

Contract for the sale and purchase of land 2018 edition

| TERM | MEANING OF TERM | NSW Duty: |
|--|---|---|
| vendor's agent | Peters Real Estate 475-477 High Street, Maitland, NSW 2320 | Phone: 4933 7855 Fax: 4933 1120 Ref: Tim Peters |
| co-agent | | |
| vendor | Grange Estates (NSW) Pty Limited ACN 079 624 909 as trustee for Maitland Vale Trust Suite 20, Level 1/19-21 Central Road, Miranda, NSW 2228 | |
| vendor's solicitor | Tranter Lawyers 341 High Street, Maitland NSW 2320 DX 21623 Maitland | Phone: 02 4934 2600 Fax: 02 4934 2620 Ref: MRT:SE:36877 E:matt@tranterlawyers.com.au |
| date for completion | See special condition 43 | (clause 15) |
| land (address, plan details and title reference) | Lot 301 Lizard Avenue, Maitland Vale, New South Wales 2320 Unregistered Plan: Lot 301 in an unregistered plan which is part of Lot 221 Plan 1239804 Folio Identifier Part 221/1239804 | |
| improvements | <input checked="" type="checkbox"/> VACANT POSSESSION <input type="checkbox"/> subject to existing tenancies <input type="checkbox"/> HOUSE <input type="checkbox"/> garage <input type="checkbox"/> carport <input type="checkbox"/> home unit <input type="checkbox"/> carspace <input type="checkbox"/> storage space <input type="checkbox"/> none <input checked="" type="checkbox"/> other: Vacant land | |
| attached copies | <input checked="" type="checkbox"/> documents in the List of Documents as marked or as numbered: <input type="checkbox"/> other documents: | |

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

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

buyer's agent

See Annexure 'A' to Vendor Execution

vendor

GST AMOUNT (optional)

The price includes
GST of: \$

witness

purchaser ☐ JOINT TENANTS ☐ tenants in common ☐ in unequal shares

witness

Choices

Vendor agrees to accept a **deposit-bond** (clause 3) ☐ NO ☐ yes
Proposed electronic transaction (clause 30) ☐ no ☐ YES

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

Land tax is adjustable ☒ NO ☐ yes
GST: Taxable supply ☐ NO ☒ yes in full ☐ yes to an extent
 Margin scheme will be used in making the taxable supply ☒ NO ☐ yes
 This sale is not a taxable supply because (one or more of the following may apply) the sale is:
☐ not made in the course or furtherance of an enterprise that the vendor carries on (section 9-5(b))
☐ by a vendor who is neither registered nor required to be registered for GST (section 9-5(d))
☐ GST-free because the sale is the supply of a going concern under section 38-325
☐ GST-free because the sale is subdivided farm land or farm land supplied for farming under Subdivision 38-O
☐ input taxed because the sale is of eligible residential premises (sections 40-65, 40-75(2) and 195-1)

Purchaser must make an *RW payment* ☒ NO ☐ yes (if yes, vendor must provide further details)
 (residential withholding payment)

If the further details below are not fully completed at the contract date, the vendor must provide all these details in a separate notice within 14 days of the contract date.

RW payment (residential withholding payment) – further details

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

Supplier's name:

Supplier's ABN:

Supplier's business address:

Supplier's email address:

Supplier's phone number:

Supplier's proportion of *RW payment*: \$

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

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

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

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

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

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

List of Documents

General

- ☒ 1 property certificate for the land
- ☐ 2 plan of the land
- ☒ 3 unregistered plan of the land
- ☒ 4 plan of land to be subdivided
- ☒ 5 document that is to be lodged with a relevant plan
- ☒ 6 section 10.7(2) planning certificate under Environmental Planning and Assessment Act 1979
- ☐ 7 section information included in that certificate under section 10.7(5)
- ☐ 8 sewerage infrastructure location diagram (service location diagram)
- ☒ 9 sewer lines location diagram (sewerage service diagram)
- ☒ 10 document that created or may have created an easement, profit à prendre, restriction on use or positive covenant disclosed in this contract
- ☒ 11 *planning agreement*
- ☐ 12 section 88G certificate (positive covenant)
- ☐ 13 survey report
- ☐ 14 building information certificate or building certificate given under *legislation*
- ☐ 15 lease (with every relevant memorandum or variation)
- ☐ 16 other document relevant to tenancies
- ☐ 17 licence benefiting the land
- ☐ 18 old system document
- ☐ 19 Crown purchase statement of account
- ☐ 20 building management statement
- ☒ 21 form of requisitions
- ☐ 22 *clearance certificate*
- ☐ 23 land tax certificate

Home Building Act 1989

- ☐ 24 insurance certificate
- ☐ 25 brochure or warning
- ☐ 26 evidence of alternative indemnity cover

Swimming Pools Act 1992

- ☐ 27 certificate of compliance
- ☐ 28 evidence of registration
- ☐ 29 relevant occupation certificate
- ☐ 30 certificate of non-compliance
- ☐ 31 detailed reasons for non-compliance

Strata or community title (clause 23 of the contract)

- ☐ 32 property certificate for strata common property
- ☐ 33 plan creating strata common property
- ☐ 34 strata by-laws
- ☐ 35 strata development contract or statement
- ☐ 36 strata management statement
- ☐ 37 strata renewal proposal
- ☐ 38 strata renewal plan
- ☐ 39 leasehold strata - lease of lot and common property
- ☐ 40 property certificate for neighbourhood property
- ☐ 41 plan creating neighbourhood property
- ☐ 42 neighbourhood development contract
- ☐ 43 neighbourhood management statement
- ☐ 44 property certificate for precinct property
- ☐ 45 plan creating precinct property
- ☐ 46 precinct development contract
- ☐ 47 precinct management statement
- ☐ 48 property certificate for community property
- ☐ 49 plan creating community property
- ☐ 50 community development contract
- ☐ 51 community management statement
- ☐ 52 document disclosing a change of by-laws
- ☐ 53 document disclosing a change in a development or management contract or statement
- ☐ 54 document disclosing a change in boundaries
- ☐ 55 information certificate under Strata Schemes Management Act 2015
- ☐ 56 information certificate under Community Land Management Act 1986
- ☐ 57 document relevant to off-the-plan sale
- Other**
- ☐ 58

HOLDER OF STRATA OR COMMUNITY TITLE RECORDS – Name, address, email address and telephone number

Annexure 'A' to Vendor Execution

Executed on behalf of **Grange Estates (NSW) Pty Limited ACN 079 624 909** by its attorney **Timothy Gerard Peters** pursuant to registered Power of Attorney Book 4691 No 473, in the presence of:

Signature of attorney:

.....

Signature of witness:

.....

Name of witness:

.....

Address of witness:

.....

.....

IMPORTANT NOTICE TO VENDORS AND PURCHASERS

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

WARNING—SMOKE ALARMS

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

WARNING—LOOSE-FILL ASBESTOS INSULATION

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

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

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

COOLING OFF PERIOD (PURCHASER'S RIGHTS)

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

DISPUTES

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

AUCTIONS

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

WARNINGS

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

| | |
|--|---------------------------------------|
| Australian Taxation Office | NSW Fair Trading |
| Council | NSW Public Works Advisory |
| County Council | Office of Environment and Heritage |
| Department of Planning and Environment | Owner of adjoining land |
| Department of Primary Industries | Privacy |
| East Australian Pipeline Limited | Roads and Maritime Services |
| Electricity and gas | Subsidence Advisory NSW |
| Land & Housing Corporation | Telecommunications |
| Local Land Services | Transport for NSW |
| NSW Department of Education | Water, sewerage or drainage authority |

If you think that any of these matters affects the property, tell your solicitor.

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

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

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

In this contract, these terms (in any form) mean –

| | |
|------------------------------|--|
| <i>adjustment date</i> | the earlier of the giving of possession to the purchaser or completion; |
| <i>bank</i> | the Reserve Bank of Australia or an authorised deposit-taking institution which is a bank, a building society or a credit union; |
| <i>business day</i> | any day except a bank or public holiday throughout NSW or a Saturday or Sunday; |
| <i>cheque</i> | a cheque that is not postdated or stale; |
| <i>clearance certificate</i> | a certificate within the meaning of s14-220 of Schedule 1 to the <i>TA Act</i> , that covers one or more days falling within the period from and including the contract date to completion; |
| <i>deposit-bond</i> | a deposit bond or guarantee from an issuer, with an expiry date and for an amount each approved by the vendor; |
| <i>depositholder</i> | vendor's agent (or if no vendor's agent is named in this contract, the vendor's <i>solicitor</i> , or if no vendor's <i>solicitor</i> is named in this contract, the buyer's agent); |
| <i>document of title</i> | document relevant to the title or the passing of title; |
| <i>FRCGW percentage</i> | the percentage mentioned in s14-200(3)(a) of Schedule 1 to the <i>TA Act</i> (12.5% as at 1 July 2017); |
| <i>GST Act</i> | A New Tax System (Goods and Services Tax) Act 1999; |
| <i>GST rate</i> | the rate mentioned in s4 of A New Tax System (Goods and Services Tax Imposition - General) Act 1999 (10% as at 1 July 2000); |
| <i>legislation</i> | an Act or a by-law, ordinance, regulation or rule made under an Act; |
| <i>normally</i> | subject to any other provision of this contract; |
| <i>party</i> | each of the vendor and the purchaser; |
| <i>property</i> | the land, the improvements, all fixtures and the inclusions, but not the exclusions; |
| <i>planning agreement</i> | a valid voluntary agreement within the meaning of s7.4 of the Environmental Planning and Assessment Act 1979 entered into in relation to the <i>property</i> ; |
| <i>requisition</i> | an objection, question or requisition (but the term does not include a claim); |
| <i>remittance amount</i> | the lesser of the <i>FRCGW percentage</i> of the price (inclusive of GST, if any) and the amount specified in a <i>variation served</i> by a <i>party</i> ; |
| <i>rescind</i> | rescind this contract from the beginning; |
| <i>RW payment</i> | a payment which the purchaser must make under s14-250 of Schedule 1 to the <i>TA Act</i> (the price multiplied by the <i>RW rate</i>); |
| <i>RW rate</i> | the rate determined under ss14-250(6), (8) or (9) of Schedule 1 to the <i>TA Act</i> (as at 1 July 2018, usually 7% of the price if the margin scheme applies, 1/11 th if not); |
| <i>serve</i> | serve in writing on the other <i>party</i> ; |
| <i>settlement cheque</i> | an unendorsed <i>cheque</i> made payable to the person to be paid and – <ul style="list-style-type: none"> • issued by a <i>bank</i> and drawn on itself; or • if authorised in writing by the vendor or the vendor's <i>solicitor</i>, some other <i>cheque</i>; |
| <i>solicitor</i> | in relation to a <i>party</i> , the <i>party's</i> solicitor or licensed conveyancer named in this contract or in a notice <i>served</i> by the <i>party</i> ; |
| <i>TA Act</i> | Taxation Administration Act 1953; |
| <i>terminate</i> | terminate this contract for breach; |
| <i>variation</i> | a variation made under s14-235 of Schedule 1 to the <i>TA Act</i> ; |
| <i>within</i> | in relation to a period, at any time before or during the period; and |
| <i>work order</i> | a valid direction, notice or order that requires work to be done or money to be spent on or in relation to the <i>property</i> or any adjoining footpath or road (but the term does not include a notice under s22E of the Swimming Pools Act 1992 or clause 18B of the Swimming Pools Regulation 2008). |

2 Deposit and other payments before completion

- 2.1 The purchaser must pay the deposit to the *depositholder* as stakeholder.
- 2.2 *Normally*, the purchaser must pay the deposit on the making of this contract, and this time is essential.
- 2.3 If this contract requires the purchaser to pay any of the deposit by a later time, that time is also essential.
- 2.4 The purchaser can pay any of the deposit by giving cash (up to \$2,000) or by unconditionally giving a *cheque* to the *depositholder* or to the vendor, vendor's agent or vendor's *solicitor* for sending to the *depositholder*.
- 2.5 If any of the deposit is not paid on time or a *cheque* for any of the deposit is not honoured on presentation, the vendor can *terminate*. This right to *terminate* is lost as soon as the deposit is paid in full.
- 2.6 If the vendor accepts a bond or guarantee for the deposit, clauses 2.1 to 2.5 do not apply.
- 2.7 If the vendor accepts a bond or guarantee for part of the deposit, clauses 2.1 to 2.5 apply only to the balance.

- 2.8 If any of the deposit or of the balance of the price is paid before completion to the vendor or as the vendor directs, it is a charge on the land in favour of the purchaser until *termination* by the vendor or completion, subject to any existing right.
- 2.9 If each *party* tells the *depositholder* that the deposit is to be invested, the *depositholder* is to invest the deposit (at the risk of the *party* who becomes entitled to it) with a *bank*, in an interest-bearing account in NSW, payable at call, with interest to be reinvested, and pay the interest to the *parties* equally, after deduction of all proper government taxes and financial institution charges and other charges.

3 Deposit-bond

- 3.1 This clause applies only if this contract says the vendor has agreed to accept a *deposit-bond* for the deposit (or part of it).
- 3.2 The purchaser must provide the original *deposit-bond* to the vendor's *solicitor* (or if no *solicitor* the *depositholder*) at or before the making of this contract and this time is essential.
- 3.3 If the *deposit-bond* has an expiry date and completion does not occur by the date which is 14 days before the expiry date, the purchaser must serve a replacement *deposit-bond* at least 7 days before the expiry date. The time for service is essential.
- 3.4 The vendor must approve a replacement *deposit-bond* if –
- 3.4.1 it is from the same issuer and for the same amount as the earlier *deposit-bond*; and
- 3.4.2 it has an expiry date at least three months after its date of issue.
- 3.5 A breach of clauses 3.2 or 3.3 entitles the vendor to *terminate*. The right to *terminate* is lost as soon as –
- 3.5.1 the purchaser serves a replacement *deposit-bond*; or
- 3.5.2 the deposit is paid in full under clause 2.
- 3.6 Clauses 3.3 and 3.4 can operate more than once.
- 3.7 If the purchaser serves a replacement *deposit-bond*, the vendor must serve the earlier *deposit-bond*.
- 3.8 The amount of any *deposit-bond* does not form part of the price for the purposes of clause 16.7.
- 3.9 The vendor must give the purchaser the *deposit-bond* –
- 3.9.1 on completion; or
- 3.9.2 if this contract is *rescinded*.
- 3.10 If this contract is *terminated* by the vendor –
- 3.10.1 *normally*, the vendor can immediately demand payment from the issuer of the *deposit-bond*; or
- 3.10.2 if the purchaser serves prior to *termination* a notice disputing the vendor's right to *terminate*, the vendor must forward the *deposit-bond* (or its proceeds if called up) to the *depositholder* as stakeholder.
- 3.11 If this contract is *terminated* by the purchaser –
- 3.11.1 *normally*, the vendor must give the purchaser the *deposit-bond*; or
- 3.11.2 if the vendor serves prior to *termination* a notice disputing the purchaser's right to *terminate*, the vendor must forward the *deposit-bond* (or its proceeds if called up) to the *depositholder* as stakeholder.

4 Transfer

- 4.1 *Normally*, the purchaser must serve at least 14 days before the date for completion –
- 4.1.1 the form of transfer and
- 4.1.2 particulars required to register any mortgage or other dealing to be lodged with the transfer by the purchaser or the purchaser's mortgagee.
- 4.2 If any information needed for the form of transfer is not disclosed in this contract, the vendor must serve it.
- 4.3 If the purchaser serves a form of transfer and the transferee is not the purchaser, the purchaser must give the vendor a direction signed by the purchaser personally for this form of transfer.
- 4.4 The vendor can require the purchaser to include a form of covenant or easement in the transfer only if this contract contains the wording of the proposed covenant or easement, and a description of the land benefited.

5 Requisitions

- 5.1 If a form of *requisitions* is attached to this contract, the purchaser is taken to have made those *requisitions*.
- 5.2 If the purchaser is or becomes entitled to make any other *requisition*, the purchaser can make it only by serving it –
- 5.2.1 if it arises out of this contract or it is a general question about the *property* or title - *within* 21 days after the contract date;
- 5.2.2 if it arises out of anything served by the vendor - *within* 21 days after the later of the contract date and that service; and
- 5.2.3 in any other case - *within* a reasonable time.

6 Error or misdescription

- 6.1 The purchaser can (but only before completion) claim compensation for an error or misdescription in this contract (as to the *property*, the title or anything else and whether substantial or not).
- 6.2 This clause applies even if the purchaser did not take notice of or rely on anything in this contract containing or giving rise to the error or misdescription.
- 6.3 However, this clause does not apply to the extent the purchaser knows the true position.

7 Claims by purchaser

The purchaser can make a claim (including a claim under clause 6) before completion only by *serving* it with a statement of the amount claimed, and if the purchaser makes one or more claims before completion –

7.1 the vendor can *rescind* if in the case of claims that are not claims for delay –

7.1.1 the total amount claimed exceeds 5% of the price;

7.1.2 the vendor *serves* notice of intention to *rescind*; and

7.1.3 the purchaser does not *serve* notice waiving the claims *within* 14 days after that *service*; and

7.2 if the vendor does not *rescind*, the *parties* must complete and if this contract is completed –

7.2.1 the lesser of the total amount claimed and 10% of the price must be paid out of the price to and held by the *depositholder* until the claims are finalised or lapse;

7.2.2 the amount held is to be invested in accordance with clause 2.9;

7.2.3 the claims must be finalised by an arbitrator appointed by the *parties* or, if an appointment is not made *within* 1 month of completion, by an arbitrator appointed by the President of the Law Society at the request of a *party* (in the latter case the *parties* are bound by the terms of the Conveyancing Arbitration Rules approved by the Law Society as at the date of the appointment);

7.2.4 the purchaser is not entitled, in respect of the claims, to more than the total amount claimed and the costs of the purchaser;

7.2.5 net interest on the amount held must be paid to the *parties* in the same proportion as the amount held is paid; and

7.2.6 if the *parties* do not appoint an arbitrator and neither *party* requests the President to appoint an arbitrator *within* 3 months after completion, the claims lapse and the amount belongs to the vendor.

8 Vendor's rights and obligations

8.1 The vendor can *rescind* if –

8.1.1 the vendor is, on reasonable grounds, unable or unwilling to comply with a *requisition*;

8.1.2 the vendor *serves* a notice of intention to *rescind* that specifies the *requisition* and those grounds; and

8.1.3 the purchaser does not *serve* a notice waiving the *requisition within* 14 days after that *service*.

8.2 If the vendor does not comply with this contract (or a notice under or relating to it) in an essential respect, the purchaser can *terminate* by *serving* a notice. After the *termination* –

8.2.1 the purchaser can recover the deposit and any other money paid by the purchaser under this contract;

8.2.2 the purchaser can sue the vendor to recover damages for breach of contract; and

8.2.3 if the purchaser has been in possession a *party* can claim for a reasonable adjustment.

9 Purchaser's default

If the purchaser does not comply with this contract (or a notice under or relating to it) in an essential respect, the vendor can *terminate* by *serving* a notice. After the *termination* the vendor can –

9.1 keep or recover the deposit (to a maximum of 10% of the price);

9.2 hold any other money paid by the purchaser under this contract as security for anything recoverable under this clause –

9.2.1 for 12 months after the *termination*; or

9.2.2 if the vendor commences proceedings under this clause *within* 12 months, until those proceedings are concluded; and

9.3 sue the purchaser either –

9.3.1 where the vendor has resold the *property* under a contract made *within* 12 months after the *termination*, to recover –

- the deficiency on resale (with credit for any of the deposit kept or recovered and after allowance for any capital gains tax or goods and services tax payable on anything recovered under this clause); and
- the reasonable costs and expenses arising out of the purchaser's non-compliance with this contract or the notice and of resale and any attempted resale; or

9.3.2 to recover damages for breach of contract.

10 Restrictions on rights of purchaser

10.1 The purchaser cannot make a claim or *requisition* or *rescind* or *terminate* in respect of –

10.1.1 the ownership or location of any fence as defined in the Dividing Fences Act 1991;

10.1.2 a service for the *property* being a joint service or passing through another property, or any service for another property passing through the *property* ('service' includes air, communication, drainage, electricity, garbage, gas, oil, radio, sewerage, telephone, television or water service);

10.1.3 a wall being or not being a party wall in any sense of that term or the *property* being affected by an easement for support or not having the benefit of an easement for support;

10.1.4 any change in the *property* due to fair wear and tear before completion;

- 10.1.5 a promise, representation or statement about this contract, the *property* or the title, not set out or referred to in this contract;
- 10.1.6 a condition, exception, reservation or restriction in a Crown grant;
- 10.1.7 the existence of any authority or licence to explore or prospect for gas, minerals or petroleum;
- 10.1.8 any easement or restriction on use the substance of either of which is disclosed in this contract or any non-compliance with the easement or restriction on use; or
- 10.1.9 anything the substance of which is disclosed in this contract (except a caveat, charge, mortgage, priority notice or writ).
- 10.2 The purchaser cannot *rescind* or *terminate* only because of a defect in title to or quality of the inclusions.
- 10.3 *Normally*, the purchaser cannot make a claim or *requisition* or *rescind* or *terminate* or require the vendor to change the nature of the title disclosed in this contract (for example, to remove a caution evidencing qualified title, or to lodge a plan of survey as regards limited title).
- 11 Compliance with work orders**
- 11.1 *Normally*, the vendor must by completion comply with a *work order* made on or before the contract date and if this contract is completed the purchaser must comply with any other *work order*.
- 11.2 If the purchaser complies with a *work order*, and this contract is *rescinded* or *terminated*, the vendor must pay the expense of compliance to the purchaser.
- 12 Certificates and inspections**
- The vendor must do everything reasonable to enable the purchaser, subject to the rights of any tenant –
- 12.1 to have the *property* inspected to obtain any certificate or report reasonably required;
- 12.2 to apply (if necessary in the name of the vendor) for –
- 12.2.1 any certificate that can be given in respect of the *property* under *legislation*; or
- 12.2.2 a copy of any approval, certificate, consent, direction, notice or order in respect of the *property* given under *legislation*, even if given after the contract date, and
- 12.3 to make 1 inspection of the *property* in the 3 days before a time appointed for completion.
- 13 Goods and services tax (GST)**
- 13.1 Terms used in this clause which are not defined elsewhere in this contract and have a defined meaning in the *GST Act* have the same meaning in this clause.
- 13.2 *Normally*, if a *party* must pay the price or any other amount to the other *party* under this contract, GST is not to be added to the price or amount.
- 13.3 If under this contract a *party* must make an adjustment or payment for an expense of another party or pay an expense payable by or to a third party (for example, under clauses 14 or 20.7) –
- 13.3.1 the *party* must adjust or pay on completion any GST added to or included in the expense; but
- 13.3.2 the amount of the expense must be reduced to the extent the party receiving the adjustment or payment (or the representative member of a GST group of which that party is a member) is entitled to an input tax credit for the expense; and
- 13.3.3 if the adjustment or payment under this contract is consideration for a taxable supply, an amount for GST must be added at the *GST rate*.
- 13.4 If this contract says this sale is the supply of a going concern –
- 13.4.1 the *parties* agree the supply of the *property* is a supply of a going concern;
- 13.4.2 the vendor must, between the contract date and completion, carry on the enterprise conducted on the land in a proper and business-like way;
- 13.4.3 if the purchaser is not registered by the date for completion, the *parties* must complete and the purchaser must pay on completion, in addition to the price, an amount being the price multiplied by the *GST rate* ("the retention sum"). The retention sum is to be held by the *depositholder* and dealt with as follows
- if *within* 3 months of completion the purchaser *serves* a letter from the Australian Taxation Office stating the purchaser is registered with a date of effect of registration on or before completion, the *depositholder* is to pay the retention sum to the purchaser; but
 - if the purchaser does not *serve* that letter *within* 3 months of completion, the *depositholder* is to pay the retention sum to the vendor; and
- 13.4.4 if the vendor, despite clause 13.4.1, *serves* a letter from the Australian Taxation Office stating the vendor has to pay GST on the supply, the purchaser must pay to the vendor on demand the amount of GST assessed.
- 13.5 *Normally*, the vendor promises the margin scheme will not apply to the supply of the *property*.
- 13.6 If this contract says the margin scheme is to apply in making the taxable supply, the *parties* agree that the margin scheme is to apply to the sale of the *property*.
- 13.7 If this contract says the sale is not a taxable supply –
- 13.7.1 the purchaser promises that the *property* will not be used and represents that the purchaser does not intend the *property* (or any part of the *property*) to be used in a way that could make the sale a taxable supply to any extent; and

- 13.7.2 the purchaser must pay the vendor on completion in addition to the price an amount calculated by multiplying the price by the *GST rate* if this sale is a taxable supply to any extent because of –
- a breach of clause 13.7.1; or
 - something else known to the purchaser but not the vendor.
- 13.8 If this contract says this sale is a taxable supply in full and does not say the margin scheme applies to the *property*, the vendor must pay the purchaser on completion an amount of one-eleventh of the price if –
- 13.8.1 this sale is not a taxable supply in full; or
- 13.8.2 the margin scheme applies to the *property* (or any part of the *property*).
- 13.9 If this contract says this sale is a taxable supply to an extent –
- 13.9.1 clause 13.7.1 does not apply to any part of the *property* which is identified as being a taxable supply; and
- 13.9.2 the payments mentioned in clauses 13.7 and 13.8 are to be recalculated by multiplying the relevant payment by the proportion of the price which represents the value of that part of the *property* to which the clause applies (the proportion to be expressed as a number between 0 and 1). Any evidence of value must be obtained at the expense of the vendor.
- 13.10 *Normally*, on completion the vendor must give the recipient of the supply a tax invoice for any taxable supply by the vendor by or under this contract.
- 13.11 The vendor does not have to give the purchaser a tax invoice if the margin scheme applies to a taxable supply.
- 13.12 If the vendor is liable for GST on rents or profits due to issuing an invoice or receiving consideration before completion, any adjustment of those amounts must exclude an amount equal to the vendor's GST liability.
- 13.13 If the purchaser must make an *RW payment* the purchaser must –
- 13.13.1 at least 5 days before the date for completion, serve evidence of submission of an *RW payment* notification form to the Australian Taxation Office by the purchaser or, if a direction under clause 4.3 has been served, by the transferee named in the transfer served with that direction;
- 13.13.2 produce on completion a *settlement cheque* for the *RW payment* payable to the Deputy Commissioner of Taxation;
- 13.13.3 forward the *settlement cheque* to the payee immediately after completion; and
- 13.13.4 serve evidence of receipt of payment of the *RW payment*.
- 14 Adjustments**
- 14.1 *Normally*, the vendor is entitled to the rents and profits and will be liable for all rates, water, sewerage and drainage service and usage charges, land tax, levies and all other periodic outgoings up to and including the *adjustment date* after which the purchaser will be entitled and liable.
- 14.2 The *parties* must make any necessary adjustment on completion.
- 14.3 If an amount that is adjustable under this contract has been reduced under *legislation*, the *parties* must on completion adjust the reduced amount.
- 14.4 The *parties* must not adjust surcharge land tax (as defined in the Land Tax Act 1956) but must adjust any other land tax for the year current at the *adjustment date* –
- 14.4.1 only if land tax has been paid or is payable for the year (whether by the vendor or by a predecessor in title) and this contract says that land tax is adjustable;
- 14.4.2 by adjusting the amount that would have been payable if at the start of the year –
- the person who owned the land owned no other land;
 - the land was not subject to a special trust or owned by a non-concessional company; and
 - if the land (or part of it) had no separate taxable value, by calculating its separate taxable value on a proportional area basis.
- 14.5 If any other amount that is adjustable under this contract relates partly to the land and partly to other land, the *parties* must adjust it on a proportional area basis.
- 14.6 *Normally*, the vendor can direct the purchaser to produce a *settlement cheque* on completion to pay an amount adjustable under this contract and if so –
- 14.6.1 the amount is to be treated as if it were paid; and
- 14.6.2 the *cheque* must be forwarded to the payee immediately after completion (by the purchaser if the *cheque* relates only to the *property* or by the vendor in any other case).
- 14.7 If on completion the last bill for a water, sewerage or drainage usage charge is for a period ending before the *adjustment date*, the vendor is liable for an amount calculated by dividing the bill by the number of days in the period then multiplying by the number of unbilled days up to and including the *adjustment date*.
- 14.8 The vendor is liable for any amount recoverable for work started on or before the contract date on the *property* or any adjoining footpath or road.
- 15 Date for completion**
- The *parties* must complete by the date for completion and, if they do not, a *party* can serve a notice to complete if that *party* is otherwise entitled to do so.

16 Completion**• Vendor**

- 16.1 On completion the vendor must give the purchaser any *document of title* that relates only to the *property*.
- 16.2 If on completion the vendor has possession or control of a *document of title* that relates also to other property, the vendor must produce it as and where necessary.
- 16.3 *Normally*, on completion the vendor must cause the legal title to the *property* (being an estate in fee simple) to pass to the purchaser free of any mortgage or other interest, subject to any necessary registration.
- 16.4 The legal title to the *property* does not pass before completion.
- 16.5 If the vendor gives the purchaser a document (other than the transfer) that needs to be lodged for registration, the vendor must pay the lodgement fee to the purchaser, plus another 20% of that fee.
- 16.6 If a *party serves* a land tax certificate showing a charge on any of the land, on completion the vendor must give the purchaser a land tax certificate showing the charge is no longer effective against the land.
- Purchaser**
- 16.7 On completion the purchaser must pay to the vendor, by cash (up to \$2,000) or *settlement cheque* –
- 16.7.1 the price less any:
- deposit paid;
 - *remittance amount* payable;
 - *RW payment*; and
 - amount payable by the vendor to the purchaser under this contract; and
- 16.7.2 any other amount payable by the purchaser under this contract.
- 16.8 If the vendor requires more than 5 *settlement cheques*, the vendor must pay \$10 for each extra *cheque*.
- 16.9 If any of the deposit is not covered by a bond or guarantee, on completion the purchaser must give the vendor an order signed by the purchaser authorising the *depositholder* to account to the vendor for the deposit.
- 16.10 On completion the deposit belongs to the vendor.

• Place for completion

- 16.11 *Normally*, the *parties* must complete at the completion address, which is –
- 16.11.1 if a special completion address is stated in this contract - that address; or
- 16.11.2 if none is stated, but a first mortgagee is disclosed in this contract and the mortgagee would usually discharge the mortgage at a particular place - that place; or
- 16.11.3 in any other case - the vendor's *solicitor's* address stated in this contract.
- 16.12 The vendor by reasonable notice can require completion at another place, if it is in NSW, but the vendor must pay the purchaser's additional expenses, including any agency or mortgagee fee.
- 16.13 If the purchaser requests completion at a place that is not the completion address, and the vendor agrees, the purchaser must pay the vendor's additional expenses, including any agency or mortgagee fee.

17 Possession

- 17.1 *Normally*, the vendor must give the purchaser vacant possession of the *property* on completion.
- 17.2 The vendor does not have to give vacant possession if –
- 17.2.1 this contract says that the sale is subject to existing tenancies; and
- 17.2.2 the contract discloses the provisions of the tenancy (for example, by attaching a copy of the lease and any relevant memorandum or variation).
- 17.3 *Normally*, the purchaser can claim compensation (before or after completion) or *rescind* if any of the land is affected by a protected tenancy (a tenancy affected by Part 2, 3, 4 or 5 Landlord and Tenant (Amendment) Act 1948).

18 Possession before completion

- 18.1 This clause applies only if the vendor gives the purchaser possession of the *property* before completion.
- 18.2 The purchaser must not before completion –
- 18.2.1 let or part with possession of any of the *property*;
- 18.2.2 make any change or structural alteration or addition to the *property*; or
- 18.2.3 contravene any agreement between the *parties* or any direction, document, *legislation*, notice or order affecting the *property*.
- 18.3 The purchaser must until completion –
- 18.3.1 keep the *property* in good condition and repair having regard to its condition at the giving of possession; and
- 18.3.2 allow the vendor or the vendor's authorised representative to enter and inspect it at all reasonable times.
- 18.4 The risk as to damage to the *property* passes to the purchaser immediately after the purchaser enters into possession.
- 18.5 If the purchaser does not comply with this clause, then without affecting any other right of the vendor –
- 18.5.1 the vendor can before completion, without notice, remedy the non-compliance; and

18.5.2 if the vendor pays the expense of doing this, the purchaser must pay it to the vendor with interest at the rate prescribed under s101 Civil Procedure Act 2005.

18.6 If this contract is *rescinded* or *terminated* the purchaser must immediately vacate the *property*.

18.7 If the *parties* or their *solicitors* on their behalf do not agree in writing to a fee or rent, none is payable.

19 Rescission of contract

19.1 If this contract expressly gives a *party* a right to *rescind*, the *party* can exercise the right –

19.1.1 only by *serving* a notice before completion; and

19.1.2 in spite of any making of a claim or *requisition*, any attempt to satisfy a claim or *requisition*, any arbitration, litigation, mediation or negotiation or any giving or taking of possession.

19.2 *Normally*, if a *party* exercises a right to *rescind* expressly given by this contract or any *legislation* –

19.2.1 the deposit and any other money paid by the purchaser under this contract must be refunded;

19.2.2 a *party* can claim for a reasonable adjustment if the purchaser has been in possession;

19.2.3 a *party* can claim for damages, costs or expenses arising out of a breach of this contract; and

19.2.4 a *party* will not otherwise be liable to pay the other *party* any damages, costs or expenses.

20 Miscellaneous

20.1 The *parties* acknowledge that anything stated in this contract to be attached was attached to this contract by the vendor before the purchaser signed it and is part of this contract.

20.2 Anything attached to this contract is part of this contract.

20.3 An area, bearing or dimension in this contract is only approximate.

20.4 If a *party* consists of 2 or more persons, this contract benefits and binds them separately and together.

20.5 A *party's solicitor* can receive any amount payable to the *party* under this contract or direct in writing that it is to be paid to another person.

20.6 A document under or relating to this contract is –

20.6.1 signed by a *party* if it is signed by the *party* or the *party's solicitor* (apart from a direction under clause 4.3);

20.6.2 *served* if it is *served* by the *party* or the *party's solicitor*,

20.6.3 *served* if it is *served* on the *party's solicitor*, even if the *party* has died or any of them has died;

20.6.4 *served* if it is *served* in any manner provided in s170 of the Conveyancing Act 1919;

20.6.5 *served* if it is sent by email or fax to the *party's solicitor*, unless in either case it is not received;

20.6.6 *served* on a person if it (or a copy of it) comes into the possession of the person; and

20.6.7 *served* at the earliest time it is *served*, if it is *served* more than once.

20.7 An obligation to pay an expense of another *party* of doing something is an obligation to pay –

20.7.1 if the *party* does the thing personally - the reasonable cost of getting someone else to do it; or

20.7.2 if the *party* pays someone else to do the thing - the amount paid, to the extent it is reasonable.

20.8 Rights under clauses 11, 13, 14, 17, 24, 30 and 31 continue after completion, whether or not other rights continue.

20.9 The vendor does not promise, represent or state that the purchaser has any cooling off rights.

20.10 The vendor does not promise, represent or state that any attached survey report is accurate or current.

20.11 A reference to any *legislation* (including any percentage or rate specified in *legislation*) is also a reference to any corresponding later *legislation*.

20.12 Each *party* must do whatever is necessary after completion to carry out the *party's* obligations under this contract.

20.13 Neither taking possession nor *serving* a transfer of itself implies acceptance of the *property* or the title.

20.14 The details and information provided in this contract (for example, on pages 1 - 3) are, to the extent of each *party's* knowledge, true, and are part of this contract.

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

21 Time limits in these provisions

21.1 If the time for something to be done or to happen is not stated in these provisions, it is a reasonable time.

21.2 If there are conflicting times for something to be done or to happen, the latest of those times applies.

21.3 The time for one thing to be done or to happen does not extend the time for another thing to be done or to happen.

21.4 If the time for something to be done or to happen is the 29th, 30th or 31st day of a month, and the day does not exist, the time is instead the last day of the month.

21.5 If the time for something to be done or to happen is a day that is not a *business day*, the time is extended to the next *business day*, except in the case of clauses 2 and 3.2.

21.6 *Normally*, the time by which something must be done is fixed but not essential.

22 Foreign Acquisitions and Takeovers Act 1975

22.1 The purchaser promises that the Commonwealth Treasurer cannot prohibit and has not prohibited the transfer under the Foreign Acquisitions and Takeovers Act 1975.

22.2 This promise is essential and a breach of it entitles the vendor to *terminate*.

23 Strata or community title

• Definitions and modifications

- 23.1 This clause applies only if the land (or part of it) is a lot in a strata, neighbourhood, precinct or community scheme (or on completion is to be a lot in a scheme of that kind).
- 23.2 In this contract –
- 23.2.1 'change', in relation to a scheme, means –
- a registered or registrable change from by-laws set out in this contract;
 - a change from a development or management contract or statement set out in this contract; or
 - a change in the boundaries of common property;
- 23.2.2 'common property' includes association property for the scheme or any higher scheme;
- 23.2.3 'contribution' includes an amount payable under a by-law;
- 23.2.4 'information certificate' includes a certificate under s184 Strata Schemes Management Act 2015 and s26 Community Land Management Act 1989;
- 23.2.5 'information notice' includes a strata information notice under s22 Strata Schemes Management Act 2015 and a notice under s47 Community Land Management Act 1989;
- 23.2.6 'normal expenses', in relation to an owners corporation for a scheme, means normal operating expenses usually payable from the administrative fund of an owners corporation for a scheme of the same kind;
- 23.2.7 'owners corporation' means the owners corporation or the association for the scheme or any higher scheme;
- 23.2.8 'the property' includes any interest in common property for the scheme associated with the lot; and
- 23.2.9 'special expenses', in relation to an owners corporation, means its actual, contingent or expected expenses, except to the extent they are –
- normal expenses;
 - due to fair wear and tear;
 - disclosed in this contract; or
 - covered by moneys held in the capital works fund.
- 23.3 Clauses 11, 14.8 and 18.4 do not apply to an obligation of the owners corporation, or to property insurable by it.
- 23.4 Clauses 14.4.2 and 14.5 apply but on a unit entitlement basis instead of an area basis.
- ### • Adjustments and liability for expenses
- 23.5 The parties must adjust under clause 14.1 –
- 23.5.1 a regular periodic contribution;
- 23.5.2 a contribution which is not a regular periodic contribution but is disclosed in this contract; and
- 23.5.3 on a unit entitlement basis, any amount paid by the vendor for a normal expense of the owners corporation to the extent the owners corporation has not paid the amount to the vendor.
- 23.6 If a contribution is not a regular periodic contribution and is not disclosed in this contract –
- 23.6.1 the vendor is liable for it if it was determined on or before the contract date, even if it is payable by instalments; and
- 23.6.2 the purchaser is liable for all contributions determined after the contract date.
- 23.7 The vendor must pay or allow to the purchaser on completion the amount of any unpaid contributions for which the vendor is liable under clause 23.6.1.
- 23.8 Normally, the purchaser cannot make a claim or *requisition* or *rescind* or *terminate* in respect of –
- 23.8.1 an existing or future actual, contingent or expected expense of the owners corporation;
- 23.8.2 a proportional unit entitlement of the lot or a relevant lot or former lot, apart from a claim under clause 6; or
- 23.8.3 a past or future change in the scheme or a higher scheme.
- 23.9 However, the purchaser can *rescind* if –
- 23.9.1 the special expenses of the owners corporation at the later of the contract date and the creation of the owners corporation when calculated on a unit entitlement basis (and, if more than one lot or a higher scheme is involved, added together), less any contribution paid by the vendor, are more than 1% of the price;
- 23.9.2 in the case of the lot or a relevant lot or former lot in a higher scheme –
- a proportional unit entitlement for the lot is not disclosed in this contract; or
 - a proportional unit entitlement for the lot is disclosed in this contract but the lot has a different proportional unit entitlement at the contract date or at any time before completion;
- 23.9.3 a change before the contract date or before completion in the scheme or a higher scheme substantially disadvantages the purchaser and is not disclosed in this contract; or

23.9.4 a resolution is passed by the owners corporation before the contract date or before completion to give a strata renewal plan to the owners in the scheme for their consideration and there is not attached to this contract a strata renewal proposal or the strata renewal plan.

• **Notices, certificates and inspections**

- 23.10 The purchaser must give the vendor 2 copies of an information notice addressed to the owners corporation and signed by the purchaser.
- 23.11 The vendor must complete and sign 1 copy of the notice and give it to the purchaser on completion.
- 23.12 Each *party* can sign and give the notice as agent for the other.
- 23.13 The vendor must *serve* an information certificate issued after the contract date in relation to the lot, the scheme or any higher scheme at least 7 days before the date for completion.
- 23.14 The purchaser does not have to complete earlier than 7 days after *service* of the certificate and clause 21.3 does not apply to this provision. On completion the purchaser must pay the vendor the prescribed fee for the certificate.
- 23.15 The vendor authorises the purchaser to apply for the purchaser's own certificate.
- 23.16 The vendor authorises the purchaser to apply for and make an inspection of any record or other document in the custody or control of the owners corporation or relating to the scheme or any higher scheme.
- **Meetings of the owners corporation**
- 23.17 If a general meeting of the owners corporation is convened before completion –
- 23.17.1 if the vendor receives notice of it, the vendor must immediately notify the purchaser of it; and
- 23.17.2 after the expiry of any cooling off period, the purchaser can require the vendor to appoint the purchaser (or the purchaser's nominee) to exercise any voting rights of the vendor in respect of the lot at the meeting.

24 Tenancies

- 24.1 If a tenant has not made a payment for a period preceding or current at the *adjustment date* –
- 24.1.1 for the purposes of clause 14.2, the amount is to be treated as if it were paid; and
- 24.1.2 the purchaser assigns the debt to the vendor on completion and will if required give a further assignment at the vendor's expense.
- 24.2 If a tenant has paid in advance of the *adjustment date* any periodic payment in addition to rent, it must be adjusted as if it were rent for the period to which it relates.
- 24.3 If the *property* is to be subject to a tenancy on completion or is subject to a tenancy on completion –
- 24.3.1 the vendor authorises the purchaser to have any accounting records relating to the tenancy inspected and audited and to have any other document relating to the tenancy inspected;
- 24.3.2 the vendor must *serve* any information about the tenancy reasonably requested by the purchaser before or after completion; and
- 24.3.3 *normally*, the purchaser can claim compensation (before or after completion) if –
- a disclosure statement required by the Retail Leases Act 1994 was not given when required;
 - such a statement contained information that was materially false or misleading;
 - a provision of the lease is not enforceable because of a non-disclosure in such a statement; or
 - the lease was entered into in contravention of the Retail Leases Act 1994.
- 24.4 If the *property* is subject to a tenancy on completion –
- 24.4.1 the vendor must *allow or transfer* –
- any remaining bond money or any other security against the tenant's default (to the extent the security is transferable);
 - any money in a fund established under the lease for a purpose and compensation for any money in the fund or interest earned by the fund that has been applied for any other purpose; and
 - any money paid by the tenant for a purpose that has not been applied for that purpose and compensation for any of the money that has been applied for any other purpose;
- 24.4.2 if the security is not transferable, each *party* must do everything reasonable to cause a replacement security to issue for the benefit of the purchaser and the vendor must hold the original security on trust for the benefit of the purchaser until the replacement security issues;
- 24.4.3 the vendor must give to the purchaser –
- a proper notice of the transfer (an attornment notice) addressed to the tenant;
 - any certificate given under the Retail Leases Act 1994 in relation to the tenancy;
 - a copy of any disclosure statement given under the Retail Leases Act 1994;
 - a copy of any document served on the tenant under the lease and written details of its service, if the document concerns the rights of the landlord or the tenant after completion; and
 - any document served by the tenant under the lease and written details of its service, if the document concerns the rights of the landlord or the tenant after completion;
- 24.4.4 the vendor must comply with any obligation to the tenant under the lease, to the extent it is to be complied with by completion; and

- 24.4.5 the purchaser must comply with any obligation to the tenant under the lease, to the extent that the obligation is disclosed in this contract and is to be complied with after completion.

25 Qualified title, limited title and old system title

- 25.1 This clause applies only if the land (or part of it) –
- 25.1.1 is under qualified, limited or old system title; or
 - 25.1.2 on completion is to be under one of those titles.
- 25.2 The vendor must serve a proper abstract of title *within 7 days* after the contract date.
- 25.3 If an abstract of title or part of an abstract of title is attached to this contract or has been lent by the vendor to the purchaser before the contract date, the abstract or part is *served* on the contract date.
- 25.4 An abstract of title can be or include a list of documents, events and facts arranged (apart from a will or codicil) in date order, if the list in respect of each document –
- 25.4.1 shows its date, general nature, names of parties and any registration number; and
 - 25.4.2 has attached a legible photocopy of it or of an official or registration copy of it.
- 25.5 An abstract of title –
- 25.5.1 must start with a good root of title (if the good root of title must be at least 30 years old, this means 30 years old at the contract date);
 - 25.5.2 in the case of a leasehold interest, must include an abstract of the lease and any higher lease;
 - 25.5.3 *normally*, need not include a Crown grant; and
 - 25.5.4 need not include anything evidenced by the Register kept under the Real Property Act 1900.
- 25.6 In the case of land under old system title –
- 25.6.1 in this contract 'transfer' means conveyance;
 - 25.6.2 the purchaser does not have to serve the form of transfer until after the vendor has *served* a proper abstract of title; and
 - 25.6.3 each vendor must give proper covenants for title as regards that vendor's interest.
- 25.7 In the case of land under limited title but not under qualified title –
- 25.7.1 *normally*, the abstract of title need not include any document which does not show the location, area or dimensions of the land (for example, by including a metes and bounds description or a plan of the land);
 - 25.7.2 clause 25.7.1 does not apply to a document which is the good root of title; and
 - 25.7.3 the vendor does not have to provide an abstract if this contract contains a delimitation plan (whether in registrable form or not).
- 25.8 The vendor must give a proper covenant to produce where relevant.
- 25.9 The vendor does not have to produce or covenant to produce a document that is not in the possession of the vendor or a mortgagee.
- 25.10 If the vendor is unable to produce an original document in the chain of title, the purchaser will accept a photocopy from the Registrar-General of the registration copy of that document.
- ## **26 Crown purchase money**
- 26.1 This clause applies only if purchase money is payable to the Crown, whether or not due for payment.
- 26.2 The vendor is liable for the money, except to the extent this contract says the purchaser is liable for it.
- 26.3 To the extent the vendor is liable for it, the vendor is liable for any interest until completion.
- 26.4 To the extent the purchaser is liable for it, the *parties* must adjust any interest under clause 14.1.
- ## **27 Consent to transfer**
- 27.1 This clause applies only if the land (or part of it) cannot be transferred without consent under *legislation* or a *planning agreement*.
- 27.2 The purchaser must properly complete and then *serve* the purchaser's part of an application for consent to transfer of the land (or part of it) *within 7 days* after the contract date.
- 27.3 The vendor must apply for consent *within 7 days* after *service* of the purchaser's part.
- 27.4 If consent is refused, either *party* can *rescind*.
- 27.5 If consent is given subject to one or more conditions that will substantially disadvantage a *party*, then that *party* can *rescind within 7 days* after receipt by or *service* upon the *party* of written notice of the conditions.
- 27.6 If consent is not given or refused –
- 27.6.1 *within 42 days* after the purchaser *serves* the purchaser's part of the application, the purchaser can *rescind*; or
 - 27.6.2 *within 30 days* after the application is made, either *party* can *rescind*.
- 27.7 Each period in clause 27.6 becomes 90 days if the land (or part of it) is –
- 27.7.1 under a *planning agreement*; or
 - 27.7.2 in the Western Division.
- 27.8 If the land (or part of it) is described as a lot in an unregistered plan, each time in clause 27.6 becomes the later of the time and 35 days after creation of a separate folio for the lot.
- 27.9 The date for completion becomes the later of the date for completion and 14 days after *service* of the notice granting consent to transfer.

28 Unregistered plan

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

29 Conditional contract

- 29.1 This clause applies only if a provision says this contract or completion is conditional on an event.
- 29.2 If the time for the event to happen is not stated, the time is 42 days after the contract date.
- 29.3 If this contract says the provision is for the benefit of a *party*, then it benefits only that *party*.
- 29.4 if anything is necessary to make the event happen, each *party* must do whatever is reasonably necessary to cause the event to happen.
- 29.5 A *party* can *rescind* under this clause only if the *party* has substantially complied with clause 29.4.
- 29.6 If the event involves an approval and the approval is given subject to a condition that will substantially disadvantage a *party* who has the benefit of the provision, the *party* can *rescind within* 7 days after either *party* serves notice of the condition.
- 29.7 If the *parties* can lawfully complete without the event happening –
- 29.7.1 if the event does not happen *within* the time for it to happen, a *party* who has the benefit of the provision can *rescind within* 7 days after the end of that time;
 - 29.7.2 if the event involves an approval and an application for the approval is refused, a *party* who has the benefit of the provision can *rescind within* 7 days after either *party* serves notice of the refusal; and
 - 29.7.3 the date for completion becomes the later of the date for completion and 21 days after the earliest of –
 - either *party* serving notice of the event happening;
 - every *party* who has the benefit of the provision serving notice waiving the provision; or
 - the end of the time for the event to happen.
- 29.8 If the *parties* cannot lawfully complete without the event happening –
- 29.8.1 if the event does not happen *within* the time for it to happen, either *party* can *rescind*;
 - 29.8.2 if the event involves an approval and an application for the approval is refused, either *party* can *rescind*;
 - 29.8.3 the date for completion becomes the later of the date for completion and 21 days after either *party* serves notice of the event happening.
- 29.9 A *party* cannot *rescind* under clauses 29.7 or 29.8 after the event happens.

30 Electronic transaction

- 30.1 This *Conveyancing Transaction* is to be conducted as an *electronic transaction* if –
- 30.1.1 this contract says that it is a proposed *electronic transaction*;
 - 30.1.2 the parties otherwise agree that it is to be conducted as an *electronic transaction*; or
 - 30.1.3 the *conveyancing rules* require it to be conducted as an *electronic transaction*.
- 30.2 However, this *Conveyancing Transaction* is not to be conducted as an *electronic transaction* –
- 30.2.1 if the land is not *electronically tradeable* or the transfer is not eligible to be lodged electronically; or
 - 30.2.2 if, at any time after it has been agreed that it will be conducted as an *electronic transaction*, a *party* serves a notice that it will not be conducted as an *electronic transaction*.
- 30.3 If, because of clause 30.2.2, this *Conveyancing Transaction* is not to be conducted as an *electronic transaction* –
- 30.3.1 each *party* must –
 - bear equally any disbursements or fees; and
 - otherwise bear that *party's* own costs;
 incurred because this *Conveyancing Transaction* was to be conducted as an *electronic transaction*; and
 - 30.3.2 if a *party* has paid all of a disbursement or fee which, by reason of this clause, is to be borne equally by the *parties*, that amount must be adjusted under clause 14.2.

- 30.4 If this *Conveyancing Transaction* is to be conducted as an *electronic transaction* –
- 30.4.1 to the extent, but only to the extent, that any other provision of this contract is inconsistent with this clause, the provisions of this clause prevail;
- 30.4.2 *normally*, words and phrases used in this clause 30 (italicised and in Title Case, such as *Electronic Workspace* and *Lodgement Case*) have the same meaning which they have in the *participation rules*;
- 30.4.3 the *parties* must conduct the *electronic transaction* in accordance with the *participation rules* and the *ECNL*;
- 30.4.4 a *party* must pay the fees and charges payable by that *party* to the *ELNO* and the *Land Registry* as a result of this transaction being an *electronic transaction*;
- 30.4.5 any communication from one *party* to another *party* in the *Electronic Workspace* made –
- after the *effective date*; and
 - before the receipt of a notice given under clause 30.2.2;
- is taken to have been received by that *party* at the time determined by s13A of the *Electronic Transactions Act 2000*; and
- 30.4.6 a document which is an *electronic document* is served as soon as it is first *Digitally Signed* in the *Electronic Workspace* on behalf of the *party* required to serve it.
- 30.5 *Normally*, the vendor must *within 7 days of the effective date* –
- 30.5.1 create an *Electronic Workspace*;
- 30.5.2 *populate the Electronic Workspace* with *title data*, the date for completion and, if applicable, *mortgagee details*; and
- 30.5.3 invite the purchaser and any *discharging mortgagee* to the *Electronic Workspace*.
- 30.6 If the vendor has not created an *Electronic Workspace* in accordance with clause 30.5, the purchaser may create an *Electronic Workspace*. If the purchaser creates the *Electronic Workspace* the purchaser must –
- 30.6.1 *populate the Electronic Workspace* with *title data*;
- 30.6.2 create and *populate* an *electronic transfer*;
- 30.6.3 *populate the Electronic Workspace* with the date for completion and a nominated *completion time*; and
- 30.6.4 invite the vendor and any *incoming mortgagee* to join the *Electronic Workspace*.
- 30.7 *Normally*, *within 7 days of receiving an invitation from the vendor to join the Electronic Workspace*, the purchaser must –
- 30.7.1 join the *Electronic Workspace*;
- 30.7.2 create and *populate* an *electronic transfer*;
- 30.7.3 invite any *incoming mortgagee* to join the *Electronic Workspace*; and
- 30.7.4 *populate the Electronic Workspace* with a nominated *completion time*.
- 30.8 If the purchaser has created the *Electronic Workspace* the vendor must *within 7 days of being invited to the Electronic Workspace* –
- 30.8.1 join the *Electronic Workspace*;
- 30.8.2 *populate the Electronic Workspace* with *mortgagee details*, if applicable; and
- 30.8.3 invite any *discharging mortgagee* to join the *Electronic Workspace*.
- 30.9 To complete the financial settlement schedule in the *Electronic Workspace* –
- 30.9.1 the purchaser must provide the vendor with *adjustment figures* at least 2 *business days* before the date for completion; and
- 30.9.2 the vendor must *populate the Electronic Workspace* with payment details at least 1 *business day* before the date for completion.
- 30.10 At least 1 *business day* before the date for completion, the *parties* must ensure that –
- 30.10.1 all *electronic documents* which a *party* must *Digitally Sign* to complete the *electronic transaction* are *populated* and *Digitally Signed*;
- 30.10.2 all certifications required by the *ECNL* are properly given; and
- 30.10.3 they do everything else in the *Electronic Workspace* which that *party* must do to enable the *electronic transaction* to proceed to completion.
- 30.11 If completion takes place in the *Electronic Workspace* –
- 30.11.1 payment electronically on completion of the price in accordance with clause 16.7 is taken to be payment by a single *settlement cheque*;
- 30.11.2 the completion address in clause 16.11 is the *Electronic Workspace*; and
- 30.11.3 clauses 13.13.2 to 13.13.4, 16.8, 16.12, 16.13 and 31.2.2 to 31.2.4 do not apply.
- 30.12 If the computer systems of any of the *Land Registry*, the *ELNO* or the Reserve Bank of Australia are inoperative for any reason at the *completion time* agreed by the *parties*, a failure to complete this contract for that reason is not a default under this contract on the part of either *party*.
- 30.13 If the *Electronic Workspace* allows the *parties* to choose whether financial settlement is to occur despite the computer systems of the *Land Registry* being inoperative for any reason at the *completion time* agreed by the *parties* –
- 30.13.1 *normally*, the *parties* must choose that financial settlement not occur; however

30.13.2 if both *parties* choose that financial settlement is to occur despite such failure and financial settlement occurs –

- all *electronic documents Digitally Signed* by the vendor, the *certificate of title* and any discharge of mortgage, withdrawal of caveat or other *electronic document* forming part of the *Lodgement Case* for the *electronic transaction* shall be taken to have been unconditionally and irrevocably delivered to the purchaser or the purchaser's mortgagee at the time of financial settlement together with the right to deal with the land comprised in the *certificate of title*; and
- the vendor shall be taken to have no legal or equitable interest in the *property*.

30.14 A *party* who holds a *certificate of title* must act in accordance with any *Prescribed Requirement* in relation to the *certificate of title* but if there is no *Prescribed Requirement*, the vendor must serve the *certificate of title* after completion.

30.15 If the *parties* do not agree about the delivery before completion of one or more documents or things that cannot be delivered through the *Electronic Workspace*, the *party* required to deliver the documents or things –

30.15.1 holds them on completion in escrow for the benefit of; and

30.15.2 must immediately after completion deliver the documents or things to, or as directed by; the *party* entitled to them.

30.16 In this clause 30, these terms (in any form) mean –

| | |
|---------------------------------|---|
| <i>adjustment figures</i> | details of the adjustments to be made to the price under clause 14; |
| <i>certificate of title</i> | the paper duplicate of the folio of the register for the land which exists immediately prior to completion and, if more than one, refers to each such paper duplicate; |
| <i>completion time</i> | the time of day on the date for completion when the <i>electronic transaction</i> is to be settled; |
| <i>conveyancing rules</i> | the rules made under s12E of the Real Property Act 1900; |
| <i>discharging mortgagee</i> | any discharging mortgagee, chargee, covenant chargee or caveator whose provision of a <i>Digitally Signed</i> discharge of mortgage, discharge of charge or withdrawal of caveat is required in order for unencumbered title to the <i>property</i> to be transferred to the purchaser; |
| <i>ECNL</i> | the Electronic Conveyancing National Law (NSW); |
| <i>effective date</i> | the date on which the <i>Conveyancing Transaction</i> is agreed to be an <i>electronic transaction</i> under clause 30.1.2 or, if clauses 30.1.1 or 30.1.3 apply, the contract date; |
| <i>electronic document</i> | a dealing as defined in the Real Property Act 1900 which may be created and <i>Digitally Signed</i> in an <i>Electronic Workspace</i> ; |
| <i>electronic transfer</i> | a transfer of land under the Real Property Act 1900 for the <i>property</i> to be prepared and <i>Digitally Signed</i> in the <i>Electronic Workspace</i> established for the purposes of the <i>parties' Conveyancing Transaction</i> ; |
| <i>electronic transaction</i> | a <i>Conveyancing Transaction</i> to be conducted for the <i>parties</i> by their legal representatives as <i>Subscribers</i> using an <i>ELN</i> and in accordance with the <i>ECNL</i> and the <i>participation rules</i> ; |
| <i>electronically tradeable</i> | a land title that is Electronically Tradeable as that term is defined in the <i>conveyancing rules</i> ; |
| <i>incoming mortgagee</i> | any mortgagee who is to provide finance to the purchaser on the security of the <i>property</i> and to enable the purchaser to pay the whole or part of the price; |
| <i>mortgagee details</i> | the details which a <i>party</i> to the <i>electronic transaction</i> must provide about any <i>discharging mortgagee</i> of the <i>property</i> as at completion; |
| <i>participation rules</i> | the participation rules as determined by the <i>ENCL</i> ; |
| <i>populate</i> | to complete data fields in the <i>Electronic Workspace</i> ; and |
| <i>title data</i> | the details of the title to the <i>property</i> made available to the <i>Electronic Workspace</i> by the <i>Land Registry</i> . |

31 Foreign Resident Capital Gains Withholding

31.1 This clause applies only if –

31.1.1 the sale is not an excluded transaction within the meaning of s14-215 of Schedule 1 to the *TA Act*; and

31.1.2 a *clearance certificate* in respect of every vendor is not attached to this contract.

31.2 The purchaser must –

31.2.1 at least 5 days before the date for completion, serve evidence of submission of a purchaser payment notification to the Australian Taxation Office by the purchaser or, if a direction under clause 4.3 has been served, by the transferee named in the transfer served with that direction;

31.2.2 produce on completion a *settlement cheque* for the *remittance amount* payable to the Deputy Commissioner of Taxation;

31.2.3 forward the *settlement cheque* to the payee immediately after completion; and

- 31.2.4 serve evidence of receipt of payment of the *remittance amount*.
- 31.3 The vendor cannot refuse to complete if the purchaser complies with clauses 31.2.1 and 31.2.2.
- 31.4 If the vendor serves any *clearance certificate* or *variation*, the purchaser does not have to complete earlier than 7 days after that *service* and clause 21.3 does not apply to this provision.
- 31.5 If the vendor serves in respect of every vendor either a *clearance certificate* or a *variation* to 0.00 percent, clauses 31.2 and 31.3 do not apply.

Special Conditions

32. Additional definitions and interpretation

32.1. Additional Definitions

In addition to the definitions stated in Clause 1 of the Printed Form, the following definitions apply to this Contract:

Authority means any government, administrative, fiscal or judicial body, department, commission, authority, tribunal, agency, Minister, statutory body or entity having jurisdiction in relation to the property.

Claim means any claim, demand or cause of action (whether based in contract, equity, tort or statute), loss, liability, cost, compensation, damage or expense.

Land means the land to be acquired by the purchaser as described on the front page of this contract.

Minor Alteration includes any of the following:

- (a) An alteration (whether required by the vendor, or by an Authority) which does not materially and detrimentally affect the construction of a dwelling house on the Land or which has been disclosed in this contract;
- (b) An alteration in the dimensions or area of the Land of:
 - i. 5% or less in the area of the Land; or
 - ii. 5% or less in the linear dimensions of the Land;
- (c) An alteration to the number or numbering of lots in the Preliminary Plan or the Plan; or
- (d) An alteration in respect of the dimensions, position, layout or omission of any lot other than the Land.

Object means delay or attempt to delay completion, make or assert a Claim, rescind or terminate this contract or attempt to rescind or terminate this contract or withhold or require a retention of all part of the price.

Plan means the plan to be Registered, generally in accordance with the draft plan of subdivision to create title for the Land (with or without any changes permitted under this contract), a copy of which is attached to this contract.

Plan Instrument means the instrument pursuant to section 88B of the Conveyancing Act 1919 (NSW) (if any) intended to be Registered with the Plan with or without any changes permitted under this contract, a copy of which is attached to this contract.

Preliminary Plans means the plan or plans of subdivision (if any) to be Registered before the Plan is Registered, copies of which are attached to this contract.

Preliminary Plan Instruments means the instrument or instrument (if any) pursuant to Section 88B of the *Conveyancing Act 1919 (NSW)* intended to be Registered with any Preliminary Plan, copies of which are attached to this contract.

Printed Form means the New South Wales printed form of Contract for the sale and purchase of land 2018 edition that forms part of this contract.

Property Information means any documents and other information (in written form of otherwise):

- (a) Relating to the Land or Estate; and
- (b) Made available or disclosed to the purchaser by the vendor or vendor's representatives prior to the contract date, including any reports, information memorandum or other promotional material.

Reference Schedule means the schedule attached to this contract as Attachment 1.

Registered means registered by the registrar of titles (or has equivalent status) in the Land and Property Information NSW.

Registered Restrictions means the restrictions on use of land, easements and covenants registered or to be registered on the title to the Land.

Registration means the Plan has been approved by all relevant Authorities and Registered.

Registration Sunset Date means the date being 10 October 2019.

Special Conditions means clauses 32 to 51 of this contract.

32.2 Additional Interpretation

In this contract the following rules of interpretation apply in addition to clause 20 of the Printed Form:

- 33.2.1 headings are for convenience only and do not affect interpretation;
- 33.2.2 person includes an individual, the estate of an individual, a corporation, an Authority, an association or a joint venture (whether incorporated or unincorporated), a partnership and a trust;
- 33.2.3 a reference to a statute includes its delegated legislation and a reference to a statute or delegated legislation or a provision of either includes consolidations, amendments, re-enactments and replacements;
- 33.2.4 a word importing the singular includes the plural (and vice versa) and a word indicating a gender includes every other gender;
- 33.2.5 a reference to a clause, schedule, exhibit, attachment or annexure is a reference to a clause, schedule, exhibit, attachment or annexure to or of this contract, and a reference to this contract includes all schedules, exhibits, attachments and annexures to it;
- 33.2.6 a reference to a party includes the party's successors and permitted assigns;

- 33.2.7 if a word or phrase is given a defined meaning, any other part of speech or grammatical form of that word or phrase has a corresponding meaning;
- 33.2.8 includes in any form is not a word of limitation; and
- 33.2.9 a reference to \$ or dollar is to Australian currency.

33. Amendments to Printed Form

33.1. The Printed Form is amended as follows:

- 33.1.1. Clause 1 – delete the definition of “*deposit bond*”;
- 33.1.2. Clause 2.4 – delete the words “by giving cash (up to \$2,000) or”;
- 33.1.3. Clauses 2.6, 2.7 and 2.9 are deleted;
- 33.1.4. Clause 3 is deleted;
- 33.1.5. Clause 6.1 – replace the words “(as to the property, the title or anything else and whether substantial or not)” with the words “(as to the property or the title of the Land)”;
- 33.1.6. Clause 7.1.1 is deleted;
- 33.1.7. Clause 10.1 – delete the first line of clause 10.1 and replace it with “The purchaser cannot Object in respect of –”;
- 33.1.8. Clause 10.1.8 – replace “substance” with “existence” and delete “or”;
- 33.1.9. Clause 10.1.9 – replace “substance” with “existence” and the full stop with “; or”;
- 33.1.10. Clause 10.2 – replace “rescind or terminate” with “Object”;
- 33.1.11. Clause 10.3 – replace “claim or requisition or rescind or terminate” with “Object”;
- 33.1.12. Clause 16.5 – delete the words “, plus another 20% of that fee”;
- 33.1.13. Clause 16.7 delete the words “cash (up to \$2,000) or”;
- 33.1.14. Clause 23 to 29 (inclusive) are deleted.

34. Priority of Conditions

To the extent there is any inconsistency between any of the Special Conditions and the Printed Form, the Special Conditions prevail over the Printed Form.

35. Entire agreement

35.1. No warranty, representation or reliance

The purchaser acknowledges and agrees that:

- (a) This contract represents the whole of the agreement reached between the parties and no other terms, conditions or covenants shall be implied in this contract or arise between the parties by way of collateral or other agreements or by reason of any alleged warranty or representation given or made by one party to the other at the time of or prior to the execution of this contract;
- (b) It has not been induced to enter into this contract by any warranty or representation, verbal or otherwise, made by or on behalf of any other party which is not included in this contract; and

- (c) Despite the terms of this clause, if any warranty or representation has been made by the vendor or its agent or representative, then the purchaser confirms, by execution of this contract, that the purchaser has placed no reliance on such warranty or representation in executing this contract.

35.2 No objection by purchaser

Subject to any rights of the purchaser under any legislation which cannot be excluded, the purchaser must not Object in respect of the matters dealt with in this clause.

36. Registration of Plan

36.1. Application of clause

This clause 36 applies where the Land is a lot in an unregistered plan as at the contract date.

36.2. Contract conditional on registration of Plan

- 36.2.1. This contract is conditional upon Registration occurring by the Registration Sunset Date.
- 36.2.2. The vendor must, at its cost, take reasonable steps to satisfy the condition in clause 36.2.1 by the Registration Sunset Date.
- 36.2.3. The vendor must serve notice of Registration within a reasonable time after Registration occurs.

36.3. Rescission of contract

- 36.3.1. If Registration does not occur by the Registration Sunset Date then either party may rescind this contract by serving a notice (Rescission Notice) at any time after 2 business days after the Registration Sunset Date and before notice of Registration is given by the Vendor.
- 36.3.2. If the vendor wishes to rescind this contract pursuant to clause 36.3.1 the vendor must serve the Rescission Notice at least 28 days before the proposed rescission date and the Rescission Notice must specify why the vendor is proposing to rescind the contract and the reason for the delay in Registration.
- 36.3.3. The purchaser must after being served with the Rescission Notice under clause 36.3.2, serve notice advising the vendor as to whether the purchaser consents to the rescission of the contract and in this regard, the purchaser must act reasonably and without delay.
- 36.3.4. Nothing in this clause 36.3 precludes the vendor from applying to the Supreme Court of NSW for an order permitting the vendor to rescind this contract under clause 36.3.1.
- 36.3.5. This contract is rescinded under clause 36.3.2 if:
 - (a) the purchaser consents to the rescission;
 - (b) the vendor has obtained an order of the Supreme Court of NSW permitting the vendor to rescind this contract under clause 36.3.1; or

- (c) the *Conveyancing Act 1919 (NSW)* regulations otherwise permit the vendor to rescind the contract under clause 36.3.1.
- 36.3.6. If this contract is rescinded pursuant to clauses 36.3.1 or 36.3.2, the deposit will be refunded to the purchaser and neither party will have any further Claim against the other because of the rescission.

36.4. Alterations to Land, plans and plan instruments

- 36.4.1. Subject to clause 36.4.4(a), the vendor may alter the Land, the Preliminary Plans, the Preliminary Plan Instruments, the Plan and the Plan Instrument or any of them in any way and the purchaser must not Object in relation to the alteration.
- 36.4.2. The vendor may register any easement or other encumbrance over the Land which is:
 - (a) shown on the Preliminary Plans, the Preliminary Plan Instruments, the Plan or the Plan Instrument or which relates to matters disclosed or dealt with in this contract; or
 - (b) subject to clause 36.4.4(b), required by the Vendor, or by an Authority or otherwise in relation to the development of the Land, or the Vendor's surrounding land,

and the purchaser must not Object to such easements and other encumbrances.

- 36.4.3. The vendor can at any time serve notice if:
 - (a) the vendor makes or proposes to make an alteration to the Land, the Preliminary Plans, the Preliminary Plan Instruments, the Plan and the Plan Instrument or any of them; or
 - (b) the vendor registers or proposes to register easements or other encumbrances over the Land other than easements or encumbrances shown on the Preliminary Plans, the Preliminary Plan Instruments, the Plan and/or the Plan Instrument or disclosed in this contract.
- 36.4.4. If:
 - (a) any alteration or proposed alteration to the Land, the Preliminary Plans, the Preliminary Plan Instruments, the Plan and the Plan Instrument or any of them is other than a Minor Alteration; or
 - (b) a proposed easement or other encumbrance over the Land materially and detrimentally affects the construction of a dwelling house on the Land (other than easements or encumbrances shown on the Preliminary Plans, the Preliminary Plan Instruments, the Plan and/or the Plan Instrument or disclosed in this contract),

the purchaser may rescind by serving notice within 14 days after the earlier of:

- (i) the date the vendor serves notice of the alteration or proposed alteration; and
- (ii) the date the vendor serves notice of Registration.

Time is of the essence under this clause 36.4.4. The purchaser acknowledges and agrees that the purchaser's right to rescind under this clause 36.4.4 will be

the purchaser's sole remedy in relation to the matters referred to in clauses 36.4.4(a) and 36.4.4(b).

36.4.5 if the purchaser does not rescind under clause 36.4.4 then:

- (a) the purchaser is regarded as consenting to the alteration or the proposed alteration (whether or not it is a Minor Alteration) or the easements or other encumbrances (whether or not they materially and detrimentally affect the construction of a dwelling house on the Land); and
- (b) the purchaser unconditionally and irrevocably releases the vendor from all Claims the purchaser has or may have against the vendor arising out of or in connection with the matters referred to in clauses 36.4.4(a) and 36.4.4(b).

37. Property sold in present condition

37.1. Planning restrictions

Without excluding, modifying or restricting the rights of the purchaser under section 52A(2)(B) of the *Conveyancing Act 1919* and the *Conveyancing (Sale of Property) Regulation 2010*, the property is sold subject to:

1. the Registered Restrictions; and
2. all other restriction on the use and development of the property including those that are imposed or prescribed by law or an Authority.

37.2 Purchaser's acknowledgements

The purchaser acknowledges and agrees that:

1. the purchaser has relied solely on the purchaser's own inspections and enquiries in relation to:
 - (a) the fitness or suitability of the property for any particular purpose of the purchaser including any financial return, income and investment potential of the property; and
 - (b) the purchaser's rights and obligations under this contract;
2. the Property Information was made available to the purchaser by the vendor or the vendor's representatives on the express basis that no representation or warranty was made or given by the vendor or the vendor's representatives about the accuracy, currency, exhaustiveness or completeness of the Property Information and the purchaser has relied solely on the purchaser's own inspection and enquires in relation to the Property Information.

37.3 No objection by purchaser

Subject to any rights of the purchaser under any legislation which cannot be excluded, the purchaser must not Object because of anything in connection with any of the matter's referred to in clauses 37.1 or 37.2.

38. Adjustments to price

38.1. Council and water rates

For the purposes of clause 14 of the Printed Form, if by completion of this contract, a separate assessment of council rates or water and sewerage rates has not issued for the property for the rating year current at completion (in respect of council rates) or the rating period current at completion (in respect of water and sewerage rates) then:

1. on completion, adjustments for those rates will be made on the amounts referred to in the Reference Schedule on an unpaid basis with a vendor allowance for the period from the date of Registration of the Plan, to the date of completion;
2. the parties are not required to make any further adjustments of council rates or water and sewerage rates when a separate assessment issues for those rates; and
3. the purchaser will pay the actual separate assessment for those rates for the relevant rating year of quarter (as applicable) if and when they issue.

38.2 Parent title land tax and periodic outgoings

Where any council rates, water and sewer rates, land tax, charges or other periodic outgoings in respect of the Land for the rating year or period current at completion (or any prior rating year or period) have been assessed on the title of any land that includes the Land (Parent Title) but have not been separately assessed for the Land, the vendor undertakes to pay those assessments on or before the due date for payment and the purchaser cannot Object, require the vendor to pay those assessments on or before completion or require the vendor to remove any charge on the Parent Title for any rate, tax, charge or periodic outgoing on or before completion.

39. Agent

The purchaser warrants that they were not introduced to the property or the vendor by any real estate agent or other person entitled to claim commission as a result of this sale (other than the vendor's agent, if any, specified in this contract). The purchaser will indemnify the vendor against any claim for commission by any real estate agent or other person arising out of an introduction of the purchaser and against all Claims and expenses for the defence and determination of such a Claim made against the vendor as a result of the breach of this warranty by the purchaser. This right continues after completion.

40. Caveat

The purchaser must not lodge a Caveat for recording on the Folio of the Registration for the Land or any part of the Land prior to the registration of the Plan.

41. Late Completion

Provided that the vendor is ready, willing and able to give title to the purchaser, if this contract is not completed for any reason (other than the vendor's default) on or before the

Date for Completion then in addition to any other right which the vendor may have under this contract or otherwise the purchaser will on completion of this contract pay to the vendor interest on the balance of the purchase price at the rate of ten per cent (10%) per annum calculated on daily balances, commencing on the Date for Completion and continuing until actual completion of this contract. 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.

42. Investment of Deposit

The Depositholder shall invest the deposit with the Commonwealth Bank of Australia, Maitland Branch within seven (7) days of the Purchaser paying the full deposit and providing their Tax File Number to the Depositholder. Any interest earned between the date of investing the deposit and a date which is twenty one (21) days prior to the Date for Completion shall be paid to the Purchaser provided that the Purchaser has not forfeited the deposit or is in default of this Contract. The interest shall be paid to the Purchaser within seven (7) days of the date the Depositholder is required to account for the deposit.

43. Completion

The due date for completion of this agreement shall be the latter of:

- (a) twenty eight (28) days from the date hereof; and
- (b) twenty one (21) days from the date the Vendor serves a notice in writing to the Purchaser informing him that the Plan has been Registered.

44. Notice to Complete

- 44.1. Despite any rule of law or equity to the contrary, the vendor and the purchaser agree that any notice to complete given by either party to the other party under this contract shall be reasonable as to time if a period of 14 days from the date of service of the notice is allowed for completion.
- 44.2. In the event that the vendor issues a Notice to Complete pursuant to clause 44.1 then the purchaser agrees to pay the sum of \$330.00 (inclusive of GST) to the vendor's solicitor on completion to reimburse the vendor for the cost of issuing the notice to complete. This clause does not affect the vendor's rights against the purchaser to recover any other damages.

45. Drainage Diagram

The purchaser acknowledges that if there is a proposed sewerage diagram attached to the contract, it may not represent the position of the services as they currently exist within the subject property but has been included in this contract for the purpose of identifying the position of Hunter Water Board's sewer. The Purchaser acknowledges that an up to date drainage diagram may not be available prior to completion but no objection requisition or Claim for compensation shall be made in this regard.

46. Requisitions on Title

For the purpose of clause 5.1 the form of requisitions about the property or title shall be in the form of the requisitions attached hereto.

47. Joint Services

No objection requisition or Claim for compensation shall be made by the Purchaser in respect to any gas, electricity or telephone service or connections to the property or because any such services are joint services to any other land or pass through any other land or because any similar services or connection for any other land pass through the property nor shall the Vendor be required to establish any easement right or privilege in respect to any such services.

48. Foreign Investment Review Board

The purchaser warrants that the purchaser is ordinarily a resident in Australia and that no approvals are required from the Government of Australia and/or the Reserve Bank of Australia and/or the Foreign Investment Review Board to enable the Purchaser to complete this Agreement. The Purchaser hereby agrees to indemnify and keep indemnified the Vendor from and against any loss, damages, penalty, fine interest, costs and expenses incurred by the Vendor by reason of a breach of this warranty. The provisions of this clause shall not merge on completion.

49. Cooling-Off Period

The Purchaser's cooling off period in accordance with Section 66X of the Conveyancing Act 1919 is extended from five (5) business days to fifteen (15) business days after the date on which the Contract was made unless if at or before the time of the Contract was made the Purchaser gives the Vendor (or the Vendor's Solicitor or Agent) a certificate that complies with the Section 66W of the Conveyancing Act 1919.

50. Deposit

The deposit being that sum referred to on the particulars page may be paid by instalments as follows:-

- (a) As to 0.25% of the purchase price on the making of this Contract; and
- (b) As to the balance of the 10% deposit at any time before the expiry of the cooling off period (if any).

The payment of each instalment of the deposit is an essential obligation.

51. Capacity

Without in any way limiting, negating or restricting any rights or remedies which would have been available to either party at law or in equity had this clause not been included, if

either party (and if more than one person comprises that other party then any one of them) prior to completion:

- 51.1 dies or becomes mentally ill, then either party may rescind this contract by written notice to the first party's solicitor and thereupon this contract will be at an end and the provisions of clause 19 apply; or
- 51.2 a liquidator, receiver or voluntary administrator of it appointed, or enters into any deed of company arrangement or scheme of arrangement with its creditors, then the first party will be in default under this contract.

Reference Schedule

| | |
|---------------------------------|--|
| Council rates adjustment | One thousand five hundred dollars (\$1,500.00) per annum |
| Water rates adjustment | Fifty dollars (\$50.00) every four months |

RESIDENTIAL PROPERTY REQUISITIONS ON TITLE

Vendor: Grange Estates (NSW) Pty Limited ACN 079 624 909 as trustee for Maitland Vale Trust
Property: Proposed Lots 301-319, in unregistered subdivision of 16 Esk Circuit, Maitland Vale

Possession and tenancies

1. Vacant possession of the property must be given on completion unless the Contract provides otherwise. **Noted**
2. Is anyone else in adverse possession of the Property or any part of it? **Not as far as vendor is aware**
3. (a) What are the nature and provisions of any tenancy or occupancy? **Vendor as owner**
(b) If they are in writing, all relevant documentation should be produced, found in order and handed over on completion with notices of attornment. **Not applicable**
(c) Please specify any existing breaches. **Not applicable**
(d) All rent should be paid up to or beyond the date of completion. **Not applicable**
(e) Please provide details of any bond together with the Rental Bond Board's reference number. **Not applicable**
(f) If any bond money is held by the Rental Bond Board, the appropriate transfer documentation duly signed should be handed over on completion. **Not applicable**
4. Is the Property affected by a protected tenancy (a tenancy affected by Parts 2, 3, 4 or 5 of the *Landlord and Tenant (Amendment) Act 1948 (NSW)*)? If so, please provide details. **No**
5. If the tenancy is subject to the *Residential Tenancies Act 2010 (NSW)*: **Not applicable**
(a) has either the vendor or any predecessor or the tenant applied to the NSW Civil and Administrative Tribunal for an order?
(b) have any orders been made by the NSW Civil and Administrative Tribunal? If so, please provide details.

Title

6. Subject to the Contract, on completion the vendor should be registered as proprietor in fee simple of the Property free from all encumbrances and notations. **Noted**
7. On or before completion, any mortgage, caveat, writ or priority notice must be discharged, withdrawn, cancelled or removed as the case may be or, in the case of mortgage, caveat or priority notice, an executed discharge or withdrawal or removal handed over on completion. **Noted**
8. Are there any proceedings pending or concluded that could result in the recording of any writ on the title to the Property or in the General Register of Deeds? If so, in full details should be provided at least 14 days prior to completion. **Not as far as Vendor is aware**
9. When and where may the title documents be inspected? **CoRD held by Greater Bank Limited**
10. Are any chattels or fixtures subject to any hiring or leasing agreement or charge or to any security interest under the *Personal Properties Securities Act 2009 (Cth)*? If so, details must be given and all indebtedness cleared and title transferred unencumbered to the vendor prior to completion. **Not as far as Vendor is aware**

Adjustments

11. All outgoings referred to in clause 14.1 of the Contract must be paid up to and including the date of completion. **Noted**
12. Is the vendor liable to pay land tax or is the Property otherwise charged or liable to be charged with land tax? If so: **Not as far as vendor aware**
(a) to what year has a return been made?
(b) what is the taxable value of the Property for land tax purposes for the current year?
13. The vendor must serve on the purchaser a current land tax certificate (issued under Section 47 of the *Land Tax Management Act 1956 (NSW)*) at least 14 days before completion. **Noted**

Survey and building

14. Subject to the Contract, survey should be satisfactory and show that the whole of the Property is available and that there are no encroachments by or upon the Property and that all improvements comply with local government/planning legislation. **Noted**
15. Is the vendor in possession of a survey report? If so, please produce a copy for inspection prior to completion. The original should be handed over on completion. **No**

16. (a) Have the provisions of the *Local Government Act (NSW)*, the *Environmental Planning and Assessment Act 1979 (NSW)* and their regulations been complied with? **Yes so far as vendor aware**
- (b) Is there any matter that could justify the making of an upgrading or demolition order in respect of any building or structure? **Not as far as vendor aware**
- (c) Has the vendor a Building Certificate which relates to all current buildings or structures? If so, it should be handed over on completion. Please provide a copy in advance. **No**
- (d) Has the vendor a Final Occupation Certificate issued under the *Environmental Planning and Assessment Act 1979 (NSW)* for all current buildings or structures? If so, it should be handed over on completion. Please provide a copy in advance. **No**
- (e) In respect of any residential building work carried out in the last 7 years: **Not applicable**
- (i) Please identify the building work carried out;
- (ii) When was the building work completed?
- (iii) Please state the builder's name and licence number;
- (iv) Please provide details of insurance under the *Home Building Act 1989 (NSW)*.
17. Has the vendor (or any predecessor) entered into any agreement with or granted any indemnity to the Council or any other authority concerning any development on the Property? **Not as far as vendor aware**
18. If a swimming pool is included in the sale: **Not applicable**
- (a) did its installation or construction commence before or after 1 August 1990?
- (b) has the swimming pool been installed or constructed in accordance with approvals under the *Local Government Act 1919 (NSW)* and *Local Government Act 1993 (NSW)*?
- (c) does it comply with the provisions of the *Swimming Pools Act 1992 (NSW)* and regulations relating to access? If not, please provide details of the exemptions claimed;
- (d) have any notices or orders issued or been threatened under the *Swimming Pools Act 1992 (NSW)* or regulations?
- (e) if a certificate of non-compliance has issued, please provide reasons for its issue if not disclosed in the contract;
- (f) originals of certificate of compliance or non-compliance and occupation certificate should be handed over on settlement.
19. (a) To whom do the boundary fences belong? **Jointly with adjoining owners**
- (a) Are there any party walls? **No**
- (b) If the answer to Requisition 19(b) is yes, specify what rights exist in relation to each party wall and produce any agreement. The benefit of any such agreement should be assigned to the purchaser on completion. **Not applicable**
- (c) Is the vendor aware of any dispute regarding boundary or dividing fences or party walls? **No**
- (d) Has the vendor received any notice, claim or proceedings under the *Dividing Fences Act 1991 (NSW)* or the *Encroachment of Buildings Act 1922 (NSW)*? **No**

Affectations

20. Is the vendor aware of any rights, licences, easements, covenants or restrictions as to use other than those disclosed in the Contract? **No**
21. Is the vendor aware of:
- (a) any road, drain, sewer or storm water channel which intersects or runs through the land? **Vendor relies on contract**
- (b) any dedication to or use by the public of any right of way or other easement over any part of the land? **Vendor relies on contract**
- (c) any latent defects in the property? **No**
22. Has the vendor any notice or knowledge that the Property is affected by the following:
- (a) any resumption or acquisition or proposed resumption or acquisition? **No**
- (b) any notice requiring work to be done or money to be spent on the Property or any footpath or road adjoining? If so, such notice must be complied with prior to completion. **No**
- (c) any work done or intended to be done on the Property or the adjacent street which may create a charge on the Property of the cost of which might be or become recoverable from the purchaser? **No**
- (d) any sum due to any local or public authority? If so, it must be paid prior to completion. **No**
- (e) any realignment or proposed realignment of any road adjoining the Property? **No**

- (f) any contamination including, but not limited to, materials or substances dangerous to health such as asbestos and fibreglass? **No**
23. (a) Does the property have the benefit of water, sewerage, drainage, electricity, gas and telephone services? **Purchaser should rely on own enquiries**
- (b) If so, do any of the connections for such services pass through any adjoining land? **Purchaser should rely on own enquiries. Vendor relies on Contract for Sale**
- (c) Do any service connections for any other Property pass through the Property? **Purchaser should rely on own enquiries. Vendor relies on Contract for Sale**
24. Has any claim been made by any person to close, obstruct or to limit access to or from the Property or to an easement over any part of the Property? **Not as far as vendor is aware**

Capacity

25. If the Contract discloses that the vendor is a trustee, evidence should be produced to establish the trustee's power of sale. **What evidence is required?**

Requisitions and Transfer

26. If not attached to the Contract and the transaction is not an excluded transaction, any *clearance certificate* under Section 14-220 of Schedule 1 of the *Taxation Administration Act 1953 (Cth)* should be served on the purchaser at least 7 days prior to completion. **Noted**
27. If the transfer or any other document to be handed over on completion is executed pursuant to a power of attorney, then at least 7 days prior to completion a copy of the registered power of attorney should be produced and found in order. **Noted**
28. If the vendor has or is entitled to have possession of the title deeds the Certificate Authentication Code must be provided 7 days prior to settlement. **Noted**
29. Searches, surveys, enquiries and inspections of title deeds must prove satisfactory. **Noted**
30. The purchaser reserves the right to make further requisitions prior to completion. **Noted, but not admitted**
31. Unless we are advised by you to the contrary prior to completion, it will assumed that your replies to these requisitions remain unchanged as the completion date. **Noted**

