

# Contract of Sale

*Local Government Regulation 2012 (Qld)*  
(Chapter 4 Part 12 Division 3)

## PART 1 - REFERENCE SCHEDULE

|   |   |
|---|---|
| (a) Was the contract formed at auction?   | Yes / No  |
| (b) Was the contract formed within 2 business days of an auction?   | Yes / No / Not applicable   |
| (c) Was the Buyer a registered bidder at that auction?  | Yes / No  |
| Item 1 Contract Date  | Tuesday 30 April 2024   |
| Item 2 Seller<br><br>Identity: Name:<br><br>Address:  | Maranoa Regional Council (A.B.N. 99 324 089 164) pursuant to Chapter 4 Part 12 Division 3 of the <i>Local Government Regulation 2012</i> (Qld)<br><br>Cnr Bungil Street and Quintin Street, Roma Qld 4455 |
| Item 3 Seller's Solicitors<br><br>Identity: Name:<br><br>Delivery:<br><br>Address for Notices: Post:<br><br>Facsimile:                          | Recoveries & Reconstruction Legal<br><br>Southport Central Tower, Suite 2709, 5 Lawson Street, Southport Qld 4215<br><br>PO Box 101, Southport BC Qld 4215<br><br>1300 556 864                            |
| Item 4 Buyer<br><br>Identity: Name:<br><br>Full St Address:<br><br>Address for Notices: Post:<br><br>Facsimile:<br><br>Telephone:<br><br>Email: | <br><br>.....<br><br>.....<br><br>.....<br><br>.....<br><br>.....<br><br>.....<br><br>.....   |

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| <b>Item 5 Buyer's Solicitors</b><br><br>Identity:                      Name: .....<br>Full St Address: .....<br><br>Address for Notices:      Post: .....<br>Facsimile: .....<br>Telephone: .....<br>Email: ..... |  |
| <b>Item 6 Seller's Real Estate Agent</b><br><br>Identity:<br><br>Address:   | Not Applicable   |
| <b>Item 7 Stakeholder</b><br><br>Identity:  | Maranoa Regional Council (A.B.N. 99 324 089 164)   |
| <b>Item 8 Land</b><br><br>Address:<br><br>Real Property Description:<br><br><br>Nature of Title:<br><br>Encumbrances:<br><br>Statutory Charges:<br><br>Local Government:  | 13 Tyrconnel Street MUNGALLALA Qld 4467<br><br>(a) Title Reference: 50979498<br>(b) Description: Lot 4 Survey Plan 258453<br><br>Freehold<br><br>See attached title search<br><br>Any statutory charge, including but not limited to land tax and Local Government rates and charges<br><br>Maranoa Regional Council (A.B.N. 99 324 089 164) |

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| <p><b>Item 9 Purchase Price</b></p> <p><b><u>Price on fall of hammer or agreed price by negotiation:</u></b></p> <p><b><u>GST 10% (if applicable):</u></b></p> <p><b><u>Purchase Price:</u></b></p> <p><b><u>Deposit:</u></b><br/> <b><u>(min: 10% deposit of purchase price)</u></b></p> <p><b><u>Balance of Purchase Price:</u></b></p><br><br><br><br><br><br><br><br><br><br><br><p>Seller/supplier GST Residential Withholding Payment Notification (s 14-255 Schedule 1 of the <i>Taxation Administration Act 1953</i> (Cth)) ('TA Act'):</p> <p>Notification:<br/> <i>(Mark whichever is applicable)</i></p><br><br><br><br><br><br><br><br><br><br><br><p>Notification details:<br/>         (if the Notification identifies that the Buyer is required to make a GST Residential Withholding payment)</p> | <p>\$</p> <p>\$</p> <p>\$</p> <p>\$</p> <p>\$ _____</p> <p><b>Note: Refer to clause 5.8 of this Agreement in relation to GST in respect to the supply of the Land under this Agreement.</b></p> <p><b>Where GST is payable under this agreement, the price payable for the supply under this Agreement on the fall of the hammer or agreed price by negotiation (GST exclusive consideration) is increased by, and the Buyer must also pay to the Seller, an additional amount equal to the GST payable by the Seller on the supply (GST Amount) (refer to clause 5.8 of this Agreement).</b></p> <p>The Buyer:</p> <p><input checked="" type="checkbox"/> <b><u>is not required</u></b> to make a GST Residential Withholding payment to the Commissioner under section 14-250 of the TA Act in relation to the supply of the Land under this Agreement.</p> <p><input type="checkbox"/> <del><b><u>is required</u></b> to make a GST Residential Withholding payment to the Commissioner under section 14-250 of the TA Act in relation to the supply of the Land under this Agreement.</del></p> <p>Supplier's name:</p> <p>Supplier's ABN:</p> <p><b><u>Amount Buyer/recipient must pay to the Commissioner:</u></b>      \$ _____</p> <p>Amount <b><u>must</u></b> be paid on the Settlement Date</p> |
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| <b>Item 10 Default Interest</b><br>Default Rate:                                  | 11% per annum   |
| <b>Item 11 Settlement</b><br>Settlement Date:<br><br>Settlement Venue:            | 28 days from the date of execution of this Contract of Sale<br><br>Maranoa Regional Council Office, Cnr Bungil Street and Quintin Street, Roma Qld 4455   |
| <b>Item 12 Guarantor</b><br>Name:<br><br>Address:<br><br>Telephone:<br><br>Email: | .....<br>.....<br>.....<br>.....  |
| <b>Item 13 Neighbourhood Disputes (Dividing Fences and Trees) Act 2011 (Qld)</b>  | <p>The Seller gives notice to the Buyer in accordance with Section 83 of the <i>Neighbourhood Disputes (Dividing Fences and Trees) Act 2011</i> (Qld) that the Land (including the Scheme Land, where a lot in a community titles scheme):</p> <p>[ ] * 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.</p> <p>[ ] * 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 this Agreement.</p> <p>[x] * the Seller is not the registered proprietor of the Land. The land is being sold pursuant to the provisions of the <i>Local Government Regulation 2012</i> (Qld), and thus the Seller is unaware whether the Land is affected or not by an application, or order made in relation to a tree on the Land, made by QCAT. The Buyer acknowledges that the Buyer shall make its own enquiries.</p> <p>* <i>Mark whichever is applicable</i></p> |
| <b>Item 14 Outstanding Statutory Notices</b>                                      | <p>The Land and this Agreement may be affected by outstanding statutory obligations and notices; including but not limited to such obligations or notices under the <i>Local Government Act 2009</i> (Qld) and <i>Local Government Regulation 2012</i> (Qld), and/or Local Laws. This may also include works that have or have not been undertaken on the Land or outstanding notices issued by local government or other statutory and or government authorities. This may include but is not limited to a Crown (State or government entity's) interest in the Land, including State Encumbrance(s). It is the Buyer's responsibility to make independent enquiries in this regard and the Seller makes no warranties in relation thereto whatsoever.</p>   |

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| <b>Item 15 Execution</b>  | <p>This contract may be subject to a 5 business day statutory cooling-off period. A termination penalty of 0.25% of the purchase price applies if the buyer terminates the contract during the statutory cooling-off period. It is recommended the buyer obtain an independent property valuation and independent legal advice about the contract and his or her cooling-off rights, before signing.</p> <p><u>By executing this contract, the Buyer waives the cooling-off period in its entirety pursuant to this written notice and/or the written notice in clause 8.8 of this contract.</u></p> <p>The Buyer irrevocably warrants, agrees and declares that the Buyer has read, understood and is bound by the terms of this Contract of Sale, including items 1 to 16 (inclusive) and clauses 1 to 9.2 (inclusive) of this Contract of Sale.</p> |
| <b>Buyer Execution — Individual(s)</b>  |  |
| Signature of the Buyer:   | .....  |
| Signature of the Buyer:   | .....  |
| Signature of Witness:   | .....  |
| Name of Witness:  | .....  |
| Address of Witness:   | .....  |
| <b>Buyer Execution — Corporation</b><br>Executed in accordance with s.127(1) of the <i>Corporations Act 2001</i> (Cth). |  |
| Signature of the Buyer:   | .....  |
| Name of Signatory:  | .....  |
| Capacity:   | <p><input type="checkbox"/> Director<br/><input type="checkbox"/> Company Secretary<br/><input type="checkbox"/> Sole Director &amp; Sole Company Secretary<br/><input type="checkbox"/> Sole Director (company has no company secretary)<br/>* <i>Mark whichever is applicable</i></p>  |
| Signature of the Buyer:   | .....  |
| Name of Signatory:  | .....  |
| Capacity:   | <p><input type="checkbox"/> Director<br/><input type="checkbox"/> Company Secretary<br/><input type="checkbox"/> Sole Director &amp; Sole Company Secretary<br/><input type="checkbox"/> Sole Director (company has no company secretary)<br/>* <i>Mark whichever is applicable</i></p>  |

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|                                    |       |
|------------------------------------|-------|
| <b>Signature of Witness:</b>       | ..... |
| <b>Name of Witness:</b>            | ..... |
| <b>Address of Witness:</b>         | ..... |
| <b>Item 16</b>                     |       |
| <b>Signed on behalf of Seller:</b> | ..... |
| <b>Signature of Witness:</b>       | ..... |
| <b>Name of Witness:</b>            | ..... |
| <b>Address of Witness:</b>         | ..... |

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## PART 2: INTERPRETATION & OPERATIVE PART A

### 2.1 Definitions

In this Agreement, unless the context otherwise indicates, each of the following expressions bears the meaning shown opposite.

Expressions identified in the Reference Schedule shall bear the meaning set out in the Reference Schedule.

|                               |   |
|-------------------------------|---|
| <b>Act of Insolvency</b>      | <ol style="list-style-type: none"><li>(1) a Controller, Voluntary Administrator, Administrator, Receiver or a Receiver and Manager, or trustee is appointed;</li><li>(2) the issuing of and/or failing to satisfy a bankruptcy notice under the <i>Bankruptcy Act 1966</i> (Cth) or a statutory demand under section 459E of the <i>Corporations Act 2001</i> (Cth);</li><li>(3) the presentation of a creditor's petition;</li><li>(4) the filing of a winding up application or the appointment of a Provisional Liquidator or Liquidator;</li><li>(5) Any matter arising as a consequence of Part IX or X of the <i>Bankruptcy Act 1966</i> (Cth) including but not limited to the signing of an authority, or the recording of a debt agreement or the making of a debt agreement proposal;</li><li>(6) Any conduct amounting to an act of Bankruptcy or act of insolvency under the <i>Bankruptcy Act 1966</i> (Cth) or <i>Corporations Act 2001</i> (Cth) respectively.</li></ol> |
| <b>Address for Notices</b>    | <p>With respect to each party:</p> <ol style="list-style-type: none"><li>(1) its physical address or facsimile number or email address shown at whichever is relevant of <b>Item 3</b> to <b>Item 5</b> (inclusive) in Part 1 of this Agreement;</li><li>(2) such other physical address or facsimile number or email address as it has notified in writing to the party giving it a notice as its address or facsimile number or email address for notices under this Agreement; or</li><li>(3) if it is not at the address or facsimile number the subject of <i>paragraph (1)</i> or <i>paragraph (2)</i> of this definition, its last principal place of business or facsimile number or email known to the party giving it a notice; or</li><li>(4) the registered office pursuant to the <i>Corporations Act 2001</i> (Cth);</li></ol> <p>is the address for service of documents, including but not limited to notices and correspondence.</p>                                   |
| <b>Agreement</b>              | This document and the agreement it evidences.   |
| <b>Approved Safety Switch</b> | A residual current device as identified in the <i>Electrical Safety Regulation 2013</i> (Qld) and related legislation.  |

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| <b>Balance Purchase Price</b>        | The Purchase Price, less the Deposit paid, and subject to such adjustments as may be made pursuant to this Agreement.  |
| <b>Body Corporate Legislation</b>    | <i>Body Corporate and Community Management Act 1997 (Qld)</i> , and related legislation, including but not limited to the <i>Body Corporate and Community Management Regulation 2008 (Qld)</i> , <i>Body Corporate and Community Management (Standard Module) Regulation 2020 (Qld)</i> , <i>Body Corporate and Community Management (Specified Two-Lot Schemes Module) Regulation 2011 (Qld)</i> , <i>Body Corporate and Community Management (Small Schemes Module) Regulation 2020 (Qld)</i> , <i>Body Corporate and Community Management (Commercial Module) Regulation 2020 (Qld)</i> , <i>Body Corporate and Community Management (Accommodation Module) Regulation 2020 (Qld)</i> (and any legislation replacing or supplementing such law), and the by-laws of the Body Corporate of the Scheme. |
| <b>Business Day</b>                  | A day, other than a Saturday, Sunday or public holiday, upon which banks are open for business in Queensland:<br><br>(1) to which a notice under this Agreement is to be sent;<br>or<br>(2) at which an event for which this Agreement provides is to occur.   |
| <b>Buyer</b>                         | The Buyer as set out in <b>Item 4</b> in <b>Part 1</b> of this Agreement.  |
| <b>Compliant Smoke Alarm</b>         | A smoke alarm complying with the requirements for such alarms in domestic dwellings under the <i>Fire and Emergency Services Act 1990 (Qld)</i> .  |
| <b>Contract Date</b>                 | The date of this Agreement.  |
| <b>Contract</b>                      | This document and the agreement it evidences.  |
| <b>Encumbrances</b>                  | Has the meaning defined in Schedule 4 <i>Local Government Act 2009 (Qld)</i> .   |
| <b>General Purpose Socket Outlet</b> | An electrical socket outlet as defined in the <i>Electrical Safety Regulation 2013 (Qld)</i> .   |
| <b>Item</b>                          | A numbered item of information in <b>Part 1</b> of this Agreement.   |
| <b>Land</b>                          | Means the real property identified in <b>Item 8</b> in <b>Part 1</b> to this Agreement.  |

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| <b>Local Laws</b>        | Includes subordinate Local Law of the Maranoa Regional Council.   |
| <b>Parties</b>           | The Seller and Buyer.   |
| <b>Sale</b>              | Sale and purchase of the Land under this Agreement.   |
| <b>Scheme Land</b>       | The land of the Scheme.   |
| <b>Seller</b>            | The Seller as set out in <b>Item 2</b> in <b>Part 1</b> of this Agreement.  |
| <b>Settlement</b>        | Completion of the sale and purchase pursuant to <b>Part 5</b> of this Agreement.  |
| <b>Settlement Date</b>   | The date specified in <b>Item 11</b> in <b>Part 1</b> of this Agreement, or as may be extended in writing pursuant to this Agreement.                       |
| <b>Settlement Venue</b>  | The place specified for Settlement in <b>Item 11</b> in <b>Part 1</b> of this Agreement, or such other place as may be notified by the Seller to the Buyer. |
| <b>Stakeholder</b>       | The Stakeholder as set out in <b>Item 7</b> in <b>Part 1</b> of this Agreement.   |
| <b>State Encumbrance</b> | Has the meaning as defined in section 138(2) of the <i>Local Government Regulation 2012 (Qld)</i> .   |
| <b>Withholding Law</b>   | Means Schedule 1 to the <i>Taxation Administration Act 1953 (Cth)</i> and any amendments.   |

## 2.2 Interpretation generally

In this Agreement, except where the context otherwise requires:

- (a) the singular includes the plural and vice versa, and a gender includes other genders;
- (b) another grammatical form of a defined word or expression has a corresponding meaning;
- (c) a reference to A\$, \$A, dollar or \$ is to Australian currency;
- (d) a reference to time is to the time in Queensland;
- (e) the meaning of general words is not limited by specific examples introduced by “including”, “for example” or similar expressions;
- (f) a document or instrument (including this Agreement) includes any variation or replacement of it;
- (g) a clause, annexure, item, part or schedule is a reference to a clause in or annexure or item or part or schedule to this Agreement;
- (h) law means common law, principles of equity, and laws made by parliament (and laws made by parliament include State, Territory and Commonwealth laws and regulations and other

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- instruments under them, and consolidations, amendments, re-enactments or replacements of any of them);
- (i) a rule of construction does not apply to the disadvantage of a party because the party was responsible for the preparation of this Agreement or any part of it;
  - (j) headings and footnotes are for ease of reference and convenience only and do not affect interpretation;
  - (k) any term referred to in Part 1 of this Agreement has the meaning as set out in Part 2;
  - (l) words or expressions used in this contract which are defined in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth) (“GST Act”) have the same meaning in this Agreement;
  - (m) where a word or phrase is specifically defined, other parts of speech and grammatical forms of that word or phrase bear meanings corresponding to and consistent with that definition;
  - (n) a person includes but is not limited to an individual, a partnership, a corporation, a firm, a body corporate, a body politic, a statutory body, the Crown or an association, nor is it limited to a party to this agreement;
  - (o) writing is a reference to reproduction of words, figures, symbols and shapes in visible form, including print, type, lithograph, facsimile, photocopy or electronic form;
  - (p) a reference to an act includes an omission, deliberate or otherwise;
  - (q) a reference to “time” is a reference to Queensland, Australian time;
  - (r) if an act must be done on a given day which is not a Business Day it must be done instead on the next Business Day; and
  - (s) the words or phrase: “include”, “including”, “for example” or “such as” do not limit the meaning of the words to which it relates.

## 2.3 Parties

- (1) Reference to a party includes:
  - (a) in the case of a natural person, that person, his/her personal representatives, agents, beneficiaries, trustees, attorneys and assigns; and
  - (b) in the case of a corporation, or other legal entity, the corporation, its agents, successors, administrators, receiver managers, liquidators and assigns.
- (2) Where a party is composed of two or more persons/entities/corporations, this Agreement binds jointly and severally:
  - (a) those persons and each of them; and
  - (b) each of their executors, administrators, beneficiaries, trustees, receiver managers, liquidators, agents and assigns.
- (3) Each person signing this Agreement as Buyer or in any representative capacity for and or on behalf of the Buyer assures the Seller and irrevocably warrants that he or she possesses sufficient authority to execute this Agreement and any other document(s) in any way necessary or arising or relating directly or indirectly to this Agreement, in that capacity at the time of signing, but also remains personally liable and agrees to all the terms of this Agreement in his or her representative

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capacity for and or on behalf of the Buyer and in his or her personal capacity. This clause does not merge on Settlement. This is an essential term of this Agreement.

## 2.4 Warranty of Authority

Each person signing this Agreement as an officer, attorney or trustee, delegate or nominee or in any other representative capacity, as the Buyer or on behalf of the Buyer, assures the Seller that such signatory warrants that he/she possesses unrestricted authority to execute this Agreement for and or on behalf of the Buyer and any other the document(s) in any way necessary or arising or relating directly or indirectly to this Agreement, in that capacity at the time of signing this Agreement. This clause does not merge on settlement. This is an essential term of this Agreement.

## 2.5 Reference to Statute and Contra Proferentem Rule

- (1) In this Agreement a reference to a statute, ordinance, code or other law includes any regulations and other instruments made under it and any consolidations, amendments, re-enactments or equivalent provision(s) in any replacement of any of them occurring at any time before or after the date of this Agreement, and to any supplementary legislation.
- (2) The parties agree that the contra proferentem rule will not apply to this Agreement. The identity of the party responsible for drafting this Agreement shall not affect the construction or interpretation of this Agreement.

## 2.6 Waiver

No waiver of any breach of this Agreement or any of the terms of this Agreement will be effective unless that waiver is in writing and signed by the Buyer and the Seller or his/her delegate or representative, against whom the waiver is claimed. No waiver of any breach shall operate as a waiver of any other breach or subsequent breach.

## 2.7 Severability

In the event of any part of this Agreement being or becoming void or unenforceable or being illegal then that part shall be severed from this Agreement to the extent that all parts that shall not be or become void, unenforceable or illegal shall remain in full force and effect and be unaffected by such severance. This clause does not merge on Settlement.

## 2.8 Negotiation

- (1) The Buyer and the Seller acknowledge that prior to entering into this Agreement, the Buyer and the Seller have had the opportunity to negotiate the terms of this Agreement.
- (2) The Buyer irrevocably warrants that prior to entering this Agreement, the Buyer has obtained independent legal advice in respect to this Agreement and the purchase of the Land.

## 2.9 Entire Agreement

- (1) This Agreement comprises the entire agreement between the Buyer and Seller and it is expressly agreed that no other covenants or promises are implied into this Agreement or arise between the Buyer and the Seller pursuant to any collateral or other agreement(s). This Agreement details the entire bargain concluded between the Buyer and the Seller in relation to the Sale of the Land irrespective of:

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- (a) any negotiations, assertions, representations or discussions preceding execution of this Agreement; and
  - (b) the content of any brochure, report, advertisement, representation or other document(s) or thing produced by or on behalf of the Seller for the potential Buyer of the Land.
- (2) The Buyer acknowledges and irrevocably warrants that it has not been induced to acquire the Land by any representation, verbal or otherwise, made by or on behalf of the Seller but not detailed in this Agreement. The Buyer irrevocably warrants that the Buyer has entered into this Agreement consequently upon making its own independent due diligence enquiries.
- (3) This clause does not merge on Settlement.

## 2.10 Introduction by Agent

Where an agent is identified in **Item 6 in Part 1** the Buyer irrevocably warrants that it was not introduced to the Seller or to the Land by any agent other than the agent named in this Agreement. The Buyer acknowledges that the Seller enters into this Agreement in reliance upon that warranty. The Buyer shall indemnify the Seller against any commission and/or any other fee and/or interest, which may be payable by the Seller to any other agent in respect of any such introduction. This clause does not merge on settlement. This is an essential term of this Agreement.

## 2.11 Trustee

A party who executes this Agreement as trustee for the Buyer is bound both personally and in his, her or its capacity as trustee, and irrevocably warrants that he, she or it will adhere to the terms of this Agreement. The trustee acknowledges that the Seller entering into the agreement is consideration passing to the trustee, both as trustee and in his/her/its personal capacity. This clause does not merge on settlement. This is an essential term of this Agreement.

## 2.12 Time of the Essence

Time is of the essence in this Agreement. This is an essential term of this Agreement. This term does not merge upon Settlement.

## 2.13 Governing Law

The laws of Queensland govern this Agreement and the parties irrevocably submit to the exclusive jurisdiction of the courts of Queensland.

## PART 3: SALE OF LAND (OPERATIVE PART B)

### 3.1 Seller's Designation & Waiver of Cooling Off Period by Buyer

The Buyer acknowledges that the Seller is a Local Government as defined in the *Local Government Act 2009 (Qld)* and *Local Government Regulation 2012 (Qld)*. The Buyer waives the cooling off period in connection with this Agreement, and this provision constitutes written notice to the Seller of such waiver by the Buyer. Thus, the Buyer waives the cooling-off period in its entirety. This is an essential term of this Agreement.

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## 32 Buyer's Acknowledgement that Land Sale is pursuant to Local Government Regulation 2012

- (1) The Buyer acknowledges that the Buyer is purchasing the Land from the Seller, and the Seller is selling the Land to the Buyer pursuant to Chapter 4 Part 12 Division 3 of the *Local Government Regulation 2012 (Qld)* on the basis that an amount of money is due to the Seller by the registered owner of the Land as a consequence of unpaid local government rates and charges. The Buyer acknowledges that the Buyer is buying the Land from the Seller even though the Seller is not on title. The Buyer irrevocably warrants that the Buyer shall not make any objection, requisition, claim, or seek any compensation whatsoever, or seek further information from the Seller or delay settlement of this Sale in any way whatsoever.
- (2) The Seller agrees to sell the Land to the Buyer, and the Buyer agrees to buy the Land from the Seller, pursuant to Chapter 4 Part 12 Division 3 of the *Local Government Regulation 2012 (Qld)* (the Seller is selling the Land as a consequence of overdue rates or charges including interest owed to the Seller).
- (3) Where the Land is a lot in a community titles scheme, the Land is sold subject to the *Body Corporate and Community Management Act 1997 (Qld)*, and related legislation, including but not limited to the *Body Corporate and Community Management Regulation 2008 (Qld)*, *Body Corporate and Community Management (Standard Module) Regulation 2020 (Qld)*, *Body Corporate and Community Management (Specified Two-Lot Schemes Module) Regulation 2011 (Qld)*, *Body Corporate and Community Management (Small Schemes Module) Regulation 2020 (Qld)*, *Body Corporate and Community Management (Commercial Module) Regulation 2020 (Qld)*, *Body Corporate and Community Management (Accommodation Module) Regulation 2020 (Qld)* (and any legislation replacing or supplementing such law), and the by-laws of the Body Corporate of the Scheme, together with any levies or other moneys so owed to the relevant body corporate or management scheme operator. The Buyer warrants that the Buyer has sought and received independent legal professional advice in connection with the Buyer's obligations, liabilities and responsibilities in connection with the legislation referred to in this clause, and the impact such legislation has upon the Buyer and the Land.
- (4) The Buyer irrevocably agrees that should the outstanding rates, charges, interest, and any other moneys owed to the Seller including the costs as a consequence of the Sale process and procedure pertaining to this Land be paid prior to the Settlement Date of this Agreement, then the Seller may rescind or terminate this agreement without penalty and return to the Buyer the deposit (excluding interest which shall be retained by the Seller) and any moneys already paid to the Seller by the Buyer, and the Buyer shall have no recourse or remedy whatsoever against the Seller. The Buyer irrevocably warrants that the Buyer shall not bring any action, suit, claim, objection or requisition whatsoever against the Seller, and should a third party bring an action against the Seller through the Buyer (directly or indirectly) or as a consequence of the Sale or matters pertaining to the Sale of this Land, the Buyer irrevocably warrants that the Buyer shall indemnify the Seller, and this Agreement may be pleaded as a complete bar to any proceedings, action, claim or suit against the Seller.
- (5) The Buyer acknowledges that the Seller is not in possession of the Land, nor is the Seller providing the land with vacant possession. For the avoidance of doubt, it is the Buyer's sole responsibility to seek and obtain possession of the Land. The Buyer shall forever release and indemnify the Seller, and keep the Seller indemnified in connection with any matter relating to the Buyer taking possession of the Land, and this Agreement may be pleaded as a complete bar to any proceedings, action, claim or suit against the Seller.

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- (6) The Buyer acknowledges that the Buyer is buying the Land subject to all State Encumbrance(s), including but not limited to land tax. It is the Buyer's sole responsibility to seek appropriate legal professional advice and to undertake searches the Buyer and the Buyer's legal advisers deem appropriate in connection with the purchase of the Land. The Buyer shall forever release and indemnify the Seller, and keep the Seller indemnified in connection with any matter relating to this provision of the Agreement, and this Agreement may be pleaded as a complete bar to any proceedings, action, claim or suit against the Seller.
- (7) The Buyer acknowledges that the Buyer may be entering into the Agreement in circumstances where the Land has escheated to the Crown. It is the Buyer's sole responsibility to seek appropriate legal professional advice and undertake searches the Buyer and the Buyer's legal advisers deem appropriate in connection with the purchase of the Land and or entering into this Agreement. The Buyer also warrants that the Buyer has made all enquiries, inspections and searches in relation to the Land which the Buyer and the Buyer's legal professional advisers have deemed necessary. In such circumstances as identified in this provision, it is the Buyer's responsibility to seek independent legal professional advice prior to entering into this Agreement. It is also the Buyer's sole responsibility to liaise with the Crown to remove any administrative advice (notice) from title of the Land. The Buyer further acknowledges should it be necessary for any application(s) to be made to secure equitable and legal title to the Land, it is the Buyer's responsibility to do so. The Buyer warrants that the costs of such application(s) shall be borne solely by the Buyer. The Buyer shall forever release and indemnify the Seller, and keep the Seller indemnified in connection with any matter relating to this provision of the Agreement, and this Agreement may be pleaded as a complete bar to any proceedings, action, claim or suit against the Seller.
- (8) The Buyer acknowledges that the Buyer is taking the Land subject to all rights and interest reserved to the Crown by the deed of grant referred to on title to the Land, and subject to all administrative advices referred to on title to the Land and anything else identified on title to the Land that is not an Encumbrance as defined in schedule 4 of the *Local Government Act 2009* (Qld). The Buyer warrants that the Buyer has made all enquiries, inspections and searches in relation to the Land which the Buyer and the Buyer's legal professional advisers have deemed necessary. The Buyer shall forever release and indemnify the Seller, and keep the Seller indemnified in connection with any matter relating to this provision of the Agreement, and this Agreement may be pleaded as a complete bar to any proceedings, action, claim or suit against the Seller.
- (9) This clause does not merge upon Settlement and is an essential term of this Agreement.

## 33 Effect of Transfer

Upon the registration of a Transfer pursuant to section 145(4) of the *Local Government Regulation 2012* (Qld), the interest of the registered owner will be transferred to the Buyer free of all Encumbrances as defined in Schedule 4 of the *Local Government Act 2009* (Qld), but subject to any statutory liabilities, obligations and or responsibilities, including but not limited to those referred to in clause 3.2 of this Agreement.

## 34 Buyer Acknowledgment

- (1) The Buyer acknowledges that the Seller enters this Agreement without having possession or physical control of the Land or being on title.
- (2) Where the Land is a lot in a community titles scheme, the Buyer acknowledges this transaction is undertaken without the Seller having participated in any business of the Scheme.

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- (3) The Buyer acknowledges that, where the Buyer bids at auction, it bids in the knowledge that, and where this Agreement is not formed at auction, it enters this Agreement in the knowledge that, the Seller has made no representation, warranty, or assurance of any nature:
- (a) to the effect that vacant possession of the Land or any improvements will be provided at Settlement or whether any tenancies exist, and the Buyer acknowledges that it is the Buyer's responsibility to obtain possession after Settlement and Buyer will take no action whatsoever against the Seller or join the Seller to proceedings to enforce possession, and the Buyer releases and at all times indemnifies the Seller;
  - (b) as to the condition, state of repair, or suitability for any use of the Land or any improvements, and the Buyer acknowledges that the Seller has not been in possession or had physical control of the Land;
  - (c) that the Land presently is being used in accordance with approvals (if any) granted by any Government authority;
  - (d) that any improvements on the Land have been constructed or placed upon the Land with all or any applicable legislative requirements of any Government authority being met;
  - (e) where the Land is a lot in a community titles scheme, that the records of the Scheme are complete and/or accurate;
  - (f) that the Land is not contaminated in any way;
  - (g) where any structure is located on the Land, if any;
  - (h) that in respect of any pool on the Land or used in association with the Land there is any Compliance or Exemption certificate, the Buyer acknowledging that the Seller is not an "owner" for the purposes of section 28 of the *Building Regulation 2021 (Qld)* and as a result is not obliged to comply with pool safety requirements under the *Building Act 1975 (Qld)* and the *Building Regulation 2021 (Qld)* (or related legislation) including any obligation of owners to give notices thereunder. The Seller is not the owner of the Land,
- and the Buyer irrevocably warrants to the Seller that it has before entering this Agreement carried out and made all enquiries, inspections and searches in relation to the Land and the improvements on it. The Buyer irrevocably agrees that the property may not be provided with vacant possession and the Buyer acknowledges that it is the Buyer's responsibility to obtain vacant possession and the Buyer shall have no recourse against the Seller whatsoever, and the Buyer irrevocably warrants that the Buyer shall not make any objection, or terminate, or rescind, or make any requisition, or bring any proceedings, action, claim or suit or make any claim against the Seller whatsoever, nor shall the Buyer in any way seek to delay settlement of this sale as a consequence of that which appears in this clause. The Buyer acknowledges and irrevocably agrees that the Seller may rely upon the content of this clause of this Agreement as an absolute and complete bar to any proceedings, claim, action or suit brought by the Buyer (or by any third party on the Buyer's behalf either directly or indirectly) in connection with any matter(s) referred to in this clause.
- (4) The Buyer warrants that the Buyer indemnifies the Seller in relation to any matter(s) referred in this clause.
- (5) This clause does not merge upon Settlement and is an essential term of this Agreement.

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## 3.5 Payment of overdue rates

- (1) If, at any time between the formation of this Agreement and the settlement of this Agreement, the Seller becomes aware that payment of the overdue rates and costs in respect of the Land was tendered to the Seller prior or subsequent to the auction or sale in relation to the Land, then the Seller may terminate this Agreement by written notice to the Buyer in which event all monies paid by way of Deposit to the Seller by the Buyer are refundable to the Buyer without deduction (excluding interest which is retained by the Seller). This is the Buyer's only entitlement being the return of the Deposit and any monies already paid to the Seller by the Buyer
- (2) For avoidance of doubt, if the Seller rescinds or terminates this Agreement pursuant to this clause, such rescission or termination is not an event of default and does not entitle the Buyer to damages or any relief whatsoever.
- (3) The Buyer irrevocably warrants and agrees not to seek to terminate, rescind or make any objection or requisition or seek further information, or delay settlement or make any claim for compensation whatsoever or bring any proceedings, action, claim or suit arising out of any of the matters referred to in this clause. The Buyer acknowledges and irrevocably agrees that the Seller may rely upon the content of this clause of the Agreement as an absolute and complete bar to any proceedings, action, claim or suit brought by the Buyer in connection with any matter(s) referred to in this clause.
- (4) This clause does not merge upon Settlement and is an essential term of this Agreement.

## 3.6 Impediment to Settlement

- (1) In the event that:
  - (a) before Settlement, an injunction is made or sought or proceedings relating to this Agreement or the Seller's entitlement to sell are instituted by any person; or
  - (b) there is some event or circumstance which impacts or restricts the Seller's ability to give the Transfer and or convey title to the Buyer or pay the proceeds of Sale to the parties entitled by law; or
  - (c) there is in the Seller's absolute discretion any matter that impacts upon the efficacy of this proposed transaction in any manner whatsoever. For the purpose of this Agreement this event is regarded as an impediment to Settlement,

then the Seller may serve notice on the Buyer extending the Settlement Date for a period of not less than one (1) Business Day and not more than 120 Business Days, in which case the Settlement Date shall be the date set forth in the Seller's notice. The Seller may give this notice on more than one occasion provided however that the aggregate of the extensions shall not exceed 120 Business Days from the Settlement Date set out in this Agreement.

- (2) Where the Seller has given, or not given, such notice and extended the Settlement Date, and/or the Seller determines (acting reasonably) that any impediment to Settlement exists and or remains, then it may rescind or terminate this Agreement by written notice in which event all monies paid by way of Deposit (excluding interest accrued which shall be retained by and or paid to the Seller) to the Seller by the Buyer shall be refunded to the Buyer, and the Buyer shall release the Seller from all claims, suits, actions and proceedings whatsoever, and the Buyer shall have no claim against the Seller whatsoever and this clause may be pleaded as a complete bar in

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any proceedings, action, claim or suit brought against the Seller. Nothing in this clause will oblige the Seller to extend the date for Settlement or complete this transaction, where the Seller believes on reasonable grounds that to do so would be futile or would not result in the Settlement of this Agreement within 42 days of the Contract Date.

- (3) This clause does not merge upon Settlement and is an essential term of this Agreement.

## **3.7 No transfer of chattels or fixtures**

- (1) The Buyer acknowledges that:
- (a) the Seller does not have the power to sell chattels in or about the Land;
  - (b) chattels are not included in the Sale of the Land;
  - (c) the Seller is not required to remove any chattels or fixtures from the Land; and
  - (d) the Seller does not claim and will not exercise any rights in respect of chattels or fixtures and makes no representation or warranty that any such chattels or fixtures will remain in or about the Land or attached to it at Settlement, or be removed prior to or following Settlement;
  - (e) the Buyer irrevocably warrants that the Buyer cannot terminate or rescind this Agreement as a consequence of any matter arising from or in connection with any matter(s) contained in this clause whatsoever;
  - (f) the Buyer irrevocably warrants that the Buyer cannot delay Settlement or seek to make or make any objection or requisitions in connection with the Agreement as a consequence of any matter arising or in connection with any matter(s) contained in this clause whatsoever;
  - (g) the Buyer irrevocably warrants that the Buyer shall make no claim against or seek compensation from the Seller, or commence or maintain any proceedings, action, claim or suit against the Seller as a consequence of any matter arising or in connection with any matter(s) contained in this clause whatsoever; and
  - (h) the Seller may rely upon this clause as a complete bar to any such proceedings, action, claim or suit brought against the Seller by the Buyer in connection with this Sale and or Agreement.
- (2) The Buyer irrevocably warrants that the Buyer shall not make any objection, or terminate, or rescind, or make any requisition, or bring any proceedings, action, claim or suit or make any claim against the Seller whatsoever in connection with the subject matter of this clause, nor shall the Buyer in any way seek to delay settlement of this sale as a consequence of that which appears in this clause. The Buyer acknowledges and irrevocably agrees that the Seller may rely upon the content of this clause of this Agreement as an absolute and complete bar to any proceedings, claim, action or suit brought by the Buyer (or by any third party on the Buyer's behalf either directly or indirectly) in connection with any matter(s) referred to in this clause.
- (3) This clause does not merge upon Settlement and is an essential term of this Agreement.

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## 3.8 Buyer's Acknowledgement

- (1) The Buyer acknowledges, and irrevocably warrants and agrees that the Buyer is buying the Land in **Item 8** in **Part 1** of this Agreement as a result of its own enquires and inspections and legal professional advice received by the Buyer, and not relying upon any representation made by the Seller or any other person on the Seller's behalf whatsoever, and is purchasing the Land:
- (a) in its present condition and state of repair;
  - (b) subject to all defects latent and or patent;
  - (c) subject to any infestations and or dilapidation;
  - (d) subject to all existing water, sewerage, drainage and plumbing services and connections in respect of the property;
  - (e) subject to any non-compliance with any Local Government Act or any ordinance or provision of any of Act or regulation or local laws in respect to the building or the entirety of the Land the subject of the Sale;
  - (f) subject to any contamination including, but not limited to, by any hazardous substances;
  - (g) subject to any defects on title;
  - (h) subject to the provisions of clause 3.2 of this Agreement;
  - (i) subject to any tenancies (acknowledging that the Seller is not in possession);
  - (j) subject to any interest which has escheated to the Crown;
  - (k) subject to any government interest;
  - (l) subject to any State Encumbrance;
  - (m) subject to any Body Corporate Legislation and any consequence or effects of the Body Corporate Legislation, including any debts, liabilities, interests, or obligations arising from the said Body Corporate Legislation;
  - (n) without vacant possession (acknowledging that the Seller is not in possession); and
  - (o) subject to any nuisance or substance which has in the past, in the present or shall in the future escape from the Land, the subject of this Sale.
  - (p) with the exclusion of any chattels. For avoidance of doubt, the Buyer agrees that the Buyer is not purchasing any chattels which may be on the Land, and it will be the sole responsibility of the Buyer to deal with any chattels on the Land after Settlement. The Buyer acknowledges that the Seller does not make any representation in connection with any chattels that may be located on the Land. The Buyer irrevocably warrants that the Buyer shall not make any objection, or terminate, or rescind, or make any requisition, or bring any proceedings, action, claim or suit or make any claim against the Seller whatsoever in connection with the subject matter of this clause, nor shall the Buyer in any way seek to delay settlement of this sale

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as a consequence of that which appears in this clause. The Buyer acknowledges and irrevocably agrees that the Seller may rely upon the content of this clause of this Agreement as an absolute and complete bar to any proceedings, claim, action or suit brought by the Buyer (or by any third party on the Buyer's behalf either directly or indirectly) in connection with any matter(s) referred to in this clause.

- (2) The Buyer irrevocably warrants and agrees not to seek to terminate, rescind or make any objection or requisition or seek further information, or delay settlement or make any claim for compensation whatsoever or bring any proceedings, action, claim or suit arising out of any of the matters referred to in this clause and or Agreement whatsoever.
- (3) Notwithstanding any other provision of this Agreement, this clause shall take priority, and the Buyer acknowledges, and irrevocably warrants and agrees that the Seller may rely upon this clause or any other clause deemed appropriate by the Seller as a complete bar in any proceedings brought by the Buyer or any other party through the Buyer in any action, claim, suit or proceeding, and the Buyer irrevocably warrants not to object or oppose the dismissal or permanent stay of any such action, claim, suit or proceeding brought by the Buyer or through the Buyer by another party against the Seller, and shall consent to such a course.
- (4) The Buyer irrevocably acknowledges, warrants and agrees that upon the fall of the hammer or following negotiation, the price upon the fall of the hammer or the price as so agreed upon by negotiation shall have added to it a further 10% which shall constitute the GST component of this sale. The Buyer is required to pay that additional 10% GST in addition to the price on the fall of the hammer or the price agreed upon by negotiation.
- (5) This clause shall not merge upon Settlement and is an essential term of this Agreement.

## **3.9 Buyer to be satisfied as to use**

The Buyer acknowledges that the Seller does not in any way warrant the use to which the Land may be put and the Buyer irrevocably warrants that the Buyer is satisfied as to the requirements of all responsible authorities in relation to the use of the Land for any and all purposes. In particular the use of the Land by the registered owner or any third party does not of itself mean that such use is permitted. This clause does not merge upon settlement and is an essential term of this agreement.

## **3.10 Risk upon Exchange of Agreement**

The Buyer acknowledges and irrevocably agrees that upon execution of this Agreement risk regarding any loss or damage of any structure, or anything to do with the Land and anything that may escape from the Land and any loss or damage arising as a consequence thereof is the Buyer's responsibility. The Buyer irrevocably warrants that the Buyer shall take out an insurance policy which includes comprehensive insurance to the value of the sale price as identified in this Agreement, and public liability insurance of no less than 20 million dollars. The Buyer irrevocably warrants to nominate the Seller as an interested party and beneficiary of the said policy where the time period between the Contract Date and the Settlement Date is greater than 24 hours. The Buyer irrevocably warrants to indemnify the Seller for any loss or all potential loss the Seller may suffer as a consequence of the Sale of the Land or anything relating thereto. Hence, notwithstanding the law or equity or any other provision herein the Seller and the Buyer irrevocably agree that the risk of the Land shall pass to the Buyer upon exchange, and from that time the Buyer shall not make any requisition, objection or claim for compensation nor have any right of rescission or termination in relation to any loss or damage as a consequence of the Sale of the Land. A copy of the policy and certificate of insurance as a consequence of this clause is to be provided to the Seller by the Buyer within 24 hours of the policy being issued. This clause does not merge upon Settlement. This clause

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is an essential term of this Agreement.

## **3.11 Outstanding Notices or Orders**

- (1) The Buyer acknowledges that there may be:
  - (a) outstanding notices or orders and or matters pertaining to the Land (including but not limited to any matter in connection with clause 3.2 of this Agreement) that the Seller is aware of and has not been disclosed;
  - (b) outstanding notices or orders and or matters pertaining to the Land (including but not limited to any matter in connection with clause 3.2 of this Agreement) that the Seller may not be aware of,

in either case these notices or orders and or matters may not have been complied with. The Buyer irrevocably warrants that the Buyer shall comply with such notices or orders and or matters and shall forever release Seller from such obligations to do so and indemnify the Seller. For the avoidance of doubt the Buyer irrevocably warrants that the Buyer shall not make any objection, requisition, or any claim, terminate or rescind or seek any compensation whatsoever, seek further information from the Seller, or delay the settlement of this Sale in any way as a consequence directly or indirectly based upon the subject matter of what is stated in this clause. The Buyer acknowledges and irrevocably agrees that the Seller may rely upon the content of this clause of the Agreement as an absolute and complete bar to any proceedings, action, claim or suit brought by the Buyer in connection with any matter(s) referred to in this clause.

- (2) This clause shall not merge upon Settlement and is an essential term of this Agreement.

## **3.12 Indemnity**

The Buyer irrevocably warrants that the Buyer releases the Seller from all demands, claims, actions, suits, costs and expenses now or later arising directly or indirectly from the Sale of this Land to the Buyer. For the avoidance of doubt, the Buyer irrevocably indemnifies the Seller against any claims whatsoever and howsoever arising in relation to the Sale of this Land to the Buyer. This clause does not merge on Settlement and is an essential term of this Agreement.

## **3.13 Seller's additional right to rescind**

Should the Buyer become entitled to rescind this Agreement as a consequence of any statutory imposed right to so rescind, the Seller shall also then be entitled to rescind this Agreement provided such right is exercised before the Buyer has served its notice of rescission.

## **3.14 Requisitions and adjustments**

The Buyer acknowledges and irrevocably warrants and agrees that the Buyer shall not seek any information or any requisitions from the Seller, nor shall the Buyer seek any adjustments of the Purchase Price, including but not limited to adjustments due to rates, charges, expenses, imposts, contributions, levies, fees or otherwise. This clause does not merge upon Settlement and is an essential term of this Agreement.

## **3.15 Deposit Bond and Bank Guarantees**

The Buyer irrevocably agrees and acknowledges that the Seller shall not accept a deposit bond or a bank guarantee.

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## 3.16 Vacant Possession

- (1) The Buyer acknowledges that the Buyer may not be receiving the Land with vacant possession. The Buyer irrevocably warrants that the Buyer shall not make any objection, terminate, rescind, or make any requisition, or bring any proceedings, action, claim or suit or make any claim against the Seller whatsoever, nor shall the Buyer in anyway seek to delay the Settlement Date of this Sale as a consequence of that which appears in this clause. The Buyer acknowledges and irrevocably agrees that the Seller may rely upon the content of this clause of the Agreement as an absolute and complete bar to any proceedings, action, claim or suit brought by the Buyer in connection with any matter(s) referred to in this clause.
- (2) The Buyer acknowledges that the Buyer may be receiving the Land in a dilapidated state and with garbage and other refuse, debris, rubbish, waste, litter, scrap, dross, personal property or other materials on the Land. The Buyer shall make its own enquires in this regard. The Buyer irrevocably warrants that the Buyer shall not make any objection, or terminate, or rescind, or make any requisition, or bring any proceedings, action, claim or suit or make any claim against the Seller whatsoever, nor shall the Buyer in any way seek to delay settlement of this Sale as a consequence of that which appears in this clause. The Seller acknowledges and irrevocably agrees that the Seller may rely upon the content of this clause of this Agreement as an absolute and complete bar to any proceedings, claim, action or suit brought by the Buyer in connection with any matter(s) referred to in this clause.
- (3) This clause shall not merge upon Settlement and is an essential term of this Agreement.

## 3.17 Settlement

- (a) Settlement shall be a physical settlement, where the Buyer, or the Buyer's agent shall attend upon the Seller at the Settlement Venue on the Settlement Date as set out in **Item 11 in Part 1** of this Agreement, and physically provide to the Seller's employee and or representative a bank cheque for the balance of purchase price. Settlement shall not take place by electronic means, including but not limited to PEXA or other e-conveyancing or e-settlement method.
- (b) If this Agreement is not completed by 3.00pm on the Settlement Date, the Buyer commits a fundamental breach of this Agreement, where the Seller is ready, willing and able to settle. The Seller may then terminate this Agreement forthwith and retain the Deposit. Alternatively, in the Seller's absolute discretion the Seller may serve upon the Buyer a notice to complete any time after 3.00pm on the Settlement Date. The notice must require the Buyer to complete the Agreement not less than 14 days after service of the said notice; and may be withdrawn by the Seller at any time after it is served, without prejudice to the Seller's right's whatsoever including but not limited to serve a further notice under this clause. For the avoidance of doubt such notice may be served by email and whether the Seller terminates and retains the deposit or serves the Buyer with a notice to complete shall be in the absolute discretion of the Seller. This is an essential term of this Agreement.

## 3.18 Notice to Complete

Despite any rule of law or equity to the contrary and subject to clause 3.17 of this Agreement, the Seller and the Buyer agree that where circumstances arise in which a notice to complete may be given under this Agreement, any notice to complete given under this Agreement shall be reasonable as to time if a period of 14 days from the date of service of the notice is allowed for completion and in this regard, time will be of the essence.

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## 3.19 Acceptance of Transfer

- (1) The Buyer irrevocably warrants that the Buyer shall at settlement (on the Settlement Date) accept a Transfer from the Seller, and the Buyer shall not make any objection, terminate, rescind, or make any requisition, or claim against the Seller whatsoever, nor shall the Buyer in any way seek to delay the Settlement Date of this Sale in any way.
- (2) The Buyer irrevocably warrants that the Buyer shall not commence or maintain any proceedings, action, claim or suit against the Seller as a consequence of anything arising or in any way directly or indirectly connected with the Transfer pertaining to this Land the subject to the Sale.
- (3) The Buyer acknowledges and irrevocably agrees that that neither the Buyer, nor the Buyer's agent, shall be provided with a copy of the Transfer prior to Settlement, that neither the Buyer, nor the Buyer's agent shall request a copy of the Transfer earlier than Settlement, and the Buyer shall not in anyway seek to delay the Settlement Date of this Sale as a consequence of that which appears in this clause. The Buyer acknowledges and irrevocably agrees that the Seller may rely upon the content of this clause of the Agreement as an absolute and complete bar to any proceedings, action, claim or suit brought by the Buyer in connection with any matter(s) referred to in this clause.
- (4) In the alternative, the parties agree, that where the Seller, (in the Seller's absolute discretion) provides the Buyer with a notice in writing within 14 days of the execution of this Agreement (excluding the day of execution), that the Seller will lodge for registration the Transfer in connection with the sale of the Land the subject of this Agreement, the following process (6 Steps) shall apply and be complied with by the Buyer and Seller:
  - (a) Step 1. Within 2 days of being advised in writing that the Seller proposes to lodge for registration the Transfer, the Buyer or the Buyer's agent shall attend upon the Seller at the address identified in Item 2 of this Agreement at a time and date selected by the Seller, and collect an unsigned Transfer and a copy of the Contract of Sale;
  - (b) Step 2. The Buyer or the Buyer's agent shall take the unsigned Transfer and a copy of the Contract of Sale;
  - (c) Step 3. The Buyer shall pay the appropriate amount of stamp duty in connection with the purchase of the Land;
  - (d) Step 4. The Buyer shall cause the Transfer and a copy of the Contract of Sale to be stamped (to include a duty notation) so as to confirm that the full amount of stamp duty has been paid by the Buyer in connection with this transaction;
  - (e) Step 5. The Buyer shall then return the said stamped Transfer and the said stamped (to the location in Item 2 of this Agreement ) Contract of Sale to the Seller no later than 2 days before the Settlement Date at a time and date selected by the Seller; and
  - (f) Step 6. Following Settlement and subject to the Seller receiving all moneys due to the Seller from the Buyer in cleared funds in accordance with this Agreement, the Seller shall provide the Transfer to the Registrar of Titles and the Buyer

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shall pay immediately upon request to the Seller or to the Registrar of Titles at the Seller's direction any moneys payable to register the Transfer, before the Transfer is registered. The Parties agree that time is of the essence.

- (5) Where the Buyer complies with clauses 3.19(4)(a)–(d) of this Agreement, but the Buyer has not received the Transfer stamped (to include a duty notation) by 2 days before the Settlement Date, and such delay in receiving the Transfer stamped has not been caused by fault of the Buyer, the Settlement Date of this Agreement shall be amended and taken to be the date 10 business days from the Settlement Date, to enable the Buyer to receive the Transfer so stamped. For the avoidance of doubt, the amendment of the Settlement Date under this clause may only occur once, and notwithstanding the Settlement Date being taken to be the amended date under this clause, no further extensions of the Settlement Date beyond 10 business days from the Settlement Date of this Agreement may occur under this clause 3.19(5).
- (6) The Buyer irrevocably warrants that the Buyer shall not make any objection, terminate, rescind, or make any requisition, or claim against the Seller whatsoever, nor shall the Buyer in any way seek to delay the Settlement Date of this Sale in any way (other than as provided by clause 3.19(5)), as a consequence (directly or indirectly) of anything set out in clause 3.19 of this Agreement.
- (7) The Buyer irrevocably warrants that the Buyer shall not commence or maintain any proceedings, action, claim or suit against the Seller as a consequence of anything arising or in any way directly or indirectly connected with clause 3.19 of this Agreement.
- (8) The Buyer irrevocably acknowledges and agrees that the Buyer shall not receive an instrument of title or physical discharge or physical release of any Encumbrances or the keys of any building or improvements on the Land, or anything else.
- (9) This clause shall not merge upon Settlement and is an essential term of this Agreement.

## 3.20 Pre-Estimate

- (1) Provided that the Seller is ready, willing and able to give title to the Buyer, if this Agreement is not completed for any reason (other than the Seller's default) on or before the Settlement Date then in addition to any other right(s) which the Seller may have under this Agreement or otherwise the Buyer will on the Settlement Date (which will in this clause include rescission or termination as a consequence of the Buyer's conduct) of this Agreement pay to the Seller interest on any part of the Purchase Price not released to the Seller (including the deposit if such is being retained by the Seller's agent) at the rate of 11% per annum calculated on daily balances, commencing on the Settlement Date and continuing until settlement or in the case of rescission or termination, such rescission or termination of this Agreement. This interest is a genuine pre-estimate of liquidated damages and will be deemed to be part of the balance of purchase money due and payable on completion.
- (2) If completion does not take place on the Settlement Date and the Seller is not at fault and the Seller issues a Notice to Complete in accordance with these terms, the Buyer must pay to the Seller the sum of \$220.00 to cover the legal costs and other expenses incurred as a consequence of the issuing of the said notice. The parties agree that it is a genuine pre-estimate of the additional costs and other expenses or costs incurred by the Seller as a consequence of issuing such a notice. Notwithstanding anything in this clause or other clause in this Agreement, time remains of the essence.

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- (3) This clause shall not merge upon Settlement and is an essential term of this Agreement.

## 3.21 Approved Safety Switch and Compliant Smoke Alarm

- (1) The Seller has not been in occupation or possession of the Land or improvements and has not verified the existence or otherwise of:
- (a) An Approved Safety Switch for the General-Purpose Socket Outlets;
  - (b) The installation or otherwise of a Compliant Smoke Alarm.
- (2) The Seller accordingly gives notice that neither an Approved Safety Switch nor a Compliant Smoke Alarm is installed in the residence.
- (3) This clause shall not merge upon Settlement.

## 3.22 Resumption

If the Land is subject to a resumption for road or any other purpose, the balance of the Land remaining only is offered for Sale and no objection or requisition shall be raised by the Buyer that the area so offered is approximately only, or that the area left after such resumption has been finalized is more or less than the approximate area so offered, or that the Buyer is delayed in any respect in obtaining a title for the Land purchased. The Buyer irrevocably warrants that the Buyer shall not make any objection, or terminate, or rescind, or make any requisition, or bring any proceedings, action, claim or suit or make any claim against the Seller whatsoever, nor shall the Buyer in any way seek to delay settlement of this Sale as a consequence of that which appears in this clause. The Buyer acknowledges and irrevocably agrees that the Seller may rely upon the content of this clause of this Agreement as an absolute and complete bar to any proceedings, claim, action or suit brought by the Buyer in connection with any matter(s) referred to in this clause. This clause shall not merge upon settlement and is an essential term of this Agreement.

## PART 4: PURCHASE PRICE

### 4.1 Method of Payment

- (1) The Buyer must pay the Purchase Price as set out in **Item 9 in Part 1**, and any other sum due to the Seller under this Agreement other than the Deposit by:
- (a) a bank cheque payable to the Stakeholder, dated on or before the date of delivery, issued by an authorised deposit-taking institution as defined by section 5 of the *Banking Act 1959* (Cth), or a bank constituted under a law of the State of Queensland,
- and no other method of payment will be accepted by the Seller. Time is of the essence.
- (2) The Buyer must pay the Deposit as set out in **Item 9 in Part 1** by:
- (a) legal Australian tender; or
  - (b) a bank cheque payable to the Stakeholder, dated on or before the date of delivery, issued by an authorised deposit-taking institution as defined by section 5 of the *Banking Act 1959* (Cth), or a bank constituted under a law of the State of Queensland; or

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- (c) electronic funds transfer to the bank account nominated by the Seller, and providing evidence to the Seller of that electronic funds transfer immediately upon such transfer being made,

and no other method of payment will be accepted by the Seller.

- (3) This clause is an essential term of this Agreement.

## 4.2 Payment of Deposit

- (1) The Buyer must pay to the Seller the Deposit (**Item 9 in Part 1**) in cleared funds being in Australian dollars (Australian currency) immediately upon execution of this Agreement, and this time is essential.
- (2) The Deposit is to be paid to the Stakeholder.
- (3) If the Buyer fails to pay the Deposit (**Item 9 in Part 1**) as required by this clause, the Buyer commits a fundamental breach of this Agreement and the Seller may affirm or terminate this Agreement forthwith.
- (4) Without derogating from the strict effect of the terms of this Agreement, the Seller may recover the Deposit to the extent it is unpaid as a liquidated debt in a Court of competent jurisdiction in Queensland, and a certificate issued by the Seller will be prima facie evidence of the amount owed pursuant to this Agreement.
- (5) The Deposit shall be 10% of the Purchase Price as set out in **Item 9 in Part 1** of this Agreement.
- (6) This clause shall not merge upon Settlement and is an essential term of this Agreement.

## 4.3 Reduction of Deposit

- (1) In the event that:-
  - (a) the Buyer defaults in the observance of any obligation in the Agreement; or
  - (b) the Buyer contravenes any term of this Agreement; or
  - (c) the Buyer has paid a deposit of less than 10% of the Purchase Price; or
  - (d) the Seller terminates this Agreement,

then the Seller shall be entitled to recover from the Buyer the amount equal to 10% of the Purchase Price (as contained in **Item 9 in Part 1** of this Agreement) less the deposit paid as liquidated damages and it is agreed that this right shall be in addition to and shall not limit any other remedies available to the Seller contained in this Agreement or implied by law or in equity notwithstanding any rule of law or equity to the contrary. This clause does not merge upon Settlement and is an essential term of this Agreement.

## 4.4 Genuine and Fair Pre-Estimate of Loss

In addition to any other rights which the Seller has, the rights of which are specifically preserved, in the event of a failure to complete by the Buyer, the Buyer irrevocably agrees to the forfeiture of the Deposit, being 10% of the Purchase Price (as contained in **Item 9 in Part 1** of this Agreement) as a genuine and fair pre-estimate of the loss and damage suffered by the Seller and is agreed as a fixed liquidated sum. This sum if necessary, can be recovered as a debt by the Seller against the Buyer in a

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Court of competent jurisdiction in Queensland. This clause does not merge upon Settlement and is an essential term of this Agreement.

## 4.5 Balance Purchase Price

The Buyer must pay to the Seller on the Settlement Date the Balance of the Purchase Price (**Item 9 in Part 1**) in such a manner as the Seller directs. For the avoidance of doubt, the Balance of the Purchase Price is the Purchase Price as contained in **Item 9 in Part 1** of the Agreement, less any deposit that was actually paid by the Buyer and received by the Seller in cleared funds. The Parties agree that time is of the essence. The Buyer acknowledges and agrees that the contravention of this clause is a fundamental breach of an essential term of this Agreement. This clause does not merge upon Settlement and is an essential term of this Agreement.

## 4.6 Stakeholder's Obligation (General)

- (1) Without limiting the effect of any specific obligation imposed upon the Stakeholder in this Agreement, the Stakeholder must:
  - (a) retain the Deposit and any monies paid to the Seller by the Buyer until:
    - (i) settlement; or
    - (ii) termination of this Agreement.
- (2) Notwithstanding anything to the contrary, the Buyer irrevocably warrants and agrees the Deposit shall be released to the Seller forthwith upon the execution of this Agreement. This clause shall constitute a direction to pay to the Stakeholder to immediately release to the Seller the Deposit.
- (3) This clause does not merge upon Settlement and is an essential term of this Agreement.

## 4.7 Interest on Late Payments

- (1) If the Deposit or any other money payable under this Agreement is not paid when due, the Buyer must pay interest on the overdue money from the due date for payment to the date of payment (both inclusive).
- (2) A judgment for money payable under this Agreement will also bear interest from the date of judgment to the date of payment (both inclusive).
- (3) Interest is to be:-
  - (a) calculated on daily balances at the Default Interest rate of 11% per annum upon any outstanding amount;
  - (b) paid upon Settlement Date or otherwise on demand.
- (4) This clause shall not merge upon Settlement and is an essential term of this Agreement.

## 4.8 Application of Proceeds of Sale

- (1) The Seller will apply the proceeds of sale (to the extent that such proceeds are available) in the order set out in regulation 146 of the *Local Government Regulation 2012 (Qld)*. As at the date of

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this Agreement, that order is as follows:

- (a) to pay any amount for the release of a State encumbrance under section 138(4)(b) or (5) of the *Local Government Regulation 2012 (Qld)*, including payment of an amount pertaining to the State's interest in the Land and any amount that is owing to the State under this Agreement if any;
  - (b) to pay the expenses of the sale;  
  
*Example of expenses of the sale include—  
administrative costs incurred by the local government*
  - (c) to pay land tax owing on the day of sale;
  - (d) to pay the overdue rates or charges for the Land;
  - (e) to pay any other amounts relating to the Land that the owner of the Land owed the local government immediately before the sale;
  - (f) to pay any rates or charges, other than overdue rates or charges, for the Land;
  - (g) to pay any registered encumbrances, other than State encumbrances, in order of their priority under the Land Title Act;
  - (h) to pay any body corporate fees that the owner of the Land owed immediately before the sale;
  - (i) to pay the person who owned the Land immediately before the Sale.
- (2) The Buyer irrevocably acknowledges and agrees that if there are insufficient funds from the proceeds of sale to pay charges/taxes/rates/imposts/other monies including those referred to in this clause and clause 3.2 of this Agreement, the Buyer will become solely responsible for them to the extent that they are unpaid. This clause is subject to ss 138 and 145 of the *Local Government Regulation 2012 (Qld)*.
  - (3) Notwithstanding clause 4.8 (1)(c) of this Agreement, the Buyer irrevocably acknowledges and agrees that where any land tax is due and payable or becomes due and payable following the entering into this Agreement the Buyer shall pay the land tax so owed, without any reduction to the Purchase Price prior to Settlement.
  - (4) The Buyer irrevocably acknowledges and agrees that the Buyer shall have no action against the Seller whatsoever and shall neither commence nor maintain any proceedings, action, claim or suit against the Seller in connection with the subject matter of this clause, nor raise any objections, requisitions or seek to delay settlement of this Sale, and that the Seller may plead as an absolute bar to any proceedings, action, claim or suit brought by the Buyer against the Seller in regard to any matter referred or in connection with the subject matter of this clause.
  - (5) This clause does not merge upon Settlement and is an essential term of this Agreement.

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## PART 5: SETTLEMENT

### 5.1 Time and Place for Settlement

- (1) Settlement is to be effected:
  - (a) on the Settlement Date;
  - (b) at the Settlement Venue;
  - (c) at the time agreed by the Parties;
  - (d) between the hours of 11.00am and 4.00pm.
- (2) Irrespective of any other provision in this Agreement, if the Settlement Date falls on a Saturday, Sunday or public holiday in Queensland, Settlement is to be effected on the Business Day next following the Settlement Date.
- (3) Any agreement or proposal between the Parties to effect Settlement before 4.00pm on the Settlement Date does not have the effect of varying this Agreement and is without prejudice to the rights of either party to require Settlement at 4.00pm on the Settlement Date.
- (4) At Settlement, the Seller will, subject to clause 3.19(4) to (8) of this Agreement, provide to the Buyer the Transfer in exchange for the Balance Purchase Price (being the Purchase Price as set out in **Item 9** in **Part 1**) less any Deposit received by the Seller in cleared funds). The Buyer irrevocably acknowledges and agrees that the Buyer shall not receive an instrument of title or physical discharge or physical release of any Encumbrances or the keys of any building or improvements on the Land. The Buyer irrevocably acknowledges, warrants and agrees that the Buyer shall accept the said Transfer provided by the Seller, subject to clause 3.19(4) to (8) of this Agreement.
- (5) The Buyer irrevocably acknowledges and agrees that the Buyer shall have no action against the Seller and shall neither commence nor maintain any proceedings, action, claim or suit against the Seller in connection with the subject matter of this clause, nor raise any objections, requisitions or seek to delay Settlement of this Sale, and that the Seller may plead as an absolute bar to any proceedings, action, claim or suit brought by the Buyer against the Seller in regard to any matter referred or in connection with the subject matter of this clause.
- (6) This clause does not merge upon Settlement and is an essential term of this Agreement.

### 5.2 Preparation and Delivery of Transfer Documents

- (1) The Seller will:
  - (a) prepare the Transfer; and
  - (b) deliver it to the Buyer at Settlement,subject to clause 3.19(4)–(8) of this Agreement.

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- (2) It is the Buyer's sole responsibility to organise and effect the stamping and registration of the Transfer, including that it is the Buyer's sole responsibility to pay, without any right to reimbursement or set off, any taxes, duties, costs, expenses, fees, interest, and/or any liabilities whatsoever arising from or in connection with this Sale, the Land and/or the Transfer. The Buyer acknowledges and irrevocably agrees that the Buyer shall not receive the Transfer any earlier than Settlement.
  - (3) The Buyer irrevocably acknowledges and agrees that the Buyer shall have no action against the Seller and shall neither commence nor maintain any proceedings, action, claim or suit against the Seller in connection with the subject matter of this clause, nor raise any objections, requisitions or seek to delay settlement of this Sale, and that the Seller may plead as an absolute bar to any proceedings, action, claim or suit brought by the Buyer against the Seller in regard to any matter referred or in connection with the subject matter of this clause.
  - (4) This clause does not merge upon Settlement and is an essential term of this Agreement.

## 5.3 Registration of Transfer

- (1) After Settlement, subject to clause 3.19(4) – (8) of this Agreement, the Buyer must:
  - (a) ensure that the Transfer is lodged promptly for registration; and
  - (b) pursue registration of the Transfer diligently, meaning that the Buyer must register the Transfer within a period of 48 hours of Settlement.
- (2) This clause does not merge upon Settlement and is an essential term of this Agreement.

## 5.4 Further Assurances

Each party must do everything lawfully or reasonably required of it by the other party to give effect to the provisions, and achieve the intent, of this Agreement; and preserve and promote the entitlements of the other party under this Agreement, before and after Settlement. This clause does not merge upon Settlement and is an essential term of this Agreement.

## 5.5 No Claim

- (1) The Buyer irrevocably acknowledges and warrants that the Buyer once he, she or it executes this Agreement is thereafter bound to complete and the Buyer will not be entitled to make any claim against the Seller for damages, compensation or otherwise rescind or terminate this Agreement, unless the Seller agrees to releasing (in writing) the Buyer from the terms of this Agreement. Any release of the Buyers' obligation arising from the Agreement must be in writing and will be at the Seller's absolute discretion.
- (2) The Buyer irrevocably warrants that the Buyer has sufficient funds to purchase the Land, and the purchase of the Land is not subject to finance.
- (3) This clause does not merge upon Settlement and is an essential term of this Agreement.

## 5.6 Delay & Other Events

- (1) In addition to any other terms of this Agreement, where the Seller is restrained or is prevented in any way or manner whatsoever from conveying title by the original Settlement Date, the Seller

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may extend the Settlement Date for a period or periods, the total of which shall not exceed 120 Business days from the original Settlement Date, by notice in writing to the Buyer, which notice(s) shall specify such extended date(s). In the event of a settlement delay(s) in accordance with this clause, the Buyer irrevocably agrees that it shall not make any claim or bring any proceedings, claim, action or suit for damages or loss, compensation or account or relief whatsoever, or seek to enforce any other remedies at law or in equity against the Seller.

- (2) If there is such an extension, and if the Seller shall be restrained or prevented in any way or manner whatsoever from conveying title of the Land, the Seller may (after reasonable efforts by the Seller being undertaken) in its absolute discretion rescind or terminate this Agreement by notice in writing to the Buyer and all deposit and other monies received by the Seller or agent or Stakeholder on account of the Purchase Price (excluding interest accrued on the Deposit which shall be retained by the Seller) shall be refunded to the Buyer without interest, without costs and without damages. The Buyer irrevocably agrees that it shall not make any claim or bring any proceedings, claim, action or suit for damages or loss, compensation or account whatsoever, or seek to enforce any remedy at law or in equity including seeking declaratory relief or specific performance against the Seller and the Buyer's only remedy in such event will be to accept the refund of the deposit monies received by the Seller or agent or Stakeholder on account of the Purchase Price without interest, without costs, and without damages which shall be accepted by the Buyer in full and final satisfaction of all claims and the Buyer thereby forever releases and forgives the Seller from any such claims whatsoever. The Buyer acknowledges that the Seller may use such release as a complete bar to any claim, action, proceeding, relief or suit brought by the Buyer or any party acting on behalf of the Buyer (including but not limited to an undisclosed principal, assigns, executors/executrix, administrators, trustees or other representatives or agents) as a consequence of the provisions of this Agreement. This clause shall not merge upon Settlement.
- (3) Notwithstanding anything to the contrary in this Agreement or at law or in equity, in the event the Seller is for any reason whatsoever unable to perform any of its obligations (after reasonable efforts by the Seller) pursuant to the terms of this Agreement, the Buyer irrevocably agrees that it shall not make any claim or bring any proceedings, claim, action or suit for damages or loss, compensation or account whatsoever, or seek to enforce any other remedies at law or in equity including seeking declaratory relief or specific performance against the Seller and the Buyer shall release the Seller for all actions, suits or claims past, present or future and the Seller may rely upon such release as an absolute and complete bar to any claim, action, proceeding, relief or suit brought by the Buyer or any party acting on behalf of the Buyer (including but not limited to an undisclosed principal, assigns, executors/executrix, administrators, trustees or other representatives or agents), as a consequence of the provisions of this Agreement. This clause does not merge upon Settlement.
- (4) Provided the Buyer is not in default of any of the terms of this Agreement and where the Buyer has a right to rescind or terminate this Agreement arising from the terms of this Agreement or at law or in equity, the Buyer's only remedy in such event will be to rescind the Agreement, in which case all deposit and any monies received by the Seller or agent on account of the Purchase Price shall be refunded to the Buyer without interest, without costs, and without damages or loss and shall be accepted by the Buyer in full and final satisfaction of all claims whatsoever, and the Buyer thereby forever releases and forgives the Seller from any claims whatsoever. The Buyer acknowledges and irrevocably agrees that the Seller may use such release as a complete bar to any claim, action, proceeding, relief or suit brought by the Buyer or any party acting on behalf of the Buyer (including but not limited to an undisclosed principal, assigns, executors/executrix, administrators, trustees or other representatives or agents), as a consequence of the provisions of this Agreement.

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- (5) This clause does not merge upon Settlement and is an essential term of this Agreement.

## 5.7 Stamp Duty and Any other Impost

The Buyer must pay all stamp duty, other government imposts and other moneys including but not limited to taxes, imposts, penalties, levies and/or fines including any duty payable or interest whatsoever or contemplated by this Agreement which are payable in connection (directly or indirectly) with the Land and indemnifies the Seller against any liability whatsoever (excluding such encumbrances referred to in section 145(4) of the *Local Government Regulation 2012 (Qld)* and as defined in Schedule 4 of the *Local Government Act 2009 (Qld)*), which arises or results from any default, delay or omission to pay those duties or imposts and or other moneys or failure to make proper disclosure to any authority or government or statutory body and or other body in relation to those duties or imposts and or other moneys. The said stamp duty, and other government impost or other moneys must be paid before the Settlement Date. This clause does not merge upon Settlement and is an essential term of this Agreement.

## 5.8 GST Provision

### A Consideration is GST exclusive

Any consideration to be paid or provided for a supply made under or in connection with this Contract does not include an amount on account of GST.

### B Gross up consideration

Input Taxed

- (1) The Seller and Buyer agree that the supply the subject of this Agreement is not a GST Taxable supply because the supply is input taxed for being the sale of eligible residential premises, pursuant to sections 40-65 and 195-1 of the GST Act.
- (2) The Buyer irrevocably warrants that:
  - (a) the Land (residential premises) the subject of this Agreement is capable of and will be occupied and used predominately for residential occupation;
  - (b) there are no matters whatsoever that would prevent the supply of the Land the subject of this Agreement from being input taxed under the GST Act.
- (3) Notwithstanding clause 5.8.B(1), if it is determined by the Seller in its own absolute discretion that GST is payable on any supply the Seller makes under or in connection with this Contract:
  - (a) the price or consideration payable for the supply (GST exclusive consideration) is increased by, and the Buyer must also pay to the Seller, an additional amount equal to the GST payable by the Seller on the supply (GST Amount);
  - (b) the GST Amount must be paid by the Buyer to the Seller at the earlier of:
    - (i) completion; or
    - (ii) the time when the GST exclusive consideration is payable.

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## ~~GST Taxable Supply~~

- ~~(1) The Seller and Buyer agree that the supply the subject of this Agreement is a Taxable Supply and GST is payable on the supply and on any supply the Seller makes under or in connection with this Agreement.~~
- ~~(2) The Buyer irrevocably agrees the price on the fall of the hammer or price agreed by negotiation for the supply of the Land or consideration payable for the said supply (GST exclusive consideration) is increased by 10% being the GST, and thus the Buyer must pay an additional amount equal to the GST payable by the Seller on the supply (GST Amount).~~

## C GST withholding tax

- (1) The Buyer acknowledges the Seller's notification at **Item 9 Part 1** of this Agreement, and irrevocably acknowledges and accepts that such notice is a GST Residential Withholding Notice pursuant to and in accordance with section 14-255 of Schedule 1 to the *Taxation Administration Act 1953* (Cth) ('TA Act').
- (2) Clauses 5.8.C(3) to 5.8.C(16) apply where:
- (a) the Seller's notification at **Item 9 Part 1** of this Agreement identifies that the Buyer is required to make a GST Residential Withholding payment to the Commissioner under section 14-250 of the TA Act in relation to the supply of the Land under this Agreement; or
  - (b) the Seller at any time (including before or after the Contract Date) notifies the Buyer that the Buyer is required to make a GST Residential Withholding payment to the Commissioner under section 14-250 of the TA Act in relation to the supply of the Land under this Agreement, notwithstanding that the Seller's notification at **Item 9 Part 1** of this Agreement, or any other notification provided to the Buyer by the Seller, identifies otherwise.
- (3) The Buyer acknowledges and irrevocably agrees that it must make a residential withholding payment to the Commissioner of Taxation under section 14-250 of the TA Act in relation to the Sale of the Land under this Agreement. The Buyer irrevocably agrees that such payment to the Commissioner of Taxation must be in the sum identified in the Seller's notification at **Item 9 Part 1** as being the 'Amount Buyer/recipient must pay to the Commissioner'. The Buyer must provide the Seller with a Bank Cheque prior to Settlement that is payable to the Deputy Commissioner of Taxation for the amount of the Withheld GST.
- (4) Where the Buyer provides the Seller with a Bank Cheque in accordance with clause 5.8.C(3), the Seller:
- (a) undertakes to send the Bank Cheque to the ATO as soon as reasonably practicable after settlement; and
  - (b) will provide the Buyer with a receipt for that Bank Cheque.
- (5) Immediately after this Agreement is executed, the Buyer must lodge electronically via the ATO website a 'Form 1' notification with the ATO in accordance with section 16-150(2) of Schedule 1 to the TA Act ('Form 1').

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- (6) The Buyer must provide written evidence of lodgement of the Form 1 to the Seller immediately after so lodging the Form 1, including a copy of the Form 1 so lodged.
- (7) The Buyer must immediately upon receiving any response to the lodgement with the ATO of the Form 1 from the ATO:
- (a) provide a copy of such response to the Seller;
  - (b) provide a copy to the Seller of any payment reference number, lodgement reference number, and payment slip received by the Buyer in response to lodging the Form 1; and
  - (c) lodge electronically via the ATO website a 'Form 2' notification with the ATO in accordance with section 16-150(2) of Schedule 1 to the TA Act ('Form 2').
- (8) The Buyer must immediately upon receiving any response to the lodgement with the ATO of the Form 2 from the ATO:
- (a) provide a copy of such response to the Seller;
  - (b) provide a copy to the Seller of any payment reference number, lodgement reference number, and payment slip received by the Buyer in response to lodging the Form 2.
- (9) The Buyer acknowledges that it is a requirement of the TA Act that the Buyer lodge such notification, and the Buyer may be liable to penalties for not doing so.
- (10) If and to the extent that, in addition to lodging the Form 1 and Form 2, the Buyer is required to notify the ATO of settlement or any other transaction details:
- (a) the Buyer must complete and electronically submit such notification, details or information with the ATO;
  - (b) the Buyer must provide the Seller with copies of such notification, details or information.
- (11) Where the Buyer complies with clauses 5.8.C(5)–(10) of this Agreement, but the Buyer has not received the Form 1 and Form 2 from the ATO by 4.00pm on the Settlement Date, and such delay in receiving the Form 1 and Form 2 has not been caused by fault of the Buyer, the Settlement Date of this Agreement shall be amended and taken to be the date 4 business days from the Settlement Date, to enable the Buyer to receive the Form 1 and Form 2 from the ATO. For the avoidance of doubt, the amendment of the Settlement Date under this clause may only occur once, and notwithstanding the Settlement Date being taken to be the amended date under this clause, no further extensions of the Settlement Date beyond 4 business days from the Settlement Date of this Agreement may occur under this clause 5.8.C(11).
- (12) Subject to the Buyer complying with its obligations under this clause 5.8.C the Parties agree that the Buyer's payment of the Withheld GST in accordance with this clause will satisfy the Buyer's obligation to pay a portion of the consideration under this Agreement that is equal to that amount. For the avoidance of doubt, if and to the extent that the Buyer does not comply with this clause 5.8.C, the Seller retains the right to payment of the full consideration payable under this Agreement plus the GST component. For avoidance of doubt, this means the Buyer must pay to the Seller at Settlement the Sale Price as identified in this Agreement, plus 10% GST of the Sale Price as identified in this Agreement.
- (13) Subject to the Buyer complying with its obligations under this clause 5.8.C the Parties agree that the Buyer's payment of the Withheld GST in accordance with this clause will satisfy the Buyer's obligation to pay a portion of the consideration under this Agreement that is equal to that amount. For the avoidance of doubt, if and to the extent that the Buyer does not comply with this clause 5.8.C, the Seller retains the right to payment of the full consideration payable under this

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Agreement plus the amount of the withholding tax. This may be claimed by the Seller from the Buyer as a liquidated debt in any court of competent jurisdiction.

- (14) The Buyer irrevocably agrees to indemnify the Seller for all costs, disbursements, payments, losses, interest, or moneys or taxes, imposts, penalties incurred by the Seller following a failure of the Buyer to comply with its obligations under 5.8.C(7)–(10).
- (15) The Buyer irrevocably warrants and agrees that it is the Buyer's sole responsibility to comply with the TA Act and the Buyer irrevocably warrants and agrees that it has no right to, and must not, make any claim or bring any proceedings, claim, action or suit for damages or loss, compensation or account whatsoever, or seek to enforce any other remedies at law or in equity including seeking declaratory relief or specific performance against the Seller, in relation to any matter or circumstances arising (directly or indirectly) from or in connection with the Buyer's obligations under the TA Act, including where the Buyer is liable for any additional charges, expenses, fees, penalties or any liabilities whatsoever, even in circumstances where the Buyer complies with this clause 5.8 of this Agreement. The Buyer irrevocably agrees to indemnify the Seller for any costs, charges, expenses, losses, claims, taxes, imposts, moneys, debts, or any liabilities whatsoever arising (directly or indirectly) from or in connection with the Buyer's obligations under the TA Act or this clause 5.8.C.
- (16) In this clause 5.8.C:
  - (a) ATO means the Australian Taxation Office and includes a reference to the Commissioner of Taxation and Deputy Commissioner of Taxation, and vice versa, as required;
  - (b) Bank Cheque means an unendorsed cheque made payable to the Commissioner of Taxation that is:
    - (i) issued by the Reserve Bank of Australia or an authorised deposit-taking institution which is a bank, a building society or a credit union; or
    - (ii) if authorised in writing by the Seller or the Seller's representative or agent, some other bank cheque;
  - (c) Withheld GST means the amount the Buyer is required to withhold and to pay to the ATO in accordance with section 14-250 of Schedule 1 to the TA Act (or any provision which replaces it) in relation to the Sale made under or in connection with this Agreement.

## **D. Reimbursements and adjustments (net of GST)**

- (1) Notwithstanding anything else in this Agreement, if under this Agreement a party must make an adjustment in connection with GST, pay an expense of another party in connection with GST, or pay an amount payable by or to a third party the adjustment in connection with GST, such payment will be:
  - (a) reduced by the amount of any input tax credit to which the party receiving the adjustment or payment (or the representative member of the GST group that party is a member of as the case may be) is or was entitled to in relation to that payment; and
  - (b) increased by an amount equal to the GST payable by the supplier if and to the extent that the adjustment or payment is consideration for a Taxable Supply.

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## **E. Tax invoice**

The Seller shall provide the Buyer a Tax Invoice for any Taxable Supply by the Seller made under this Agreement.

## **F. Indemnity**

The Buyer irrevocably warrants that where GST is payable in connection with this Agreement and has not been paid by the Settlement Date, by the Buyer to the Seller or ATO or the Commissioner of Taxation in accordance with the terms of this Agreement, the Buyer shall indemnify the Seller for the sum payable in connection with the GST and notwithstanding anything else contained in this Agreement and shall provide this said GST amount to the Seller within 24 hours of being requested to do so by the Seller or the Seller's representative, in writing or by any other means. This clause does not merge upon Settlement and shall continue following settlement, whether or not other rights continue. This is an essential term of this Agreement.

## **G. Buyer's Responsibility**

The Buyer irrevocably warrants and agrees that it is the Buyer's sole responsibility to comply with the TA Act and the GST Act, and the Buyer irrevocably warrants and agrees that it has no right to, and must not, make any claim or bring any proceedings, claim, action or suit for damages or loss, compensation or account whatsoever, or seek to enforce any other remedies at law or in equity including seeking declaratory relief or specific performance against the Seller, in relation to any matter or circumstances arising from or in connection with the Buyer's obligations under the TA Act and the GST Act, including where the Buyer is liable for any additional charges, expenses, fees, claims, taxes, imposts, moneys, debts, penalties or any liabilities whatsoever, even in circumstances where the Buyer complies with this clause 5.8 of this Agreement. The Buyer irrevocably agrees to indemnify the Seller for any costs, disbursements, charges, expenses, losses, claims, taxes, imposts, moneys, debts, or any liabilities whatsoever arising (directly or indirectly) from or in connection with the Buyer's obligations under the TA Act, GST Act or this clause 5.8.

## **H. GST Non-Application**

Where this Agreement or a notice by the Seller to the Buyer provides that GST is payable in connection with this Agreement but for whatever reason GST is not applicable as determined by the Deputy Commissioner of Taxation or the ATO, then the amount that would have otherwise constituted the GST component of this Agreement will need to be recovered, at the Buyer's expense, by the Buyer from the Deputy Commissioner of Taxation and the Buyer irrevocably agrees and warrants that the Buyer has no claim against the Seller whatsoever and shall not bring any claim, suit, action or complaint to seek to recover the said moneys from the Seller, and the Seller may rely upon this clause as a complete and absolute bar to such claim, suit, action or complaint. The Buyer irrevocably warrants in such circumstances, that it shall do all that is necessary including but not limited to applying for a refund or the execution of whatever documentation as necessary to comply with this clause.

## **I. No Merger and essential term.**

Rights under this clause 5.8 continue after the Settlement Date, whether or not other rights continue, and do not merge upon Settlement. This clause is an essential term of this Agreement.

## **J. Interpretation**

(1) In this clause:

# Contract of Sale

*Local Government Regulation 2012 (Qld)*  
(Chapter 4 Part 12 Division 3)

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- (a) “ATO” means the Australian Taxation Office and includes a reference to the Commissioner of Taxation and Deputy Commissioner of Taxation, and vice versa, as required.
- (b) “GST” has the meaning given in the GST Act.
- (c) “GST Act” means the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).
- (d) “TA Act” means the *Taxation Administration Act 1953* (Cth).
- (e) “Taxable Supply” has the same meaning as in the GST Act.
- (f) “Tax Invoice” has the same meaning as in the GST Act.

## 5.9 Extension of Settlement Date

The Buyer acknowledges notwithstanding anything else contained in this Agreement, the Seller has the right in its absolute discretion and for any reason whatsoever to extend the Settlement Date of this Agreement up to 120 Business Days from the original Settlement Date by notice in writing to the Buyer or otherwise rescind or terminate this Agreement, the Buyer irrevocably agrees and acknowledges that the Buyer shall have no recourse against the Seller whatsoever and will keep the Seller indemnified against any liability whatsoever in connection with this Agreement. The Buyer irrevocably acknowledges and agrees that the Buyer shall have no action against the Seller and shall neither commence nor maintain any proceedings, action, claim or suit against the Seller in connection with the subject matter of this clause, nor raise any objections, requisitions or seek to delay settlement of this Sale, and that the Seller may plead as an absolute bar to any proceedings, action, claim or suit brought by the Buyer against the Seller in regard to any matter referred or in connection with the subject matter of this clause. This clause does not merge upon Settlement and is an essential term of this Agreement.

## 5.10 Foreign Acquisition

- (1) The Buyer irrevocably warrants:
  - (a) that the Buyer is not a foreign person within the meaning of the *Foreign Acquisition and Takeovers Act 1975* (Cth); or
  - (b) that the Buyer is a foreign person within the meaning of the *Foreign Acquisition and Takeovers Act 1975* (Cth) and that the Treasurer of the Commonwealth of Australia has advised in writing that the Treasurer has no objection to the acquisition of the Land by the Buyer. In this case the Buyer must provide the Seller with a copy of such documentation within 24 hours after executing this Agreement (exchange of this Agreement).
- (2) This clause does not merge upon Settlement and is an essential term of this Agreement.

## 5.11 Property Exceeds \$750,000.00

- (1) In the event that this Sale is of Land with a value of \$750,000.00 or more:
  - (a) If both the following apply:
    - (i) The sale is not an excluded transaction under section 14-215 of the Withholding

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Law; and

- (ii) The Seller has not given the Buyer on or before the Settlement Date for the Seller or each person compromising the person(s) registered on title as the owner(s) of the Land either:

(A) A clearance Certificate under section 14-220 of the Withholding Law;  
or

(B) A variation notice under section 14-235 of the Withholding Law which remains current at the Settlement Date varying the CGT Withholding Amount to nil,

then:

- (iii) The Seller may direct, under clause 4.5, the Buyer to draw a bank cheque for the CGT Withholding Amount in favour of the Deputy Commissioner of Taxation;
- (iv) The Buyer must lodge a Foreign Resident Capital Gains Withholding Purchaser Notification Form with the ATO for each person comprising the Buyer and give copies to the Seller with the payment reference numbers (PRN) on or before Settlement Date;
- (v) The Seller must return the bank cheque in clause 5.11(1)(a)(iv) to the Buyer's solicitor (or if there is no Buyer's Solicitor, the Buyer) at Settlement;
- (vi) The Buyer must pay the CGT Withholding Amount to the Commissioner of Taxation in accordance with section 14-200 of the Withholding Law and give the Seller evidence that it has done so within 2 Business Days of Settlement occurring; and
- (vii) For the avoidance of doubt, the Seller may provide to the Buyer a clearance certificate or variation notice as referred to in provision 5.11(1)(a)(ii)(A) or (B) of this Agreement for either of the Seller or each person comprising the person(s) registered on title as the owner(s) of the Land, but the Seller shall not be required to provide such clearance certificate or variation notice for both the Seller and each person compromising the person(s) registered on title as the owner(s) of the Land. Where the Seller has provided a clearance certificate or variation notice for the Seller, the Buyer shall not also require the Seller to provide a clearance certificate or variation notice for each person compromising the person(s) registered on title as the owner(s) of the Land; and where the Seller has provided a clearance certificate or variation notice for each person compromising the person(s) registered on title as the owner(s) of the Land, the Buyer shall not also require the Seller to provide a clearance certificate or variation notice for the Seller.

(2) In this clause:

- (a) "ATO" means the Australian Taxation Office and includes a reference to the Commissioner of Taxation and Deputy Commissioner of Taxation, and vice versa, as required;
- (b) "Withholding Law" means Schedule 1 to the *Taxation Administration Act 1953* (Cth) and any amendments;

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- 
- (c) “CGT Withholding Amount” means the amount required to be withheld for Foreign Resident Capital Gains Withholding Tax under Subdivision 14-D of Schedule 1 to the *Taxation Administration Act 1953* (Cth).
- (3) This clause shall not merge upon Settlement and is an essential term of this Agreement.

## PART 6: ERRORS AND MISDESCRIPTIONS

### 6.1 Errors and Misdescriptions

- (1) The Seller believes the Land to be, and the Buyer accepts the Land as correctly described in this Agreement.
- (2) No error, omission or misdescription in:
- (a) **Item 8 in Part 1;**
  - (b) the boundaries or area of the Land, will invalidate this Agreement or entitle the Buyer to claim compensation whatsoever;
  - (c) connection (directly or indirectly) with the Sale and or transfer of the Land to the Buyer,
- will grant the Buyer any rights or bring any action against the Seller, and the Buyer irrevocably agrees and acknowledges that the Buyer shall have no recourse against the Seller whatsoever and will keep the Seller indemnified against any liability whatsoever in connection with this Agreement. The Buyer irrevocably acknowledges and agrees that the Buyer shall have no action against the Seller and shall neither commence nor maintain any proceedings, action, claim or suit against the Seller in connection with the subject matter of this clause, nor raise any objections, requisitions or seek to delay settlement of this Sale, and that the Seller may plead as an absolute bar to any proceedings, action, claim or suit brought by the Buyer against the Seller in regard to any matter referred or in connection with the subject matter of this clause. This clause does not merge upon Settlement and is an essential term of this Agreement.

### 6.2 Survey and Inspection

- (1) The Seller gives no assurance that the surveyed area of the Land is correct.
- (2) The Seller also gives no assurance that there is no encroachment:
- (a) by the Land onto adjoining land; or
  - (b) by any structure on adjoining land onto the Land,
- and the Buyer irrevocably agrees that the Buyer shall not make any objection or claim for Compensation whether before or after Settlement or delay Settlement.
- (3) The Buyer irrevocably acknowledges and agrees that the Seller makes no assurance and does not

# Contract of Sale

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warrant that the Sale is unaffected by any encroachment from or upon the Land. The Buyer irrevocably acknowledges that the Sale may be effected by encroachments.

- (4) The Buyer irrevocably acknowledges and agrees that as the Seller is selling the Land pursuant to and in accordance with Chapter 4 Part 12 Division 3 of the *Local Government Regulation 2012 (Qld)* the Buyer will be unable to inspect the Land and shall not be provided with a copy of any survey.
- (5) The Buyer irrevocably acknowledges and agrees that the Buyer shall have no action against the Seller and shall neither commence nor maintain any proceedings, action, claim or suit against the Seller in connection with the subject matter of this clause, nor raise any objections, requisitions or seek to delay settlement of this Sale, and that the Seller may plead as an absolute bar to any proceedings, action, claim or suit brought by the Buyer against the Seller in regard to any matter referred or in connection with the subject matter of this clause.
- (6) This clause does not merge upon Settlement and is an essential term of this Agreement.

## 6.3 Omissions

The Buyer irrevocably acknowledges and warrants that any omission, mistake in the description, misdescription, error in measurements or area of the Land or other error or any defect does not invalidate the Sale and the Buyer cannot make any objection, requisition, rescind or terminate or bring any proceedings, action, claim or suit or make a claim for compensation for any alleged misdescription of the Property or any deficiency in its area or measurements or require the Seller to amend title or pay any cost of amending title. The Buyer acknowledges and irrevocably agrees that the Seller may rely upon the content of this clause of the Agreement as an absolute and complete bar to any proceedings, claim, action or suit brought by the Buyer in connection with any matter(s) referred to in this clause. This clause does not merge upon Settlement.

## PART 7: DEFAULT

### 7.1 Seller may affirm or terminate

- (1) Without limiting any other right or remedy of the Parties including those under this Agreement, or any right at law or in equity, the Buyer irrevocably acknowledges and warrants if the Buyer fails to comply with a term of this Agreement (including but not limited to the obligation to pay money when due) or commits any breach or contravention of a term of this Agreement, the Seller may affirm or terminate this Agreement. This shall be at the Seller absolute discretion.
- (2) The Buyer irrevocably acknowledges and agrees where the Seller affirms this Agreement, in addition to any other right it may have at law or in equity, it may sue the Buyer for:
  - (a) damages;
  - (b) specific performance; or
  - (c) damages and specific performance.
- (3) The Buyer irrevocably acknowledges and agrees where the Seller terminates this Agreement:
  - (a) The Buyer shall forfeit the Deposit and any interest earned; and

# Contract of Sale

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- 
- (b) The Seller may sue the Buyer for damages. This is in addition to any other rights the Seller may have.
  - (4) The Buyer irrevocably acknowledges and agrees where the Deposit exceeds 10% of the Purchase Price:
    - (a) the Buyer shall under clause 7.1(3)(a) forfeit only that part of the Deposit which does not exceed 10% of the Purchase Price (any interest is to be retained by the Seller); and
    - (b) any money paid by the Buyer in excess of 10% of the Purchase Price is to be treated as a payment of an instalment for the purposes of this clause.
  - (5) The Buyer irrevocably acknowledges and agrees where the Seller holds an instalment of the Purchase Price, it may retain such instalment (excluding the deposit amount) pending the termination of any claim for damages by the Seller provided however that if the Seller has not commenced any claim for damages against the Buyer within 24 months after the termination of the Contract, then the Seller must pay to the Buyer, without interest, any instalment held.
  - (6) The Buyer irrevocably acknowledges and agrees that the Seller may after determination of any action for damages commenced by it apply the whole or part of the instalment toward any judgment for damages and costs awarded by the court and pay any surplus to the Buyer without interest.
  - (7) This clause shall not merge upon Settlement.

## **7.2 Termination for Insolvency**

- (1) The Buyer irrevocably acknowledges and warrants that where the Buyer commits or suffers an Act of Insolvency on or before Settlement, the Seller may terminate this Agreement by written notice to the Buyer, the Seller may retain or recover from the Buyer the Deposit (and any interest accrued on the Deposit). The act of committing or suffering an Act of Insolvency on or before Settlement shall constitute a fundamental breach of this Agreement, and shall bind the Buyer's trustee, beneficiaries, administrators, executors, representatives, receivers and managers and/or liquidators.
- (2) The Buyer irrevocably acknowledges and warrants that the Seller's entitlement to terminate under this clause extends to an Act of Insolvency committed or suffered by the Buyer before or after the formation of this Agreement.
- (3) The Buyer irrevocably acknowledges and warrants that the Buyer, and the Buyer's trustee, beneficiaries, administrator, executors, representatives, receiver and managers and/or liquidators shall have no action against the Seller and shall neither commence nor maintain any proceedings, action, claim or suit against the Seller in connection with the subject matter of this clause, nor raise any objections, requisitions, and that the Seller may plead as an absolute bar to any proceedings, action, claim or suit brought by the Buyer and the Buyer's trustee, administrator, executors, representatives, receiver and managers and/or liquidators against the Seller in regard to any matter referred or in connection with the subject matter of this clause. This clause does not merge upon Settlement and is an essential term of this Agreement.
- (4) The Buyer irrevocably warrants that the Buyer is solvent. This is an essential term of this Agreement.

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- (5) This clause shall not merge upon Settlement.

## **7.3 Certain acts not to evidence termination**

- (1) The Buyer irrevocably acknowledges and agrees that the Seller may, if the Buyer is in breach of its obligation to settle this Agreement, market the Land for Sale and take steps toward the disposal of the Land. No such step is to be taken to evidence an election by the Seller to terminate this Agreement.
- (2) The Buyer irrevocably acknowledges and warrants that the Buyer, and the Buyer's trustee, administrator, executors, representatives, receiver and managers and/or liquidators shall have no action against the Seller and shall neither commence nor maintain any proceedings, action, claim or suit against the Seller in connection with the subject matter of this clause, nor raise any objections, requisitions, and that the Seller may plead as an absolute bar to any proceedings, action, claim or suit brought by the Buyer and the Buyer's trustee, administrator, executors, representatives, receiver and managers and/or liquidators against the Seller in regard to any matter referred or in connection with the subject matter of this clause.
- (3) This clause does not merge upon Settlement and is an essential term of this Agreement.

## **PART 8: MISCELLANEOUS**

### **8.1 Time**

Time shall in all cases and in all respects be deemed of the essence of this Agreement.

### **8.2 Waiver**

- (1) Neither:
- (a) a failure, delay or indulgence, committed, caused or granted in exercising a power or entitlement in relation to this Agreement; nor
  - (b) a single or partial exercise, or a single or partial failure to exercise, such a power or entitlement, will operate to waive the power of entitlement, or to preclude its exercise or further exercise.
- (2) This clause shall not merge upon Settlement.

### **8.3 Service of Notices**

- (1) A notice under this Agreement:
- (a) must be given in writing; and
  - (b) may be delivered personally, posted, or transmitted by facsimile, or email to the intended recipient's Address for Notices.

### **8.4 Representations**

- (1) The Buyer irrevocably acknowledges, warrants and accepts that:

# Contract of Sale

*Local Government Regulation 2012 (Qld)*  
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- 
- (a) in entering into this Agreement, the Buyer has relied entirely upon the Buyer's own searches, judgments, enquiries and inspection of and in connection with the Land;
  - (b) no representation, oral or written or any conduct, or any arrangement, promise, warranty or undertaking other than as expressly contained in this Agreement, has in any material way induced the Buyer to enter into this Agreement;
  - (c) that prior to entering into this Agreement the Buyer has made all enquiries and investigations the Buyer believes are necessary and has satisfied itself of all matters relating to the Land including but not limited to **Item 8 in Part 1** and the Buyer shall not make any objection, requisition, claim against the Seller, nor shall the Buyer seek to delay the settlement of this Sale in anyway whatsoever;
  - (d) the Buyer shall carry out all due diligence on the Land in **Item 8 in Part 1** including but not limited to searches and inspection, all of which shall be at the Buyer's own expense, so as to ensure that the said Land meets the Buyer's requirements and expectations. The Buyer acknowledges that Seller nor of any its representatives or agents have made any representations to the Buyer, which the Buyer has in any way relied upon. The Buyer irrevocably warrants that the Buyer shall not make any objection, requisition or claim whatsoever nor shall the Buyer seek to delay Settlement of this Sale based upon any assertion(s) that the Buyer relied upon or any representation made by the Seller or its representatives or agents in relation to the Sale of the Land prior to entering into this Agreement;
  - (e) the Buyer was not in any way induced by the Seller or its representatives or agents to enter into this Agreement;
  - (f) the Buyer shall have no recourse against the Seller whatsoever and will keep the Seller indemnified against any liability whatsoever in connection (directly or indirectly) with this Agreement;
  - (g) the Buyer has had an opportunity to negotiate the terms of this Agreement; and
  - (h) the Buyer has had the opportunity to seek and obtain independent legal advice in connection with this Agreement and its effect.
- (2) this clause shall not merge upon Settlement.

## 8.5 Receipt of Notices

- (1) A notice delivered personally will be deemed received at the moment of personal delivery.
- (2) A notice sent by post will be deemed received 2 Business Days after it is posted.
- (3) A notice sent by facsimile transmission will be deemed received at the time specified in a confirmation report, if the report discloses that the transmission was received before 5.00pm. If the confirmation report discloses that the transmission was received after 5.00pm, the notice will be deemed received at 8.30am on the next business day following the date of receipt disclosed in the report.
- (4) A notice delivered by email shall be deemed to be received the moment it is electronically received by the recipient.

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## 8.6 Legal Expenses and Duties

- (1) Each party must bear its own legal expenses in relation to the negotiation, preparation, stamping and execution of this Agreement.
- (2) The Buyer irrevocably acknowledges and warrants (notwithstanding clause 8.6(1) above) the Buyer shall bear and indemnify the Seller against all transfer duty assessed upon this Agreement and the Transfer, all other imposts, taxes, duties, costs, expenses, claims, moneys, levies, fees, interest, and/or any liabilities whatsoever arising (directly or indirectly) from, or in connection directly or indirectly with this Sale, the Land and/or the Transfer, which shall be immediately paid by the Buyer.
- (3) The Buyer irrevocably acknowledges and warrants that the Buyer shall pay the cost of registering the Transfer, in addition to all imposts, taxes, imposts, duties, costs, expenses, levies, fees, claims, moneys, interest, and/or any liabilities in respect of the transaction referred to or arising directly or indirectly in connection with this Agreement.
- (4) This clause shall not merge upon Settlement.

## 8.7 Non-Merger

For the avoidance of doubt, each party acknowledges, accepts and irrevocably agrees that the terms contained in **Part 1** through to **Part 9** inclusive do not merge upon Settlement.

## 8.8 Cooling-off Period

- (1) This Contract of Sale is not a contract to which Part 7 of the *Property Occupations Act 2014* (Qld) applies and therefore no cooling-off period applies to this contract.
- (2) Where for whatever reason this contract is a contract to which Part 7 of the *Property Occupations Act 2014* (Qld) applies and a cooling-off period would normally be applicable, the Buyer hereby gives written notice to the Seller waiving the entire cooling-off period for this contract, pursuant to section 167 of the *Property Occupations Act 2014* (Qld). By executing this contract, the Buyer is also executing its written notice under this clause.
- (3) Where for whatever reason a cooling-off period is held to apply to this contract by a Court, this contract may be subject to a 5-business day statutory cooling-off period. A termination penalty of 0.25% of the purchase price applies if the Buyer terminates the contract during the statutory cooling off period. The Buyer warrants that the Buyer has obtained an independent property valuation and independent legal advice about this Contract of Sale and his or her cooling off rights before signing.

## PART 9: GUARANTEE (APPLICABLE TO CORPORATE BUYERS)

**9.1** In the event that the Buyer is a company, this clause applies and the Guarantors are jointly and severally liable under this Agreement. The Buyer irrevocably acknowledges and warrants that where the Buyer is a company the Buyer shall have all of the directors of the Buyer execute this Agreement and upon such execution each of the said directors of the Buyer shall become Guarantors in their individual capacity.

- (1) In consideration of the Seller entering this Agreement, the Guarantors, by signing of this Agreement expressly and unconditionally guarantees to the Seller:

# Contract of Sale

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- (a) the due and punctual payment by the Buyer to the Seller of the Purchase Price and of all moneys which are or may become owing or payable by the Buyer to the Seller under this Agreement; and
  - (b) the due and punctual performance by the Buyer of all of the terms, conditions, covenants and obligations contained under this Agreement.
- (2) The Guarantor indemnifies and keeps indemnified the Seller against all loss, damage, cost, and expense which may be suffered or incurred by the Seller due to any default by the Buyer under any of the provisions of this Agreement.
- (3) This Guarantee shall be enforceable against the Guarantor and if more than one jointly and severally. Notwithstanding the fact that this instrument of guarantee may be intended or expressed to be executed or given by more than one person the same shall, in fact, be a valid, effectual and binding against such person or persons as shall execute the same forthwith upon their execution and shall continue to be binding as against such person or persons notwithstanding the fact that any proposed or contemplated party shall not in fact subsequently execute the same.
- (4) This Guarantee continues and remains in full force and effect despite the liquidation of the Buyer or the appointment of an external controller, or receiver and manager to the Buyer until the whole of the Purchase Price and all other moneys payable to the Seller under the terms of this Agreement have been paid and satisfied in full.
- (5) Any discharge, extinguishment or postponement by liquidation, operation of law, act of the Parties or otherwise, of the whole or any part of the indebtedness of the Buyer to the Seller will not impair or affect the liability of the Guarantor.
- (6) This clause and the guarantee do not merge on Settlement of this Agreement.

# Contract of Sale

*Local Government Regulation 2012 (Qld)*  
(Chapter 4 Part 12 Division 3)

## 9.2 Deed of Guarantee

A corporate Buyer must have all of its directors execute a personal guarantee as set out below.

This document is a Deed.

In consideration of the Seller agreeing to sell to the corporate Buyer the Land in accordance with the terms of this Agreement, the Buyer (the "Buyer")  
being.....  
.....

The Guarantors being:

Mr/Mrs..... & Mr/Mrs.....  
.....

(the guarantors) of..... (street address), as is evidenced by the guarantor's execution hereof, both jointly and severally guarantee the performance by the Buyer of all of the Buyer's obligations under this Agreement and indemnify the Seller against any costs, loss and/or damages whatsoever arising as a result of the default of the Buyer in performing its obligations under this Agreement for whatever reason. The Seller may seek to recover any cost, loss and/or damages from the guarantor before seeking recovery from the Buyer and any settlement or compromise with the Buyer will not release the guarantor(s) from the obligation to pay any balance that may be owing to the Seller. This guarantee is binding on the guarantor(s), their executors, trustees, administrators, beneficiaries, representatives and/or assigns and the benefit of the guarantee is available to any assignee of the benefit of this Agreement by the Seller. The guarantor(s) warrant that they have been given the opportunity to seek independent legal advice in respect of the obligations, responsibilities, accountability and legal consequences of this guarantee.

Executed as a Deed

Signed Sealed and Delivered as a Deed  
by the guarantors in the presence of:

.....  
Signature

.....  
Signature of Witness

Print Name of Witness

Street Address:

Date:

Executed as a Deed

Signed Sealed and Delivered as a Deed  
by the guarantors in the presence of:

.....  
Signature

.....  
Signature of Witness

Print Name of Witness

Street Address:

Date:

# Contract of Sale

*Local Government Regulation 2012 (Qld)*  
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Signed Sealed and Delivered as a Deed  
by the **Maranoa Regional Council** ]  
by \_\_\_\_\_, an authorised ]  
officer, as Seller in the presence of: ] .....

.....  
Signature of Witness  
Print Name of Witness  
Street Address:  
Date:

UPON EXECUTION OF THIS DEED THE PARTIES PURSUANT TO SECTION 47 OF THE  
*PROPERTY LAW ACT 1974 (QLD)* ACKNOWLEDGE RECEIPT AND DELIVERY OF THE SAID DEED  
AND ARE IMMEDIATELY BOUND AND SUBJECT TO THE FULFILMENT OF THE CONDITIONS  
CONTAINED HEREIN

---

**Waiving of Cooling-off Period**  
**Section 167 *Property Occupations Act 2014* (Qld)**

I/we:

of:

hereby give this written notice to Maranoa Regional Council waiving the entire cooling-off period, pursuant to section 167 of the *Property Occupations Act 2014* (Qld), in connection with the relevant contract of sale pertaining to:

which I/we propose to enter.

Date:

.....  
Name: **Buyer**

.....  
Name: **Buyer**

CURRENT TITLE SEARCH  
QUEENSLAND TITLES REGISTRY PTY LTD

Request No: 47830319

Search Date: 26/04/2024 17:25

Title Reference: 50979498

Date Created: 12/02/2015

Previous Title: 17525108  
17778196

REGISTERED OWNER

Dealing No: 716309114 11/02/2015

STEVEN WESLEY ROBINSEN

ESTATE AND LAND

Estate in Fee Simple

LOT 4 SURVEY PLAN 258453  
Local Government: MARANOA

EASEMENTS, ENCUMBRANCES AND INTERESTS

1. Rights and interests reserved to the Crown by  
Deed of Grant No. 11424112 (ALLOT 4 SEC 3)  
Deed of Grant No. 17778196 (Lot 3 on CP M5442)
2. CAVEAT No 719170948 18/12/2018 at 13:10  
J DANIELS & ASSOCIATES PTY LTD A.C.N. 159 769 534

ADMINISTRATIVE ADVICES - NIL

UNREGISTERED DEALINGS - NIL

Corrections have occurred - Refer to Historical Search

Caution - Charges do not necessarily appear in order of priority

\*\* End of Current Title Search \*\*

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Requested By: D-ENQ EQUIFAX