State Environment Planning Policy (Building Sustainability Index: BASIX) 2004
Standard Instrument (Local Environmental Plans) Order 2006
Proposed State Environmental Planning Policy (Housing) 2021
Proposed State Environment Planning Policy (Planning Systems) 2021
2006

| | |
|----------|--|
| 2 | ZONING AND LAND USE UNDER RELEVANT PLANNING INSTRUMENTS |
|----------|--|

(a) Identity of the Zone

Lot 26 DP 663752

E1 Local Centre

(b) For each of the environmental planning instruments referred to in clause 1, please refer to the attached land use table to determine (i), (ii) and (iii) listed below:

(i) development that may be carried out within the zone without the need for development consent,

(ii) development which may not be carried out within the zone except with development consent and

(iii) development which is prohibited within the zone.

(c) Whether additional permitted uses apply to the land

Additional Permitted Uses do not apply to this land.

(d) Development Standards applying to the land that fix minimum land dimensions for the erection of a dwelling-house

There are no development standards applying to the land that fix minimum land dimensions for the erection of a dwelling-house on the land. However there are minimum lot sizes applying to the subdivision of land, and in some zones the entitlement to erect a dwelling-house, or carry out other types of residential development, is linked to that minimum lot size.

(e) Land includes or comprises critical habitat

No

(f) Land is in a conservation area

No

(g) Item of environmental heritage is situated on the land

None

| | |
|----------|---------------------------|
| 3 | CONTRIBUTION PLANS |
|----------|---------------------------|

Contributions Plan No. 31A - Drainage - Peninsula

Contributions Plan No. 31B - Road Works - Peninsula

Contributions Plan No. 31C - Open Space & Recreation - Peninsula

Contributions Plan No. 31D - Community Facilities & Community Services - Peninsula

Central Coast Council Regional Section 7.12 Development Contributions Plan 2019.

| | |
|----------|------------------------------|
| 4 | COMPLYING DEVELOPMENT |
|----------|------------------------------|

Whether or not the land is land on which complying development can be carried out under each of the codes for complying development because of the provisions of clause 1.17A(1)(c) to (e), (2), (3) and (4), 1.18(1)(c3) and 1.19 of *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*?

HOUSING CODE

Complying Development under the Housing Code **may** be carried out on the land. This information needs to be read in conjunction with the whole of the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.

RURAL HOUSING CODE

Complying development under the Rural Housing Code **may** be carried out on the land. This information needs to be read in conjunction with the whole of the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.

LOW RISE HOUSING DIVERSITY CODE

Complying Development under the Low Rise Housing Diversity Code **may** be carried out on the land. This information needs to be read in conjunction with the whole of the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.

GREENFIELD HOUSING CODE

Greenfield Housing Code **is not** applicable to this land.

HOUSING ALTERATIONS CODE

Complying development under the Housing Alterations Code **may** be carried out on the land. This information needs to be read in conjunction with the whole of the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.

GENERAL DEVELOPMENT CODE

Complying development under the General Development Code **may** be carried out on the land. This information needs to be read in conjunction with the whole of the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.

INDUSTRIAL AND BUSINESS ALTERATIONS CODE

Complying development under the Industrial and Business Alterations Code **may** be carried out on the land. This information needs to be read in conjunction with the whole of the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.

INDUSTRIAL AND BUSINESS BUILDINGS CODE

Complying development under the Industrial and Business Buildings Code **may** be carried out on the land. This information needs to be read in conjunction with the whole of the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.

CONTAINER RECYCLING FACILITIES CODE

Complying Development under the Container Recycling Facilities Code **may** be carried out on the land. This information needs to be read in conjunction with the whole of the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.

SUBDIVISIONS CODE

Complying Development under the Housing Code **may** be carried out on the land. This information needs to be read in conjunction with the whole of the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.

DEMOLITION CODE

Complying development under the Demolition Code **may** be carried out on the land. This information needs to be read in conjunction with the whole of the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.

FIRE SAFETY CODE

Complying development under the Fire Safety Code **may** be carried out on the land. This information needs to be read in conjunction with the whole of the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.

AGRITOURISM AND FARM STAY ACCOMMODATION CODE

Complying development under the Agricultural and Farm Stay Accommodation Code **may** be carried out on the land. This information needs to be read in conjunction with the whole of the State Environmental Planning Policy (Exempt and Complying Development Codes)

2008.

| | |
|----------|---------------------------|
| 5 | EXEMPT DEVELOPMENT |
|----------|---------------------------|

Whether or not the land is land on which exempt development may be carried out under each of the exempt development codes under *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* because of that Policy, clause 1.16(1) (b1)–(d) or 1.16A.

GENERAL EXEMPT DEVELOPMENT CODE

Exempt development under the General Exempt Development Code applies to this land. This information needs to be read in conjunction with the whole of the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.

ADVERTISING AND SIGNAGE EXEMPT DEVELOPMENT CODE

Exempt development under the Advertising and Signage Exempt Development Code applies to this land. This information needs to be read in conjunction with the whole of the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.

TEMPORARY USES AND STRUCTURES EXEMPT DEVELOPMENT CODE

Exempt development under the Temporary Uses and Structures Exempt Development Code applies to this land. This information needs to be read in conjunction with the whole of the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.

| | |
|----------|--|
| 6 | AFFECTED BUILDING NOTICES AND BUILDING PRODUCT RECTIFICATION ORDERS (<i>BUILDING PRODUCT SAFETY ACT 2017</i>) |
|----------|--|

1(a) Is there any affected building notice of which the council is aware that is in force in respect of the land?

No

1(b) Is there any building product rectification order of which the council is aware that is in force in respect of the land and has not been fully complied with?

No

1(c) Is there any notice of intention to make a building product rectification order of which the council is aware has been given in respect of the land and is outstanding?

No

In this section—

affected building notice has the same meaning as in the *Building Products (Safety) Act 2017*, Part 4.

building product rectification order has the same meaning as in the *Building Products (Safety) Act 2017*

| | |
|----------|--------------------------------------|
| 7 | LAND RESERVED FOR ACQUISITION |
|----------|--------------------------------------|

Whether an environmental planning instrument or proposed environmental planning instrument referred to in section 1 makes provision in relation to the acquisition of the land by an authority of the State, as referred to in the Act, section 3.15.

Nil

| | |
|----------|---|
| 8 | ROAD WIDENING AND ROAD ALIGNMENT |
|----------|---|

- (a) DIVISION 2 OF PART 3 OF THE *ROADS ACT 1993*

The land is not affected by road realignment or road widening under the above.

- (b) ENVIRONMENTAL PLANNING INSTRUMENT

The land is not affected by road realignment or road widening under the above.

- (c) COUNCIL RESOLUTIONS

The land is not affected by road realignment or road widening under the above.

| | |
|----------|---|
| 9 | FLOOD RELATED DEVELOPMENT CONTROLS |
|----------|---|

- (1) The land or part of the land **is** within the flood planning area and **is** subject to flood related development controls.
- (2) The land or part of the land **is** between the flood planning area and the probable maximum flood and **is** subject to flood related development controls.
- (3) In this section—

flood planning area has the same meaning as in the Floodplain Development Manual.

Floodplain Development Manual means the Floodplain Development Manual (ISBN 0 7347 5476 0) published by the NSW Government in April 2005.

probable maximum flood has the same meaning as in the Floodplain Development Manual.

| | |
|-----------|--|
| 10 | COUNCIL AND OTHER PUBLIC AUTHORITY POLICIES ON HAZARD RISK RESTRICTIONS |
|-----------|--|

This land **is** affected by a policy adopted by the council or other public authority that restricts the development of the land because of the likelihood of risk restrictions. This land **is** affected because:

Chapter 3.7 Geotechnical Requirements of Central Coast Development Control Plan 2022 applies to the land and the land may be subject to slip. When considering a development application, each circumstance will be considered, and development may be restricted.

The subject property has been identified as being Class 4 - (Works beyond 2 metres below the natural ground surface; Works by which the watertable is likely to be lowered beyond 2 metres below natural surface) on the Acid Sulfate Soil Planning Maps held by Council.

In this section—

adopted policy means a policy adopted—

- (a) by the council, or
- (b) by another public authority, if the public authority has notified the council that the policy will be included in a planning certificate issued by the council.

| | |
|-----------|-----------------------------|
| 11 | BUSH FIRE PRONE LAND |
|-----------|-----------------------------|

The information currently available to Council indicates that this land **is not** bushfire prone land (as defined in the Act).

| | |
|-----------|---------------------------------------|
| 12 | LOOSE-FILL ASBESTOS INSULATION |
|-----------|---------------------------------------|

This land does not include any residential premises (within the meaning of Division 1A of Part 8 of the *Home Building Act 1989*) that are listed on the register that is required to be maintained under that Division. That register lists residential premises that contain or have contained loose-fill asbestos insulation.

| | |
|-----------|------------------------|
| 13 | MINE SUBSIDENCE |
|-----------|------------------------|

The land **IS NOT WITHIN** a Mine Subsidence District declared under section 20 of the *Coal Mine Subsidence Compensation Act 2017*.

| | |
|-----------|--------------------------------------|
| 14 | PAPER SUBDIVISION INFORMATION |
|-----------|--------------------------------------|

- (1) The name of any development plan adopted by a relevant authority that:
 - (a) applies to this land or
 - (b) that is proposed to be subject to a consent ballot.

Nil

- (2) The date of any subdivision order that applies to this land.

Not applicable

Words and expressions used in this clause have the same meaning as they have in Part 10 of the *Environmental Planning and Assessment Regulation 2021* and Schedule 7 of the *Environmental Planning and Assessment Act 1979*.

| | |
|-----------|----------------------------------|
| 15 | PROPERTY VEGETATION PLANS |
|-----------|----------------------------------|

Council **has not** been notified by Local Land Services – Greater Sydney that the land is subject to a property vegetation plan approved under Part 4 of the *Native Vegetation Act 2003*.

| | |
|-----------|---------------------------------------|
| 16 | BIODIVERSITY STEWARDSHIP SITES |
|-----------|---------------------------------------|

Council **has not** been notified by the Director-General of the Department of Planning and Environment that the land is a biodiversity stewardship site under a biodiversity stewardship agreement under Part 5 of the Biodiversity Conservation Act, 2016.

Note: Biodiversity stewardship agreements include biobanking agreements under the *Threatened Species Conservation Act 1995*, Part 7A that are taken to be biodiversity stewardship agreements under the *Biodiversity Conservation Act 2016*, Part 5.

| | |
|-----------|------------------------------------|
| 17 | BIODIVERSITY CERTIFIED LAND |
|-----------|------------------------------------|

The land **is not** biodiversity certified land within the meaning of Part 8 of the *Biodiversity Conservation Act, 2016*.

Note: Biodiversity certified land includes land certified under the *Threatened Species Conservation Act 1995*, Part 7AA that is taken to be certified under the *Biodiversity Conservation Act 2016*, Part 8.

| | |
|-----------|--|
| 18 | ORDERS UNDER TREES (DISPUTES BETWEEN NEIGHBOURS) ACT 2006 |
|-----------|--|

Council **has not** been notified of an Order issued under the Trees (Disputes between Neighbours) Act 2006.

NOTE: This advice is based on information provided by the Land and Environment Court

| | |
|-----------|--|
| 19 | ANNUAL CHARGES UNDER LOCAL GOVERNMENT ACT 1993 FOR COASTAL PROTECTION SERVICES THAT RELATE TO EXISTING COASTAL PROTECTION WORKS |
|-----------|--|

The owner (or any previous owner) of the land has not consented in writing to the land being subject to annual charges under section 496B of the *Local Government Act 1993* for coastal protection services that relate to existing coastal protection works.

In this section—

existing coastal protection works has the same meaning as in the *Local Government Act 1993*, section 553B.

Note—

Existing coastal protection works are works to reduce the impact of coastal hazards on land, such as seawalls, revetments, groynes and beach nourishment, that existed before 1 January 2011.

| | |
|-----------|------------------------------------|
| 20 | WESTERN SYDNEY AEROTROPOLIS |
|-----------|------------------------------------|

Not applicable to Central Coast Local Government Area

| | |
|-----------|---|
| 21 | DEVELOPMENT CONSENT CONDITIONS FOR SENIORS HOUSING |
|-----------|---|

Council is **not** aware of there being a current Site Compatibility Certificate (seniors housing) issued by the Director-General of the Department of Planning and Environment in respect of the land.

NOTE: This advice is based on information provided by the NSW Department of Planning and Environment.

| | |
|-----------|---|
| 22 | SITE COMPATIBILITY CERTIFICATES AND DEVELOPMENT CONSENT CONDITIONS FOR AFFORDABLE RENTAL HOUSING |
|-----------|---|

Council is **not** aware of there being a valid Site Compatibility Certificate (affordable rental housing) issued by the Director-General of the Department of Planning and Environment in respect of the land.

NOTE: This advice is based on information provided by the NSW Department of Planning and Environment.

NOTE

| |
|--|
| CONTAMINATED LAND MANAGEMENT ACT 1997 |
|--|

The following matters are prescribed by section 59 (2) of the *Contaminated Land Management Act 1997* as additional matters to be specified in a planning certificate:

- (a) The land to which the certificate relates is significantly contaminated land within the meaning of that Act - if the land (or part of the land) is significantly contaminated land at the date when the certificate is issued,

No
- (b) The land to which the certificate relates is subject to a management order within the meaning of that Act - if it is subject to such an order at the date when the certificate is issued,

No
- (c) The land to which the certificate relates is the subject of an approved voluntary management proposal within the meaning of that Act - if it is the subject of such an approved proposal at the date when the certificate is issued,

No
- (d) The land to which the certificate relates is subject to an ongoing maintenance order within the meaning of that Act - if it is subject to such an order at the date when the certificate is issued,

No
- (e) The land to which the certificate relates is the subject of a site audit statement within the meaning of that Act - if a copy of such a statement has been provided at any time to the local authority issuing the certificate.

No

**ADVICE PROVIDED PURSUANT TO S.10.7(5) OF THE ENVIRONMENTAL
PLANNING AND ASSESSMENT ACT 1979**

NOTE: SECTION 10.7(6) OF THE ACT STATES THAT A COUNCIL SHALL NOT INCUR ANY LIABILITY IN RESPECT OF ANY ADVICE PROVIDED IN GOOD FAITH PURSUANT TO SUBSECTION (5).

For any enquiries regarding this Certificate, please contact Council's Customer Contact Centre on 02 4306 7900.

Karen Hansen
Signed on Behalf of Central Coast Council

LAND USE TABLE

Zone E1 Local Centre Central Coast Local Environmental Plan 2022

1 Objectives of zone

- To provide a range of retail, business and community uses that serve the needs of people who live in, work in or visit the area.
- To encourage investment in local commercial development that generates employment opportunities and economic growth.
- To enable residential development that contributes to a vibrant and active local centre and is consistent with the Council's strategic planning for residential development in the area.
- To encourage business, retail, community and other non-residential land uses on the ground floor of buildings.
- To encourage employment opportunities in accessible locations.
- To maximise public transport patronage and encourage walking and cycling.
- To minimise conflict between land uses within the zone and land uses within adjoining zones.
- To encourage an increased residential population through stand alone development or as part of mixed use development in centres and other local areas where land is not otherwise required to serve local needs.
- To permit residential uses while maintaining active retail, business and other non-residential uses at street level to contribute to the vitality of the area.

1 Permitted without consent

Recreation areas; Roads

2 Permitted with consent

Amusement centres; Boarding houses; Centre-based child care facilities; Commercial premises; Community facilities; Entertainment facilities; Function centres; Home industries; Hotel or motel accommodation; Information and education facilities; Local distribution premises; Medical centres; Oyster aquaculture; Places of public worship; Public administration buildings; Recreation facilities (indoor); Respite day care centres; Service stations; Sewage reticulation systems; Shop top housing; Tank-based aquaculture; Veterinary hospitals; Waste or resource management facilities; Water recycling facilities; Water reticulation systems; Any other development not specified in item 2 or 4

3 Prohibited

Agriculture; Air transport facilities; Airstrips; Animal boarding or training establishments; Boat building and repair facilities; Camping grounds; Caravan parks;

Cemeteries; Correctional centres; Crematoria; Depots; Eco-tourist facilities; Electricity generating works; Exhibition homes; Exhibition villages; Extractive industries; Farm buildings; Forestry; Freight transport facilities; Heavy industrial storage establishments; Highway service centres; Industrial retail outlets; Industrial training facilities; Industries; Marinas; Mortuaries; Open cut mining; Recreation facilities (major); Recreation facilities (outdoor); Research stations; Residential accommodation; Resource recovery facilities; Rural industries; Sewerage systems; Sex services premises; Storage premises; Transport depots; Truck depots; Vehicle body repair workshops; Vehicle repair stations; Warehouse or distribution centres; Waste disposal facilities; Water supply systems; Wholesale supplies



8th December 2021

O'Connor & Co
office@oclegal.com.au

Dear Sir/Madam

Your Ref: 11561 Dowdle
Property: LOT: 26 DP: 663752 281 Ocean View Road ETTALONG BEACH

In reply to your request for an internal sewerage connection plan for the above lot, please find enclosed your copy of this plan.

Should you require any further information regarding this matter, please contact Council's Customer Services Section on 1300 463 954.

Yours faithfully

M Walsh

Land Information Officer
Phone: 1300 463 954



Property: LOT: 26 DP: 663752 281 Ocean View Road ETTALONG BEACH

GOSFORD CITY COUNCIL
SEWERAGE CONNECTION PLAN

START NUMBER 29229

PERMIT NO: PLAN NO. 10441050

LICENSEE: PAUL AUSTIN G.R.P. LICENSE No. 10166

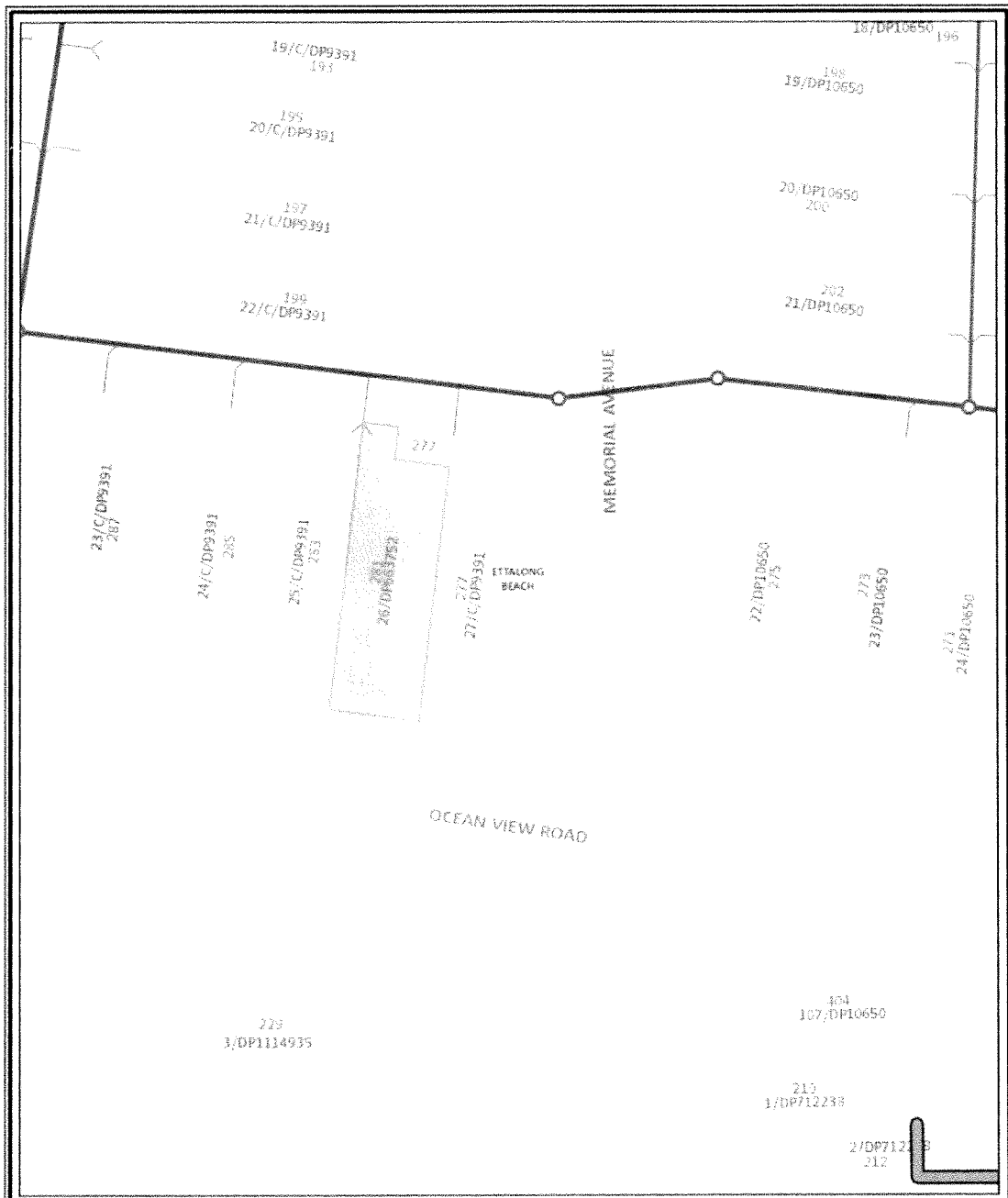
I certify that this plan is a correct record of the house drainage at the below mentioned location as at this date

LICENSEE'S SIGNATURE: [Signature] DATE: 25/2/2012

| SYMBOLS AND ABBREVIATIONS | | | | | | | | | |
|-------------------------------------|------------------|---------------------------------------|--------------------|---|--------------|---|-----------------|-----|------------------|
| <input type="checkbox"/> | Sanitary trap | <input checked="" type="checkbox"/> R | Radius valve | T | Tube | H | Basin | uWS | Waste water |
| <input type="checkbox"/> | Inspection shaft | <input type="checkbox"/> | Inspection opening | K | Kitchen sink | S | Shower | uBW | Boiler vent pipe |
| <input type="checkbox"/> | Pc | <input type="checkbox"/> | Vertical pipe | W | Water closet | F | Floor waste | | |
| <input checked="" type="checkbox"/> | U-bend | <input type="checkbox"/> | Vent pipe | B | Bath waste | M | Washing machine | | |

Final 29/2/12

| | | |
|------------------------------|---|--------------------------------|
| Owner <u>WAYNE DOWDLE</u> | Lot No. <u>26</u> | Sec. <u>DP 663752</u> |
| Street No. <u>281</u> | Street <u>OCEAN VIEW RD</u> | Locality <u>ETTALONG BEACH</u> |
| Assessment No. <u>409642</u> | OFFICE USE ONLY | |
| | Date paid: | Fee: |
| | Plumber: <u>B. GRAF</u> | |
| | Drainer: | |
| | Connection date: <u>25/2/2012</u> | |
| | Plumbing and Drainage Inspector: <u>A. QUINNELL</u> | |



Warning Note for Underground Plant Locations

This plan has been prepared to show the approximate locations of underground sewer mains and structures. It is not intended to be used as a guide for excavation or other work. The locations shown are based on the information provided in the plan. The actual location and depth of the sewer mains and structures may vary from the information shown on the plan. It is the responsibility of the user to verify the location and depth of the sewer mains and structures before any excavation or other work is undertaken. The user should consult the Department of Finance and Services for more information.

This document is part of the Council's Information System. It is the property of the Council and is not to be used for any other purpose. The user should consult the Department of Finance and Services for more information.



**Central Coast Council
Sewer Mains Diagram**

Not to Scale

Issue Date: 08/12/2021

Legend

- Access Chamber
- Dead End
- ⊕ Manhole
- ⊖ Sewer Manhole
- ⊘ Vacuum Pot
- ⊙ Valve
- ⊚ Private Pump Station
- ⊛ Pump Station
- ⊜ Treatment Plant
- Collection Main
- Trunk Main
- Refurbished Main (Asbestos)
- Effluent Main
- Private Rising Main
- Rising Main
- Vacuum Main
- Rising Main (Asbestos)
- ⊗ Sewer Encasement
- ⊘ Abandoned Main
- ⊙ Main Not in Use
- Applicant's Land



RETAIL LEASE

Note: Suitable for shops and other retail premises subject to the *Retail Leases Act 1994* (NSW) where the term of Lease (including the period of any option) does not exceed three years.

This Lease is made in duplicate on 18 / 08 / 2022 ,

at 338 West Street Umina Beach in the State of New South Wales.

PARTIES

| | | |
|---|---------------|-----------|
| Between OVD Developments Pty Ltd | ABN 657485295 | Landlord |
| (Name, address and ABN) | | |
| C/- AGENT | | |
| whose agent is Raine & Horne Umina Beach | ABN | Agent |
| (Name, business address and ABN) | | |
| 338 West Street Umina Beach | | |
| and Melissa Jayne Gregory and John Bruce Ludgater | | Tenant |
| (Name, business address and ABN) | | |
| 68 Gwendolen Avenue Umina Beach NSW 2257 | | |
| Melissa Jayne Gregory and John Bruce Ludgater | | Guarantor |
| (Name, business address and ABN) | | |
| 68 Gwendolen Avenue Umina Beach NSW 2257 | | |

GST REGISTRATION

The Landlord is registered for GST. Yes No

The Tenant is registered for GST. Yes No

PREMISES

The Landlord leases the premises known as 1/281 Ocean View Road Ettalong Beach NSW 2257

(the Premises) including all fixtures, fittings and equipment listed in the lessors disclosure statement provided by the Landlord to the Tenant.

PERMITTED USE

The Premises shall be used only as Hair Dresser

RENT

Except as otherwise provided the rent shall be \$ 18,000.00 (incl GST)

per annum (\$1,500 per calendar month) NO GST PAYABLE commencing on 7 / 09 / 2022 ,

and payable in advance by the Tenant on the 1st day of every month

to the Landlord / Agent at the above address or at any other reasonable place as the Landlord / Agent notifies in writing.

SECURITY BOND / DEPOSIT (tick applicable box)

One months rent as referred to in Clause 37a OR 37b

TERM

The term of the lease shall be 12 months commencing on 24 / 08 / 2022 and ending on 23 / 08 / 2023

OPTION

Subject to Clause 30 of this lease the Landlord / Agent offers a renewal of this lease for a further term of two years.

HOLDING OVER

Unless either party gives the other written notice of termination in accordance with Clause 32a, the lease shall continue as a periodic lease from month to month at the same rent or at a rent to which both parties agree.

OUTGOINGS (tick applicable box)

The Tenant's percentage of outgoings to be paid in accordance with Clause 17a is 100 (\$1,200 per annum - \$100 per month) % .

OR

The Tenant's percentage of any increases in outgoings to be paid in accordance with Clause 17b is % .

INSURANCE

The amount of cover for public liability referred to in Clause 15e is \$ 10,000,000.00 + plate glass insurance

CONDITIONS

The parties agree to the conditions set out above and on the following pages and also to those conditions implied by Sections 84 and 85 of the Conveyancing Act 1919 which are not expressly negated or modified by this lease.

NOTE It is advisable for the Tenant to insure the Tenant's own property

THE LANDLORD AGREES**Possession**

1. To give possession of the Premises to the Tenant on the day on which the term of the lease commences.

Condition of Premises

2. To ensure that the Premises are in a reasonably fit condition for use at the commencement of the lease.

Security

3. To ensure that all external doors and windows contain locks and catches in working order at the commencement of the lease.

Insurance

4. To insure the Premises against damage arising from fire, lightning and explosion and other hazards (including earthquake, storm and tempest, water damage, impact, aircraft, riots / civil commotions and malicious damage).

Use of Premises

5. To allow the Tenant to use and occupy the Premises without unreasonable interference by the Landlord or their Agent.

Rates and Taxes

6. To pay council, water and sewerage rates, land tax and other levies promptly.

Lease copy

7. To provide the Tenant within one (1) month after:
 - a notice of mortgage consent, if required;
 - b execution of the lease; and
 - c stamping, if applicable
 with a copy of the lease.

Tax Invoices and Receipts

8. To issue rent receipts and tax invoices (where applicable) showing the Tenant's name, the address of the Premises, the ABN of the parties, the amount received, the date of payment and the period for which the payment was made, and other such requirements as determined by the Australian Taxation Office.

THE TENANT AGREES**Rent**

9. To pay the rent promptly and in advance and in the manner that the Landlord may direct from time to time.

Consents

10. To obtain at their own expense all necessary consents that may be required from local government or other authorities to carry on their proposed business at the Premises (being the use and/or fit-out for which the Premises are leased).

Charges

11. To pay all charges for gas, electricity and telephone and any water, garbage or sanitary rates or charges relating to the Tenant's use of the Premises.

Care of Premises

12. To take care of the Premises and to keep them in a clean condition and in particular:
 - a To make no alterations or additions to the Premises, including the erection of any sign or antenna, without the prior written consent of the Landlord.
 - b To do no decorating that involves marking, defacing or painting any part of the Premises without the prior written consent of the Landlord.
 - c To put nothing down any sink, toilet or drain likely to cause obstruction or damage.
 - d To keep no animals or birds on the Premises without the prior written consent of the Landlord.
 - e To ensure that rubbish is not accumulated on the Premises and to cause all trade refuse to be removed regularly and in a manner acceptable to the Landlord.
 - f To ensure that nothing is done that might prejudice any insurance policy which the Landlord has in relation to the Premises.
 - g To notify the Landlord promptly of any loss, damage or defect in the Premises.
 - h To notify the Landlord promptly of any infectious disease or the presence of rats, cockroaches or similar pests.

Permitted Use and Occupation

13. a To use the Premises for the purpose stated on the front page of this lease and not for any other purpose.
- b Not to sleep or permit anyone to sleep on the Premises unless the Premises or a portion of the Premises is zoned for residential use.

Rules and Regulations

14. To ensure that they, their employees, licensees and agents observe, obey and perform the rules and regulations forming part of this lease and such further rules and regulations as the Landlord may from time to time make and communicate to the Tenant (not being inconsistent with this lease) for the safety, care and cleanliness of the Premises and the building.

Insurance

15. a To do nothing in the building or keep anything therein that would increase the insurance premium payable by the Landlord in relation to the building except with the prior written consent of the Landlord.
- b To do nothing which would make any insurance policy void.

- c To insure all external fixed glass and window frames for which the Tenant is responsible.
- d To pay any insurance premiums payable by the Landlord increased as a result of the Tenant's actions.
- e To insure for public risk covering liability in respect of bodily injury, property damage, product liability and contractual liability arising from the occupation and use of the Premises by the Tenant for the minimum amount as noted on the front page of the lease.

Indemnity

16. a To compensate and meet all claims of:
- i the Landlord for the loss of or damage to part or whole of the Premises,
 - ii any person for the loss of or damage to their personal property,
 - iii any person for personal injury or death, as a result of any accident or neglect or a deliberate or careless act on the Premises or a breach of any conditions of the lease by the Tenant, their employees or agents or any person present on the Premises with the consent of the Tenant, their employees or agents.
- b In such circumstances, the Tenant shall meet all claims whether they are made directly against them or against the Landlord. Any resultant repairs to the Premises or to any other parts of the building shall be carried out at the expense of the Tenant by a builder or tradesperson approved by the Landlord.

Outgoings

17. a To reimburse the Landlord immediately, when requested, for the Tenant's percentage of outgoings noted on the front page of this lease for all local government rates, water, garbage and sewerage rates, land tax, insurance premiums, waste disposal costs, car park levies and such other outgoings as specified in the lessors disclosure statement. Land tax shall be calculated on the basis that the land on which the building is situated was the only land owned by the Landlord.

OR

17. b To reimburse the Landlord immediately, when requested, for the agreed percentage of all increases in local government rates, water, garbage and sewerage rates, land tax, insurance premiums, waste disposal costs, car park levies and such other outgoings as specified in the lessors disclosure statement above the level at 30 June immediately preceding the commencement of the lease. Land tax shall be calculated on the basis that the land on which the building is situated was the only land owned by the Landlord.

Disclosure

18. a That they received and read and obtained their own independent legal and financial and other advice on all of the disclosure materials as required by the *Retail Leases Act 1994* (NSW) such as a draft lease, the lessor's disclosure statement and the retail tenancy guide before entering into the lease.
- b That they have provided a lessees disclosure statement as required by the *Retail Leases Act 1994* (NSW).

BOTH PARTIES AGREE THAT**Unforeseen event**

19. If something happens to the Premises so that the whole or a substantial part can no longer be occupied and the parties are in no way responsible, then either party shall have the right to terminate the lease on the giving of seven (7) days notice in writing.

Inspections

20. The Landlord or Agent shall inspect the Premises at the commencement of the lease and on its termination and take note of the condition of the Premises including the state of cleanliness, state of repair and working order of appliances.

Repairs

21. a The Tenant shall have repaired in a proper manner any damage to the Premises resulting from neglect or a deliberate or careless act or a breach of any condition of the lease by the Tenant or any person on the Premises with their consent.
- b Except as in Clause 21a, the Landlord shall carry out without delay all reasonable repairs necessary for the Tenant's ordinary use and occupation of the Premises, having regard to the condition of the Premises at the commencement of the lease and having regard for fair wear and tear.

Access

22. a The Landlord shall respect the Tenant's right to privacy.
- b The Tenant shall allow access to the Landlord or Agent:
- i when it is reasonable that they or either of them should view the condition of the Premises or to carry out repairs.
 - ii to erect "to let" signs in accordance with the *Retail Leases Act 1994* (NSW) and to show the Premises to prospective tenants after notice terminating the lease has been given; or
 - iii to erect "for sale" signs and to show the Premises to prospective purchasers after the Landlord has given reasonable notice to the Tenant of their intention to sell.
- c The Landlord shall give the Tenant reasonable notice of the time and date for such access. As far as possible it shall be convenient for both parties.
- d The Landlord or Agent may have access to the Premises at any time on reasonable notice to the Tenant or without notice in the case of an emergency or to carry out urgent repairs.

Costs

23. a Each party shall pay their own legal costs in relation to the preparation of this lease.
- b The Tenant shall pay all reasonable costs in connection with making an amendment to this lease that was requested by the Tenant other than:
- i an amendment to insert or vary particulars of the Tenant, the rent or the term; or
 - ii an amendment to remedy a failure by or on behalf of the Landlord to include or omit a term of this lease that was, at the time of the failure to include or omit, agreed between the Landlord and the Tenant to be included in or omitted from the lease; or
 - iii an amendment requested before the Landlord was given a lessee's disclosure statement.
- c The Tenant shall pay the registration fees payable (if any) in connection with this lease.

- d The Landlord shall provide the Tenant with a copy of any account presented to the Landlord in respect of any costs referred to in Clause 23b.
- e The Landlord shall pay any mortgagee consent fees in connection with this lease.

GST

24. Any amounts, including rent and outgoings, referred to in this lease which are payable by the Tenant to the Landlord, or on behalf of the Landlord, under this lease, are expressed inclusive of the Goods and Service Tax ("GST"), (if any), at the rate of 10% (the current rate). If the current rate is increased or decreased, the parties agree that any amounts referred to in this lease will be varied accordingly.

Statutes

25. Each party shall observe as applicable to themselves all relevant statutes, statutory regulations and by-laws relating to work, health, safety, noise and other standards with respect to the Premises.

Notices

26. Any written notice required or authorised by the lease:
- Shall be served on the Tenant personally or by pre-paid post or by facsimile transmission to the Premises or by being left there in the post box, if any, at the address.
 - Shall be served on the Landlord or Agent personally or by prepaid post or by facsimile transmission to their address as shown in the lease or as notified in writing.
 - Shall be deemed to be served on the second business day after posting where it has been sent by pre-paid post.
 - May take effect on any day of the month if it relates to the termination of a periodic lease provided it gives the required length of notice.
 - Shall be served on either party to the email address of the addressee or such other email address notified as being the email address to use.
 - An email will be deemed to have been served if:
 - where an email is sent during the period between 8:00am to 6:00pm on a business day, upon the return of a receipt which confirms successful transmission of the email to the email address of the recipient or, where no return receipt is produced by the recipient's email system, by the end of 6:00pm on the day the email was sent; or
 - where the email is sent after 6:00pm on a business day or on a non-business day, the email will be deemed to be received at 8:00am on the next business day.

Mitigation

27. Where there has been a breach of any of the conditions of the lease by either party, the other party shall take all reasonable steps to minimise any resultant loss or damage.

Disputes

28. In any dispute or proceeding between the parties, both shall act reasonably and without delay and make all admissions necessary to enable the real issues to be decided.

Payment after Notice

29. a After a notice terminating the lease or demanding possession has been given, any acceptance of or demand for rent or money by the Landlord shall not of itself be evidence of a new lease with the Tenant nor alter the legal effect of the notice.
- b Where the Tenant unlawfully remains in possession after the termination of the lease, the Landlord shall be entitled, in addition to any other claim, to payment equal to the rent as compensation for the Tenant's use and occupation of the Premises.

Renewal

30. The Tenant shall give the Landlord or the Agent not more than six (6) months and not less than (3) months prior to the expiration of the term granted in this lease notice in writing if they wish to take a renewal of the lease for the further term offered. Provided the Tenant has duly and punctually paid the rent and shall have duly performed and observed on their part all the conditions and agreements contained in this lease up to the expiration of the term granted, then the Landlord will grant to the Tenant the further term at the current market rent notified in writing by the Landlord. If the parties do not agree as to the current market rent then the rent is to be determined in accordance with Clause 36a ii.

Expiry of Term

31. a Not less than six (6) months and not more than twelve (12) months before the expiry of the lease term the Landlord shall by written notification to the Tenant either:
- offer the Tenant a renewal or extension of the lease on terms specified in the notification; or
 - inform the Tenant that the Landlord does not propose to offer a renewal or extension of the lease.
- b A notification to the Tenant in accordance with Clause 31a.i. shall include terms as to rent and may specify that the Landlord intends to allow the Tenant to remain in possession as a periodic tenant under the holding over provisions of the lease.
- c In the event that the lease is for a term of twelve (12) months or less, the periods of twelve (12) and six (6) months referred to in Clause 31a are shortened to six (6) and three (3) months respectively.

Termination

32. a Upon the expiry of the lease term or where the lease has become a periodic lease from month to month, either party may terminate it by giving one (1) month's written notice to the other party.
- b The Landlord shall have the right to re-enter the Premises peacefully or to continue the lease as a periodic lease from week to week;
- where the Tenant has failed to pay rent for a period in excess of fourteen (14) days, whether formally demanded or not;
 - where the Tenant has seriously or persistently breached any of the conditions of the lease; or
 - upon the Tenant and/or Guarantor being declared bankrupt or insolvent according to law or making any assignment for the benefit of creditors or taking the benefit of any Act now or hereafter to be in force for the relief of bankrupts or insolvents.

- c Section 85(1)(d) of the Conveyancing Act 1919 as amended is hereby varied accordingly.
- d If the Landlord intends to exercise their right to continue the lease as a periodic lease from week to week, they shall serve the Tenant with a written notice stating the reason and informing the Tenant of the variation to the lease. Upon service of the notice, the lease shall continue with all its conditions, except for the term and holding over conditions, as a periodic lease from week to week which may be terminated by seven (7) days' written notice from either party.
- e The Landlord shall have the right to re-enter the Premises without giving notice if there are reasonable grounds to believe the Premises have been abandoned.
- f The Tenant shall have the right to terminate the lease if the Landlord has seriously or persistently breached any of its conditions. The Tenant shall give the Landlord written notice of a reasonable period, of no less than fourteen (14) days indicating at the same time the nature of the breach.
- g Any action by the Landlord or the Tenant in accordance with Clauses 32b, d, e, or f, shall not affect any claim for damages in respect of a breach of a condition of the lease.
- h Upon the termination or expiry of the lease the Tenant must remove their own fixtures and shall remove their signs provided that any damage or defacement occasioned to any part of the Premises in the course of such removal shall be remedied by the Tenant immediately or, if they fail to do so, by the Landlord at the Tenant's expense.
- i Upon the termination or expiry of the lease for any reason the Tenant shall promptly and peacefully give the Landlord vacant possession of the Premises in the condition and state of repair required by Clauses 12 and 21a of the lease and shall, at the same time, hand over all keys.

Sub-leasing, etc

33. The Landlord may, at their absolute discretion refuse consent to:

- a the grant of any sub-lease, licence or concession;
- b the Tenant parting with possession; or
- c the Tenant mortgaging or otherwise encumbering the Tenant's estate or interest in the lease.

Assignment

34. a The Tenant shall not assign their interest in the whole or any part of the Premises without the written consent of the Landlord.
- b The Landlord shall not withhold consent to any assignment unless:
- i the proposed assignee proposes to change the use to which the Premises are put;
 - ii the proposed assignee has financial resources or retailing skills that are inferior to those of the Tenant; or
 - iii the Tenant has not complied with Section 41 of the *Retail Leases Act 1994* (NSW); or
 - iv in the case of a retail shop lease awarded by public tender, the proposed assignee fails to meet any criteria of the tender.
- c The Tenant shall pay the Landlord all reasonable legal or other expenses incurred in connection with giving consent to the proposed assignment.

Guarantor

35. In consideration of the Landlord leasing the premises to the Tenant in accordance with this lease, the Guarantors for themselves and each of them and each of their executors and administrators by their execution of this lease unconditionally agree that they and each of them, together with the Tenant, will be jointly and severally liable to the Landlord for the payment of rent and all other monies payable by the Tenant and also for the due performance and observance of all the terms and conditions on the part of the Tenant contained or implied in the lease. It is further expressly agreed and declared that the Landlord may grant to the Tenant any time or indulgence and may compound or compromise or release the Tenant without releasing or affecting the liability of the Guarantors.

Rent Review (tick appropriate box - if no choice is selected, Clause 36b i is deemed to be selected)

36. a i The rent payable by the Tenant shall be reviewed within sixty (60) days after the expiration of each period of twelve (12) months during the term and either party may notify the other party in writing that the rent is to be varied to an amount representing the current market rent of the Premises.
- ii If the parties do not agree as to current market rent, the rent is to be determined by valuation carried out by a specialist retail valuer pursuant to the *Retail Leases Act 1994* (NSW) appointed by agreement between the parties or, failing such agreement, by a specialist retail valuer appointed by the Registrar of the Retail Tenancy Disputes pursuant to the *Retail Leases Act 1994* (NSW).

OR

36. b i The rent payable by the Tenant shall be reviewed on the basis that the Landlord shall be entitled by serving on the Tenant written notice to that effect during a review period the rent to be revised. "Review period" means each twelve (12) month anniversary of the date of commencement of the term and expiring on the subject anniversary.
- ii The revised rent shall be determined in accordance with the following formula: $\$A = B \times C/D$ where
- A = the revised rent;
- B = the rent payable in the twelve (12) month period immediately preceding the expiration of the relevant review period,
- C = the Consumer Price Index (Sydney All Groups) last published immediately prior to the expiration of the relevant review period; and
- D = the Consumer Price Index (Sydney All Groups) last published twelve (12) months prior to the expiration of the relevant review period.

OR

36. c The rent payable by the Tenant shall be adjusted by the monetary or percentage amount and on the dates as specified in the Special Conditions to the lease.

Security

37. a As security for the performance and observance by the Tenant of the terms and conditions of the lease, the Tenant shall on or before the commencement of the term obtain and maintain at their own expense and furnish to the Landlord a continuing guarantee or bond from a bank licensed to carry on banking business in Australia and approved by the Landlord whereby the Bank agrees that it will pay to the Landlord an amount not exceeding the sum noted or calculated on the front page of the lease. The guarantee or bond must be in favour of the Landlord and noted to cover "all the Tenant's obligations under the Lease".

OR

37. b As security for the performance and observance by the Tenant of the terms and conditions of the lease, the Tenant shall pay to the Landlord a security deposit in the amount noted on the front page of the lease which shall be paid to the Secretary of NSW Treasury to be held in accordance with the *Retail Leases Act 1994* (NSW).

Relocation

38. If the Landlord wants to refurbish, redevelop or extend the building or any part thereof and requires the leased Premises or any part thereof then the Landlord may give the Tenant a relocation notice in accordance with the *Retail Leases Act 1994* (NSW). The Tenant acknowledges that the Landlord has the right to relocate the Tenant at any time throughout the term provided the Landlord complies with all and any requirements of the *Retail Leases Act 1994* (NSW) and at law.

Demolition

39. If the Landlord wants to demolish, substantially repair, renovate or reconstruct the building or any part thereof which contains the leased Premises and which cannot be carried out practicably without vacant possession of the Premises, then the Landlord may do so provided the Landlord gives the Tenant sufficient details and notice in accordance with the *Retail Leases Act 1994* (NSW) and at law. The Tenant acknowledges the Landlord has the right to terminate the lease for any or all of these events provided the Landlord complies with the requirements of the *Retail Leases Act 1994* (NSW) and at law.

Strata Title Conversion

40. The Landlord may register a strata plan insofar as the same relates to the building or any part of it. The Landlord will if required by law request the consent of the Tenant to the registration of the strata plan such consent must not be unreasonably withheld by the Tenant and if requested the Tenant will provide their written consent to the strata plan to the Land and Property Information or any other government authority. After registration of the strata plan the Tenant will comply with any by-laws which are not inconsistent with the terms of this lease.

Interpretation

41. a "Agent" in context with "Landlord" includes the Landlord's estate agent or managing agent and any other person authorised to act on behalf of the Landlord.
- b "Landlord" includes the heirs, executors, administrators and assigns of the Landlord, and where the context permits, includes the Landlord's Agent.
- c "Tenant" includes the executors, administrators and permitted assigns of the Tenant.
- d "Fixtures" includes fittings, furnishings, furniture, appliances, plant, machinery and equipment.
- e "Month" means calendar month.
- f "Term" means the term of this lease.
- g Where the context permits, words expressed in the singular include the plural and vice versa and words referred to a person include a company.
- h Where two or more Tenants or Landlords are parties, the terms and conditions of the lease shall bind them jointly and severally.
- i When this lease is signed by both parties and witnessed, it shall operate as a deed at law from that time.
- j Headings in bold have been inserted to assist the parties but do not form a legal part of the lease.

Personal Property Securities Act 2009 (Cth)

42. a In this clause words and expressions that are not defined in this lease but which have a defined meaning in the Personal Property Securities Act 2009 (Cth) have the same meaning as in the Personal Property Securities Act 2009 (Cth).
- b The Tenant:
- i charges its interest in the Tenant's Personal Property in favour of the Landlord, as security for the performance of the Tenant's obligations under this lease;
 - ii acknowledges and agrees that the charge granted by the Tenant under sub-clause (i) above constitutes the grant of a Security Interest which the Landlord is entitled to register; and
 - iii must do all things required by the Landlord from time to time (including signing any documents required by the Landlord) to enable the Landlord to register its Security Interest in the Tenant's Personal Property.
- c On default by the Tenant under this lease the Landlord may take possession of any item of the Tenant's Personal Property, dispose of that item and apply the proceeds of the disposal less the cost of the disposal to pay any money owed to the Landlord under this lease.
- d The Tenant:
- i warrants that it has not granted a Security Interest in the Tenant's Personal Property on or prior to execution of this lease;
 - ii must not create a Security Interest in respect of any Tenant's Personal Property in favour of any person other than the Landlord without the Landlord's prior written consent, which consent may be granted or withheld in the Landlord's absolute discretion; and
 - iii must not create a Security Interest in any Leased Personal Property.
- e The Tenant acknowledges and agrees that:
- i it has no right and waives any entitlement under the Personal Property Securities Act 2009 (Cth) to receive a copy of any verification statement or financing change statement from the Landlord; and
 - ii at the end of the lease, the Tenant must sign (and procure any holder of a registered Security Interest to sign) any document that the Landlord considers necessary or desirable under or as a result of the Personal Property Securities Act 2009 (Cth) to discharge any registered Security Interests in the Leased Personal Property or the Tenant's Personal Property.

SPECIAL CONDITIONS

Special conditions forming part of this lease are to be signed by both parties and attached.

As duly authorised
 Agent for the
 Lessor

Raine & Horne

We hereby enter into this lease and agree to all its conditions.

SIGNED BY THE LANDLORD

in the presence of: Sinead Bolloom
Name of Witness

[Signature]
Signature of Landlord

[Signature]
Signature of Witness

SIGNED BY THE TENANT

in the presence of: Suzanne Gregory
Name of Witness

[Signature]
Signature of Tenant

[Signature]
Signature of Witness

SIGNED BY THE GUARANTOR

in the presence of: _____
Name of Witness

Signature of Guarantor

Signature of Witness

| | |
|---|---|
| <p>THE COMMON SEAL of</p> <p>was hereunto affixed by the authority of the the Board of Directors and in the presence of:</p> <p>_____ <small>Secretary</small></p> | <p>THE COMMON SEAL of</p> <p>was hereunto affixed by the authority of the the Board of Directors and in the presence of:</p> <p>_____ <small>Secretary</small></p> |
|---|---|

Raine & Horne ▼
 Umina Beach
 338 West Street
 Umina Beach NSW 2257
(02) 4343 1788

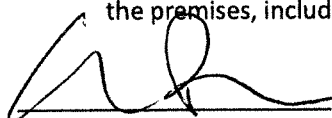
ADDITIONAL NOTICES TO ATTACHED LEASE AGREEMENT –

- (a) A notice or other communication is taken to have been given to the landlord only where that notice contains a request that the landlord acknowledges receipt of that notice by signing a copy of the notice and returning it to the tenant and;
- (b) The tenant is in receipt of the copy of that notice, duly executed by the landlord in accordance with clause (a) above.

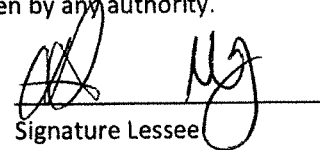
ADDITIONAL SPECIAL CONDITIONS TO BE INCLUDED IN LEASE AGREEMENT -

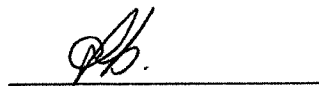
- 1. The tenant acknowledges that the landlord is not responsible for insuring the tenant's belongings. It is the sole responsibility of the tenant to insure their own goods against damage or loss;
- 2. Insurances by Lessee to include: Ten million dollars minimum public liability insurance and full Plate glass insurance;
- 3. The tenant must maintain the amenities in clean condition and existing order;
- 4. Any fit out of premises, e.g. additional lighting fixture and/or fittings, phone and internet connections, plumbing connections, if so required are to be done by the Lessee at their own expense and with consent from the lessor;
- 5. Any works on site to be completed by contractors who are fully insured and appropriately qualified to do the works;
- 6. At termination of lease, and at the Lessor's direction, the listed improvements to become either the property of the Lessor or be removed from the Premises by the Lessee at the cost of the Lessee and the property made good.
- 7. Tenant must not store any items outside of the premises or in the common areas;
- 8. Tenant must pay interest to the landlord on any monies which the tenant has not paid to the landlord within 14 days from the due date. Interest will be at the rate charged at 10% daily at the time the monies were due.
- 9. Fixed Rent Increases -
 - a) 3% increase due on the 23rd August 2023
- 10. Security Deposit: \$1,500 to be lodged with the Rental Bond Board

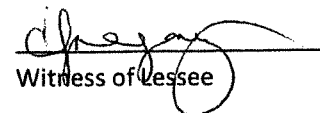
Lessee to comply with all laws and legal requirements concerning the use and occupation of the premises, including any notices or orders which may be given by any authority.


Signature Lessor/Agent

As duly authorised
Agent for the
Lessor


Signature Lessee


Witness Lessor/Agent


Witness of Lessee

Dated: 24/8/22

Raine & Horne 
Umira Beach
338 West Street
Umira Beach NSW 2257
(02) 4343 1788

ISSUED BY



REINSW RETAIL LEASE

Note: Suitable for shops and other retail premises subject to the *Retail Leases Act 1994* (NSW) where the term of Lease (including the period of any option) does not exceed three years.

This Lease is made in duplicate on 25 / 05 / 2023

at 338 West Street Umina Beach in the State of New South Wales.

PARTIES

| | | |
|--|-----------------|----------|
| Between OVD Developments Pty Ltd | ABN 657485295 | Landlord |
| (Name, address and ABN) | | |
| C/- AGENT | | |
| whose agent is Raine & Horne Umina Beach | ABN 65003356670 | Agent |
| (Name, business address and ABN) | | |
| 338 West Street Umina Beach | | |
| and Hatters Tea House | ABN 63114555092 | Tenant |
| (Name, business address and ABN) | | |
| Bela Nagy | | |
| (Name, business address and ABN) | | |

GST REGISTRATION

The Landlord is registered for GST. Yes No

The Tenant is registered for GST. Yes No

PREMISES

The Landlord leases the premises known as 281 Ocean View Road Ettalong Beach NSW 2257

(the Premises) including all fixtures, fittings and equipment listed in the lessors disclosure statement provided by the Landlord to the Tenant.

PERMITTED USE

The Premises shall be used only as cafe *Atteggent*

RENT

Except as otherwise provided the rent shall be \$ 3,200.00 (incl GST)

per calendar month commencing on 1 / 06 / 2023

and payable in advance by the Tenant on the 1st day of every month

to the Landlord/Agent at the above address or at any other reasonable place as the Landlord/Agent notifies in writing.

SECURITY BOND / DEPOSIT (tick applicable box)

One months rent as referred to in Clause 37a OR 37b

TERM

The term of the lease shall be 3 months commencing on 01 / 06 / 2023 and ending on 30 / 09 / 2023

OPTION

Subject to Clause 30 of this lease the Landlord/Agent offers a renewal of this lease for a further term of nil years.

HOLDING OVER

Unless either party gives the other written notice of termination in accordance with Clause 32a, the lease shall continue as a periodic lease from month to month at the same rent or at a rent to which both parties agree.

OUTGOINGS (tick applicable box)

The Tenant's percentage of outgoings to be paid in accordance with Clause 17a is %

OR The Tenant's percentage of any increases in outgoings to be paid in accordance with Clause 17b is %

INSURANCE

The amount of cover for public liability referred to in Clause 15e is \$ 20,000,000.00 + plate glass insurance

CONDITIONS

The parties agree to the conditions set out above and on the following pages and also to those conditions implied by Sections 84 and 85 of the Conveyancing Act 1919 which are not expressly negated or modified by this lease.

NOTE It is advisable for the Tenant to insure the Tenant's own property

THE LANDLORD AGREES**Possession**

1. To give possession of the Premises to the Tenant on the day on which the term of the lease commences.

Condition of Premises

2. To ensure that the Premises are in a reasonably fit condition for use at the commencement of the lease.

Security

3. To ensure that all external doors and windows contain locks and catches in working order at the commencement of the lease.

Insurance

4. To insure the Premises against damage arising from fire, lightning and explosion and other hazards (including earthquake, storm and tempest, water damage, impact, aircraft, riots/civil commotions and malicious damage).

Use of Premises

5. To allow the Tenant to use and occupy the Premises without unreasonable interference by the Landlord or their Agent.

Rates and Taxes

6. To pay council, water and sewerage rates, land tax and other levies promptly.

Lease copy

7. To provide the Tenant within one (1) month after:
 - a notice of mortgage consent, if required;
 - b execution of the lease; and
 - c stamping, if applicable

with a copy of the lease.

Tax Invoices and Receipts

8. To issue rent receipts and tax invoices (where applicable) showing the Tenant's name, the address of the Premises, the ABN of the parties, the amount received, the date of payment and the period for which the payment was made, and other such requirements as determined by the Australian Taxation Office.

THE TENANT AGREES**Rent**

9. To pay the rent promptly and in advance and in the manner that the Landlord may direct from time to time.

Consents

10. To obtain at their own expense all necessary consents that may be required from local government or other authorities to carry on their proposed business at the Premises (being the use and/or fit-out for which the Premises are leased).

Charges

11. To pay all charges for gas, electricity and telephone and any water, garbage or sanitary rates or charges relating to the Tenant's use of the Premises.

Care of Premises

12. To take care of the Premises and to keep them in a clean condition and in particular:
 - a To make no alterations or additions to the Premises, including the erection of any sign or antenna, without the prior written consent of the Landlord.
 - b To do no decorating that involves marking, defacing or painting any part of the Premises without the prior written consent of the Landlord.
 - c To put nothing down any sink, toilet or drain likely to cause obstruction or damage.
 - d To keep no animals or birds on the Premises without the prior written consent of the Landlord.
 - e To ensure that rubbish is not accumulated on the Premises and to cause all trade refuse to be removed regularly and in a manner acceptable to the Landlord.
 - f To ensure that nothing is done that might prejudice any insurance policy which the Landlord has in relation to the Premises.
 - g To notify the Landlord promptly of any loss, damage or defect in the Premises.
 - h To notify the Landlord promptly of any infectious disease or the presence of rats, cockroaches or similar pests.

Permitted Use and Occupation

13. a To use the Premises for the purpose stated on the front page of this lease and not for any other purpose.
- b Not to sleep or permit anyone to sleep on the Premises unless the Premises or a portion of the Premises is zoned for residential use.

Rules and Regulations

14. To ensure that they, their employees, licensees and agents observe, obey and perform the rules and regulations forming part of this lease and such further rules and regulations as the Landlord may from time to time make and communicate to the Tenant (not being inconsistent with this lease) for the safety, care and cleanliness of the Premises and the building.

Insurance

15. a To do nothing in the building or keep anything therein that would increase the insurance premium payable by the Landlord in relation to the building except with the prior written consent of the Landlord.
- b To do nothing which would make any insurance policy void.

- c To insure all external fixed glass and window frames for which the Tenant is responsible.
- d To pay any insurance premiums payable by the Landlord increased as a result of the Tenant's actions.
- e To insure for public risk covering liability in respect of bodily injury, property damage, product liability and contractual liability arising from the occupation and use of the Premises by the Tenant for the minimum amount as noted on the front page of the lease.

Indemnity

16. a To compensate and meet all claims of:
- i the Landlord for the loss of or damage to part or whole of the Premises,
 - ii any person for the loss of or damage to their personal property,
 - iii any person for personal injury or death, as a result of any accident or neglect or a deliberate or careless act on the Premises or a breach of any conditions of the lease by the Tenant, their employees or agents or any person present on the Premises with the consent of the Tenant, their employees or agents.
- b In such circumstances, the Tenant shall meet all claims whether they are made directly against them or against the Landlord. Any resultant repairs to the Premises or to any other parts of the building shall be carried out at the expense of the Tenant by a builder or tradesperson approved by the Landlord.

Outgoings

17. a To reimburse the Landlord immediately, when requested, for the Tenant's percentage of outgoings noted on the front page of this lease for all local government rates, water, garbage and sewerage rates, land tax, insurance premiums, waste disposal costs, car park levies and such other outgoings as specified in the lessors disclosure statement. Land tax shall be calculated on the basis that the land on which the building is situated was the only land owned by the Landlord.

OR

17. b To reimburse the Landlord immediately, when requested, for the agreed percentage of all increases in local government rates, water, garbage and sewerage rates, land tax, insurance premiums, waste disposal costs, car park levies and such other outgoings as specified in the lessors disclosure statement above the level at 30 June immediately preceding the commencement of the lease. Land tax shall be calculated on the basis that the land on which the building is situated was the only land owned by the Landlord.

Disclosure

18. a That they received and read and obtained their own independent legal and financial and other advice on all of the disclosure materials as required by the *Retail Leases Act 1994* (NSW) such as a draft lease, the lessor's disclosure statement and the retail tenancy guide before entering into the lease.
- b That they have provided a lessees disclosure statement as required by the *Retail Leases Act 1994* (NSW).

BOTH PARTIES AGREE THAT

Unforeseen event

19. If something happens to the Premises so that the whole or a substantial part can no longer be occupied and the parties are in no way responsible, then either party shall have the right to terminate the lease on the giving of seven (7) days notice in writing.

Inspections

20. The Landlord or Agent shall inspect the Premises at the commencement of the lease and on its termination and take note of the condition of the Premises including the state of cleanliness, state of repair and working order of appliances.

Repairs

21. a The Tenant shall have repaired in a proper manner any damage to the Premises resulting from neglect or a deliberate or careless act or a breach of any condition of the lease by the Tenant or any person on the Premises with their consent.
- b Except as in Clause 21a, the Landlord shall carry out without delay all reasonable repairs necessary for the Tenant's ordinary use and occupation of the Premises, having regard to the condition of the Premises at the commencement of the lease and having regard for fair wear and tear.

Access

22. a The Landlord shall respect the Tenant's right to privacy.
- b The Tenant shall allow access to the Landlord or Agent:
- i when it is reasonable that they or either of them should view the condition of the Premises or to carry out repairs.
 - ii to erect "to let" signs in accordance with the *Retail Leases Act 1994* (NSW) and to show the Premises to prospective tenants after notice terminating the lease has been given; or
 - iii to erect "for sale" signs and to show the Premises to prospective purchasers after the Landlord has given reasonable notice to the Tenant of their intention to sell.
- c The Landlord shall give the Tenant reasonable notice of the time and date for such access. As far as possible it shall be convenient for both parties.
- d The Landlord or Agent may have access to the Premises at any time on reasonable notice to the Tenant or without notice in the case of an emergency or to carry out urgent repairs.

Costs

23. a Each party shall pay their own legal costs in relation to the preparation of this lease.
- b The Tenant shall pay all reasonable costs in connection with making an amendment to this lease that was requested by the Tenant other than:
- i an amendment to insert or vary particulars of the Tenant, the rent or the term; or
 - ii an amendment to remedy a failure by or on behalf of the Landlord to include or omit a term of this lease that was, at the time of the failure to include or omit, agreed between the Landlord and the Tenant to be included in or omitted from the lease; or
 - iii an amendment requested before the Landlord was given a lessee's disclosure statement.
- c The Tenant shall pay the registration fees payable (if any) in connection with this lease.

- d The Landlord shall provide the Tenant with a copy of any account presented to the Landlord in respect of any costs referred to in Clause 23b.
- e The Landlord shall pay any mortgagee consent fees in connection with this lease.

GST

24. Any amounts, including rent and outgoings, referred to in this lease which are payable by the Tenant to the Landlord, or on behalf of the Landlord, under this lease, are expressed inclusive of the Goods and Service Tax ("GST"), (if any), at the rate of 10% (the current rate). If the current rate is increased or decreased, the parties agree that any amounts referred to in this lease will be varied accordingly.

Statutes

25. Each party shall observe as applicable to themselves all relevant statutes, statutory regulations and by-laws relating to work, health, safety, noise and other standards with respect to the Premises.

Notices

26. Any written notice required or authorised by the lease:
- a Shall be served on the Tenant personally or by pre-paid post or by facsimile transmission to the Premises or by being left there in the post box, if any, at the address.
 - b Shall be served on the Landlord or Agent personally or by prepaid post or by facsimile transmission to their address as shown in the lease or as notified in writing.
 - c Shall be deemed to be served on the second business day after posting where it has been sent by pre-paid post.
 - d May take effect on any day of the month if it relates to the termination of a periodic lease provided it gives the required length of notice.
 - e Shall be served on either party to the email address of the addressee or such other email address notified as being the email address to use.
 - f An email will be deemed to have been served if:
 - i where an email is sent during the period between 8:00am to 6:00pm on a business day, upon the return of a receipt which confirms successful transmission of the email to the email address of the recipient or, where no return receipt is produced by the recipient's email system, by the end of 6:00pm on the day the email was sent; or
 - ii where the email is sent after 6:00pm on a business day or on a non-business day, the email will be deemed to be received at 8:00am on the next business day.

Mitigation

27. Where there has been a breach of any of the conditions of the lease by either party, the other party shall take all reasonable steps to minimise any resultant loss or damage.

Disputes

28. In any dispute or proceeding between the parties, both shall act reasonably and without delay and make all admissions necessary to enable the real issues to be decided.

Payment after Notice

29. a After a notice terminating the lease or demanding possession has been given, any acceptance of or demand for rent or money by the Landlord shall not of itself be evidence of a new lease with the Tenant nor alter the legal effect of the notice.
- b Where the Tenant unlawfully remains in possession after the termination of the lease, the Landlord shall be entitled, in addition to any other claim, to payment equal to the rent as compensation for the Tenant's use and occupation of the Premises.

Renewal

30. The Tenant shall give the Landlord or the Agent not more than six (6) months and not less than (3) months prior to the expiration of the term granted in this lease notice in writing if they wish to take a renewal of the lease for the further term offered. Provided the Tenant has duly and punctually paid the rent and shall have duly performed and observed on their part all the conditions and agreements contained in this lease up to the expiration of the term granted, then the Landlord will grant to the Tenant the further term at the current market rent notified in writing by the Landlord. If the parties do not agree as to the current market rent then the rent is to be determined in accordance with Clause 36a ii.

Expiry of Term

31. a Not less than six (6) months and not more than twelve (12) months before the expiry of the lease term the Landlord shall by written notification to the Tenant either:
 - i offer the Tenant a renewal or extension of the lease on terms specified in the notification; or
 - ii inform the Tenant that the Landlord does not propose to offer a renewal or extension of the lease.
- b A notification to the Tenant in accordance with Clause 31a.i. shall include terms as to rent and may specify that the Landlord intends to allow the Tenant to remain in possession as a periodic tenant under the holding over provisions of the lease.
- c In the event that the lease is for a term of twelve (12) months or less, the periods of twelve (12) and six (6) months referred to in Clause 31a are shortened to six (6) and three (3) months respectively.

Termination

32. a Upon the expiry of the lease term or where the lease has become a periodic lease from month to month, either party may terminate it by giving one (1) month's written notice to the other party.
- b The Landlord shall have the right to re-enter the Premises peacefully or to continue the lease as a periodic lease from week to week;
 - i where the Tenant has failed to pay rent for a period in excess of fourteen (14) days, whether formally demanded or not;
 - ii where the Tenant has seriously or persistently breached any of the conditions of the lease; or
 - iii upon the Tenant and/or Guarantor being declared bankrupt or insolvent according to law or making any assignment for the benefit of creditors or taking the benefit of any Act now or hereafter to be in force for the relief of bankrupts or insolvents.

- c Section 85(1)(d) of the Conveyancing Act 1919 as amended is hereby varied accordingly.
- d If the Landlord intends to exercise their right to continue the lease as a periodic lease from week to week, they shall serve the Tenant with a written notice stating the reason and informing the Tenant of the variation to the lease. Upon service of the notice, the lease shall continue with all its conditions, except for the term and holding over conditions, as a periodic lease from week to week which may be terminated by seven (7) days' written notice from either party.
- e The Landlord shall have the right to re-enter the Premises without giving notice if there are reasonable grounds to believe the Premises have been abandoned.
- f The Tenant shall have the right to terminate the lease if the Landlord has seriously or persistently breached any of its conditions. The Tenant shall give the Landlord written notice of a reasonable period, of no less than fourteen (14) days indicating at the same time the nature of the breach.
- g Any action by the Landlord or the Tenant in accordance with Clauses 32b, d, e, or f, shall not affect any claim for damages in respect of a breach of a condition of the lease.
- h Upon the termination or expiry of the lease the Tenant must remove their own fixtures and shall remove their signs provided that any damage or defacement occasioned to any part of the Premises in the course of such removal shall be remedied by the Tenant immediately or, if they fail to do so, by the Landlord at the Tenant's expense.
- i Upon the termination or expiry of the lease for any reason the Tenant shall promptly and peacefully give the Landlord vacant possession of the Premises in the condition and state of repair required by Clauses 12 and 21a of the lease and shall, at the same time, hand over all keys.

Sub-leasing, etc

33. The Landlord may, at their absolute discretion refuse consent to:
- a the grant of any sub-lease, licence or concession;
 - b the Tenant parting with possession; or
 - c the Tenant mortgaging or otherwise encumbering the Tenant's estate or interest in the lease.

Assignment

34. a The Tenant shall not assign their interest in the whole or any part of the Premises without the written consent of the Landlord.
- b The Landlord shall not withhold consent to any assignment unless:
- i the proposed assignee proposes to change the use to which the Premises are put;
 - ii the proposed assignee has financial resources or retailing skills that are inferior to those of the Tenant; or
 - iii the Tenant has not complied with Section 41 of the *Retail Leases Act 1994* (NSW); or
 - iv in the case of a retail shop lease awarded by public tender, the proposed assignee fails to meet any criteria of the tender.
- c The Tenant shall pay the Landlord all reasonable legal or other expenses incurred in connection with giving consent to the proposed assignment.

Guarantor

35. In consideration of the Landlord leasing the premises to the Tenant in accordance with this lease, the Guarantors for themselves and each of them and each of their executors and administrators by their execution of this lease unconditionally agree that they and each of them, together with the Tenant, will be jointly and severally liable to the Landlord for the payment of rent and all other monies payable by the Tenant and also for the due performance and observance of all the terms and conditions on the part of the Tenant contained or implied in the lease. It is further expressly agreed and declared that the Landlord may grant to the Tenant any time or indulgence and may compound or compromise or release the Tenant without releasing or affecting the liability of the Guarantors.

Rent Review (tick appropriate box - if no choice is selected, Clause 36b i is deemed to be selected)

36. a i The rent payable by the Tenant shall be reviewed within sixty (60) days after the expiration of each period of twelve (12) months during the term and either party may notify the other party in writing that the rent is to be varied to an amount representing the current market rent of the Premises.
- ii If the parties do not agree as to current market rent, the rent is to be determined by valuation carried out by a specialist retail valuer pursuant to the *Retail Leases Act 1994* (NSW) appointed by agreement between the parties or, failing such agreement, by a specialist retail valuer appointed by the Registrar of the Retail Tenancy Disputes pursuant to the *Retail Leases Act 1994* (NSW).

OR

36. b i The rent payable by the Tenant shall be reviewed on the basis that the Landlord shall be entitled by serving on the Tenant written notice to that effect during a review period the rent to be revised. "Review period" means each twelve (12) month anniversary of the date of commencement of the term and expiring on the subject anniversary.
- ii The revised rent shall be determined in accordance with the following formula: $\$A = B \times C/D$ where
- A = the revised rent;
 - B = the rent payable in the twelve (12) month period immediately preceding the expiration of the relevant review period,
 - C = the Consumer Price Index (Sydney All Groups) last published immediately prior to the expiration of the relevant review period; and
 - D = the Consumer Price Index (Sydney All Groups) last published twelve (12) months prior to the expiration of the relevant review period.

OR

36. c The rent payable by the Tenant shall be adjusted by the monetary or percentage amount and on the dates as specified in the Special Conditions to the lease.

Security

37. a As security for the performance and observance by the Tenant of the terms and conditions of the lease, the Tenant shall on or before the commencement of the term obtain and maintain at their own expense and furnish to the Landlord a continuing guarantee or bond from a bank licensed to carry on banking business in Australia and approved by the Landlord whereby the Bank agrees that it will pay to the Landlord an amount not exceeding the sum noted or calculated on the front page of the lease. The guarantee or bond must be in favour of the Landlord and noted to cover "all the Tenant's obligations under the Lease".

OR

37. b As security for the performance and observance by the Tenant of the terms and conditions of the lease, the Tenant shall pay to the Landlord a security deposit in the amount noted on the front page of the lease which shall be paid to the Secretary of NSW Treasury to be held in accordance with the *Retail Leases Act 1994* (NSW).

Relocation

38. If the Landlord wants to refurbish, redevelop or extend the building or any part thereof and requires the leased Premises or any part thereof then the Landlord may give the Tenant a relocation notice in accordance with the *Retail Leases Act 1994* (NSW). The Tenant acknowledges that the Landlord has the right to relocate the Tenant at any time throughout the term provided the Landlord complies with all and any requirements of the *Retail Leases Act 1994* (NSW) and at law.

Demolition

39. If the Landlord wants to demolish, substantially repair, renovate or reconstruct the building or any part thereof which contains the leased Premises and which cannot be carried out practicably without vacant possession of the Premises, then the Landlord may do so provided the Landlord gives the Tenant sufficient details and notice in accordance with the *Retail Leases Act 1994* (NSW) and at law. The Tenant acknowledges the Landlord has the right to terminate the lease for any or all of these events provided the Landlord complies with the requirements of the *Retail Leases Act 1994* (NSW) and at law.

Strata Title Conversion

40. The Landlord may register a strata plan insofar as the same relates to the building or any part of it. The Landlord will if required by law request the consent of the Tenant to the registration of the strata plan such consent must not be unreasonably withheld by the Tenant and if requested the Tenant will provide their written consent to the strata plan to the Land and Property Information or any other government authority. After registration of the strata plan the Tenant will comply with any by-laws which are not inconsistent with the terms of this lease.

Interpretation

41. a "Agent" in context with "Landlord" includes the Landlord's estate agent or managing agent and any other person authorised to act on behalf of the Landlord.
- b "Landlord" includes the heirs, executors, administrators and assigns of the Landlord, and where the context permits, includes the Landlord's Agent.
- c "Tenant" includes the executors, administrators and permitted assigns of the Tenant.
- d "Fixtures" includes fittings, furnishings, furniture, appliances, plant, machinery and equipment.
- e "Month" means calendar month.
- f "Term" means the term of this lease.
- g Where the context permits, words expressed in the singular include the plural and vice versa and words referred to a person include a company.
- h Where two or more Tenants or Landlords are parties, the terms and conditions of the lease shall bind them jointly and severally.
- i When this lease is signed by both parties and witnessed, it shall operate as a deed at law from that time.
- j Headings in bold have been inserted to assist the parties but do not form a legal part of the lease.

Personal Property Securities Act 2009 (Cth)

42. a In this clause words and expressions that are not defined in this lease but which have a defined meaning in the Personal Property Securities Act 2009 (Cth) have the same meaning as in the Personal Property Securities Act 2009 (Cth).
- b The Tenant:
- i charges its interest in the Tenant's Personal Property in favour of the Landlord, as security for the performance of the Tenant's obligations under this lease;
 - ii acknowledges and agrees that the charge granted by the Tenant under sub-clause (i) above constitutes the grant of a Security Interest which the Landlord is entitled to register; and
 - iii must do all things required by the Landlord from time to time (including signing any documents required by the Landlord) to enable the Landlord to register its Security Interest in the Tenant's Personal Property.
- c On default by the Tenant under this lease the Landlord may take possession of any item of the Tenant's Personal Property, dispose of that item and apply the proceeds of the disposal less the cost of the disposal to pay any money owed to the Landlord under this lease.
- d The Tenant:
- i warrants that it has not granted a Security Interest in the Tenant's Personal Property on or prior to execution of this lease;
 - ii must not create a Security Interest in respect of any Tenant's Personal Property in favour of any person other than the Landlord without the Landlord's prior written consent, which consent may be granted or withheld in the Landlord's absolute discretion; and
 - iii must not create a Security Interest in any Leased Personal Property.
- e The Tenant acknowledges and agrees that:
- i it has no right and waives any entitlement under the Personal Property Securities Act 2009 (Cth) to receive a copy of any verification statement or financing change statement from the Landlord; and
 - ii at the end of the lease, the Tenant must sign (and procure any holder of a registered Security Interest to sign) any document that the Landlord considers necessary or desirable under or as a result of the Personal Property Securities Act 2009 (Cth) to discharge any registered Security Interests in the Leased Personal Property or the Tenant's Personal Property.

SPECIAL CONDITIONS

Special conditions forming part of this lease are to be signed by both parties and attached.

We hereby enter into this lease and agree to all its conditions.

SIGNED BY THE LANDLORD

in the presence of: Leatesha Kong
Name of Witness

[Signature]
Signature of Landlord

[Signature]
Signature of Witness

SIGNED BY THE TENANT

in the presence of: Leatesha Kong
Name of Witness

[Signature]
Signature of Tenant

[Signature]
Signature of Witness

SIGNED BY THE GUARANTOR

in the presence of: _____
Name of Witness

Signature of Guarantor

Signature of Witness

| | |
|--|--|
| <p>THE COMMON SEAL of</p> <p>was hereunto affixed by the authority of the the Board of Directors and in the presence of:</p> <p>_____ Secretary</p> | <p>THE COMMON SEAL of</p> <p>was hereunto affixed by the authority of the the Board of Directors and in the presence of:</p> <p>_____ Secretary</p> |
|--|--|