



# Sunstate Special Conditions

Updated: September 2023



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## Compliance with Council

1. The Seller shall permit any officer employed by the relevant Local Government and any licenced builder, registered architect or engineer employed by the Buyer to enter and inspect the property and the interior and the exterior parts of the building or other structure forming part of the property.
2. If at the Contract Date: –
  - a. Any permission, consent of approval required from the Local Authority or other body having jurisdiction for the construction of the improvements on the land: –
    - i. Has not been obtained; or
    - ii. Having been obtained, has not been complied with in all respectsThen either of such cases, if same is not disclosed on the face of the Contract, the Buyer may terminate this Contract by notice in writing to the Seller given within \*\* days of the Contract Date.
  - b. The Land and improvements do not strictly comply with any provision, stipulation or requirement of any Commonwealth, State of Local Government Statute, Act, Regulation, or Local Law and non-compliance is not disclosed on the face of the Contract, the Buyer may terminate this Contract by notice in writing to the Seller given within \*\* days from the date of the Contract.

## Disclosure of SC Flight path

- 1.1 The Buyer acknowledges that:
  - i. The property may be affected by matters arising from the new Sunshine Coast Airport flight path including, but not limited to, noise emanating from aircraft flying overhead or nearby; and
  - ii. They should conduct their own due diligence and seek professional advice from a Town Planning consultant and/or other professionals in relation to impact that the new Sunshine Coast Airport flight path may have on the Property prior to entering into this Contract.
- 1.2 Despite any other provision of this Contract to the contrary, the Buyer agrees not to make any requisition, objection or claim in relation to any matter arising from or in any way associated with the Sunshine Coast Airport flight path.

## Methamphetamine Test

- 1.1 This contract is conditional upon the buyer obtaining a satisfactory Methamphetamine report from a trained technician using the NIOSH Method 9111 (meth on wipes by liquid chromatography – mass spectrometry within fourteen (14) days of the date hereof.
- 1.2 The seller agrees to permit the technician to enter upon the land for the purpose of carrying out the testing.
- 1.3 The costs of obtaining such report shall be payable by the buyer.
- 1.4 The buyer must give notice to the seller in writing on or before the due date that:
  - 1.4.1 The report is not satisfactory to the buyer and the buyer terminates this contract, in which event the deposit is to be refunded in full. The buyer must act reasonably, or
  - 1.4.2 Clause 1 has either been satisfied or waived by the buyer.
- 1.5 The seller may terminate this contract by notice in writing to the buyer if notice is not given under clause 4 by 5.00pm on the due date. This is the seller's only remedy for the buyer's failure to give notice.
- 1.6 The seller's right under clause 5 is subject to the buyer's continuing right to terminate this contract under clause 4.1 or waive the benefit of this condition by giving written notice to the seller of the waiver.

## COVID 19 Delay

The definition of Delay Event in Standard Condition 6.2(8)(b)(ii) will also include: Pandemic

## Covid Delay 2

Amendment to Clause 6 Terms of Contract – Time.

The definition of Delay Event in clause 6.2(8)(b) of the Terms of Contract is deleted and the following is substituted:

“Delay Event means”

- a. A tsunami, flood, cyclone, earthquake, bushfire or other act of nature;
- b. Riot, civil commotion, war, invasion or a terrorist act;
- c. A Public Health Emergency of International concern or pandemic declared by the World Health Organisation;
- d. A human bio security emergency or healthy related quarantine or entry and exit restriction declared or imposed by a Government Agency;
- e. An imminent threat of an event in clauses 6.2(8)(b)a, 6.2(8)(b)b, 6.2(8)(b)c or 6.2(8)(b)d); or
- f. Compliance with any lawful direction or order by a Government Agency.

## Subject to Satisfactory Bore Test

- 1.1 This Contract is subject to and conditional upon the Buyers being satisfied in their absolute discretion with the results of a bore test to be conducted by the Buyer’s at the Buyer’s expense at the Property on or before 14 days from the Contract Date (the Bore Test Date);
- 1.2 The Buyer must give notice to the Seller that:-
  1. a) The results of the bore test pursuant to Special Condition 1.1 above are not satisfactory and the Buyer terminates the Contract; or
  2. b) Special Condition 1.1 has been satisfied or waived by the Buyer.
- 1.3 The Seller may terminate this Contract by notice to the Buyer if notice is not given under Special Condition 1.2 by 5:00pm on the Bore Test Date. This is the Seller’s only remedy for the Buyer’s failure to give notice.
- 1.4 The Seller’s right under Special Condition 1.3 is subject to the Buyer’s continuing right to give written notice to the Seller of satisfaction, termination or waiver pursuant to Special Condition 1.2.
- 1.5 In the event that this Contract is terminated by either the Buyer or Seller pursuant to this Special Condition then the Deposit is to be refunded to the Buyer in full without deduction.

## GCCC Local Law

1. Maintenance of Works in a Waterway Area
  - 1.1 This Contract is a contract to which section 15 of the Gold Coast City Council Local Law 17 (Maintenance of Works in Waterway Areas) applies.
  - 1.2 This following specified prescribed works are completely or partly situated on, or connected to, the property (insert details as relevant eg. revetment wall, training wall, jetty or pontoon).
  - 1.3 Under Local Law 17, a person who is a responsible person for the specified prescribed work is, at that person’s cost, required to maintain and keep the specified prescribed work in (i) a safe condition and (ii) good working order, repair and condition, including so that the prescribed work can continue to perform its intended function.
  - 1.4 There [is/is not] (delete one) an outstanding notice issued by Council under Local Law 17 in relation to the specified prescribed works. [The contents of that notice are as follows: insert details]

## Early Release of Deposit

Both the Buyer and the Seller agree that [\$INSERT] of the deposit in this matter will be released to the seller prior to settlement after [DATE/condition is satisfied/is unconditional with respect to finance and buyer's inspections] at the direction the parties' solicitors and on the following terms:

The parties do not intend for this contract to take on any of the features of an Instalment Contract, and therefore the amount of the deposit (including any additional deposit) released under this Special Condition remains refundable to the Buyer in all circumstances in which it would have been required to be refunded to the Buyer if not for this special condition;

If, after its release, the deposit (including any additional deposit) becomes refundable to the Buyer, the Seller will, from the date on which the Buyer gives a valid notice to refund the deposit, be allowed [30/90/120] days in which to refund the deposit (including any additional deposit) to the Buyer as a single payment or otherwise and no interest can be charged by the Buyer on this amount;

To avoid doubt, the deposit (including any additional deposit) in all cases remains payable:

- To the Buyer in the event of the Seller's breach of contract; and
- To the Seller in the event of the Buyer's breach of contract;
- If for any reason, it is unlawful for the deposit holder to release funds from the deposit, the Buyer agrees to pay an additional deposit of [\$INSERT] directly to the Seller.

The buyer understands that this may cause the total amount of the deposit to be [\$INSERT – original deposit amounts + additional deposit amount (which must not exceed 10% of the purchase price)].

In addition to the above the Seller agrees not to further encumber the property without the written express consent of the Buyer. Should the Seller fail in this undertaking prior to settlement the Buyer at their election may treat such a breach as a breach of a fundamental term of the contract allowing immediate termination, return of the deposit and a claim for damages.

## Removal of Clause 6.2 – Extension of Settlement Date (REIQ)

Clause 6.2 of the Contract is deleted.

## Early Access or Possession Licence

- The Seller agrees to grant the Buyer Possession Before Settlement, on the Possession Date, subject to clause [8.5 H&L | 8.6 CTS] of the REIQ Terms and otherwise on the terms and conditions contained herein:-
- Payment of a licence fee of [\$AMOUNT] per [day/week/month] [in advance on the first day of each day/week/month] or [to be adjusted at settlement];
- The Buyer must provide a certified copy of a Certificate of Currency of Insurance from an insurer satisfactory to the Seller for:-
  1. Public Liability of at least \$20 million; and
  2. Building and Contents Insurance for full replacement value of the Improvements on the Property.
- The Buyer accepts the Property in the condition that it is when they take possession and will not make any claims, proceedings, actions or demands against the Seller in relation to the condition of the Property following the Possession Date;
- The Buyer will not withhold any amount from the Purchase Price or otherwise delay Settlement on account of any of the matters referred to in Special Condition 1(c);
- The Buyer agrees not to make any alterations to the Property prior to Settlement;
- All adjustments of Outgoings will be calculated as at the Possession Date;
- Title to the Property will not pass to the Buyer until Settlement;
- The Buyer waives any rights that they may have now or in the future to terminate the Contract except to the extent that such rights may stem directly from a breach by the Seller subsequent to the Possession Date;

- The licence may be revoked by the Seller at any time by notice in writing to the Buyer in which case the Buyer and any of the Buyer's invitees, guests or other occupants must vacate the Property within fourteen (14) days of the date of the notice;
- The Buyer and any of the Buyer's invitees, guests or other occupants are to vacate the property at 5:00pm on that day which is fourteen (14) days after the Contract is validly terminated by either party or the Contract otherwise comes to an end;
- In the event that the Contract is terminated by either party or the Contract otherwise comes to an end and the Buyer is entitled to a refund of their Deposit, the Buyer irrevocably authorises the Deposit Holder to release to the Seller from the Deposit held any sum or sums required to be paid in order to make good any damage or uncleanliness caused to the Property by the Buyer's occupation thereof. Where the Buyer is not entitled to a refund of the Deposit under the terms of the Contract, or the Deposit is insufficient to cover the costs of reinstatement in full, then the Seller shall be entitled to recover the costs from the Buyer as liquidated damages payable on demand.

### **Council Searches**

- This Contract is subject to and conditional upon the Buyer advising the Seller within 14 days of the Date of Contract that the Buyer is satisfied with the results of council searches conducted by the Buyer or the Buyers Solicitor, failing which the contract is at an end and all deposit moneys paid shall be refunded in full to the Buyer.

### **Flooding**

- This contract is subject to and conditional on the Buyer being satisfied prior to settlement in their absolute discretion that the Property has no history of flooding or is not at risk of flooding prior to Settlement. In the event that the Buyer establishes that the Property has a history of flooding or is at risk of flooding in the future then the Buyer may terminate this contract by notice, given in accordance with the Terms of Contract, to the Seller and this contract shall be at an end and the deposit must be promptly refunded to the Buyer without deduction.
- The Seller acknowledges that this special condition is for the benefit of the Buyer and may only be waived or exercised by the Buyer.

#### **Acknowledgement of Flooding**

- The Buyer acknowledges that he has been advised by the Seller's agent that the property herein sold has been flood affected in the past and that the Buyer is relying on the Buyer's own judgment in entering into this contract and shall not raise any requisition or objection to the title of the Seller or in pursuance of any other condition of this contract in respect of the fact that the property has been flood affected.

### **Body Corporate Search**

This contract is subject to and conditional upon the Buyer being satisfied at their sole discretion with the results of their search of the Body Corporate records within 14 days. Should the Buyer be so satisfied within the time frame, the Buyer will notify the Seller of their satisfaction thereof, failing which this contract is at an end and all deposit paid shall be refunded to the Buyer.

### **No Body Corporate**

The Buyer hereby acknowledges that there is not a fully operational and functional Body Corporate for the Scheme (including proper insurances, Administrative Fund and Sinking Fund established for the Scheme) . The Buyer further acknowledges that despite anything to the contrary contained herein the Buyer cannot for any reason related to, or as a direct or indirect result of the lack of a fully operational and functional Body Corporate terminate this contract.

### **Pet Approval Body Corporate**

This contract is subject to and conditional upon the seller providing written approval from the Body Corporate within [insert no of days] from the contract date that the buyer may keep a [insert nature of pet] of a maximum weight of [insert weight] in the property. Should approval not be obtained by this date, or relevant extensions agreed upon, the buyer may elect to waive the benefit of this clause or terminate the contract and all deposit monies will be refunded in full.

## Sunset Clause

In the event that the Seller gives the Buyer written notice that the Seller has received another offer to purchase the subject property, which is in the opinion of the Seller a better offer, the Buyer shall within three (3) working days of receipt of such notice advise the Seller whether the Buyer agrees to the waiving of all conditions to the Contract of Sale. Should the Buyer not give the Seller the notice referred to above, this Contract shall be deemed to be at an end and all deposit monies refunded in full.

## Due Diligence

- 1.1 This Contract is subject to and conditional upon the Buyer carrying out due diligence searches and enquiries with respect to the Property (Due Diligence) and being satisfied in all respects with the results of such enquiries on or before 14 days from the date of this Contract (the Due Diligence Date).
- 1.2 The Seller agrees to permit the Buyer and its representatives, access to the Property at all reasonable times to carry out the Due Diligence.
- 1.3 The Due Diligence undertaken by the Buyer will be at the expense of the Buyer in all respects.
- 1.4 The Buyer must ensure that there is no disturbance or annoyances caused to the Property or the use of the Property by reason directly or indirectly of the Due Diligence undertaken by the Buyer.
- 1.5 The Buyer must give notice to the Seller that:-
  - a) They have not obtained satisfactory Due Diligence by the Due Diligence Date and the Buyer terminates the Contract. The Buyer may act in its absolute discretion and without being required to give any reasons; or
  - b) Special Condition 1.1 has been satisfied or waived by the Buyer.
- 1.6 The Seller may terminate this Contract by notice to the Buyer if notice is not given under Special Condition 1.5 by 5:00pm on the Due Diligence Date. This is the Seller's only remedy for the Buyer's failure to give notice.
- 1.7 The Seller's right under Special Condition 1.6 is subject to the Buyer's continuing right to give written notice to the Seller of satisfaction, termination or waiver pursuant to Special Condition 1.5.
- 1.8 In the event that this Contract is terminated by either the Buyer or Seller pursuant to this Special Condition then the Deposit is to be refunded to the Buyer in full without deduction.

## Standard Conditions used in Mount Isa Contracts (as approved by Mt Isa Law firms/ Agents)

ANNEXURE "A" REFERRED TO IN SPECIAL CONDITIONS

[insert address] Qld 4825

### 1. ELECTRICAL, BUILDING AND PEST INSPECTIONS

This contract is subject to and conditional upon Clause 4 of the Standard Terms of this Contract being deemed to include the right of the Buyer to obtain written Electrical, Building and Pest Inspection Reports by the Inspection Date herein, and all provisions of Clause 4 shall apply to this condition.

### 2. PERMITS AND FINAL INSPECTION CERTIFICATES

a) This Contract is subject to and conditional upon the buyer being satisfied within 21 days of the date of this Contract (Approval Date) that all approvals, consents, permits and final inspection certificates required by the Mount Isa City Council or other relevant statutory authority have been obtained and/or issued by the Mount Isa City Council or other relevant statutory authority, in respect to all improvements on the property.

b) If the Buyer is not satisfied that all approvals, consents, permits and final inspection certificates have been issued by the Mount Isa City Council or other relevant statutory authority, for all improvements on the property, then the Buyer by way of notice in writing to the Seller or Seller's Solicitor shall have until 5:00pm on the Approval Date, to require the Seller to do all such things as may be necessary to obtain such approval, consent, permit and/or final inspection certificate and deliver same to the Buyer and/or Buyer's Solicitor prior to settlement being effected.



(c) If the Seller fails to obtain and provide to the Buyer or Buyer's Solicitor such approval, consent, permit and/or final inspection certificate prior to settlement, then the Buyer may terminate this contract in which case all monies paid by the Buyer shall be refunded in full to the Buyer.

### 3. SHORTFALL OF COMMISSION

The Seller authorises the Deposit Holder to deduct the agreed commission as per the Tax Invoice provided. If the Deposit Holder is not the Selling Agent, then the Seller hereby irrevocably authorises the Deposit Holder to pay such Commission to the Agent as agreed and confirmed in the Tax Invoice provided.

### 4. FACSIMILE/ELECTRONIC EXECUTION OF CONTRACT

a) The Buyer and Seller acknowledge that, prior to executing the Contract, each party agreed that the Contract could be communicated to them by facsimile and/or email and then signed and returned to them or their agent or solicitor by facsimile and/or email and that a facsimile or email copy of the executed Contract signed in this way would be valid and effectual as if the original signature were recorded on it.

b) Where the contract has been executed by either party to the contract by facsimile, email or other electronic means, an original contract is then also to be provided to all parties personally and not by any form of electronic communication and signed by all parties (Original Contract) and provided to the Buyer's Solicitor prior to settlement. The parties agree that the Contract Date and all dates calculated in accordance with the Original Contract shall be the same as the Contract Date and dates recorded or calculated according to the copy of the Contract signed by electronic means (Electronic Contract) and that the Original Contract shall be deemed to be the same Contract as the Electronic Contract, despite any delay or difference in the time either or both parties signed the Electronic Contract and the Original Consent.

c) The Buyer and Seller agree that in addition to the provisions regarding notices in standard condition 10.4 of this Contract, notices may be given by either party or their solicitor by email to the other party or its solicitor using the email address last notified to the sender. Notices given by email shall be treated as given when sent, provided that the sender does not receive notice that the email has bounced.

.....  
BUYER SELLER

.....  
WITNESS WITNESS

### Transfer by Direction

1. The buyer acknowledges that, at completion, the Seller will not be registered as the owner of the land and notwithstanding Clause 5 of the standard conditions of sale, the buyer agrees to accept a transfer from the Registered Owners to the Buyer at the direction of the Seller.
2. In return for an undertaking from the Solicitors for the Buyer to hold the transfer by direction on behalf of the relevant parties and not to deal with it other than to have it stamped prior to completion, the seller agrees to produce the transfer by direction executed by the Registered Owner to the buyer, a reasonable time prior to completion to enable the buyer to stamp the transfer by direction before settlement;
3. At the same time as producing the transfer by direction to the buyer's solicitors, the seller agrees to provide a bank cheque made payable to the Office of State Revenue in respect of the stamp duty payable on the prior transfer, or a copy of the stamped transfer prior to the contract, and such other documents as may be required to stamp the prior transfer.
4. Any Government Registration fees due and payable on the prior transfer, will be deducted from the Seller's cheque directions at time of settlement.

## Reconfiguration of Lot (1 lot into 2 – under 5 in total)

This Contract is subject to:

1. The Seller receiving approval from the xxxxxxxx Council for the Development Application for reconfiguration of a lot in respect of the subject land and sealing the plan of the subdivision/ reconfiguration annexed and marked with the letter "A" on terms and conditions satisfactory to the Seller and Buyer.
2. In the event that the Seller does not receive a satisfactory decision notice approving the development and sealing of the plan from xxxxxxxx Council within 90 days of the contract date, either party may give notice to the Seller terminating this Contract and in such event all deposit moneys shall be refunded in full to the Buyer and no claim made against the Seller.
3. The Seller warrants, that upon receipt of the Approval and Sealed Plan, it will lodge all necessary documents, without delay, to ensure registration of the Plan at Department of Natural Resources & Mines. The Seller will notify the Buyer the date of lodging at the Department of Natural Resources & Mines from which the contract is subject to and conditional upon the registration of the Plan and creation of separate title to the lot on or before 30 days from date of this advice to the Buyer. In the event that registration of the Plan is not effected by this date, or relevant extensions agreed upon between the parties, the Buyer may give notice to the Seller terminating this Contract and all deposit moneys paid shall be refunded in full to the Buyer without deduction.
4. Settlement of this Contract will be 14 days from the date of Seller's notice to the Buyer that registration has been effected and separate title has been created.

## Residential Tenancy

This Contract is subject to and conditional upon [insert name] as Seller and [insert name] as tenant, entering into an approved general tenancy agreement as prescribed by the Residential Tenancies Authority ("RTA") as tenants of the Property prior to settlement with the Buyer, as landlord, on the following essential terms:

1. Term: [insert] months
2. Commencement date: Settlement date of the within contract;
3. Rental amount: \$[insert] per week payable weekly in advance
4. Bond amount: \$[insert] (payable to RTA on or before the commencement date)
5. Agreed early termination notice periods: [insert] weeks notice from both Buyer (as landlord) and tenant and without penalty in each case.
6. No Entry/Exit Report required
7. List Any special conditions for pets, cleaning etc.

## Disclosure of Non Approved Building Works (eg pergola):

The Buyer acknowledges that the improvements on the Land include a (insert structure) which has been erected on the subject property without Local Government Approval.

The Buyer agrees not to make any requisition, objection or claim in relation to the existence of the (insert structure) and agrees that Clause 7.6 of the Terms of Contract for Houses and Land does not apply to the (insert structure)

## Warranties By Seller

In addition to any other warranties contained in this Contract, the Seller warrants to the Buyer:

- 1.1
  - (a) The Land is not subject to flooding
  - (b) No fill has been placed on the Land by the Seller or to the Seller's knowledge.
  - (c) The Seller has not carried out any work to the Improvements other than by a registered builder;
  - (d) That the Included Chattels are free from Encumbrances;

- (e) The Improvements have all necessary approvals and inspections from the Local Government;
  - (f) That the property will be left clean and tidy and in a state of good repair on settlement.
- 1.2 If the Buyer discovers that any of the above warranties are inaccurate, then, without limiting the Buyer's rights at law or in equity, the Buyer may elect to terminate this Contract prior to completion or affirm the Contract and seek damages.
- 1.3 The warranties contained in this clause remain in full force notwithstanding completion or anything else. If a payment is made for breach of a warranty, the payment is to be treated as a reduction in the Purchase Price.

### **Mortgagee Release Condition**

This Contract is subject to the Seller receiving mortgagee consent for the release of the property on or before fourteen (14) days from the Contract date. In the event that the mortgagee consent is not received, or relevant extensions agreed upon, the Seller may terminate the Contract and all deposit monies paid shall be refunded to the Buyer without deduction.

### **Sale subject to bank release of title**

The Seller hereby discloses and the Buyer acknowledges that the sale price is insufficient to pay out the Seller's mortgage liability with respect to this property. This Contract is subject to and conditional upon the Seller obtaining written confirmation, within 45 days from the date of the Contract, that the mortgagee will release the mortgage at settlement. The Seller agrees to proceed to do all things necessary and within his power to obtain the mortgagee's written consent to release the mortgage on settlement. If the Seller is unable to obtain written consent within 45 days then the Seller shall be entitled to terminate this Contract by notice given in writing to the Buyer and the deposit shall be refunded to the Buyer without deduction. The Buyer will take no issue with the Seller should he be unable to obtain the release and all damages arising are limited to the repayment of any monies paid under this Contract.

### **Shortfall of Commission**

The Sellers acknowledge that the deposit held by the Deposit Holder is an amount less than the commission and marketing fee payable by the Sellers to their Agent. The Sellers hereby irrevocably authorises and directs the Buyers and/or the Buyers Solicitor to pay to the Sellers Agent on the date for completion, from the balance of the purchase moneys, the amount of the commission and marketing fee due less the amount held by the Deposit Holder.

### **Buyer Introduction**

The buyer warrants that (insert name of Real Estate Agency) introduced him/her to the property in (insert month and year), and that no other person or agent has introduced or made known to him/her the fact that the property was for sale.

The buyer indemnifies the seller for any financial loss suffered by him/her/them in the event that this warranty is incorrect. OR

The buyer warrants that he/she/they was not introduced to the property by (insert agent's name) and was not made aware that the property was available for sale by any marketing or advertising of the property by (insert agent's name).

The buyer indemnifies the seller for any financial loss suffered by him/her in the event that this warranty is incorrect.

### **This Condition Must be Completed and the Company Directors Must Sign as Guarantors**

#### **1. GUARANTEE**

1.1 In consideration of the Seller entering into this Contract with the Buyer at the request of the Guarantors, the Guarantors, jointly and severally guarantee to the Seller:

- (a) The performance and observance by the Buyer of all its obligations and warranties under the Contract, before, on and after completion of the sale;

(b) The payment of the balance purchase price and any other moneys payable under the Contract by the Buyer to the Seller and to third parties ("the Guarantee")

1.2 Where there is more than one Guarantor:

- (a) The obligations of each Guarantor is joint and several;
- (b) The Seller may enforce the Guarantee against all or any of them;
- (c) Any notice or demand may be served on all of them by serving any one of them; and
- (d) The Guarantee remains binding on the other Guarantors, even if:
  - (i) Any Guarantor did not sign this Contract or enter into the Guarantee
  - (ii) The Guarantee is not binding on any Guarantor; or
  - (iii) The Seller releases any Guarantor from liability under the Guarantee

1.3 This Guarantee is not discharged and the Seller's rights against the Guarantors are not affected by:

- (a) The subsequent death, bankruptcy, liquidation (including a provisional liquidation), appointment of a receiver/manager or administrator of any one or more of the Buyers and Guarantors;
- (b) Any indulgence, waiver or extension of time by the Seller to the Buyer or the Guarantors
- (c) The Seller's neglect or failure to enforce, or a waiver of a breach of, the Buyers obligations under the Contract;
- (d) The total or partial release of liability of the Buyer or Guarantors by the Seller;
- (e) The entry into any arrangement, composition or compromise relating to the sale between the Buyer and the Seller or any other person;
- (f) The amendment of any provision of the Contract between the Buyer and the Seller without the Guarantor's consent but only if the amendment is minor and not prejudicial to the Guarantors
- (g) The Buyer's liability under this Contract or the Contract being or becoming invalid, illegal or unenforceable;
- (h) The Seller's failure to register the Guarantee as a security interest on the Personal Properties Securities register; or
- (i) Completion of the sale

1.4 In the event of any breach by the Buyer covered by this Guarantee, including the payment of the balance purchase price, the Seller may proceed to recover the amount claimed as a debt or as damages from the Guarantors jointly or severally without having first instituted legal proceedings against the Buyer and without first exhausting the Seller's remedies against the Buyer.

1.5 The Guarantors jointly and severally agree to indemnify the Seller against any loss, damage or expense of any nature suffered by it or in respect of any action, demand or proceedings made or taken against it as a result of the failure to comply with or a breach by the Buyer of its obligations or warranties under the Contract.

1.6 The "Guarantors" for the purposes of this special condition are named below and have signed as Guarantors below:

.....  
Director's Full Name Director's signature as Guarantor

.....  
Director's Full Name Director's signature as Guarantor

## Family Law Settlement – Proceeds

This Contract is subject to and conditional upon the completion of the Buyer's property settlement and receipt of all moneys due and payable to the buyer within 60 days from the date hereof.

The Buyer shall notify the Seller within seven (7) days of completion of the Buyer's property settlement and funds received with settlement of this contract to be effected within 30 days from the receipt of the Buyers notice to the Seller.

## Conditions of Sale by Public Auction for Real Estate in Queensland

1. Any person intending to bid must register their interest before making a bid, and upon making a bid the bidder must clearly display the bidder number assigned to them by the auctioneer as bids will only be accepted from registered bidders.
2. The highest approved bidder shall be the Buyer subject to the Seller's approval and the reserve price, if any.
3. The Auctioneer may at his discretion refuse to accept any bid from any person, and no bid if accepted may be retracted without the consent of the Auctioneer. No bidder shall advance a less sum or percentage at any bidding that the Auctioneer is willing to accept.
4. A bid shall be deemed to be accepted unless the Auctioneer forthwith after it has been made, declares his non acceptance or dissent.
5. If any dispute or difference shall arise as to the highest bidder the Auctioneer may reopen the bidding and resubmit the property commencing with the highest amount previously bid for the same or he may decide on the highest bidder in such other manner as he in his absolute discretion shall deem fit and his decision shall be final.
6. Immediately upon the fall of the hammer the bidder of the highest bid accepted shall sign these conditions of sale and purchase and forthwith pay the deposit required and shall thereupon be deemed to be the Buyer, otherwise the property may be resubmitted at his or her risk and expense or submitted afresh to Public Auction as if the property had never before been submitted.
7. The right to bid by or on behalf of the Seller is expressly reserved.
8. The Seller and the Buyer agree to do all necessary acts and to sign all documents and papers for the purpose of transferring the property to the Buyer. They also appoint the Auctioneer as their Agent and grant him an irrevocable authority to sign all documents and papers necessary to form the agreement for sale and purchase of the property.
9. A bidder shall be deemed to be acting on their own behalf unless, prior to bidding he/she has given the Auctioneer a copy of a written authority to bid for, or on behalf of, another person.
10. The conditions then to apply are as contained in the Real Estate Institute's copyright form of Contract and Terms of Contract for Houses and Land, and/or any other condition of sale that has been on display prior to auction. Neither the finance clause nor the Building or Buyers Inspection Clause apply. All Bidders at this Auction and, more importantly, the successful bidder shall be deemed to have been given, and to have read and acknowledged the "Contract Warning" and the "Disclosure Statement" under the Body Corporate and Community Management Act 1997 which are annexed to the contract of sale by virtue of the fact that they have been on display prior to this Auction.

TERMS: 10% DEPOSIT ON THE FALL OF THE HAMMER AND THE BALANCE IN CASH IN 30 DAYS, OR ANY OTHER SUCH DATE OR TERMS AS SPECIFIED BY

THE AUCTIONEER PRIOR TO AUCTION. N.B: IN ACCORDANCE WITH THE TERMS OF AUCTION NO COOLING OFF PERIOD WILL APPLY.

The auctioneer may, at his/her discretion during the in-room auctions, elect to pause an auction and continue in the order. All auctions will be reopened to the public and either sold or passed in, prior to the closing of the auctions.

## Plumbing Inspection

This Contract is subject to and conditional upon the Buyer obtaining a satisfactory report from a licensed Plumber as to the condition of any septic tank/enviro flow system on or before 14 days from contract date.

## Carpet Clean

The Seller agrees at his/her expense to arrange for the carpets in the unit/house to be cleaned before settlement by a professional carpet cleaner. A copy of the paid invoice/receipt is to be provided to the Buyer if requested.

## Electrical Inspection

This Contract is subject to and conditional upon the Buyer obtaining a satisfactory report from a licensed Electrician as to the state and compliance of electrical wiring of the property within 14 days from contract date.

## Subject to Development Approval

This contract is subject to and conditional upon the buyer obtaining the necessary development approval from the (insert relevant council here) to develop the land following settlement within (insert time frame here) from the date of the contract. Accordingly the seller will:-

1. Not object and will provide and/or sign any consents required for the development application
2. If the application is publicly notifiable, the seller will not lodge any representations opposing the proposed development or subsequent appeal
3. Provide access to the land for the purposes of soil, groundwater or other testing as required by the development application
4. Not object to the erection and maintaining of signage at the property with respect to the development application
5. The Buyer will pay for all and any application fees, bonds or comply with any indemnity requirement of the said Council.

Should approval not be granted by (insert relevant council here) then the buyer may terminate this contract by notice in writing to the sellers solicitors and in that event all deposit monies shall be refunded to the buyer in full. The seller acknowledges that this condition is for the sole benefit of the buyer.

## Seller to provide Copies of Finals

1. This contract is subject to and conditional on the Seller providing to the Buyer copies of all building inspection reports, final certificates and local authority approvals for all Improvements on the Property (hereinafter referred to as the "documents") prior to settlement.
2. In the event that the Seller does not provide the documents prior to Settlement, or the documents are not satisfactory to the Buyer, in the Buyer's absolute discretion, the Buyer may terminate this contract by notice, given in accordance with the Terms of Contract, to the Seller and this contract shall be at an end and the Deposit must be promptly refunded to the Buyer without deduction.
3. The Seller acknowledges that this special condition is for the benefit of the Buyer only and may only be waived or exercised by the Buyer

Finals Being Issued :

This contract is subject to and conditional upon the Buyer being satisfied prior to Settlement, in the Buyer's absolute discretion, that all final inspections and local authority approvals have been obtained for all the improvements on the Property. In the event that the Buyer is not so satisfied, the Buyer may, at the Buyer's election;

1. terminate this contract by notice, given in accordance with the Terms of Contract, to the Seller and the contract shall be at an end and the deposit must be promptly refunded to the Buyer without deduction; OR

2. require the Seller to do all necessary works in a proper and workmanlike manner, in a manner satisfactory to the Buyer in the Buyer's absolute discretion, complete all necessary paperwork and pay all fees and obtain all such final inspections and local authority approvals for all improvements on the Property prior to Settlement.
3. In the event that the Buyer is not so satisfied with the works, then the Buyer may terminate this contract and the contract shall be at an end without default and the deposit must be promptly refunded to the Buyer without deduction.

The Seller hereby acknowledges that this special condition is for the benefit of the Buyer only and may only be waived or exercised by the Buyer.

#### Approval of Improvements:

1. If the Buyer establishes that prior to completion of this Contract all permissions, consents and approvals required from the local government or other body having jurisdiction for the construction of improvements on the land, have not been obtained or, having been obtained have not been fully complied with, the Buyer may terminate the Contract by notice in writing to the Seller on or before the settlement date;
- 1.2 If the Buyer terminates the Contract under the above special condition, the deposit must be refunded to the Buyer without deduction.

### Safety Switch

The Seller must arrange for an approved safety switch for the general purpose socket-outlet to be installed in the Property in compliance with the Electricity Regulation 1994 at the Sellers cost on or before the Settlement Date, failing which the Buyer may terminate this Contract and the deposit paid shall be refunded in full without deduction.

### Completion of Lot

The Seller must complete construction of the Lot in accordance with this contract and the requirements of all relevant laws.

The area and dimensions of the Lot must be substantially in accordance with the plans. The Buyer cannot object to any deviation between the area and the dimensions of the Lot described in the plans and the area and dimensions of the Lot as built, if the deviation does not materially prejudice the buyer.

The Lot must include the finishes specified in the contract.

The Seller may select an alternative finish, at its discretion, but it must be of a similar quality.

The Seller will rectify within (insert number of months) months of Settlement, any defects in the Lot due to defective materials or workmanship, which are notified to the Seller in writing within (insert number of months) month of Settlement. The Buyer must give the Seller reasonable access to the Lot for doing rectification work.

Despite anything to the contrary contained herein, the Lot shall be at the risk of the Seller until settlement.

### Repairs Prior to Settlement

This contract is subject to and conditional on the seller repairing at his/her/their expense, the (insert as applicable) in the property to full and complete working order prior to settlement. In the event that the (insert) is not repaired to the full satisfaction of the Buyer prior to settlement, then the Buyer shall be able to deduct a sum of money from the Purchase Price for the repairs to the (insert). The sum to be deducted from the Purchase Price shall be calculated by the Buyer obtaining a quote from a qualified and/or licensed repairer of their choice.

### Seller to Carry Out Building Work

The Sellers agree to at their own expense on or before settlement date carry out the building work referred to in the building report attached to this Contract and referred to as Schedule "A" (attach Schedule "A"). Such work shall be carried out in a good and proper manner using quality materials.

## Solicitors Approval

This Contract is subject to the approval of all its terms by the Buyer's solicitors within two (2) business days from the date of this Contract. The Buyer agrees to instruct his/her solicitors to advise the Seller in writing within three (3) business days from the date of this Contract whether the Contract is approved without change and the buyer is proceeding with the purchase.

## Land Tax/Margin Scheme

Land Tax – Corporate Sellers (Acting for Seller Company or Trust)

Notwithstanding any other clause, any adjustments of land tax shall be calculated on the basis that the Seller is a company and not a natural person.

### Apply the Margin Scheme – Buyer:

The Purchase Price is inclusive of GST and the Seller cannot claim any extra amount from the Buyer in respect of GST. The Buyer acknowledges that the Seller may use the margin scheme under Division 75 of the GST Act to calculate the GST payable by the Seller in respect of the Purchase Price

### Apply the Margin Scheme – Seller:

The Seller elects to apply the Margin Scheme under Division 75 of the GST Act to calculate the GST payable by the Seller in respect of the Purchase Price

## Solar Panels

The Buyer acknowledges that there are solar panels installed on the roof of the dwelling constructed on the property hereby sold, and the parties agree as follows:

- (a) Whether or not any benefits currently provided to the Seller by agreement with the current energy supplier with respect to feed-in tariffs pass with the sale of this property is a matter for enquiry and confirmation by the Buyer;
- (b) The Buyer agrees that they will negotiate with the current energy supplier or an energy supplier of their choice with respect to any feed-in tariffs for the electricity generated or any other benefits provided by the said solar panels and the Buyer shall indemnify and hold harmless the Seller against any claims for any benefits whatsoever with respect to the said solar panels; and
- (c) The Seller make no representations or warranties with respect to the solar panels in relation to their condition, state of repair, fitness for the purposes for which they were installed, their in-put to the electricity grid or any benefits arising from any electricity generated by the said solar panels.

## Confidentiality Clause

The parties hereby agree and acknowledge that all terms and conditions for the contract entered into will be kept strictly confidential and no details, whether verbally or written, will be divulged to any person, company or entity excepting for the advice sought from any legal representative, accountant or professional advisor.

## Asbestos Report

1. This Contract is subject to and conditional upon the buyer obtaining a report from a registered asbestos inspector in relation to the location (if any) and/or removal of any asbestos material located at the property within 14 days from the contract date.
2. In the event that the report identifies asbestos material present at the property and/or the quote for removal is not satisfactory to the buyer, the buyer may terminate the contract and any deposit moneys paid shall be refunded in full without deduction.

## Professional Clean

This Contract is subject to and conditional upon the Seller, at its own expense, having the property professionally cleaned prior to settlement. If the Seller does not have these works completed prior to settlement, the Buyer may at the Buyer's election either:



1. Deduct a reasonable amount from the balance of purchase price at settlement, equivalent to the cost of the lowest quote obtained by either party for a professional cleaner to clean the property; or
2. Terminate the contract and all deposit moneys to be refunded in full to the buyer

### **Clean Tidy & Carpet Clean**

The Seller must at its expense before settlement ensure that all rubbish and debris are removed from the property and that the improvements on the property and the land will be transferred to the buyer on settlement in a neat, clean and tidy condition. In particular and without limitation the Seller will at its expense before completion have all the carpets cleaned by a professional carpet cleaner and provide the buyer with a copy of the paid tax invoice for such cleaning, if requested.

### **Conversion to Freehold**

1. This contract is subject to and conditional upon the Seller obtaining the consent of the Minister for the Department of Environment and Resource Management ("Minister") to transfer the leasehold to the Buyer prior to the settlement date;
2. Documents relating to the Minister's consent shall be prepared by the Seller;
3. The parties shall take all reasonable steps and do all things necessary to make itself competent and qualified to acquire and hold the Land pursuant to the Land Act 1994 (QLD);
4. If the Minister's Consent is refused (other than by reason of the Buyer's default under Clause "Ministers Consent" this Contract will be terminated and:
  - A. The Buyer will immediately return to the Seller any documents of title and transfer documents received from the Seller;
  - B. Once the Buyer satisfied its obligations under Clause 4 (a) the Seller will refund any money paid under this Contract;
5. The Buyer cannot terminate this Contract, delay settlement, deduct or retain any amount from the Purchase Price or claim compensation or damages in relation to any matter referred to in this special condition.

### **Leasehold To Freehold**

1. This Contract is subject to and conditional upon the Seller drawing a cheque at settlement from the Seller's funds payable to the Department of Environment and Resource Management (DERM) to pay the balance owing to freehold the property.
2. This cheque is to be provided to the Buyer or Buyer's Solicitor at settlement for immediate payment to DERM.
3. The Buyer or Buyer's Solicitor upon receipt of the cheque will forward the cheque to DERM with a letter/application requesting that the freehold conversion of the property is held in abeyance until such time as the transfer of the property has registered in favour of the Buyer.

### **Property at Seller's Risk until Settlement Date**

Notwithstanding the provisions of Clause 8.1 of the Terms of Contract for Houses and Land, the Seller and Buyer hereby agree that the property shall be at the Seller's risk up to and until completion of the Contract.

### **Bank Guarantee/Deposit Bond**

1. The Buyer shall be deemed to have complied with the requirements concerning payment of the Deposit or part of the Deposit (as the case may be) where the Buyer tenders to the Stakeholder an unconditional Bank Guarantee or Deposit Bond which satisfies the following requirements:
  - (a) the form of the Bank Guarantee or Deposit Bond is acceptable to the Seller, providing the Seller shall not object to the bond only because it is issued in electronic form ; and
  - (b) the value of the Bank Guarantee or Deposit Bond is equal to the amount of the Deposit (or part thereof) due and payable; and
  - (c) The Bank Guarantee or Deposit Bond is drawn in favour of the Stakeholder.

2. Should the Buyer commit a default the Stakeholder is authorised to present the Bank Guarantee or Deposit Bond for payment and to deal with the monies as if they were Deposit monies paid in accordance with the Contract.
3. On completion, if there is no default on the part of the Buyer, the Seller shall return the Bank Guarantee or Deposit Bond to the Buyer in which event the Buyer shall be obliged to pay the full Purchase Price without deduction for Deposit.

#### **Deposit To Be Released Prior to Settlement:**

Both the Buyer and the Seller agree that [\$INSERT] of the deposit in this matter will be released to the seller prior to settlement after [DATE/condition is satisfied/is unconditional with respect to finance and buyer's inspections] at the direction the parties' solicitors and on the following terms:

The parties do not intend to for this contract to take on any of the features of an Instalment Contract, and therefore the amount of the deposit (including any additional deposit) released under this Special Condition remains refundable to the Buyer in all circumstances in which it would have been required to be refunded to the Buyer if not for this special condition;

If, after its release, the deposit (including any additional deposit) becomes refundable to the Buyer, the Seller will, from the date on which the Buyer gives a valid notice to refund the deposit, be allowed [30/90/120] days in which to refund the deposit (including any additional deposit) to the Buyer as a single payment or otherwise and no interest can be charged by the Buyer on this amount;

To avoid doubt, the deposit (including any additional deposit) in all cases remains payable:

To the Buyer in the event of the Seller's breach of contract; and

To the Seller in the event of the Buyer's breach of contract;

If for any reason, it is unlawful for the deposit holder to release funds from the deposit, the Buyer agrees to pay an additional deposit of [\$INSERT] directly to the Seller.

The buyer understands that this may cause the total amount of the deposit to be [\$INSERT – original deposit amounts + additional deposit amount (which must not exceed 10% of the purchase price)].

#### **Vacant Possession – Seller to End Existing Lease Early**

Despite the fact the contract discloses a tenancy, the Seller will provide vacant possession at settlement. Should the Seller fail to provide vacant possession this contract is at an end, failing any agreement to extend settlement, and the Buyers damages shall be limited to the deposit paid herein and shall be refunded without deduction.

#### **Vacant Possession**

The Contract is not subject to any tenancies, and accordingly the Seller will provide the Buyer with vacant possession upon settlement. If the Seller cannot provide the buyer with vacant possession upon settlement then the Buyer may:

Terminate this Contract by giving the Seller notice in accordance with the terms of the contract. This is the Buyer's only remedy when terminating due to the Seller's failure to provide vacant possession.

Elect to proceed with this Contract and claim compensation from the Seller for loss or damage they suffer as a result of not being provided with vacant possession. The right to claim compensation is preserved despite settlement of this contract.

#### **Seller Rent Back**

1. *The Buyer agrees that after settlement, the Buyer must allow the Seller to remain in possession of the Property until [insert date] at the weekly rental amount of \$[insert amount] (payable weekly in advance by the Seller to the Buyer, directly) and with a bond in the sum of \$[insert bond amount] payable upon settlement (by way of adjustment to the Balance Purchase Price, by the addition of the sum of \$[insert bond amount]).*
2. During the period of possession the seller agrees to maintain the property in substantially the same condition as at the date of settlement, fair wear and tear excepted.
3. The parties agree that no relationship of landlord and tenant shall be created by possession being given to the seller and that possession is under licence person to the seller.

4. The seller agrees to insure the property, for full replacement value during the period of possession with the interests of the owner (buyer) noted and provide a copy of the Certificate of Currency to the buyer prior to settlement.
5. The seller agrees to indemnify the buyer against the damages or expenses incurred by the buyers as a result of the seller remaining in possession of the property.
6. The seller may vacate the property prior to [insert date] by giving at least two (2) weeks' notice in writing to the buyer.

### **Early Possession (no rent)**

The Sellers agree to provide early possession to the Buyer for the property upon this Contract becoming unconditional in all respects. Early possession is provided on the following terms and conditions:

1. The Buyer provides a copy of the Certificate of Currency of Insurance.
2. The Buyer accepts the property in the condition that it is when they take possession and will not make any claims, proceedings, actions or demands against the Seller in relation to the condition of the property when they take possession.
3. The Buyer will not withhold any amount from the purchase price or delay settlement of this matter for any reason associated with the above.
4. The Buyer takes possession of the property pursuant to the terms set out in Clause 8.5 of the Contract of Sale herein.
5. All settlement adjustments to be calculated as at the date of possession.
6. If settlement does not occur the Seller will allow the Buyer [7/14] days from the termination of the contract in which remove their possessions from the property and will provide the Buyer and their reasonably necessary invitee's further access to the property upon reasonable notice for the purpose of removing these items from the property.

### **Early Possession (with rent)**

1. The Buyer may take possession of the property from [date...].
2. If the Buyer takes possession of the property under this clause, they do so as a Licensee pursuant to the provisions of the Terms of Contract at a license fee of \$xxx.xx per week payable weekly in advance to the Sellers with the first payment to be made before taking possession and after that weekly in advance from the date of taking possession until completion.
3. Regardless of any other clause in this Contract, from when the Buyer takes possession they accept the property in the physical condition it is in at the date; agree to make no objection or claim in respect of the property's physical condition; will be deemed to have acknowledged that their searches of the property are in order and agree to make no claim or objection regarding any matters raised in those searches.
4. Title to all chattels and improvements included in the sale will not pass to the Buyer until completion.
5. The buyer is entitled to make minor cosmetic alterations to the property before completion. The buyer will indemnify the seller in respect of any claim or action by any person against the seller in connection with or in relation to the alterations and will carry out the work in a tradesman-like manner.
6. If settlement does not occur the Seller will allow the Buyer [7/14] days from the termination of the contract in which remove their possessions from the property and will provide the Buyer and their reasonably necessary invitee's further access to the property upon reasonable notice for the purpose of removing these items from the property.

### **Access Prior to Settlement for Renovations**

1. The Seller hereby agrees to allow reasonable access for the Buyer and appropriate tradespeople to the Lot for the purpose of obtaining quotes to conduct renovations to the Lot (hereinafter referred to as "the work").
2. Once this contract becomes unconditional the Seller agrees to allow access to the Lot so the work can be commenced. The work must be conducted in a satisfactory and workmanlike manner by appropriately qualified and/or licensed tradespeople.

3. The Buyer hereby agrees to pay all costs for the work being conducted. In the event that settlement does not occur, through no fault of the Seller, the Buyer agrees to pay all the costs to ensure the work is completed in a satisfactory and workmanlike manner and hereby indemnifies the Seller against any costs, damages or other liability caused by the work.
4. The Buyer hereby agrees that they must take out 'appropriate' insurance to the Seller's satisfaction

### **Buyer's appointment of letting agent/Access**

Once all conditions subsequent under the Contract (including finance, building and pest inspection) are satisfied or waived, the Seller consents to:-

- (i) the Buyer appointing a letting agent ("the Agent") in the form approved under the Property Occupations Act 2014 (Qld) on such terms and conditions as the Buyer and Agent agree but specifically including in Part 4, Section 4, the following terms:-
  - A. The Agent acknowledges that the Client is not yet the registered owner of the Property, but has entered into a contract to purchase the Property dated ...../...../ ..... ("the Contract").
  - B. The Settlement Date under the Contract is ...../...../ ..... and the Contract is unconditional.
  - C. The Agent may not offer any tenancy of the Property to any proposed Tenant unless the proposed tenancy commences after the Settlement Date under the Contract (or such extended Settlement Date as may be agreed between the Buyer and Seller).
  - D. The Client shall promptly inform the Agent in writing of any extension of the Settlement Date or, if settlement does not occur, any notice of termination of the Contract.
  - E. This letting appointment will be terminated on the earlier of the date the Contract is terminated or as otherwise provided under the terms of this appointment.
- (ii) the Property being advertised for rent on the Internet and brochure's prior to settlement; and
- iii) the photos used to market the property for sale by the owner can be used by the appointed Agent for the advertising of the property, and
- (iv) the agent placing a for lease sign at the front of the property: and
- (v) the Agent having Three {3} access visits to the Property for the purpose of showing prospective tenants through it at all reasonable times throughout the week and Saturday's prior to settlement upon
  - A. the Agent giving at least 24 hours oral or written notice to the Seller; and
  - B. the Buyer indemnifies the Seller in relation to any injury, loss or damage suffered by the Seller arising from the Agent's access under special condition 1 (a)(v), unless caused or contributed to by any negligent or reckless act or omission by the Seller or the Agent; and
  - C. In the event completion does not occur and this Contract is terminated by either party, the Buyer must terminate the appointment of the Agent under special condition 1 (a)(i).

### **Survey**

Notwithstanding anything to the contrary contained herein, this contract is subject to and conditional on the Buyer being satisfied, in their absolute discretion, with the results of a survey of the Property within 21 days of the contract date. In the event that the Buyer is not so satisfied, the Buyer may terminate this contract by notice to the Seller and the contract shall be at an end and all deposit monies shall be refunded in full to the Buyer.

### **Physical Inspection of the Property**

Inspection of the Property This Contract is subject to the Buyer (or their appointed agent) undertaking a physical inspection of the property within seven (7) days from the date of this Contract and being satisfied in all respects with the results of such inspection. In the event that the buyer is not satisfied with the inspection, the Buyer may terminate the contract and all deposit moneys paid shall be refunded in full without deduction.

## Valuation

This Contract is subject to and conditional upon the purchasers obtaining a satisfactory valuation on the said property at their expense by a registered valuer within 14 days from the contract date. Should such report not prove satisfactory to the purchaser then this contract is at an end and all deposit monies shall be refunded in full.

## Air Conditioning Test

This Contract is subject to and conditional upon the Buyer or their agent, conducting an Air Conditioning Systems Test within seven (7) days of the Contract Date and being satisfied with the results of same. The Buyer shall notify the Seller or the Seller's Solicitor of their satisfaction or otherwise, in writing, within seven (7) days of the Contract Date failing which the Contract will be at an end and all deposit monies shall be refunded in full to the Buyer.

## Buyer Enquiries for Easement

1. The Seller acknowledges that the Buyers wish to make enquiries and if necessary, carry out a survey on the property, to satisfy themselves regarding the area and location of the easement affecting the property and the terms of the grant of that easement.
2. Without limiting the Buyers' other rights set out in this contract, this contract is subject to the buyer's enquiries and any survey undertaken being to their satisfaction failing which the buyers will be entitled to terminate this contract and all deposit moneys will be refunded to the buyers without deduction. Neither party will have any claim against the other apart from any rights either of the parties will have against the other as a result of any breach of this Contract.

## Registration of Record of Death

1. It is acknowledged by the Buyer that the property hereby sold is presently registered in the name of the now deceased and the Sellers are the executors appointed under the Will of the deceased.
2. The Seller warrants that he/she is entitled to be registered as personal representative/devisee of the registered owner of the Property.
2. This Contract is subject to the Seller obtaining registration in the Department of Natural Resources of a Transmission by Death allowing the Seller to be registered as personal representative/ devisee of the registered owner of the Property.
3. The Settlement Date of this Contract is the later of:
  - (a) The Settlement Date stated in the Reference Schedule; or
  - (b) 7 days after the Seller advises the Buyer in writing that registration of the Transmission by Death has occurred.
4. If the registration of the Transmission by Death has not occurred within[ ...] days of the date of this Contract then the Buyer may terminate the Contract and the deposit will be refunded.

## Grant of Probate

This Contract is subject to a Grant of Probate to the sellers as executors of the estate of the late (insert deceased's name) by the Supreme Court of Queensland within (complete) months of the date of this Contract and neither party.

The sellers must use their best endeavours to obtain the Grant as soon as possible and must advise the buyers in writing monthly from the date of this Contract about their progress in obtaining the Grant.

2. In the event that paragraph (1) above is satisfied, this sale is subject to registration of a Transfer of the property at the office of the Department of Natural Resources at Brisbane in favour of the sellers as executors of the estate of (complete) within (complete) months of the date of this Contract. If that Transfer has not been registered by that date then the deposit will be refunded to the buyer, this sale will come to an end and neither party will have any claim after that against the other apart from any rights either of the parties may have against the other as a result of any breach of this Contract.

The sellers must use their best endeavours to obtain the registration as soon as possible and must advise the buyers in writing monthly from the date of satisfaction of paragraph 1 about their progress in obtaining registration.

3. The date for completion will be the date which is (complete) days after the date that the buyer or the buyer's solicitor receives written notice from the seller's solicitors that the Transfer referred to in paragraph 2 has been registered in the names of the sellers."

### **FIRB Approval**

1. The Buyer will apply ("the Application") to the Foreign Investment Review Board ("FIRB") for approval to purchase the property within fourteen (14) days of the Contract Date and will comply with all requests for further information and take all steps necessary to pursue the Application.
2. The Seller will provide the Buyer with all information that is reasonably available to the Seller as may be required by the FIRB for considering the Application.
3. The Contract is subject to the Buyer notifying the Seller within thirty (30) days of the Contract date that approval has been granted. If the Seller does not receive this notice within that time then the Seller may terminate the Contract.
4. If no approval is granted the Buyer may terminate the Contract. If the Contract is terminated pursuant to this special condition then the deposit is to be refunded in full.
5. Settlement shall be the later of thirty (30) days from the Contract Date or seven (7) days after the Buyer notifies the Seller that it has FIRB approval.

### **Satisfactory Present Use**

This contract is subject to and conditional on the Buyer being satisfied, that the planning scheme area in which the Property is located allows for the Present Use, prior to settlement. In the event that the Buyer is not satisfied in their absolute discretion with the planning scheme area, then the Buyer may terminate this contract by notice to the Seller and this contract shall be at an end and all deposit monies shall be refunded in full to the Buyer.

The Seller hereby acknowledges that this special condition is for the benefit of the Buyer only and may only be waived or exercised by the Buyer.

### **Acceptance of Offer**

The offer to purchase this property contained in this Contract will lapse unless written notice of acceptance of it is received by the Buyer or the Buyer's solicitor by no later than 5:00 pm on the (insert date). If not accepted by then, this offer is deemed to have been withdrawn.

### **Electronic Transmission**

The parties consent to the sending and receiving of documents and the signatures thereto of any proposed or existing contract and any documents attached thereto by electronic means in accordance with Sections 11, 12 and 14 of the Electronic Transactions (Queensland) Act 2001.

### **Seller to obtain Pool Safety Certificate**

The Buyer and Seller agree that despite standard condition 5.3(1)(e)(ii) it is the Seller's responsibility to obtain a Pool Safety Certificate prior to settlement of this Contract. Should the Seller fail to obtain the Certificate the Buyer may terminate this Contract and all moneys paid shall be refunded and the Contract will be at an end. The buyer may waive the benefit of this clause.

### **Pool Fencing – At Sellers Responsibility**

The Sellers shall at their expense by the date for completion ensure that the swimming pool is fenced to comply with the Local Authorities requirements including and without limitation compliance with any By-Law dealing with pool fencing.

If the Sellers are unable to comply with such requirements by the date for completion, the Sellers may elect to determine a date for completion not being more than thirty (30) days after the date shown as settlement date of this contract, to allow the Sellers to attempt to comply with such requirements and in that event the date so determined shall be the new settlement date. When appearing in this Contract and shall be interpreted accordingly.

If the Sellers are unable to comply with their obligations under this clause the Buyers shall be entitled to terminate this Contract and receive a refund of all deposit monies paid by them, and the Buyer shall not be entitled to make any other claim against the Sellers in respect of this matter.

The parties agree that this clause only shall govern their rights and obligations regarding the matter of the fencing of the pool and terms of this clause shall be in substitution for the party's rights and obligations set out in the contract regarding such matter.

### **Pool Inspection**

This contract is subject to and conditional on the Buyer being satisfied prior to Settlement, in the Buyer's absolute discretion, that all final inspections and local authority approvals have been obtained for the swimming pool and swimming pool fence on the Property. In the event that the Buyer is not satisfied, the Buyer may, at the Buyer's election,

- Terminate this contract by notice to Seller and the contract shall be at an end and all the Deposit shall be refunded in full to the Buyer; OR
- Require the Seller to do all necessary works, complete all necessary paperwork and pay all fees to obtain all such final inspections and local authority approvals prior to Settlement.

The Seller hereby acknowledges that this clause is for the benefit of the Buyer.

### **Pool Fence Not Satisfactory**

The Buyer hereby acknowledges by the signing of this contract that the swimming pool located on the property may not have fencing or swimming pool security that complies with all current legislative requirements. The Buyer further acknowledges that, notwithstanding anything to the contrary contained herein, that the Buyer cannot terminate this contract for any reason directly or indirectly related to or associated with the lack of pool fencing or swimming pool security or fencing or security that fails to comply with current legislative requirements.

### **Pool Fencing where Buyer claim Retention funds**

1. The Parties agree that this clause overwrites any other clause in the Contract dealing with pool fencing and in particular any warranties by the seller.
2. The Seller shall at their expense ensure that the pool and the property comply with the Local Authority's requirements regarding the pool fencing. The Sellers agree to produce to the Buyers written evidence from the Local Authority of such compliance by settlement. If the Sellers are unable to produce such written evidence by settlement date the Buyers shall not be entitled to terminate this Contract but shall only be entitled to retain in the Buyer's solicitors trust account \$..... of the purchase price until such time as the Sellers produce the evidence from the Local Authority that the pool and fencing comply with the Local Authority requirements.
3. If the Sellers produce the written evidence within 60 days of settlement date the Buyers shall authorize payment by their solicitor, without deduction, of the monies retained to the Sellers.
4. If the written evidence is not provided within such period the monies retained shall be paid to the Buyers and thereafter the Buyers shall have no claim against the Sellers regarding this matter.

### **Property Sold and Accepted "As Is, Where Is" – No Objections by Buyer**

This property is sold by the Seller and accepted by the Buyer on an "As Is, Where Is" basis. The buyer has relied upon their own investigations and judgement in assessing:

- The condition of the property;
- The location of the property (including but not limited to any and all encroachments and / or misdescriptions);
- The encumbrances on the title (with the exception of any mortgage, writ or caveat which must be released at or by settlement); and
- The requirements of any competent authority;

- and hereby waives any right they may have under the Contract or otherwise to terminate this contract or to claim compensation from the seller or any related party in connection with the above mentioned matters.

### **Property Accepted As Is (Building & Pest Does Not Apply)**

The Buyer has relied upon its own prior judgment and investigations when entering into this contract, and therefore agrees that Clause 4 of the contract does not apply and accordingly the Buyer may not terminate this contract or make any claim against the Seller in relation to:

- any building defects of any kind;
- any pest infestation or risk of infestation of any kind;
- any inadequacy of any kind in relation to pool safety;
- any requirement of any competent authority in relation to the property in any way including all of the matters referred to in sub-points a) to c).

Further, the Buyer acknowledges and the Seller states that without this assurance, the Seller would not have agreed to enter into this contract.

### **No Objections by Buyer Regarding Approvals, Certifications, Inspections or Requirements of Authorities:**

The Buyer has made their own enquiries, or does not wish to undertake any enquiries in relation to any outstanding requisitions, notices, approvals, certifications, inspections or requirements of any kind by any competent authority and therefore agrees with the Seller that the Buyer will not be permitted to make any objection or claim or deliver any requisition to the Seller for any such requisition, notice, approval, certification, inspection or requirement of any kind regardless of whether raised before, on or after the Contract Date.

### **Existing Registered and Unregistered Title Encumbrances:**

Irrespective of whether the Reference Schedule of this contract has been completed to include reference to any encumbrance (including administrative advices or notices), the buyer agrees to accept the property with all title encumbrances (including administrative advices or notices) registered or unregistered with the exception of any mortgage, writ or caveat (which must be released at or by settlement). The buyer warrants that it has satisfied itself in relation to any such encumbrance (or administrative advice or notice) and will make no objection or claim against the seller or any related party in relation to any such encumbrance (or administrative advice)

### **Soil Test**

This contract is subject to and conditional upon the Buyer being satisfied in the Buyer's absolute discretion with the results of the soil test to be conducted, by the Buyer, on the Property, within 14 days from the contract date. If the Buyer is not satisfied, the Buyer may terminate this contract by notice, given in accordance with the Terms of the Contract, to the Seller and this contract shall be at an end and the Deposit must be promptly refunded to the Buyer without deduction.

The Seller hereby authorises the Buyer and its consultants to enter the Property for the purpose of conducting the soil test.

The Seller acknowledges that this special condition is for the benefit of the Buyer and may only be waived or exercised by the Buyer.

### **Subject to Sale**

This contract is subject to and conditional upon the Buyer obtaining a contract on {insert address} within {x} days of the date of this contract and settling same on or before 30 days from the date that contract is entered into and such settlement to be contemporaneous with this contract.



## Subject to Sale and Unconditional

### 1.0 Buyer Entering Contract of Sale

- 1.1 This contract is subject to and conditional upon the Buyers entering into a contract, on terms satisfactory to the Buyers, for the sale the Buyer's property at [property address] on or before 60 days from the date hereof (hereinafter referred to as "the prior contract"). In the event that the Buyers do not enter into a prior contract by this date, or relevant extensions agreed upon, the Buyers may terminate this Contract by notice to the Seller given in accordance with the Terms of Contract, and this Contract shall be at an end and the Deposit must be promptly refunded without deduction.
- 1.2 In the event that special condition 1.1 is satisfied, then this contract is also subject to and conditional upon the prior contract becoming unconditional within 30 days of the date of the prior contract. In the event that the prior contract does not become unconditional as required herein, the Buyers may terminate this Contract by notice to the Seller given in accordance with the Terms of Contract, and this contract shall be at an end and the Deposit must be promptly refunded without deduction.
- 1.3 In the event that special conditions 1.1 and 1.2 are satisfied, then this contract is also subject to and conditional upon the settlement of the prior contract on or before 30 days from the date of the prior contract. In the event that the prior sale does not settle for any reason, the Buyers may terminate by notice to the Seller given in accordance with the Terms of Contract, and this contract shall be at an end and the Deposit must be promptly refunded without deduction.
- 1.4 The Seller hereby acknowledges that this special condition is for the benefit of the Buyers only and can only be waived or exercised by the Buyers.

## Contemporaneous Settlement

Settlement of this Contract shall be effected contemporaneously with the buyers prior sale contract.

OR

## Termination Backup Contract Clause

This Contract is subject to and conditional upon the lawful termination of a prior contract entered between the Sellers for the property within seven (7) days from the date of this Contract. In the event that the Sellers are unable to lawfully terminate prior contract, the Sellers may terminate this contract and all deposit moneys paid shall be refunded in full without deduction.

## Buyer Completing Prior Contract

This contract is subject to and conditional on the Buyer completing the Contract of Sale for (insert street address of property) dated (insert date of contract) made between (insert name of seller) as Seller and (insert name of Buyer) as Buyer (hereinafter referred to as the "prior contract") prior to settlement of this contract. In the event that the prior contract does not complete then the Buyer may terminate this contract by notice to the Seller and this contract shall be at an end and all deposit monies shall be refunded in full to the Buyer.

## Sale includes Boat, Boat Trailer and relevant Safety Equipment

- 1.1 The sellers will at their expense prior to settlement, provide the buyers solicitors with a copy of:
  - (1) Current Roadworthy Certificate and Gas Certificate if required;
  - (2) Current Registrations;
  - (3) Transfer application forms for Vehicle Registration and Ship Registration; and
  - (4) Confirmation that an Australian Builders Plate is available if the boat is building and offered for sale after 28 September 2006.
- 1.2 The seller will deliver to the buyer or buyers solicitors the original documents listed in clause 1.1 (4) at settlement.
- 1.3 The parties acknowledge and agree that the definition of 'Outgoings' in clause 1.1(2)(w) the Terms of Contract is expanded to include the registration paid by the Sellers on the boat and the boat trailer and will be adjusted on at settlement in accordance with clause 2.6 of the Terms of Contract.

## **Ownership of Chattels assignment by way of gift**

It is acknowledged by the parties to this Contract that all chattels included within the definition of Improvements in clause 1.1(2)(q) of the Terms of Contract together with all other chattels that may be included in this sale such as dishwashers, refrigerators and swimming pool equipment, whether affixed to the land or not, will, at settlement, be gifted by the Seller to the Buyer for no value. As such the Purchase Price does not include any amount attributable to the chattels and further the Buyer acknowledges that the chattels have been inspected prior to the signing of this Contract and are accepted in an as is where is condition.

## **Early Possession/Access for Storage of Possessions (Garage/Car)**

The Seller and Buyer agree that the Buyer is granted early possession to one bay of the garage located at the property for the sole purpose of storing a motor vehicle. This possession is granted by way of license and gives no tenancy or interest in the property and is personal to the Buyers only. The Buyers will provide a copy of a certificate of insurance covering the motor vehicle prior to possession being granted

## **Pool Certificate – Seller to provide**

Despite the operation of the Standard Terms of the Contract the Seller will at its own cost supply a Pool Compliance Certificate at or prior to settlement.

## **Buyer acknowledges non approval**

The Buyer acknowledges that the XXXX (shed, house carport adjacent to the house etc) does not have Council approval. The Buyer accepts this state of affairs and will take no issue with same and will not make any claim against the Seller for same and enters the contract in that knowledge

## **Termination of Prior Contract**

This contract is subject to and conditional on the contract for the sale of (insert street address of property) between (insert name) as Seller and (insert name) as Buyer (hereinafter referred to as “the prior contract”) being terminated by 5.00 pm on (insert date). In the event that the prior contract is not so terminated then the Seller must notify the Buyer in writing and this contract shall be at an end and the Deposit shall be refunded forthwith to the Buyer.

## **Seller to clean prior to settlement**

The parties hereto agree that on Settlement the Seller shall produce an exit clean report in form 14a (Residential Tenancies and Rooming Accommodation Act 2008, Section 66) prepared by the Agent evidencing that the property has been cleaned to “bond clean standard”. The term “bond clean standard” shall mean an standard of cleanliness and presentation which in the opinion of the agent presents the property fit for human habitation. In the event that the Seller does not produce such a report, the Buyer shall be entitled to terminate the Contract.

## **Subject to registration of request to record death**

### **1. Subject to Registration of Request to Record Death**

1.1. The parties acknowledge and agree that:-

- (a) The Property is currently registered in the names of [DECEASED] and [SELLER];
- (b) [DECEASED] is deceased;
- (c) The Contract has been signed by [SELLER] as the Seller.

1.2. This Contract is subject to and conditional on the Seller causing a Form 4 Request to Record Death in relation to the [DECEASED]'s interest in the Property to be registered with the Land Titles Registry on or before 30 days from the Contract Date.

1.3. The Settlement Date shall be the later of:-

- (a) 14 days from the date on which the Seller gives the Buyer notice that the Form 4 Request to Record Death has been registered; or
- (b) 30 days from the Contract Date.

1.4. In the event that the Seller has not caused a Form 4 Request to Record Death to be registered with the Land Titles Registry on or before 30 days from the Contract Date then either party may terminate this Contract whereupon the Deposit will be refunded in full to the Buyer and neither party will have any further claim against the other.

### **Body Corporate approval of pets**

This contract is subject to and conditional upon the Seller obtaining written permission from the Body Corporate at or prior to settlement for 2 dogs of no more than 15 kilograms to reside with the owner of the property upon reasonable terms as determined by the Body Corporate.

