

Panorama Brisbane

SALE CONTRACT - REFERENCE SCHEDULE

Contract Date

09 December 2022 | 14:19 AEDT

Buyer

Buyer 1 name Towners Custodian Pty Ltd **Buyer 1 date of birth**
A.C.N. 663 854 680 **name of trust** D & W Property Trust
address 43 Jepson Street, Mango Hill QLD 4509 Australia
telephone 0416 127 313 **email** donk62@gmail.com
Buyer 2 name _____ **Buyer 2 date of birth**
address _____
telephone _____ **email** _____
Buyer 3 name _____ **Buyer 3 date of birth**
address _____
telephone _____ **email** _____
Buyer's Solicitor
name QSLG - Michael Kenny
address Level 10, Silverton Place, 101 Wickham Terrace Brisbane QLD 4000
telephone 0418 721 880 **email** michael@qslg.com.au **fax** _____

Foreign Interest

 NO **YES** [Tick as applicable. If not completed, Buyer assumed not a Foreign Interest.]

Nationality if Foreign: _____

Settlement Date

21 days after Satisfaction or Waiver of Finance.

Property

address Unit No. 1711 **Panorama Brisbane** situated at 37 Mayne Road, Bowen Hills, QLD 4006.
Lot no 1711 **Survey Plan** 259430 **Title reference** 51230155
Scheme Panorama Brisbane Community Titles Scheme 53967
Encumbrances Building Management Statement No 720268006
 Rights and Interests Reserved to the Crown under Deed of Grant No. 19557045 (ESA 100)

Price

\$ 411,500.00

Total Deposit \$ 20,575.00

payable to HWL Ebsworth, Lawyers;

Initial Deposit \$ 1,000.00

payable on the signing of this Contract; and

Balance Deposit \$ 19,575.00

payable on satisfaction or waiver of Finance

[SEE NOTE ON FOLLOWING PAGE 2 ABOUT PAYMENT OF DEPOSIT TO HWL EBSWORTH TRUST]

Guarantor

[IF BUYER IS A COMPANY]

Guarantor 1 Name Donald Keith Townley
Guarantor 1 Address 43 Jepson Street, Mango Hill QLD 4509 Australia
Guarantor 2 Name Wendi-Lee Veronica Masters
Guarantor 2 Address 43 Jepson Street, Mango Hill QLD 4509 Australia
Guarantor 3 Name _____
Guarantor 3 Address _____

Agent

name Avanti Project Marketing Pty Ltd in conjunction with Chase Wealth Australia Pty Ltd
address _____
telephone _____ **facsimile** _____

IMPORTANT NOTICE TO BUYER

Depositing Funds into HWL Ebsworth Trust

1. HWL Ebsworth receives dozens of transfers and direct deposits into our Trust Account every day.
2. It is imperative that we know what the funds are paid for so that they can be properly receipted and applied.
3. If we can't identify and receipt a deposit into our Trust Account, it may lead to delay in progressing your matter.

Matter Reference

4. When transferring or depositing funds into our Trust Account, **it is imperative** that you include a reference which has:
 - (a) your name (as per the Sale Contract);
 - (b) the lot number you are buying; and
 - (c) the development name.

For example: *Smith: Lot 101: Panorama Brisbane*

IMPORTANT

Immediately after you have transferred or deposited the funds into our Trust Account, **send HWL Ebsworth a fax or an email with a copy of the transfer or deposit receipt**. The relevant email address and fax number are listed in the Reference Schedule of the Sale Contract.

Trust Account Details

5. Our Trust Account details are as follows:

| | |
|--------------------|---|
| HWL Ebsworth ABN: | 37 246 549 189 |
| Bank Account Name: | HWL Ebsworth Lawyers Law Practice Trust Account |
| Bank: | Westpac Banking Corporation |
| Address: | 388 Queen Street, Brisbane, QLD 4000 |
| BSB: | 034 003 |
| Account: | 24 66 34 |
| Swift Code: | WPACAU2S |

SALE CONTRACT - REFERENCE SCHEDULE (CONT.)

Deposit Holder

HWL EBSWORTH LAWYERS

Seller

name **Arden Group Holdings Pty Ltd ACN 150 741 101 as trustee for the AGH Trust (Instrument No. 714561735)**

address 56 Crosby Road, Albion, QLD 4010

Seller's Solicitor

name **HWL EBSWORTH LAWYERS (ATTN: Holly Crilly)**

address Level 19, 480 Queen Street (GPO Box 2033) Brisbane Qld 4000

telephone (07) 3169 4784

facsimile 1300 368 717

email hcrilly@hwle.com.au

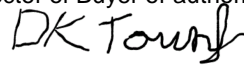
The contract may be subject to a 5 business day statutory cooling-off period. A termination penalty of 0.25% of the purchase price applies if the buyer terminates the contract during the statutory cooling-off period. It is recommended the buyer obtain an independent property valuation and independent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

Buyer's Signature



SIGNED by the Buyer in the presence of (and if a company, in accordance with Sections 126 or 127 of the *Corporations Act 2001 (Cth)* or by its duly authorised signatory):

.....
) Buyer (or Director of Buyer or authorised signatory, if company).



.....
Witness
(witness not required if signed electronically)

.....
) Buyer (or Director of Buyer or authorised signatory, if company).

.....
) Buyer (or Director/Secretary of Buyer or authorised signatory, if company)

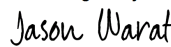
The signatories, by placing their signatures above, warrant that:

- (a) they are the Buyer or they are authorised by the Buyer to sign; and
- (b) if an officer of a company, the company duly resolved to enter into and sign this Contract.

Seller's Signature

SIGNED ON BEHALF of Arden Group Holdings Pty Ltd ACN 150 741 101 as trustee for the AGH Trust (Instrument No. 714561735) by its duly authorised signatory:

DocuSigned by:



.....60521C0AB82F48C.....

NO PRE-CONTRACT REPRESENTATIONS – IMPORTANT NOTICE

No sales or marketing agent has authority from the Seller or any related company to make promises, representations or give any warranties or assurances about the Building, the Scheme or the Property other than promises, representations, warranties and assurances which are contained in this Contract or the Disclosure Documents.

Buying a property is an important investment. If the Buyer has been induced to buy the Property or in doing so has relied on anything the Buyer has been told or any assurance the Buyer has been given other than what is in this Contract or the Disclosure Documents, it is important these promises, representations, warranties or assurances are identified so they can be disclaimed, confirmed, qualified or clarified before the Buyer commits to buy the Property.

The Buyer should set out below any promises, representations, warranties or assurances that have been made to the Buyer by the Seller or any sales or marketing agent of the Seller that have, to any extent, induced the Buyer to buy the Property or on which the Buyer has to any extent relied, in its decision to buy the Property, but which are not included in this Contract or the Disclosure Documents:

| Promise, representation, warranty or assurance allegedly made | Person who is alleged to have said it | Date made |
|---|---------------------------------------|-----------|
| | | |
| | | |
| | | |

Buyer’s Acknowledgment about Seller’s Representations

1. The Buyer acknowledges that no sales or marketing agent has authority from the Seller to make promises or representations or to give warranties or assurances on behalf of the Seller, other than those contained in this Contract or the Disclosure Documents.
2. The Buyer confirms and represents to the Seller that the Buyer has not been induced to enter into this Contract and has not relied on any promises, representations, warranties or assurances other than those which are contained in this Contract or the Disclosure Documents or which are hand written above.
3. The Buyer understands that:
 - 3.1 if it leaves the table above blank, it is representing and warranting to the Seller that it has not been induced by and has not relied on anything said or done by or on behalf of the Seller to enter into this Contract, other than what is contained in this Contract or the Disclosure Documents;
 - 3.2 except for this representation and acknowledgement, the Seller would not have entered into this Contract; and
 - 3.3 by the acknowledgment, confirmation and representation given in paragraphs 1, 2 and 3 above, it is likely that the Buyer will not be able to sue the Seller in respect of any promise, representation, warranty or assurance other than those set out above or which are set out elsewhere in this Contract or the Disclosure Documents.

IF THIS CONTRACT IS SIGNED ELECTRONICALLY, PLEASE NOTE THAT THE BUYER HAS THE ABILITY TO COMPLETE THE TEXT FIELDS ABOVE.

LS Masters

Buyer 1 Sign

DK Townsh

Buyer 2 Sign

Buyer 3 Sign

DocuSigned by:

Jason Warat

60521C0AB82F48C...

Seller Sign

Version 3 / 24 June 2022

CONTRACT TERMS

A MEANING OF TERMS

1. Reference Schedule

Terms in the Reference Schedule have the meanings shown opposite them.

2. Disclosure Documents

Terms used in the Disclosure Documents (including the Statutory Disclosure Statements and other statements contained in the Disclosure Documents), unless otherwise defined, have the meanings given to them in this Contract.

3. BCCM Act

Terms not defined in this Contract but defined in the BCCM Act have the meanings given to them in the BCCM Act.

4. Definitions

In this Contract, unless the context otherwise indicates:

ADI has the meaning given in the *Banking Act 1959 (Cth)*.

Authority means any body, government, person or otherwise having or exercising control over the approval of, carrying out of, use or operation of the Building, Scheme or the Property (or any part or proposed part of them) including any services provided or to be provided to them.

Balance Price means the Price, less any cash Deposit paid, adjusted in accordance with this Contract.

Bank means an ADI that is permitted under section 66 of the *Banking Act 1959 (Cth)* to call itself a bank or a bank constituted under a law of a State of Australia.

Bank Cheque means a cheque issued or drawn by an ADI on itself.

BCCM Act means the *Body Corporate and Community Management Act 1997 (Qld)*.

Body Corporate means the body corporate of the Scheme.

Body Corporate Agreements means any service contractor's agreements, letting authorisation agreement and possibly other agreements entered into by the Body Corporate copies of which are contained in the Disclosure Documents.

Building means the building within the Scheme, incorporating the Lot.

Building Management Statement means Building Management Statement number 720268006.

Business Day means any week day which is not a public holiday in Brisbane.

Buyer's Solicitor means the Buyer's Solicitor named in the Reference Schedule and includes any other solicitor notice of which is given as acting for the Buyer.

By-laws means the by-laws of the Scheme.

Chattels means the chattels included in the Lot as at the Contract Date.

Claim includes any claim, cause of action, proceeding, right, entitlement, damages, costs, losses, liability or demand however it arises and whether it is past, present or future, fixed or unascertained, actual, potential or contingent.

Committee means the committee of the Body Corporate.

Common Property means the common property of the Scheme (and includes, where the context requires, areas of Common Property which have been allocated pursuant to exclusive use by-laws for exclusive use of lots in the Scheme).

Community Management Statement means the community management statement for the Scheme.

Compliant Bank Guarantee means a guarantee or undertaking by a Bank acceptable to the Seller, which:

- (a) is for the amount of the Deposit;
- (b) is issued in favour of the Deposit Holder as "Favouree" (as opposed to specifying the Seller as Favouree);
- (c) specifies that the Seller has agreed to accept the guarantee or undertaking instead of payment of a cash deposit;
- (d) requires the bank to pay the Deposit Holder the Deposit amount immediately on presentation of the guarantee or undertaking without first checking with the Buyer or any other person;
- (e) has no expiry date and is expressed to be unconditional and irrevocable;
- (f) contains the names of the Seller and the Buyer (and no other third party) and makes reference to this Contract and the sale made under it, eg:

*Arden Group Holdings Pty Ltd ACN 150 741 101 as trustee for the AGH Trust (Instrument No. 714561735) sale of unit [No.] **Panorama Brisbane** to [Buyer's Name]; and*

- (g) is otherwise on terms and conditions and in a form satisfactory to the Seller and any Seller's financier.

Contract means this contract document.

Contract Rate means the Contract Rate prescribed by the Queensland Law Society Inc.

Cost means any cost, charge, expense, outgoing, payment, liability or other expenditure of any nature including legal fees.

Deposit means the Total Deposit (which comprises, where the context requires, the Initial Deposit and the Balance Deposit) shown in the Reference Schedule.

Deposit Bond means a bond or other surety (however described) that is:

- (a) from an insurance company or other institution acceptable to the Seller;

- (b) in a form acceptable to the Seller in its discretion;
- (c) for an amount equal to the Deposit; and
- (d) payable on demand.

Digitally Sign has the meaning in the ECNL.

Disclosure Documents means the documents titled "Disclosure Documents" or similar given or delivered to the Buyer before formation of this Contract.

ECNL means the *Electronic Conveyancing National Law (Queensland)*.

Electronic Conveyancing Documents has the meaning in the *Land Title Act 1994*.

Electronic Lodgement means lodgement of a document in the Queensland Land Registry in accordance with the ECNL.

Electronic Settlement means settlement facilitated by the Platform.

Electronic Workspace means a shared electronic workspace within the Platform that allows the Buyer and Seller to effect Electronic Lodgement and Financial Settlement by way of electronic addresses for service of notices and for written communications.

Essential Term means a term of this Contract which is specified to be an "Essential Term" and any other term of this Contract that a court finds to be essential.

EU Areas means all areas of Common Property or Body Corporate assets allocated for the exclusive use of (occupiers of) the Lot for a purpose specified in the exclusive use By-law.

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

Financial Settlement means the exchange of value between financial institutions in accordance with the Financial Settlement Schedule.

Financial Settlement Schedule means the electronic settlement schedule within the Electronic Workspace listing the source accounts and destination accounts.

Foreign Interest means any person within the definition of "foreign person" in FATA.

GST means goods and services tax payable under the GST Law.

GST Law means the *A New Tax System (Goods and Services Tax) Act 1999 (Cth)*.

GST Notifications means each of the notifications in the approved form required to be given by the Buyer under section 16-150(2) of the Withholding Law.

Guarantee means the Guarantee and Indemnity accompanying this Contract document.

Keys means the keys, codes or devices in the Seller's possession or control for locks and security systems required to gain access to the Property.

Lot means the lot in the Scheme which is sold under this Contract and is further described in the Reference Schedule.

Lot Entitlement means the contribution or interest entitlement (as the context requires) of a lot in the Scheme as specified in the Community Management Statement.

MELA Agreement means the agreement for the caretaking of the Scheme and authorisation to carry out a letting agent's business within the Scheme between the Body Corporate and a manager.

Name means *Panorama Brisbane*.

NBN Co means any one or more of NBN Co Limited ABN 86 136 533 741 or any related body corporate or related entity to it.

Non Compliant Guarantee means a:

- (a) Deposit Bond; or
- (b) a guarantee or undertaking by a Bank that is not a Compliant Bank Guarantee.

Notice means:

- (a) any notice, request, direction or other communication to be given under or in relation to this Contract; or
- (b) any statement, notice or disclosure required by any law to be given in relation to this Contract or the transactions evidenced by it (including statements under section 206 BCCM Act).

Object means to object generally and includes to:

- (a) object to a Variation;
- (b) object to Title;
- (c) avoid or attempt to avoid this Contract;
- (d) refuse to effect Settlement;
- (e) delay Settlement;
- (f) make any Claim, whether before or after Settlement, including a claim for damages or compensation or any reduction in the Price;
- (g) retain any part of the Price;
- (h) require the Seller to carry out any works;
- (i) withhold a consent; or
- (j) seek an injunction.

Occupation Authority has the same meaning as in the Regulation Module.

Outgoings means:

- (a) rates, charges or levies on the Scheme Land or the Lot by any Authority (including rates, water charges, fire service levies etc);
- (b) land tax;
- (c) Body Corporate levies; and
- (d) Body Corporate and building insurances paid by the Seller including under the Building Management Statement.

Parcel means the land as described in the Disclosure Documents and any additional adjoining or nearby land acquired by the Seller for development as part of the Building and, where the context permits or requires,

includes any land derived from the Parcel. The Scheme Land was created from the Parcel.

Parties means the Seller and Buyer.

Party means the Seller or the Buyer as the context requires.

PLA means the *Property Law Act 1974 (Qld)*.

Platform means any bona fide system operated for settlement of conveyancing transactions and lodgement of Queensland Land Registry documents by a party approved as an Electronic Lodgement Network Operator under section 15 of the ECNL, including the system operated by Property Exchange Australia Ltd.

Power of Attorney means appointment of the Seller (and its representatives) by the Buyer as the Buyer's attorney pursuant to the clause titled "Power of Attorney".

PPSA means the *Personal Property Securities Act 2009 (Cth)*.

PPS Release means a document or a copy of a document (which may be a letter) signed by a Secured Party giving a release of its Security Interest for the Sold Property.

PPSR means the register kept pursuant to the PPSA.

Promotional Materials means all marketing materials (including websites), models, artists impressions, display boards and similar and any representation or depiction contained in any display apartment in relation to the Property or the Scheme or the Building.

Regulation Module means the regulation module under the BCCM Act which applies to the Scheme.

Scheme Land means the land that was subdivided to create the Scheme.

Section 206 Statement means the disclosure statement required under Section 206 of the BCCM Act contained in the Disclosure Documents.

Secured Party means the holder of a Security Interest.

Security Interest has the meaning given in the PPSA.

Settlement means the event of settlement of this Contract.

Settlement Materials means all releases, withdrawals, documents, certificates, declarations, Notices, instruments, materials, letters or similar which the Seller is required to provide or deliver to the Buyer (including, if applicable, by way of Electronic Settlement) at Settlement.

Settlement Statement means a statement which outlines or lists:

- (a) the calculation of the Balance Price payable by the Buyer to the Seller at Settlement (including details of adjustments to the Price for the Deposit paid, Outgoings and other amounts payable by the Parties under this Contract);
- (b) directions as to payment of the Balance Price by Bank Cheques (or trust cheques if authorised by the Seller) or by Electronic Settlement, if applicable;
- (c) Settlement Materials; and

- (d) any other particulars the Seller considers appropriate.

Sold Property means the Lot and Chattels.

Special Conditions means the special conditions (if any) annexed to or forming part of this Contract.

Statutory Disclosure Statements means the statutory disclosure statements contained in the Disclosure Documents including the Section 206 Statement.

Statutory Obligation means any obligation, duty, liability, direction or requirement imposed by any statute, ordinance, regulation, by-law or subordinate legislation.

Survey Plan means the Survey Plan referred to in the Reference Schedule.

Title means the title to the Lot.

Transfer Documents means:

- (a) a Form 1 Transfer under the *Land Title Act 1994 (Qld)*; and
- (b) a Form 24 Property Transfer Information (Part B – Transferor to complete) form.

(If before Settlement the Queensland Land Registry changes their requirements of or the form of the Transfer Documents, then the definition of Transfer Documents will be deemed to be amended to give effect to the intent of this Contract so that to provide for the then equivalent forms and documents as determined by the Seller's Solicitors, acting reasonably).

Variations means variations, changes, reductions, omissions, substitutions or additions to (as the context requires) the Building, including variations, changes, reductions, omissions, substitutions or additions to any one or more of the above which are in respect of the:

- (a) titling arrangements;
- (b) administration and management arrangements;
- (c) utility infrastructure and supply arrangements;
- (d) construction materials;
- (e) facilities;
- (f) access arrangements;
- (g) landscaping;
- (h) composition;
- (i) density;
- (j) mix of or rights in relation to uses;
- (k) design;
- (l) façades;
- (m) balustrade and balcony finishes;
- (n) elevations;
- (o) location;
- (p) layout;
- (q) size;
- (r) dimensions;
- (s) area;

- (t) finishes;
- (u) colours;
- (v) components which comprise the Building or the Scheme;
- (w) community facilities within the Building or the Scheme;
- (x) descriptions or identification numbers of lots, units, levels, plans, exclusive use areas or assets; and
- (y) addresses – street names and numbers.

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

Withholding Notice the notice required by and compliant with section 14-255 of the Withholding Law.

B AGREEMENT TO SELL & BUY

5. Seller's Agreement to Sell

The Seller agrees to sell the Property to the Buyer on the terms set out in this Contract.

6. Buyer's Agreement to Buy

The Buyer agrees to buy the Property from the Seller on the terms set out in this Contract.

C CONSTRUCTION ACTIVITIES & FURTHER DEVELOPMENT

7. Construction Activities

7.1 The Buyer acknowledges that construction of the Building may not be totally complete at Settlement and may be completed after Settlement.

7.2 The Buyer will not Object (directly or through participation as a member of the Body Corporate) to:

- (a) any building of improvements or any other things done on the Parcel or within the Building including any noise, nuisance or other inconvenience which might arise from those activities;
- (b) the use by the Seller and any party authorised by the Seller of parts of the Building for construction access and storage of building materials, vehicles, equipment or fill;
- (c) the Seller and any party authorised by the Seller causing areas to be temporarily closed off to facilitate the construction of any part of the Building; or
- (d) the Seller not making available for use by occupants in the Building certain areas of Common Property (including hoarding or closing off areas to prevent access and use) due to safety reasons or to enable the further carrying out of the Building or construction activities generally,

including if these things occur after Settlement and for an extended period after Settlement.

7.3 The Buyer must comply with any reasonable directions of the Seller and any contractor appointed or authorised

by the Seller while building of improvements is being carried out on the Parcel or within the Building, including directions related to traffic flow, both vehicle and pedestrian.

8. Buyer's Consent – Further Development

8.1 The Buyer consents to any application for any approval made to any Authority for the further carrying out of the development of the Building or improvements within or on the Building and agrees, if directed by the Seller:

- (a) to sign and return any instrument of consent presented to it by the Seller within 5 Business Days after presentation; and
- (b) to vote in favour of any resolution of the Body Corporate which facilitates, enables or authorises the further carrying out of improvements as tabled by, on or behalf of or at the request of the Seller at meetings of the Body Corporate.

8.2 The Buyer will not in any way Object to any application for any approval made with any Authority for the further carrying out of improvements, provided such application is for an approval which, if granted and given effect to, will not have a direct material adverse effect on the use or the value of the Property.

D USES

9. Uses

9.1 The Buyer acknowledges and agrees that:

- (a) the Building, as at the time the Buyer signs this Contract, includes or is proposed to include a mix of residential, retail and possibly commercial uses (**Retail Component**);
- (b) at the time the Buyer signs this Contract, the Seller may not know what the mix of uses within the Retail Component will ultimately be because it depends on uncertain factors such as market demand, the economy generally, availability of suitable buyers and tenants, requirements imposed by Authorities and other factors;
- (c) the range of uses in the Retail Component may include restaurants and other retail outlets which may operate or undertake delivery of produce and stock outside normal business hours;
- (d) land uses within the Building may include any purpose permitted by any Authority from time to time or otherwise determined by the Seller; and
- (e) 24 hour public access may be permitted over certain components of the Building such as roadways, driveways, parking areas and thoroughfare areas.

9.2 The Buyer acknowledges and agrees that it:

- (a) buys the Property with full knowledge of the proposed mix of uses, potential uses, restrictions, arrangements and other matters referred to in this clause, the Disclosure Documents and any Promotional Materials; and

- (b) must not in any way Object to those things or the interruption of the Buyer's quiet use and enjoyment of the Property by members of the public, noise, nuisance or other inconvenience which might arise from them.

9.3 The Seller does not make any promise or representation to the Buyer or make any prediction as to the type of operators that will operate from any Retail Component, the hours during which those operators will operate or when the operators will commence trading from those components. The Seller is entitled, in its discretion, to decide these matters. The Buyer will not Object in relation to any of these things.

E VARIATIONS

10. Buyer's agreement and acknowledgements about Variations

10.1 The Buyer acknowledges and agrees that:

- (a) there are likely to be differences between the Building as shown or described in any Promotional Materials, the Contract and the Disclosure Documents and as built;
- (b) the Seller has made no representation and given no warranty that the Building as built will be exactly the same as shown or described in any Promotional Materials, the Contract or the Disclosure Documents, or, if any such promise or representation has been made or warranty given, it is hereby withdrawn by the Seller;
- (c) the Seller may not own or have control over all of the Parcel or the Building;
- (d) the intention of the Seller to carry out the entire Building is not fixed and unequivocal;
- (e) the Seller may carry out only some parts of the Building and not others;
- (f) the Seller may not have applied for, obtained or finalised all necessary approvals for the Building;
- (g) the Seller may not have finalised the design of all aspects of the Building;
- (h) further detailed design may need to be undertaken by the Seller prior to completion of any construction of the Building;
- (i) any statements made in any Promotional Materials, Contract or the Disclosure Documents regarding the Seller's intentions about the carrying out of the Building are:
- (i) statements of the Seller's then present intention only and not a predictions or representations that the Building will be carried out with that information;
- (ii) correct as at the Contract Date but may cease to be so in the future as circumstances change;
- (j) the Building may be subject to Variations for various reasons including requirements of Authorities, financial feasibilities, construction costs, market conditions, rates of sale of lots,

etc (which may occur after this Contract is entered into or after Settlement);

- (k) components of the Building (including community facilities) may not be developed at all or may be developed subject to significant Variations for various reasons including those specified in this clause (which, for avoidance of doubt, may change the character of the Building);

- (l) it is reasonable that the Seller has flexibility to and may make Variations to the Building as set out in this Contract;

(m) the Buyer:

- (i) has not relied on or been induced to enter into this Contract or purchase the Property by any information about the carrying out of the Building; and

- (ii) accepts the risk that any part of the Building may not be carried out or may be carried out subject to Variations in accordance with this Contract.

10.2 The Buyer acknowledges and understands that the Seller:

- (a) has relied on and been induced by the matters acknowledged and agreed to by the Buyer under clause 10.1 in deciding to enter into this Contract; and

- (b) would not have agreed to sell the Property to the Buyer but for the acknowledgements and agreements of the Buyer under clause 10.1.

11. Variations to Building

- (a) The Seller is entitled, at its discretion, to make Variations to the Building (including community facilities) so that they are different from those depicted in the Disclosure Documents and the Promotional Materials as determined by the Seller in its discretion.

- (b) The Buyer will not Object because of any such Variations.

12. Buyer's Acknowledgment about Finishes, Materials etc

12.1 The Buyer acknowledges that:

- (a) garage doors, concrete, driveways, verandas, balconies, terraces, slabs, tiled areas and other exposed surfaces, cornices, architraves and similar areas may develop imperfections (such as cracks) due to temperature changes and normal settlement;

- (b) some of the materials used in construction, particularly in finishes and fittings, may comprise natural products, such as stone, timber and the like and these materials may:

- (i) exhibit variations and imperfections such as in shade, colour, texture, surface, finish, markings or the like and may contain natural fissures, occlusions, lines, indentations or the like;

- (ii) expand, contract or distort over time as a result of exposure to heat, cold, changes in humidity, temperature or the like;
- (iii) mark or stain if exposed to certain substances; or
- (iv) be damaged or disfigured by impact or scratching or other mechanical means.

12.2 The Buyer accepts the Property on an "as is, where is" basis and agrees that the kinds of matters and imperfections described in this clause are not defects and that the Seller has no obligation to fix these kinds of matters and imperfections. The Buyer will not Object in relation to any of the matters set out in this clause.

F DEALINGS WITH COMMON PROPERTY

13. Seller's Right to Grant Leases & Licences

13.1 The Seller may procure (or may have procured) that the Body Corporate grant leases and licences over areas of Common Property and Body Corporate assets on such terms and conditions that the Seller considers appropriate, providing that the grant does not:

- (a) materially detract from the standard or character of the Scheme;
- (b) materially affect the use of Common Property amenities or Body Corporate assets within the Scheme by the Buyer; or
- (c) have a direct material adverse effect on the use or value of the Property.

13.2 The Seller discloses and the Buyer acknowledges and agrees that the Seller may derive (or may have already derived) a benefit, income or fee due to a grant of the kind referred to in clause 13.1. The Buyer will not Object if this happens.

13.3 Without limitation, and by way of example only, the Seller may procure (or may have already procured) that the Body Corporate grant a lease or licence:

- (a) to the Seller or any party nominated by the Seller over an area of rooftop Common Property for the purposes of installing and keeping a telecommunications aerial device at a peppercorn or nominal rental amount;
- (b) to the Seller or any party nominated by the Seller over an area of Common Property for the purposes of installing and keeping signage at a peppercorn or nominal rental amount; or
- (c) to a utility provider over an area of Common Property being an equipment keeping room in which utility supply equipment owned by the utility provider is kept.

13.4 The Seller or the nominated party who has the benefit of a lease or licence area as contemplated by this clause may (or may have already) sub-lease or sub-licence (as applicable) that area to a telecommunications carrier and derive income or other benefits from doing so.

13.5 The Buyer must not Object to the Seller exercising any of its rights under this clause including if the Seller has exercised any of those rights prior to formation of this

Contract. The Seller may exercise its rights under this clause at any time, including after Settlement.

14. Seller to Retain Fees & Payments

14.1 The Parties acknowledge that the BCCM Act enables the Seller, as original owner of all lots in the Scheme, to cause areas of Common Property or Body Corporate assets to be allocated for the exclusive use of occupiers for the time being of lots in the Scheme. Such areas or assets are typically allocated by way of exclusive use rights instead of forming part of the Title and are for purposes such as parking spaces, bicycle parks, storage areas, courtyards, balconies and the like. The Seller's rights as original owner to cause such allocations are captured in the By-laws which deal with exclusive use rights as required by the BCCM Act.

14.2 The Buyer agrees that the Seller is entitled to retain any fees or payments received by the Seller for procuring the allocation by the Body Corporate of the exclusive use rights for the use of occupants of any lots in the Scheme, whether allocated on or after establishment of the Scheme.

14.3 The Buyer must not Object and must vote against any motion of the Body Corporate that the Body Corporate objects to or makes a Claim in relation to the Seller causing (or having caused) the grant of exclusive use rights. Notwithstanding Settlement, if there is a breach or anticipatory breach by the Buyer of this clause, the Seller will be entitled to all reasonable Costs incurred and all losses suffered as a result of, or arising from, the breach.

G TITLE

15. Title

15.1 Title is under the BCCM Act and the *Land Title Act 1994 (Qld)*. The Buyer accepts Title subject to the provisions of these Acts.

15.2 The Buyer is not entitled to make any requisitions as to the Title.

15.3 The Buyer accepts Title and the Property subject to and must not Object as a result of any of the following matters, even if they adversely affect the Common Property (all of which are authorised or permitted encumbrances or dealings for the purposes of this Contract):

- (a) the Encumbrances;
- (b) the Community Management Statement;
- (c) the Building Management Statement;
- (d) any matter endorsed upon the Survey Plan;
- (e) any rights or interests reserved in favour of the Crown;
- (f) any administrative advices or similar dealings;
- (g) any encumbrances in favour of any Authority or any service authority (whether registered, unregistered or statutory);
- (h) the conditions of any approval of any Authority;
- (i) the By-laws;

- (j) any notifications, easements, restrictions, encumbrances, covenants or other matters or dealings disclosed to the Buyer in the Disclosure Documents, this Contract or elsewhere;
- (k) all notifications, easements, restrictions, encumbrances, covenants, administrative advices and dealings (other than a mortgage, caveat, writ or charge) on the title for the Common Property or the Title or otherwise affecting the Property or the Common Property not disclosed to the Buyer in the Disclosure Documents or this Contract providing they do not materially adversely affect the Buyer's use or value of the Property;
- (l) any easements benefiting or burdening the Property, the Title, the Parcel, the Scheme Land or the Common Property, whether statutory or otherwise for:
 - (i) support;
 - (ii) utility services and utility infrastructure;
 - (iii) shelter;
 - (iv) projections;
 - (v) access; and
 - (vi) maintenance of buildings close to boundary;
- (m) all notifications, easements, statutory covenants, administrative advices and restrictions in relation to the Title, the Parcel, the Scheme Land, the Common Property or the Property reasonably required in order to satisfy the requirements of any Authority.

15.4 The Buyer must not Object to the surrender, extinguishment or variation of any encumbrances or dealings.

16. Encumbrances on Title

At Settlement the Title will be free from all material adverse encumbrances except those:

- (a) authorised by the BCCM Act or other statute;
- (b) authorised or permitted by this Contract;
- (c) in respect of which the Buyer must not Object under this Contract; or
- (d) otherwise disclosed in the Disclosure Documents, this Contract or elsewhere.

17. Mistake

If a mistake or omission is made by the Seller in the description of the Parcel, the Scheme Land, the Property, the Title, any EU Areas or the Common Property, the Buyer:

- (a) is not entitled to terminate this Contract;
- (b) may (unless that right is limited elsewhere in this Contract) make a claim for compensation if any loss is suffered by the Buyer; and
- (c) subject to clause 17(a), is not entitled to otherwise Object.

18. Buyer must not Object

18.1 Subject to any rights of the Buyer under this Contract, and without limitation to the Seller's rights elsewhere in this Contract, the Buyer will not Object as a result of:

- (a) any of the matters and disclosures contained in this Contract, the Disclosure Documents or the Promotional Materials;
- (b) any error, mistake or omission contained in the Disclosure Documents or the Promotional Materials;
- (c) the Seller replacing or updating materials disclosed in the Disclosure Documents or the Promotional Materials;
- (d) the creation of community title schemes in addition to the Scheme or the creation of a layered arrangement of community title schemes in the course of carrying out the development of the Building;
- (e) residential lots within the Scheme being sold as affordable or low cost type housing whether pursuant to a condition of a development approval or otherwise;
- (f) settlement of lots within the Scheme taking place at different times;
- (g) the Seller changing its name or there being an error or inaccuracy in the name, company number, address or other particulars of the Seller in this Contract or the Disclosure Documents;
- (h) any transfer, lease, easement, licence, covenant or other right over part of the Common Property or Body Corporate assets given to the Seller, any Authority, any provider of utility infrastructure, any service contractor, the owner of a lot in the Building or the owner of nearby land;
- (i) the Body Corporate entering into or having entered into agreements with body corporates of other community titles schemes under which members and occupiers of lots in the Scheme and lots included in the other schemes share the use and enjoyment of facilities forming part of the common property or body corporate assets of one or more of the schemes;
- (j) the length of tandem parking spaces (if any) being less than the length of two normal parking spaces;
- (k) the ceiling heights within the Lot;
- (l) the Parcel being affected by flooding or other flow or inundation of water at any time including before or after formation of this Contract or Settlement;
- (m) a boundary of the Parcel or Scheme Land not being fenced, or any boundary, fence or wall not being upon or within the boundary;
- (n) the existence of an encroachment onto or from the Parcel or Scheme Land;

- (o) the existence or passage through the Lot, Parcel, Scheme Land or Common Property of utility infrastructure;
- (p) the transfer of any additional land into the Building or the Scheme whether as a lot or Common Property;
- (q) the transfer, dedication or excision of any land out of the Parcel, the Scheme Land, the Building or the Scheme;
- (r) an alteration to the Common Property, Body Corporate assets or any other facilities or rights in relation to their use;
- (s) facilities within the Building being made available for use at different times including after Settlement;
- (t) an alteration to any access arrangements that benefit or burden the Scheme;
- (u) certificates of classification (or equivalent) being issued at different times for different parts of the Scheme or Building;
- (v) there being no pool safety certificate at Settlement if there is a pool;
- (w) the allocation of any parking, storage, courtyard and other areas to the Lot by way of a grant of Common Property or Body Corporate asset under an exclusive use by-law and not as part of the Title and vice versa;
- (x) any column, wall, structural element or utility infrastructure is within or affects the convenient use of any parking area, storage area or any EU Area;
- (y) arrangements in relation to supply of utilities including if the Body Corporate has entered into or enters into arrangements for the supply of utilities;
- (z) utility infrastructure being owned by the supplier of the utility and not the Body Corporate (for example, cabling, meters, hot water, air conditioning and gas supply equipment, communications equipment and associated infrastructure);
- (aa) insurance for the Scheme having been arranged or being arranged as part of an insurance policy taken out under the Building Management Statement;
- (bb) the Seller having caused or causing the Body Corporate to have one or more general meetings while (or effectively while) the sole member of the Body Corporate and electing or confirming the appointment of the members of the Committee and attending to matters required by the BCCM Act;
- (cc) the Seller having caused or causing the Body Corporate to give any indemnity in favour of an Authority, service provider or other entity, including if the indemnity is in respect of loss of profits;
- (dd) the Seller having caused or causing the Body Corporate to enter into any agreement that may

- be a requirement of any approval issued by an Authority or as a condition to the provision of any service or utility;
- (ee) the Seller having caused or causing the Body Corporate to pass resolutions while the sole member of the Body Corporate, including resolutions that may be beneficial to the Seller or parties related to it or resolutions to assist or facilitate the further carrying out of the development of the Building;
- (ff) the Seller having caused or causing the Body Corporate to enter into the Body Corporate Agreements;
- (gg) the manager under the MELA Agreement not residing within the Scheme or the Building;
- (hh) the Seller having caused or causing the Body Corporate to grant the use by an Occupation Authority or otherwise of areas of the Common Property to the parties to the Body Corporate Agreements for the use of an office, reception, storage space or other uses ancillary to the duties of the service contractor or business of the letting agent;
- (ii) the Lot or the Common Property being recorded on or in the Contaminated Land Register or the, Environmental Management Register; or
- (jj) the existence of any electrical substation, sewerage system, transformer or telecommunications facility (including a tower or satellite dish) or similar thing within or on the Building.

H BODY CORPORATE

19. Body Corporate Records

The Buyer may apply and is authorised by the Seller to apply to the Body Corporate for an information certificate under Section 205 of the BCCM Act.

20. Body Corporate Agreements

20.1 The Seller may cause or may have already caused the Body Corporate to enter into the Body Corporate Agreements or any one or more of them with any party or parties which, in the Seller's opinion, are reasonably qualified to perform the obligations contained in those agreements including the Seller itself or parties however related to the Seller.

20.2 The Seller discloses and the Buyer acknowledges that the Seller may receive or may have already received fees (or other benefits) for causing the Body Corporate Agreements or any one or more of them to be entered into.

20.3 The Seller discloses to the Buyer that it has received or expects to receive consideration, fees or benefits (**Consideration**) for causing or having already caused the Body Corporate to enter into the Body Corporate Agreements as follows:

| Body Corporate Agreement | Estimated value or amount of Consideration |
|--------------------------|--|
| MELA Agreement | \$3.2million - \$3.7million |

| | |
|---------------------------|----------------------------|
| | plus GST |
| Hot Water & Gas Agreement | \$247,808.00 including GST |

- 20.4 The Buyer consents to the Seller causing or having already caused the Body Corporate to enter into the Body Corporate Agreements and if this has already occurred as at the date of this Contract, the Buyer affirms any such action taken by the Seller and agrees that the Consideration received (in whatever form) is the property of the Seller absolutely.
- 20.5 The Buyer warrants and represents to the Seller that it has read, understood and taken advice about the Body Corporate Agreements (or has had an opportunity to do so) and agrees that the terms of the Body Corporate Agreements:
- achieve a fair and reasonable balance between the interests of the parties to those agreements; and
 - are appropriate for the Scheme,
- and that the powers to be exercised and functions required to be performed by the service contractor and letting agent under the MELA Agreement are appropriate for the Scheme and do not adversely affect the Body Corporate or its ability to carry out its functions.
- 20.6 Clauses 20.7, 20.8 and 20.9 are subject to the Seller having complied with its obligations under the terms of the BCCM Act in relation to the Body Corporate Agreements.
- 20.7 The Buyer must not Object or participate in (including voting for, authorising or otherwise procuring that) the Body Corporate objecting or making any Claim arising out of the Seller:
- causing or having already caused the Body Corporate Agreements or any one or more of them to be entered into with a party nominated by the Seller;
 - causing or having already caused the Body Corporate Agreements or any one or more of them to be entered into with a party related to the Seller, including by common shareholders or company officers to the Seller; or
 - obtaining or having obtained any Consideration or deriving any form of benefit, directly or indirectly, as a result of the Body Corporate entering into the Body Corporate Agreements or any one or more of them.
- 20.8 The Buyer must vote against any motion of the Body Corporate that the Body Corporate objects to or makes a Claim in relation to the matters set out in this clause.
- 20.9 Notwithstanding Settlement, if there is a breach or anticipated breach by the Buyer of this clause, the Seller will be entitled to all reasonable Costs incurred and all losses suffered as a result of, or arising from, the breach or anticipated breach.
- 20.10 A reference to a service contractor providing services in respect of a particular facility or thing in the Body Corporate Agreements does not mean that that facility or thing will be provided. For example, a reference to maintaining a water feature does not mean that a water feature forms part of the Common Property.

21. Contingent Liabilities

- 21.1 The Seller discloses and the Buyer acknowledges that:
- the Hot Water (Services) & Unmetered Gas Cooktop Service Agreement may require payment to WinConnect Pty Ltd in the event of termination or expiry (**Contingent Liability**);
 - the Contingent Liability may be an actual, contingent or expected liability of the Body Corporate; and
 - the exact amount of the Contingent Liability cannot be currently identified or quantified, except that the maximum liability is \$247,808.00 (including GST).

22. Waste Services

- 22.1 The Seller discloses to the Buyer that the Body Corporate may give or may have already given and each owner of a lot within the Scheme may be required to give an indemnity to Brisbane City Council or other Authorities and others against any damage to pavement or other driving surfaces resulting from the weight of the waste collection vehicles or similar indemnity.
- 22.2 The Buyer must give such an indemnity if directed to do so by the Seller in the form required by the Brisbane City Council or other Authority and must not Object due to the giving of any such indemnity or the liability of the Body Corporate (and the Buyer) under any such indemnity.

I THE BUYER

23. Foreign Investment Review Board

- 23.1 The Buyer promises the Seller that its status as a Foreign Interest as shown in the Reference Schedule is correct. The Buyer acknowledges that the Seller has relied on and been induced by the Buyer's promise in electing to enter into this Contract. If the Buyer's promise is not correct, the Buyer will be taken to have breached an Essential Term and the Seller may take whatever actions are available to the Seller under this Contract or at law.
- 23.2 If the Buyer is shown in the Reference Schedule as a Foreign Interest then:
- this Contract is subject to the Treasurer of the government of the Commonwealth of Australia (**Treasurer**) or his delegate consenting to or providing a notice that the Treasurer has no objections (or similar) to the Buyer's purchase of the Property under FATA (**FIRB Approval**) within 30 days after the Contract Date (**Approval Date**);
 - the Buyer must make an application for the FIRB Approval and pay all relevant fees and taxes associated with the application and FIRB Approval within 5 Business Days after the Contract Date (**Application Date**) and must diligently pursue that application. This clause 23.2(b) is an Essential Term;
 - the Buyer must give the Seller a copy of the application and sufficient substantiation that all necessary payments of fees and taxes have

- been made within 2 Business Days after making the application and payments. This clause 23.2(c) is an Essential Term;
- (d) the Buyer must give Notice to the Seller of the outcome of the application for FIRB Approval within 2 Business Days of determination by the Treasurer and in any event by the Approval Date, indicating that the:
- (i) FIRB Approval has been obtained; or
- (ii) FIRB Approval has not been obtained and that this Contract is terminated (in which case the Deposit is to be released to the Buyer and neither Party has any Claim against the other).
- 23.3 If the Buyer has not made the application for FIRB Approval by the Application Date, and without limitation to the Seller's rights arising out of that failure, the Seller may, but is not required to, give Notice to the Buyer that the Seller will make the application for FIRB Approval. If this happens, the following will apply:
- (a) the Buyer appoints the Seller as its agent to make and administer the application for FIRB Approval;
- (b) within 5 Business Days after request by the Seller, the Buyer must give all information (including a copy of the Buyer's passport), sign all documents and do all things required by the Seller in order to facilitate any application for FIRB Approval. If the Buyer fails to do this, the Buyer will be in default of an Essential Term;
- (c) the Seller will be taken to have obtained the FIRB Approval if the Seller obtains an exemption certificate or similar from the Treasurer under which the acquisition of the Property by the Buyer is approved or consented to for the purposes of FATA;
- (d) the Buyer must, as an Essential Term, within 5 Business Days of direction by the Seller, pay to the relevant authority (Australian Taxation Office) all relevant fees and taxes associated with the application and FIRB Approval and provide the Seller with a receipt or other sufficient substantiation confirming the payment;
- (e) the Buyer must, at Settlement, pay the Seller's costs incurred in making the application or obtaining the FIRB Approval (so far as the costs relate to approval of the Buyer's purchase of the Property) in addition to the Price, including any fee or tax paid by the Seller (which the Seller may, but is not required to pay) and the Seller's legal costs which legal costs are agreed to be \$500 plus GST;
- (f) the Seller must give Notice to the Buyer that the:
- (i) FIRB Approval has been obtained; or
- (ii) FIRB Approval has not been obtained and that this Contract is terminated (in which case the Deposit is to be released to the Buyer and neither Party has any Claim against the other);
- (g) if the Seller does not give notice in accordance with sub clause (f) by 6.00 pm on the Approval Date, the Buyer may by notice to the Seller terminate this Contract (but only before notice is given by the Seller to the Buyer that the FIRB Approval has been obtained); and
- (h) if the Buyer obtains the consent or a notice that the Treasurer has no objections (or similar) to the Buyer's purchase of the Property and gives a copy of that consent or notice to the Seller, the Seller is deemed to have given Notice to the Buyer that FIRB Approval has been obtained.
- 23.4 The Buyer consents to any information given by the Buyer under this clause 23 being included in any reports that must be given by the Seller as a condition of any approval given to the Seller under FATA.
24. **Personal Guarantee**
- 24.1 This clause is an Essential Term of the Contract and applies if the Buyer:
- (a) is a company; or
- (b) is a company trustee of a trust.
- 24.2 If this clause applies, the Buyer must arrange that its performance under this Contract is guaranteed, in the form of the Guarantee, by:
- (a) in the case of the Buyer being a company, the directors of the company, and if required by the Seller, the shareholders of the company; and
- (b) in the case of the Buyer being a company and a trustee of a trust, the directors of the company, and if required by the Seller, the shareholders of the company and the principal beneficiaries and unitholders (if any) of the trust.
- 24.3 The Guarantee must be signed by the Guarantors before the Seller signs this Contract.
- 24.4 The Buyer, and the Guarantors by signing the Guarantee, acknowledge and agree that if the Seller transfers or assigns its interest in this Contract, the Seller also assigns or transfers the benefit of the Guarantors' obligations and indemnities under the Guarantee to the transferee or assignee.
25. **Buyer a Trustee**
- 25.1 Unless otherwise disclosed in the Reference Schedule, the Buyer promises the Seller that the Buyer is not buying the Property as trustee of any trust.
- 25.2 If the Buyer is described in the Reference Schedule as being a trustee of a trust, the Parties agree that each promise made by the Buyer in this Contract which is in the nature of a representation or a warranty is made by the Buyer in both its own capacity and in its capacity as trustee of the relevant trust and on this basis, is true.
- 25.3 If the Buyer is described in the Reference Schedule as being a trustee of a trust, then the Buyer promises the Seller that:
- (a) the Buyer is the sole trustee of the trust;
- (b) the Buyer enters into this Contract as part of the due administration of the relevant trust and that

- this Contract is for the benefit of the relevant trust and its beneficiaries;
- (c) the Buyer is empowered by the trust instrument for the relevant trust to enter into and perform this Contract in its capacity as trustee of the trust (there being no restriction on or condition of it doing so);
- (d) all necessary resolutions have been duly passed and all consents, approvals and other procedural matters have been obtained or attended to as required by the trust instrument for the relevant trust for it to enter into and perform this Contract;
- (e) no property of the relevant trust has been re-settled or set aside to any other trust;
- (f) the relevant trust has not been terminated and no event for the vesting of the assets of the trust has occurred;
- (g) the trust instrument for the relevant trust complies with all applicable laws;
- (h) the Buyer has complied with its obligations and duties under the trust instrument for the relevant trust and at law;
- (i) the Buyer has taken all steps necessary to entitle it to be indemnified from the assets of the trust against any liability undertaken under to this Contract; and
- (j) the Buyer will, upon request, deliver to the Seller copies of all documents establishing or amending the trust or making appointments under the trust.
- 25.4 Each of the Buyer's promises in clause 25.3 are repeated, with respect to the facts and circumstances, at the time, at Settlement.
- 26. Insolvency or Death of Buyer**
- 26.1 The Buyer is in default of an Essential Term of this Contract, if, before Settlement, the Buyer:
- (a) being a company:
- (i) resolves to go into liquidation;
- (ii) enters into a scheme of arrangement for the benefit of its creditors;
- (iii) is ordered to be wound up or is placed in provisional liquidation; or
- (iv) is put into the control of a receiver and manager, official manager or administrator; or
- (b) being a natural person enters into a scheme of arrangement, composition or assignment with or in favour of its creditors or becomes bankrupt.
- 26.2 If before Settlement the Buyer dies then the Seller may terminate this Contract. If this happens:
- (a) the Deposit must be released to the Buyer's estate or trustee as the case may be; and
- (b) neither Party has any further Claim against the other Party.
- 26.3 For the purposes of this clause "*Buyer*" includes any of the parties that comprise the Buyer.
- J DEPOSIT**
- 27. Deposit**
- 27.1 The Parties nominate the Deposit Holder as trustee for the purposes of the BCCM Act.
- 27.2 The Buyer must pay the Deposit to the Deposit Holder at the times shown in the Reference Schedule. This is an Essential Term. The Deposit Holder will hold the Deposit until a Party becomes entitled to it.
- 27.3 The Buyer is in default if the Buyer:
- (a) does not pay any part of the Deposit when required;
- (b) pays any part of the Deposit by a post dated cheque; or
- (c) pays any part of the Deposit by a cheque which is dishonoured on presentation.
- 27.4 The Parties authorise and direct the transfer to the Deposit Holder of any amounts paid by the Buyer to third party deposit holders under expression of interest or similar arrangements to be credited as part payment of the Deposit by the Buyer under this Contract.
- 28. Deposit Holder Authority, Release and Indemnity**
- 28.1 The Parties agree that:
- (a) this Contract constitutes a written instruction from the Parties to the Deposit Holder to hold the Deposit on the terms described in this Contract; and
- (b) the Deposit Holder holds the Deposit as stakeholder, with authority to pay the Deposit to the Party that the Deposit Holder reasonably believes is entitled to the Deposit under the terms of this Contract.
- 28.2 Provided that the Deposit Holder has acted honestly and in good faith, each Party releases the Deposit Holder from and separately indemnifies the Deposit Holder in respect of any liability for any loss or damage suffered or incurred by the Party as a direct or indirect consequence of or in connection with any act or omission on the part of the Deposit Holder related to its duties as stakeholder, including, without limitation, where the Deposit Holder pays the Deposit to a Party and it is subsequently determined that the payee was not entitled to the Deposit.
- 28.3 The Parties acknowledge and agree that:
- (a) the Deposit Holder is a third party intended to take the benefit of this clause within the meaning of section 55 of the PLA;
- (b) that the Deposit Holder's acceptance of the Deposit is taken to be acceptance of the benefit of this clause; and
- (c) the Deposit Holder is entitled to rely on the release and indemnity contained in this clause, notwithstanding that it is not a party to the Contract.

29. Entitlement to Deposit

Entitlement to the Deposit is determined as follows:

| Circumstance | Entitlement to Deposit |
|---|------------------------|
| If this Contract settles | Seller |
| If this Contract is terminated without default by Buyer | Buyer |
| If this Contract is terminated due to default by Buyer | Seller |

30. Bank Guarantee

30.1 Instead of paying the Deposit as a cash payment, the Buyer may lodge with the Seller's Solicitor a Compliant Bank Guarantee.

30.2 If the Buyer has already paid cash Deposit, the Buyer may at any time elect to replace that cash Deposit with a Compliant Bank Guarantee.

NOTE: The requirements for a Compliant Bank Guarantee must be strictly met.

31. Non Compliant Guarantee

31.1 The Seller may, in its discretion accept from the Buyer as security for payment of the Deposit a Non Compliant Guarantee to be lodged with the Seller's Solicitor. If that happens:

- (a) the Seller may at any time direct the Buyer to replace the Non Compliant Guarantee with a Compliant Bank Guarantee or cash Deposit; and
- (b) the Buyer must, as an Essential Term, comply with the direction within 10 Business Days after the date the direction is made.

32. Calling on Deposit Guarantee

32.1 Without limiting any other right or remedy of the Seller including those under this Contract or any right under statute or at common law, if the Buyer breaches or fails to comply with any term of this Contract, the Seller may direct the Seller's Solicitor to call on any Compliant Bank Guarantee or Non Compliant Guarantee (if the terms of the Non Compliant Guarantee permit a call to be made without termination).

32.2 The Seller or the Seller's Solicitor is not required to notify the Buyer that:

- (a) a Compliant Bank Guarantee or Non Compliant Guarantee is due to expire and must be replaced; or
- (b) a call is to be made on a Compliant Bank Guarantee or Non Compliant Guarantee,

as a pre-condition to a call being made.

32.3 If the Seller's Solicitor calls upon a Compliant Bank Guarantee or Non Compliant Guarantee, the proceeds received must be dealt with as the Deposit in accordance with the relevant provisions of the BCCM Act and the terms of this Contract.

32.4 The Seller's Solicitor is not liable for the loss of a Compliant Bank Guarantee or Non Compliant Guarantee or for making any call on or demand under a Compliant Bank Guarantee or Non Compliant Guarantee unless that action occurs as a result of or in consequence of an act committed or omitted in personal, conscious or fraudulent bad faith by the Seller's Solicitor. All persons claiming any beneficial interest in or over such an instrument are deemed to take with notice of and be subject to the protection conferred by this clause upon the Seller's Solicitor.

32.5 The Buyer must not do anything which may cause a Compliant Bank Guarantee or Non Compliant Guarantee to be withdrawn, revoked, compromised, terminated or limited in any way. This is an Essential Term.

K PRICE**33. Payment of Price**

At Settlement, the Buyer must pay the Balance Price by Bank Cheques as directed by the Seller or the Seller's Solicitor. This is an Essential Term.

34. GST

34.1 The Parties agree that the Price is inclusive of GST.

34.2 Notwithstanding clause 34.1, if and to the extent that any part of the supply of the Property is a Taxable Supply, the Parties agree that, if it is legally entitled to do so, the Seller will apply the Margin Scheme to work out the amount of GST payable on that supply.

34.3 This clause 34 does not merge on Settlement or termination of this Contract.

34.4 Words starting with a capital letter which are not defined in this clause but which have a defined meaning in the GST Law have the same meaning in this Contract.

34.5 This clause binds any other entity which is or becomes the supplier or recipient of the supply of the Property or any other supply under or by reason of this Contract.

34.6 If this Contract requires a Party to pay for, reimburse, contribute to, or pay any expense or liability incurred by the other Party, the amount the payer must pay will be the amount of the expense or liability plus the amount of GST payable in respect of that payment, but reduced by the amount of any input tax credit which the other party is entitled to in respect of the expense or liability.

35. GST Withholding**35.1 Withholding Law meanings apply**

Words or expressions that are defined or used in the Withholding Law have the meaning given to them in or for the Withholding Law when used in this clause.

35.2 Seller's Withholding Notice

If section 14-255 of the Withholding Law applies to the supply of the Property, the Seller must, prior to Settlement, provide a Withholding Notice to the Buyer.

35.3 Withholding

(a) This clause 35.3 applies if, under the Withholding Law, the Buyer is required to withhold an amount from the consideration payable to the Seller on the taxable supply of

- the Property under this Contract (**GST Withholding Amount**) and pay it to the Commissioner.
- (b) For the purposes of the clause 33 **Payment of Price** (or similar), the Seller irrevocably directs the Buyer to draw a Bank Cheque for the GST Withholding Amount in favour of the Commissioner (**GST Cheque**).
- (c) The Buyer must, as an Essential Term:
- (i) for each person comprising the Buyer, complete and lodge with the Commissioner the GST Notifications and give copies of them to the Seller with the payment reference numbers (PRN) on or before Settlement; and
- (ii) provide the GST Cheque to the Seller at Settlement in accordance with section 16-30(3) of the Withholding Law.
- (d) On Settlement, or within such further period (if any) as may be allowed by the Commissioner, the Seller must deposit the GST Cheque to the credit of the Commissioner.
- 35.4 Electronic Settlement**
- If the GST Withholding Event is Settlement and Settlement is to be conducted by way of Electronic Settlement, the Seller and the Buyer will be taken to have complied with clause 35.3 if the Financial Settlement Schedule within the Electronic Workspace specifies payment of the GST Withholding Amount to the account nominated by the Commissioner.
- 35.5 Treatment of Withheld Amount**
- An amount withheld and paid by the Buyer under clause 35.3(c)(ii) or clause 35.4 is treated as having been paid to the Seller.
- 35.6 Effect on other rights and obligations**
- Except as expressly set out in this clause, the rights and obligations of the Parties under this Contract including any provisions relating to the application of the margin scheme, are unchanged.
- 35.7 Other information**
- (a) The Seller must provide the Buyer with such information as the Buyer reasonably requires to comply with the Buyer's obligation to pay the GST Withholding Amount.
- (b) If the Buyer is registered (within the meaning of the GST Act) and acquires the Property for a creditable purpose, the Buyer must give written notice to the Seller stating this no later than 10 Business Days before the Settlement Date.
- 36. Adjustments**
- 36.1 The Price is to be adjusted for Outgoings as provided for in this clause.
- 36.2 Outgoings are apportioned on the basis that:
- (a) the Seller is liable for Outgoings up to and including the day of Settlement; and
- (b) the Buyer is liable for Outgoings after the day of Settlement.
- 36.3 Outgoings must be apportioned, unless specified otherwise:
- (a) if paid, on the amount paid;
- (b) if assessed but unpaid, on the amount payable (excluding any discount); or
- (c) if not assessed, unless otherwise provided for in this Contract, on the amount that the Seller's Solicitor, acting reasonably, determines as the basis on which the adjustment will be made.
- 36.4 The land tax amount for apportionment purposes for the Lot is to be determined using the following formula:
- $$\frac{\$47,694.96 \times CE}{256,129}$$
- Where:
- CE = contribution entitlement for the Lot.
- 36.5 If land tax is unpaid at the Settlement Date and the Office of State Revenue or its equivalent body advises that it will issue a final clearance for the Lot on payment of a specified amount (**Specified Amount**), then the following will apply:
- (a) at the election of the Seller, land tax will be apportioned on the greater of the Specified Amount or the amount calculated under this clause;
- (b) the Seller will provide a cheque for the Specified Amount at Settlement and promptly pay it to the Office of State Revenue after Settlement; and
- (c) land tax will be treated as paid at Settlement.
- 36.6 The amount paid by the Seller for body corporate and building insurance is to be adjusted using the following formula:
- $$\frac{P \times IE}{152,661}$$
- Where:
- P** = premium paid by the Seller (being the total amount paid by the Seller for body corporate and building insurance including brokerage, duties and GST).
- IE** = interest Lot Entitlement for the Lot.
- ***If the amount of the premium is also in respect of components of the Building other than the Scheme, then the premium will be determined in accordance with the division of costs arrangements for insurance in the Building Management Statement.
- 36.7 No adjustment to the Price is to be made in respect of water usage.
- 36.8 If any Outgoings (other than land tax which is dealt with elsewhere in this clause) are assessed but unpaid at Settlement, then the Seller will provide a cheque for the amount at Settlement and promptly pay it to the relevant Authority or entity. If a cheque is provided under this

clause, the relevant Outgoings will be treated as paid at Settlement.

- 36.9 Notwithstanding any other provision of this clause, if an Outgoing is paid at Settlement or is taken to be treated as paid at Settlement, the Seller may waive the requirement to adjust the Price in relation to that Outgoing.
- 36.10 At Settlement there is to be a deduction adjustment to the Price equal to the Queensland Land Registry registration fee for any mortgage or other encumbrance registered over the Title which is being released at Settlement.
- 36.11 If Settlement does not occur on the Settlement Date due to the Buyer's default, or the Settlement Date is extended by agreement between the Parties following a request for an extension by the Buyer, then Outgoings, at the Seller's election, may be adjusted as if Settlement took place on the original date specified for Settlement under the terms of this Contract.

L SETTLEMENT

37. Settlement

- 37.1 As an Essential Term, Settlement must take place on the Settlement Date.
- 37.2 Unless Settlement is to be effected by way of Electronic Settlement, Settlement must take place:
- (a) in Brisbane;
 - (b) at a time nominated by the Seller, and if no time is nominated at 3.00 pm;
 - (c) at a place nominated by the Seller, and if no place is nominated at the offices of the Seller's Solicitor in Brisbane; and
 - (d) between 9.00 am and 5.00 pm.
- 37.3 The Seller may, at any time before Settlement, by Notice to the Buyer extend on any number of occasions the Settlement Date by up to an aggregate period of 90 days. If this happens, time remains of the essence of this Contract notwithstanding the extension(s).
- 37.4 If this Contract is subject to obtaining FIRB Approval, then notwithstanding anything else in this Contract, the Settlement Date will be the later of:
- (a) the Settlement Date specified in the Reference Schedule; and
 - (b) the date 7 days after Notice is given that the FIRB Approval has been obtained.

38. Transfer Documents

- 38.1 The Seller must prepare the Transfer Documents, but may leave out personal details regarding the Buyer, other than the name of the Buyer.
- 38.2 The Buyer must, within 2 Business Days after direction by the Seller, give to the Seller further particulars as required by the Seller to enable the Seller to prepare the Transfer Documents.
- 38.3 The Buyer must, within 10 Business Days after engaging any solicitor to act on its behalf in relation to this Contract and the conveyance of the Lot pursuant to it,

cause that solicitor to give the Seller's Solicitor an undertaking that the Transfer Documents will be used for stamping purposes only pending Settlement so that, at the relevant time, the Seller can lend the Transfer Documents to that solicitor without charge for stamping prior to Settlement.

- 38.4 On receipt of a signed undertaking from the Buyer's Solicitor that the Transfer Documents will be used for stamping purposes only pending Settlement, the Seller will, at the relevant time, lend the Transfer Documents to the Buyer's Solicitor without charge for stamping before Settlement.
- 38.5 The consideration to be shown in the Transfer Documents is to include the cost of any upgrades, variations or similar amounts payable by the Buyer, whether in this Contract or a separate agreement.
- 38.6 Each Party authorises the other Party and their solicitors to make any necessary amendments to the Transfer Documents so as to rectify any inaccuracies or complete any omissions.
- 38.7 This clause does not apply if the Transfer Documents are to be prepared and provided by way of Electronic Settlement.

39. Settlement Statement

- 39.1 Prior to Settlement, the Seller may give to the Buyer a Settlement Statement.
- 39.2 If the Buyer considers that there is an error or omission in respect of anything contained in the Settlement Statement, the Buyer must, within 3 Business Days after receipt of the Settlement Statement, and in any event at least 2 hours before the time nominated by the Seller for Settlement on the Settlement Date, give to the Seller a Notice which clearly specifies the error or omission.
- 39.3 If the Buyer does not comply with the requirements of clause 39.2:
- (a) the Buyer cannot later Object or assert that the Seller was not ready, willing or able to effect Settlement because of an error or omission in the Settlement Statement; and
 - (b) the Settlement Statement is taken to be correct and to list all the Settlement Materials.
- 39.4 The purpose of this clause is to require the Buyer to notify the Seller well before the time for Settlement if the Buyer considers that there has been an error in the calculation of Settlement adjustments and figures or an omission in the list of Settlement Materials and to prevent the Buyer from Objecting at Settlement on the basis of an error or omission that could have been drawn to the Seller's attention earlier.
- 39.5 The Seller may, at any time before Settlement, give the Buyer an updated or amended Settlement Statement and the provisions of this clause apply to that updated Settlement Statement.
- 39.6 Nothing in this clause prevents:
- (a) the Seller from recovering any shortfall in payment of the Price after Settlement;
 - (b) the Buyer from recovering any over payment of the Price after Settlement; or

- (c) a Party from requiring any adjustment to be made between the Parties after Settlement in relation to Outgoings if it is discovered that Outgoings were not apportioned in accordance with this Contract.
40. **Procedure at Settlement**
- 40.1 In exchange for payment of the Balance Price and, if applicable, release of the cash Deposit, the Seller must, as an Essential Term (but subject clause 40.2), provide or deliver to the Buyer at Settlement:
- (a) separate indefeasible Title;
- (b) unstamped Transfer Documents capable of immediate registration (after stamping) if not already in the possession of the Buyer's Solicitor or otherwise contained in the Electronic Workspace for Electronic Lodgement with the Queensland Land Registry;
- (c) the Keys; and
- (d) vacant possession of the Property.
- 40.2 It is sufficient compliance with clauses 40.1(c) and 40.1(d) if the Seller makes the Keys available for collection after Settlement from the Agent, any onsite manager of the Scheme or some other party nominated by the Seller, including the Seller itself.
- 40.3 The Seller need not comply with clauses 40.1(c) or 40.1(d) if the Seller does not have vacant possession of the Property because a tenant has been procured for the Property by or on behalf of the Buyer (without limitation, a tenant for the Property will have been procured on behalf of the Buyer if procured by any party who is appointed by the Buyer to manage the Property, even if the appointment is made before the Buyer is the owner of the Property).
- 40.4 The Buyer will only be entitled to receive a PPS Release from a Secured Party in respect of a Security Interest registered on the PPSR where the Property is specifically described (in whole or part) under that Security Interest. The onus of demonstrating that the Sold Property is specifically described (in whole or part) under a Security Interest is on the Buyer and is to be demonstrated to the Seller on or before 7 days before the Settlement Date.
- 40.5 Subject to clause 40.6, if the Lot is subject to a mortgage or other adverse encumbrance which is not authorised or permitted by this Contract then the Buyer must accept at Settlement a signed release of mortgage or withdrawal, surrender, removal or revocation of such encumbrance by whatever means permitted by the relevant authority (**Release**);
- 40.6 If Settlement is to be effected by way of Electronic Settlement, the Seller will give and the Buyer must accept:
- (a) at Settlement:
- (i) an effective electronic release of mortgage; and
- (ii) any other electronic Releases,
- which are contained in the Electronic Workspace for Electronic Lodgement with the Queensland Land Registry; and
- (b) after Settlement, any other Releases not given under clause 40.6(a)(ii).
- 40.7 No paper certificate of title for the Title will be provided at Settlement.
41. **Chattels**
- Ownership of the Chattels will pass to the Buyer on Settlement.
- M** **DEFAULT**
42. **Buyer's Default**
- 42.1 ***Buyer's Default – Breach of Essential Term or fundamental breach of intermediate term – the Seller may affirm or terminate***
- (a) Without limiting any other right or remedy of the Seller including those under this Contract or any right under statute or at common law, if the Buyer breaches or fails to comply with an Essential Term or makes a fundamental breach of an intermediate term of this Contract, the Seller may affirm or terminate this Contract.
- (b) No affirmation or termination of this Contract is effective unless it is in writing signed by or on behalf of the Seller.
- (c) A failure to make an election to affirm or terminate this Contract by any particular date is not to be taken as a waiver of any rights of the Seller under this Contract.
- 42.2 ***If Seller affirms***
- If the Seller affirms this Contract under clauses 42.1(a), in addition to enforcing this Contract, it may sue the Buyer for damages, specific performance or both.
- 42.3 ***If Seller terminates***
- If the Seller terminates this Contract under clause 42.1(a), the Seller may do any or all of the following:
- (a) resume possession of the Property;
- (b) forfeit the Deposit;
- (c) sue the Buyer for the Deposit (if not yet paid);
- (d) sue the Buyer for damages; and/or
- (e) resell the Property.
- 42.4 ***Buyer's default – breach of other term***
- Without limiting any other right or remedy of the Seller including those under this Contract or any right under statute or at common law, if the Buyer breaches or fails to comply with a term of this Contract other than a term of the kind described in clause 42.1(a), the Seller may do any or both of the following:
- (a) sue the Buyer for damages; and/or
- (b) sue the Buyer for specific performance of the obligation breached.
- 42.5 ***Resale***
- If the Seller terminates this Contract and the Property is resold, then the Seller may recover from the Buyer any

and all losses suffered or incurred caused by the Buyer's breach, including, without limitation:

- (a) the difference (if any) between the Balance Price and the price for which the Property is sold on resale;
- (b) its Costs of any repossession, failed attempt to resell and the resale;
- (c) any additional loss or Cost connected with the requirement for the Seller to continue to hold the Property, such as, without limitation, debt costs;
- (d) any Outgoings that would have been payable by the Buyer if this Contract had settled from the original due Settlement Date to the date of settlement of the resale of the Property inclusive; and
- (e) any legal or other costs and outlays incurred by the Seller as a consequence of the Buyer's default.

42.6 **Buyer Indemnifies Seller**

The Buyer indemnifies the Seller for all and any loss the Seller suffers and Costs the Seller incurs as a result of the Buyer's breach or failure to comply with any term or condition of this Contract, such Costs to the extent they comprise legal fees and outlays to be assessed on the full indemnity basis.

43. **Seller's Default**

43.1 ***Seller's default – Breach of Essential Term or fundamental breach of intermediate term – Buyer may affirm or terminate***

- (a) Without limiting any other right or remedy of the Buyer including those under this Contract or any right under statute or at common law, if the Seller breaches or fails to comply with an Essential Term or makes a fundamental breach of an intermediate term of this Contract, the Buyer may affirm or terminate this Contract.
- (b) No affirmation or termination of this Contract is effective unless it is in writing signed by or on behalf of the Buyer.
- (c) A failure to make an election to affirm or terminate this Contract by any particular date is not to be taken as a waiver of any rights of the Buyer under this Contract.

43.2 ***If Buyer affirms***

If the Buyer affirms this Contract under clause 43.1(a), in addition to enforcing this Contract, it may sue the Seller for damages and for specific performance or both.

43.3 ***If Buyer terminates***

If the Buyer terminates this Contract under clause 43.1(a), the Buyer may do any or all of the following:

- (a) sue the Seller for the Deposit (if paid); and
- (b) sue the Seller for damages.

43.4 ***Seller's default – breach of other term***

Without limiting any other right or remedy of the Buyer including those under this Contract or any right under

statute or at common law, if the Seller breaches or fails to comply with a term of this Contract other than a term of the kind described in clause 43.1(a), the Buyer may do any or both of the following:

- (a) sue the Seller for damages; and/or
- (b) sue the Seller for specific performance of the obligation breached.

43.5 ***Seller Indemnifies Buyer***

The Seller indemnifies the Buyer for all and any loss the Buyer suffers and Costs the Buyer incurs as a result of the Seller's breach or failure to comply with any term or condition of this Contract, such Costs to the extent they comprise legal fees and outlays to be assessed on the full indemnity basis.

43.6 ***Insolvency of Seller***

If the Seller:

- (a) resolves to seek the appointment of a liquidator, provisionally or otherwise;
- (b) enters into a scheme of arrangement for the benefit of its creditors;
- (c) is ordered to be wound up or is placed in provisional liquidation;
- (d) has its affairs, business or assets placed under the control of a receiver, receiver and manager, official manager, administrator or external controller; or
- (e) on any basis whatsoever becomes insolvent or unable to pay its debts,

it will not be taken to be in default of or to have breached this Contract. The Buyer will, in that circumstance, continue to be bound by this Contract, according to its terms as though the event had not occurred.

44. **Interest**

44.1 Without limiting the rights of the Parties, if money payable by a Party under this Contract is not paid when due, the Party must, as an Essential Term:

- (a) in the case of the Buyer, at Settlement, pay to the Seller interest on that money; and
- (b) in the case of the Seller, pay the Buyer interest on that money at the same time as the money is paid by the Seller,

calculated at the Contract Rate (published at the time that payment was first due) plus 3% per year, compounded annually, from the due date for payment until payment is made (inclusive). That interest may be recovered from the relevant Party as liquidated damages.

44.2 If the Buyer fails to effect Settlement on the due date, then the Seller may elect to charge interest (which is payable at Settlement) on the full Price without making any allowance for the Deposit having been paid by the Buyer (this clause is included in this Contract to take into account that the Seller does not receive the Deposit until Settlement).

44.3 The Buyer's obligation to pay interest does not mean that the Seller has to agree or has agreed to extend any date on which a payment is due.

45. Buyer to give Notice before Termination

45.1 Despite any Seller Default and notwithstanding anything express or implied in this Contract, the Buyer must not terminate, cancel, avoid, rescind or declare itself not bound by this Contract unless:

- (a) the Buyer has first given the Seller a Notice (**Remedy Notice**):
 - (i) giving particulars of the Seller Default;
 - (ii) offering the Seller the opportunity to remedy the Seller Default by a specified date, being a reasonable time (given the nature of the Seller Default) but in any event not less than 10 Business Days after the Remedy Notice is given to the Seller; and
 - (iii) specifying that the Buyer intends terminating, cancelling, avoiding, rescinding or declaring itself not bound by this Contract (as the case may be) if the Seller Default is not remedied by the date specified in the Remedy Notice; and
- (b) the Seller has not remedied the Seller Default complained of in the Remedy Notice by the date specified.

45.2 In this clause, the expression **Seller Default** includes:

- (a) a wrongful act or omission;
 - (b) a breach of or failure to comply with any term or condition;
 - (c) conduct which amounts to repudiation, wrongful termination or mistake of fact; or
 - (d) any failure to comply with a Statutory Obligation,
- by the Seller relating to this Contract.

N LEGISLATIVE DISCLOSURE & OTHER ISSUES**46. Disclosure****46.1 Application of clause**

The promises and acknowledgements of the Buyer in this clause are subject to the clause 46.7 **Retraction of Acknowledgements or Promises**.

46.2 Statutory Notices & Statements

The Buyer acknowledges receiving, before signing this Contract:

- (a) the Section 206 Statement duly signed by the Seller or duly signed by a person authorised by the Seller to do so;
- (b) details of the Lot Entitlement and exclusive rights (if any), as set out in the Community Management Statement;
- (c) a copy of the Community Management Statement included in the Disclosure Documents; and
- (d) the Survey Plan, included in the Disclosure Documents, clearly identifying the Lot.

46.3 Separate Notices & Statements

- (a) The Buyer acknowledges that the Statutory Disclosure Statements including the notices and statements acknowledged to have been received under clause 46.2 are each separate notices and statements.
- (b) If the Seller has not itself signed the Statutory Disclosure Statements contained in the Disclosure Documents, the Seller affirms that it has authorised the signatory to bind the Seller to the information contained in the Disclosure Documents and to sign, date and give the Statutory Disclosure Statements as the Seller's authorised signatory and agent.

46.4 Buyer's Promise – Section 206 Statement

- (a) The Buyer promises the Seller that, before the Buyer signed this Contract, the Buyer:
 - (i) received the Section 206 Statement, signed by the Seller or the Seller's authorised signatory or agent; and
 - (ii) reviewed the contents of the Section 206 Statement and had the opportunity to take legal advice about those statements and this Contract.
- (b) The Buyer acknowledges that:
 - (i) the Section 206 Statement is substantially complete for the purposes of Section 206 of the BCCM Act; and
 - (ii) the Buyer cannot Object, given the Buyer's promises and acknowledgments under this clause, as a result of the content or any deficiency in the Section 206 Statement.

46.5 Buyer Promises and Representations

The Buyer promises the Seller that the Buyer:

- (a) has read the statements described in this clause;
- (b) is aware of its rights in respect of any cooling off period applicable to this Contract;
- (c) is aware of the requirements of and its rights under the BCCM Act; and
- (d) is aware of the conditions set out in this Contract as regards to Variations to the Building;

and if any of the matters referred to in clauses 46.5(a) to 46.5(d) are incorrect, the Buyer promises the Seller that it has taken legal advice or had an opportunity to take legal advice in relation to those matters before signing this Contract and chose not to take legal advice.

46.6 Community Management Statement

The Buyer acknowledges that:

- (a) the Buyer has received, before entry into this Contract, a copy of the Community Management Statement (contained in the Disclosure Documents);

- (b) the Community Management Statement complies with all of the requirements for a community management statement under Section 66 of the BCCM Act;
- (c) the explanation or details in the Community Management Statement about the contribution and interest entitlements for lots in the Scheme are:
 - (i) written in plain English; and
 - (ii) simple enough and only as detailed as necessary for an ordinary person (including the Buyer), if necessary with the assistance of an interpreter, to understand the explanation or details;
- (d) the Buyer, before entry into this Contract, reviewed the Community Management Statement and either took or had the opportunity to take legal advice about that statement and this Contract; and
- (e) the Buyer cannot Object, given the Buyer's acknowledgements under this clause, as a result of the content or any deficiency in the Community Management Statement.

46.7 Retraction of Acknowledgements or Promises

- (a) Subject to 46.7(b), if within 5 Business Days after the Contract Date the Buyer wishes to retract or vary any or all of the acknowledgements, representations or promises made in this Contract, the Buyer must give Notice to the Seller of such in which case:
 - (i) the Buyer is taken to have given the Seller notification that the Buyer terminates this Contract;
 - (ii) the Seller is taken to have accepted the Buyer's notification of termination;
 - (iii) this Contract is at an end and neither Party has any further Claim against the other; and
 - (iv) the Deposit paid must be released to the Buyer.
- (b) Clause 46.7(a) does not apply if:
 - (i) the Buyer has given to the Seller an instrument which has the effect of waiving any cooling off period in relation to this Contract; or
 - (ii) the Buyer has obtained pre-contract legal advice in relation to this Contract.

47. Buyer's Acknowledgements

The Buyer acknowledges and understands that:

- (a) the Seller will rely on and has been induced by the Buyer's acknowledgements, representations, warranties and promises contained in the preceding clause and in this Contract more generally, in its decision to enter into this Contract and sell the Property to the Buyer and in its conduct of the transaction arising out of this Contract and all matters incidental to it;

- (b) but for the Buyer's acknowledgements, representations, warranties and promises made in this Contract, the Seller would not have entered into this Contract and would not have agreed to sell the Property to the Buyer and would not have incurred the legal and commercial risk and expense in doing so;
- (c) if the Buyer seeks to resile from one or more of the acknowledgements, representations, warranties or promises it has given or made in the Contract, the Seller may be significantly disadvantaged;
- (d) in these circumstances, it would be unfair and unreasonable for the Buyer to seek to resile from one or more of the acknowledgements, representations, warranties or promises it has given or made in the Contract; and
- (e) therefore, the Buyer may be unable in law to do so.

48. No offers concerning management of letting of the Property

48.1 The Seller may procure that the Body Corporate authorises a party (**Letting Agent**) to conduct a letting agents business for the Scheme.

48.2 The Buyer acknowledges to the Seller and agrees as follows:

- (a) prior to formation of this Contract, the Seller's conduct:
 - (i) was limited to extending an invitation to the Buyer to buy the Property; and
 - (ii) did not include any offers or arrangements regarding the management of the letting of the Property after Settlement;
- (b) the Seller has not made (and is not required to make) any offer to the Buyer (either on its own behalf or for another party):
 - (i) concerning the management of the letting of the Property; or
 - (ii) to arrange the management of the letting of the Property,

by any party;
- (c) If the Letting Agent elects to make an offer to the Buyer about the management of the letting of the Property, it is the obligation of the Letting Agent alone to comply with all relevant laws and the Seller will have little or no control over the Letting Agent in that regard; and
- (d) The Seller has entered into this Contract in reliance on the acknowledgement and agreement of the Buyer set out in this clause.

48.3 The Buyer acknowledges that the Seller has agreed to enter into this Contract in reliance upon the acknowledgments and agreements made by the Buyer in this clause and, but for those acknowledgements and agreements, the Seller would not have entered into the Contract.

O POWER OF ATTORNEY**49. Power of Attorney**

49.1 So far as is lawful, the Buyer irrevocably appoints, jointly and severally, the Seller and each director of the Seller, to be an attorney of the Buyer and its company nominee (if the Buyer is a company) (**Attorney**) on the terms and for the purposes set out in this clause.

49.2 The Power of Attorney may be used for the following purposes:

- (a) in relation to Body Corporate matters:
- (i) to appoint or revoke the appointment of a voter for a general meeting of the Body Corporate within the meaning of "voter" for a general meeting of the Body Corporate under the Regulation Module and to give all necessary notifications of the appointment or revocation to the Body Corporate so that the details of the appointment or revocation may be entered into the Body Corporate roll;
- (ii) to request that a meeting of the Body Corporate be held and to attend and vote (or do either) in the name of the Buyer at all or any meetings of the Body Corporate or the Committee, to the exclusion of the Buyer if present; and
- (iii) to complete, sign and lodge any voting paper (or any other document including a proxy, appointment form, notice asking for an extraordinary general meeting, corporate owner nominee notification form or other representative notification form and any other notice under the Regulation Module) to allow the Seller to call for any meeting or to attend at or vote in the name of the Buyer at all or any meetings of the Body Corporate or of the Committee,

in respect of any motion or resolution for or relating to any one or more of the matters or things set out in the Power of Attorney disclosure contained in the Disclosure Documents; and

- (b) in relation to other matters, to complete, sign and lodge any instrument of consent to any application for approval for the further carrying out of the development of the Building or any part of it providing such application is for an approval which, if granted and given effect to, will not have a direct material adverse effect on the use or the value of the Property.
- 49.3 The Power of Attorney commences (is given) on the Settlement Date and expires 1 year after it commences.
- 49.4 The Parties agree that the Power of Attorney is a "power of attorney given as security" in terms of Section 10 of the *Powers of Attorney Act 1998* (Qld) and, as far as it is lawful, the rights of an Attorney under this clause can be exercised in the total discretion of the Attorney and to

the exclusion of the Buyer. Without limitation, the rights of the Attorney under this clause can be exercised even if the:

- (a) exercise involves a conflict of interest or duty; and
- (b) Attorney has a personal interest in doing so.

49.5 If the Seller is a company or company trustee, the Power of Attorney may be exercised by an authorised corporate representative of the Seller.

49.6 The Buyer must, as directed by the Seller, ratify and confirm any action taken by an Attorney in exercise of the Power of Attorney.

49.7 While the Power of Attorney remains in effect, the Buyer must not transfer or assign the Lot except to a transferee or assignee who has first given a power of attorney in favour of the Seller and its directors, if a company, on the same terms as the Power of Attorney. If the Buyer does not comply with this provision, the Buyer indemnifies the Seller against all loss and damage incurred by the Seller as a result.

49.8 If directed to do so by the Seller at any time, the Buyer must, at the Buyer's expense, take all steps available in order to give full effect to the Power of Attorney including signing and completing any further instrument provided by the Seller.

49.9 For the purposes of this clause, the Seller includes any assignee of the Seller.

P GENERAL & OTHER MATTERS**50. Contract Execution, Counterparts & Exchange**

50.1 This Contract is considered to be executed by a Party if affixed with a manuscript signature or initials or a typed name of the Party or a person, firm or company holding the requisite authority to bind the relevant Party.

50.2 This Contract may be executed in any number of counterparts. All counterparts taken together constitute one and the same instrument.

50.3 This Contract, including counterparts of it, may be exchanged by any means, including electronically.

50.4 If the Buyer or any agent of the Buyer received this Contract or the Disclosure Documents (either for signing or as a signed instrument) from the Seller or any agent of the Seller electronically, the Buyer promises the Seller that the Buyer consented to the giving of the documentation and any other materials by way of electronic means before receiving the documentation and materials.

50.5 Each person who signs this Contract as attorney for a Party warrants and represents to the other Party that at the date the person executed this Contract they had not received any notice or information of the revocation of the power of attorney appointing them.

50.6 Each person who signs this Contract for a Party, by placing their signatures, warrants and represents to the other Party that, at the date the person signed this Contract:

- (a) they are a Party to this Contract; or

- (b) they are duly authorised by the relevant Party to sign this Contract; and
- (c) if an officer of a company, the company duly resolved to enter into and sign this Contract.
51. **Status of Promises**
- Where in the terms of this Contract or in the Special Conditions a promise has been made by a Party:
- (a) the promise amounts to a representation, warranty and assurance made by the Party to the other Party; and
- (b) the Party to whom the promise is made is entitled to rely on that promise.
52. **Reliance on Acknowledgements and Agreements**
- The Buyer acknowledges that the Seller has agreed to enter into this Contract in reliance upon the various promises, acknowledgments and agreements made by the Buyer in this Contract.
53. **Buyer's Obligation to Disclose Rebates etc**
- 53.1 If the Buyer receives or takes from the Seller the benefit of any form of rebate of a portion of the Price or other concession or valuable consideration (such as a contribution towards payment of Body Corporate levies, payment of transfer duty or a rental guarantee or like instrument) or other advantage under this Contract, the Buyer promises the Seller that the Buyer will fully disclose that fact to all parties who may have an interest in knowing about it, including the Buyer's financier and any party who buys the Property from the Buyer.
- 53.2 The Buyer:
- (a) promises the Seller that it will not make any false declaration in respect of this Contract and the conveyance of the Property made pursuant to it; and
- (b) consents to the Seller disclosing any such rebate, concession or valuable consideration to any Buyer's financier or any other interested party; and
- (c) will not Object to the Transfer Documents being prepared by the Seller in accordance with all relevant practice notes, directions and the like issued by the Queensland Law Society, the Queensland Land Registry and the Queensland Office of State Revenue.
54. **Interpretation**
- 54.1 **References**
- Reference to:
- (a) the singular includes the plural and the plural includes the singular;
- (b) one gender includes each other gender;
- (c) a person includes a body corporate;
- (d) a Party includes the Party's executors, administrators, successors, and permitted assigns; and
- (e) dimensions include the area of the thing for which the dimensions have been given.
- 54.2 **Use of word "including"**
- The use of the word "including" (and any similar expression) is not used as a word of limitation.
- 54.3 **Use of the word "or"**
- In any combination or list of options, the use of the word "or" is not used as a word of limitation.
- 54.4 **Headings**
- Headings are for convenience only and do not form part of this Contract or affect its interpretation.
- 54.5 **Parties**
- (a) If a Party consists of more than one person, this Contract (including each agreement, representation, warranty and promise) binds them and is for their benefit jointly and each of them individually.
- (b) A Party that is a trustee is bound both personally and as a trustee.
- 54.6 **Statutes and Regulations**
- (a) Reference to statutes includes, if the context requires, any regulations, codes, policy statements and similar things concerning them.
- (b) Reference to statutes and regulations includes all statutes and regulations amending, consolidating, or replacing them.
- 54.7 **Inconsistencies**
- If there is any inconsistency between the terms of this Contract and any provision added to this Contract (including those added by Special Condition), the added provision prevails.
- 54.8 **Interpretation to Favour Binding Contract**
- (a) Subject to the terms of this Contract, the Parties acknowledge that it is their intent that the Seller is obliged to sell and the Buyer is obliged to buy the Property on the terms set out in this Contract.
- (b) If a provision of this Contract or any legislation is (in the context of whether or not this Contract is valid and binding) open to interpretation, then such provision or legislation must be read or interpreted so that the Contract is found to be valid and binding on the Parties.
- 54.9 **Clauses permitting Variations**
- Any provision of this Contract which permits or authorises a Variation does not limit a Variation permitted or authorised by any other provisions of this Contract.
- 54.10 **No limitation of statutory rights**
- A provision in this Contract that limits the right of a Party to Object does not affect the statutory rights of the Party.
55. **Performance of Contract**
- 55.1 The Seller is entitled to perform this Contract in a manner which is most beneficial to it.

55.2 In this Contract, unless specified otherwise, where the Seller is entitled to exercise:

- (a) its discretion, the Seller may do so in its absolute discretion; and
- (b) a right, the Seller may exercise that right in its absolute discretion.

56. Time

56.1 Time is of the essence of this Contract, except regarding a time of day for Settlement.

56.2 If a date by which something under this Contract must be done is extended by agreement between the Parties or by right of a Party under this Contract, for example, the date for payment of the Deposit or the Settlement Date, then, despite the extension, time remains of the essence of this Contract whether or not the terms of the agreement or notification requesting or recording the extension specified that time is to remain of the essence as a term of the agreement or notification to extend.

57. Measurement of Time

In relation to measurement of time:

- (a) where a period of time runs from a given day or the day of an act or event, it must be calculated exclusive of that day; and
- (b) a day is the period of time commencing at midnight and ending 24 hours later.

58. Due date not Business Day

If the date or the last date for a Notice to be given, an act to be performed or a payment to be made falls on a Saturday, Sunday or public holiday then the date or the last date (as the case may be) will be the Business Day next following such date.

59. Things to be done by 5.00pm

If this Contract provides for something to be done by the Buyer by a certain date, the Buyer must do so by 5.00 pm, Brisbane time, on that date.

60. Contract Date

This clause applies if following exchange of this Contract, the Contract Date in the Reference Schedule has not been completed. The Contract Date will be taken to be the date that the last Party to sign this Contract has communicated to the other Party, by whatever means, that this Contract has been signed. Each Party authorises the other Party (as relevant) to complete the Contract Date in the Reference Schedule if required.

61. Risk

The Property is at the Seller's risk until Settlement.

62. Costs and Transfer Duty

62.1 Each Party must pay its own costs on this Contract.

62.2 The Buyer:

- (a) must pay all transfer duty on this Contract and the Transfer Documents;

(b) indemnifies the Seller in respect of all liability for payment of transfer duty on this Contract and the Transfer Documents; and

(c) is estopped from relying on its own failure to pay transfer duty, in arguing that this Contract and any other document should not be admitted into evidence in any proceedings about this Contract or the transaction recorded in it.

63. Notices

63.1 Notices under this Contract must be in writing and must be signed by or on behalf of a Party.

63.2 Unless stipulated otherwise under this Contract, Notices given by a Party's solicitor will be treated as given with that Party's authority.

63.3 Notices are considered to be signed if affixed with a manuscript mark, signature or initials or a typed name of a person, firm or company whether conveyed electronically, digitally or otherwise.

63.4 In the case of the Buyer, Notices are effectively given if:

- (a) delivered or posted to the address of the Seller's Solicitor;
- (b) sent to the facsimile number of the Seller's Solicitor;
- (c) sent by electronic facsimile or similar method to the facsimile number of the Seller's Solicitor; or
- (d) sent by email or other digital means to the relevant email or other digital address of the Seller's Solicitor,

which are set out in the Reference Schedule as updated from time to time.

63.5 In the case of the Seller, Notices are effectively given if:

- (a) delivered or posted to the address of the Buyer or the Buyer's Solicitor;
- (b) sent to the facsimile number of the Buyer or the Buyer's Solicitor;
- (c) sent by electronic facsimile or similar method to the facsimile number of the Buyer or the Buyer's Solicitor; or
- (d) sent by email or other digital means to the relevant email or other digital address of the Buyer or the Buyer's Solicitor,

which are set out in the Reference Schedule as updated from time to time.

63.6 Posted Notices will be treated as given 3 Business Days after posting.

63.7 Notices sent by facsimile including electronic facsimile or similar method will be treated as given when the sender obtains a clear transmission report or other confirmation of delivery.

63.8 Notices sent by email are taken to be given 1 hour after they are sent, unless the sender receives notification that the email failed to be delivered to the recipient. If asked by the sender of an email to confirm receipt, the recipient must confirm receipt within a reasonable period of request.

- 63.9 For the purposes of Section 11 and 12 of the *Electronic Transactions Act 2001 (Qld)* and the *Electronic Transactions Act 1999 (Cth)*, the Parties consent to Notices and any other information being given by electronic communication.
- 63.10 The Buyer authorises the Seller and the Seller's Solicitor to act as its agent to give notice to the Body Corporate after Settlement that the Buyer has become the owner of the Lot. The Seller is authorised to use the latest contact particulars of the Buyer given to it by the Buyer or the Buyer's Solicitor for the purposes of giving the notice to the Body Corporate and if no such particulars have been given, then the Buyer's particulars in the Reference Schedule.
- 63.11 If the Buyer is no longer represented by a solicitor and has no current known contact particulars for the giving of a Notice, the Seller may give Notice to the Buyer's last known contact particulars even if it is known to the Seller that the Buyer may not receive the Notice. The Parties' intention is that the onus is on the Buyer to ensure that the Seller at all times has current particulars of the Buyer in order to enable the Seller to give Notice.
64. **Marketing**
- 64.1 The Seller reserves the right to use any lot as a display unit for the sale of lots. The Buyer agrees not to Object to such use of any lot or to the display of advertising material on the Common Property.
- 64.2 The Seller (together with its guests and invitees) reserves the right to use any part of the Scheme including the Common Property for the purposes of promotional and sales functions. The Buyer agrees not to Object to that use of such areas by the Seller.
65. **Variation of Contract**
- 65.1 An amendment or variation of this Contract is not effective unless it is in the form of a Notice in writing and signed by or on behalf of the Parties by a person holding the requisite authority to bind the relevant Party.
- 65.2 Only a partner of the Seller's Solicitors' firm, the Seller itself if a natural person or a director, executive or manager of the Seller has authority to bind the Seller to an amendment or variation of this Contract.
- 65.3 The Buyer itself or any partner or employee of the Buyer's Solicitors' firm has authority to bind the Buyer to an amendment or variation of this Contract.
66. **Waiver**
- 66.1 No waiver of any right under this Contract takes effect unless in the form of a Notice in writing, signed by or on behalf of the Party bound, by a person holding the requisite authority to bind the relevant Party. The provisions of the clause titled "Variation of Contract" above will apply to any question of authority under this clause.
- 66.2 In the absence of an effective waiver, no failure or forbearance by a Party to insist upon any right to performance of a condition or obligation of the other Party can amount to, under any circumstances, a waiver, an election between existing rights, a representation sufficient to ground an estoppel or a variation whereby that other Party is relieved or excused from performance of such condition or obligation
- 66.3 A waiver is effective only in respect of the specific instance to which it relates and for the specific purpose for which it is given.
67. **Severance**
- If it is held by a Court that:
- (a) any part, clause or part of a clause of this Contract is void, voidable, illegal, unenforceable or a penalty; or
- (b) this Contract is void, voidable, illegal or unenforceable unless any part, clause or part of a clause of this Contract is severed from this Contract,
- that part, clause or part of the clause will be severed from this Contract and the balance of this Contract given effect to, unless to do so would change the underlying principal commercial purposes of this Contract.
68. **Rights After Settlement**
- Despite Settlement and registration of the Transfer Documents, any term of this Contract that can take effect after Settlement or registration remains in force.
69. **Applicable Law**
- Queensland law applies to this Contract.
70. **Further Acts**
- 70.1 If requested by the other Party, each Party must, at its own expense, do everything reasonably necessary to give effect to this Contract.
- 70.2 Without limiting clause 70.1, if requested to do so by the Seller, the Buyer must, at its own expense and within a reasonable period of time (and, in any event, before Settlement):
- (a) do all things necessary in order to complete any omission, rectify any error, waive any statutory right (so far as it is possible and lawful to do so) or resolve any ambiguity in this Contract so as to facilitate this Contract being given effect to and being operative and enforceable as between the Parties; and
- (b) do all things, sign all documents, give all necessary consents, enter into all necessary agreements or deeds as requested by the Seller in order to enable the Seller to perform its obligations under this Contract (**Additional Obligations**) and in order to enable Settlement even if Additional Obligations are imposed on the Buyer providing that the rights of the Buyer under this Contract are not significantly diminished.
- 70.3 If the rights of the Buyer under this Contract are significantly diminished as a result of a request by the Seller pursuant to clause 70.2, the Buyer must carry out the requested action if:
- (a) the Buyer became aware or ought to have become aware of the possible diminution of

- rights as part of any reasonable enquiries carried out before the Contract Date; or
- (b) the Buyer became aware or ought to have become aware of the possible diminution of rights as part of any reasonable enquiries carried out after the Contract Date; or
- (c) the Seller offers to provide reasonable compensation to the Buyer to offset the diminution of rights.
- 70.4 Without limiting clause 70.1, if requested to do so by the Seller, the Buyer must, at its own expense, do all things necessary in order to complete any omission, rectify any error, waive any statutory right (so far as it is lawful to do so) or resolve any ambiguity in this Contract.
71. **Instalment Contracts**
- 71.1 In this clause, the following additional definitions apply:
- First Instalment Date** means the first date, other than the Settlement Date, on which any portion of the Price other than a Prescribed Deposit is payable by the Buyer under this Contract.
- Instalment Contract** has the meaning given to it under Section 71 of the PLA Act.
- Prescribed Deposit** has the meaning given to the word deposit in the PLA Act.
- Maximum Borrow Amount** the amount equal to the Price plus any costs typically secured by a mortgage such as interest, and enforcement costs.
- 71.2 Clause 71.3 applies if:
- (a) this Contract is an Instalment Contract;
- (b) any interpretation of any annexure or Special Condition causes this Contract to be or become an Instalment Contract; or
- (c) any negotiation or agreement reached between the Seller and the Buyer following formation of this Contract causes this Contract to be or become an Instalment Contract.
- 71.3 If this clause 71.3 applies, then:
- (a) the Buyer consents, for the purposes of Section 73(1) of the PLA Act, to the Seller mortgaging or charging the Property on terms and conditions the Seller in its discretion determines providing that that amount of borrowing secured under the mortgage or charge does not exceed the Maximum Borrow Amount;
- (b) the Buyer consents, for the purposes of Section 74(2)(a) of the PLA Act, to the removal of the caveat by the Seller;
- (c) concerning the provisions of the clause titled "**GST Withholding**" or similar, the Parties must, as an Essential Term, perform their respective obligations under that clause as follows;
- (i) the Seller must give the Buyer the Withholding Notice before the First Instalment Date;
- (ii) the Buyer must complete and lodge the GST Notifications before the First Instalment Date;
- (iii) the Buyer must give the GST Notifications and the PRN to the Seller on or before the First Instalment Date;
- (iv) the Buyer must provide the GST Cheque to the Seller on the First Instalment Date; and
- (v) on the First Instalment Date or within such further period (if any) as may be allowed by the Commissioner, the Seller must deposit the GST Cheque to the credit of the Commissioner (and the amount paid will be treated as part payment of the Balance Price).
72. **Priority Notice**
- The Buyer may lodge a "Settlement Notice" or "Priority Notice" or similar over the Title with the Queensland Land Registry but not before the date which is 5 Business Days prior to the date fixed as the Settlement Date.
73. **Assignment**
- The Buyer may not assign or transfer or attempt to assign or transfer the Buyer's interest under this Contract without the prior written consent of the Seller.
74. **NBN Co Limited**
- 74.1 Clause 74.2 applies if the Scheme is part of or eligible to participate in the National Broadband Network or similar. The Seller makes no representation to the Buyer that the Scheme is or will be part of the National Broadband Network or similar.
- 74.2 If this clause 74.2 applies:
- (a) the Buyer must, if directed at any time (including after Settlement) by the Seller, do anything required by the Seller to enable the Seller or any related party of the Seller to comply with its obligations to NBN Co. This includes:
- (i) transferring ownership in utility infrastructure and networks to NBN Co; and
- (ii) granting exclusive and non-exclusive licenses for the use of utility infrastructure and networks to NBN Co.
- (b) the Seller may cause or may have caused the Body Corporate to;
- (i) notwithstanding clause 13.1, grant licences, including exclusive licences, over broadband network fibre and associated infrastructure on such terms as it considers appropriate (including the ability by the licensee to grant sub-licences) and as required by telecommunications suppliers (such as NBN Co Limited); or

- (ii) waive, in accordance with clauses 17(5), 18(3) and 19(2) of Schedule 3 of the *Telecommunications Act 1997 (Cth)* (**Schedule 3**), any right the Body Corporate has to be given notice in relation to any activity to be undertaken on the Scheme Land or within the Scheme or any ancillary area to the Scheme Land, which is authorised under Schedule 3, and any right the Body Corporate may have to object to those activities.
- 74.3 The Buyer must not Object to any matter set out in this clause 74 or to the Seller exercising any rights set out in this clause 74.
75. **Name**
The Seller may deal with the Name in any manner the Seller considers fit and may do any one or more of the following (and the Buyer must not Object if the Seller has already done or in the future does so):
- (a) register, in favour of the Seller or any other party determined by the Seller the Name as a business name, trademark or similar;
- (b) license to the Body Corporate the right to use the Name as the name of the Scheme;
- (c) transfer to any party, including any service contractor or letting agent of the Scheme, any proprietary rights held by the Seller in the Name (whether by business name, trademark or similar); and
- (d) license to any party, including any service contractor or letting agent, the right to the use of the Name.
76. **Privacy Collection Notice**
- 76.1 **Application** - If the Seller is required by law to comply with the *Privacy Act 1988 (Cth)* (the Act), then this clause applies.
- 76.2 **Privacy Officer** - The Reference Schedule sets out the contact details for the Seller's Privacy Officer (care of the Seller's contact details in the Reference Schedule), and how the Buyer may view the Seller's full privacy policy.
- 76.3 **Collection of the Buyer's personal information** – The Seller collects personal information about the Buyer so that the Seller can administer the Seller's dealings with the Buyer, provide the Buyer with services and deal with any requests the Buyer may have. If the Seller does not collect the Buyer's personal information, then the Seller may be unable to deal with the Buyer's request or provide the Buyer with services and benefits, and the Seller may not be able to proceed with this Contract.
- 76.4 **Use of the Buyer's personal information** - The Seller uses the Buyer's personal information for the purpose of carrying out the Seller's functions and activities described on the Seller's website and in the Seller's marketing and other material, and for direct marketing (see below).
- 76.5 **Disclosure of the Buyer's personal information** – The Seller may disclose the Buyer's personal information to third parties, such as the Seller's related companies, IT providers who run the Seller's IT services, payment processors who process payments, marketing providers who provide marketing and public relations services, competition organisers, social media marketers, contractors, financiers, credit providers, insurers, marketing agents, sales agents, rental agents and their staff, and any government body where the Seller is required to provide the Buyer's personal information by law. The Seller does not normally send the Buyer's personal information offshore, but should the Seller do so, the Seller will take reasonable steps to inform the Buyer of the country where the Seller's personal information is sent.
- 76.6 **Seller's Privacy Policy** – The Seller's privacy policy sets out the Seller's approach to the management of personal and sensitive information. Subject to the Act, the Buyer can have access to and seek correction of the Buyer's personal and sensitive information. The Seller's privacy policy contains information about how the Buyer can do this. The Seller's privacy policy also contains information about how the Buyer can make a complaint about a breach of privacy.
- 76.7 **Direct Marketing** – By signing this Contract, the Buyer consents to the Seller using the Buyer's personal information as described above and to let the Buyer know about products and services that the Seller thinks may be of interest to the Buyer, via direct marketing through electronic and other means. However, the Buyer may opt out of receiving marketing information at any time by using the contact details provided in the Reference Schedule. For more information, see the Seller's privacy policy.
77. **Early Possession**
- 77.1 This clause applies if, at any time prior to Settlement, the Seller agrees to allow the Buyer early possession of the Property. The Seller has no obligation to allow the Buyer early possession.
- 77.2 If this clause applies the Buyer takes possession of the Property on the following conditions;
- (a) the Property is at the risk of the Buyer from the date of possession;
- (b) the Buyer must insure the Property to the Seller's satisfaction;
- (c) the Buyer must keep and maintain the Property in good and substantial repair;
- (d) the Buyer must not alter or add to the Property in any way;
- (e) entry into possession is under a licence personal to the Buyer (**Licence**);
- (f) no relationship of landlord and tenant is created;
- (g) the Seller may, in its discretion, revoke the Licence at any time by Notice to the Buyer;
- (h) on revocation of the Licence, the Buyer must forthwith yield up possession of the Property to the Seller;
- (i) the Buyer must not let or part with possession or occupancy of the Property;

- (j) the Seller or any nominee of the Seller may at any reasonable time before Settlement enter and view the Property and do anything or carry out any works that the Seller considers necessary for the preservation or repair of the Property; and
- (k) the Buyer indemnifies the Seller against any Claim incurred or suffered by the Seller directly or indirectly as a result of the Buyer's possession.
- 77.3 If the Buyer requests early possession, then the Buyer must, at and conditional upon Settlement, pay the Seller's legal fees of \$330.00 (Inc GST) to the Seller's Solicitor for facilitating the request (whether or not possession is granted).
- 78. Representations on Views**
- 78.1 This clause applies if the Buyer asserts that statements were made to the Buyer by or on behalf of the Seller about views or the outlook available from the Building or the Lot at or after Settlement.
- 78.2 The Buyer acknowledges that:
- (a) notwithstanding what the Buyer may have been told, the Seller makes no promise and provides no assurance that any particular view or outlook will be available or will continue to be available from the Building or the Lot;
- (b) the Seller does not know what future development may occur in respect of properties adjacent to or surrounding the Scheme; and
- (c) if properties adjacent to or surrounding the Scheme are developed, such development may interrupt the views and outlook from the Building or the Lot.
- 78.3 The Buyer must not Object as a result of the actual views or outlook available from the Building or the Lot at or after Settlement being affected by any development in the areas around the Scheme which occurs before or after Settlement.
- 79. Provision of Information**
- 79.1 The Buyer acknowledges that the Seller may provide information regarding the Building (including a copy of the certificate of classification, certificate of currency for Body Corporate insurance, etc) to the Buyer by way of an online data room.
- 79.2 If information is provided in this manner, the Seller will inform the Buyer and provide all necessary information to access the data room to the Buyer and the Buyer must not Object to information being provided in this manner.
- 80. Entire Agreement**
- This Contract contains the entire terms agreed between the Seller and the Buyer in relation to the sale and purchase of the Property and supersedes all prior negotiations.
- 81. Promotional Materials**
- 81.1 The Promotional Materials constitute a depiction of the Seller's intentions in respect of the Building as they are at the Contract Date. They are not intended to be, nor should they be treated as a statement of existing fact as to any aspect of the Building.
- 81.2 The Promotional Materials do not form part of the description of the Building in this Contract or the Disclosure Documents.
- 81.3 The Promotional Materials are not a representation or warranty by the Seller to the Buyer that:
- (a) the Building will be in accordance with the Promotional Materials;
- (b) the Seller owns or will own all of the land required to undertake the Building or any part of it;
- (c) the Seller has received or will receive all necessary approvals to undertake the Building, or if approvals are received, that they will be satisfactory to the Seller;
- (d) the Seller has an unequivocal intention to proceed with the entire Building as depicted in the Promotional Materials or at all;
- (e) the design features, facilities, improvements and inclusions as shown in the Promotional Materials are final and will form part of the Building as depicted in the Promotional Materials or at all;
- (f) all aspects of the Building as shown in the Promotional Materials will be included in the Building; and
- (g) the appearance, components and character of the Building is fixed and will not change from that which is depicted in the Promotional Materials.
- 81.4 The Buyer acknowledges that the undertaking of the Building is a dynamic process which may change or not be proceeded with, either in part or in whole, for any number of reasons, both before and after the Buyer has entered into the Contract and, as such, the Buyer represents and warrants to the Seller that they have not relied and will not rely on or be induced to enter into this Contract based on the Promotional Materials either in whole or in part.
- 82. Electronic Conveyancing**
- 82.1 This clause:
- (a) has priority over any other clause or Special Condition to the extent of any inconsistency;
- (b) applies if the Seller gives Notice to the Buyer that it applies;
- (c) ceases to apply if the Seller gives Notice to the Buyer that it no longer applies; and
- (d) ceases to apply (and the Seller can not give a Notice pursuant to clause 82.1(b)) if the Buyer gives Notice (which may not be given until after the Seller gives Notice to the Buyer calling for Settlement) to the Seller no less than 2 Business Days before the first due Settlement

- Date that the Buyer can not effect Settlement and lodgement electronically for bona fide reasons.
- 82.2 Settlement and lodgement of the Electronic Conveyancing Documents necessary to record the Buyer as registered owner of the Lot will be conducted electronically in accordance with this clause and the ECNL.
- 82.3 Each Party must:
- be, or engage a representative who is, a subscriber for the purposes of the ECNL; and
 - 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 ECNL.
- 82.4 The Seller may open the Electronic Workspace at any time considered appropriate by the Seller.
- 82.5 Within a reasonable period after the Seller gives Notice to the Buyer calling for Settlement, the Seller will:
- invite the Buyer to the Electronic Workspace;
 - include the Settlement Date in the Electronic Workspace; and
 - nominate a time for Settlement (being the time of the day for locking of the Electronic Workspace) in the Electronic Workspace being no later than 4pm.
- 82.6 The Buyer must promptly:
- accept the Seller's invitation to the Electronic Workspace;
 - enter the Electronic Workspace and:
 - accept the Settlement Date; and
 - accept the time for Settlement nominated by the Seller or nominate an alternate time for Settlement on the Settlement Date;
 - invite any mortgagee of the Buyer to the Electronic Workspace; and
 - complete and Digitally Sign the Transfer Documents where required by the Buyer.
- 82.7 If the time for Settlement is not agreed, the Parties agree that the time for Settlement is 2pm on the Settlement Date and each Party must nominate that time as the time for Settlement (being the time of the day for locking of the Electronic Workspace) in the Electronic Workspace.
- 82.8 If the Parties have agreed to amend the Settlement Date or the Settlement Date is extended pursuant to the Contract Terms:
- the Seller will update the Settlement Date in the Electronic Workspace;
 - the Buyer must accept the updated Settlement Date in the Electronic Workspace; and
 - the provisions of clauses 82.6(b)(ii) and 82.7 apply to the agreement for the time for Settlement on the updated Settlement Date.
- 82.9 Within 2 Business Days after receipt of the Settlement Statement from the Seller (and in any event, within 1 Business Day prior to the time for Settlement on the Settlement Date), the Buyer must enter the Electronic Workspace to prepare the relevant particulars in the Financial Settlement Schedule that relate to the Buyer/source accounts.
- 82.10 If any part of the Price is to be paid to discharge an Outgoing, the Buyer must:
- if required by the Seller, pay that amount to the Seller's Solicitor's trust account and the Seller must pay the amount to the relevant authority following Settlement; or
 - for other amounts, pay the amount to the destination account nominated by the Seller.
- 82.11 Settlement occurs when the Electronic Workspace records that the Financial Settlement has occurred.
- 82.12 A Party is not in default of this Contract to the extent it is prevented from complying with an obligation because the other Party or the other Party's financier has not done something in the Electronic Workspace.
- 82.13 Any rights under the Contract or at law to terminate this Contract may not be exercised during the time the Electronic Workspace is locked for Electronic Settlement.
- 82.14 The Parties must:
- ensure that the Electronic Workspace is completed and all Electronic Conveyancing Documents and the Financial Settlement Schedule are Digitally Signed prior to settlement;
 - do everything else required in the Electronic Workspace to enable Settlement to occur on the Settlement Date; and
 - 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.
- 82.15 Where Settlement is to occur in the Electronic Workspace, the Buyer acknowledges and agrees that any bank guarantee or similar instrument provided by the Buyer to secure the payment of the Deposit cannot be returned via the Electronic Workspace and will be returned to the Buyer within a reasonable period after Settlement.
- 82.16 Each Party is to bear its own costs in connection with Settlement occurring in the Electronic Workspace.
83. If Settlement fails and cannot occur by 4pm on the Settlement Date because a computer system operated by a participating party is inoperative, neither Party is in default and the Settlement Date is deemed to be the next Business Day. Time remains of the essence.
84. **Special Conditions**
- The Special Conditions annexed to this Contract form part of this Contract and override any inconsistent term of the Contract.

GUARANTEE AND INDEMNITY

Parties:

| | |
|---|--------------------|
| Arden Group Holdings Pty Ltd ACN 150 741 101 as trustee for the AGH Trust (Instrument No. 714561735) | (Seller) |
| The Guarantor named in the Reference Schedule (in the Contract) | (Guarantor) |
| Contract for the sale and purchase of the Property to be made between the Seller and the Buyer named in the Reference Schedule (in the Contract) | (Contract) |

It is agreed:

1. The Guarantor:
 - 1.1 has requested that the Seller enter into the Contract;
 - 1.2 enters into this Guarantee and Indemnity in consideration for the Seller agreeing to:
 - (a) enter into the Contract at the request of the Guarantor; and
 - (b) pay the Guarantor \$1.00 within 10 Business Days after written demand by the Guarantor to the Seller; and
 - 1.3 acknowledges the receipt of valuable consideration from the Seller for the Guarantor incurring obligations under this Guarantee and Indemnity.
2. The Seller agrees to enter into the Contract at the request of the Guarantor.
3. The Guarantor unconditionally and irrevocably guarantees to the Seller the due and punctual performance by the Buyer of all of its obligations under the Contract.
4. The Guarantor, as a separate undertaking, unconditionally and irrevocably indemnifies the Seller and any Third Party against all liability, damages, costs, expenses and losses of any kind and however arising (including penalties, fines, interest, duties, fees, taxes or legal fees on a full indemnity basis) which the Seller or any Third Party may suffer as a result of or arising directly or indirectly out of:
 - 4.1 any default, breach or non-compliance by the Buyer of the Contract or a Substitute Contract (**Relevant Contract**);
 - 4.2 a breach by the Buyer of any acknowledgement, promise, representation, warranty or the like by the Buyer in a Relevant Contract or otherwise, including any promise, representation, warranty or the like which was incorrect or misleading when made;
 - 4.3 the Buyer having no obligations or being relieved of any obligations or any obligations of the Buyer becoming unenforceable under a Relevant Contract; or
 - 4.4 making, enforcing and doing anything in connection with this Guarantee and Indemnity.
5. The Guarantor agrees that the Guarantor's liability and obligations under this Guarantee and Indemnity are not affected by any:
 - 5.1 termination of a Relevant Contract as a result of any default or breach by the Buyer;
 - 5.2 insolvency, bankruptcy, death, incompetency or winding up of the Buyer or of any Guarantor;
 - 5.3 assignment or novation of a Relevant Contract by the Buyer or the Seller or a Third Party;
 - 5.4 grant of time or other concession to the Buyer by the Seller or a Third Party or to the Seller or a Third Party by the Buyer;
 - 5.5 compromise, waiver, variation or novation of any of the rights of the Seller or a Third Party against the Buyer under a Relevant Contract;
 - 5.6 delay by the Seller or a Third Party in exercising its rights or if the Seller or a Third Party does not sue the Buyer;
 - 5.7 acquiescence, acts, omissions or mistakes on the part of the Seller or a Third Party;
 - 5.8 purported rights of the Seller or a Third Party against the Buyer under a Relevant Contract being invalid, void or unenforceable for any reason including by operation of law or statute;
 - 5.9 future variations or alterations to a Relevant Contract agreed between the parties to it, regardless of whether or not the Guarantor has first consented to the variation or alteration and regardless of any prejudice to the Guarantor arising from that variation or alteration;
 - 5.10 other person who was named, intended or required to enter into this Guarantee and Indemnity not having done so or not having done so effectively;
 - 5.11 waiver or other indulgence or the discharge or release of a Buyer or any other person from any obligation;
 - 5.12 guarantee and indemnity from any other person who has entered into this Guarantee and Indemnity not being, for any reason whatsoever, enforceable; or

- 5.13 other acts, omission, thing or matter whatsoever which, but for this provision, might in any way operate to release or otherwise exonerate or discharge the Guarantor from any of its obligations as surety.
6. This Guarantee and Indemnity:
- 6.1 extends to cover the Buyer's obligations under a Relevant Contract:
- (a) regardless of any compromise, waiver or variation of any rights against the Buyer under the Relevant Contract; and
- (b) as amended, varied or replaced, whether with or without the consent of the Guarantor, even if the amendment, variation or replacement imposes additional obligations on the Buyer, beyond those presently in the Relevant Contract; and
- 6.2 is a continuing guarantee and indemnity and, despite Settlement, remains in full force and effect for as long as the Buyer has any liability or obligation under the Relevant Contract and until all of those liabilities or obligations have been fully discharged.
7. The Guarantor represents to the Seller (and for the benefit of any Third Party) that before the Guarantor entered into this Guarantee and Indemnity the Guarantor read and understood this Guarantee and Indemnity, the Contract and any other associated documents and had taken or been given the opportunity to take legal and other advice the Guarantor considered necessary.
8. If the Seller or a Third Party novates, transfers or assigns its interest in a Relevant Contract in favour of any person or entity (**Assignee**), the benefit of the Guarantor's obligations and indemnities under this Guarantee and Indemnity are assigned to the Assignee and the Guarantor must enter into any document that the Seller or a Third Party or Assignee may reasonably require to confirm the assignment. The Seller or a Third Party may assign the benefit of the Guarantor's obligations and indemnities under this Guarantee and Indemnity without affecting or discharging the Guarantor's liability as surety in any way.
9. The Seller or a Third Party does not have to sue the Buyer or enforce any rights against any person before claiming under this Guarantee and Indemnity.
10. This Guarantee and Indemnity binds each Guarantor individually and all of them jointly.
11. This Guarantee and Indemnity is a separate, collateral instrument to the Relevant Contracts.
12. The liability of the Guarantor is not discharged by payment to the Seller or a Third Party which is later avoided by law. If that occurs, the respective rights and obligations of the Seller or a Third Party and the Guarantor will be restored as if the payment had not been made.
13. Money paid to the Seller or a Third Party by the Guarantor must be applied first against payment of costs, charges and expenses under clause 4, then against other obligations under this Guarantee and Indemnity.
14. If there is any ambiguity in this Guarantee and Indemnity, it is to be interpreted in favour of the Seller or a Third Party. Any void, voidable or illegal term of this Guarantee and Indemnity is to be read down or severed leaving the balance operable.
15. The Guarantor acknowledges and agrees that this Guarantee and Indemnity was signed by the Guarantor before the Seller signed the Contract.
16. This Guarantee and Indemnity may be executed, exchanged and delivered in any manner permitted under the Contract for the execution and exchange of that document (including electronically).
17. Notices under this Guarantee and Indemnity are to be given in the manner set out under the Contract. The Seller may give notices to the Guarantor by giving the notice to the Buyer or the Buyer's Solicitor, including in the same instrument as any notice that is given to the Buyer.
18. **This Guarantee and Indemnity takes effect, is signed and delivered as a deed. The validity of this Guarantee and Indemnity as an agreement between the Seller and the Guarantor is not affected in any way if this Guarantee and Indemnity does not take effect as a deed.**

WARNING: The Guarantor is agreeing to be legally liable for the performance of the Buyer under the Relevant Contracts.

SIGNED SEALED AND DELIVERED AS A DEED by)
Guarantor 1 named in the Reference Schedule in the)
presence of:)



.....
SIGNATURE – GUARANTOR 1
By placing my signature above, I warrant that I am the
Guarantor named in the Reference Schedule.

.....
Witness
(witness required unless signed electronically)

SIGNED SEALED AND DELIVERED AS A DEED by)
Guarantor 2 named in the Reference Schedule in the)
presence of:)



.....
SIGNATURE – GUARANTOR 2
By placing my signature above, I warrant that I am the
Guarantor named in the Reference Schedule.

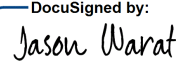
.....
Witness
(witness required unless signed electronically)

SIGNED SEALED AND DELIVERED AS A DEED by)
Guarantor 3 named in the Reference Schedule in)
the presence of:)

.....
SIGNATURE – GUARANTOR 3
By placing my signature above, I warrant that I am the
Guarantor named in the Reference Schedule.

.....
Witness
(witness required unless signed electronically)

SIGNED SEALED AND DELIVERED AS A DEED by)
a duly authorised attorney of **Arden Group Holdings**)
Pty Ltd ACN 150 741 101 as trustee for the AGH)
Trust (Instrument No. 714561735) in the presence of:)

DocuSigned by:


.....60521C0AB82F48C.....
SIGNATURE – ATTORNEY OF SELLER

.....
Witness
(witness required unless signed electronically)

SPECIAL CONDITIONS

(Insert any Special Conditions here)

FINANCE

1. This Contract is conditional upon the Buyer obtaining approval of a loan for the Finance Amount from the Financier by the Finance Date on terms satisfactory to the Buyer, acting reasonably (Finance Condition). The Buyer must take all reasonable steps to obtain the approval and satisfy the Finance Condition.
2. The Buyer must give notice to the Developer that:
 - (a) approval has not been obtained by the Finance Date and this Contract is terminated; or
 - (b) the Finance Condition has been either satisfied or waived by the Buyer.
3. If no notice is given in accordance with subclause 2 by 5.00 pm on the Finance Date, then the Developer may terminate this Contract by notice to the Buyer (in which case any Deposit paid will be refunded to the Buyer). The Developer may terminate the Contract at any time under this provision until the Buyer waives the benefit of sub-clause 1.
4. In this Special Condition:
 - (a) "Financier" means any bank or financial institution.
 - (b) "Finance Amount" means the Price.
 - (c) "Finance Date" means the date 28 Days After the Contract Date

Master

Buyer 1 Sign

CR Town

Buyer 2 Sign

Buyer 3 Sign

DocuSigned by:

Jason Warat

60521C0AB82F48C...

Seller Sign

SPECIAL CONDITIONS

(Insert any Special Conditions here)

1. Subject to Lease

1.1 The Property is sold subject to the Lease and the Buyer acknowledges that despite any other terms of this Contract, vacant possession will not be provided at Settlement.

1.2 At Settlement, to the extent that they are the assignable, the Seller assigns to the Buyer the benefit of all covenants by the Tenants under the Lease and all guarantees and Bond (subject to the requirements of the Residential Tenancies and Rooming Accommodation Act 2008) supporting the Lease.

1.3 The right to recover arrears of rent under the Lease is not assigned to the Buyer and section 117 of the Property Law Act 1974 does not apply.

1.4 At Settlement, the Seller will provide to the Buyer:

- (a) a notice to the Tenants advising of the sale in the form required by law; and
- (b) any notice required by law to transfer to the Buyer the Seller's interest in any Bond.

1.5 All Rent payable by the Tenants belongs to the Seller up to and including the Settlement Date. From and including the day after the Settlement Date, the Rent belongs to the Buyer.

1.6 The Parties acknowledge the Rent will be adjusted between the Parties by the property manager.

1.7 In this Special Condition:

- (a) Lease means the General Tenancy Agreement Form 18a dated 19 May 2022 attached to this Contract between Panorama Management Brisbane Pty Ltd as lessor and the Tenants.
- (b) Bond means a bond under the Residential Tenancies and Rooming Accommodation Act 2008 paid by the Tenants under the Lease.
- (c) Rent means any periodic amount payable under the Lease.
- (d) Tenants means Simran Khosla

LS Masters

Buyer 1 Sign

DK Tounf

Buyer 2 Sign

Buyer 3 Sign

DocuSigned by:

Jason Warat

60521C0AB82F48C...

Seller Sign

SPECIAL CONDITIONS
(Insert any Special Conditions here)

W Masters

Buyer 1 Sign

DK Towne

Buyer 2 Sign

Buyer 3 Sign

DocuSigned by:

Jason Warat

60521C0AB82F48C...

Seller Sign