

Contract of Sale and Vendor's Statement

Lot , Stage 1, "Sherwood Grange", 250
Racecourse Road, Sunbury, Victoria 3429

Salesian Society (Vic) Inc ABN 43 296 846 976



Sherwood Grange



Communities Designed for Living

Ref: LAD:JAQ:983007

Level 26, 530 Collins Street, Melbourne VIC 3000 Australia
PO Box 3, Collins Street West VIC 8007 Australia
DX 564 Melbourne

Telephone +61 3 8644 3500
Facsimile 1300 365 323 (Australia) +61 2 8507 6582 (International)
hwlebsworth.com.au

CONTRACT OF SALE OF REAL ESTATE

SALESIAN SOCIETY (VIC) INC - "SHERWOOD GRANGE" - STAGE 1

IMPORTANT NOTICE TO PURCHASERS

Cooling-off period

Section 31, *Sale of Land Act 1962*

If none of the exceptions listed below applies to you, you may end this Contract within 3 clear business days of the day that you sign the Contract.

To end this Contract within this time, you must either give the Vendor or the Vendor's Agent **written** notice that you are ending the Contract, or leave the notice at the address of the Vendor or the Vendor's agent.

If you end this Contract in this way, you are entitled to a refund of all the money you paid EXCEPT for \$100.00 or 0.2% of the purchase price (whichever is more).

EXCEPTIONS - The 3-day cooling-off period does not apply if -

- You bought the property at or within 3 clear business days **before or after** a publicly advertised auction
- The property is used mainly for industrial or commercial purposes
- The property is more than 20 hectares in size and is used mainly for farming
- You previously signed a similar Contract for the same property
- You are an estate agent or a corporate body.

IMPORTANT NOTICE TO PURCHASERS

Section 9AA(1A), *Sale of Land Act 1962*

Subject to the limit set by section 9AA(1)(b) of the Sale of Land Act 1962 (Vic), the purchaser may negotiate with the vendor about the amount of deposit moneys payable under the contract, up to 10 per cent of the purchase price.

A substantial period of time may elapse between the day on which the purchaser signs the contract for sale and the day on which the purchaser becomes the registered proprietor of the lot.

The value of the lot may change between the day on which the purchaser signs the contract for sale of that lot and the day on which the purchaser becomes the registered proprietor.

The conditions of this Contract are contained in the attached -
Particulars of Sale;
Schedule;
General Conditions; and
Special Conditions (if any).

The Vendor sells and the Purchaser buys both the Property and the Chattels for the price and upon the conditions set out in this Contract.

The Vendor's Statement required by Section 32(1) of the *Sale of Land Act 1962* is attached to, and included in, this Contract.

Where the signature of any party to this Contract is secured by an agent, the parties acknowledge being given a copy of this Contract by the agent at the time of signing.

SIGNED BY THE PURCHASER:

.....
..... on
...../...../20.....

Print name(s) of person(s) signing:

.....
.....

State nature of authority, if applicable:

This offer will lapse unless accepted within 15 clear business days (3 clear business days if none specified)

SIGNED BY THE VENDOR:

.....
..... on
...../...../20.....

Print name(s) of person(s) signing:

.....
.....

State nature of authority, if applicable:

The **DAY OF SALE** is the date by which both parties have signed this contract.

GENERAL CONDITIONS ("GC")

Encumbrances

- 1.1 The Purchaser buys the property and the chattels subject to the encumbrances shown in Item 1 of the Schedule.
- 1.2 If the Purchaser is taking over an existing mortgage:-
 - (a) the Purchaser assumes liability for the mortgage;
 - (b) the price is satisfied to the extent of any mortgage money owing at the settlement date; and
 - (c) the Vendor must treat any payment made by the Purchaser under the mortgage as a payment made to the Vendor under this contract.

Loss or Damage Before Settlement

- 2.1 The Vendor carries the risk of loss or damage to the property and the chattels until settlement.
- 2.2 The Vendor must deliver the property and the chattels to the Purchaser at settlement date in their present condition (fair wear and tear excepted).
- 2.3 If any chattel is not in its present condition (fair wear and tear excepted) at settlement, the Purchaser is only entitled to compensation from the Vendor.

Finance

- ~~3. If a lender is nominated in the Particulars of Sale this contract is subject to the lender approving the loan on the security of the property by the approval date or any later approval date allowed by the Vendor. The Purchaser may end the contract if the loan is not approved by the approval date only if the Purchaser:-
 - (a) has made immediate application for the loan;
 - (b) has done everything reasonably required to obtain approval of the loan;
 - (c) serves written notice ending the contract on the Vendor on or before two business days after the approval date, and;
 - (d) is not in default under any other condition of this contract when the notice is given.All money must be immediately refunded to the Purchaser if the contract is ended.~~

Terms Contracts

4. If this is a "terms contract" as defined in section 2(1) of the *Sale of Land Act 1962*, then:-
 - (a) the Vendor must arrange the discharge of any mortgage affecting the land by the settlement date;
 - (b) all money payable under the contract must be paid to a duly qualified Legal Practitioner or a licensed Estate Agent to be applied towards discharging the mortgage;
 - (c) the Purchaser must pay interest to the Vendor from the settlement date upon the balance outstanding at the rate, on the days, and with the adjustments set out in Item 2 of the Schedule;
 - (d) the Vendor must apply instalments under this contract first to pay interest and then to reduce the balance owing.

Nominee

5. If the contract says that the property is sold to a named Purchaser "and/or nominee" (or similar words), the named Purchaser may, at least 14 days before settlement date, nominate a substitute or additional Purchaser, but the named Purchaser remains personally liable for the due performance of all the Purchaser's obligations under this contract.

Payment

- 6.1 The Purchaser must pay all money (except the deposit) to the Vendor, the Vendor's Solicitor or at the direction of the Vendor.
- 6.2 The Purchaser must pay the deposit:-
 - (a) to the Vendor's Estate Agent or, if there is no Estate Agent, to the Vendor's Solicitor; ~~or~~
 - ~~(b) if the Vendor directs, into a special purpose banking account specified by the Vendor in the joint names of the Purchaser and the Vendor.~~
- 6.3 If the land sold is a lot on an unregistered plan of subdivision then the deposit:-
 - (a) must not exceed 10% of the price; and
 - (b) must be paid:-
 - (i) to the Vendor's Solicitor or Estate Agent to be held by the Solicitor or Estate Agent on trust for the Purchaser; ~~or~~
 - ~~(ii) if the Vendor directs, into a special purpose banking account in Victoria specified by the Vendor in the joint names of the Purchaser and the Vendor~~until the registration of the plan.

Breach

7. A party who breaches this contract must pay to the other party on demand:-
 - (a) compensation for any reasonably foreseeable loss to the other party resulting from the breach, and
 - (b) any interest due under this contract as a result of the breach.

Time

8. If the time for performing any action expires on a Saturday, Sunday or bank holiday, then time is extended until the next business day.

General Conditions in Legislation

- 9.1 The general conditions in Table A of the Seventh Schedule of the *Transfer of Land Act 1958* apply if the land is under the operation of that Act.
- 9.2 The general conditions in the Third Schedule of the *Property Law Act 1958* apply if the land is not under the operation of the *Transfer of Land Act 1958*.
- 9.3 General Condition 9 in Table A or in the Third Schedule applies as if its second last sentence ended with the additional words, "as a resident Australian beneficial owner of the land".

Conflict Between Conditions

10. In case of a conflict between the conditions the order of priority is:-
 - (a) any special conditions in this contract;
 - (b) general conditions in this contract;
 - (c) general conditions in legislation.

Conditions

11. These conditions prevail over the conditions in any earlier contract and any requisitions and answers properly made and given under that contract are deemed to be requisitions and answers properly made and given under this contract.

Service

12. Any document served by post is deemed to be served on the next business day after posting unless proved otherwise.

Transfer and Settlement

- 13.1 The Purchaser must provide the instrument of transfer required by General Condition 12 of Table A, or the assurance required by the Third Schedule (as the case may be), to the Vendor or the Vendor's Solicitor at least 10 days prior to the settlement date.
- 13.2 The Vendor must pay the bank fees on all bank cheques exceeding 3 that are required by the Vendor for settlement.

***Law Institute of Victoria Property Law Dispute Resolution Committee Guidelines**

1. The Committee has been established to decide disputes relating to property law matters. Where one party does not have a Solicitor representing them, the dispute cannot be heard until that party instructs a Solicitor.
2. An **agreed** Statement of Facts must be signed by all parties and referring Solicitors and must include:-
 - 2.1 A clear and concise statement of all the relevant **agreed** facts upon which the dispute is based. The Committee is unable to make any decision unless the facts are **agreed** between the parties.
 - 2.2 A copy of all relevant documents.
 - 2.3 The issues, based on the **agreed** facts, to be decided by the Committee.
 - 2.4 Applications for disputes to be decided by the Committee shall include an agreement by the referring Solicitors and the parties to be bound by the Committee's decision on any question of law or practice.
3. Applications in the appropriate form must be lodged with the Secretary of the Property Law Dispute Resolution Committee C/- the Law Institute of Victoria. The form may be obtained from the Property Law Section of the Institute.
4. An administration fee of \$100.00 for each referring Solicitor must be paid to the Institute when the application is lodged.
5. The Committee's decision will be based upon the material contained in the Statement of Facts only. In making its decision the Committee shall act as an expert panel and not as an arbitrator.
6. The Committee reserves the right:-
 - (i) to call for further and better particulars in order to make a decision.
 - (ii) to refuse to decide any dispute, in which case any fees will be refunded in full.
7. The Committee's written decision will be sent to the referring Solicitors within seven days of the dispute being decided.

**The Guidelines and forms required can be obtained from the Secretary of the Property & Environmental Law Section, Law Institute of Victoria. Tel: (03) 9607 9382.*

PARTICULARS OF SALE

VENDOR'S AGENT

BRENDON GRECH (RAINE & HORNE SUNBURY)
of 20 Brook Street, Sunbury, Victoria 3429
Tel: (03) 9744 6334 Mob: (+61) 0458 030 893

VENDOR

SALESIAN SOCIETY (VIC) INC ABN 43 206 946 086
of 3 Middle Street, Ascot Vale, Victoria 3032

VENDOR'S SOLICITOR

HWL EBSWORTH LAWYERS
LEVEL 26, 530 COLLINS STREET, MELBOURNE 3000
DX: 564 MELBOURNE
Ref: LAD:JAQ:983007 Tel: 8644 3500 Fax: 1300 365 323

PURCHASER

_____ of _____

_____ of _____

PURCHASER'S SOLICITOR

_____ of _____
Tel: _____ Fax: _____ Ref: _____

LAND

Lot _____ on unregistered Plan of Subdivision **#[insert proposed Plan of Subdivision number]** and being part of the land described in Certificate of Title Volume 12065 Folio 539.

PROPERTY ADDRESS

the land together with any improvements known as
LOT _____,
STAGE 1, "SHERWOOD GRANGE", 250 RACECOURSE ROAD, SUNBURY, VICTORIA 3429

CHATTELS

Nil (vacant land)

PRICE

\$

DEPOSIT

\$ _____ 10% of the Price payable on the signing of this Contract

BALANCE

\$ _____

PAYMENT OF BALANCE

At the expiration of 14 days after registration of the Plan of Subdivision.

SETTLEMENT DATE

The date upon which vacant possession of the Property must be provided, namely, upon acceptance of title and payment of the Price.

DAY OF SALE

is the day on which both parties have signed this Contract, being the _____ day of _____, 20 _____

SCHEDULE

ITEM 1
(GC 1)

Encumbrances -

- (a) Any easements, covenants and other encumbrances (if any) disclosed in the Vendor's Statement and any apparent or implied easements for services, drains, sewer pipes and wires not located in registered easements.
- (b) All proposed easements and other encumbrances and restrictions specified on the Plan of Subdivision or implied under the *Subdivision Act 1988* or otherwise appropriated, reserved or created upon registration of the Plan of Subdivision.
- (c) The conditions and other restrictions contained in the Permit and any other planning permit affecting the Property which may issue after the Day of Sale or which may otherwise be imposed by a responsible authority.
- (d) Any Planning Agreements and the Planning and Building Controls.

SPECIAL CONDITIONS

See attached

SPECIAL CONDITIONS

1. INTERPRETATION AND DEFINITIONS

1.1 In this Contract, capitalised terms have the meaning given to them in the Particulars of Sale and the following words have these meanings in this Contract unless the contrary intention appears:

"*Act*" means the *Sale of Land Act 1962*;

"*Bank*" means a bank for the purposes of the *Banking Act 1959*;

"*Claim*" means a claim, action, proceeding, damage, loss, expense, cost or liability, immediate, future or contingent and includes a claim for compensation;

"*Contaminant*" means any substance which is or may be harmful to the environment or to the health or safety of any person or which may cause damage to any property or the environment;

"*Council*" means Hume City Council;

"*DDF*" means the online form called "Digital Duties Form" generated from the SRO website;

"*Deposit*" means the deposit specified in the Particulars of Sale;

"*Design Guidelines*" means the set of building and design guidelines named "Sherwood Grange Design Guidelines", as amended from time to time, a copy of which is attached to the Vendor's Statement and referred to in the Plan of Subdivision;

"*Development*" means any dwellings, structures and improvements constructed or to be constructed on the Development Land;

"*Development Land*" means the land owned by the Vendor known as "Sherwood Grange", 250 Racecourse Road, Sunbury, Victoria 3429 which is more particularly described in Certificate of Title Volume 12065 Folio 539 and where the context admits or requires includes the Property;

"*Development Works*" means the construction and completion of all infrastructure works, landscaping, installation of services and the subdivision of the Development Land and the construction of other lots on the Development Land and includes works of any kind necessary or incidental to establishing utility infrastructure and utility services, connections to such infrastructure and services, and including any excavation and general earthworks;

"*Driveway Crossover*" means that section of the driveway from the roadside kerb to the boundary of the Property;

"*Due Date*" means the date settlement is due in the Particulars of Sale or such other date agreed by the parties in writing;

"*Engineering Plans*" means the plans included in the Vendor's Statement which may be varied by the Vendor from time to time;

"*Environmental Law*" means a law regulating or otherwise relating to the environment current at the date of this Contract including any law relating to land use, planning, pollution of air or water, soil or groundwater contamination, chemicals, waste, use of dangerous goods or to any other aspect of protection of the environment or a person or property;

"*GST*" means goods and services tax as defined in the *A New Tax System (Goods and Services Tax) Act 1999*;

"*Guarantee*" means the form of guarantee annexed to this Contract as Annexure 1;

"*Lease*" means the lease between Salesian Society (Vic) Inc, ABN 43 206 946 086 as lessor and Telstra Corporation Limited ACN 051 775 556 as lessee dated 1 October 2008;

"*Lot*" means the lot number specified in the Particulars of Sale;

"*MCP*" means the draft memorandum of common provisions which will be registered and imposed by the Plan, a copy of which is included in the Vendor's Statement;

"*Object*" means to make any Claim against the Vendor (before or after the date of actual settlement), to seek to withhold all or part of the Price, raise any objection, requisition, rescind or terminate this Contract or seek to delay or avoid settlement of this Contract;

"*Permit*" means Planning Permit No. P22159.01 issued by Council, a copy of which is attached to the Vendor's Statement;

"*Plan of Subdivision*" means the unregistered Plan of Subdivision no. PS **[#insert proposed plan of subdivision details]** a copy of which is annexed to the Vendor's Statement;

"*Planning Agreement*" means one or more agreements pursuant to Section 173 of the *Planning & Environment Act 1987* with an authority including but not limited to Council, Melbourne Water or their successors;

"*Planning and Building Controls*" means the Restrictions, the MCP, this Contract, the Design Guidelines and any other matters set out in Special Condition 29;

"*Property*" means the property described as such in the Particulars of Sale;

"*Restrictions*" means the restrictions created on registration of the Plan of Subdivision;

"*SRO*" means the State Revenue Office of Victoria;

"*SRO Settlement Statement*" means the statement called "Settlement Statement" generated from the SRO website after completion of a DDF;

"Section 173 Agreement" means Section 173 Agreement X095542M (a copy of which is attached to the Vendor's Statement);

"*Settlement*" means the date the Purchaser accepts title to the Property and pays the Price in full;

"*Settlement Date*" means the date when Settlement occurs;

"*Vendor's Statement*" means the statement made by the Vendor under Section 32 of the Act, a copy of which is attached to this Contract.

1.2 In this Contract, unless the context otherwise requires:

- (a) words importing:
 - (i) the singular include the plural and vice versa; and
 - (ii) any gender includes the other genders;
- (b) an obligation of two or more parties shall bind them jointly and severally;
- (c) if a word or phrase is defined cognate words and phrases have corresponding definitions;
- (d) a reference to:
 - (i) a person includes a body corporate, a firm, a natural person, an unincorporated association and an authority;
 - (ii) a person includes a reference to the person's legal personal representatives successors and permitted substitutes and assigns;
 - (iii) a statute ordinance code or other law includes regulations and other statutory instruments under it and consolidations, amendments, re-enactments or replacements of any of them; and
 - (iv) a condition in Table A means a reference to the conditions contained in Annexure 3 being the general conditions formerly contained in Table A of the Seventh Schedule of the *Transfer of Land Act 1958*, which apply as amended by this Contract.

2. ACKNOWLEDGMENT

2.1 The Purchaser acknowledges:

- (a) having received from the Vendor:
 - (i) the Vendor's Statement executed by the Vendor; and

- (ii) a copy of this Contract;
- (b) that no promise with respect to the obtaining of a loan of money to defray some or all of the cost of the Price has been made by or on behalf of the Vendor's agent;
- (c) that the Purchaser has had a genuine and effective opportunity to review and negotiate the terms of this Contract; and
- (d) that the Purchaser must disclose to any financier, valuer, governmental authority or other party the existence of any payments, rebates, incentives or other inducements offered to the Purchaser in respect of this Contract by the Vendor or any other party; and
- (e) that the Vendor may pay a fee to another party (including but not limited to the Vendor's Agent) for introducing the Purchaser to the Vendor or otherwise in respect of this Contract.

3. WHOLE CONTRACT

- 3.1 This Contract contains the entire understanding and agreement between the parties as to its subject matter. All previous negotiations, understandings, representations, warranties (other than warranties set out in this Contract), or commitments in relation to, or in any way affecting, the subject matter of this Contract are superseded by this Contract and are of no force or effect whatsoever and no party shall be liable to any other party in respect of those matters.
- 3.2 No oral explanation or information provided by any party to another shall affect the meaning or interpretation of this Contract or constitute any collateral agreement, warranty or understanding between any of the parties.
- 3.3 The Vendor gives no warranty and makes no representation as to the fitness of the Property for the construction thereon of any particular style, type or model of dwelling and the Purchaser must satisfy itself in this regard.
- 3.4 Any representation or advice in respect of any such fitness (if given) will have been given without the authority or knowledge of the Vendor and the Vendor shall not be bound by it and the Purchaser must not rely upon any such representation and or advice.
- 3.5 Without limiting this Special Condition 3, the Purchaser acknowledges that no information, representation or warranty made by the Vendor, the Vendor's Agent (if any) or any other party was supplied or made with the intention or knowledge that it would be relied upon by the Purchaser and that:
 - (a) no information, representation or warranty has in fact been relied upon;
 - (b) the Purchaser has made or procured its own inspections, investigations, examinations and enquiries in respect of all aspects of the Development including but without limitation the Property, construction of any building on the Property, planning restrictions, building regulations and the suitability of the Property for the Purchaser's intended use; and

- (c) the Purchaser has purchased the Property as a result of the Purchaser's own inspection or enquiries and in its present condition subject to any defects whether latent or patent.

4. IDENTITY OF LAND

- 4.1 The Purchaser admits that the Property offered for sale and inspected by the Purchaser is identical with the Lot. Subject to the provisions of the Act, the Purchaser accepts as identical with the land the lot bearing the same number on the Plan of Subdivision when registered as the lot number specified in the title particulars set out in the Particulars of Sale or if the lots on the Plan of Subdivision are re-numbered prior to its registration, the Purchaser shall accept as identical with the land the lot on the Plan of Subdivision when registered which occupies the same or approximately the same position on the ground as is indicated on the Plan of Subdivision included in the Vendor's Statement attached to this Contract as being occupied by the lot specified in the title particulars set out in the Particulars of Sale.
- 4.2 The Purchaser will not make any requisition or claim any compensation or rescind this Contract for:
 - (a) any actual or alleged misdescription of the Property or deficiency in its area or measurements; or
 - (b) any minor variations (being variations which will not materially affect the Property) between the Property as inspected by the Purchaser and the corresponding lot as shown on the Plan of Subdivision as registered; or
 - (c) any other amendments or variations on the Plan of Subdivision which do not affect the Property.
- 4.3 Condition 3 of Table A does not apply to this sale.

5. CONDITION OF LAND

- 5.1 The Purchaser acknowledges that it has purchased the Property in its present condition and has entered into this Contract on the basis that it:
 - (a) acknowledges that it assumes all risk of loss, damage, liability or injury to any person, corporation or property resulting in any way from the use of the Property or existence or previous existence of any underground storage tank or tanks (including without limitation, leakage or spillage of oil or other products) or the presence of any Contaminant which may be in or on the improvements or any fixtures, fittings or installation in, to or on the improvements or in, on or under the Property;
 - (b) releases and discharges the Vendor and its successors, assigns, employees and agent from and against all claims, suits, demands and actions of every description whatsoever and whenever occurring which the Purchaser has, may have, or which may accrue in the future or which, but for the execution of this Contract, the Purchaser would or might have had against the Vendor as a result

of the presence of any Contaminant in, on or under that Property and from and against all claims for costs and expenses in respect of such claims, suits, demands and actions; and

- (c) indemnifies and holds harmless the Vendor and its successors, assigns, employees and agents from and against all loss, damage, liability, claims, suits, demands, financial penalties and actions of every description whatsoever and whenever occurring resulting or arising from the presence of any Contaminant in, on or under the Property (including without limitation, any costs or expenses incurred in relation to any notice, direction or order issued or made under any Environmental Law) and from and against all claims for costs and expenses in respect of such loss, damage, liability, claims, suites, demands and action.

6. PLANNING RESTRICTIONS

- 6.1 The Purchaser buys the Property subject to any restriction on the use of the Property pursuant to the Permit and any planning scheme, order, regulation, rule, permit or condition imposed by any authority empowered by statute or otherwise to control the use of the Property. No such restriction shall constitute a defect in the Vendor's title or affect the validity of this Contract. The Purchaser shall not make any requisition or objection or be entitled to any compensation from the Vendor in respect of any such restriction.
- 6.2 The Purchaser agrees to comply with the provisions of the Permit and any planning permit or permits as they affect the use and development of the Property.
- 6.3 The Purchaser acknowledges the Vendor may apply for amendments to the Permit or one or more new planning permits or amendments to the Planning Scheme in connection with any Development Works, at its absolute discretion. The Purchaser must not:
 - (a) object, assist in or encourage any objection, to any application by or on behalf of the Vendor for a planning permit or amendments to the Permit or new planning permits for the Development Works;
 - (b) oppose, or assist or encourage the opposition of, any amendment to the Planning Scheme proposed by or on behalf of the Vendor to enable the Development Works;
 - (c) object, or assist in or encourage any objections to any planning permit application or oppose, or assist or encourage the opposition of any amendment to the Planning Scheme which relates to any proposed Development Works; or
 - (d) make any requisitions or objections, claim compensation or refuse or delay payment of the Price or rescind or terminate this Contract on account of any amendment or proposed amendment to the Permit or the grant of any new planning permit in relation to the Property.

7. DEPOSIT

- 7.1 The deposit shall be paid to the Vendor's Solicitor to be held on trust for the Purchaser until registration of the Plan of Subdivision and thereafter as stakeholder under the Act.
- 7.2 All other moneys shall be paid by bank cheques drawn in favour of payees as may be directed by the Vendor's Solicitor.
- 7.3 The parties authorise the Vendor's Solicitor to hold the deposit in an interest bearing trust account with a Bank. If the Contract is avoided through no fault of the Purchaser interest on the account will accrue for the benefit of and be paid to the Purchaser, but otherwise will accrue for the benefit of and be paid to the Vendor. In either case bank accounts debits tax may be deducted from interest paid and if a tax file number has not been advised by the party to whom the interest is to be paid the amount required to be withheld pursuant to the provisions of the *Income Tax Assessment Act 1997* may be appropriated in accordance with that Act.

8. PURCHASER INDEMNITY

- 8.1 The Purchaser indemnifies and will keep indemnified at all times the Vendor against all claims, demands, proceedings, judgments, damages, costs and losses of any nature whatsoever which the Vendor may suffer or incur arising from or in any way connected with or relating to:
- (a) the *Duties Act 2000* relating to the Contract and the instrument of transfer of land;
 - (b) the Property, however arising, made or incurred subsequent to the Settlement Date or any act, matter or thing occurring after the Settlement Date by which the Vendor may become liable in any way, unless the Vendor has contributed to the same; and
 - (c) any liability including any penalty or interest under the *Duties Act 2000* relating to this Contract, any substitute contract of sale of real estate or the transfer or any transfer or conveyance under any substitute contract of sale of real estate.

9. PURCHASER TO PROCURE EXECUTION OF GUARANTEE

- 9.1 If the Purchaser is or includes a company (other than a company listed on an Australian Stock Exchange) the company shall, simultaneously upon execution of this Contract, procure the execution by all of its directors of the Guarantee and provide the fully executed Guarantee to the Vendor.

10. DEFAULT

- 10.1 If the Vendor gives to the Purchaser a notice of default under this Contract, the default will not be remedied until all of the following have occurred:

- (a) the remedy by the Purchaser of the relevant default;
- (b) the payment by the Purchaser of all reasonable expenses incurred by the Vendor as a result of the default including without limitation all interest and bank charges payable by the Vendor under any existing mortgage affecting the Property, calculated from the designated Settlement Date;
- (c) the payment of the Vendor's solicitors legal costs (on an indemnity basis) and disbursements incurred in connection with the preparation and service of the notice of default and any necessary instructions and advice; and
- (d) the payment of interest under Special Condition 11.

10.2 The Purchaser agrees that the reasonably foreseeable loss the Vendor may suffer due to the Purchaser's breach of this Contract may include, without limitation, interest payable by the Vendor in relation to loans secured on the Property for the period from the date the Balance is payable under this Contract to the date the Balance is paid, interest incurred on any purchase by the Vendor which is incurred as a result of the Purchaser's default, interest on bridging finance obtained by the Vendor for the same period to cover the Vendor's intended use of the Price and costs of that bridging finance and, if the Vendor is usually accommodated in the Property, accommodation costs incurred by the Vendor and the cost of storing the Vendor's property usually kept in the Property.

10.3 Re-Scheduling Settlement

If the Purchaser fails to settle at the time and place scheduled for settlement (time being of the essence) and settlement is rescheduled, the Purchaser will be in default of this Contract. The Purchaser must pay the Vendor's Solicitor \$250.00 plus GST together with any costs of the Vendor's mortgagee, for each and every rescheduled settlement, such additional amount or amounts to be paid at settlement.

11. DEFAULT INTEREST

11.1 If the Purchaser defaults in any payment of any money under this Contract, the Purchaser shall pay to the Vendor interest at the rate of 4% more than the amount specified as the penalty rate for the time being fixed under Section 2 of the *Penalty Interest Rates Act* 1983 on the amount in default from the time it fell due until the default ceases without prejudice to any other rights of the Vendor.

12. WAIVER

12.1 The Purchaser's liability and obligation to pay any money and otherwise to perform the terms and conditions of this Contract will not be or be deemed to be waived or varied by any time indulgence or forbearance allowed or granted by the Vendor to the Purchaser or by any acceptance by the Vendor of moneys tendered by the Purchaser not in accordance with this Contract. Time shall be and remain of the essence of this Contract notwithstanding any act or omission on the part of the Vendor.

13. PLAN OF SUBDIVISION

- 13.1 This Contract is subject to and conditional upon the Plan of Subdivision being registered by the Registrar of Titles. If the Plan of Subdivision is not registered within 36 months after the day of sale either party may rescind this Contract by giving the appropriate written notice to the other party before the Plan of Subdivision is so registered.
- 13.2 The Vendor shall do all acts matters and things and execute all documents as may be reasonably necessary to cause the Plan of Subdivision to be registered by the Registrar of Titles. The Vendor reserves the right to make any alteration to the Plan of Subdivision which may be required by the Registrar of Titles or otherwise necessary in the reasonable opinion of the Vendor.
- 13.3 Before rescinding this Contract under Special Condition 14.1, the Vendor must give the Purchaser 28 days' written notice ('**notice period**'), setting out:
- (a) the reason why the Vendor is proposing to rescind this Contract;
 - (b) the reason for the delay in the registration of the Plan of Subdivision; and
 - (c) that the Purchaser is not obliged to consent to the proposed rescission.
- 13.4 For the purpose of Special Condition 14.1 and 14.3, the Purchaser will be deemed to have consented to the proposed rescission if no written objection is received by the Vendor on or before the end of the notice period.
- 13.5 This Special Condition 14.5 only applies if section 10F of the Act is in effect on or before the Day of Sale. If the Vendor wishes to rescind this Contract under Special Condition 14.1:
- (a) the Vendor is required to give notice of a proposed rescission of this Contract under Special Conditions 14.1 and 14.3;
 - (b) the Purchaser has the right to consent to the proposed rescission of this Contract but is not obliged to consent;
 - (c) the Vendor has the right to apply to the Supreme Court for an order permitting the Vendor to rescind this Contract; and
 - (d) the Supreme Court may make an order permitting the rescission of this Contract if satisfied that making the order is just and equitable in all the circumstances.
- 13.6 Notwithstanding Special Condition 14.2, if the Registrar of Titles or any authority having jurisdiction in respect of the subdivision requires a material modification to the subdivision or material amendment of the Plan of Subdivision, or imposes any conditions or other requirements which in the opinion of the Vendor may be likely to substantially increase the cost of the subdivision of the land, then the Vendor may rescind this Contract by giving the appropriate written notice to the Purchaser within 30 days after being notified of the event referred to in this Special Condition.

- 13.7 Subject to sections 9AC and 9AE of the Act, the Purchaser may not rescind this Contract as a consequence of any amendment to the Plan of Subdivision irrespective of whether the amendment restricts or limits the use of the Property, if the amendment:
- (a) results from any recommendation of a public authority or government department, or
 - (b) concerns the final location on the Plan of Subdivision of an easement.
- 13.8 For the purposes of Section 9AC of the Act, the Purchaser acknowledges that while the following amendments may affect the Lot, the effect of these variations will not be considered to be material. The variations are:
- (a) minor variations to accord with surveying practice;
 - (b) minor variations to meet any requirement or requisition of the Council or any statutory body or any authority or the Registrar of Titles to effect registration; and
 - (c) the amendments required to effect a consolidation, merger or otherwise to accommodate the development of any adjoining property or merger with any other plan affecting such property.
- 13.9 Where a statement of compliance or similar certification has been issued by Council in respect of the Plan of Subdivision, the Purchaser shall not and is not entitled to make any objection or requisition, claim any compensation in respect of, or rescind, terminate or delay settlement or withhold any part of the Price, as a consequence of any issue relating to a matter certified by Council.

14. CAVEAT

- 14.1 Until the Plan of Subdivision has been registered, the Purchaser must not lodge or cause or permit to be lodged on the Purchaser's behalf any caveat in the Land Titles Office in respect of the Purchaser's interest in the Property. The Purchaser shall indemnify and keep indemnified the Vendor against any loss or damage which the Vendor may incur or suffer as a consequence of any breach by the Purchaser of this condition.
- 14.2 The Purchaser irrevocably appoints the Vendor as its attorney for the purpose of withdrawing any caveat lodged in breach of Special Condition 14. The appointment shall not be affected by the rescission or termination of this Contract by either party.
- 14.3 This Special Condition is an essential term of the Contract and the rights conferred hereby are in addition to any common law rights or other rights of the Vendor.

15. NATURAL SURFACE LEVEL

- 15.1 The Purchaser acknowledges that the Property may have been filled, raised, levelled, compacted or cut prior to the Vendor becoming registered proprietor of that part of the Development Land containing the Property and that the Purchaser must not make any

requisition nor claim any compensation nor claim any setoff nor rescind this Contract for any such works.

- 15.2 The Purchaser acknowledges that the Property has been, or is, or will be, in the course of subdivisional works and may be filled, raised, levelled, compacted or cut as disclosed in the Vendor's Statement ("subdivisional works").
- 15.3 The Purchaser acknowledges and agrees that the plans disclosing the subdivisional works are design plans only and are not as built plans and that such plans and subdivisional works may be changed before settlement in accordance with Special Condition 15.4.
- 15.4 At the Day of Sale:
- (a) if no works affecting the natural surface level of the Lot or any land abutting the Lot which is in the Plan of Subdivision are proposed to be carried out, then Vendor has not given disclosure pursuant to section 9AB(1) of the Act; and
 - (b) if works affecting the natural surface level of the Lot or any land abutting the Lot which is in the Plan of Subdivision are proposed to be carried out, then the Vendor has given disclosure pursuant to section 9AB(1) of the Act.
 - (c) if such works are proposed after the Day of Sale or if any change occurs to any proposed works, the Vendor will provide disclosure in accordance with section 9AB(2) of the Act as soon as practicable after the details required for disclosure come to the knowledge to the Vendor.
- 15.5 The Purchaser will not make any requisition nor claim any compensation nor claim any setoff nor rescind this Contract for any works affecting the natural surface level of the Property or any land abutting it or any variations or alterations to those works, particulars of which have been disclosed to the Purchaser.
- 15.6 The Purchaser further acknowledges and agrees that in calculating the amount of any fill provided to the Property, any amount of topsoil removed from the Property prior to filling and regrading and replaced thereafter shall not be included in such calculation.
- 15.7 The Purchaser indemnifies the Vendor against any claim made by any person in respect of subdivisional works. This condition shall not merge on the transfer of the Property. The Vendor and its employees, agents and consultants may commence or complete the subdivisional works after Settlement of this Contract.

16. REQUISITIONS ON TITLE

- 16.1 The Purchaser is deemed to have delivered requisitions and objections as annexed to this Contract (Annexure 2). The Purchaser acknowledges the answers to those requisitions as specified in Annexure 2 and may not deliver any further or other requisitions or objections.
- 16.2 Condition 1 of Table A shall not apply to this Contract.

17. ADJUSTMENT OF RATES

- 17.1 Condition 9 of Table A does not apply to this Contract.
- 17.2 All rates, taxes (including land tax on a proportional basis), assessments and outgoings (collectively referred to as "the outgoings") in respect of the Property shall be apportioned between the Vendor and Purchaser as from the Day of Sale.
- 17.3 The Property is part of land which is part of a subdivision for which outgoings are nominally assessed under a bulk assessment. If there is no separate assessment issued for outgoings for the Property at the Settlement Date the outgoings attributable to the Property for apportionment purposes shall be that proportion of the total assessment which the area of the Lot bears to the total area of all lots on the Plan of Subdivision (or of all lots subject to the assessment, as the case may be).
- 17.4 If a separate assessment for the same period issues to the Purchaser or the Vendor after the Settlement Date any further adjustment necessary shall be based on the amount payable after deducting any discount for early payment and after allowance being made for any refund made or to be made by the relevant authority. Any such readjustment must be made within 12 months after the Settlement date and be accompanied by a copy of the original notice.
- 17.5 The Vendor will pay the outgoings when they are due to be paid and the Purchaser acknowledges and agrees that it cannot require them to be paid at or before settlement under any circumstances.
- 17.6 Despite Special Condition 17.5 the outgoings must be apportioned as if they had been paid by the Vendor.
- 17.7 This condition will not merge on Settlement.

18. ENCUMBRANCES

- 18.1 The Purchaser acknowledges that it is aware of the possibility that at the Day of Sale there may not have been created all the easements, restrictions or other encumbrances which may be required by any governmental agency or authority, any provider of utility services including electricity, gas, water or telecommunications, the Council, the Registrar of Titles or the Vendor, in which case:
- (a) if a governmental agency or authority, any provider of utility services including electricity, gas, water or telecommunications, the Council, the Registrar of Titles or the Vendor requires the creation of further easements, restrictions or other encumbrances then subject to Special Condition 18.1(c), the Purchaser may not make any objection, requisition or claim, delay completion of or rescind or terminate this Contract or withhold any part of the Price because of that creation;
 - (b) the Vendor must notify the Purchaser of the creation of any further easement, restriction or other encumbrance within 14 days after receipt of the requirement from the governmental agency or authority, the service provider, the Council or

the Registrar of Titles for, or a decision of the Vendor to make a requirement for, the creation of a further easement, restriction or other encumbrance;

- (c) the Purchaser may notify the Vendor of its intention to rescind this Contract within 14 days after being advised by the Vendor of the requirement if the further easements, restrictions or other encumbrances will materially adversely affect the Property, but not otherwise;
- (d) the Vendor may by notice withdraw the requirement or cause it to be withdrawn within 10 days of receipt of the Purchaser's notice under Special Condition 18.1(c) or dispute the Purchaser's opinion that the further easement, restriction or other encumbrance will have a materially adverse effect on the Property. If the Vendor does not do so, the Purchaser may rescind this Contract by notice within a further 14 days after the date of expiry of the notice under Special Condition 18.1(c);
- (e) if the Vendor disputes the Purchaser's opinion that the further easement, restriction or other encumbrance will have a materially adverse effect on the Property, the Vendor may refer the dispute to arbitration under the *Commercial Arbitration Act* 1984. In that case, the time periods in this Special Condition will be suspended pending the outcome of the arbitration. The cost of the arbitration (including legal costs on a solicitor-own client basis) must be paid by the party who loses the arbitration; and
- (f) for the purposes of Special Condition 18.1(e), a reduction in the usable area of the Property by an easement affecting not more than 5% in area of the Property and located adjacent to a boundary will not be considered to be material.

18.2 The Purchaser acknowledges and agrees that the Vendor may prior to the Settlement Date enter into one or more Planning Agreements and that, in that case, each Planning Agreement will be registered and run with the title to the Property. If any Planning Agreement is entered into prior to the Settlement Date:

- (a) the Purchaser must take title to the Property subject to any Planning Agreement; and
- (b) the Purchaser may not make any requisition or objection in relation to any Planning Agreement and shall not be entitled to refuse or delay Settlement nor be entitled to any reduction in the Price nor to any compensation whatsoever as a result of or in any way connected with the Planning Agreement or the Vendor having entered into any Planning Agreement.

19. DEVELOPMENT

19.1 The Purchaser acknowledges and agrees that:

- (a) the Property forms part of an overall subdivision of the whole or part of the Development Land and that the Development Land will be a mixed use development, with the Vendor considering various options to develop all or part of the balance of the Development Land for a variety of possible purposes

including residential, recreational, commercial, retail, aged accommodation, educational, childcare, display home, low, medium and/or high density, and other uses;

- (b) any promotional material prepared by the Vendor with respect to the possible use of the Development Land does not constitute promises or representations on the part of the Vendor that the balance of the Development Land or any part of it will be developed for any of the purposes disclosed in the promotional material;
- (c) the Vendor is continuing to consider development options for the balance of the Development Land and may in its discretion decide to proceed with development of only part of it (for any one or more of the uses referred to in Special Condition 19.1(a) and/or for any other purpose) or not develop it at all;
- (d) the Vendor has given no promises or representations as to the timing of any development of the Development Land; and
- (e) the subdivision development, use and management of all or any part of the Development Land, including the Property will be subject to the lawful directions, requirements, licences or permits from time to time issued by the Council or any other governmental authority and the Vendor will be bound to comply with such directions, requirements, licences or permits.

19.2 The Purchaser acknowledges and agrees that it shall not and is not entitled to make any objection or requisition, claim any compensation in respect of, or rescind, terminate or delay Settlement as a consequence of the Vendor's use of the Development Land or any part thereof.

19.3 The Purchaser acknowledges and agrees that it shall not and is not entitled to make any objection or requisition, claim any compensation in respect of, or rescind, terminate or delay Settlement as a consequence of any issue which does not materially and adversely affect the Purchaser's use of the Property.

20. DEVELOPMENT WORKS

20.1 The Purchaser acknowledges and agrees that to facilitate the progressive development of the Development, the Vendor may undertake further Development Works on other lots or on any common property after Settlement and, notwithstanding that the works in any part of the Development or on lots to be built subsequently to the Lot may block out or impede access to light and air available to the Lot currently or at Settlement or any other time, the Vendor will be entitled to carry out those works.

20.2 The Purchaser acknowledges and agrees that:

- (a) at the Settlement Date, the construction of the Development Works may not be wholly completed;
- (b) the Vendor and any contractor contracted for works on any part of the Development Land may enter and carry out other Development Works on other lots on the Plan of Subdivision and the construction of one or more new

buildings and for that purpose may bring upon the Development Land any machinery, tools, equipment, vehicles and workmen to facilitate the carrying out of the Development Works;

- (c) the Vendor may continue to cause or permit such works to be carried out after the Settlement Date;
- (d) any contractor working on the Development Land shall be entitled to full, free and uninterrupted access over and to any lot to carry out and undertake the Development Works and that the Purchaser shall not make any claim or objection to the Vendor in relation to such access; and
- (e) the Purchaser is not entitled to make any objection or requisition, claim any compensation in respect of, or rescind, terminate or delay Settlement as a consequence of any Development Works which the Vendor is permitted by Council to complete after registration of the Plan of Subdivision.

20.3 As long as the Vendor takes all reasonable steps to minimise inconvenience to the Purchaser in completing the Development Works, the Purchaser will take no objection to the Development Works or to the dust and noise and other discomforts which might arise therefrom and will not institute or prosecute any action or proceedings for injunctions or damages arising out of or consequent upon the Development Works or to the dust and noise and other discomforts which might arise therefrom.

20.4 The Purchaser acknowledges that the Vendor is not responsible for any contractor carrying out works under contracts with the purchasers of any other lots forming part of the Development Land.

20.5 Without limiting any other provision of this Contract, the Purchaser shall not be entitled to make any objection, requisition or claim for compensation or withhold any part of the Balance of the Price or delay Settlement by reason of:

- (a) the operations associated with any construction, completion, improvement or extension of any facilities in the Development and the noise and other discomforts which might arise therefrom;
- (b) during construction of the Development, the use by the Vendor, its employees, agents, contractors, consultants and others of the other lots in the Development Land for the purpose of:
 - (i) gaining access or egress to any part of the Development Land or any adjoining land whether by foot or in vehicles and heavy machinery; or
 - (ii) for the storage of building materials, vehicles, equipment or fill associated with the construction of the Development;

and will not institute or prosecute any action or proceedings for an injunction or damages arising out of or consequent upon such further Development Works,

- (c) any easements restrictions or other encumbrances created or implied by the *Subdivision Act 1988* (Vic) or executed by the Vendor as provided for elsewhere in this Contract, in particular under Special Condition 18.1;
- (d) construction of any services on or under the Development Land which may not be protected by easements;
- (e) any alteration to the area or dimensions of the Development Land;
- (f) non-completion of the facilities to be constructed on the Development Land;
- (g) the siting or location of service pits, service markers, man-holes, telephone or electricity poles, or electricity substations on the Development Land;
- (h) any boundary on the Development Land not being fenced or any boundary fence or wall not being on or within the boundary; and
- (i) the methods used by the Vendor in its efforts to sell lots in the Development, including but without limiting the generality of the foregoing use of signs and the maintenance of display units provided that in such sales efforts the Vendor shall display at all times reasonable consideration for the comfort and convenience of the Purchaser.

21. SUBJECT TO DEVELOPMENT PROCEEDING

- 21.1 The Vendor may on or before the date which is 12 months after the Day of Sale, end this Contract by notice to the Purchaser if the Vendor does not wish to proceed with the Development for any reason whatsoever (at its absolute discretion).
- 21.2 If this Contract is terminated pursuant to Special Condition 21.1:
 - (a) the Deposit and any interest will be refunded to the Purchaser;
 - (b) the right to a refund of the Deposit and any interest will be the sole right of the Purchaser in connection with such termination; and
 - (c) the Purchaser is not entitled to, and must not claim any compensation or anything else if this Contract is terminated pursuant to Special Condition 21.1.

22. SERVICES

- 22.1 The Purchaser acknowledges that the Property is sold and the Purchaser shall take title thereto subject to all existing water, sewerage and drainage, gas, electricity, telephone or other installations, services and utilities (if any). The Purchaser shall not make any requisition, objection or claim for compensation or terminate or rescind this Contract or delay Settlement or withhold any part of the Price in respect of any of the following:
 - (a) the nature, location availability or non-availability of any such installations, services and utilities;

- (b) if any such service is a joint service with any other land or building;
- (c) if any such service for any other Property or building or any parts or connections therefore pass through the Property;
- (d) if any sewer or water main or connection passes through in or over the Property;
- (e) if there is a man hole or vent on the Property; or
- (f) if because of or arising out of any such limitations, services and utilities the Property may be subject to or have the benefit of any rights or easements in respect of any such installation service or utility.

23. FENCING

23.1 The Purchaser:

- (a) may not make any claim against the Vendor for any fencing costs or expenses where the Vendor owns land adjoining the Property; and
- (b) acknowledges and agrees that it may not ask the Vendor to contribute towards any fencing costs because the Price in this Contract has already been reduced by an amount assessed by the Vendor to cover the Vendor's estimated expenses in respect of contributions as adjoining proprietor to the costs of fencing to the Property.

23.2 The Purchaser agrees with the Vendor that if before the date of this Contract, the Vendor has received one or more fencing notices from the owner or owners of land adjoining the Property, the Purchaser agrees to pay to the Vendor at Settlement the half share cost set out in each of the fencing notices by way of reimbursement for the contribution which the Vendor will be required to make under the fencing notices.

23.3 The Purchaser, by signing this Contract, agrees that it understands and accepts the provisions of this Special Condition 23.

24. DRIVEWAY CROSSOVER

24.1 The Purchaser acknowledges that the Vendor will provide a Driveway Crossover to the Property and service connection points in the form and position identified in the Engineering Plans or provided by the Vendor to the Purchaser from time to time. If the Purchaser wishes to change the location of the Council approved Driveway Crossover, the Purchaser must obtain the Vendor's consent and the Purchaser must pay all the costs associated with the change including the costs of amendments to the Engineering Plans or other plans, service connections and altering any trunk services.

24.2 The Vendor may make amendments to the Engineering Plans which may include the position of the Driveway Crossover and service connection points:

- (a) as the Vendor may determine in its absolute discretion; or
- (b) as may be required by the relevant Authorities.

24.3 The Purchaser must not Object or make any Claim with respect to any amendment to the Engineering Plans made by the Vendor.

25. FOREIGN INVESTMENT REVIEW BOARD

25.1 The Purchaser warrants to the Vendor that:

- (a) this Contract is not examinable by the Foreign Investment Review Board ("FIRB") under the *Foreign Acquisitions and Takeovers Act 1975* ("FIRB Act"); or
- (b) where this Contract does fall within the FIRB Act and requires FIRB approval, the purchaser has obtained unconditional FIRB approval.

25.2 The Purchaser must indemnify and keep indemnified the Vendor against any loss, damage or liability the Vendor may suffer or incur as a result of a breach of the warranty in this Special Condition.

26. GST

26.1 In this Contract and unless the context otherwise requires:

"GST" means a tax that is payable under the GST Law;

"GST Law" has the meaning given by Section 195-1 of the *A New Tax System (Goods and Services Tax) Act 1999*.

26.2 The Price specified in the Particulars of Sale page of this contract is expressed as a GST inclusive amount.

26.3 The supply of the Property made pursuant to this Contract is one which involves application of the margin scheme, if available, as specified in the GST Law, by the Vendor.

26.4 If a supplier makes a supply under or in connection with this Contract to a recipient which is a taxable supply that is not a supply of real property and is not a supply the consideration for which is specifically described as GST-inclusive, then:

- (a) the consideration is increased by and the recipient must also pay to the supplier an amount equal to the GST payable by the supplier on that supply; and
- (b) subject to Special Condition 26.6, the amount by which the GST exclusive consideration is increased must be paid to the supplier by the recipient at the time at which the GST exclusive consideration is payable.

26.5 If this Contract requires a party to pay for, reimburse or contribute to any expense or liability ("reimbursable expense") incurred by the other party ("payee") to a third party, the amount to be paid, reimbursed or contributed the amount to be paid, reimbursed or contributed must be charged by the third party or payee as a taxable supply subject to Special Condition 26.6 or otherwise will be the amount of the reimbursable expense net

of any input tax credit to which the payee is entitled in respect of the reimbursable expense.

- 26.6 A party is not obliged to pay the GST on a taxable supply to it other than one to which the margin scheme applies, until that party is given a valid tax invoice for the supply.

27. NON-MERGER

- 27.1 Obligations under this Contract which have not been satisfied or performed by the Settlement Date remain in full force and effect irrespective of Settlement and do not merge on the transfer of the Property.

28. TIME OF THE ESSENCE

- 28.1 Unless a contrary intention appears in relation to any time expressed in this Contract, time shall be and remain of the essence of this Contract notwithstanding any waiver given or indulgence granted by the Vendor to the Purchaser.

29. PLANNING AND BUILDING CONTROLS

29.1 Restrictions

- (a) The Purchaser hereby covenants and agrees with the Vendor to be bound by the Restrictions.
- (b) The Purchaser must not do anything or allow anything to be done on the Property before registration of the Plan of Subdivision which would not be allowed by the Restrictions.
- (c) If the Purchaser breaches its obligations under Special Condition 29.1(a), the Purchaser grants the Vendor an irrevocable licence to enter the Property and do whatever is required to rectify the Purchaser's breach, and indemnifies the Vendor for all expenses incurred in rectification.

29.2 MCP

The Purchaser acknowledges that:

- (a) the MCP will be referenced as part of the Restrictions and registered as an encumbrance on the title to the Property;
- (b) the Purchaser will be bound by the terms and conditions of the MCP; and
- (c) the Purchaser must not object or require the Vendor to take any action in respect of the MCP.

29.3 Design Guidelines

- (a) The Purchaser shall comply with the Design Guidelines and acknowledges receipt of a copy of them as referred to in the Restrictions and as attached to the Vendor's Statement forming part of this Contract of Sale.
- (b) The Purchaser acknowledges that the Design Guidelines are current as at the Day of Sale and are accurate for land contained only in the Plan of Subdivision, and that the Vendor reserves the right to amend the Design Guidelines as reasonably necessary from time to time for land contained in the Plan of Subdivision, or for other parts of the Development Land at its absolute discretion.
- (c) If the Vendor amends the Design Guidelines in accordance with Special Condition 29.3(b), the Purchaser must not make any requisition or objection or be entitled to any compensation from the Vendor in respect of any such amendment.

29.4 Alternative Controls

- (a) The Purchaser acknowledges and agrees that the Vendor can, at any time prior to Settlement, substitute or introduce alternative or additional forms of planning and building controls (including but not limited to memoranda of common provisions and restrictive covenants) to implement and enforce additional controls which are consistent with the Planning and Building Controls.
- (b) The Purchaser may not make any objection, requisition or claim, delay completion of or rescind or terminate this Contract because of any such additional controls.

29.5 Variation and Waiver

- (a) The Purchaser acknowledges that where permitted by law to do so, the Vendor can, at its absolute discretion, consent to variation or waiver of any of the Planning and Building Controls for any particular lot on the Plan of Subdivision.
- (b) The Purchaser may not make any objection, requisition or claim, delay completion of or rescind or terminate this Contract because of any such consent.

29.6 Purchaser Covenants

The Purchaser:

- (a) acknowledges that the Vendor, being responsible for the Development, has an interest in ensuring the overall quality of the subdivision and the Development;
- (b) covenants with the Vendor to fully observe and comply with the Planning and Building Controls and agrees that the Planning and Building Controls:
 - (i) will not merge on completion of this Contract; and
 - (ii) will bind the Purchaser, their successors-in-title, their heirs, executors, administrators and assigns.

- (c) must comply with, and do all reasonable things (at the expense of the Purchaser) to give effect to the Planning and Building Controls and without limitation, if the Purchaser sells or transfers the Property, the Purchaser must ensure that any contract for sale by the Purchaser as vendor includes a special condition in the form of this Special Condition and contains the MCP and the Design Guidelines.

29.7 Conflict in Planning and Building Controls

In the event of any conflict between the Planning and Building Controls, then the same shall be ranked in priority as follows:

- (a) first, the Section 173 Agreement;
- (b) second, the Restrictions;
- (c) third, the MCP;
- (d) fourth, these Special Conditions; and
- (e) fifth, the Design Guidelines.

29.8 Rescode

The Purchaser acknowledges being made aware of the recent introduction of changes to town planning and building controls, known as ResCode, which legislation sets standards for building heights, setbacks, access to daylight, overlooking and overshadowing. The Purchaser shall make no claim against the Vendor in respect of any Rescode requirements, in respect of the Purchaser's proposed use or development of the Property.

29.9 Bushfire Attack Level

Without limiting Special Condition 3 of this Contract, the Purchaser acknowledges and agrees:

- (a) the Property may be, or is, in a bushfire prone area and that the Purchaser may be required to obtain a Bushfire Attack Level ('BAL') rating assessment prior to undertaking any works, including but not limited to construction and renovation works, on the Property;
- (b) Unless stated otherwise in the Vendor's Statement the Vendor gives no warranty and makes no representation as to whether the Property is in a bushfire prone area or as to its BAL rating and the Purchaser must satisfy itself in this regard;
- (c) when undertaking works on the Property, the Purchaser may have to comply with building regulations and standards (including Australian Standard 3959-2009) that regulate construction and renovation works on land in a bushfire prone area;
- (d) that unless stated otherwise in the Vendor's Statement no information, representation or warranty was made by the Vendor, the Vendor's Agent (if any)

or any other party as to whether the Property is in a bushfire prone area or as to its BAL rating and that:

- (i) the Purchaser has made or procured its own inspections, investigations, examinations and enquiries in respect of all aspects of whether the Property is in a bushfire prone area and its BAL rating; and
 - (ii) the Purchaser has purchased the Property as a result of the Purchaser's own inspection, investigation, examination or enquiries and in its present condition subject to any requirements if the Property is in a bushfire prone area and its BAL rating;
- (e) that it must not make any requisitions or objections, claim any compensation or refuse or delay payment of the Price or rescind, terminate or delay Settlement on account of any matter relating to whether the Property is in a bushfire prone area or its BAL rating.

29.10 Vendor Access

The Vendor has the right to access the Property after Settlement on provision of prior written notice to ensure compliance with the Restrictions, the MCP, Design Guidelines, approved dwelling house plans, and this Contract.

29.11 Adjustment of Community Infrastructure Levy

- (a) In this Special Condition 29.11:
- "CIL" means Community Infrastructure Levy being a financial contribution required by the relevant authority pursuant to the *Planning and Environment Act 1987* (Vic), for the provision of works, services and facilities in relation to the Development of Land.
- (b) The Purchaser acknowledges that:
- (i) the Property is affected by a Development Contributions Plan Overlay (DCPO) which requires that a permit must not be granted to subdivide land, construct a building or contract or carry out works until a development contributions plan has been incorporated into the planning scheme. The development contribution plan referable to the Property includes a requirement that a CIL is payable for each lot in the Plan of Subdivision; and
 - (ii) the Purchaser is liable to pay the CIL in full.
- (c) The amount of the CIL is the amount set out in a schedule to the DCPO, and is subject to indexation. The schedule to the DCPO referable to the Property is attached to the Vendor's Statement.
- (d) The CIL is payable when a building permit for a dwelling is approved, however the Council requires that the Vendor is responsible for collecting the CIL from the Purchaser and paying it to the Council. The Vendor is required to pay the CIL in full to the Council on or prior to registration of the Plan of Subdivision.

- (e) At Settlement, and in addition to any other payment due to be paid by the Purchaser at Settlement, the Purchaser must pay to the Vendor an amount equal to the CIL in full.
- (f) The Vendor will advise the Purchaser of the amount payable by the Purchaser under Special Condition 29.11(d) prior to Settlement.

30. HOUSE PLAN APPROVAL AND CONSTRUCTION

- 30.1 The Purchaser agrees that whilst determining the type and style of house to be erected on the Property it must avoid using the same or similar façade to any other dwelling house within close proximity of the Property as specified in the Design Guidelines.
- 30.2 The Purchaser covenants that if the Purchaser applies to a building surveyor or the responsible authority for a building permit that he or she will advise that building surveyor or responsible authority of the Planning and Building Controls (and provide copies of such controls) and any other information in any way relevant to construction on the Property, and the Purchaser warrants that any form of construction and works on the Property will be strictly in accordance with these Planning and Building Controls.
- 30.3 The Purchaser acknowledges and agrees that in compliance with this Contract:
 - (a) it must submit all proposed plans and specifications for the dwelling house, including floor plans and elevations, and
 - (b) if requested by the Vendor, it must submit all proposed plans and specifications showing the foundation and footing system of the proposed dwelling house,to the Vendor for approval prior to entering into any domestic building contract with a builder for the construction of a dwelling house on the Property or commencement of such construction.
- 30.4 Further to the Vendor's rights under this Contract, the Vendor also has the right to reject and not grant approval at its absolute discretion to any dwelling house plans submitted if it forms the reasonable view that the façade of the proposed dwelling house is in contravention of Special Condition 30.1.
- 30.5 The Purchaser must:
 - (a) commence construction of the dwelling house within twelve months of the Settlement Date;
 - (b) complete construction of the dwelling house within twelve months of the commencement of the construction which shall be deemed to be the date of issue of a building permit;
 - (c) not leave the building works incomplete for more than three months without work being carried out;
 - (d) complete the construction of a driveway within one month of the date of issue of an occupancy permit in respect of the Property;

- (e) install window furnishings within one month of the date of issue of an occupancy permit in respect of the Property;
- (f) submit landscaping plans which provide for a high standard of presentation and are in compliance with the Design Guidelines to the Vendor for approval before the commencement of any landscaping works; and
- (g) complete landscaping to the front of any dwelling house and the nature strip in accordance with the landscaping plans approved by the Vendor within three months of the date of issue of an occupancy permit in respect of the Property.

30.6 The Purchaser must not allow any rubbish including site excavation and building materials to accumulate on the Property (unless neatly stored in an adequately sized industrial bin or skip) or allow excessive growth of grass or weeds upon the Property. The Vendor or its related bodies corporate, employees, agents, representatives, nominees, assigns and successors in title may enter the Property at any time for the purpose of removal of any rubbish, grass or weeds that accumulate in breach of this Special Condition 30.6 and the Purchaser must reimburse the Vendor for the Vendor's costs in doing so.

31. FIBRE OPTIC NETWORK TO THE PROPERTY

31.1 After the Settlement Date, the Vendor will use all reasonable endeavours to procure Opticomm Co Pty Ltd ('**Opticomm**') to provide a fibre optic network connection point in the form of a communication conduit to be located at the front boundary of the Property, underground and close to the electricity connection point.

31.2 The Purchaser acknowledges and agrees that:

- (a) the Vendor will not, and Opticomm or any other telecommunications provider will not, install or provide any form of copper wiring to the Property;
- (b) the Vendor will provide the Purchaser at Settlement with information on connection and service providers for the Developer's fibre optic network;
- (c) the Purchaser is not compelled to connect to the fibre optic network and may elect not to use the fibre optic network at all;
- (d) to connect to the fibre optic network, the dwelling house constructed on the Property must be specifically wired to allow connection. The Purchaser's builder must enquire with the Vendor as to the details for connection;
- (e) the Purchaser is responsible for the continuation of the communications conduit;
- (f) all connection costs and usage costs are solely the Purchaser's responsibility and the Purchaser should make enquiries of any relevant service provider to the Purchaser's satisfaction; and
- (g) the Purchaser will not make any objection, requisition or claim nor rescind, terminate or delay Settlement of this Contract because of anything contemplated by this Special Condition 31.

- 31.3 The Purchaser acknowledges that the Vendor makes no representations nor gives any warranties in respect of any fibre optic network services offered or supplied to the Property by Opticomm or any other service provider, and that the Purchaser must make its own inquiries as to the eligibility criteria, timing, capacity, suitability for intended use and terms and conditions which apply to such offers.
- 31.4 The Purchaser agrees that the Vendor may disclose the Purchaser's name, contact details and Property details in this Contract to Opticomm or any other service provider who offers, or is considering offering, services to or at the Property so that Opticomm or any other service provider can provide details of offers for such services to the Purchaser.

32. SETTLEMENT

- 32.1 On the Settlement Date, Settlement must be effected prior to 3.00pm at the offices of the Vendor's Solicitor or at such other place as the Vendor or the Vendor's Solicitor may direct.
- 32.2 At Settlement in addition to any other matter, the Purchaser must pay to the Vendor the Balance of the Price less any deductions provided herein, by an unendorsed bank cheque or bank cheques in favour of the Vendor or as the Vendor or the Vendor's Solicitor may direct in writing.
- 32.3 If Settlement is effected later than 3.00pm on the Settlement Date, Settlement shall be deemed for the purpose of Condition 4 of Table A to have occurred on the business day following the day on which payment of the Balance of the Price is made and the Purchaser will be deemed to have made a default in payment of the Balance of the Price, so that the Vendor will be entitled to interest under Condition 4 of Table A for the intervening days.
- 32.4 The Purchaser is not entitled to call for or receive at Settlement or at any other time a Form 312 or any other release or letter of comfort or discharge of any charge or interest registered under the Corporations Act 2001 of the Personal Property Securities Register over the Property, the Development Land or the assets and undertaking of the Vendor generally ("Security Interest"). If the Vendor provides a Form 312 or some other form of release of a Security Interest the Purchaser must pay any registration fee and arrange for lodgement at its expense.

33. INSOLVENCY AND INCAPACITY

- 33.1 If before completion of this Contract:
- (a) the Purchaser, being a natural person:
 - (i) dies;
 - (ii) becomes bankrupt or enters into a scheme of arrangement, composition or assignment with or in favour of its creditors;
 - (iii) is sentenced to imprisonment for a term exceeding one month; or

- (iv) is a protected person under any legislation or an involuntary patient or security patient under the *Mental Health Act 1986*; or
- (b) the Purchaser, being a company:
 - (i) is subject to an application for its winding up;
 - (ii) is ordered to be wound up, or is placed in provisional liquidation;
 - (iii) enters into a scheme of arrangement for the benefit of the creditors;
 - (iv) resolves to go into liquidation; or
 - (v) is put into the control of a receiver, receiver and manager, official manager or administrator,

then the Vendor may terminate this Contract by notice. The Vendor must refund all money paid under this Contract and any interest earned on it in such circumstances.

33.2 For the purposes of this Special Condition, "Purchaser" includes any of the persons that comprise the Purchaser.

34. NOMINATION

34.1 General Condition 5 of this Contract is deleted, and if this Contract says that the Property is sold to the Purchaser "and/or nominee" (or similar words), the Purchaser must not before the Settlement Date, nominate a substitute, alternative or additional purchaser ("Nominee") without the Vendor's consent (which may be withheld in the Vendor's absolute discretion or granted subject to conditions).

34.2 In the event that the Vendor consents to a nomination in accordance with Special Condition 34.1, the Purchaser remains personally liable for the due performance of all the obligations on the part of the purchaser under this Contract. As a pre-condition to the nomination or substitution, if requested by the Vendor, the Purchaser must deliver to the Vendor:

- (a) two parts of a contract executed by the Nominee and in the same form as this Contract except for:
 - (i) deletion of this Special Condition;
 - (ii) amendment of the name of the purchaser; and
 - (iii) adjustment of dates of payment of moneys if necessary to coincide with this Contract and the date upon which the Nominee as purchaser under the substituted contract becomes responsible for any notices or orders relating to the Property being the day of sale herein referred to executed by the Nominee;
- (b) an authority from the Purchaser addressed to the Vendor authorising the Vendor to apply the Deposit as deposit payable under the substituted contract; and

- (c) if required by the Vendor and if the Purchaser is not remaining as a purchaser, a duly executed guarantee by the Purchaser of all the obligations of the Nominee under the substituted contract.
- 34.3 The Nominee must pay the Vendor's Solicitor's costs (fixed on an item basis in accordance with the Practitioner Remuneration Order) in connection with the preparation of the substituted contract of sale and all other matters referred to in this Special Condition.
- 34.4 The Vendor must execute both parts and deliver one part to the Nominee, upon which delivery and payment of the Vendor's Solicitor's costs, the substituted contract takes effect and this Contract is deemed cancelled.
- 34.5 The Purchaser acknowledges and understands that any common law right of the Purchaser to nominate an additional or substitute purchaser is excluded from this Contract to the extent that it is not permitted pursuant to this Special Condition 34.

35. VENDOR MAY MORTGAGE

- 35.1 The Vendor may grant a mortgage or charge over the Property (including a fixed and/or floating charge over all the assets and undertaking of the Vendor) from time to time.

36. RESALE AND ADVERTISING

- 36.1 Subject to Special Condition 36.3, until the Plan is registered, the Purchaser must not without the consent of the Vendor, sell, transfer, assign, mortgage or otherwise encumber or in any other way whatsoever deal with the Property or any part thereof or the Purchaser's rights or interest in or under this Contract. The Purchaser acknowledges that in any such resale the Vendor shall be entitled to impose a condition on its consent that the transferee or assignee must execute a deed with the Vendor pursuant to which the transferee or assignee agrees to be bound by the Purchaser's obligations in this Contract.
- 36.2 Until an occupancy permit is issued for a residential dwelling constructed on the Property, the Purchaser must not erect any advertising signs on the Property without the Vendor's prior written consent. The Purchaser must procure any transferee or assignee of the Property to execute a deed in favour of the Vendor pursuant to which the transferee or assignee agrees to be bound by the Purchaser's obligations in this Special Condition 36.2.
- 36.3 Despite anything else in this Special Condition 36, if the Purchaser carries on a business of selling house and land packages in Victoria:
 - (a) the Purchaser may without the Vendor's consent advertise that the Property is for sale as a house and land package provided that settlement of such a sale is conditional upon completion of construction of a residential dwelling on the Property; and

- (b) the Purchaser may erect advertising boards on the Property in a size approved by the Vendor in writing from time to time advertising the house and land package.

36.4 This Special Condition 36 is an essential term of this Contract and does not merge on Settlement. The Purchaser must ensure that its related bodies corporate, employees, agents, representatives, nominees, assigns and successors in title comply with this Special Condition 36.

36.5 The Purchaser acknowledges that damages of themselves will not be a sufficient remedy for breach by the Purchaser of this Special Condition 36 because the Vendor must be able to specifically enforce the Purchaser's obligations under this Special Condition 36.

37. FIRST HOME OWNER ASSISTANCE

37.1 The Purchaser acknowledges and agrees that the Vendor or the Vendor's estate agent has made no representation or warranty, or given any oral or written explanation or information as to the timing of registration of the Plan of Subdivision or the timing of Settlement of the Land, particularly in respect of Purchaser's eligibility for any form of financial assistance, including but not limited to the First Home Owners Grant or First Home Owners Boost or First Home Owners Bonus or any such similar assistance.

38. NOTICE

38.1 Any notice, approval, consent or other communication under this Contract:

- (a) must be in writing; and
- (b) must be delivered and left at the address of the addressee, or sent by prepaid post or by facsimile to the address of the addressee specified in this Contract or if the addressee has notified another address to that new address.

38.2 A notice, approval, consent or other communication takes effect from the time it is received unless a later time is specified in it.

38.3 A letter or facsimile is taken to be received:

- (a) in the case of a posted letter, on the 2nd day (or if to or from an international address, on the 5th day) after posting; and
- (b) in the case of a facsimile, on production of a transmission report by the machine from which the facsimile was sent indicating that the facsimile was sent in its entirety to the facsimile number of the recipient.

38.4 A notice given by a party may be signed on its behalf and despatched by the party's solicitors rather than by the party personally.

38.5 If a conveyancer (as defined in the *Legal Profession Act 2004*) acts for a party to this Contract, then the conveyancer may be served with a notice in the same manner as a party's solicitor may be served in accordance with General Condition 13 of Table A.

39. DEVELOPMENT LAND LANDSCAPING

39.1 The Purchaser acknowledges that the Vendor, as part of the Development, may provide, or may be required to provide, landscaping on areas within the Development Land.

39.2 The Purchaser agrees and acknowledges that:

- (a) any information provided by the Vendor in respect of such landscaping is indicative only, and believed to be correct at the Day of Sale;
- (b) the Purchaser is not relying upon such information in entering into this Contract;
- (c) no warranty or representation has been given or is to be construed as a result of the provision of such information by the Vendor;
- (d) the Vendor retains the right to change such landscaping at its absolute discretion, including the right to not provide such landscaping at all; and
- (e) any potential changes made by the Vendor to such landscaping may have the affect of altering the visual amenity from the Property.

39.3 The Purchaser shall not make any requisition or objection nor claim any compensation nor seek to avoid or delay Settlement as a direct or indirect consequence of anything contained in this Special Condition.

40. DIGITAL DUTIES FORM AND SRO SETTLEMENT STATEMENT

40.1 Application

This Special Condition 40 only applies if the Day of Sale is on or after 1 July 2017.

40.2 Vendor's obligations

The Vendor must:

- (a) complete, or procure the Vendor's Solicitor to complete, those parts of the DDF which are to be completed by the Vendor in respect of the sale of the Property under this Contract (Vendor DDF);
- (b) send, or procure the Vendor's Solicitor to send, to the Purchaser's Solicitor (or if none then the Purchaser), the completed Vendor DDF at least 3 Business Days prior to the Due Date; and
- (c) if the Purchaser has complied with Special Condition 40.3(a), sign or approve the DDF prior to Settlement, unless there is manifest error in which case the

Vendor must notify the Purchaser of the error and request the Purchaser to amend it.

40.3 Purchaser's obligations

The Purchaser must:

- (a) complete, or procure the Purchaser's Solicitor to complete, those parts of the DDF which are to be completed by the Purchaser (Purchaser DDF) at least 2 Business Days prior to the Due Date;
- (b) sign or approve the DDF at least 2 Business Days prior to the Due Date, unless there is manifest error in which case the Purchaser must promptly notify the Vendor of the error and request the Vendor to amend it;
- (c) make any changes to the DDF requested by the Vendor or the Vendor's Solicitor and sign or approve (or re-sign or re-approve) the amended DDF within 1 Business Day of being requested to do so; and
- (d) prior to Settlement:
 - (i) generate a SRO Settlement Statement in respect of the sale of the Property under this Contract; and
 - (ii) deliver to the Vendor or the Vendor's Solicitor, the SRO Settlement Statement in respect of the sale of the Property under this Contract.

40.4 No Objection

The Purchaser may not Object if the Vendor or the Vendor's Solicitor request amendments to the DDF at any time prior to Settlement.

40.5 Settlement if not an electronic conveyance

- (a) This Special Condition 40.5 only applies if Settlement is not conducted electronically in accordance with the Electronic Conveyancing National Law.
- (b) Subject to the Vendor complying with Special Condition 40.2:
 - (i) Settlement is not conditional upon:
 - (A) the Purchaser signing or approving a DDF; or
 - (B) production of an SRO Settlement Statement; and
 - (ii) the Purchaser may not Object if:
 - (A) the DDF is not completed prior to Settlement or at all; or
 - (B) an SRO Settlement Statement is not generated (or able to be generated) prior to Settlement.

40.6 Settlement if an electronic conveyance

- (a) This Special Condition 40.6 only applies if Special Condition 40.5 does not apply.
- (b) Special Condition 40.3 is a fundamental term of this Contract.
- (c) The Purchaser acknowledges and agrees that unless and until the Purchaser complies with Special Condition 40.3, Settlement will not be able to proceed and the Purchaser will be in breach of this Contract.

41. GENERAL PROVISIONS

- 41.1 This Contract may consist of one or more counterpart copies. All counterparts of this Contract, when taken together, constitute one fully executed document.
- 41.2 Each party must execute and deliver all documents, instruments and writings and do and procure to be done all acts and things necessary or desirable or reasonable to give effect to this Contract.
- 41.3 This Contract is to be governed by and construed in accordance with Victorian law and each party submits to the non-exclusive jurisdiction of the Victorian courts.
- 41.4 A reference to “consent” of the Vendor means prior written consent which may be given or withheld at the Vendor’s sole discretion and may be given on conditions.
- 41.5 If any provision of this Contract or its application to any party or any circumstance is or becomes illegal, unenforceable, or invalid then the remaining provisions of this Contract will not be affected but will remain in full force and effect and will be valid and enforceable to the fullest extent permitted by law.
- 41.6 The provisions of this Contract may only be varied by further written agreement of the parties. No variation of the provisions of this Contract shall be inferred from a course of dealing.

42. GST WITHHOLDING

42.1 Interpretation

- (a) In this Special Condition 42, words or expressions that are defined or used in the Withholding Law have the same meaning given to them in the Withholding Law, unless the context suggests otherwise;
- (b) Commissioner means the Commissioner of Taxation;
- (c) GST Act means *A New Tax System (Goods and Services Tax) Act 1999* (Cth);
- (d) GST Withholding Amount means the amount payable to the Commissioner and determined under section 14-250 of the Withholding Law;
- (e) Withholding Law means Schedule 1 to the *Taxation Administration Act 1953* (Cth).

42.2 Vendor's Notice

If the Property qualifies as residential premises or potential residential land (and the exceptions in section 14-255(2) of the Withholding Law do not apply), the Vendor will, before the date of Settlement, provide a written notice to the Purchaser stating:

- (a) whether the Purchaser will be required to make a payment under section 14-250 of the Withholding Law in relation to the supply of the Property; and
- (b) if the Purchaser is required to make a payment referred to in Special Condition 42.2(a):
 - (i) the name and ABN of the Vendor;
 - (ii) the GST Withholding Amount;
 - (iii) when the GST Withholding Amount is required to be paid;
 - (iv) where some or all of the consideration for the supply of the Property is not expressed as an amount of money - the GST inclusive market value of the non-monetary consideration; and
 - (v) any other information required by law.

42.3 Withholding

- (a) This Special Condition 42.3 applies if the Purchaser is required to pay a GST Withholding Amount on the taxable supply of the Property under this Contract.
- (b) The Vendor irrevocably directs the Purchaser to draw a bank cheque for the GST Withholding Amount in favour of the Commissioner (GST Cheque) and:
 - (i) the Purchaser must provide the GST Cheque to the Vendor on or before the date of Settlement; and
 - (ii) on the date of Settlement, or within such further period as may be allowed by the Commissioner, the Vendor must give the GST Cheque to the Commissioner.
- (c) If Settlement is to be conducted through the system operated by Property Exchange Australia Ltd for settlement of conveyancing transactions, the Vendor and the Purchaser will be taken to have complied with Special Condition 42.3(b) if the electronic settlement schedule within the electronic workspace used for Settlement specifies payment of the GST Withholding Amount to the bank account nominated by the Commissioner.

42.4 No Effect on Other Terms

Except as expressly set out in this Special Condition 42, the rights and obligations of the parties under this Contract are unaffected, including (without limitation) any agreement to apply the margin scheme on the supply of the Property.

42.5 Other Information

If the Property qualifies as potential residential land and:

- (a) the Purchaser is registered (within the meaning of the GST Act) and
- (b) the Purchaser acquires the Property for a creditable purpose,

then the Purchaser must give written evidence to the Vendor of these matters, no later than 10 Business Days before the date of Settlement.

43. FOREIGN RESIDENT CAPITAL GAINS WITHHOLDING

43.1 Definitions and interpretation

In this special condition 43:

- (a) words defined or used in Subdivision 14-D of Schedule 1 in the Act have the same meaning in this special condition 43 unless the context otherwise requires;
- (b) a reference to a section of the Act is a reference to a section of Schedule 1 in the Act unless otherwise expressed;
- (c) **Act** means the Taxation Administration Act 1953 (Cth);
- (d) **Clearance Certificate** means a certificate issued by the Commissioner of Taxation in accordance with section 14-220 of the Act;
- (e) **Withholding Amount** means the amount payable to the Commissioner in accordance with section 14-200 of the Act or an amount varied under section 14-235 of the Act.

43.2 Acknowledgement

The Purchaser acknowledges that the Purchaser has received the Clearance Certificate from the Vendor prior to signing this Contract.

43.3 No withholding

The Purchaser agrees that:

- (a) the Purchaser is not required to pay the Commissioner a Withholding Amount; and
- (b) no Withholding Amount is to be deducted from the balance of the Price payable to the Vendor at Settlement.

44. RETAINING WALLS

44.1 The Purchaser acknowledges having received, examined and understood the Engineering Plans contained in the Vendor's Statement showing the existence and

location of a retaining wall on certain lots on the Plan of Subdivision ('Retaining Wall') and further covenants for itself, its successors, transferees and assigns that:

- (a) it will not construct any type of wall or fence on top of, in front of or behind any Retaining Wall;
- (b) it will not remove, demolish or alter any Retaining Wall;
- (c) it will maintain any Retaining Wall in the same condition as at the Settlement Date, fair wear and tear excepted;
- (d) it will not do anything to compromise the structural integrity of any Retaining Wall; and
- (e) it will not alter any batters abutting the retaining wall without obtaining Peet's prior written consent (which consent may include a requirement for written advice from a qualified structural engineer authorising the alteration).

44.2 The Purchaser must not:

- (a) make any requisition or raise any objection or claim any compensation concerning the construction, location and design of (or any part thereof) or require the Vendor to remove or relocate the Retaining Wall; and
- (b) sell, transfer, assign or otherwise part with possession of the Land or any part thereof without first disclosing to the intended purchaser, transferee or assignee the Retaining Wall, this Special Condition and requiring that prospective purchaser to enter into a deed with the Vendor securing future performance of the Purchaser's obligations under this Special Condition.

44.3 If after settlement, the Purchaser elects to construct their own retaining wall or fence on the Property (other than in the same or substantially similar location as a Retaining Wall constructed by the Vendor), the Purchaser must submit a retaining wall or fence plan prepared in accordance with the Design Guidelines for the Vendor's approval prior to commencing construction of the retaining wall or fence. The Vendor may refuse to grant approval of the retaining wall or fence plan or provide its approval with conditions at its absolute discretion.

44.4 This Special Condition and the obligations contained in it shall remain in full force and effect irrespective of settlement and shall not merge on the transfer of the Land.

45. ELECTRONIC SETTLEMENT

45.1 This Special Condition 45 has priority over any other special condition to the extent of any inconsistency. This Special Condition applies if the Contract specifies, or the parties subsequently agree in writing, that Settlement and lodgement of the instruments necessary to record the Purchaser as registered proprietor of the Land will be conducted electronically in accordance with the *Electronic Conveyancing National Law*.

- 45.2 A party must immediately give written notice if that party reasonably believes that settlement and lodgement can no longer be conducted electronically. Special Condition 45 ceases to apply from when such a notice is given.
- 45.3 Each party must:
- (a) be, or engage a representative who is, a subscriber for the purposes of the *Electronic Conveyancing National Law*;
 - (b) ensure that all other persons for whom that party is responsible and who are associated with this transaction are, or engage, a subscriber for the purposes of the *Electronic Conveyancing National Law*; and
 - (c) conduct the transaction in accordance with the *Electronic Conveyancing National Law*.
- 45.4 The Vendor must open the Electronic Workspace (**workspace**) as soon as reasonably practicable and invite the Purchaser to the workspace. The workspace is an electronic address for service of notices and for written communications for the purposes of any electronic transactions legislation.
- 45.5 Where Settlement is to occur in the workspace, the Purchaser acknowledges and agrees that:
- (a) any Bank Guarantee provided to secure the payment of the Deposit cannot be exchanged via the workspace;
 - (b) the Transfer cannot be created in the workspace until the Plan has registered and the Purchaser should not deliver a paper instrument of Transfer to the Vendor.
- 45.6 The Vendor must nominate a time of the day for locking of the workspace at least 7 days before the due date for settlement. The parties agree that any date or time nominated prior to the registration of the Plan are indicative date/s and time/s only, and does not constitute an offer to settle at that time. The Vendor may alter the settlement date and time in the workspace any time after the Plan has registered.
- 45.7 Upon notification that the Plan has registered, the Vendor will propose a settlement date and time in the workspace, and the Purchaser must:
- (a) promptly enter the workspace to accept the settlement date and time;
 - (b) use best endeavours to accept the Vendor's invitation to the workspace within a reasonable time and to invite its mortgagee (where applicable); and
 - (c) create and digitally sign the instrument of Transfer.

- 45.8 Within a reasonable time after the receipt of the statement of adjustments from the Vendor, the Purchaser must enter the workspace to prepare the financial settlement statement.
- 45.9 Settlement occurs when the workspace records that:
- (a) the exchange of funds or value between financial institutions in accordance with the instructions of the parties has occurred; or
 - (b) there is no exchange of funds or value, the documents necessary to enable the Purchaser to become the registered proprietor of the land have been accepted for electronic lodgement.
- 45.10 The parties must do everything reasonably necessary to effect Settlement:
- (a) electronically on the next business day; or
 - (b) at the option of either party, otherwise than electronically as soon as possible -
if, after the locking of the workspace at the nominated settlement time, Settlement in accordance with Special Condition 45.9 has not occurred by 4.00pm or 6.00pm if the nominated time for Settlement is after 4.00pm.
- 45.11 Each party must do everything reasonably necessary to assist the other party to trace and identify the recipient of any mistaken payment and to recover any mistaken payment.
- 45.12 The Purchaser must before Settlement manage all necessary requirements relating to aggregated duty assessment and to make the necessary enquiries to confirm whether or not the transactions can proceed in the workspace.
- 45.13 Each party is to bear its own costs in connection with Settlement occurring in the workspace.

46. CONSTRUCTION OF BRIDGE

- 46.1 The Purchaser acknowledges and agrees that in accordance with the Sunbury South and Lancefield Road Infrastructure Contributions Plan dated November 2019 (**ICP**), a two lane bridge construction project referred to as "LR-BR-01" has been proposed which may or may not connect to the Development generally in accordance with the plan contained in the Vendor's Statement (**LR-BR-01 Bridge Plan**).
- 46.2 The Purchaser acknowledges and agrees that it has reviewed the LR-BR-01 Bridge Plan and purchases the Property subject to any restriction, noise, overshadowing, nuisance, pollution, disturbance and other discomforts which might arise from the construction and presence of a bridge connecting to the Development.

- 46.3 The Purchaser acknowledges and agrees that the Vendor makes no representations or warranties as to:
- (a) whether or not the proposal to construct the bridge will proceed;
 - (b) the position, location, direction or access points of the bridge;
 - (c) the size, nature or capacity of the bridge; and
 - (d) the appearance or type of construction of the bridge.
- 46.4 The Purchaser will not make any objection, requisition or claim nor rescind terminate or delay settlement of this Contract because of anything contemplated by this Special Condition 46.

47. TELECOMMUNICATIONS TOWER

- 47.1 The Purchaser acknowledges and agrees that pursuant to the Lease, Telstra Corporation Limited ACN 051 775 556 have installed and operates a telecommunications tower on the Development Land as shown in the plan contained in the Vendor's Statement (**'Telecommunications Tower Plan'**).
- 47.2 The Purchaser acknowledges and agrees that it has reviewed the Telecommunications Tower Plan and made its own enquiries with respect to the location and nature of the telecommunications tower and accepts the location and nature of the telecommunications tower.
- 47.3 The Purchaser acknowledges and agrees that it purchases the Property subject to any restriction, noise, overshadowing, nuisance, risk to health, pollution, disturbance and other discomforts which might arise from the presence of a telecommunications tower in the vicinity of the Property.
- 47.4 The Purchaser agrees that it will not cause any damage to the telecommunications tower nor disrupt or cause any nuisance to the operations or parties responsible for the operations of the telecommunications tower.
- 47.5 The Purchaser agrees that it will not make any objection, requisition or claim nor rescind terminate or delay settlement of this Contract because of anything contemplated by this Special Condition 47.
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ANNEXURE 1 - GUARANTEE AND INDEMNITY

TO: The Vendor described in the annexed Contract (the "Vendor")

IN CONSIDERATION of the Vendor having agreed, at the request of the person or persons named in the schedule to this Guarantee (the "Guarantor"), to sell the land described in the annexed Contract (the "Contract") to the purchaser named in the Contract (the "Purchaser") the Guarantor guarantees to the Vendor the due and punctual payment by the Purchaser of the purchase money and interest payable under the Contract and all other moneys that are or may become payable pursuant to the Contract ("the moneys hereby secured") and the due performance and observance by the Purchaser of the covenants conditions and obligations contained or implied in the Contract and on the part of the Purchaser to be performed and observed (the "Purchaser's obligations"). The Guarantor acknowledges and declares that the Guarantor has read and understands the Contract and has access to a copy of the Contract.

This Guarantee is given upon and subject to the following conditions:-

1. If the Purchaser fails to pay the Vendor as and when due the moneys hereby secured the Guarantor will immediately on demand pay them to the Vendor.
2. If the Purchaser fails to carry out or perform any of the Purchaser's obligations the Guarantor will immediately on demand carry out and perform them.
3. The Guarantor is deemed to be jointly and severally liable with the Purchaser (in lieu of being merely a surety for the Purchaser) for the payment of the moneys hereby secured and in performing the Purchaser's obligations. It will not be necessary for the Vendor to make any claim or demand on or to take any action or proceedings against the Purchaser before calling on the Guarantor to pay the moneys hereby secured or to carry out and perform the Purchaser's obligations.
4. This Guarantee is a continuing guarantee and will not be released by any neglect or forbearance on the part of the Vendor in enforcing the Contract or by any extension of time or other indulgence given to the Purchaser in respect of the Contract.
5. This Guarantee is in addition to and not in substitution for any other guarantee or other security given in favour of the Vendor and will not merge with or be affected by any other guarantee or other security now or in the future given or held in favour of the Vendor in respect of the Contract or the property sold by the Contract.
6. Nothing in this Guarantee imposes an obligation on the Vendor to give notice to the Guarantor of any default by the Purchaser under the Contract or to include in any demand made under the Guarantee particulars of the Vendor's default resulting in that demand.
7. The Guarantor indemnifies the Vendor against all loss, damage, claims, expenses and costs howsoever arising out of the default of the Purchaser in payment of the moneys hereby secured or the performance of the Purchaser's obligations.
8. This Guarantee binds the Guarantor's personal representatives, successors, substitutes and assigns.

- 9. The Vendor's remedies against the Guarantor shall not be affected if any security held by the Vendor in relation to the Contract or the indebtedness of the Purchaser is void, voidable or unenforceable for any reason.
- 10. When this Guarantee is executed or intended to be executed by two or more persons:
 - 10.1 each of those persons is not released from liability if this Guarantee ceases to bind any one or more of them as a continuing security;
 - 10.2 if one or more persons has not signed this Guarantee, the other person or persons having executed the Guarantee will not be released from liability but will be bound by it as a continuing security;
 - 10.3 a demand or notice given under this Guarantee if given to any one or more of those persons is deemed to have been given to all of them; and
 - 10.4 the expression "the Guarantor" includes all of those person jointly and each of them severally.

GUARANTOR SCHEDULE

Name 1:

Address 1:

Name 2:

Address 2:

EXECUTED AS A DEED dated the _____ day of _____ 20__:

SIGNED SEALED AND DELIVERED by)
GUARANTOR in the presence of:)
[Signature]

.....
Witness
[Signature]

.....
(Name of Witness)
[Please Print]

SIGNED SEALED AND DELIVERED by)
GUARANTOR in the presence of:)
[Signature]

.....
Witness
[Signature]

.....
(Name of Witness)
[Please Print]

ANNEXURE 2 - REQUISITIONS & ENQUIRIES AND ANSWERS

REQUISITIONS AND ENQUIRIES	ANSWERS
1. Who has custody of the duplicate certificate of title or the title deeds to the property and by what right:	The Vendor.
2. (1) Who is in possession or occupation of the property and by what right? Full particulars of any tenancy must be given, and a copy of any lease, agreement for a lease or tenancy agreement must be supplied. (2) Is any dwelling on the property prescribed premises within the meaning of Part V of the <i>Landlord and Tenant Act 1958</i> ?	The Vendor as owner. Not applicable
3. Is the vendor aware of any discrepancy between occupation and title? If so, particulars must be supplied.	The Vendor relies on Special Condition 4 of the Contract.
4. Is the property subject to any unregistered mortgage, lien, charge, easement, covenant, restriction, public right of way, option to purchase, contract of sale, or other right or encumbrance not disclosed by the usual searches or the vendor's statement? If so, particulars must be supplied and, if required by the purchaser, it must be removed at or before settlement.	Not to the Vendor's knowledge.
5. Has there been: (a) any failure to obtain any required planning, building or other permit or approval for any building or building works on the property; or (b) any failure to comply with any permit or approval, or with any building regulation, in respect of the property or its use?	Not applicable. This is vacant land. Not applicable. This is vacant land.
6. Does any person other than the vendor: (a) have or claim the right to remove any structures or fixtures from the property; or (b) have or claim any rights in respect of any chattels included in the contract of sale?	Not applicable Not applicable
7. Has any permit affecting the property been issued under the <i>Planning & Environment Act 1987</i> or any earlier planning legislation? If so, a copy must be supplied.	Refer to the Vendor's statement.
8. Is the property affected by the <i>Historic Buildings Act 1981</i> or by any application or proposal under the Act? If so, particulars must be supplied.	Not to the Vendor's knowledge.
9. Has any fencing or other notice, or any order or determination, relating to the property been given or made under any Act, regulation, local law or by-law? If so particulars must be supplied	See Special Condition 23.

	and, if required by the purchaser, it must be disposed of or complied with at the vendor's expense before settlement.	
10.	Is the property subject to flooding or is there any filling or latent defect affecting the property?	The Vendor relies on Special Conditions 3.5(c) and 15 of the Contract
11.	Have any legal proceedings, under the <i>Family Law Act 1975</i> or the <i>Property Law Act 1958</i> or otherwise, been commenced or threatened which affect or may affect the property? If so, particulars must be supplied.	No.
12.	Is the vendor under any legal disability which may affect the vendor's capacity to deal with the property? If so, particulars must be supplied.	No.
13.	Does the vendor hold any unused road, grazing, water frontage, groundwater or other licence in connection with the property? If so, particulars including the licence number must be supplied and, if required by the purchaser, any such licence must be transferred to the purchaser at settlement.	No.
14.	Production is required of a certificate of occupancy.	Not applicable.
15.	(1) Production is required of: (a) a certificate of registration of a dwelling house pursuant to Division 1A of Part XLIX of the <i>Local Government Act 1958</i> ; or (b) a certificate pursuant to the <i>House Contracts Guarantee Act 1987</i> as to whether or not work relating to the dwelling on the property is the subject of a guarantee pursuant to that Act.	Not applicable.
16.	If the property is affected by an owners corporation: (a) The vendor must supply an owners corporation certificate pursuant to Regulation 408 of the Subdivision (Body Corporate) Regulations 1989.	Not applicable.
17.	A statutory declaration as required by the Comptroller of Stamps must be supplied at settlement.	This will be done.
18.	A search of the title to the property reveals the following encumbrances which must be discharged or otherwise removed at or before settlement.	All mortgages will be discharged at settlement.

ANNEXURE 3 - TABLE A

(formerly General Conditions of Sale of Land under the **Transfer of Land Act 1958**)

1. The purchaser or his legal practitioner shall—
 - (a) if this contract is a prescribed contract of sale within the meaning of section 9AA(7) of the **Sale of Land Act 1962**, on or after the day of sale but not less than 10 days before the date of completion; or
 - (b) in the case of any other contract, within 21 days from the day of sale—deliver to the vendor or his legal practitioner in writing all requisitions or objections (if any) on or to the title or concerning any matter appearing in the particulars or conditions. All requisitions or objections not included in any such writing so delivered shall be deemed waived by the purchaser and in default of such requisitions (if none) and subject to such (if any) as are so delivered the purchaser shall be deemed to have accepted title.
2. If the purchaser within the period specified in condition 1(a) or (b) (whichever is applicable) makes any such requisition or objection as aforesaid which the vendor is unable or unwilling to remove or comply with the vendor or his legal practitioner (whether he has attempted to remove or comply with the same and notwithstanding any negotiation or litigation in respect thereof) may give to the purchaser or his legal practitioner notice in writing of the vendor's intention to rescind the contract at the expiration of seven days unless such requisition or objection is withdrawn and if such notice is so given and the requisition or objection is not withdrawn within such seven days the contract shall thereupon be rescinded and the vendor shall repay to the purchaser all deposit and other moneys received by him or his agent on account of the purchase money but without interest costs or damages and the same shall be accepted by the purchaser in full satisfaction of all claims.
3. No omission from the particulars or mistake in the description measurements or area of the land hereby sold shall invalidate the sale unless the vendor rescinds pursuant to the last preceding Condition but if notified to the other party not less than three days before the day fixed for completion or within the applicable period specified in condition 1(a) or (b) (whichever is the earlier) the same shall be the subject of compensation to be paid or received by the vendor as the case may require and to be assessed in case the parties differ by two arbitrators or their umpire in accordance with the provisions of the **Commercial Arbitration Act 1984** and this condition shall in that event be deemed to be a submission to arbitration within the Act.
4. If either party defaults in payment of any money under this contract then interest at a rate of two per cent higher than the rate for the time being fixed under section 2 of the **Penalty Interest Rates Act 1983** in lieu of any rate named in the contract and computed upon the money overdue during the period of default shall be paid on demand made by the offended party without prejudice to any other rights of the offended party.
5. Time shall be of the essence of this contract. However, if either party defaults under this contract the offended party shall not be entitled to exercise any of his rights arising out of the default other than his right to sue for money then owing until he has served the offender with a written notice specifying the default and his intention to exercise his rights unless the default is remedied and the proper legal costs occasioned by the default and any interest demanded are all paid within fourteen days of service of the notice and the offender fails to comply with the notice.
6.
 - (1) Where the default has been made by the purchaser and is not remedied all monies unpaid under this contract shall become immediately payable and recoverable at the option of the vendor.
 - (2) If the notice also states that unless the default is remedied the contract will be rescinded pursuant to this condition then if the default is not so remedied the contract shall thereupon be rescinded.
 - (3) Where the contract is so rescinded and the notice is given by—
 - (a) the purchaser, he shall be repaid any money together with any interest and costs payable under this contract and these shall be a charge on the land until payment;
 - (b) the vendor, then an amount equal to one tenth of the price ("the security") shall be forfeited to the vendor as his absolute property and he may recover possession of the land and at his option may within one year of the date of rescission either—
 - (i) retain the land and sue for damages for breach of contract; or

- (ii) resell the land in such manner as he sees fit and recover any deficiency in the price on the re-sale and any resulting expenses by way of liquidated damages.

In addition to the security the vendor may retain any part of the price paid to him pending the determination of damages and may apply that money in satisfaction or part satisfaction of those damages.

7. If either party rescinds this Contract pursuant to the last preceding condition then that party or his legal practitioner may notify the stakeholder accordingly whereupon the stakeholder shall pay the moneys so held to the person giving the notice. The parties hereby each appoint the other as their lawful attorney for this purpose and absolve the stakeholder from any liability for complying with such notice.
8. The land sold is purchased subject to the reservations exceptions and conditions (if any) contained in the Crown grant.
9. All rates taxes assessments fire insurance premiums and other outgoings in respect of the said land shall be paid by the vendor and borne by the purchaser as from the date on which he becomes entitled to possession and the same shall if necessary be apportioned between the vendor and purchaser and the rent (if any) shall be also apportioned on the same day and the balance paid or received as the case may require. In the case of land tax any such apportionment shall be computed on the basis that the land sold is the only land of which the vendor is the owner within the meaning of the **Land Tax Act 2005**. In calculating the apportionment any personal statutory benefit available to any party shall be disregarded.
10. Subject to the purchaser obtaining the consent of the fire insurance company, paying such apportioned premium as aforesaid, and accepting title in fact or by implication, the vendor shall hold the existing policy of insurance for himself and in trust for the purchaser and all other persons having an insurable interest and to the extent of such respective interests.
11. After the settlement date, so long as any purchase or other moneys remain owing by the purchaser to the vendor—
 - (a) the purchaser shall at his own cost insure and keep insured in the names of the vendor and the purchaser and every other person having an insurable interest in some insurance office to be approved by the vendor all buildings now erected or hereafter to be erected on the said land and shall deliver the policy and annual premium receipt to the vendor. Such policy shall be for the full insurable value inclusive of the policy in the last preceding Condition mentioned. Upon default herein by the purchaser the vendor may pay any renewal premium or (as the case may be) may effect such insurance and pay any premium and any money so paid by him shall be payable to him by the purchaser on demand;
 - (b) the purchaser shall keep all such buildings and all fencing in tenantable repair;
 - (c) neither the purchaser nor any transferee or sub-purchaser of the said land shall alter the construction of such buildings or in any way pull down or remove the same or any part thereof without the consent in writing of the vendor first obtained;
 - (d) the purchaser shall in relation to the said land comply with and observe all statutory provisions and all regulations and by-laws thereunder from time to time in force which are binding upon owners or occupiers of land and which relate to the prevention or destruction of pest animals noxious weeds or diseases of vegetation or vines;
 - (e) the vendor may enter upon the said land twice in every year at a reasonable time of the day and view the condition thereof and of any buildings thereon.
12. Upon payment of all purchase and other moneys payable by the purchaser under the contract the vendor shall deliver to the purchaser such registrable instrument or instruments of transfer of the land sold as will enable the purchaser to become registered as proprietor of the land sold and shall deliver to the purchaser the certificate of title or if other land or interests are then comprised therein or if the land sold is under mortgage shall cause such certificate to be made available at the Office of Titles for registration. The instrument of transfer to the purchaser shall be prepared by or on his behalf. The delivery of such document shall not of itself be deemed acceptance of title.
13. Any demand, notice or document by any party to this contract may be made or given by the legal practitioner for that party and shall be sufficiently served or delivered if served or delivered personally or if posted by prepaid post addressed either to the party to be served or his legal practitioner at their

respective addresses as named in the contract or if served in any other manner authorized by the Supreme Court Rules for service of documents upon parties or their legal practitioners.

14. (a) Where the consent or licence of any person or body is required to the sale, the vendor shall at his own expense apply for and use his best endeavours to obtain such consent or licence. If such consent or licence is not obtained by the date upon which the purchaser becomes entitled to possession of the land sold or to the receipt of the rents and profits thereof as the case may be (in these Conditions called *the settlement date*) the contract shall be null and void and all moneys paid hereunder by the purchaser shall be refunded to him.
- (b) If the land sold is leasehold, the rent and other monetary obligations payable by the vendor (except capital payments payable under any Crown lease) shall be adjusted between the parties in the same manner as is provided by these Conditions for the adjustment of rates. The purchaser shall indemnify the vendor against all claims in respect of all the obligations under the said lease which are to be performed after the settlement date.
15. The purchaser shall assume liability for compliance with any notices or orders relating to the property sold (other than those referring to apportionable outgoings) which are made or issued on or after the day of sale but the purchaser shall be entitled to enter on the property sold (without thereby being deemed to have accepted title) at any time prior to the settlement date for the purpose of complying with any such notice or order which requires to be complied with before the settlement date. The purchaser may also inspect the condition of the property and the chattels at any reasonable time during the period of seven days preceding the settlement date.
16. Any payment due under this contract may be made or tendered either in cash or by a draft or cheque drawn on account of an authorised deposit-taking institution within the meaning of the Banking Act 1959 of the Commonwealth.

**VENDOR'S STATEMENT PURSUANT TO SECTION 32
OF THE SALE OF LAND ACT 1962**

PROPERTY **LOT** _____, **STAGE 1,**
"SHERWOOD GRANGE", 250 RACECOURSE ROAD, SUNBURY,
VICTORIA 3429

1. FINANCIAL MATTERS

1.1 Rates, Taxes, Charges or Other Similar Outgoings affecting the land and any interest payable, are as follows:

- (a) Are contained in the attached certificates. Total outgoings applicable to the property and apportioned on a lot area basis (if necessary) do not exceed \$5,000.00 plus any water charges.
- (b) Amounts for which the purchaser may become liable as a consequence of the sale of which the vendor might reasonably be expected to have knowledge of, are as follows:
 - (i) The purchaser will be liable for municipal, water, sewerage and drainage rates and charges in accordance with Special Condition 18 of the Contract of Sale.
 - (ii) The purchaser may also become liable for State Land Tax depending on the use to which the property is put and other properties owned by the purchaser and in accordance with Special Condition 18 of the Contract of Sale.

1.2 Charges (whether registered or not) over the land imposed by or under an Act to secure an amount due under that Act, are as follows:

As attached.

1.3 Mortgages (whether registered or unregistered) over the land, which will not to be discharged before the purchaser becomes entitled to possession or to the receipt of rents and profits, are as follows:

Nil.

1.4 Terms Contract - where the purchaser is obliged to make 2 or more payments to the vendor after the execution of the contract and before the purchaser is entitled to a conveyance or transfer of the land, particulars are as follows:

Not applicable.

2. INSURANCE

2.1 Damage and Destruction - if the contract does not provide for the land to remain at the risk of the vendor until the purchaser becomes entitled to possession or to the receipt of rents and profits, particulars of any policy of insurance maintained by the vendor in respect of any damage to or destruction of the land are as follows:

Not applicable.

- 2.2 **Owner-Builder** - if there is a residence on the land which was constructed within the preceding 6 years and section 137B of the *Building Act 1993* applies to the residence, particulars of any required insurance under that Act applying to the residence are as follows:

Not applicable.

3. LAND USE

- 3.1 **Easements, Covenants or Other Similar Restrictions** affecting the land (whether registered or unregistered):

- (a) Are as set out in the Contract of Sale and the attached copies of title documents otherwise none known to the vendor.
- (b) To the best of the vendor's knowledge there is no existing failure to comply with the terms of any easement, covenant or similar restriction.

- 3.2 **Designated Bushfire Prone Area** - the property is in a bushfire prone area within the meaning of regulations made under the *Building Act 1993*.

- 3.3 **Road Access** - there is access to the property by road.

- 3.4 **Planning Scheme** - information concerning the planning scheme is contained in the attached certificate.

4. NOTICES

- 4.1 **Notice, Order, Declaration, Report or Recommendation** of a public authority or government department or approved proposal directly and currently affecting the land, being a notice, order, declaration, report, recommendation or approved proposal of which the vendor might reasonably be expected to have knowledge particulars are as follows:

Nil.

- 4.2 **Livestock Disease or Contamination by Agricultural Chemicals** - particulars of any notices, property management plans, reports or orders in respect of the land issued by a government department or public authority in relation to livestock disease or contamination by agricultural chemicals affecting the ongoing use of the land for agricultural purposes are as follows:

Nil.

- 4.3 **Compulsory Acquisition** - particulars of any notice of intention to acquire served under section 6 of the *Land Acquisition and Compensation Act 1986* are as follows:

Nil.

5. BUILDING PERMITS

No building permits have been issued in the past 7 years under the *Building Act 1993* (required only where there is a residence on the land).

6. OWNERS CORPORATION

The land is not affected by an Owners Corporation within the meaning of the *Owners Corporations Act 2006*.

7. GROWTH AREAS INFRASTRUCTURE CONTRIBUTION (GAIC)

The land, in accordance with a work-in-kind agreement (within the meaning of Part 9B of the Planning and Environment Act 1987) is land in respect of which a GAIC is imposed.

Attached is a copy of the GAIC certificate relating to the land issued under Part 9B of the *Planning and Environment Act 1987*.

8. NON-CONNECTED SERVICES

The following services are **not** connected to the land:

- (a) electricity supply
- (b) gas supply
- (c) water supply
- (d) sewerage
- (e) telephone service

9. TITLE

Attached are:

- (a) a copy of the Register Search Statement and the document, or part of the document, referred to as a diagram location in the Register Search Statement that identifies the land from which the Property will be derived and its location, being certificate of title Volume 12065 Folio 539;
- (b) Plan of Subdivision No. PS 730378B;
- (c) Caveat No. AR900838C;
- (d) Section 173 Agreement X095542M;
- (e) GAIC Notice AH462111E;
- (f) Planning Permit No. P22159.01;
- (g) Endorsed Plan;
- (h) Unregistered Plan of Subdivision No. **[#insert proposed plan of subdivision number]** (Stage 1);
- (i) Engineering Plans;
- (j) Sherwood Grange Design Guidelines;
- (k) LR-BR-01 Bridge Plan;
- (l) Telecommunications Tower Plan;
- (m) Planning Certificate;
- (n) Land Information Statement;
- (o) Water Information Statement;
- (p) Land Tax Certificate;
- (q) GAIC Certificate;
- (r) Roads Certificate;
- (s) Catchment and Land Protection Certificate;

- (t) EPA Certificate; and
- (u) Designated Bushfire Prone Area Extract from Planning Report.

10. SUBDIVISION

10.1 Unregistered Subdivision

Attached is a copy of the latest version of the plan as the plan of subdivision has not yet been certified.

10.2 Staged Subdivision

Not applicable.

10.3 Further Plan of Subdivision

Not applicable.

11. DISCLOSURE OF ENERGY EFFICIENCY INFORMATION

There is no certificate relating to Energy Efficiency Information applicable.

12. DUE DILIGENCE CHECKLIST

The Sale of Land Act 1962 provides that the vendor or the vendor's licensed estate agent must ensure that a prescribed due diligence checklist is made available to any prospective purchasers from the time the land is offered for sale where that land is vacant residential land or land on which there is a residence. The due diligence checklist is provided with, or attached to, this vendor's statement.

The vendor makes this statement in respect of the land in accordance with section 32 of the *Sale of Land Act 1962*.

Date of this Statement:

Signature of the vendor:

The purchaser acknowledges being given a duplicate of this statement signed by the vendor with the attached documents before the purchaser signed any contract.

Date of this Acknowledgment:

Signatures of the purchaser: