

Contract for Houses and Residential Land

Thirteenth Edition

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

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

REFERENCE SCHEDULE

Contract Date: _____

SELLER'S AGENT

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

SELLER

NAME:	HARRIDAN PTY LTD ACN 010 335 458		ABN:	
ADDRESS:	20-26 BURCHILL STREET			
SUBURB:	LOGANHOLME	STATE:	QLD	POSTCODE: 4129
PHONE:	MOBILE:	FAX:	EMAIL:	

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

SELLER'S SOLICITOR

■ or any other solicitor notified to the Buyer

NAME:	MULLINS LAWYERS			
REF:	CONTACT:	ANTHONY O'DWYER		
ADDRESS:	GPO BOX 2026			
SUBURB:	BRISBANE	STATE:	QLD	POSTCODE: 4001
PHONE:	MOBILE:	FAX:	EMAIL:	
07 3224 0220		07 3224 0333	AODWYER@MULLINSLAW.COM.AU	

INITIALS

BUYER

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

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

BUYER'S AGENT *(if applicable)*

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

BUYER'S SOLICITOR■ *or any other solicitor notified to the Seller*

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

PROPERTY

Land:	ADDRESS:	LOT _____, BROOKVALE, _____			
	SUBURB:	VICTORIA POINT	STATE:	QLD	POSTCODE: 4165
		<input type="checkbox"/> Built On <input checked="" type="checkbox"/> Vacant			
Description:	Lot: LOT _____				
	On: SP284022				
Title Reference:					
Area:	■ <i>more or less</i>		Land sold as:	<input checked="" type="checkbox"/> Freehold <input type="checkbox"/> Leasehold	■ <i>if neither is selected, the land is treated as being Freehold</i>

INITIALS

Present Use:	VACANT RESIDENTIAL LAND
Local Government	REDLAND CITY COUNCIL
Excluded Fixtures:	NIL
Included Chattels:	NIL

PRICE

Deposit Holder:	MULLINS LAWYERS		
Deposit Holder's Trust Account:	MULLINS LAWYERS TRUST ACCOUNT		
Bank:	ST GEORGE		
BSB:	334-040	Account No:	551832647
Purchase Price:	\$	<ul style="list-style-type: none"> Unless otherwise specified in this contract, the Purchase Price includes any GST payable on the supply of the Property to the Buyer. 	
Deposit:	\$	Initial Deposit payable on the day the Buyer signs this contract unless another time is specified below.	
		Balance Deposit (if any) payable on:	
Default Interest Rate:	%	<ul style="list-style-type: none"> If no figure is inserted, the Contract Rate applying at the Contract Date published by the Queensland Law Society Inc will apply. 	

FINANCE

Finance Amount:	\$	<ul style="list-style-type: none"> Unless all of "Finance Amount", "Financier" and "Finance Date" are completed, this contract is not subject to finance and clause 3 does not apply.
Financier:		
Finance Date:		

BUILDING AND/OR PEST INSPECTION DATE

Inspection Date:	NOT APPLICABLE	<ul style="list-style-type: none"> If "Inspection Date" is not completed, the contract is not subject to an inspection report and clause 4.1 does not apply.
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MATTERS AFFECTING PROPERTY

Title Encumbrances:

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

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

Tenancies:

TENANTS NAME: NOT APPLICABLE

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

TERM AND OPTIONS:

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

Managing Agent:

AGENCY NAME: NOT APPLICABLE

PROPERTY MANAGER:

ADDRESS:

SUBURB:

STATE:

POSTCODE:

PHONE:

FAX:

MOBILE:

EMAIL:

POOL SAFETY

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

Yes

No Clause 4.2 of this contract does not apply

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

Yes Clause 5.3(1)(f) applies

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

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

Yes

No

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

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

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

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

POOL SAFETY INSPECTOR

Pool Safety Inspector:

NOT APPLICABLE

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

Pool Safety Inspection Date:

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

ELECTRICAL SAFETY SWITCH AND SMOKE ALARM

This section must be completed unless the Land is vacant.

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

Installed in the residence

Not installed in the residence

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

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

Installed in the residence

Not installed in the residence

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

INITIALS

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

is not affected by any application to, or an order made by, the Queensland Civil and Administrative Tribunal (QCAT) in relation to a tree on the Land or

is affected by an application to, or an order made by, QCAT in relation to a tree on the Land, a copy of which has been given to the Buyer prior to the Buyer signing the contract.

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

SPECIAL CONDITIONS

REFER TO:

ANNEXURE "A" – SPECIAL CONDITIONS
ANNEXURE "B" – GUARANTEE & INDEMNITY

SETTLEMENT

SETTLEMENT DATE:

- *or the next Business Day if that is not a Business Day in the Place for Settlement.*

PLACE FOR SETTLEMENT:

BRISBANE CBD

- *If Brisbane is inserted, this is a reference to Brisbane CBD.*

SIGNATURES

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

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

BUYER: _____

WITNESS: _____

BUYER: _____

WITNESS: _____

SELLER: _____

WITNESS: _____

SELLER: _____

WITNESS: _____

DEPOSIT HOLDER: _____

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

TERMS OF CONTRACT

FOR HOUSES AND RESIDENTIAL LAND

1. DEFINITIONS

1.1 In this contract:

- (1) terms in **bold** in the Reference Schedule have the meanings shown opposite them; and
- (2) unless the context otherwise indicates:
- (a) **“Approved Safety Switch”** means a residual current device as defined in the *Electrical Safety Regulation 2013*;
- (b) **“ATO Clearance Certificate”** means a certificate issued under s14-220(1) of the Withholding Law which is current on the date it is given to the Buyer;
- (c) **“Balance Purchase Price”** means the Purchase Price, less the Deposit, adjusted under clause 2.6;
- (d) **“Bank”** means an authorised deposit-taking institution within the meaning of the *Banking Act 1959* (Cth);
- (e) **“Bond”** means a bond under the Residential Tenancies and Rooming Accommodation Act 2008;
- (f) **“Building Inspector”** means a person licensed to carry out completed residential building inspections under the *Queensland Building and Construction Commission Regulations 2003*;
- (g) **“Business Day”** means a day other than:
- (i) a Saturday or Sunday;
- (ii) a public holiday in the Place for Settlement; and
- (iii) a day in the period 27 to 31 December (inclusive);
- (h) **“CGT Withholding Amount”** means the amount determined under s14-200(3)(a) of the Withholding Law or, if a copy is provided to the Buyer prior to settlement, a lesser amount specified in a variation notice under s14-235;
- (i) **“Compliance or Exemption Certificate”** means:
- (i) a Pool Safety Certificate; or
- (ii) a building certificate that may be used instead of a Pool Safety Certificate under section 246AN(2) of the *Building Act 1975*; or
- (iii) an exemption from compliance on the grounds of impracticality under section 245B of the *Building Act 1975*;
- (j) **“Compliant Smoke Alarm”** means a smoke alarm complying with the requirements for smoke alarms in domestic dwellings under the *Fire and Emergency Services Act 1990*;
- (k) **“Contract Date”** or **“Date of Contract”** means the date inserted in the Reference Schedule;
- (l) **“Court”** includes any tribunal established under statute.
- (m) **“Encumbrances”** includes:
- (i) unregistered encumbrances;
- (ii) statutory encumbrances; and
- (iii) Security Interests.
- (n) **“Essential Term”** includes, in the case of breach by:
- (i) the Buyer: clauses 2.2, 2.5(1), 5.1 and 6.1; and
- (ii) the Seller: clauses 5.1, 5.3(1)(a)-(d), 5.3(1)(e)(ii) & (iii), 5.3(1)(f), 5.5 and 6.1;
- but nothing in this definition precludes a Court from finding other terms to be essential.
- (o) **“Financial Institution”** means a Bank, building society or credit union;
- (p) **“General Purpose Socket Outlet”** means an electrical socket outlet as defined in the *Electrical Safety Regulations 2013*;
- (q) **“GST”** means the goods and services tax under the GST Act;
- (r) **“GST Act”** means *A New Tax System (Goods and Services Tax) Act* and includes other GST related legislation;
- (s) **“Improvements”** means fixed structures on the Land and includes all items fixed to them (such as stoves, hot water systems, fixed carpets, curtains, blinds and their fittings, clothes lines, fixed satellite dishes and television antennae, in-ground plants) but does not include the Reserved Items;
- (t) **“Keys”** means keys, codes or devices in the Seller’s possession or control for all locks or security systems on the Property or necessary to access the Property;
- (u) **“Notice of no pool safety certificate”** means the Form 36 under the *Building Regulation 2006* to the effect that there is no Pool Safety Certificate issued for the Land;
- (v) **“Notice of nonconformity”** means a Form 26 under the *Building Regulation 2006* advising how the pool does not comply with the relevant pool safety standard;
- (w) **“Outgoings”** means rates or charges on the Land by any competent authority (for example, council rates, water rates, fire service levies) but excludes land tax;
- (x) **“Pest Inspector”** means a person licensed to undertake termite inspections on completed buildings under the *Queensland Building and Construction Commission Regulations 2003*.
- (y) **“Pool Safety Certificate”** has the meaning in section 231C(a) of the *Building Act 1975*;
- (z) **“Pool Safety Inspection Date”** means the Pool Safety Inspection Date inserted in the Reference Schedule. If no date is inserted in the Reference Schedule, the Pool Safety Inspection Date is taken to be the earlier of the following:
- (i) the Inspection Date for the Building and/or Pest Inspection; or
- (ii) 2 Business Days before the Settlement Date
- (aa) **“Pool Safety Requirements”** means the requirements for pool safety contained in the *Building Act 1975* and *Building Regulation 2006*;
- (bb) **“Pool Safety Inspector”** means a person authorised to give a Pool Safety Certificate;
- (cc) **“PPSR”** means the Personal Property Securities Register established under *Personal Property Securities Act 2009* (Cth);
- (dd) **“Property”** means:
- (i) the Land;
- (ii) the Improvements; and
- (iii) the Included Chattels;
- (ee) **“Rent”** means any periodic amount payable under the Tenancies;
- (ff) **“Reserved Items”** means the Excluded Fixtures and all chattels on the Land other than the Included Chattels;
- (gg) **“Security Interests”** means all security interests registered on the PPSR over Included Chattels and Improvements;
- (hh) **“Transfer Documents”** means:
- (i) the form of transfer under the *Land Title Act 1994* required to transfer title in the Land to the Buyer; and
- (ii) any other document to be signed by the Seller necessary for stamping or registering the transfer;
- (ii) **“Transport Infrastructure”** has the meaning defined in the *Transport Infrastructure Act 1994*; and
- (jj) **“Withholding Law”** means Schedule 1 to the *Tax Administration Act 1953* (Cth).

2. PURCHASE PRICE

2.1 GST

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

2.2 Deposit

- (1) The Buyer must pay the Deposit to the Deposit Holder at the times shown in the Reference Schedule. The Deposit Holder will hold the Deposit until a party becomes entitled to it.
- (2) The Buyer will be in default if it:
- (a) does not pay the Deposit when required;

- (b) pays the Deposit by a post-dated cheque; or
 - (c) pays the Deposit by cheque which is dishonoured on presentation.
- (3) The Seller may recover from the Buyer as a liquidated debt any part of the Deposit which is not paid when required.

2.3 Investment of Deposit

If:

- (1) the Deposit Holder is instructed by either the Seller or the Buyer; and
- (2) it is lawful to do so;

the Deposit Holder must:

- (3) invest as much of the Deposit as has been paid with any Financial Institution in an interest-bearing account in the names of the parties; and
- (4) provide the parties' tax file numbers to the Financial Institution (if they have been supplied).

2.4 Entitlement to Deposit and Interest

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

2.5 Payment of Balance Purchase Price

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

and the Seller is not obliged to accept a cheque referred to in clause 2.5(2)(b) on the Settlement Date.

- (3) If both the following apply:
 - (a) the market value of the Land and Improvements at the Contract Date is \$2,000,000 or more and this sale is not otherwise an excluded transaction under s14-215 of the Withholding Law; and
 - (b) the Seller has not given the Buyer on or before settlement for each person comprising the Seller either:
 - (i) an ATO Clearance Certificate; or
 - (ii) a variation notice under s14-235 of the Withholding Law which remains current at the Settlement Date varying the CGT Withholding Amount to nil,

then:

- (c) for clause 2.5(1), the Seller irrevocably directs the Buyer to draw a bank cheque for the CGT Withholding Amount in favour of the Deputy Commissioner of Taxation or, if the Buyer's Solicitor requests, the Buyer's Solicitor's Trust Account;
 - (d) the Buyer must lodge a *Foreign Resident Capital Gains Withholding Purchaser Notification Form* with the Australian Taxation Office for each person comprising the Buyer and give copies to the Seller with the payment reference numbers (PRN) on or before settlement;
 - (e) the Seller must return the bank cheque in paragraph (c) to the Buyer's Solicitor (or if there is no Buyer's Solicitor, the Buyer) at settlement; and
 - (f) the Buyer must pay the CGT Withholding Amount to the Commissioner in accordance with s14-200 of the Withholding Law and give the Seller evidence that it has done so within 2 Business Days of settlement occurring.
- (4) For clause 2.5(3), the market value of the Land and Improvements is taken to be the Purchase Price less any GST included in the

Purchase Price for which the Buyer is entitled to an input tax credit unless:

- (a) the Property includes items in addition to the Land and Improvements; and
- (b) no later than 2 Business Days prior to the Settlement Date, the Seller gives the Buyer a valuation of the Land and Improvements prepared by a registered valuer,

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

2.6 Adjustments to Balance Purchase Price

- (1) The Seller is liable for Outgoings and is entitled to Rent up to and including the Settlement Date. The Buyer is liable for Outgoings and is entitled to Rent after the Settlement Date.
- (2) Subject to clauses 2.6(3), 2.6(5) and 2.6(14), Outgoings for periods including the Settlement Date must be adjusted:
 - (a) for those paid, on the amount paid;
 - (b) for those assessed but unpaid, on the amount payable (excluding any discount); and
 - (c) for those not assessed:
 - (i) on the amount the relevant authority advises will be assessed (excluding any discount); or
 - (ii) if no advice on the assessment to be made is available, on the amount of the latest separate assessment (excluding any discount).
- (3) If there is no separate assessment of rates for the Land at the Settlement Date and the Local Government informs the Buyer that it will not apportion rates between the Buyer and the Seller, then:
 - (a) the amount of rates to be adjusted is that proportion of the assessment equal to the ratio of the area of the Land to the area of the parcel in the assessment; and
 - (b) if an assessment of rates includes charges imposed on a "per lot" basis, then the portion of those charges to be adjusted is the amount assessed divided by the number of lots in that assessment.
- (4) The Seller is liable for land tax assessed on the Land for the financial year current at the Settlement Date. If land tax is unpaid at the Settlement Date and the Office of State Revenue advises that it will issue a final clearance for the Land on payment of a specified amount, then the Buyer may deduct the specified amount from the Balance Purchase Price at settlement and must pay it promptly to the Office of State Revenue.
- (5) Any Outgoings assessable on the amount of water used must be adjusted on the charges that would be assessed on the total water usage for the assessment period, determined by assuming that the actual rate of usage shown by the meter reading made before settlement continues throughout the assessment period. The Buyer must obtain and pay for the meter reading.
- (6) If any Outgoings are assessed but unpaid at the Settlement Date, then the Buyer may deduct the amount payable from the Balance Purchase Price at settlement and pay it promptly to the relevant authority. If an amount is deducted under this clause, the relevant Outgoing will be treated as paid at the Settlement Date for the purposes of clause 2.6(2).
- (7) Arrears of Rent for any rental period ending on or before the Settlement Date belong to the Seller and are not adjusted at settlement.
- (8) Unpaid Rent for the rental period including both the Settlement Date and the following day ("**Current Period**") is not adjusted until it is paid.
- (9) Rent already paid for the Current Period or beyond must be adjusted at settlement.
- (10) If Rent payments are reassessed after the Settlement Date, any additional Rent payment from a Tenant or refund due to a Tenant must be apportioned under clauses 2.6(7), 2.6(8) and 2.6(9).
- (11) Payments under clause 2.6(10) must be made within 14 days after notification by one party to the other but only after any additional payment from a Tenant has been received.
- (12) The cost of Bank cheques payable at settlement:
 - (a) to the Seller or its mortgagee are the responsibility of the Buyer; and

- (b) to parties other than the Seller or its mortgagee are the responsibility of the Seller.
- (13) The Seller is not entitled to require payment of the Balance Purchase Price by means other than Bank cheque without the consent of the Buyer.
- (14) Upon written request by the Buyer, the Seller will, prior to Settlement, give the Buyer a written statement, supported by reasonable evidence, of –
- all Outgoings and all Rent for the Property to the extent they are not capable of discovery by search or enquiry at any office of public record or pursuant to the provisions of any statute; and
 - any other information which the Buyer may reasonably require for the purpose of calculating or apportioning any Outgoings or Rent under this clause 2.6.
- If the Seller becomes aware of a change to the information provided the Seller will as soon as practicably provide the updated information to the Buyer.

3. FINANCE

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

4. BUILDING AND PEST INSPECTION REPORTS AND POOL SAFETY

4.1 Building and Pest Inspection

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

4.2 Pool Safety

- This clause 4.2 applies if:
 - the answer to Q2 of the Reference Schedule is No or Q2 is not completed; and
 - this contract is not a contract of a type referred to in section 160(1)(b) of the *Property Occupations Act 2014*.
- This contract is conditional upon:
 - the issue of a Pool Safety Certificate; or
 - a Pool Safety Inspector issuing a Notice of nonconformity stating the works required before a Pool Safety Certificate can be issued;
 by the Pool Safety Inspection Date.

- The Buyer is responsible for arranging an inspection by a Pool Safety Inspector at the Buyer's cost. The Seller authorises:
 - the Buyer to arrange the inspection; and
 - the Pool Safety Inspector to advise the Buyer of the results of the inspection and to give the Buyer a copy of any notice issued.
- If a Pool Safety Certificate has not issued by the Pool Safety Inspection Date, the Buyer may give notice to the Seller that the Buyer:
 - terminates this contract; or
 - waives the benefit of this clause 4.2;
 The Buyer must act reasonably.
- The Seller may terminate this contract by notice to the Buyer if notice is not given under clause 4.2(4) by 5pm on the Pool Safety Inspection Date.
- The Seller's right under clause 4.2(5) is subject to the Buyer's continuing right to give written notice to the Seller of termination or waiver pursuant to clause 4.2(4).
- The right of a party to terminate under this clause 4.2, ceases upon receipt by that party of a copy of a current Pool Safety Certificate.
- If the Buyer terminates this contract under clause 4.2(4)(a), and the Seller has not obtained a copy of the Notice of nonconformity issued by the Pool Safety Inspector, the Seller may request a copy and the Buyer must provide this to the Seller without delay.

5. SETTLEMENT

5.1 Time and Date

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

5.2 Transfer Documents

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

5.3 Documents and Keys at Settlement

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

5.4 Assignment of Covenants and Warranties

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

- (1) covenants by the tenants under the Tenancies;
- (2) guarantees and Bonds (subject to the requirements of the *Residential Tenancies and Rooming Accommodation Act 2008*) supporting the Tenancies;
- (3) manufacturers' warranties regarding the Included Chattels; and
- (4) builders' warranties on the Improvements;

to the extent they are assignable. However, the right to recover arrears of Rent is not assigned to the Buyer and section 117 of the *Property Law Act 1974* does not apply.

5.5 Possession of Property and Title to Included Chattels

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

5.6 Reservations

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

5.7 Consent to Transfer

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

6. TIME

6.1 Time of the Essence

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

6.2 Suspension of Time

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

- (7) When Notice to Settle is given, time is again of the essence of the contract.
- (8) In this clause 6.2:
 - (a) "Affected Party" means a party referred to in clause 6.2(1);
 - (b) "Natural Disaster" means a tsunami, flood, cyclone, earthquake, bushfire or other act of nature;
 - (c) "Settlement Obligations" means, in the case of the Buyer, its obligations under clauses 2.5(1) and 5.1(1) and, in the case of the Seller, its obligations under clauses 5.1(1), 5.3(1)(a) – (e) and 5.5;
 - (d) "Suspension Period" means the period during which the Affected Party (or if both the Buyer and Seller are Affected Parties, either of them) remains unable to perform a Settlement Obligation solely as a consequence of a Natural Disaster.

7. MATTERS AFFECTING THE PROPERTY

7.1 Title

The Land is sold subject to:

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

7.2 Encumbrances

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

7.3 Requisitions

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

7.4 Seller's Warranties

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

7.5 Survey and Mistake

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

which is:

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

7.6 Requirements of Authorities

- (1) Subject to clause 7.6(5), any valid notice or order by any competent authority or Court requiring work to be done or money spent in relation to the Property ("**Work or Expenditure**") must be fully complied with:
- (a) if issued before the Contract Date, by the Seller before the Settlement Date;
 - (b) if issued on or after the Contract Date, by the Buyer.
- (2) If any Work or Expenditure that is the Seller's responsibility under clause 7.6(1)(a) is not done before the Settlement Date, the Buyer is entitled to claim the reasonable cost of work done by the Buyer in accordance with the notice or order referred to in clause 7.6(1) from the Seller after settlement as a debt.
- (3) Any Work or Expenditure that is the Buyer's responsibility under clause 7.6(1)(b), which is required to be done before the Settlement Date, must be done by the Seller unless the Buyer directs the Seller not to and indemnifies the Seller against any liability for not carrying out the work. If the Seller does the work, or spends the money, the reasonable cost of that Work or Expenditure must be added to the Balance Purchase Price.
- (4) The Buyer may terminate this contract by notice to the Seller if there is an outstanding notice at the Contract Date under sections 246AG, 247 or 248 of the *Building Act 1975* or sections 588 or 590 of the *Sustainable Planning Act 2009* that affects the Property.
- (5) Clause 7.6(1) does not apply to orders disclosed under section 83 of the *Neighbourhood Disputes (Dividing Fences and Trees) Act 2011*.

7.7 Property Adversely Affected

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

7.8 Dividing Fences

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

8. RIGHTS AND OBLIGATIONS UNTIL SETTLEMENT

8.1 Risk

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

8.2 Access

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

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

8.3 Seller's Obligations After Contract Date

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

8.4 Information Regarding the Property

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

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

8.5 Possession Before Settlement

If possession is given before settlement:

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

9. PARTIES' DEFAULT

9.1 Seller and Buyer May Affirm or Terminate

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

9.2 If Seller Affirms

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

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

9.3 If Buyer Affirms

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

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

9.4 If Seller Terminates

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

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

9.5 If Buyer Terminates

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

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

9.6 Seller's Resale

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

9.7 Seller's Damages

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

9.8 Buyer's Damages

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

9.9 Interest on Late Payments

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

10. GENERAL

10.1 Seller's Agent

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

10.2 Foreign Buyer Approval

The Buyer warrants that either:

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

10.3 Duty

The Buyer must pay all duty on this contract.

10.4 Notices

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

[Note: Whilst notices under this Contract may be sent by email they are not 'given' until they are capable of being retrieved by the

addressee at the nominated email address in accordance with s 24 of the Electronic Transactions (Queensland) Act 2001]

- (3) Posted notices will be treated as given 3 Business Days after posting.
- (4) Notices sent by facsimile will be treated as given when the sender obtains a clear transmission report.
- (5) Notices given after 5pm will be treated as given on the next Business Day.
- (6) Notices or other written communications by a party's solicitor (for example, varying the Inspection Date, Finance Date or Settlement Date) will be treated as given with that party's authority.

10.5 Business Days

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

10.6 Rights After Settlement

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

10.7 Further Acts

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

10.8 Severance

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

10.9 Interpretation

(1) Plurals and Genders

Reference to:

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

(2) Parties

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

(3) Statutes and Regulations

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

(4) Inconsistencies

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

(5) Headings

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

11. Electronic Settlement

11.1 Application of Clause

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

11.2 Completion of Electronic Workspace

- (1) The parties must:
 - (a) ensure that the Electronic Workspace is completed and all Electronic Conveyancing Documents and the Financial Settlement Schedule are Digitally Signed prior to settlement; and

- (b) do everything else required in the Electronic Workspace to enable settlement to occur on the Settlement Date.
- (2) If the parties cannot agree on a time for settlement, the time to be nominated in the Workspace is 4pm AEST.
- (3) If any part of the Purchase Price is to be paid to discharge an Outgoing:
 - (a) the Buyer may, by notice in writing to the Seller, require that the amount is paid to the Buyer's Solicitor's trust account and the Buyer is responsible for paying the amount to the relevant authority;
 - (b) for amounts to be paid to destination accounts other than the Buyer's Solicitor's trust account, the Seller must give the Buyer a copy of the current account for the Outgoing to enable the Buyer to verify the destination account details in the Financial Settlement Schedule.
- (4) If the Deposit is required to discharge any Encumbrance or pay an Outgoing at settlement:
 - (a) the Deposit Holder must, if directed by the Seller at least 2 Business Days prior to Settlement, pay the Deposit (and any interest accrued on investment of the Deposit) less commission as clear funds to the Seller's Solicitor;
 - (b) the Buyer and the Seller authorise the Deposit Holder to make the payment in clause 11.2(4)(a);
 - (c) the Seller's Solicitor will hold the money as Deposit Holder under the Contract;
 - (d) the Seller and Buyer authorise the Seller's Solicitor to pay the money as directed by the Seller in accordance with the Financial Settlement Schedule.

11.3 Electronic Settlement

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

11.4 Computer System Unavailable

- (1) If settlement fails and cannot occur by 4pm AEST on the Settlement Date because a computer system operated by the Land Registry, Office of State Revenue, Reserve Bank, a Financial Institution or PEXA is inoperative, neither party is in default and the Settlement Date is deemed to be the next Business Day. Time remains of the essence.

- (2) A party is not required to settle if Electronic Lodgement is not available. If the parties agree to Financial Settlement without Electronic Lodgement, settlement is deemed to occur at the time of Financial Settlement.

11.5 Withdrawal from Electronic Settlement

- (1) Either party may elect not to proceed with an Electronic Settlement by giving written notice to the other party.
- (2) A notice under clause 11.5(1) may not be given later than 5 Business Days before the Settlement Date unless an Electronic Settlement cannot be effected because:
 - (a) the transaction is not a Qualifying Conveyancing Transaction; or
 - (b) a party's solicitor is unable to complete the transaction due to death, a loss of legal capacity or appointment of a receiver or administrator (or similar) to their legal practice or suspension of their access to PEXA; or
 - (c) the Buyer's or Seller's Financial Institution is unable to settle using PEXA.
- (3) If clause 11.5(2) applies:
 - (a) the party giving the notice must provide satisfactory evidence of the reason for the withdrawal; and
 - (b) the Settlement Date will be extended to the date 5 Business Days after the Settlement Date.

11.6 Costs

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

11.7 Definitions for clause 11

In clause 11:

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

ECNL means the Electronic Conveyancing National Law (Queensland).

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

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

Electronic Settlement means settlement facilitated by PEXA.

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

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

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

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

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

ANNEXURE A

SPECIAL CONDITIONS – “BROOKVALE”

1 INTERPRETATION AND AMENDMENT OF TERMS OF CONTRACT

1.1 In addition to the definitions stated in clause 1.1 of the REIQ Terms of Contract, the following definitions apply to this Contract:-

"Object" includes delay Settlement, make or assert a Claim, withhold or require a retention of all or part of the Purchase Price or terminate this Contract.

"Settlement" means completion of this Contract;

"Vegetation Notice" means the vegetation notice lodged under the *Vegetation Management Act 1999* (Qld) and registered in the freehold register for the Parcel as an administrative advice under dealing number 713416048;

1.2 In Clause 1.1(u), the definition of “*Outgoings*” is amended by deleting the words “*but excludes land tax*”.

1.3 Clauses 2.1, 2.6(5), 2.6(6), 2.6(12) and 2.6(14) are deleted and do not form part of this Contract.

1.4 Clause 2.6(4) is deleted and the following clause is inserted in its place:

"Land Tax must be adjusted:

(a) *where there is separate assessment for the Land, on the actual Land Tax assessment which is paid or payable (or expected to be paid or payable as advised by the Office of State Revenue) by the Seller for the relevant financial year in respect of the Land;*

or

(b) *where there is no separate assessment for the Land, on the actual assessment which is paid or payable (or expected to be paid or payable as advised by the Office of State Revenue) by the Seller for the relevant financial year in respect of the Parcel that includes the Land before the Land was created as a separate title multiplied by the area of the Land divided by the total area of all lots in the Parcel (excluding lots and areas which are not permitted to be used for residential purposes under the Development Permits for the Parcel such as park land, road, reserves and footpaths)."*

1.5 Despite the fact that land tax may not have been paid for the year current at the date of possession (or any prior year) and despite the Office of State Revenue specifying, in writing, to the Buyer that it would be prudent to hold a sum of money until a final clearance issues for the Land:

(a) the Buyer must not require payment of land tax by the Seller prior to Settlement;

- (b) the Buyer must not require any retention from the Purchase Price; and
- (c) the Buyer must not Object;

but this clause 1.6 is subject to an appointment of agent made by the Office of State Revenue. The Seller undertakes that it will pay or cause to be paid all assessments for land tax with respect to the Land for the period up to and including the date of possession. Land Tax is to be treated as paid for the purpose of Standard Condition 2.6(4).

1.6 If any Outgoings are assessed but unpaid at the Adjustment Date (and the Seller is responsible for payment of the Outgoings or an adjustment is required in respect of the Outgoings), then the Seller undertakes to make payment of those Outgoings:

- (a) within thirty (30) days of the Settlement Date; or
- (b) by the due date for payments:

whichever is the latest.

The relevant Outgoings will be treated as paid at the Adjustment Date for the purpose of Standard Condition 2.6(2).

1.7 There will be no adjustment for water consumption in respect of the Land.

2 REGISTRATION OF PLAN

2.1 The Land is purchased subject to the Vegetation Notice and the Buyer makes no Objection.

3 DIRECTOR'S GUARANTEE

If the Buyer is a company, unless a guarantee in the form set out in Annexure "C" has been executed by all the directors of the Buyer by the Contract Date, the Seller may at any time until Settlement terminate this Contract by notice to the Buyer and in that event this Contract shall be at an end, any monies paid are to be refunded to the Buyer and neither party will have any further rights against the other.

4 GOODS AND SERVICES TAX

The Purchase Price includes any Goods and Services Tax applicable to the sale of the Land to the Buyer. The parties agree that the Seller will apply the margin scheme to determine the Goods and Services Tax payable on the supply made under this Contract.

5 TRUSTEE

If the Buyer enters into this Contract as trustee, the Buyer:

- 5.1 Accepts this Contract both as trustee and in its own capacity;
- 5.2 Acknowledges its own liability for the performance of its obligations under this Contract;

- 5.3 Must take steps to ensure the assets of the trust are available to rectify any breach under this Contract;
- 5.4 Must on demand by the Seller, assign any rights of indemnity the Buyer (as trustee) has against the assets of the trust; and
- 5.5 Warrants that:-
 - (a) it has the power and authority to enter into this Contract; and
 - (b) entry into this Contract is due administration of the trust.

6 PERSONAL INFORMATION

The Buyer:

- 6.1 Acknowledges the Seller has collected personal information (as defined in the *Privacy Act 1988*) of the Buyer ("the Personal Information") for the purpose of completing the transaction as set out in this Contract;
- 6.2 Consents to the Seller disclosing to:-
 - (a) the owners of properties adjoining the Land the Buyer's name, address, telephone number(s) and/or e-mail address to assist in contacting the Buyer about the construction of a dividing fence; and
 - (b) the Council, any government department or other Authority any Personal Information;
- 6.3 is able to gain access to the Personal Information of the Buyer which is held by the Seller by providing the Seller with a written request.

7 LODGEMENT OF TRANSFER DOCUMENTS

To ensure notice of change of ownership of the Land is provided to the Council and other Authorities promptly after Settlement, the Buyer must use all reasonable endeavours to lodge the Transfer Documents (including the combined form (currently a Form 24)) with the Department of Environment and Resource Management no later than thirty (30) days after Settlement.

8 WHOLE AGREEMENT

- 8.1 Except to the extent set out in this Contract:
 - (a) this Contract constitutes the entire agreement between the parties with respect to its subject matter and contains all the representations, undertakings, warranties, covenants, agreements and deeds of the parties;
 - (b) this Contract supersedes all prior negotiations, contracts, agreements, understandings, arrangements and deeds with respect to the subject matter of the Contract; and

- (c) there are no representations, undertakings, warranties, covenants, agreements or deeds between the parties, express or implied except as contained in this Contract,

8.2 The Buyer acknowledges it has made its own enquiries and has not relied upon any representation by the Seller, the Seller's solicitor or the Seller's agent or any servant or agent of the Seller or any other person including the Buyer to enter into this Contract other than as expressly set out in this Contract.

9 DEVELOPMENT OF FUTURE STAGES

9.1 The Buyer acknowledges that:-

- (a) The Land may form part of a larger estate ("the Estate") and that further construction may or may not be carried out in respect of future stages after the date the Buyer takes possession of the Land and/or after Settlement;
- (b) The Buyer will not Object in respect of any further construction and associated works in the Estate;
- (c) Market conditions and other factors will determine how and when any future stages of the Estate may be developed (if at all) and the Seller gives no warranty or representations in that regard;
- (d) The Seller may before and after settlement take such steps as it considers necessary to sell any allotment in the Estate including maintaining on the Estate (but not on the Land) any display home and/or sales office and/or displaying and advertising material for a reasonable time after registration of the plan of subdivision for the Estate. The Seller will take all reasonable precautions to protect the Buyer against any nuisance or inconvenience.
- (e) The Seller shall be free to sell allotments within the Estate to any third party as the Seller shall see fit in its discretion and on such terms as the Seller may decide and the Buyer shall not make any Objection in that regard.
- (f) The provisions of this clause are reasonably necessary in order to protect the legitimate interests of the Seller.

10 CONFIDENTIALITY

No announcement relating to the subject matter or terms of this Contract or any negotiations about it is to be made by any person unless the announcement is in a form agreed by the Seller and the Buyer.

11 NO NOMINEE OR AGENCY

11.1 This Contract or any part of it is not to be assigned by the Buyer. The Buyer may not require or direct a transfer of the Land in favour of the Buyer's assignee or nominee.

11.2 The Buyer declares that it is purchasing the Land on its own behalf as principal and not as an agent for a third party.

12 CAVEAT

The Buyer waives the right to lodge any caveat in relation to the Land and the Buyer appoints the Seller as its attorney to sign any documentation to remove any caveat lodged by the Buyer in contravention of this clause.

13 RELEASE OF MORTGAGE

13.1 If at Settlement the Land is subject to a registered mortgage, the Buyer must at Settlement accept an executed unstamped partial release of mortgage and the Buyer must not refuse to complete this Contract because this document will be provided at Settlement.

13.2 Any security interest registered in respect of the Seller under the *Personal Property Securities Act 2009* ("Security Interest") is not an Encumbrance for the purposes of this Contract.

13.3 The Buyer must not Object to any Security Interest and the Buyer agrees that the Seller is not required to produce a release of the Property from the Security Interest at Settlement.

14 SERVICES

14.1 This clause applies despite any other provision in this Contract.

14.2 The Buyer is purchasing the Property subject to the existing or proposed water supply, sewerage, drainage, gas, electricity, telephone and other installations and services (if any). The Seller does not warrant that any or all services will be provided or that such services passing through the Land or any adjoining land will be protected by easements. The Buyer must not:

- (a) refuse to complete this Contract;
- (b) refuse to pay any part of the Purchase Price; or
- (c) delay completion or
- (d) make any claim against the Seller;

in respect of the nature, location, availability or non-availability of any service.

15 FENCING

The Seller and the Buyer agree that notwithstanding anything in the *Neighbourhood Disputes (Dividing Fences and Trees) Act 2011* to the contrary, the Seller shall not be liable to or required at any time by the Buyer, his executors, administrators or join in or contribute towards the expenses of maintaining or erecting any fence or fences erected or to be erected or for fencing any of the dividing lines between the Property and any adjoining land of the Seller and that the Buyer shall indemnify and keep indemnified the Seller in respect of the foregoing.

16 INSURANCE AND RISK

The property shall remain at the Seller's risk until the Settlement.

Only required if Buyer is business name, trust, SMSF etc.

ANNEXURE B

GUARANTEE AND INDEMNITY

BY: _____

Of _____

("the Indemnifier")

IN FAVOUR OF:

HARRIDAN PTY LTD ACN 010 335 458 of 20 –26 Burchill Street, Loganholme in
the State of Queensland ("the Seller")

IN CONSIDERATION of the Seller entering into the contract of sale of which this Annexure B forms part with the Buyer of the Property more fully described in the contract, the Indemnifier **HEREBY AGREES** with the Seller AND IT IS HEREBY AGREED by and between the parties as follows:

1. The Indemnifier:

- 1.1 Undertakes to indemnify the Seller and keep the Seller indemnified against any failure by the Buyer to perform and observe the terms and conditions of the Agreement whether or not the same are enforceable by the Seller against the Buyer.
- 1.2 Guarantees the Seller that the Buyer will punctually perform and observe all the Buyer's obligations under the Agreement including the due and punctual payment of all monies payable by the Buyer under the Agreement.
- 1.3 Agrees that if at any time any of the obligations of the Buyer or any of the terms and conditions of the said Agreement are not duly and punctually observed and performed, the Indemnifier will on demand observe and perform the same and pay all the Seller's costs (as between solicitor and own client) and expenses arising out of or in connection with the non-observance or non-performance by the Buyer of the Agreement or of this indemnity and guarantee.
- 1.4 Insofar as the Obligations of the Indemnifier are those of a guarantor the Indemnifier agrees that this guarantee shall be a continuing guarantee and that the liability of the Indemnifier shall not be affected by any matter or thing whatsoever and in particular and without in any way limiting the generality of the foregoing shall not be affected by:
 - 1.4.1 the giving or granting to the Buyer or to any other person of any time, credit, consideration, forbearance or other indulgence;
 - 1.4.2 the invalidity or unenforceability either in whole or in part of the Agreement;

- 1.4.3 the variation of any of the terms of the Agreement by agreement between the Seller and the Buyer or any other agreement or arrangement from time to time between the Seller and the Buyer;
- 1.4.4 the release or discharge (wholly or partially) of the Buyer or of any indemnifier whether by operation of law or in any manner otherwise than by full and complete performance by the Buyer of all the obligations to be performed and observed by it or the Seller's inability for any reason to sue the Buyer upon the Agreement or recover any amounts due thereupon from the Buyer;
- 1.4.5 the death, mental incapacity, bankruptcy, assignment for the benefit of creditors, arrangement with creditors, winding up, reconstruction, official management, receivership, liquidation, striking off or other demise of the Buyer or any indemnifier;
- 1.4.6 the Seller becoming a party to or bound by any compromise, assignment of property, scheme of arrangement, composition of debts, or scheme of reconstruction by or relating to the Buyer or any indemnifier or any other person;
- 1.4.7 any transaction or arrangement or agreement whether in respect of the Agreement or otherwise that may take place between the Seller and the Buyer, the Seller and any indemnifier or the Buyer and any indemnifier;
- 1.4.8 the Seller failing or neglecting to exercise or waiving or deferring any or all of its rights or remedies under the Agreement;
- 1.4.9 any lack of capacity or power by the Buyer to enter into the Agreement or by any indemnifier to enter into this Deed of Guarantee and Indemnity;
- 1.4.10 any act or omission on the part of the Seller or any person acting on behalf of the Seller contrary to the interests of the Indemnifier;
- 1.4.11 the obtaining of any judgment against the Buyer or an indemnifier;
- 1.4.12 any actual or alleged set off, defence, counter-claim or other deductions on the part of the Buyer or any indemnifier;
- 1.4.13 any reason that one or more of the persons named herein as Indemnifier may never execute the same or that the execution of this Deed of Guarantee and Indemnity by one or more of such persons (other than the person sought to be made liable hereunder) is or may become unenforceable, void or voidable;
or
- 1.4.14 any other event, act, omission, mistake, laches or default of the Seller or any person whereby the Indemnifier's liability to the Seller would, but for this provision, have been affected or discharged.

- 1.5 Agrees that if any payment made or other obligation performed or to be performed by the Buyer under the Agreement is avoided set aside or otherwise rendered ineffective by statute or otherwise by operation of law such payment or performance as the case may be shall be deemed not to have discharged the obligations of the Indemnifier hereunder and the Indemnifier will forthwith upon the same being so avoided set aside or rendered ineffective make the said payment or perform the said obligations as the case may be.
- 1.6 Agrees that this indemnity and guarantee is in addition to and not in substitution for any other security which the Seller may hold with respect to the Agreement and that it may be enforced without recourse having first been made to such security and without any steps or proceedings having been taken against the Buyer.
- 1.7 Agrees that all monies received by the Seller from or on account of the Buyer including any dividends paid in the bankruptcy or winding up of the Buyer or in the course of any other administration of the affairs of the Buyer on the belief that the Buyer is unable to pay the debts of the Buyer as they fall due and any sums resulting from the realisation or enforcement of any other security capable of being applied by the Seller in reduction of the indebtedness of the Buyer shall be regarded for all purposes as payments in gross without any right on the Indemnifier's part to stand in the Seller's place or claim the benefit of any money so received until the Indemnifier has paid the total indebtedness of the Buyer to the Seller hereunder.
- 1.8 Agrees that the Indemnifier shall be in respect of all sums paid by the Indemnifier hereunder and in respect of any other rights which may accrue howsoever to the Indemnifier in respect of any sum so paid rank and be entitled to enforce the same only after all the monies hereby secured shall have been duly paid and satisfied and that in the event of the bankruptcy or winding up of the Buyer or in the course of any other administration of the affairs of the Buyer on the belief that the Buyer is unable to pay the debts of the Buyer as they fall due the Indemnifier will not prove in the same in competition with the Seller and that the Indemnifier hereby waives in the Seller's favour all rights whatsoever against the Buyer so far as may be necessary to give effect to anything in this indemnity and guarantee contained.
- 1.9 Agrees that every covenant and obligation hereunder is given and undertaken by the Indemnifier as a joint and several covenant and obligation and where there are two or more persons executing this guarantee and indemnity each of them shall be bound jointly and severally.

- 1.10 Agrees that this indemnity and guarantee shall enure for the benefit of the Seller, its successors and assigns and shall be binding on the Indemnifier and the Indemnifier's personal representatives, successors and assigns.
- 1.11 Agrees that this indemnity and guarantee shall be governed and construed in accordance with the laws of the State of Queensland, that the service of any court proceedings in any such action or the giving of any notice under or pursuant to this indemnity and guarantee may be effected by posting a copy of such proceedings or such notice by prepaid post addressed to the Indemnifier at the Indemnifier's address shown herein and that such copy proceedings or notice shall be deemed conclusively to have been received by the Indemnifier on the day after the date upon which it has been posted.
- 1.12 Agrees to pay the Seller upon demand its costs on a Solicitor and own client basis of and incidental to the enforcement or attempted enforcement by the Seller of any of its rights under this granted indemnity.
- 1.13 Agrees that the singular shall include the plural and vice versa; a reference to any gender shall include all genders; a reference in the case of a corporation to winding up shall include official management receivership or scheme of arrangement; and reference to a person includes a reference to a corporation and vice versa.

EXECUTED AS A DEED

SIGNED SEALED AND DELIVERED)

by _____)
 as Indemnifier in the presence of:)

Witness

SIGNED SEALED AND DELIVERED)

by _____)
 as Indemnifier in the presence of:)

Witness