



THE LAW SOCIETY
OF SOUTH AUSTRALIA

CONTRACT
FOR THE SALE AND PURCHASE OF LAND
(NON-RESIDENTIAL)

Ground Floor, 276 Flinders Street Adelaide SA 5000

Development Lot 600 in CP 27802

SALE OF LAND CONTRACT

Between:

The person/s named in Item 1 of the Schedule (Vendor)

- and -

The person/s named in Item 2 of the Schedule (Purchaser)

TERMS

- 1. On and subject to the terms of this contract, the Vendor agrees to sell to the Purchaser who agrees to purchase from the Vendor the following (Assets) for the amount/s (before adjustments and subject to Part 8 of the Standard Terms for the Sale of Land) stated in Item 7 of the Schedule (Price):
 - 1.1 the estate or interest in land described in Item 3 of the Schedule (Land); and
 - 1.2 any property described in Item 4 of the Schedule (Included Property),
 but always excluding any property described in Item 5 of the Schedule (Excluded Property).
- 2. This contract is comprised of this document and the following documents:
 - 2.1 the Schedule now annexed, and any documents incorporated by reference therein;
 - 2.2 the Standard Terms for the Sale of Land issued by The Law Society of South Australia now annexed; and
 - 2.3 any Annexures now annexed, and any documents incorporated by reference therein.
- 3. This contract may be executed in any number of counterparts, and by the parties in separate counterparts but, if executed in counterparts, is not effective until each party has executed at least one counterpart and those counterparts have been exchanged or delivered to the other party. An executed counterpart may be delivered by any means this contract allows for the giving of notices. Each counterpart constitutes an original of this contract, but the counterparts together constitute one and the same contract.
- 4. A person signing this contract on behalf of a party warrants that the person has authority to bind that party for that purpose.

Dated the 3 day of Aug 20 17
Vendor/s

Purchaser/s

Signed by: *[Signature]*
as auctioneer on behalf of Vendor
in the presence of:

Signed by: *[Signature]*
in the presence of:

[Signature]
Signature of Witness

[Signature]
Signature of Witness

MITCHELL CORNOW
Full name of Witness

MITCHELL CORNOW
Full name of Witness

Executed by 408 Investment Pty Ltd ACN 130 331
529 in accordance with the Corporations Act 2001:

Executed by.....
in accordance with the Corporations Act 2001:

.....
Director

.....
Director

.....
Director / Secretary

.....
Director / Secretary

SCHEDULE

ITEM 1:	VENDOR/S Name/s: 408 Investment Pty Ltd ACN /ABN/ARSN (if any): 130 331 529 Mailing address: GPO Box 706 Brisbane QLD 4001 Ph: Email:
ITEM 2:	PURCHASER/S Name/s: Larisa Wong and/or Nominee ACN / ABN / ARSN (if any): Mailing address: 4 The Boulevard, Flagstaff Hill Ph: 0424 285 310 Email: larisawong@hotmail.com (If not otherwise stated, any 2 or more Purchasers will be deemed to purchase the Land as joint tenants)
ITEM 3:	LAND An estate in fee simple in the whole of the land comprised in Certificate of Title Register Book Volume 6111 Folio 832 being Development Lot 600 in CP 27802 Street address (if any): Ground Floor, 276 Flinders Street, Adelaide SA 5000
ITEM 4:	INCLUDED PROPERTY (Personal property included in the Sale) <input type="checkbox"/> Floor coverings (fixed) <input type="checkbox"/> Light fittings <input type="checkbox"/> Window treatments <input type="checkbox"/> Air-conditioner <input type="checkbox"/> Clothes line <input type="checkbox"/> TV antenna / satellite dish <input type="checkbox"/> Free-standing spa / pool <input type="checkbox"/> Whitegoods <input type="checkbox"/> Solar electricity panels <input type="checkbox"/> Kerbside rubbish bins Other - EXTRACTION/ELECTROSTATIC FILTER TO CAR PARK FIT-OUT OF EXTERNAL SPACE WITH HEATERS AND AWNINGS If any of the Included Property is sold subject to a Third Party Interest or hire agreement to be assigned to the Purchaser, specify details below: (1) In law, a sale of freehold land includes fixtures upon that land. If in doubt, identify an asset as Included Property or as Excluded Property. (2) If agricultural or horticultural land, consider any crop still growing at Settlement.
ITEM 5:	EXCLUDED PROPERTY (a) Any tenant's fixtures, fittings and other improvements on or in the Land (refer to Tenancy in Item 6); (b) Any third parties' chattels and other items on or in the Land (if any); and (c) Any item which is the property of any statutory authority or service provider.
ITEM 6:	TENANCIES, EXCEPTIONS AND RESERVATIONS A certain Memorandum of Lease dated 28 June 2017 made between the Vendor as lessor and One Speckled Egg Pty Ltd ACN 608 832 015 as lessee for an original term of five (5) years commencing on 1 April 2017 and expiring at midnight on 31 March 2022 (with a five year right of renewal) in respect of the Land and inclusive of an outdoor licence to occupy the outside area being the area marked A in the plan attached in Annexure A to the Lease the terms of which are contained in the Lease. Refer to Annexure L on the Form 1 Specify any Tenancy or Third Party Interest (disregarding any other Permitted Interest as defined in this contract) to be taken over by the Purchaser.

ITEM 7:	<p>PRICE/S</p> <p>Land: \$ 715,000 -</p> <p>Included Property: \$</p> <p>GST (if applicable): \$</p> <p>Total: \$ 715,000 -</p>
ITEM 8:	<p>DEPOSIT</p> <p>\$ 50,000</p> <p>If nothing stated, 10% of the total of the Price/s (before any GST) plus any GST.</p> <p>Payable on the execution of this contract / Payable on expiry of the Cooling-off Period.</p> <p>The Deposit may be tendered by Bank Cheque, or by deposit of clear funds to a nominated bank account of the Deposit Holder, in any combination.</p>
ITEM 9:	<p>BALANCE</p> <p>\$ 665,000 -</p> <p>(including GST, if applicable)</p>
ITEM 10:	<p>DEPOSIT HOLDER</p> <p>Name/s: CBRE (V) Pty Ltd Agency Trust Account</p> <p>ACN / ABN / ARSN (if any):</p> <p>Mailing address: Level 5, 151 Pirie Street Adelaide</p> <p>Ph: 8110 3333 Email: mitch.curnow@cbre.com.au</p>
ITEM 11:	<p>DATE FOR SETTLEMENT</p> <p>4th September 2017</p>
ITEM 12:	<p>WATER ALLOWANCE (Clause 22)</p> <p>\$</p> <p>If nothing stated, \$400.00.</p>
ITEM 13:	<p>STATUTORY NOTICES (Clause 14)</p> <p>(1) Those to be discharged by the Vendor:</p> <p>Nil</p> <p>(2) Those to be discharged by the Purchaser:</p> <p>Nil</p>
ITEM 14:	<p>REGULATORY REQUIREMENTS (Clause 5)</p> <p>(1) To be obtained by the Vendor:</p> <p>Not Applicable</p> <p>Period within which to be obtained:</p> <p>(2) To be obtained by the Purchaser:</p> <p>Not Applicable</p> <p>Period within which to be obtained:</p>

ITEM 15:	<p>ANNEXURES</p> <p><input checked="" type="checkbox"/> Annexure A - Special Conditions</p>																														
ITEM 16:	<p style="text-align: right;">[Mark only 1 box below as "Yes".]</p> <p>The Sale:</p> <table style="width: 100%; border: none;"> <tr> <td style="width: 80%;"></td> <td style="text-align: right; vertical-align: bottom;">Yes</td> </tr> <tr> <td>(a) is not a taxable supply, as the Vendor is not, and is not required to be, registered for GST.</td> <td style="text-align: right;"><input type="checkbox"/></td> </tr> <tr> <td>(b) is a taxable supply of real property, with the margin scheme under GST Law Division 75 not to apply.</td> <td style="text-align: right;"><input type="checkbox"/></td> </tr> <tr> <td>(c) is a taxable supply of real property, to which the margin scheme under GST Law Division 75 applies.</td> <td style="text-align: right;"><input type="checkbox"/></td> </tr> <tr> <td>(d) is a taxable supply of commercial residential premises.</td> <td style="text-align: right;"><input type="checkbox"/></td> </tr> <tr> <td>(e) is a taxable supply of residential premises to which GST Law section 40-65(2) applies.</td> <td style="text-align: right;"><input type="checkbox"/></td> </tr> <tr> <td>(f) is an input taxed supply of residential premises to be used predominantly for residential accommodation to which GST Law section 40-65(1) applies and section 40-65(2) does not apply.</td> <td style="text-align: right;"><input type="checkbox"/></td> </tr> <tr> <td>(g) is GST-free as a supply of a going concern under GST Law section 38-325.</td> <td style="text-align: right;"><input checked="" type="checkbox"/></td> </tr> <tr> <td>(h) is GST-free as a supply of potential residential land subdivided from farm land to which GST Law section 38-475 applies.</td> <td style="text-align: right;"><input type="checkbox"/></td> </tr> <tr> <td>(i) is GST-free as a supply of farm land supplied for a farming business to which GST Law section 38-480 applies.</td> <td style="text-align: right;"><input type="checkbox"/></td> </tr> <tr> <td>(j) is a supply that is partly taxable and partly non-taxable. The GST exclusive values of those respective supplies are as follows:</td> <td style="text-align: right;"><input type="checkbox"/></td> </tr> <tr> <td colspan="2" style="padding-left: 20px;"> <p>Taxable Supply</p> <p>Description of property:</p> <p>GST exclusive value \$ _____</p> </td> </tr> <tr> <td colspan="2" style="padding-left: 20px;"> <p>Non-Taxable Supply</p> <p>Description of property:</p> <p>GST exclusive value \$ _____</p> </td> </tr> <tr> <td colspan="2" style="padding-left: 20px;"> <p>Total \$ _____</p> </td> </tr> <tr> <td colspan="2" style="padding-left: 20px;"> <p>Note – total is to be the same as the total of Price/s in Item 7.</p> </td> </tr> </table>		Yes	(a) is not a taxable supply, as the Vendor is not, and is not required to be, registered for GST.	<input type="checkbox"/>	(b) is a taxable supply of real property, with the margin scheme under GST Law Division 75 not to apply.	<input type="checkbox"/>	(c) is a taxable supply of real property, to which the margin scheme under GST Law Division 75 applies.	<input type="checkbox"/>	(d) is a taxable supply of commercial residential premises.	<input type="checkbox"/>	(e) is a taxable supply of residential premises to which GST Law section 40-65(2) applies.	<input type="checkbox"/>	(f) is an input taxed supply of residential premises to be used predominantly for residential accommodation to which GST Law section 40-65(1) applies and section 40-65(2) does not apply.	<input type="checkbox"/>	(g) is GST-free as a supply of a going concern under GST Law section 38-325.	<input checked="" type="checkbox"/>	(h) is GST-free as a supply of potential residential land subdivided from farm land to which GST Law section 38-475 applies.	<input type="checkbox"/>	(i) is GST-free as a supply of farm land supplied for a farming business to which GST Law section 38-480 applies.	<input type="checkbox"/>	(j) is a supply that is partly taxable and partly non-taxable. The GST exclusive values of those respective supplies are as follows:	<input type="checkbox"/>	<p>Taxable Supply</p> <p>Description of property:</p> <p>GST exclusive value \$ _____</p>		<p>Non-Taxable Supply</p> <p>Description of property:</p> <p>GST exclusive value \$ _____</p>		<p>Total \$ _____</p>		<p>Note – total is to be the same as the total of Price/s in Item 7.</p>	
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ITEM 17:	ELECTRONIC CONVEYANCING Subject to Part 12, settlement and lodgement for registration of any transfer of the Land to the Purchaser (together with discharge of any mortgage of the Land this contract requires be discharged and any new mortgage of the Land to be granted by the Purchaser) will be effected electronically in accordance with the <i>Electronic Conveyancing National Law (South Australia)</i> : <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
ITEM 18:	ANCILLARY CONTRACT/S (Part 9 – Ancillary Contracts) 1) Those to be assigned by the Vendor: (a) Memorandum of Lease (refer to Tenancy described in Item 6) (b) Deed of Guarantee & Indemnity dated 28 June 2017 between the Vendor as lessor and Carly Louise Sanders as guarantor in respect of the Tenancy described in Item 6. 2) Those to be held in trust for the Purchaser by the Vendor: Not Applicable

STANDARD TERMS FOR THE SALE OF LAND

PART 1 – PRELIMINARY

1. DICTIONARY

In this contract:

- ADI** means an authorised deposit-taking institution (within the meaning of the *Banking Act 1959* (Cwth))
- Ancillary Contract** means, as applicable, any contract to which the Vendor is party or by which the Vendor is bound:
- a) for a Tenancy – and includes any guarantee, indemnity or bond held as security for a Tenant's performance;
 - b) for the hire, lease, hire-purchase or bailment of any goods in Included Property and/or any PPS lease (within the meaning of the *Personal Property Securities Act 2009* (Cwth)) in respect of that Included Property, but only if such contract is specified in **Item 4**;
 - c) for any mortgage, easement, encumbrance or restrictive covenant in relation to the Land (and so far as concerns the Land) that is a Permitted Interest and so not required to be discharged at or before Settlement;
 - d) in relation to the Land (and so far as concerns the Land) made under section 37A of the *Aboriginal Heritage Act 1988*, section 50(2), section 57 or section 57A of the *Development Act 1993*, section 59 of the *Environment Protection Act 1993*, section 32 of the *Heritage Places Act 1993*, section 23 of the *Native Vegetation Act 1991*, or section 58, section 59 or section 61 of the *Mining Act 1971* and not required to be discharged at or before Settlement; and
 - e) any other ancillary contracts specified in **Item 18**.
- Also included is the benefit of any consumer guarantee under the *Australian Consumer Law / Australian Consumer Law (SA)* in relation to any goods in Included Property or any construction work done to the Land.
- Assets** mean the following individually and collectively:
- a) the Land, and any part of that Land; and
 - b) the Included Property (if any),
- but always excluding any Excluded Property.
- Bank Cheque** means a cheque drawn by an ADI upon itself.
- Bank Guarantee** means an unconditional, irrevocable guarantee or bond by an ADI in favour of the Vendor and with a expiry date not earlier than 30 calendar days after the Date for Settlement and otherwise in a form acceptable to the Vendor acting reasonably.
- Business Day** means a day other than:
- a) a Saturday, Sunday;
 - b) a day which is a public holiday in South Australia (within the meaning of the *Holidays Act 1910*); or
 - c) a day that falls between Christmas Day and the next following New Year's Day.

Business Hours	mean the hours between 9:00 am and 5:00 pm (South Australian time) on a Business Day.
Clearance Certificate	means a certificate issued under s14-220 of Schedule 1 of the TA Act which remains current at the Date of Settlement.
Client Authorisation	has the meaning given in section 240A of the RPA.
Conveyancing Transaction, Electronic Workspace, Lodgment Case, Representative, Responsible Subscriber, and Subscriber	have the meaning given in the <i>Participation Rules</i> last determined by the Registrar-General under the EC Law.
Cooling-off Period	means the period on and from the Execution Date to the expiration of the prescribed time (within the meaning given in section 5 of the <i>Land and Business (Sale and Conveyancing) Act 1994</i>).
Date for Settlement	means the date specified in Item 11 or as the parties may agree in writing.
Date of Settlement	means the date Settlement occurs.
Default Rate	means at any time 2% per annum above the last published BankSA Variable Business Loan Rate or, if such rate does not exist, 10%.
Deposit	means a deposit of the amount stated in Item 8 paid by or on behalf of the Purchaser.
Deposit Holder	means a person named in Item 10 or, if no person is named, means the Vendor.
EC Law	means the <i>Electronic Conveyancing National Law (South Australia)</i> as defined in the <i>Electronic Conveyancing National Law (South Australia) Act 2013</i> .
Excluded Property	means individually and collectively any asset specified in Item 5 .
Execution Date	means the date this contract was executed by the last of the parties.
GST, adjustment, adjustment note, approved valuation, commercial residential purposes, creditable acquisition, enterprise, GST-free, input tax credit, input taxed, margin, margin scheme, new residential premises, residential premises, supply of a going concern, tax invoice, and taxable supply	have the meaning given in <i>A New Tax System (Goods and Services Tax) Act 1999 (Cwth) (GST Law)</i> .
Included Property	means individually and collectively:

	<ul style="list-style-type: none"> a) the Vendor's rights and benefits under any Ancillary Contract that remain due to be enjoyed after Settlement; b) any consent, approval, licence or permit held by the Vendor from government for the occupation, use, enjoyment or development of the Land; and c) that property (if any) stated in Item 4.
Instrument	means, as regards a dealing with the Land this contract requires or allows, an instrument as defined in section 3(1) of the RPA.
Item	means an item in the Schedule. If no particulars are stated in an Item, that Item must be read as if 'nil' or 'not applicable' (as the context allows) was stated in that Item.
Land	<p>means the estate or interest in land stated in Item 3, including any:</p> <ul style="list-style-type: none"> a) easements, rights, privileges and other appurtenances referred to in the certificate or other muniment of title for that land; b) improvements or fixtures on that land on the Execution Date to the extent not Excluded Property; and c) if the Land is sold subject to any Tenancy, the Vendor's right, title, estate and interest under that Tenancy as at and from Settlement.
Lawyer	means, as regards a party, a legal practitioner under the <i>Legal Practitioners Act 1981</i> or a registered conveyancer under the <i>Conveyancers Act 1994</i> acting for that party in the Sale.
LTO	means the Lands Titles Registration Office as constituted under the RPA.
Permitted Interest	<p>means any of the following, as applicable:</p> <ul style="list-style-type: none"> a) restrictions under planning, development or heritage legislation; b) any statutory easement in favour of government or a public utility; c) any statutory charge or lien to secure payment of rates or taxes, so long as the liability or debt it secures is not overdue; d) any estate or interest registered on the certificate or other muniment of title to the Land on the Business Day before the Execution Date and any exceptions or reservations referred to therein, and not by the terms of this contract required to be discharged prior to or at Settlement; e) if the Land is or includes, or will at Settlement include, a unit under the <i>Strata Titles Act 1988</i> or a lot under the <i>Community Titles Act 1996</i>, easements imported under that legislation as applicable; f) a matter stated in Item 6; g) any statutory encumbrance (of the meaning given in section 223LA(1) of the RPA) required to give effect to a dealing with the Land this contract requires or allows; h) the terms and conditions of any Ancillary Contract to be assigned by the Vendor to the Purchaser under this contract; and i) any estate or interest created by this contract in favour of the Purchaser.
Price	means, in relation to an Asset, the price stated against it in Item 7 including the Deposit but before any GST applicable.

Purchaser	means the person/s named in Item 2 and, if more than 1, means each of them jointly and severally.
Regulatory Requirement	<p>means an approval, certificate, consent, authorisation or permit required to be issued by government or a government instrumentality, such as:</p> <ul style="list-style-type: none"> a) a consent by a relevant authority under the <i>Development Act 1993</i>; b) a consent by a Minister under the <i>Crown Land Management Act 2009</i> or the <i>Pastoral Land Management and Conservation Act 1989</i>; c) a division of land under the <i>Community Titles Act 1996</i>, the RPA or the <i>Strata Titles Act 1988</i>; d) if the <i>Takeovers Act</i> applies to the Purchaser's acquisition of the Land, the grant of an exemption certificate, issue of a no objection notification, or the Treasurer losing power to make an order or decision under Division 2 of Part 3 of the <i>Takeovers Act</i> in relation to the acquisition.
RPA	means the <i>Real Property Act 1886</i> .
Sale	means the sale and purchase of the Assets this contract contemplates.
Schedule	means the schedule immediately preceding these terms or referencing these terms.
Settlement	means settlement of the Sale.
Statutory Notice	<p>means, as regards the Assets, any:</p> <ul style="list-style-type: none"> a) agreement, claim, declaration, demand, direction, notice, order or demand with or issued by a government, government instrumentality or regulatory body that would be required to be disclosed in a <i>Form 1 – Vendor's Statement</i> under section 7 of the <i>Land and Business (Sale and Conveyancing) Act 1994</i>; and / or b) application made under the <i>Encroachments Act 1944</i>.
TA Act	means the <i>Tax Administration Act 1953</i> (Cwth).
Takeovers Act	means the <i>Foreign Acquisitions and Takeovers Act 1975</i> (Cwth).
Tenancy	means a tenancy, lease or licence to occupy the Land (or part of the Land) specified in Item 6 , and Tenant has a corresponding meaning.
Third Party Interest	<p>means a trust, mortgage or charge, and:</p> <ul style="list-style-type: none"> a) in case of the Land, includes a lease, licence to occupy, restrictive covenant, <i>profit à prendre</i>, easement, caveat, decree or order of Court (including a decree or order a memorial of which has been entered against the Land under section 105 of the RPA); and b) in case of Included Property, includes any lien, pledge and any security interest (within the meaning given in the <i>Personal Property Securities Act 2009</i> (Cwth)).
Vendor	means the person/s named in Item 1 and, if more than 1, means each of them jointly and severally.
Withholding Amount	means the amount determined under s14-200(3)(a) of Schedule 1 of the TA Act in respect of the sale, or such lesser amount as may be specified in a variation notice under s14-235 of Schedule 1 of the TA

Act, a copy of which notice has been provided to the Purchaser prior to settlement.

Expressions defined elsewhere in this contract have that meaning.

Subject to all the above, expressions in this contract have the same meaning as in a provision of the RPA that deals with the same matter.

2. INTERPRETATION

In this contract: neuter includes masculine and feminine; singular includes plural and *vice versa*; reference to a person includes a body politic or corporate, an individual and a partnership and *vice versa*; reference to a party includes a successor to the rights or obligations of that party under this contract; headings do not affect construction; no rule of construction applies to the disadvantage of a party because that party put forward this contract or any portion of it; another grammatical form of a defined word has a corresponding meaning; references to time mean legal time in South Australia; reference to legislation includes the legislation as amended, any substituted legislation, any subordinate legislation under that legislation, and any orders under that legislation; reference to any subordinate legislation includes that subordinate legislation as amended, any substituted subordinate legislation; reference to a section of legislation or a regulation of subordinate legislation includes a section or regulation that substitutes that section or regulation.

3. SEVERANCE

If a provision of this contract would, but for this clause 3, be unenforceable:

- 3.1 the provision must be read down to the extent necessary to avoid that result; or
- 3.2 if the provision cannot be read down to that extent, it must be severed without affecting the validity and enforceability of the remainder of this contract.

PART 2 – THE SALE

4. COOLING-OFF

If the Purchaser rescinds this contract under section 5 of the *Land and Business (Sale and Conveyancing) Act 1994*, the Vendor may retain from any Deposit paid only the amount section 5(4) of that Act allows.

5. REGULATORY REQUIREMENTS

- 5.1 A dealing with the Assets the subject of this contract is not effective pending the satisfaction of any Regulatory Requirement without which that dealing would contravene any legislation.
- 5.2 A party under this contract given responsibility to attempt to satisfy a Regulatory Requirement must use reasonable endeavours to satisfy that Regulatory Requirement within the time this contract may require (or, if no period is specified in **Item 14**, within 20 Business Days from the Execution Date) and before Settlement.
- 5.3 Neither party may hinder the satisfaction of a Regulatory Requirement.
- 5.4 A party who becomes aware that a Regulatory Requirement is satisfied or becomes incapable of being satisfied must, within 2 Business Days, in writing, notify the other party.
- 5.5 A Regulatory Requirement is not satisfied if:
 - 5.5.1 issued or obtained upon terms and conditions not acceptable to the parties acting reasonably; or
 - 5.5.2 it is the subject of an appeal or judicial review, brought reasonably, and not finally disposed of.

- 5.6 If a Regulatory Requirement is not satisfied within time, a party not in default under clause 5.2 may terminate the Sale upon giving at least 10 Business Days' written notice to the other party, in which case the Sale terminates upon expiry of that notice period unless the Regulatory Requirement is satisfied in the meantime.

6. TERMINATION FOR DEFAULT

- 6.1 If, before or at Settlement, a party (**Party 1**) defaults in that party's observance or performance of this contract, the other party (**Party 2**) may give a written notice of default (**Default Notice**) to Party 1.
- 6.2 A Default Notice:
- 6.2.1 may be given at any time after the default occurs and before its remedy;
 - 6.2.2 is without prejudice to any other rights or remedies Party 2 may have;
 - 6.2.3 must identify the default (giving reasonable details);
 - 6.2.4 must require Party 1 to remedy the default within 3 Business Days from the service of the notice for a pre-Settlement default, or within such longer period as Party 2 may specify in the notice;
 - 6.2.5 if the default occurred at Settlement, must appoint a time during Business Hours for Settlement and require Party 1 to settle at the time specified in the notice (it being agreed that, if such time is not less than 14 days after the date of service of such notice, then such period of notice will be deemed fair and reasonable and Party 1 shall be precluded from raising any objection to such period of notice);
 - 6.2.6 may state that, unless the default is remedied within the period specified in the notice, Party 2 may terminate the Sale by written notice to that effect to Party 1; and
 - 6.2.7 may be given on more than one occasion.
- 6.3 Party 2 may recover from Party 1 as a debt:
- 6.3.1 \$900 (plus GST) towards the costs of preparing any (each) Default Notice; plus
 - 6.3.2 the reasonable cost of serving any (each) Default Notice, and
- Party 1 must pay or credit such sum to Party 2 at Settlement or on termination of the Sale.
- 6.4 Time is of the essence in respect of any period of time specified in a Default Notice.
- 6.5 If the Vendor is Party 2, the Vendor need not first tender a transfer or other conveyance of the Assets to Party 1 before terminating the Sale or before exercising any other rights or remedies of the Vendor.
- 6.6 If the Vendor terminates the Sale under this clause 6, the Vendor may elect to either:
- 6.6.1 retain the Assets and sue the Purchaser for damages for breach of contract; or
 - 6.6.2 resell the Assets together or in lots and the deficiency, if any, in price upon the resale together with all reasonable costs and expenses incidental to the resale, any attempted resale and the Purchaser's default must immediately after the resale be made good by the Purchaser; and
 - (a) in the case of non-payment of the deficiency, costs and expenses, the whole thereof is recoverable by the Vendor as liquidated damages (minus any Deposit paid and forfeited) only if legal proceedings for the recovery are commenced within 12 calendar months after termination of the Sale;

(b) the Vendor is entitled to any increase in price on any resale.

6.7 If the Purchaser terminates the Sale under this clause 6, the Purchaser may sue the Vendor for damages for breach of contract only if legal proceedings for the recovery of the damages are commenced within 12 calendar months after termination of the Sale.

7. UNWINDING THIS CONTRACT

If the Sale terminates before Settlement, within 5 Business Days:

7.1 the Deposit Holder (or failing the Deposit Holder, the Vendor) must repay the Deposit to the Purchaser except that, if the Vendor terminated the Sale under clause 6, the Deposit is forfeited absolutely to the Vendor (despite any rule of common law or principle of equity to the contrary);

7.2 conditional upon repayment of the Deposit to the Purchaser, if repayable to the Purchaser, the Purchaser must cause to be withdrawn any caveat or priority notice the Purchaser or a third party claiming through or under the Purchaser caused to be lodged at the LTO in relation to the Land to protect the Purchaser's rights under this contract or that third party's derivative rights,

and otherwise neither party has further rights against the other in connection with this contract, except in respect of prior default under this contract.

PART 3 – TITLE

8. THE LAND

The Land, as offered for sale by the Vendor and inspected by the Purchaser, is the same as that described in Item 3.

9. EVIDENCE OF TITLE

9.1 The certificate of title under the RPA or other muniment of title in the name of the Vendor (or the other person named in Item 1 as owner of the Land) is conclusive evidence of title to the Land.

9.2 The Purchaser is not entitled to an abstract of title, nor to take any objection thereto nor to make any requisition thereon, and no evidence of the identity of the Land is required other than that afforded by comparison of the description in this contract with that in the certificate of title.

9.3 Any error, omission or improper or imperfect description of the Land:

9.3.1 will not rescind the Sale or affect the obligation of the parties to settle on the Date for Settlement; and

9.3.2 if notified by a party to the other before Settlement, but not afterwards, entitles compensation to be received or paid by one party to the other, as the case may require.

10. VENDOR WARRANTIES AS TO TITLE

The Vendor warrants that, at Settlement, the Vendor will have:

10.1 or be entitled to have, indefeasible title to the Land (if the Land is under the provisions of the RPA); and

10.2 the right to sell and transfer the Assets to the Purchaser under this contract free of any Third Party Interest, disregarding any Permitted Interest.

Except as expressly stated in this contract, the Vendor makes no representation or warranty in connection with the Assets, the Sale or anything else.

11. CAVEAT OR PRIORITY NOTICE

If before Settlement:

11.1 the Purchaser (or a third party claiming through or under the Purchaser) causes to be lodged a caveat or priority notice under the RPA to protect the Purchaser's rights under this contract or that third party's derivative rights; and

11.2 the Vendor so requires by written notice to the Purchaser,

the Purchaser must cause the caveator or third party, in a timely manner and in proper form, to consent to or permit the registration before Settlement of any dealing/s with the Land this contract expressly allows or requires.

PART 4 – RISK

12. CONDITION OF THE ASSETS

The Purchaser accepts the Assets:

12.1 subject to any Permitted Interest; and

12.2 in that condition and state of repair and subject to any defects (known or unknown) as at the Execution Date, and subject to fair wear and tear.

13. RISK AND USE OF THE LAND

13.1 Subject to clause 13.2, on and from the Execution Date the Assets shall be at risk of the Purchaser.

13.2 If and for so long as between the Execution Date and Settlement the Vendor or a third party occupies or uses any of the Assets, the Vendor must ensure the Vendor or that third party takes reasonable care of such Assets.

13.3 Subject to clause 13.2, if before Settlement there occurs any loss, damage, destruction, dilapidation, infestation or mechanical breakdown of the Assets from any cause:

13.3.1 the Sale is not affected; and

13.3.2 the Purchaser is not entitled to damages or a reduced Price.

13.4 On and from the Execution Date, the Purchaser must indemnify and hold harmless the Vendor against all liability in respect of the Assets, except to the extent caused or contributed to by the Vendor's wilful act, negligence or default under this contract or failure to take reasonable steps to mitigate such liability. The Purchaser's indemnity under this clause 13.4 is a continuing obligation, except if this contract is terminated prior to Settlement occurring, in which case the Purchaser's indemnity under this clause 13.4 ceases on the date of termination.

PART 5 – STATUTORY NOTICES

14. EXISTING STATUTORY NOTICES

14.1 The Vendor warrants that, on the Execution Date, no Statutory Notice exists which has not been fully complied with or which adversely affects the Assets, except any stated in **Item 13**.

14.2 If a matter is referred to in **Item 13(1)**:

14.2.1 before Settlement, the Vendor must comply with that matter; and

14.2.2 on and from Settlement, as a continuing obligation, the Vendor must indemnify and hold harmless the Purchaser and the Purchaser's successors in title against all liability in respect of that matter due to be observed or performed before Settlement.

14.3 If a matter is referred to in **Item 13(2)**:

14.3.1 after Settlement, the Purchaser must comply with that matter; and

- 14.3.2 on and from Settlement, as a continuing obligation, the Purchaser must indemnify and hold harmless the Vendor against all liability in respect of that matter due to be observed or performed after Settlement.

15. NEW STATUTORY NOTICES

If, after the Execution Date, a Statutory Notice is given or made:

- 15.1 before Settlement, the Purchaser must comply with that Statutory Notice;
- 15.2 and before Settlement the Vendor complies with that Statutory Notice, the Purchaser must reimburse the Vendor upon demand or, if no prior demand is made, at Settlement, all reasonable amounts paid by the Vendor in complying with that Statutory Notice; and
- 15.3 on and from Settlement, as a continuing obligation, the Purchaser must indemnify and hold harmless the Vendor against all liability in respect of that Statutory Notice.

PART 6 – DEPOSIT

16. DEPOSIT TO BE PAID

The Purchaser must pay the Deposit to the Deposit Holder at the time stated in **Item 8**.

17. INVESTMENT OF THE DEPOSIT

- 17.1 If the Deposit is provided by cheque or in clear funds and the parties so require in writing, pending Settlement the Deposit Holder must invest the Deposit in the joint names of the parties with an ADI at 14-day call at a current rate of interest.
- 17.2 If the Deposit is to be invested pending Settlement, on or as soon as practicable after the Execution Date each party must provide its Australian tax file number or Australian business number to the Deposit Holder.
- 17.3 If a party fails to comply with clause 17.2 and the other party becomes entitled to the Deposit, the first party must compensate the other party for any tax deducted from interest earned on the Deposit.
- 17.4 The Deposit Holder must pay the interest accrued on the Deposit (net of any proper costs or expenses in investing the Deposit):
 - 17.4.1 if a party terminates the Sale under clause 6 - to that party;
 - 17.4.2 if the Deposit is repaid to the Purchaser - to the Purchaser; or
 - 17.4.3 at Settlement – in equal amounts to the Vendor and the Purchaser.

PART 7 – PRICE

18. PRICE ADJUSTMENTS

The Price/s stated in the Schedule are subject to adjustment as this contract requires.

19. ADJUSTMENT FOR INCOME

- 19.1 Subject to clause 21, all rents, fees and other income arising from the Assets are to be adjusted to midnight on the day before the Date of Settlement.
- 19.2 Income is taken to accrue on a daily basis.
- 19.3 If a payment of income includes or would include an amount on account of GST the Vendor was or is liable to pay, only the net amount of such payment of income is to be adjusted.

- 19.4 If income to be adjusted is not exclusively referable to the Assets, only a portion of that income is to be adjusted as agreed in writing by the parties or, failing such agreement, in the proportion that the Price bears to the total market values of the income-producing properties to which the income is referable.

20. ADJUSTMENT FOR OUTGOINGS

- 20.1 Subject to clause 21, all outgoing (including any for utilities, State or municipal rates, levies, taxes, charges) in respect of the Assets are to be adjusted to midnight on the day before the Date of Settlement.
- 20.2 Outgoings are taken to accrue on a daily basis.
- 20.3 Any remission of a rate, levy, tax or charge the Vendor received, or is entitled to receive, is to be disregarded.
- 20.4 Land tax is to be adjusted as if the Land was the only land owned by the Vendor.
- 20.5 Before or immediately following Settlement, the Vendor must pay and discharge all land tax that has or will become payable in respect of the Land in the rating year in which Settlement occurs and in all previous rating years. Such land tax must be paid whether the tax is then due and payable or not.
- 20.6 Only outgoing not recoverable from a Tenant are to be adjusted.
- 20.7 An outgoing to be adjusted must first have deducted any GST input tax credit allowed or allowable to the Vendor in respect of that outgoing.
- 20.8 If an outgoing to be adjusted is not exclusively referable to the Assets, only a portion of that outgoing is to be adjusted as agreed in writing by the parties or, failing such agreement, in the proportion that the capital value of the Land (within the meaning given in the *Valuation of Land Act 1971*) bears to the total capital values of the properties to which the outgoing is referable.
- 20.9 If the quantum of an outgoing has not been determined by the date being 5 Business Days before Settlement, then the parties agree that the relevant adjustment of outgoing will be based on the outgoing quantum for the previous year.

21. ADJUSTMENTS IF SETTLEMENT IS POSTPONED

- 21.1 If Settlement is postponed only by reason of the Vendor's default:
- 21.1.1 income is adjusted to midnight on the day before the Date for Settlement; and
 - 21.1.2 outgoing will be adjusted pursuant to clause 20.
- 21.2 If Settlement is postponed only by reason of the Purchaser's default:
- 21.2.1 income will be adjusted pursuant to clause 19; and
 - 21.2.2 outgoing are adjusted to midnight on the day before the Date for Settlement.

22. WATER CHARGE ADJUSTMENT

The cost or charge for the consumption of water upon the Land is to be adjusted under clause 20.1 as follows:

- 22.1 where more than 1 official meter reading of water supplied is obtained, the meter reading made on the day nearest to the Date for Settlement is to be used;

- 22.2 if an official meter reading has not been obtained by either party at least 3 Business Days prior to the Date for Settlement, no later than Settlement the Vendor must instruct the Vendor's Lawyer to withhold in trust after Settlement the sum stated in **Item 12**. Upon the official meter reading being obtained:
- 22.2.1 that Lawyer must pay to the Purchaser the amount, if any, payable by the Vendor to the Purchaser for water consumed, and refund any balance of the trust money to the Vendor; and
- 22.2.2 if the trust money is less than the amount payable by the Vendor to the Purchaser, the Vendor must pay the deficiency to the Purchaser.

PART 8 – GST

23. GST TREATMENT

The parties agree that for the purposes of the GST Law, the Sale is as described in **Item 16**.

24. GENERAL RULE FOR TAXABLE SUPPLIES

Subject to clause 26 (margin scheme) and clause 27 (adjustments), if a party (**Party 1**) is or becomes liable to pay GST in respect of a taxable supply Party 1 makes to the other party (**Party 2**) under this contract, then:

- 24.1 (unless this contract expressly states that the consideration for that taxable supply includes GST) the consideration payable by Party 2 to Party 1 for that taxable supply must be increased by an amount equal to the amount of the GST in respect of that taxable supply (**GST Amount**);
- 24.2 Party 1 must give a tax invoice for the taxable supply to Party 2:
- 24.2.1 if the Sale terminates before Settlement – within 28 days after termination; or
- 24.2.2 if Settlement occurs and the taxable supply is made prior to or at Settlement - at Settlement; and
- 24.3 Party 2 must pay the GST Amount to Party 1 at Settlement if the taxable supply occurs at Settlement or otherwise within 5 Business Days of receipt of the tax invoice from Party 1.

25. SUPPLY OF A GOING CONCERN

If in **Item 16** the Sale is agreed to be the supply of a going concern, and so GST-free, then:

- 25.1 the Purchaser warrants that the Purchaser will, at Settlement, be registered or required to be registered under the GST Act; and
- 25.2 the Vendor warrants that the Vendor, on the Execution Date, carries on, and will at all times until Settlement carry on, the relevant enterprise and will, pursuant to this contract and any other agreement which exists between the Vendor and the Purchaser, supply to the Purchaser at Settlement all of the things which are necessary to carry on the relevant enterprise.

26. MARGIN SCHEME

If in **Item 16** the margin scheme is agreed to apply to the sale of the Land, then:

- 26.1 the Purchaser's obligation to pay or reimburse GST to the Vendor as regards the sale of the Land is based on the margin under the margin scheme;
- 26.2 the Purchaser must, where a valuation is required under Division 75 of the GST Law:
- 26.2.1 obtain at its expense, in the name of the Vendor, an approved valuation of the Land using the valuation method approved by the Vendor; and

- 26.2.2 provide the approved valuation to the Vendor not less than 5 Business Days prior to Settlement;
- 26.3 as regards the sale of the Land, the Vendor need not provide a tax invoice to the Purchaser at Settlement; and
- 26.4 the acquisition of the Land is not a creditable acquisition, and the Purchaser is not entitled to claim an input tax credit.

27. GST ADJUSTMENTS

27.1 If Item 16 states that:

- 27.1.1 the sale of the Land is an input taxed supply or is GST-free - but the Purchaser uses the Land in a way that makes the sale a taxable supply; or
- 27.1.2 the sale of the Assets is the supply of a going concern - but the sale is a taxable supply (other than by reason of a breach by the Vendor of clause 25.2),

upon written demand by the Vendor (whether made before or after Settlement) the Purchaser must pay to the Vendor an amount equal to the Vendor's GST liability together with any interest and / or penalties assessed to the Vendor.

- 27.2 If Item 16 states that the supply of the Assets is either wholly taxable or wholly non-taxable, and after Settlement the supply is found to be partly taxable and partly non-taxable, then the Purchaser must either pay to the Vendor or be reimbursed by the Vendor (as is appropriate) the amount of the adjustment in the Vendor's GST liability within 20 Business Days of receipt if a tax invoice or adjustment note. The Purchaser must pay to the Vendor any interest and / or penalties associated with any such adjustment provided an adjustment note is provided.

PART 9 – ANCILLARY CONTRACTS

28. PRESERVATION OF ANCILLARY CONTRACTS

As regards an Ancillary Contract, pending Settlement or termination of the Sale, except with the Purchaser's prior written consent (not to be unreasonably withheld, delayed or conditioned) the Vendor must not:

- 28.1 breach, suspend, modify adversely or terminate the Ancillary Contract or agree to do so; and / or
- 28.2 if the Ancillary Contract evidences a Tenancy, agree to any market rent to apply for any period after Settlement.

29. ASSIGNMENT OF ANCILLARY CONTRACTS

- 29.1 Subject to clause 29.2 and clause 29.3, at Settlement, by force of this contract and without need for further writing, the Vendor assigns the Vendor's rights and benefits under the Ancillary Contract/s as then remain to be enjoyed or performed to the Purchaser, and the Purchaser accepts that assignment.

- 29.2 If an Ancillary Contract requires a counterparty to that Ancillary Contract to consent to the Vendor assigning that Ancillary Contract to the Purchaser, then:

- 29.2.1 pending Settlement and in the 20 Business Days after Settlement, the Vendor, with the Purchaser's reasonable assistance, must take reasonable steps to obtain that consent, effective from Settlement. Reasonable assistance and steps do not include paying any money other than that due to a counterparty under the Ancillary Contract; and

- 29.2.2 assignment of that Ancillary Contract under clause 29.1 is conditional upon that consent being obtained.

- 29.3 If an Ancillary Contract is not in law capable of assignment, insofar as it would not be a breach of that Ancillary Contract, at and from Settlement the Vendor holds the same on trust for the Purchaser.
- 29.4 To avoid doubt, unless otherwise agreed in writing by these present parties, assignment under this clause 29 excludes a right to all rent, fees, costs, expenses or other money (including damages) payable or to become payable to the Vendor under an Ancillary Contract attributable to a period or circumstance before Settlement, whether paid before or after Settlement.

30. CROSS INDEMNITIES FOR ANCILLARY CONTRACTS

On and from Settlement, as regards an Ancillary Contract, as continuing obligations:

- 30.1 the Vendor must indemnify and hold harmless the Purchaser and the Purchaser's successors in title against all liability in respect of the Vendor's obligations under that Ancillary Contract due to be observed or performed before Settlement, except to the extent such liability is caused or contributed to by the Purchaser's wilful act, negligence or default under this contract or failure to take reasonable steps to mitigate such liability; and
- 30.2 the Purchaser must indemnify and hold harmless the Vendor against all liability in respect of the Vendor's obligations under that Ancillary Contract due to be observed or performed after Settlement, except to the extent such liability is caused or contributed to by the Vendor's wilful act, negligence or default under this contract or failure to take reasonable steps to mitigate such liability.

31. DEED/S OF ASSIGNMENT OF ANCILLARY CONTRACTS

- 31.1 At any time before or after Settlement, a party may give written notice to the other party requiring that the parties enter into a deed of assignment of any Ancillary Contract separately to more perfectly assign to the Purchaser the benefit of that Ancillary Contract.
- 31.2 The deed must be prepared by the Lawyer for the party who gives the notice with the cost of preparation of the deed being payable by the party giving the notice (it being agreed that the parties will each bear their own costs of any negotiation in respect of the deed).
- 31.3 The parties must execute and deliver the deed:
 - 31.3.1 no later than Settlement, if the notice under clause 31.1 is given not less than 10 Business Days before the Date for Settlement; or
 - 31.3.2 otherwise, within 15 Business Days after the day on which the notice under clause 31.1 was given.
- 31.4 A failure to give notice or to execute a deed under this clause 31 does not affect the assignment given effect by clause 29 or the indemnities under clause 30.

32. POST-SETTLEMENT ADJUSTMENTS UNDER A TENANCY

- 32.1 If:
 - 32.1.1 before or after the Date of Settlement a Tenant is or becomes entitled to a refund or credit for an amount of rent or contribution to outgoings under the Tenancy overpaid to the Vendor before the Date of Settlement; and
 - 32.1.2 before Settlement the Vendor does not refund that overpaid amount to the Tenant; and
 - 32.1.3 after Settlement the Purchaser allows, or will allow, such refund or credit to the Tenant,

the Vendor must pay the overpaid amount to the Purchaser on demand to the extent not previously and expressly taken into account in adjustment to the Price.

32.2 If:

32.2.1 before or after the Date of Settlement a Tenant is or becomes liable to pay an additional amount of rent or contribution to outgoings to the Vendor in respect of a period of time before the Date of Settlement; and

32.2.2 after Settlement the Tenant pays that additional amount to the Purchaser and not the Vendor,

the Purchaser must pay that additional amount to the Vendor on demand to the extent not previously and expressly taken into account in adjustment to the Price.

32.3 If an overpaid or additional amount to which this clause 32 applies relates to a period of time commencing on or before the Date of Settlement and expiring after the Date of Settlement (**Pay Period**) the amount accounted for under this clause must be determined in the same proportion as the number of days of that Pay Period before the Date of Settlement bears to the whole of that Pay Period.

PART 10 – MATTERS BEFORE SETTLEMENT

33. NOMINEE PURCHASER

If **Item 2** states that the Purchaser enters into this contract for the Purchaser named in **Item 2** and / or nominee or as agent for an undisclosed principal, the Purchaser now named may not later than 10 Business Days before the Date for Settlement by written notice to the Vendor nominate another person as purchaser under this contract but remains liable (as a principal) to the Vendor for the observance and performance of a purchaser's obligations under this contract.

34. ASSIGNMENT BY THE PURCHASER

Any assignment of any of the Purchaser's benefits or obligations under this contract, with or without the Vendor's consent, does not release the assignor from existing or future obligations under this contract.

35. RETAINER OF LAWYERS / SUBSCRIBERS

A party to this contract (including any Purchaser's nominee or assignee) (**Party 1**) who retains a Lawyer or gives a Client Authorisation to a Lawyer or Subscriber for the purposes of Settlement, must:

35.1 if not done beforehand, within 2 Business Days cause that Lawyer's / Subscriber's contact details to be made known to the other party to this contract (**Party 2**) (or, if Party 2 has previously made known Party 2's own Lawyer's / Subscriber's contact details, to the Lawyer / Subscriber acting for Party 2); and

35.2 if, before Settlement, the retainer of that Lawyer terminates, or that Client Authorisation terminates (without replacement on at least equivalent terms given to the same Lawyer / Subscriber), within 1 Business Day make that fact known to Party 2 or Party 2's Lawyer / Subscriber.

36. EXCLUDED PROPERTY

Before Settlement, the Vendor at the Vendor's cost must:

36.1 remove from the Land the Excluded Property (other than the property of continuing Tenants) and all personal property and man-made litter other than the Included Property (if any) stated in **Item 4**; and

36.2 make good any damage done to the Land as a result of the installation or removal of any Excluded Property.

PART 11 – PAPER DOCUMENT-BASED CONVEYANCING

37. TRANSFER DOCUMENT

- 37.1 At least 10 Business Days before the Date for Settlement (or within such shorter period as the Vendor may allow), the Purchaser (or the Purchaser's Lawyer) must deliver to the Vendor (or the Vendor's Lawyer), for execution by or on behalf of the Vendor, a transfer of the Land duly executed by or on behalf of the Purchaser.
- 37.2 Failing due delivery of such transfer, the Vendor may at any time thereafter prepare a transfer and recover \$500.00 (before any GST) from the Purchaser as a debt on account of the costs so incurred.
- 37.3 The transfer must be:
- 37.3.1 in the form section 96 of the RPA requires (if the Land is under the RPA);
 - 37.3.2 to effect transfer of the Land free of all Third Party Interests (disregarding any Permitted Interests); and
 - 37.3.3 duly executed by or on behalf of the Vendor.
- 37.4 The Vendor must deliver the executed transfer to the Purchaser's Lawyer before Settlement:
- 37.4.1 for stamping and payment of registration fees; and
 - 37.4.2 on trust for the Vendor pending Settlement.
- 37.5 The above provisions of this clause 37 do not apply if and so long as a transfer of the Land is to be effected electronically via an Electronic Workspace.

38. OTHER CONVEYANCE DOCUMENTS

If any Included Property is of a kind that effective transfer of the Vendor's rights in that Included Property requires a document signed by the Vendor, or signed by both the Vendor and the Purchaser, clause 37 applies as if references therein to a transfer were to such document so far as can be made applicable.

39. ADJUSTMENT STATEMENT

- 39.1 At least 3 Business Days before the Date for Settlement (or within such shorter period as the Purchaser may allow), the Vendor (or the Vendor's Lawyer) must deliver to the Purchaser (or the Purchaser's Lawyer) an adjustment statement setting out in reasonable detail the adjustments to the Price this contract requires or allows.
- 39.2 Failing due delivery of an adjustment statement, the Purchaser may, at any time thereafter, prepare and give an adjustment statement to the Vendor and recover \$500.00 (before any GST) as a debt from the Vendor on account of the costs so incurred.
- 39.3 The above provisions of this clause 39 do not apply if and so long as a transfer of the Land is to be effected electronically via an Electronic Workspace.

PART 12 – ELECTRONIC CONVEYANCING

40. APPLICATION OF THIS PART

Provisions in this Part 12 apply only if, to the extent and so long as:

- 40.1 the parties agree (either in **Item 17**, elsewhere in this contract or separately) that Settlement and lodgement of the Instruments necessary to record a Conveyancing Transaction this contract requires or allows will be conducted electronically in accordance with the EC Law; and
- 40.2 a party to this contract has not given later notice under clause 41.

41. ABANDONMENT OF ELECTRONIC CONVEYANCING

If a party reasonably determines that Settlement and lodgement of Instruments under this contract cannot be effected electronically, then that party must immediately:

- 41.1 if an Electronic Workspace has been established for the purposes of this contract, cause their Representative to post a notice to that effect on the Electronic Workspace; or
- 41.2 otherwise, give written notice of that determination to the other party.

42. APPOINTMENT OF REPRESENTATIVES

A party must promptly and at least 10 Business Days before the Date for Settlement:

- 42.1 (if the party itself is not a Subscriber) give a properly completed and signed Client Authorisation to a Subscriber authorising that Subscriber to be the Representative of that party for the purposes of this contract; and
- 42.2 ensure that all other persons for whom that party is responsible and who are associated with a Conveyancing Transaction this contract requires or allows are or engage a Subscriber.

43. PARTICIPATION RULES

A party who appoints a Representative for the purposes of this contract must, in relation to this contract:

- 43.1 abide by the *Participation Rules* under the EC Law;
- 43.2 on a timely basis, provide such information and instructions as are required for the party's Representative to comply with the *Participation Rules*; and
- 43.3 on a timely basis provide sufficient funds to that party's financial institution and/or that party's Representative to enable exchange of such funds to be effected electronically at Settlement via an Electronic Workspace.

44. ELECTRONIC WORKSPACE

44.1 For the purposes of this clause 44, "Vendor" includes the Vendor's Representative and "Purchaser" includes the Purchaser's Representative and words and phrases have the same meaning as in the *Participation Rules*.

44.2 At least 10 Business Days before the Date for Settlement, the Vendor must:

- 44.2.1 open an Electronic Workspace for the purposes of this contract;
- 44.2.2 populate the Electronic Workspace with the details of the Land and other required particulars in relation to the sale of the Land; and
- 44.2.3 invite the Purchaser and the Vendor's mortgagee (if any) to join the Electronic Workspace.

44.3 The Purchaser must:

- 44.3.1 accept the invitation to join the Electronic Workspace within 2 Business Days of receipt of the invitation;
- 44.3.2 populate the Electronic Workspace with the required particulars in relation to the sale of the Land; and
- 44.3.3 invite the Purchaser's mortgagee (if any) to join the Electronic Workspace.

44.4 If the Vendor does not comply with paragraph 44.2, the Purchaser may:

- 44.4.1 open an Electronic Workspace for the purposes of this contract;
- 44.4.2 populate the Electronic Workspace with the details of the Land and other required particulars in relation to the sale of the Land; and
- 44.4.3 invite the Vendor and the Purchaser's mortgagee (if any) to join the Electronic Workspace;

and the Vendor must:

- 44.4.4 accept the Purchaser's invitation to join the Electronic Workspace within 2 Business Days of receipt of that invitation;
 - 44.4.5 populate the Electronic Workspace with the required particulars in relation to the sale of the Land; and
 - 44.4.6 invite the Vendor's mortgagee (if any) to join the Electronic Workspace.
- 44.5 The parties must do all things reasonably necessary and in a timely manner to complete the Electronic Workspace in order to achieve Settlement on the Settlement Day.
- 44.6 Without limiting paragraph 44.5, to enable the Electronic Workspace to be completed:
- 44.6.1 the Vendor must provide the Purchaser with the adjustment amounts in accordance with this contract no later than 2 Business Days before the Date for Settlement;
 - 44.6.2 the Vendor must populate the Electronic Workspace with payment details no later than 1 Business Day before the Date for Settlement; and
 - 44.6.3 the parties must, no later than 1 Business Day before the Date for Settlement, ensure that:
 - (a) all required data has been entered into the Electronic Workspace;
 - (b) any documents requiring a Digital Signature have been Digitally Signed; and
 - (c) all certifications required by the EC Law are complete.
- 44.7 At least 5 Business Days before the Date for Settlement, the Vendor (or the Vendor's Representative) must nominate a time of the day, between the hours of 9.00 am and 4.00 pm, for locking the Electronic Workspace for the purpose of completing Settlement, and must record that nomination on the Electronic Workspace.

45. ELECTRONIC SETTLEMENT

- 45.1 Unless the respective Representatives of the parties otherwise agree, the Purchaser's Representative will be the Responsible Subscriber for the Lodgment Case that includes the transfer of the Land.
- 45.2 Settlement occurs when the Electronic Workspace records that:
 - 45.2.1 (if applicable) the exchange of funds or value between financial institutions in accordance with the instructions of the parties to this contract has occurred; or
 - 45.2.2 if there is no exchange of funds or value, the Instruments necessary to enable the Purchaser to obtain transfer of the Land as this contract requires have been accepted for electronic lodgement.
- 45.3 If, after the locking of the Electronic Workspace, Settlement in accordance with this clause 45 has not occurred by 5.00 pm on the Date for Settlement, the parties must do everything reasonably necessary to effect Settlement:

- 45.3.1 electronically on the next Business Day; or
- 45.3.2 if agreed in writing by the parties, otherwise than electronically as soon as practicable.
- 45.4 If, by reason of an electronic or computer system failure of any of the LTO, the Reserve Bank of Australia or the Electronic Lodgment Network Operator, settlement does not occur on the Date for Settlement, the failure to settle will not constitute a breach or default by either party under this contract.
- 45.5 If and to the extent this contract requires or allows a dealing with the Assets that cannot be effected electronically (such as grant or surrender of a lease / easement / encumbrance / *profit à prendre*, or delivery of a deed of assignment of an Ancillary Contract):
 - 45.5.1 Settlement must not occur except after, or at the same time as, the parties exchange documents to effect such dealing; and
 - 45.5.2 if, however, Settlement occurs before exchange of those documents, the parties remain liable to exchange those documents on the Date of Settlement.
- 45.6 Each party must do everything reasonably necessary to assist another party to trace and identify the recipient of any mistaken payment, and to recover the mistaken payment.

PART 13 – SETTLEMENT

46. DATE OF SETTLEMENT

Settlement must occur on the Date for Settlement.

47. PAYMENT OF THE PRICE

At Settlement, the Purchaser must pay the Price (less the Deposit paid), together with any GST applicable, by:

- 47.1 one or more Bank Cheques (provided that if more than 2 are required, the Vendor bears the costs of issue of the third and later Bank Cheques); or
- 47.2 one or more deposits of clear funds to an ADI account or accounts,

as the Vendor may in writing direct the Purchaser at least 2 Business Days before Settlement. If no direction is given within time, payment must be by Bank Cheque payable to the Vendor.

The above provisions of this clause 47 do not apply if, to the extent, and so long as funds to be exchanged between the parties will be effected electronically via an Electronic Workspace.

48. SETTLEMENT DELIVERABLES FROM THE VENDOR

Upon compliance by the Purchaser with the provisions of this contract to be complied with by the Purchaser at or before Settlement, on the Date of Settlement the Vendor (or the Vendor's Lawyer) must give to the Purchaser (or the Purchaser's Lawyer) at the LTO (or at such other location as the parties may agree in writing):

- 48.1 any muniment of title of the Land;
- 48.2 any declaration, application or certificate which the Vendor may be required to make or give under legislation in order to enable the transfer to be registered;
- 48.3 any deed/s of assignment submitted within time under clause 31;
- 48.4 any document/s clause 38 requires;
- 48.5 anything clause 63 requires;

- 48.6 (if previously requested in writing by the Purchaser) copies of any "as built" documents, drawings or plans, operating or maintenance manuals, in connection with improvements upon the Land or other Assets as the Vendor may then possess;
- 48.7 the relevant documentation required effectively to transfer the Land to the Purchaser free of any relevant Third Party Interests (in particular mortgages over the Land and security interests over the Purchaser in respect of the Land); and
- 48.8 (if not provided beforehand) such originals (or, if the originals are not available, copies) of any Ancillary Contracts in writing or partly in writing as the Vendor may then possess, duly stamped, if required to be stamped.

49. POSSESSION OF THE ASSETS

Subject to any Tenancy, vacant possession of the Land and delivery of the balance of the Assets must be given and taken on Settlement or as the parties may agree in writing.

50. AUTHORITY TO REGISTER

Where, under the RPA, a prescribed person (as defined therein) is required to certify an Instrument, upon written request of the prescribed person, and to the extent requested, each party to this contract required to execute that Instrument must, in a timely manner, provide to that prescribed person credible written evidence of that party's:

- 50.1 compliance with relevant legislation;
- 50.2 verification of identity required by section 273A(1) of the RPA;
- 50.3 verification of authority required by section 273B(1) of the RPA;
- 50.4 execution requirements of the RPA; and
- 50.5 any prescribed requirements under section 273(1)(d) of the RPA applicable.

51. PROOF OF AUTHORITY OF AN UNREPRESENTED PARTY

If, at Settlement, the Vendor or the Purchaser is not represented by a Lawyer, at Settlement and for the purpose of section 273AA(1) of the RPA, that party must satisfy the Registrar-General that the party is authorised to enter into the transaction to which an Instrument executed by that party relates.

52. COMPLIANCE BY A DERIVATIVE PARTY

If performance of this contract requires a mortgagee, lessee, caveator or other person claiming an estate or interest in the Land through or under the Vendor to execute an Instrument, the Vendor must take all reasonable steps to ensure that claimant in relation to itself complies with clause 50 and / or clause 51 as if a party to this contract.

PART 14 – AFTER SETTLEMENT

53. NOTIFICATION OF THE SALE

As soon as practicable after Settlement, the Purchaser must notify the transfer of the Assets so far as relevant to:

- 53.1 SA Water or other (each) water industry entity that under the *Water Industry Act 2012* supplies water or sewage services to the Land;
- 53.2 the State Government;
- 53.3 the local or district council in whose area the Land is located; and

53.4 the (each) counterparty to any Ancillary Contract.

Note: If the land is agricultural land and the Vendor or Purchaser is a foreign person (all as defined in the *Register of Foreign Ownership of Agricultural Land Act 2015* (Cwth)), after Settlement that foreign person should notify the sale of the Land to the Commissioner of Taxation as that Act requires.

54. REQUISITIONS BY THE REGISTRAR-GENERAL

If the Registrar-General, acting under the RPA, raises any requisition/s concerning any dealing with the Land this contract requires or allows, the parties must comply promptly with such requisition/s so far as they are able.

PART 15 – OTHER

55. PAYMENTS

55.1 Subject to the other provisions of this contract, any payment to be made under this contract must be either by Bank Cheque, telegraphic transfer of cleared funds, or a direct credit of cleared funds.

55.2 The receipt of any person paid at the written direction of a party or via an Electronic Workspace is a sufficient discharge to the other party for the amount paid to that person.

56. DEFAULT INTEREST

56.1 If Settlement does not occur on the Date for Settlement only by reason of the Purchaser's default, the Purchaser must pay to the Vendor interest on the Price at the Default Rate computed from the Date for Settlement until either the Date of Settlement or the date of termination of the Sale.

56.2 If Settlement does not occur on the Date for Settlement by reason of the Vendor's default, the Vendor must pay to the Purchaser interest on so much of the Price as has from time to time been paid at the Default Rate computed from the Date for Settlement until either the Date of Settlement or the date on which the money paid by the Purchaser is repaid to the Purchaser.

57. WARRANTY CLAIMS REDUCE THE PRICE

If the Vendor pays or allows an amount to the Purchaser by reason of an alleged breach by the Vendor of a warranty or representation in this contract, then:

57.1 if the warranty or representation relates to a particular Asset, that amount reduces the Price allocated to that Asset to that extent; and

57.2 otherwise that amount to that extent reduces the Price of all the Assets collectively.

58. REMEDIES NOT EXCLUSIVE

Rights and remedies provided for in this contract are in addition to, and without prejudice to, any other rights or remedies a party may have by reason of any default.

59. NOTICES

59.1 To be effective, a notice or demand under this contract must be in writing in English and signed by or for the party giving notice or demand, by that party's Lawyer or agent.

59.2 Notice or demand may only be given to a party :

59.2.1 by hand delivery, if the recipient is an individual;

59.2.2 by pre-paid post (air-mail to any address outside Australia) posted in Australia to the recipient's mailing address stated in this contract or as last notified, and is given on the 3rd Business Day after posting (5 Business Days in case of air-mail) or (if earlier) at the time at which the letter would be delivered in the ordinary course of post;

59.2.3 by a means allowed by the *Electronic Transactions Act 2000* (SA) (including by email to the recipient's email address stated in this contract or as last notified), and is given when that Act specifies; or

59.2.4 as permitted by legislation applicable to the recipient.

59.3 Where 2 or more persons comprise a party, notice or demand given to or by 1 is effective notice or demand to all or by all (as the case may be).

60. FURTHER MATTERS

The parties must, at their expense, promptly do all things reasonably necessary to give full effect to this contract and to facilitate the performance of the transactions this contract contemplates.

61. COSTS

Unless stated elsewhere in this contract:

61.1 the Vendor must pay and bear the costs incidental to:

61.1.1 the preparation of this contract;

61.1.2 the discharge, surrender or withdrawal of any Third Party Interest (not a Permitted Interest) existing in respect of the Assets at Settlement and required to be discharged, surrendered or withdrawn to enable the Vendor to give good title to the Purchaser as this contract requires;

61.2 the Purchaser must pay and bear:

61.2.1 the costs incidental to the preparation of the transfer under clause 37;

61.2.2 the costs incidental to any assignment, mortgage or other document to be executed pursuant to this contract;

61.2.3 all stamp duty, registration fees and any other government charge payable in respect of this contract and (subject to clause 61.1.2) any further Instrument or registration this contract requires.

61.3 the parties must pay and bear their own costs of negotiating or executing this contract.

62. FOREIGN PERSONS

Unless otherwise stated in this contract, the Purchaser warrants that the Takeovers Act does not apply, and at Settlement will not apply, to the Purchaser's acquisition of an interest in the Assets under this contract.

63. FOREIGN RESIDENT CAPITAL GAINS WITHHOLDING PAYMENT

63.1 If *both* the following apply:

63.1.1 the sale of the Land is not an excluded transaction within the meaning of s14-215 of Schedule 1 of the TA Act; and

63.1.2 the Vendor has not given the Purchaser either:

(a) a Clearance Certificate for each person comprising the Vendor; or

(b) a variation notice under s14-235 of Schedule 1 of the TA Act varying the Withholding Amount to nil prior to Settlement,

then, notwithstanding any other provision of this Agreement:

- 63.2 the Purchaser must lodge a *Foreign Resident Capital Gains Withholding Purchaser Notification Form* with the Australian Taxation Office and give a copy to the Vendor before Settlement;
- 63.3 the Vendor irrevocably directs the Purchaser to draw a Bank Cheque for the Withholding Amount in favour of the Deputy Commissioner of Taxation and the Purchaser must produce that Bank Cheque at Settlement;
- 63.4 the Purchaser must pay the Bank Cheque for the Withholding Amount to the Deputy Commissioner of Taxation in accordance with s14-200 of Schedule 1 of the TA Act and give the Vendor evidence that it has done so within 2 Business Days after the Date of Settlement;
- 63.5 the Vendor cannot refuse to settle if the Purchaser complies with clauses 63.2 and 63.3; and
- 63.6 compliance by the Purchaser with the Purchaser's obligations under Schedule 1 of the TA Act to pay the Withholding Amount is a complete discharge of the Purchaser's obligations under this contract to pay that portion of the Price equal to the Withholding Amount.

64. **ANNEXURES**

- 64.1 Any Annexures referred to in **Item 15**, and any document/s incorporated by reference into any such Annexure, form part of this contract.
- 64.2 Provisions in an Annexure prevail over the other provisions of this contract to the extent of any inconsistency.
- 64.3 Unless otherwise stated, expressions used in an Annexure have the same meaning as in this present document.

65. **NO MERGER**

Rights and obligations of the parties do not merge on completion of any transaction under this contract. They survive the execution, delivery and registration of any document or Instrument entered into or made for the purpose of implementing any transaction.

66. **ENTIRE AGREEMENT**

This contract records the entire agreement between all the parties as to its subject so that, subject to its express terms:

- 66.1 this contract is effective and binding on the parties on execution;
- 66.2 this contract supersedes any prior contract or obligation between all the parties about its subject, and this contract is effective to release absolutely each party from all claims (in common law, principles of equity or under legislation) another party to this contract might otherwise have in connection with that prior contract or obligation; and
- 66.3 on the Execution Date, there is no contract between all the parties collateral to this contract.

67. **AMENDMENT**

- 67.1 This contract can be amended only by written agreement of all parties.
- 67.2 Without limiting clause 67.1, a party will not amend the Standard Terms for the Sale of Land issued by The Law Society of South Australia, unless all the amendments are expressly specified in an Annexure.

68. **WAIVERS**

A party waives a right under this contract only by giving written notice that such party waives that right.

69. **GOVERNING LAW AND JURISDICTION**

69.1 The laws in force in South Australia govern this contract.

69.2 The courts of South Australia or the Federal Court of Australia (Adelaide Registry) have exclusive jurisdiction in connection with this contract. The parties irrevocably submit to the jurisdiction of those courts, and any courts that have jurisdiction to hear appeals from those courts.

Annexure A
Special Conditions

1 Definitions and Interpretation

1.1 Definitions

In this agreement, unless the contrary intention appears:

Agreement and **Contract** (as the term is used in this Contract) have the same meaning.

Business means the business that is or was (if any) conducted by the Vendor or a third party (as the case may be) on the Land.

FIRB means the Foreign Investment Review Board and includes the Minister of the Australian Government who administers the Government's foreign investment policy under the provisions of the Foreign Acquisitions and Takeovers Act 1975 (Cth).

FIRB Approval means:

- (a) a statement that there are no objections; or
- (b) the consent or approval,

by and from FIRB under the *Foreign Acquisitions and Takeovers Act 1975 (Cth)* for the purchase of the Land by the Purchaser on the terms of this agreement.

General Conditions means the Law Society of South Australia Contract For The Sale And Purchase Of Land.

Improvements means all of the buildings, fences and other structural improvements located on the Land (as applicable).

Land means the land specified in **Item 3** and/or **Item 4** of the General Conditions and includes the Improvements

Law means:

- (a) any statute, regulation, ordinance, by-law or subordinate legislation in force from time to time, whether made by state, territory, federal or local government;
- (b) any other regulatory instruments applying to the Land; and
- (c) the common law applicable from time to time in South Australia.

Property Information means all documents, information and other items provided to the Purchaser or its consultants and advisors in respect of the Property.

Purchaser means the purchaser in **Item 2** of the General Conditions.

Relevant Authority means any public, governmental, semi-governmental, statutory or regulatory authority, department or other body (including the Relevant Authority which assesses applications under the *Development Act 1993 (SA)*).

Schedule means the schedule appearing before the Standard Terms of the General Conditions.

Vendor means the vendor in **Item 1** of the General Conditions.

1.2 Interpretation

In this agreement, unless the contrary intention appears:

- (a) a reference to a General Condition is a reference to a provision of the Law Society of South Australia Contract for the Sale and Purchase of Land approved by the Law Society of South Australia, to which this Annexure A is attached;
- (b) a reference to in Item is a reference to an item of the General Conditions appearing in the Schedule; and
- (c) a reference to a Special Condition is a reference to a provision of this Annexure A.

2 Purchaser's own enquiries - Property Information

The Purchaser acknowledges, warrants and represents to the Vendor that:

- (a) it has been given an opportunity to inspect the Assets and to make enquiries of the Vendor and its officers, employees, agents, advisers and consultants about the Assets;
- (b) it relies on its own judgement and professional advice (including any inspection of the Assets and enquiries), in deciding to purchase the Assets;
- (c) it does not rely on any representation or warranty (express or implied) by the Vendor or any of its officers, employees, advisors, consultants and agents as to the accuracy, completeness, currency or reliability of the Property Information;
- (d) it purchases the Assets in its existing condition and state of repair;
- (e) it has satisfied itself as to the nature and effect of any Laws restricting the use of the Assets, in respect of existing or future improvements, and as to all other Laws in respect of the Assets;
- (f) it is aware of the terms of any approval, consent or permit of any Relevant Authority of a building, planning and development nature in respect of the Assets;
- (g) it is aware of the terms of the By-Laws, Scheme Description, and Development Contract applying to and affecting the Assets.
- (h) it has made its own enquiries about the use of the Assets; and
- (i) the Purchaser purchases the Assets on an *as is where is* basis.

3 Form 1

The Purchaser acknowledges the contents of and disclosures made in the Form 1 Statement issued by or on behalf of the Vendor to the Purchaser pursuant to the *Land and Business (Sale and Conveyancing) Act* and acknowledges and agrees that the contents of the same shall, for the purposes of disclosure to the Purchaser, form part of this agreement.

4 Purchaser's Warranties

4.1 Warranties

The Purchaser warrants that:

- (a) it has full power and authority to enter into and perform its obligations under this agreement;
- (b) it has taken all necessary action to authorise the execution, delivery and performance of this agreement in accordance with its terms;
- (c) it is not the trustee of any trust and if it is, the Purchaser is in any event:
 - (i) duly authorised under the terms of the trust to enter into this agreement;
 - (ii) entitled to be indemnified out of the assets of the trust in respect of its liabilities and obligations under this agreement and those assets are sufficient to meet those liabilities and obligations; and
 - (iii) liable personally and as trustee of the trust in respect of all its liabilities and obligations under this agreement; and
- (d) this agreement constitutes legal, valid and binding obligations upon the Purchaser and is enforceable against the Purchaser in accordance with its terms; and
- (e) the Purchaser is either:
 - (i) not required to obtain FIRB Approval for its acquisition of the Land; or

- (ii) if it is required to obtain FIRB Approval for its acquisition of the Land, the Purchaser has obtained FIRB Approval and it will provide a copy of such FIRB Approval to the Vendor prior to execution of this agreement.

4.2 Business Warranties

- (a) The Purchaser acknowledges and agrees that the Purchaser is not entitled to make any requisition, claim, delay settlement, or rescind or terminate this agreement concerning the Business and will not ask the Vendor to rectify any failure to comply with a law applicable to the Business.
- (b) The Vendor gives no warranty as to the condition of the Business including as to its physical condition (including the existence of patent or latent defects) and its fitness for any particular purpose.
- (c) The Purchaser warrants that:
 - (i) it is purchasing the Assets entirely as a result of its own inspections and enquiries and relying on its own judgment; and
 - (ii) it does not rely on any representation or warranty of any nature concerning the Business or the Assets made by or on behalf of the Vendor, the Vendor's solicitors, the Vendor's employees, servants and agents, consultants or any other person other than those representations and warranties (if any) expressly set out in this agreement.

5 Assignment of Lease

- (a) For clarity, the Vendor and the Purchaser each acknowledge and agree that the Memorandum of Lease ("Lease") specified in Item 6 of the General Conditions is an Ancillary Contract for the purposes of PART 9 of the General Conditions and shall be assigned by the Vendor to the Purchaser in accordance with the terms of PART 9.
- (b) Despite any provision to the contrary in the General Conditions, the Purchaser covenants and agrees with the Vendor that the Purchaser shall not at any time be entitled to require, and the Vendor shall not be obligated to enter into, or require that the tenant under the Lease enter into, a deed of assignment of the Lease.

6 Guarantee

- (a) If the Purchaser is, or includes, a corporation other than a public company listed on the Australian Stock Exchange Limited, the Purchaser shall within 5 Business Days from the later to occur of the date of execution of this agreement by the Purchaser and the date the Vendor provides the guarantee and indemnity to the Purchaser for execution, procure the grant by the Guarantors of a guarantee and indemnity of the performance of obligations of the Purchaser under this agreement upon such terms as the Vendor shall reasonably require.
- (b) In this Special Condition, the term "Guarantors" means each director of the corporate Purchaser.

7 Sale by Auction

If this agreement is to result from the Land being put to sale by auction then the following conditions of auction apply:

- (a) before the fall of the hammer, the Vendor may withdraw the Land from sale;
- (b) a bidder must bid in multiples specified by the auctioneer, and cannot withdraw a bid;
- (c) the auctioneer's decision on the procedure or outcome of the auction is final; and
- (d) immediately after the fall of the hammer, the Purchaser must pay a deposit of 10% of the Price to the Vendor (or land agent acting for the Vendor), or such other amount as has been agreed in writing with either the Vendor or land agent prior to auction.