Contract for Houses and Residential Land

Nineteenth Edition

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

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

REFERENCE SCHEDULE

Contract Date: _____ *If no date is inserted, the Contract Date is the date on which the last party signs the Contract*

SELLER'S AGENT

NAME: JOJUMI ENTERPRISES PTY LTD TRADING AS ARMANI ESTATE AGENTS & POSITION ONE PROPERTY

ABN: 24604509300 LICENCE NO: 3914152

ADDRESS: 490 OLD CLEVELAND ROAD

SUBURB: CAMP HILL STATE: QLD POSTCODE: 4152

PHONE: 07 3843 4511 MOBILE: 0417491897 FAX: 07 3843 4522 EMAIL: andrew@positionone.com.au

SELLER

NAME: JAMES WESLEY O`BRIEN LUTTON ABN:

ADDRESS:

SUBURB: STATE: QLD POSTCODE:

PHONE: MOBILE: FAX: EMAIL:

NAME: ABN:

ADDRESS:

SUBURB: STATE: POSTCODE:

PHONE: MOBILE: FAX: EMAIL:

SELLER'S SOLICITOR

← or any other solicitor notified to the Buyer

NAME:

REF: CONTACT:

ADDRESS:

SUBURB: STATE: POSTCODE:

PHONE: MOBILE: FAX: EMAIL:

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

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BUYER

NAME: ABN:

ADDRESS:

SUBURB: STATE: POSTCODE:

PHONE: MOBILE: FAX: EMAIL:

NAME: ABN:

ADDRESS:

SUBURB: STATE: POSTCODE:

PHONE: MOBILE: FAX: EMAIL:

BUYER'S AGENT *(If applicable)*

NAME:

ABN: LICENCE NO:

ADDRESS:

SUBURB: STATE: POSTCODE:

PHONE: MOBILE: FAX: EMAIL:

BUYER'S SOLICITOR

← *or any other solicitor notified to the Seller*

NAME:

REF: CONTACT:

ADDRESS:

SUBURB: STATE: POSTCODE:

PHONE: MOBILE: FAX: EMAIL:

PROPERTY

Land: ADDRESS: 44 COFFEY STREET

SUBURB: CRESTMEAD STATE: QLD POSTCODE: 4132

☑ Built On ☐ Vacant

Description: Lot: L284

on: RP191074

Title Reference: 17090250

Area: 609 ← *(more or less)* Land sold as: ☑ Freehold ☐ Leasehold ← *if neither is selected, the land is treated as being Freehold.*

Present Use: RESIDENTIAL (HOUSE)

Local Government: Logan City Council

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Excluded Fixtures:

Included Chattels:

PRICE

Deposit Holder: JOJUMI ENTERPRISES PTY LTD TRADING AS ARMANI ESTATE AGENTS AND POSITION ONE PROPERTY

Deposit Holder's Trust Account: POSITION ONE & ARMANI SALES TRUST ACCOUNT

Bank: CBA

BSB: 064 107 **Account No:** 1036 0678

Cyber Warning

Cyber criminals are targeting real estate transactions by sending fraudulent electronic communications (emails) impersonating lawyers and real estate agents. Before you pay any funds to another person or company using information that has been emailed to you or contained in this Contract, you should contact the intended recipient by telephone to verify and confirm the account details that have been provided to you.

Purchase Price: $

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

Deposit: $ 20,000 Initial Deposit payable on the day the Buyer signs this contract unless another time is specified below.
Within two business days of the contract date

$ Balance Deposit (if any) payable on:

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

FINANCE

Finance Amount: $ sufficient to complete the contract ← *Unless all of "Finance Amount", "Financier" and "Finance Date" are completed, this contract is not subject to finance and clause 3 does not apply.*

Financier: buyers choice

Finance Date: fourteen days from contract date

BUILDING AND/OR PEST INSPECTION DATE

Inspection Date: seven days from contract date ← *If "Inspection Date" is not completed, the contract is not subject to an inspection report and clause 4.1 does not apply.*

MATTERS AFFECTING PROPERTY

Title Encumbrances:

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

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

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Residential Tenancy Agreements or Rooming Accommodation Agreements:

This section must be completed for ALL contracts

Has the Property been subject to a Residential Tenancy Agreement or Rooming Accommodation Agreement at any time within the period of 12 months before the Contract Date?

☐ Yes

☑ No

***WARNING TO SELLER**: If the Property or any part has been let at any time in the last 12 months the seller is required under clause 5.3(1)(e) to provide evidence of the last rent increase. Failure to provide evidence by settlement may entitle the Buyer to terminate the contract.*

If Yes, the day of the last rent increase for each residential premises comprising the Property is: _____

Tenancies:

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

TENANTS NAME:

TERM AND OPTIONS:

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

Managing Agent:

AGENCY NAME:

PROPERTY MANAGER:

ADDRESS:

SUBURB: STATE: POSTCODE:

PHONE: MOBILE: FAX: EMAIL:

POOL SAFETY

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

☐ Yes

☑ No

← ***WARNING TO SELLER:** Under clause 5.3(1)(f) the Seller must provide a Pool Compliance Certificate at settlement. If there is no Pool Compliance Certificate at the Contract Date you must give a Notice of No Pool Safety Certificate to the Buyer prior to entering into this contract.*

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

☐ Yes

☐ No

ELECTRICAL SAFETY SWITCH AND SMOKE ALARM

This section must be completed unless the Land is vacant.

The Seller gives notice to the Buyer that an Approved Safety Switch for the General Purpose Socket Outlets is:

(select whichever is applicable)

☑ Installed in the residence

☐ Not installed in the residence

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

The Seller gives notice to the Buyer that smoke alarms complying with the Smoke Alarm Requirement Provision are:

(select whichever is applicable)

☑ Installed in the residence

☐ Not installed in the residence

← ***WARNING**: Under clause 7.8 the Seller must install smoke alarms complying with the Smoke Alarm Requirement Provision in any domestic dwelling on the Land. Failure to do so is an offence under the Fire and Emergency Services Act 1990.*

NEIGHBOURHOOD DISPUTES (DIVIDING FENCES AND TREES) ACT 2011

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

(select whichever is applicable)

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

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

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

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GST WITHHOLDING OBLIGATIONS

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

(select whichever is applicable)

☐ Yes

☑ No

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

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

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

(select whichever is applicable)

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

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

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

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SPECIAL CONDITIONS

SETTLEMENT

Settlement Date: 28 days from contract date

← *or any later date for settlement in accordance with clause 6.2, 6.3, 10.5, 11.4 or any other provision of this Contract.*

***WARNING**: The Settlement Date as stated may change. Read clauses 6.2, 6.3 , 10.5 and 11.4. If you require settlement on a particular date, seek legal advice prior to signing.*

Place for Settlement: PEXA

← *If Brisbane is inserted or this is not completed, this is a reference to Brisbane CBD.*

SIGNATURES

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

Buyer: _____ **Witness:** _____

Buyer: _____ **Witness:** _____

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

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

Seller: _____ **Witness:** _____

Seller: _____ **Witness:** _____

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

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

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1. DEFINITIONS

1.1 In this contract, terms in **bold** in the Reference Schedule have the meanings shown opposite them and unless the context otherwise requires:

(a) "**Approved Safety Switch**" means a residual current device as defined in the *Electrical Safety Regulation 2013;*

(b) "**ATO**" means the Australian Taxation Office;

(c) "**ATO Clearance Certificate**" means a certificate issued under s14-220(1) of the Withholding Law which is current on the date it is given to the Buyer;

(d) "**Balance Purchase Price**" means the Purchase Price, less the Deposit paid by the Buyer;

(e) **"Bank"** means an authorised deposit-taking institution within the meaning of the *Banking Act 1959* (Cth);

(f) "**Bond**" means a bond under the RTRA Act;

(g) "**Building Inspector**" means a person licensed to carry out completed residential building inspections under the *Queensland Building and Construction Commission Regulations 2003*;

(h) "**Business Day**" means a day other than:
- (i) a Saturday or Sunday;
- (ii) a public holiday in the Place for Settlement; and
- (iii) a day in the period 27 to 31 December (inclusive);

(i) "**CGT Withholding Amount**" means the amount determined under section 14-200(3)(a) of the Withholding Law or, if a copy is provided to the Buyer prior to settlement, a lesser amount specified in a variation notice under section 14-235;

(j) "**Contract Date**" or "**Date of Contract**" means:
- (i) the date inserted in the Reference Schedule as the Contract Date; or
- (ii) if no date is inserted, the date on which the last party signs this contract;

(k) "**Court**" includes any tribunal established under statute;

(l) "**Digitally Sign**" and "**Digital Signature**" have the meaning in the ECNL;

(m) "**ECNL**" means the Electronic Conveyancing National Law (Queensland);

(n) "**Electronic Conveyancing Documents**" has the meaning in the *Land Title Act 1994*;

(o) "**Electronic Lodgement**" means lodgement of a document in the Land Registry in accordance with the ECNL;

(p) "**Electronic Settlement**" means settlement facilitated by an ELNO System;

(q) "**Electronic Signature**" means an electronic method of signing that identifies the person and indicates their intention to sign the contract;

(r) "**Electronic Workspace**" means a shared electronic workspace within the ELNO System nominated by the Seller that allows the Buyer and Seller to effect Electronic Lodgement and Financial Settlement;

(s) "**ELNO**" has the meaning in the ECNL;

(t) "**ELNO System**" means a system provided by an ELNO capable of facilitating Financial Settlement and Electronic Lodgement in Queensland;

(u) "**Encumbrances**" includes:
- (i) unregistered encumbrances;
- (ii) statutory encumbrances; and
- (iii) Security Interests;

(v) "**Essential Term**" includes, in the case of breach by:
- (i) the Buyer: clauses 2.2, 2.5(1), 2.5(5), 5.1 and 6.1; and
- (ii) the Seller: clauses 2.5(5), 5.1, 5.3(1)(a)-(f), 5.5 and 6.1;

but nothing in this definition precludes a Court from finding other terms to be essential;

(w) "**Extension Notice**" means a notice under clause 6.2(1);

(x) "**Financial Institution**" means a Bank, building society or credit union;

(y) "**Financial Settlement**" means the exchange of value between Financial Institutions facilitated by an ELNO System in accordance with the Financial Settlement Schedule;

(z) "**Financial Settlement Schedule**" means the electronic settlement schedule within the Electronic Workspace listing the source accounts and destination accounts;

(aa) "**General Purpose Socket Outlet**" means an electrical socket outlet as defined in the *Electrical Safety Regulation 2013*;

(bb) "**GST**" means the goods and services tax under the GST Act;

(cc) "**GST Act**" means *A New Tax System (Goods and Services Tax) Act 1999* (Cth) and includes other GST related legislation;

(dd) "**GST Withholding Amount**" means the amount (if any) determined under section 14-250 of the Withholding Law required to be paid to the Commissioner of Taxation;

(ee) "**Improvements**" means all fixed structures on the Land and includes all items fixed to them (such as stoves, hot water systems, fixed carpets, curtains, blinds and their fittings, clothes lines, fixed satellite dishes and television antennae, in-ground plants) but does not include the Reserved Items;

(ff) "**Keys**" means keys, codes or devices in the Seller's possession or control for all locks or security systems on the Property or necessary to access the Property;

(gg) "**Outgoings**" means rates or charges on the Land by any competent authority (for example, council rates, water rates, fire service levies) but excludes land tax;

(hh) "**Pest Inspector**" means a person licensed to undertake termite inspections on completed buildings under the *Queensland Building and Construction Commission Regulations 2003*;

(ii) "**Pool Compliance Certificate**" means:
- (i) a Pool Safety Certificate under section 231C(a) of the *Building Act 1975*; or
- (ii) a building certificate that may be used instead of a Pool Safety Certificate under section 246AN(2) of the *Building Act 1975*; or
- (iii) an exemption from compliance on the grounds of impracticality under section 245B of the *Building Act 1975*;

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(jj) "**PPSR**" means the Personal Property Securities Register established under *Personal Property Securities Act 2009* (Cth);

(kk) "**Property**" means:
- (i) the Land;
- (ii) the Improvements; and
- (iii) the Included Chattels;

(ll) "**Rent**" means any periodic amount payable under the Tenancies;

(mm) **"Reserved Items"** means the Excluded Fixtures and all Chattels on the Land other than the Included Chattels;

(nn) **"Residential Tenancy Agreement"** has the meaning in the RTRA Act;

(oo) **"Rooming Accommodation Agreement"** has the meaning in the RTRA Act;

(pp) **"RTRA Act"** means the *Residential Tenancies and Rooming Accommodation Act 2008*;

(qq) **"Security Interests"** means all security interests registered on the PPSR over Included Chattels and Improvements;

(rr) "**Services**" means infrastructure for the provision of services including water, gas, electricity, telecommunications, sewerage or drainage;

(ss) "**Smoke Alarm Requirement Provision**" has the meaning in section 104RA of the *Fire and Emergency Services Act 1990*;

(tt) "**Transfer Documents**" means:
- (i) the form of transfer under the *Land Title Act 1994* required to transfer title in the Land to the Buyer; and
- (ii) any other document to be signed by the Seller necessary for stamping or registering the transfer;

(uu) **"Transport Infrastructure"** has the meaning defined in the *Transport Infrastructure Act 1994;* and

(vv) **"Withholding Law"** means Schedule 1 to the *Taxation Administration Act 1953* (Cth).

2. PURCHASE PRICE

2.1 GST

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

(2) If a party is required to make any other payment or reimbursement under this contract, that payment or reimbursement will be reduced by the amount of any input tax credits to which the other party (or the representative member for a GST group of which it is a member) is entitled.

2.2 Deposit

(1) The Buyer must pay the Deposit to the Deposit Holder at the times shown in the Reference Schedule. The Deposit Holder will hold the Deposit until a party becomes entitled to it.

(2) The Buyer will be in default if it:
- (a) does not pay the Deposit when required;
- (b) pays the Deposit by a post-dated cheque; or
- (c) pays the Deposit by cheque which is dishonoured on presentation.

(3) Subject to clause 2.2(4), if the Buyer;
- (a) effects an electronic transaction to pay all or part of the Deposit to the account of Deposit Holder on a day;
- (b) provides written evidence to the Deposit Holder that the electronic transaction has occurred; and
- (c) does not take any action to defer the payment to the Deposit Holder to a later day,

the payment is taken to be received by the Deposit Holder on the day the Buyer effects the electronic transaction even if, because of circumstances beyond the Buyer's control, the payment to the Deposit Holder's account happens on a later day.

(4) If the buyer has complied with clause 2.2(3) but the Deposit Holder has not received the payment by the due date:
- (a) the Seller may give the Buyer notice that the payment has not been received by the Deposit Holder; and
- (b) if the payment has not been paid into the account of the Deposit Holder by 5pm on the date 2 Business Days after the Seller's notice under clause 2.2(4)(a) is given to the Buyer then clause 2.2(3) will not apply and the Buyer will be in default.

(5) The Seller may recover from the Buyer as a liquidated debt any part of the Deposit which is not paid when required.

2.3 Investment of Deposit

If:

(1) the Deposit Holder is instructed by either the Seller or the Buyer; and

(2) it is lawful to do so;

the Deposit Holder must:

(3) invest as much of the Deposit as has been paid with any Financial Institution in an interest-bearing account in the names of the parties; and

(4) provide the parties' tax file numbers to the Financial Institution (if they have been supplied).

2.4 Entitlement to Deposit and Interest

(1) The party entitled to receive the Deposit is:
- (a) if this contract settles, the Seller;
- (b) if this contract is terminated without default by the Buyer, the Buyer; and
- (c) if this contract is terminated owing to the Buyer's default, the Seller.

(2) The interest on the Deposit must be paid to the person who is entitled to the Deposit.

(3) If this contract is terminated, the Buyer has no further claim once it receives the Deposit and interest, unless the termination is due to the Seller's default or breach of warranty.

(4) The Deposit is invested at the risk of the party who is ultimately entitled to it.

2.5 Payment of Balance Purchase Price

(1) On the Settlement Date, the Buyer must pay the Balance Purchase Price by bank cheque as the Seller or the Seller's Solicitor directs.

(2) Despite any other provision of this contract, a reference to a "bank cheque" in clause 2.5:
- (a) includes a cheque drawn by a building society or credit union on itself;
- (b) does not include a cheque drawn by a building society or credit union on a Bank;

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

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

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then:

(c) for clause 2.5(1), the Seller irrevocably directs the Buyer to draw a bank cheque for the CGT Withholding Amount in favour of the Commissioner of Taxation or, if the Buyer's Solicitor requests, the Buyer's Solicitor's Trust Account;

(d) the Buyer must lodge a *Foreign Resident Capital Gains Withholding Purchaser Notification Form* with the ATO for each person comprising the Buyer and give copies to the Seller with the payment reference numbers (PRN) on or before settlement;

(e) the Seller must return the bank cheque in paragraph (c) to the Buyer's Solicitor (or if there is no Buyer's Solicitor, the Buyer) at settlement; and

(f) the Buyer must pay the CGT Withholding Amount to the ATO in accordance with section 14-200 of the Withholding Law and give the Seller evidence that it has done so within 2 Business Days of settlement occurring.

(4) For clause 2.5(3) and section 14-215 of the Withholding Law, the market value of the CGT asset is taken to be the Purchase Price less any GST included in the Purchase Price for which the Buyer is entitled to an input tax credit unless:

(a) the Property includes items in addition to the Land and Improvements; and

(b) no later than 2 Business Days before the Settlement Date, the Seller gives the Buyer a valuation of the Land and Improvements prepared by a registered valuer,

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

(5) If the Buyer is required to pay the GST Withholding Amount to the Commissioner of Taxation at settlement pursuant to section 14-250 of the Withholding Law:

(a) the Seller must give the Buyer a notice in accordance with section 14-255(1) of the Withholding Law;

(b) prior to settlement the Buyer must lodge with the ATO:

(i) a *GST Property Settlement Withholding Notification* form ("Form 1"); and

(ii) a *GST Property Settlement Date Confirmation* form ("Form 2");

(c) on or before settlement, the Buyer must give the Seller copies of:

(i) the Form 1;

(ii) confirmation from the ATO that the Form 1 has been lodged specifying the Buyer's lodgement reference number and payment reference number;

(iii) confirmation from the ATO that the Form 2 has been lodged; and

(iv) a completed ATO payment slip for the Withholding Amount.

(d) the Seller irrevocably directs the Buyer to draw a bank cheque for the GST Withholding Amount in favour of the Commissioner of Taxation and deliver it to the Seller at settlement; and

(e) the Seller must pay the GST Withholding Amount to the ATO in compliance with section 14-250 of the Withholding Law promptly after settlement.

(6) The Buyer warrants that the statements made by the Buyer in the Reference Schedule under GST Withholding Obligations are true and correct.

2.6 Adjustments

(1) Rent and Outgoings must be apportioned between the parties in accordance with this clause 2.6 and any adjustments paid and received on settlement so that:

(a) the Seller is liable for Outgoings and is entitled to Rent up to and including the Settlement Date; and

(b) the Buyer is liable for Outgoings and is entitled to Rent after the Settlement Date.

(2) Subject to clauses 2.6(3), 2.6(5), and 2.6(14), Outgoings for periods including the Settlement Date must be adjusted:

(a) for those paid, on the amount paid;

(b) for those assessed but unpaid, on the amount payable (excluding any discount); and

(c) for those not assessed:

(i) on the amount the relevant authority advises will be assessed (excluding any discount); or

(ii) if no advice on the assessment to be made is available, on the amount of the latest separate assessment (excluding any discount).

(3) If there is no separate assessment of rates for the Land at the Settlement Date and the Local Government informs the Buyer that it will not apportion rates between the Buyer and the Seller, then:

(a) the amount of rates to be adjusted is that proportion of the assessment equal to the ratio of the area of the Land to the area of the parcel in the assessment; and

(b) if an assessment of rates includes charges imposed on a “per lot” basis, then the portion of those charges to be adjusted is the amount assessed divided by the number of lots in that assessment.

(4) The Seller is liable for land tax assessed on the Land for the financial year current at the Settlement Date. If land tax is unpaid at the Settlement Date and the Queensland Revenue Office advises that it will issue a final clearance for the Land on payment of a specified amount, then the Seller irrevocably directs the Buyer to draw a bank cheque for the specified amount from the Balance Purchase Price at settlement and the Buyer must pay it promptly to the Queensland Revenue Office.

(5) Any Outgoings assessable on the amount of water used must be adjusted on the charges that would be assessed on the total water usage for the assessment period, determined by assuming that the actual rate of usage shown by the meter reading made before settlement continues throughout the assessment period. The Buyer must obtain and pay for the meter reading.

(6) If any Outgoings are assessed but unpaid at the Settlement Date, then the Seller irrevocably directs the Buyer to draw a bank cheque for the amount payable from the Balance Purchase Price at settlement and pay it promptly to the relevant authority. If an amount is deducted under this clause, the relevant Outgoing will be treated as paid at the Settlement Date for the purposes of clause 2.6(2).

(7) Rent for any rental period ending on or before the Settlement Date belong to the Seller and are not adjusted at settlement.

(8) Unpaid Rent for the rental period including both the Settlement Date and the following day (**“Current Period**”) is not adjusted until it is paid.

(9) Rent already paid for the Current Period or beyond must be adjusted at settlement.

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(10) If Rent payments are reassessed after the Settlement Date for periods including the Settlement Date, any additional Rent payment from a Tenant or refund due to a Tenant must be apportioned under clauses 2.6(7), 2.6(8) and 2.6(9).

(11) Payments under clause 2.6(10) must be made within 14 days after notification by one party to the other but only after any additional payment from a Tenant has been received.

(12) The cost of Bank cheques payable at settlement:

(a) to the Seller or its mortgagee are the responsibility of the Buyer; and

(b) to parties other than the Seller or its mortgagee are the responsibility of the Seller and the Seller will reimburse this cost to the Buyer as an adjustment at settlement.

(13) The Seller is not entitled to require payment of the Balance Purchase Price by means other than Bank cheque without the consent of the Buyer.

(14) Upon written request by the Buyer, the Seller will, before settlement, give the Buyer a written statement, supported by reasonable evidence, of:

(a) all Outgoings and all Rent for the Property to the extent they are not capable of discovery by search or enquiry at any office of public record or pursuant to the provisions of any statute; and

(b) any other information which the Buyer may reasonably require for the purpose of calculating or apportioning any Outgoings or Rent under this clause 2.6.

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

3. FINANCE

3.1 This contract is conditional on the Buyer obtaining approval of a loan for the Finance Amount from the Financier by the Finance Date on terms satisfactory to the Buyer. The Buyer must take all reasonable steps to obtain approval.

3.2 The Buyer must give notice to the Seller that:

(1) approval has not been obtained by the Finance Date and the Buyer terminates this contract; or

(2) the finance condition has been either satisfied or waived by the Buyer.

3.3 The Seller may terminate this contract by notice to the Buyer if notice is not given under clause 3.2 by 5pm on the Finance Date. This is the Seller's only remedy for the Buyer's failure to give notice.

3.4 The Seller's right under clause 3.3 is subject to the Buyer's continuing right to give written notice to the Seller of satisfaction, termination or waiver pursuant to clause 3.2.

4. BUILDING AND PEST INSPECTION REPORTS

4.1 This contract is conditional upon the Buyer obtaining a written building report from a Building Inspector and a written pest report from a Pest Inspector (which may be a single report) on the Property by the Inspection Date on terms satisfactory to the Buyer. The Buyer must take all reasonable steps to obtain the reports (subject to the right of the Buyer to elect to obtain only one of the reports).

4.2 The Buyer must give notice to the Seller that:

(a) a satisfactory Inspector's report under clause 4.1 has not been obtained by the Inspection Date and the Buyer terminates this contract. The Buyer must act reasonably; or

(b) clause 4.1 has been either satisfied or waived by the Buyer.

4.3 If the Buyer terminates this contract and the Seller asks the Buyer for a copy of the building and pest reports, the Buyer must give a copy of each report to the Seller without delay.

4.4 The Seller may terminate this contract by notice to the Buyer if notice is not given under clause 4.2 by 5pm on the Inspection Date. This is the Seller's only remedy for the Buyer's failure to give notice.

4.5 The Seller's right under clause 4.4 is subject to the Buyer's continuing right to give written notice to the Seller of satisfaction, termination or waiver pursuant to clause 4.2.

5. SETTLEMENT

5.1 Time and Date

(1) Settlement must occur:

(a) between 9am and 4pm AEST on the Settlement Date; and

(b) subject to clause 5.1(2), in the Place for Settlement at the office of a solicitor, Financial Institution or settlement agent nominated by the Seller.

(2) If the Seller has not nominated an office under clause 5.1(1)(b) or the parties have not otherwise agreed where settlement is to occur by 5pm on the date 2 Business Days before the Settlement Date, section 61(2)(c) of the *Property Law Act 1974* applies.

5.2 Transfer Documents

(1) The Transfer Documents must be prepared by the Buyer and delivered to the Seller a reasonable time before the Settlement Date.

(2) If the Buyer pays the Seller's reasonable expenses, it may require the Seller to produce the Transfer Documents at the Queensland Revenue Office nearest the Place for Settlement for stamping before settlement.

5.3 Documents and Keys at Settlement

(1) In exchange for payment of the Balance Purchase Price, the Seller must deliver to the Buyer at settlement:

(a) unstamped Transfer Documents capable of immediate registration after stamping; and

(b) any instrument necessary to release any Encumbrance over the Property in compliance with the Seller's obligation in clause 7.2; and

(c) if requested by the Buyer not less than 2 Business Days before the Settlement Date, the Keys; and

(d) if there are Tenancies:

(i) the Seller's copy of any Tenancy agreements;

(ii) a notice to each Tenant advising of the sale in the form required by law; and

(iii) any notice required by law to transfer to the Buyer the Seller's interest in any Bond; and

(e) if the Property has been subject to a Residential Tenancy Agreement or Rooming Accommodation Agreement at any time within the period of 12 months before the Contract Date:

(i) for any Tenancies, evidence of the day of the last rent increase for each part of the Property before those Tenancies were entered into; and

(ii) for any part of the Property not subject to a Tenancy at settlement, evidence of the day of the last rent increase for that part of the Property,

sufficient to satisfy section 93A or 105C of the RTRA Act; and

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(f) a copy of a current Pool Compliance Certificate for each regulated pool on the Land unless:
  (i) the Seller has done this before settlement; or
  (ii) the Seller has given the Buyer a notice under section 28 of the *Building Regulation 2021* (Notice of No Pool Safety Certificate) before entry into this contract.

(2) If the Keys are not required to be delivered at Settlement under clause 5.3(1)(c), the Seller must deliver the Keys to the Buyer on or before settlement. The Seller may discharge its obligation under this provision by authorising the Seller's Agent to release the Keys to the Buyer.

(3) The Seller is not required to comply with clause 5.3(1)(e) if the Buyer is an exempt lessor as defined in section 82A of the RTRA Act.

5.4 Assignment of Covenants and Warranties

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

(1) covenants by the Tenants under the Tenancies;
(2) guarantees and Bonds (subject to the requirements of the RTRA Act) supporting the Tenancies;
(3) manufacturer's warranties regarding the Included Chattels; and
(4) builders' warranties on the Improvements;

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

5.5 Possession of Property and Title to Included Chattels

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

5.6 Reservations

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

5.7 Consent to Transfer of State Lease

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

6. TIME

6.1 Time of the Essence

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

6.2 Extension of Settlement Date

(1) Either party may, at any time up to 4pm on the Settlement Date, extend the Settlement Date by giving a notice under this clause nominating a new date for settlement which must be no later than 5 Business Days after the Scheduled Settlement Date.
(2) The Settlement Date will be the date specified in the Extension Notice and time is of the essence in respect of this date.
(3) More than one Extension Notice may be given under clause 6.2(1) but the new date for settlement nominated in an Extension Notice may not be a date later than 5 Business Days after the Scheduled Settlement Date.
(4) In this clause 6.2, "**Scheduled Settlement Date**" means the Settlement Date specified in the Reference Schedule as extended:
  (a) by agreement of the parties; or
  (b) under clause 6.3 or 11.4,

  but excludes any extension of the Settlement Date as a result of the operation of this clause 6.2.

6.3 Delay Event

(1) This clause 6.3 applies if a party is unable to perform a Settlement Obligation solely as a consequence of a Delay Event but does not apply where the inability is attributable to:
  (a) damage to, destruction of or diminution in value of the Property or other property of the Seller or Buyer; or
  (b) termination or variation of any agreement between a party and another person whether relating to the provision of finance, the release of an Encumbrance, the sale or purchase of another property or otherwise.
(2) Time for the performance of the parties' Settlement Obligations is suspended and ceases to be of the essence of the contract and the parties are deemed not to be in breach of their Settlement Obligations.
(3) An Affected Party must take reasonable steps to minimise the effect of the Delay Event on its ability to perform its Settlement Obligations.
(4) When an Affected Party is no longer prevented from performing its Settlement Obligations due to the Delay Event, the Affected Party must give the other party a notice of that fact, promptly.
(5) When the Suspension Period ends, whether notice under clause 6.3(4) has been given or not, either party may give the other party a Notice to Settle.
(6) A Notice to Settle must be in writing and state:
  (a) that the Suspension Period has ended; and
  (b) a date, being not less than 5 nor more than 10 Business Days after the date the Notice to Settle is given, which shall become the Settlement Date;
  (c) that time is of the essence.
(7) When Notice to Settle is given, time is again of the essence of the contract.
(8) In this clause 6.3:
  (a) "**Affected Party**" means a party referred to in clause 6.3(1);
  (b) "**Delay Event**" means:
    (i) a tsunami, flood, cyclone, earthquake, bushfire or other act of nature;
    (ii) riot, civil commotion, war, invasion or a terrorist act;
    (iii) an imminent threat of an event in paragraphs (i) or (ii);
    (iv) compliance with any lawful direction or order by a Government Agency; or

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(v) if clause 2.5 applies, the computer system operated by the ATO for the GST Withholding notifications referred to in clause 2.5(5)(c) is inoperative;

(c) "**Government Agency**" means the government of the Commonwealth of Australia or an Australian State, Territory or local government and includes their authorities, agencies, government owned corporations and authorised officers, courts and tribunals;

(d) "**Settlement Obligations**" means, in the case of the Buyer, its obligations under clauses 2.5(1), 2.5(5)(b) and (c) and 5.1(1) and, in the case of the Seller, its obligations under clauses 5.1(1), 5.3(1)(a) – (f) and 5.5;

(e) "**Suspension Period**" means the period during which the Affected Party (or if both the Buyer and Seller are Affected Parties, either of them) remains unable to perform a Settlement Obligation solely as a consequence of a Delay Event.

7. MATTERS AFFECTING THE PROPERTY

7.1 Title

The Land is sold subject to:

(1) any reservations or conditions on the title or the original Deed of Grant (if freehold); or

(2) the Conditions of the Crown Lease (if leasehold).

7.2 Encumbrances

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

7.3 Requisitions

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

7.4 Seller's Warranties

(1) The Seller's warranties in clauses 7.4(2) and 7.4(3) apply except to the extent disclosed by the Seller to the Buyer:

(a) in this contract; or

(b) in writing before the Buyer signed this contract.

(2) The Seller warrants that, at the Contract Date:

(a) there is no outstanding notice under section 246AG, 247 or 248 of the *Building Act 1975* or section 167 or 168 of the *Planning Act 2016* that affects the Property;

(b) the Seller has not received any communication from a competent authority that may lead to the issue of a notice referred to in clause 7.4(2)(a) or a notice or order referred to in clause 7.6(1);

(c) there are no current or threatened claims or proceedings which may lead to a Court order or writ of execution affecting the Property;

(d) there is no outstanding obligation on the Seller to give notice to the administering authority under the *Environmental Protection Act 1994* of a notifiable activity being conducted on the Land; and

(e) the Seller is not aware of any facts or circumstances that may lead to the Land being classified as contaminated land within the meaning of the *Environmental Protection Act 1994*.

(3) The Seller warrants that at settlement:

(a) if the Land is freehold: it will be the registered owner of an estate in fee simple in the Land and will own the rest of the Property;

(b) if the Land is leasehold: it will be the registered lessee, the lease is not liable to forfeiture because of default under the lease, and it will own the rest of the Property;

(c) it will be capable of completing this contract (unless the Seller dies or becomes mentally incapable after the Contract Date); and

(d) there will be no unsatisfied Court order or writ of execution affecting the Property.

(4) If the Seller breaches a warranty in clause 7.4(2) or 7.4(3), the Buyer may terminate this contract by notice to the Seller given before settlement.

(5) The Seller warrants that:

(a) the statements made by the Seller in the Reference Schedule under Residential Tenancy Agreements and Rooming Accommodation Agreements are true and correct; and

(b) if there are Tenancies, the current rent complies with the requirements of section 91 and 93 of the RTRA Act, as those sections applied on the date of each Tenancy.

(6) If the Seller's warranty in clause 7.4(5) is incorrect, the Buyer's only remedy against the Seller is for compensation. The Buyer may not delay settlement or withhold any part of the Balance Purchase Price because of any compensation claim under clause 7.4(5).

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

7.5 Survey and Mistake

(1) The Buyer may survey the Land.

(2) If:

(a) there is an error in the boundaries or area of the Land;

(b) there is an encroachment by structures onto or from the Land;

(c) there are Services that pass through the Land which do not service the Land and are not protected by any Encumbrance disclosed to the Buyer in this contract; or

(d) there is a mistake or omission in describing the Property or the Seller's title to it,

which is material, the Buyer may terminate this contract by notice to the Seller given before settlement.

(3) If a matter referred to in clause 7.5(2) is:

(a) immaterial; or

(b) material, but the Buyer elects to complete this contract,

the Buyer's only remedy against the Seller is for compensation, but only if claimed by the Buyer in writing on or before settlement.

(4) The Buyer may not delay settlement or withhold any part of the Balance Purchase Price because of any compensation claim under clause 7.5(3).

7.6 Requirements of Authorities

(1) Any valid notice or order by any competent authority or Court requiring work to be done or money spent in relation to the Property must be fully complied with:

(a) if issued before the Contract Date: by the Seller before the Settlement Date unless clause 7.6(4) applies; or

(b) if issued on or after the Contract Date: by the Buyer unless clause 7.6(3) applies.

(2) If the Seller fails to comply with clause 7.6(1)(a), the Buyer is entitled to claim the reasonable cost of complying with the notice or order from the Seller after settlement as a debt.

(3) If any notice or order referred to in clause 7.6(1)(b) is required to be complied with before the Settlement Date:

(a) the Seller must comply with the notice or order; and

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(b) at settlement, the Buyer must pay the reasonable costs incurred by the Seller in doing so,

unless the Buyer directs the Seller not to and indemnifies the Seller against any liability incurred for failure to comply with the notice or order.

(4) The Buyer must comply with any notice or order referred to in clause 7.6(1) which is disclosed by the Seller to the Buyer:

(a) in this contract; or

(b) in writing before the Buyer signed this contract.

7.7 Property Adversely Affected

(1) If at the Contract Date:

(a) the Present Use is not lawful under the relevant town planning scheme;

(b) the Land is affected by a proposal of any competent authority to alter the dimensions of any Transport Infrastructure or locate Transport Infrastructure on the Land;

(c) access to the Land passes unlawfully through other land;

(d) any Services to the Land which pass through other land are not protected by a registered easement, building management statement or by statutory authority;

(e) any competent authority has issued a current notice to treat, or notice of intention to resume, regarding any part of the Land;

(f) there is an outstanding condition of a development approval attaching to the Land under section 73 of the *Planning Act 2016* or section 96 of the *Economic Development Queensland Act 2012* which, if complied with, would constitute a material mistake or omission in the Seller's title under clause 7.5(2)(d);

(g) the Property is affected by the *Queensland Heritage Act 1992* or is included in the World Heritage List;

(h) the Property is declared acquisition land under the *Queensland Reconstruction Authority Act 2011*;

(i) there is a charge against the Land under s104 of the *Foreign Acquisitions and Takeovers Act 1975* (Cth),

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

(2) If no notice is given under clause 7.7(1), the Buyer will be treated as having accepted the Property subject to all of the matters referred to in that clause.

(3) The Seller authorises the Buyer to inspect records held by any authority, including Security Interests on the PPSR relating to the Property.

7.8 Compliant Smoke Alarms

(1) The Seller must install smoke alarms in any domestic dwelling on the Land in accordance with the Smoke Alarm Requirement Provision by the Settlement Date.

(2) If the Seller fails to comply with clause 7.8(1), the Buyer is entitled to an adjustment at settlement equal to 0.15% of the Purchase Price but only if claimed by the Buyer in writing on or before settlement. This is the Buyers only remedy for non-compliance with clause 7.8(1).

7.9 Dividing Fences

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

8. RIGHTS AND OBLIGATIONS UNTIL SETTLEMENT

8.1 Risk

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

8.2 Access

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

(1) once to read any meter;

(2) for inspections under clause 4;

(3) once to inspect the Property before settlement;

(4) once to value the Property before settlement; and

(5) once to carry out an inspection for smoke alarms installed in the Property.

8.3 Seller's Obligations After Contract Date

(1) The Seller must use the Property reasonably until settlement. The Seller must not do anything regarding the Property or Tenancies that may significantly alter them or result in later expense for the Buyer.

(2) The Seller must promptly upon receiving any notice, proceeding or order that affects the Property or requires work or expenditure on the Property, give a copy to the Buyer.

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

8.4 Information Regarding the Property

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

(1) copies of all documents relating to any unregistered interests in the Property;

(2) full details of the Tenancies to allow the Buyer to properly manage the Property after settlement;

(3) sufficient details (including the date of birth of each Seller who is an individual) to enable the Buyer to undertake a search of the PPSR;

(4) the Local Government rate account number for the Land; and

(5) further copies or details if those previously given cease to be complete and accurate.

8.5 Possession Before Settlement

If possession is given before settlement:

(1) the Buyer must maintain the Property in substantially its condition at the date of possession, fair wear and tear excepted;

(2) entry into possession is under a licence personal to the Buyer revocable at any time and does not:

(a) create a relationship of Landlord and Tenant; or

(b) waive the Buyer's rights under this contract;

(3) the Buyer must insure the Property to the Seller's satisfaction; and

(4) the Buyer indemnifies the Seller against any expense or damages incurred by the Seller as a result of the Buyer's possession of the Property.

9. PARTIES' DEFAULT

9.1 Seller and Buyer May Affirm or Terminate

(1) If the Seller or Buyer, as the case may be, fails to comply with an Essential Term, or makes a fundamental breach of an intermediate term, the Seller (in the case of the Buyer's default) or the Buyer (in the case of the Seller's default) may affirm or terminate this contract under this clause.

(2) Clause 9.1 does not limit any other right or remedy of the parties including those under this contract or any right at law or in equity.

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9.2 If Seller Affirms

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

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

9.3 If Buyer Affirms

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

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

9.4 If Seller Terminates

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

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

9.5 If Buyer Terminates

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

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

9.6 Seller's Resale

(1) If the Seller terminates this contract and resells the Property, the Seller may recover from the Buyer as liquidated damages:
   (a) any deficiency in price on a resale; and
   (b) its expenses connected with any repossession, any failed attempt to resell, and the resale,

   provided the resale settles within 2 years of termination of this contract.
(2) Any profit on a resale belongs to the Seller.

9.7 Seller's Damages

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

9.8 Buyer's Damages

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

9.9 Interest on Late Payments

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

10. GENERAL

10.1 Seller's Agent

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

10.2 Foreign Buyer Approval

The Buyer warrants that either:

(1) the Buyer's purchase of the Property is not a notifiable action; or
(2) the Buyer has received a no objection notification,

under the *Foreign Acquisitions and Takeovers Act 1975* (Cth).

10.3 Duty

The Buyer must pay all duty on this contract.

10.4 Notices

(1) Notices under this contract must be in writing.
(2) Notices under this contract or Notices required to be given by law may be given and received by the party's solicitor.
(3) Notices under this contract or Notices required to be given by law may be given by:
   (a) delivering or posting to the other party or its solicitor; or
   (b) sending it to the facsimile number of the other party or its solicitor stated in the Reference Schedule (or another facsimile number notified by the recipient to the sender); or
   (c) sending it to the email address of the other party or its solicitor stated in the Reference Schedule (or another email address notified by the recipient to the sender).
(4) Subject to clause 10.4(5), a notice given after this contract is entered into in accordance with clause 10.4(3) will be treated as given:
   (a) 5 Business Days after posting;
   (b) if sent by facsimile, at the time indicated on a clear transmission report; and
   (c) if sent by email, at the time it is sent.
(5) Notices given by facsimile, by personal delivery or by email between 5pm on a Business Day (the "first Business Day") and 9am on the next Business Day (the "second Business Day") will be treated as given or delivered at 9am on the second Business Day.
(6) If two or more notices are treated as given at the same time under clause 10.4(5), they will be treated as given in the order in which they were sent or delivered.
(7) Notices or other written communications by a party's solicitor (for example, varying the Inspection Date, Finance Date or Settlement Date) will be treated as given with that party's authority.
(8) For the purposes of clause 10.4(3)(c) and clause 12.2 the notice or information may be contained within an email, as an attachment to an email or located in an electronic repository accessible by the recipient by clicking a link in an email.
(9) A communication given using a messaging system in an ELNO System is not a notice for the purpose of this contract.

10.5 Business Days

(1) If anything is required to be done on a day that is not a Business Day, it must be done instead on the next Business Day.
(2) If the Finance Date or Inspection Date fall on a day that is not a Business Day, then it falls on the next Business Day.
(3) If clause 11 applies and the Settlement Date falls on a day on which both the Sydney and Melbourne offices of the Reserve Bank of Australia are closed, the Settlement Date will be taken to be the next Business Day.

10.6 Rights After Settlement

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

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10.7 Further Acts

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

10.8 Severance

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

10.9 Interpretation

(1) **Plurals and Genders**

Reference to:

(a) the singular includes the plural and the plural includes the singular;

(b) one gender includes each other gender;

(c) a person includes a Body Corporate; and

(d) a party includes the party's executors, administrators, successors and permitted assigns.

(2) **Parties**

(a) If a party consists of more than one person, this contract binds them jointly and each of them individually.

(b) A party that is a trustee is bound both personally and in its capacity as a trustee.

(3) **Statutes and Regulations**

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

(4) **Inconsistencies**

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

(5) **Headings**

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

(6) **Calculating Time**

If anything is permitted or required to be done:

(a) a number of days or Business Days before a specified date, the date by which that thing may or must be done is to be calculated excluding the specified date;

Example: if the Settlement Date falls on a Friday, 2 days before the Settlement Date is Wednesday.

(b) "at least" a number of days or Business Days before a specified date or a clear number of days or Business Days before a specified date, the date by which that thing may or must be done is to be calculated excluding the specified date and excluding the day on which the thing may or must be done;

Example: if the Settlement Date falls on a Friday, at least 2 days before the Settlement Date or 2 clear days before the Settlement Date is Tuesday.

(c) a number of days or Business Days after a specified date, the date by which that thing may or must be done is to be calculated excluding the specified date.

Example: if the Contract Date falls on a Monday, 2 days after the Contract Date is Wednesday.

10.10 Counterparts

(1) This contract may be executed in two or more counterparts, all of which will together be deemed to constitute one and the same contract.

(2) A counterpart may be electronic and signed using an Electronic Signature.

11. ELECTRONIC SETTLEMENT

11.1 Application of Clause

Clause 11:

(a) applies if the form of transfer under the *Land Title Act 1994* required to transfer title in the Land to the Buyer is a required instrument to which section 5(1) of the *Land Title Regulation 2022* applies;

(b) continues to apply even if section 5(2)(a)(ii) of the *Land Title Regulation 2022* applies; and

(c) overrides any other provision of this contract to the extent of any inconsistency.

11.2 Nomination of ELNO System and Completion of Electronic Workspace

(1) The Seller must nominate the ELNO System to be used for the Electronic Settlement. Despite clause 10.4(9), the Seller may nominate the ELNO System by sending or accepting an invitation to an Electronic Workspace in an ELNO System.

(2) The parties must:

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

(b) do everything else required in the Electronic Workspace or otherwise to enable settlement to occur on the Settlement Date.

(3) If the parties cannot agree on a time for settlement, the time to be nominated in the Electronic Workspace is 4pm AEST.

(4) If any part of the Purchase Price is to be paid to discharge an Outgoing:

(a) the Buyer may, by notice in writing to the Seller, require that the amount is paid to the Buyer's Solicitor's trust account and the Buyer is responsible for paying the amount to the relevant authority;

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

(5) If the Deposit is required to discharge any Encumbrance or pay an Outgoing at settlement:

(a) the Deposit Holder must, if directed by the Seller at least 2 Business Days before settlement, pay the Deposit (and any interest accrued on investment of the Deposit) less commission as clear funds to the Seller's Solicitor;

(b) the Buyer and the Seller authorise the Deposit Holder to make the payment in clause 11.2(5)(a);

(c) the Seller's Solicitor will hold the money as Deposit Holder under the contract;

(d) the Seller and Buyer authorise the Seller's Solicitor to pay the money as directed by the Seller in accordance with the Financial Settlement Schedule.

11.3 Electronic Settlement

(1) Clauses 5.1(1)(b), 5.1(2) and 5.2 do not apply.

(2) Payment of the Balance Purchase Price electronically as directed by the Seller's Solicitor in the Financial Settlement Schedule satisfies the Buyer's obligation in clause 2.5(1).

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(3) The Seller and Buyer will be taken to have complied with:
   (a) clause 2.5(3)(c), (e) and (f); and
   (b) clause 2.5(5)(d) and (e),
   (as applicable) if at settlement the Financial Settlement Schedule specifies payment of the relevant amount to the account nominated by the Commissioner of Taxation.

(4) The Seller will be taken to have complied with clause 5.3(1)(b), (c), (d), (e) and (f) if:
   (a) in relation to documents which are suitable for Electronic Lodgement in the Land Registry at settlement, the documents are Digitally Signed within the Electronic Workspace; and
   (b) in relation to any other document or thing, the Seller's Solicitor:
      (i) confirms in writing prior to settlement that it holds all relevant documents which are not suitable for Electronic Lodgement and all Keys (if requested under clause 5.3(1)(c)) in escrow on the terms contained in the QLS E-Conveyancing Guidelines; and
      (ii) gives a written undertaking to send the documents and Keys (if applicable) to the Buyer or Buyer's Solicitor no later than the Business Day after settlement; and
      (iii) if requested by the Buyer, provides copies of documents in the Seller's Solicitors possession.

(5) A party is not in default to the extent it is prevented from complying with an obligation because the other party or the other party's Financial Institution has not done something in the Electronic Workspace.

(6) Any rights under the contract or at law to terminate the contract may not be exercised during the time the Electronic Workspace is locked for Electronic Settlement.

(7) Electronic Settlement is taken to occur when Financial Settlement is effected, whether or not Electronic Lodgement has occurred.

11.4 Computer System Unavailable

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

11.5 Costs

Each party must pay its own fees and charges of using the relevant ELNO System for Electronic Settlement.

12. ELECTRONIC CONTRACT AND DISCLOSURE

12.1 Electronic Signing

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

(a) agree to enter into this contract in electronic form; and

(b) consent to either or both parties signing the contract using an Electronic Signature.

12.2 Pre-contract Disclosure

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

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