



DISCLOSURE STATEMENT

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Body Corporate and Community Management Act 1997

Section 206

Body Corporate Body Corporate for: Toovlew Community Titles Scheme 12948

Lot No: 1 on BUP 2179
Address: 1/71 Melton Road, Nundah Qld 4012

PRESCRIBED INFORMATION

Secretary of Body Corporate Name: Judith Sellars
Address:
Telephone: Facsimile:

Body Corporate Manager Name: Whittles Group Pty Ltd
Address: 1/17 Waterloo Street, CLEVELAND QLD 4163
Telephone: (07) 3479 9300 Facsimile:

Body Corporate Committee Is there a Committee for the Body Corporate? Yes

If there is a committee, is the Body Corporate Manager engaged to perform the functions of the committee? No

**Do not complete if there is no Committee for the Body Corporate*

Annual Contributions and Levies Amount of annual contributions currently fixed by the body corporate as payable by the owner of the lot:

Administrative Fund: \$888.00 each year by instalments in
advance/arrears on the First day of each January, April,
July and October.
Sinking Fund: \$1,068.00 each year by instalments in
advance/arrears-on the First day of each January, April,
July and October
Insurance Fund: \$512.00 each year by instalments in
advance/arrears-on the First day of each January, April,
July and October

Improvements on Common Property for which Buyer will be Responsible Nil

Body Corporate Assets Required to be Recorded on Register Nil

Information prescribed under Regulation Module Standard Scheme

Judith Sellars
.....initials
CAN E

Signing

Hayes

.....
SIGNED AS A DELEGATE FOR THE PUBLIC TRUSTEE UNDER
SECTION 11A OF THE PUBLIC TRUSTEE ACT 1978

.....
Witness

22nd February 2016

.....
Date

Buyer's Acknowledgement

The Buyer acknowledges having received and read this statement before entering into the contract.

Prunier (DIRECTOR)

[Signature] (DIRECTOR)
.....
Buyers Agent

[Signature]
.....
Witness

17/2/16
.....
Date

Contract for Residential Lots in a Community Titles Scheme

Seventh Edition

This document has been approved by The Real Estate Institute of Queensland Limited and the Queensland Law Society Incorporated as being suitable for the sale and purchase of Residential Lots in a Community Titles Scheme in Queensland except for new residential property in which case the issue of GST liability must be dealt with by special condition.

The Seller and Buyer agree to sell and buy the Property under this contract.

REFERENCE SCHEDULE

Contract Date: 22nd February 2016

Agent:

NAME:			
ABN:		LICENCE NO:	
ADDRESS:			
SUBURB:		STATE:	POSTCODE:
PHONE:	MOBILE:	FAX:	EMAIL:

PARTIES

Seller:

NAME:	The Public Trustee of Queensland Personal Representative Under Instrument 717033014		ABN:	
ADDRESS:	C/ - Trustee House, 444 Queen Street			
SUBURB:	BRISBANE	STATE:	QLD	POSTCODE: 4000
PHONE:	MOBILE:	FAX:	EMAIL:	
	(07) 3213 9288			

NAME:				ABN:	
ADDRESS:					
SUBURB:		STATE:		POSTCODE:	
PHONE:	MOBILE:	FAX:	EMAIL:		

■ or any other solicitor notified to the Buyer

Seller's Solicitor:

NAME:	The Official Solicitor to the Public Trustee of Queensland			
REF:	1600257 - 01095498	CONTACT:		
ADDRESS:	GPO Box 1449			
SUBURB:	Brisbane	STATE:	QLD	POSTCODE: 4001
PHONE:	MOBILE:	FAX:	EMAIL:	
	(07) 3213 9221		(07) 3213 9217	

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AW *D* *CAH* *L*

ACN 610 376 406

Handwritten initials/signatures

Buyer:

NAME: Davoy SMSF Property Pty Ltd ~~ATF Davoy SMSF Property Trust~~ ABN: _____

ADDRESS: PO Box 229

SUBURB: WILSTON STATE: QLD POSTCODE: 4051

PHONE: _____ MOBILE: 0422 587 007 FAX: _____ EMAIL: patricia.mc@optusnet.com.au

NAME: _____ ABN: _____

ADDRESS: _____

SUBURB: _____ STATE: _____ POSTCODE: _____

PHONE: _____ MOBILE: _____ FAX: _____ EMAIL: _____

■ or any other solicitor notified to the Seller

Buyer's Solicitor:

NAME: Colwell Lyons

REF: _____ CONTACT: _____

ADDRESS: PO Box 12

SUBURB: ASPLEY STATE: QLD POSTCODE: 4034

PHONE: (07) 3263 3366 MOBILE: _____ FAX: _____ EMAIL: admin@colwelllyons.com.au

PROPERTY

Lot: ADDRESS: 1/71 Melton Road

SUBURB: NUNDAH STATE: QLD POSTCODE: 4012

Description: Lot: 1 On: BUP 2170

Scheme: Tooview	Community Titles Scheme: 12948
County:	Parish:
Title Reference: 15527166	Local Government: Brisbane City

Present Use: Residential

Excluded Fixtures: nil

Included Chattels: Reverse cycle air conditioner

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PRICE

Deposit Holder: The Public Trustee of Queensland

Deposit Holder's Trust Account:

Bank:

BSB: Account No:

Purchase Price: \$292,600.00

Unless otherwise specified in this contract, the Purchase Price includes any GST payable on the supply of the Property to the Buyer.

Deposit: \$14,626.00

Initial Deposit payable on the day the Buyer signs this contract unless another time is specified below. WITHIN 2 WORKING DAYS FROM THE DATE OF THIS CONTRACT

Balance Deposit (if any) payable on:

Default Interest Rate:

If no figure is inserted, the Contract Rate applying at the Contract Date published by the Queensland Law Society Inc will apply.

FINANCE

Finance Amount: \$ Sufficient to complete

Unless all of 'Finance Amount', 'Financier' and 'Finance Date' are completed, this contract is not subject to finance and clause 3 does not apply.

Financier: Buyer's Choice

Finance Date: 30 days from Contract Date

BUILDING AND/OR PEST INSPECTION DATE

Inspection Date: n/a

If 'Inspection Date' is not completed, the contract is not subject to an inspection report and clause 4.1 does not apply.

MATTERS AFFECTING PROPERTY

Title Encumbrances:

Is the Property sold subject to any Encumbrances? No Yes, listed below

WARNING TO SELLER: You are required to disclose all Title Encumbrances which will remain after settlement (for example, easements on your title and statutory easements for sewerage and drainage which may not appear on a title search). Failure to disclose these may entitle the Buyer to terminate the contract or to compensation. It is NOT sufficient to state "refer to title", "search will reveal", or similar.

In addition to registered Encumbrances, if any, mentioned above, the Seller discloses that any Statutory Encumbrances as defined by Special Condition 2 which affect the Property will remain after settlement.

Tenancies:

TENANTS NAME: NIL

If the property is sold with vacant possession from settlement, insert 'Nil'. Otherwise complete details from Residential Tenancy Agreement.

TERM AND OPTIONS:

STARTING DATE OF TERM: ENDING DATE OF TERM: RENT: BOND:

\$ \$

Managing Agent:

AGENCY NAME:

PROPERTY MANAGER:

ADDRESS:

SUBURB:

STATE:

POSTCODE:

PHONE:

FAX:

MOBILE:

EMAIL:

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POOL SAFETY FOR NON-SHARED POOLS

Complete the following questions if there is a non-shared pool in the Lot

Q1. Is there a non-shared pool on the Lot?

Yes No Clause 4.2 of this contract does not apply

Q2. If the answer to Q1 is Yes, is there a Compliance or Exemption Certificate for the non-shared pool at the time of contract?

Yes Clause 5.3(1)(f) applies No Clause 4.2 applies (except for auction and some other excluded sales)

Q3. If the answer to Q2 is No, has a Notice of No Pool Safety Certificate been given prior to contract?

Yes No

■ **WARNING TO SELLER:** Failure to comply with the Pool Safety Requirements is an offence with substantial penalties.

■ **WARNING TO BUYER:** If there is no Compliance or Exemption Certificate at Settlement, the Buyer becomes responsible at its cost to obtain a Pool Safety Certificate within 90 days after settlement. The Buyer can also become liable to pay any costs of rectification necessary to comply with the Pool Safety Requirements to obtain a Pool Safety Certificate. The Buyer commits an offence and can be liable to substantial penalties if the Buyer fails to comply with this requirement.

■ If there is a pool on the Lot and Q2 is not completed then Clause 4.2 applies.

■ Note: This is an obligation of the Seller under Section 16 of the Building Regulation 2006.

Pool Safety Inspector:

Pool Safety
Inspection Date:

■ The Pool Safety Inspector must be licensed under the Building Act 1975 and Building Regulation 2006.

■ Clause 4.2(2) applies except where this contract is formed on a sale by auction and some other excluded sales.

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STATUTORY WARRANTIES AND CONTRACTUAL RIGHTS

The Seller gives notice to the Buyer of the following matters:

WARNING TO SELLER: The Body Corporate and Community Management Act 1997 and the Contract include warranties by the Seller about the Body Corporate and the Scheme land. Breach of a warranty may result in a damages claim or termination by the Buyer. Sellers should consider whether to carry out an inspection of the Body Corporate records to complete this section.

(a) Latent or Patent Defects in Common Property or Body Corporate Assets (s 223(a)(b))*

nil

(b) Actual or Contingent or Expected Liabilities of Body Corporate (s 223(2)(c)(d))*

nil

(c) Circumstances in Relation to Affairs of Body Corporate (s 223(3))*

nil

(d) Exceptions to Warranties in clause 7.4(3)*

See Special Condition 1

(e) Proposed Body Corporate Resolutions (clause 8.4)*

See Special Condition 1

*Include in attachment if insufficient space

ADDITIONAL BODY CORPORATE INFORMATION

Interest Schedule Lot Entitlement of Lot:

1

Aggregate Interest Schedule Lot Entitlement:

9

Contribution Schedule Lot Entitlement of Lot:

1

Aggregate Contribution Schedule Lot Entitlement:

9

INSURANCE POLICIES

Insurer:	QBE Insurance (Aust) Ltd	Policy No: 866247
Building:	\$3,360,000.00	
Public liability:	\$20,000,000.00	
Other:	Loss of rent/temp accommodation - \$504,000.00; insured property (common area contents) - \$36,729.00; voluntary workers - \$200,000.00/\$2,000.00; fidelity guarantee - \$100,000.00; office bearer's legal liability - \$1,000,000.00; government audit costs \$25,000.00; appeal expenses - common property health & safety breaches - \$100,000.00; legal defence expenses - \$50,000.00; lot owner's fixtures and improvements (per lot) \$250,000.00.	

POOL SAFETY FOR SHARED POOLS

Only complete the following questions if there is a shared pool on the Land.

A. Is there a shared pool on the Land or on adjacent land used in association with the Land? Yes No

B. If the answer to A is Yes, is there a Compliance or Exemption Certificate for the shared pool at the time of contract? Yes No

C. If the answer to B is No, has a Notice of No Pool Safety Certificate been given prior to contract? Yes No

Note: This is an obligation of the Seller under Section 16 of the Building Regulation 2006.

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ELECTRICAL SAFETY SWITCH AND SMOKE ALARM

This section must be completed unless the Lot is vacant.

The Seller gives notice to the Buyer that an Approved Safety Switch for the General Purpose Socket Outlets is:
(select whichever is applicable)

- installed in the residence
- not installed in the residence

■ **WARNING:** By giving false or misleading information in this section, the Seller may incur a penalty. The Seller should seek expert and qualified advice about completing this section and not rely on the Seller's Agent to complete this section.

The Seller gives notice to the Buyer that a Compliant Smoke Alarm(s) is/are:
(select whichever is applicable)

- installed in the residence
- not installed in the residence

■ **WARNING:** Failure to install a Compliant Smoke Alarm is an offence under the Fire and Emergency Services Act 1990.

NEIGHBOURHOOD DISPUTES (DIVIDING FENCES AND TREES) ACT 2011

The Seller gives notice to the Buyer in accordance with Section 83 of the *Neighbourhood Disputes (Dividing Fences and Trees) Act 2011* that the Lot:
(select whichever is applicable)

- is not affected by any application to, or an order made by, the Queensland Civil and Administrative Tribunal (QCAT) in relation to a tree on the Land or
- is affected by an application to, or an order made by, QCAT in relation to a tree on the Land, a copy of which has been given to the Buyer prior to the Buyer signing the contract.

■ **WARNING:** Failure to comply with s83 *Neighbourhood Disputes (Dividing Fences and Trees) Act 2011* by giving a copy of an order or application to the Buyer (where applicable) prior to Buyer signing the contract will entitle the Buyer to terminate the contract prior to Settlement.

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SPECIAL CONDITIONS

See Annexure A attached

SETTLEMENT

SETTLEMENT DATE:

62 days from Contract Date

■ or the next Business Day if that is not a Business Day in the Place for Settlement.

PLACE FOR SETTLEMENT:

Brisbane

■ If Brisbane is inserted, this is a reference to Brisbane CBD.

SIGNATURES

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: *Michelle (DIRECTOR)* WITNESS: *Stewart*
BUYER: *[Signature] (DIRECTOR)* WITNESS: *Stewart*
SELLER: *CA Hayes* WITNESS: *[Signature]*
SIGNED AS DELEGATE FOR THE PUBLIC TRUSTEE UNDER SECTION 11A OF THE PUBLIC TRUSTEE ACT 1978
SELLER: _____ WITNESS: _____

DEPOSIT HOLDER:

■ Who acknowledges having received the Initial Deposit and agrees to hold that amount and any Balance Deposit when received as Deposit Holder for the parties as provided in the Contract.

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TERMS OF CONTRACT

FOR RESIDENTIAL LOTS IN A COMMUNITY TITLES SCHEME

1. DEFINITIONS

1.1 In this contract:

- (1) terms in bold in the Reference Schedule and the Disclosure Statement have the meanings shown opposite them unless the context requires otherwise; and
- (2) (a) **"Approved Safety Switch"** means a residual current device as defined in the *Electrical Safety Regulation 2013*;
- (b) **"Balance Purchase Price"** means the Purchase Price, less the Deposit, adjusted under clause 2.6;
- (c) **"Bank"** means an authorised deposit-taking institution within the meaning of the *Banking Act 1959* (Cth).
- (d) **"Body Corporate"** means the body corporate of the Scheme;
- (e) **"Body Corporate Debt"** has the meaning in the Regulation Module but excludes the Body Corporate Levies for the period which includes the Settlement Date;
- (f) **"Body Corporate Levies"** means regular periodic contributions levied on the owner of the Lot (including, if applicable, levied under an exclusive use by-law) excluding any Special Contribution;
- (g) **"Bond"** means a bond under the *Residential Tenancies and Rooming Accommodation Act 2008*;
- (h) **"Building"** means any building that forms part of the Lot or in which the Lot is situated;
- (i) **"Building Inspector"** means a person licensed to carry out completed residential building inspections under the *Queensland Building and Construction Commission Regulations 2003*;
- (j) **"Business Day"** means a day other than:
- (i) a Saturday or Sunday;
- (ii) a public holiday in the Place for Settlement; and
- (iii) a day in the period 27 to 31 December (inclusive)
- (k) **"Compliance or Exemption Certificate"** means:
- (i) a Pool Safety Certificate; or
- (ii) a building certificate that may be used instead of a Pool Safety Certificate under section 246AN(2) of the *Building Act 1975*; or
- (iii) an exemption from compliance on the grounds of impracticality under section 245B of the *Building Act 1975*;
- (l) **"Compliant Smoke Alarm"** means a smoke alarm complying with sections 104RB (2) or (4) of the *Fire and Emergency Services Act 1990*;
- (m) **"Contract Date"** or **"Date of Contract"** means the date inserted in the Reference Schedule;
- (n) **"Court"** includes any tribunal established under statute;
- (o) **"Disclosure Statement"** means the statement under section 206 (existing lot) or section 213 (proposed lot) of the *Body Corporate and Community Management Act 1997*;
- (p) **"Encumbrances"** includes:
- (i) unregistered encumbrances;
- (ii) statutory encumbrances; and
- (iii) Security Interests.
- (q) **"Essential Term"** includes, in the case of breach by:
- (i) the Buyer: clauses 2.2, 2.5(1), 5.1 and 6.1; and
- (ii) the Seller: clauses 5.1, 5.3(1)(a) – (d), 5.3(1)(e)(ii) & (iii), 5.3(1)(f), 5.5 and 6.1;
- but nothing in this definition precludes a Court from finding other terms to be essential;
- (r) **"Exclusive Use Areas"** means parts of the common property for the Scheme allocated to the Lot under an exclusive use by-law;
- (s) **"Financial Institution"** means a Bank, building society or credit union;
- (t) **"General Purpose Socket Outlet"** means an electrical socket outlet as defined in the *Electrical Safety Regulation 2013*;
- (u) **"GST"** means the goods and services tax under the GST Act;
- (v) **"GST Act"** means *A New Tax System (Goods and Services Tax) Act* and includes other GST related legislation;
- (w) **"Improvements"** means fixed structures in the Lot (such as stoves, hot water systems, fixed carpets, curtains, blinds and their fittings, clothes lines, fixed satellite dishes and television antennae, in-ground plants) but does not include the Reserved Items;
- (x) **"Keys"** means keys, codes or devices in the Seller's possession or control for all locks or security systems on the Property or necessary to access the Property;
- (y) **"Land"** means the scheme land for the Scheme;
- (z) **"Notice of no pool safety certificate"** means the Form 36 under the *Building Regulation 2006* to the effect that there is no Pool Safety Certificate issued for the Land and/or the Lot;
- (aa) **"Notice of nonconformity"** means a Form 26 under the *Building Regulation 2006* advising how the pool does not comply with the relevant pool safety standard;
- (bb) **"Outgoings"** means:
- (i) rates or charges on the Lot by any competent authority (for example, council rates, water rates, fire service levies) but excludes land tax; and
- (ii) Body Corporate Levies;
- (cc) **"Pest Inspector"** means a person licensed to undertake termite inspections on completed buildings under the *Queensland Building and Construction Commission Regulations 2003*;
- (dd) **"Pool Safety Certificate"** has the meaning in section 231C(a) of the *Building Act 1975*;
- (ee) **"Pool Safety Requirements"** means the requirements for pool safety contained in the *Building Act 1975* and *Building Regulation 2006*;
- (ff) **"Pool Safety Inspection Date"** means the Pool Safety Inspection Date inserted in the Reference Schedule. If no date is inserted in the Reference Schedule, the Pool Safety Inspection Date is taken to be the earlier of the following:
- (i) the Inspection Date for the Building and/or Pest Inspection; or
- (ii) 2 Business Days before the Settlement Date;
- (gg) **"Pool Safety Inspector"** means a person authorised to give a Pool Safety Certificate;
- (hh) **"PPSR"** means the Personal Property Securities Register established under *Personal Property Securities Act 2009* (Cth);
- (ii) **"Property"** means:
- (i) the Lot;
- (ii) the right to any Exclusive Use Areas;
- (iii) the Improvements;
- (iv) the Included Chattels;
- (jj) **"Regulation Module"** means the regulation module for the Scheme;
- (kk) **"Rent"** means any periodic amount, including outgoings, payable under the Tenancies;
- (ll) **"Reserved Items"** means the Excluded Fixtures and all chattels in the Lot and Exclusive Use Areas other than the Included Chattels;
- (mm) **"Scheme"** means the community titles scheme containing the Lot;
- (nn) **"Security Interests"** means all security interests registered on the PPSR over Included Chattels and Improvements;
- (oo) **"Special Contribution"** means an amount levied by the Body Corporate under the Regulation Module for a liability for which no provision or inadequate provision has been made in the budget of the Body Corporate;
- (pp) **"Transfer Documents"** means:

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- (l) the form of transfer under the *Land Title Act 1994* required to transfer title in the Lot to the Buyer; and
- (ll) any other document to be signed by the Seller necessary for stamping or registering the transfer; and
- (qq) "Transport Infrastructure" has the meaning defined in the *Transport Infrastructure Act 1994*.

1.2 Words and phrases defined in the *Body Corporate and Community Management Act 1997* have the same meaning in this contract unless the context indicates otherwise.

2. PURCHASE PRICE

2.1 GST

- (1) Unless otherwise specified in this contract, the Purchase Price includes any GST payable on the supply of the Property to the Buyer.
- (2) If a party is required to make any other payment or reimbursement under this Contract, that payment or reimbursement will be reduced by the amount of any input tax credits to which the other party (or the representative member for a GST group of which it is a member) is entitled.

2.2 Deposit

- (1) The Buyer must pay the Deposit to the Deposit Holder at the times shown in the Reference Schedule. The Deposit Holder will hold the Deposit until a party becomes entitled to it.
- (2) The Buyer will be in default if it:
 - (a) does not pay the Deposit when required;
 - (b) pays the Deposit by a post-dated cheque; or
 - (c) pays the Deposit by cheque which is dishonoured on presentation.
- (3) The Seller may recover from the Buyer as a liquidated debt any part of the Deposit which is not paid when required.

2.3 Investment of Deposit

If:

- (1) the Deposit Holder is instructed by either the Seller or the Buyer; and
 - (2) is lawful to do so;
- the Deposit Holder must:
- (3) invest as much of the Deposit as has been paid with any Financial Institution in an interest-bearing account in the names of the parties; and
 - (4) provide the parties' tax file numbers to the Financial Institution (if they have been supplied).

2.4 Entitlement to Deposit and Interest

- (1) The party entitled to receive the Deposit is:
 - (a) if this contract settles, the Seller;
 - (b) if this contract is terminated without default by the Buyer, the Buyer; and
 - (c) if this contract is terminated owing to the Buyer's default, the Seller.
- (2) The interest on the Deposit must be paid to the person who is entitled to the Deposit.
- (3) If this contract is terminated, the Buyer has no further claim once it receives the Deposit and interest unless the termination is due to the Seller's default or breach of warranty.
- (4) The Deposit is invested at the risk of the party who is ultimately entitled to it.

2.5 Payment of Balance Purchase Price

- (1) On the Settlement Date, the Buyer must pay the Balance Purchase Price by Bank cheque as the Seller or the Seller's Solicitor directs.
- (2) Despite any other provision of this contract, reference to a "Bank cheque" in clause 2.5(1):
 - (a) includes a cheque drawn by a building society or credit union on itself;
 - (b) does not include a cheque drawn by a building society or credit union on a Bank;
 and the Seller is not obliged to accept a cheque referred to in clause 2.5(2)(b) on the Settlement Date.

2.6 Adjustments to Balance Purchase Price

- (1) The Seller is liable for Outgoings and is entitled to Rent up to and including the Settlement Date. The Buyer is liable for Outgoings and is entitled to Rent after the Settlement Date.
- (2) Subject to clauses 2.6(3), 2.6(5) and 2.6(14), Outgoings for periods including the Settlement Date must be adjusted:
 - (a) for those paid, on the amount paid;
 - (b) for those assessed but unpaid, on the amount payable (excluding any discount); and
 - (c) for those not assessed:
 - (i) on the amount the relevant authority or the Body Corporate advises will be assessed (excluding any discount); or
 - (ii) if no advice on the assessment to be made is available, on the amount of the latest assessment (excluding any discount).
- (3) If there is no separate assessment of rates for the Lot at the Settlement Date and the Local Government informs the Buyer that it will not apportion rates between the Buyer and the Seller, then:
 - (a) the amount of rates to be adjusted is that proportion of the assessment equal to the ratio of the interest schedule lot entitlement of the Lot to the aggregate interest schedule lot entitlement of the Scheme; and
 - (b) if an assessment of rates includes charges imposed on a "per lot" basis, then the portion of those charges to be adjusted is the amount assessed divided by the number of lots in that assessment.
- (4) The seller is liable for land tax assessed on the Lot for the financial year current at the Settlement Date. If land tax is unpaid at the Settlement Date and the Office of State Revenue advises that it will issue a final clearance for the Lot on payment of a specified amount, then the Buyer may deduct the specified amount from the Balance Purchase Price at settlement and must pay it promptly to the Office of State Revenue.
- (5) Any Outgoings assessable on the amount of water used must be adjusted on the charges that would be assessed on the total water usage for the assessment period, determined by assuming that the actual rate of usage shown by the meter reading made before settlement continues throughout the assessment period. The Buyer must obtain and pay for the meter reading.
- (6) If any Outgoings are assessed but unpaid at the Settlement Date, then the Buyer may deduct the amount payable from the Balance Purchase Price at settlement and pay it promptly to the relevant authority or the Body Corporate, as appropriate. If an amount is deducted under this clause, the relevant Outgoing will be treated as paid at the Settlement Date for the purposes of clause 2.6(2).
- (7) Arrears of Rent for any rental period ending on or before the Settlement Date belong to the Seller and are not adjusted at settlement.
- (8) Unpaid Rent for the rental period including both the Settlement Date and the following day ("Current Period") is not adjusted until it is paid.
- (9) Rent already paid for the Current Period or beyond must be adjusted at settlement.
- (10) If Rent payments are reassessed after the Settlement Date for periods including the Settlement Date, any additional Rent payment from a Tenant or refund due to a Tenant must be apportioned under clauses 2.6(7), 2.6(8), 2.6(9) and 2.6(10).
- (11) Payments under clause 2.6(10) must be made within 14 days after notification by one party to the other but only after any additional payment from a Tenant has been received.
- (12) The Seller is liable for:
 - (a) any Special Contribution for which a levy notice has been issued on or before the Contract Date; and
 - (b) any other Body Corporate Debt (including any penalty or recovery cost resulting from non-payment of a Body Corporate Debt) owing in respect of the Lot at settlement.
 The Buyer is liable for any Special Contribution levied after the Contract Date.
- (13) If an amount payable by the Seller under clause 2.6(12) is unpaid at the Settlement Date, the Buyer may deduct the specified amount from the Balance Purchase Price at settlement and must pay it promptly to the Body Corporate.
- (14) For the purposes of clause 2.6(12), an amount payable under an exclusive use by-law will be treated as levied on the date it is due.

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- (15) The cost of Bank cheques payable at settlement:
- to the Seller or its mortgagee are the responsibility of the Buyer; and
 - to parties other than the Seller or its mortgagee are the responsibility of the Seller.
- (16) The Seller is not entitled to require payment of the Balance Purchase Price by means other than Bank cheque without the consent of the Buyer.
- (17) Upon written request by the Buyer, the Seller will, prior to Settlement, give the Buyer a written statement, supported by reasonable evidence, of –
- all Outgoings and all Rent for the Property to the extent they are not capable of discovery by search or enquiry at any office of public record or pursuant to the provisions of any statute; and
 - any other information which the Buyer may reasonably require for the purpose of calculating or apportioning any Outgoings or Rent under this clause 2.6.
- If the Seller becomes aware of a change to the information provided the Seller will as soon as practicably provide the updated information to the Buyer.

3. FINANCE

- 3.1 This contract is conditional on the Buyer obtaining approval of a loan for the Finance Amount from the Financier by the Finance Date on terms satisfactory to the Buyer. The Buyer must take all reasonable steps to obtain approval.
- 3.2 The Buyer must give notice to the Seller that:
- approval has not been obtained by the Finance Date and the Buyer terminates this contract; or
 - the finance condition has been either satisfied or waived by the Buyer.
- 3.3 The Seller may terminate this contract by notice to the Buyer if notice is not given under clause 3.2 by 5pm on the Finance Date. This is the Seller's only remedy for the Buyer's failure to give notice.
- 3.4 The Seller's right under clause 3.3 is subject to the Buyer's continuing right to give written notice to the Seller of satisfaction, termination or waiver pursuant to clause 3.2.

4. BUILDING AND PEST INSPECTION REPORTS AND POOL SAFETY

4.1 Building and Pest Inspection

- This contract is conditional on the Buyer obtaining a written building report from a Building Inspector and a written pest report from a Pest Inspector (which may be a single report) on the Property by the Inspection Date on terms satisfactory to the Buyer. The Buyer must take all reasonable steps to obtain the reports (subject to the right of the Buyer to elect to obtain only one of the reports).
- The Buyer must give notice to the Seller that:
 - a satisfactory Inspector's report under clause 4.1(1) has not been obtained by the Inspection Date and the Buyer terminates this contract. The Buyer must act reasonably; or
 - clause 4.1(1) has been either satisfied or waived by the Buyer.
- If the Buyer terminates this contract and the Seller asks the Buyer for a copy of the building and pest reports, the Buyer must give a copy of each report to the Seller without delay.
- The Seller may terminate this contract by notice to the Buyer if notice is not given under clause 4.1(2) by 5pm on the Inspection Date. This is the Seller's only remedy for the Buyer's failure to give notice.
- The Seller's right under clause 4.1(4) is subject to the Buyer's continuing right to give written notice to the Seller of satisfaction, termination or waiver pursuant to clause 4.1(2).

4.2 Pool Safety for non-shared pool on Lot

- This clause 4.2 applies if:
 - there is a pool on the Lot and the answer to Q2 of the Reference Schedule is No or Q2 is not completed (for a non-shared pool on the Lot); and
 - this contract is not a contract of a type referred to in section 160(1)(b) of the *Property Occupations Act 2014*.
- This contract is conditional upon:
 - the issue of a Pool Safety Certificate; or

- a Pool Safety Inspector issuing a Notice of nonconformity stating the works required before a Pool Safety Certificate can be issued;

by the Pool Safety Inspection Date.
- The Buyer is responsible for arranging an inspection by a Pool Safety Inspector at the Buyer's cost. The Seller authorises:
 - the Buyer to arrange the inspection; and
 - the Pool Safety Inspector to advise the Buyer of the results of the inspection and to give the Buyer a copy of any notice issued.
- If a Pool Safety Certificate has not issued by the Pool Safety Inspection Date, the Buyer may give notice to the Seller that the Buyer:
 - terminates this contract; or
 - waives the benefit of this clause 4.2

The Buyer must act reasonably.

- The Seller may terminate this contract by notice to the Buyer if notice is not given under clause 4.2(4) by 5pm on the Pool Safety Inspection Date.
- The Seller's right under clause 4.2(5) is subject to the Buyer's continuing right to give written notice to the Seller of termination or waiver pursuant to clause 4.2(4).
- The right of a party to terminate under this clause 4.2, ceases upon receipt by that party of a copy of a current Pool Safety Certificate.
- If the Buyer terminates this contract under clause 4.2(4)(a), and the Seller has not obtained a copy of the Notice of nonconformity issued by the Pool Safety Inspector, the Seller may request a copy and the Buyer must provide this to the Seller without delay.

5. SETTLEMENT

5.1 Time and Date

- Settlement must occur between 9am and 4pm AEST on the Settlement Date.
- If the parties do not agree on where settlement is to occur, it must take place in the Place for Settlement at the office of a solicitor or Financial Institution nominated by the Seller, or, if the Seller does not make a nomination, at the land registry office in or nearest to the Place for Settlement.

5.2 Transfer Documents

- The Transfer Documents must be prepared by the Buyer's Solicitor and delivered to the Seller a reasonable time before the Settlement Date.
- If the Buyer pays the Seller's reasonable expenses, it may require the Seller to produce the Transfer Documents at the Office of State Revenue nearest the Place for Settlement for stamping before settlement.

5.3 Documents and Keys at Settlement

- In exchange for payment of the Balance Purchase Price, the Seller must deliver to the Buyer at settlement:
 - any instrument of title for the Lot required to register the transfer to the Buyer; and
 - unstamped Transfer Documents capable of immediate registration after stamping; and
 - any instrument necessary to release any Encumbrance over the Property in compliance with the Seller's obligation in clause 7.2; and
 - if requested by the Buyer not less than 2 clear Business Days before the Settlement Date, the Keys; and
 - if there are Tenancies:
 - the Seller's copy of any Tenancy agreements;
 - a notice to each tenant advising of the sale in the form required by law; and
 - any notice required by law to transfer to the Buyer the Seller's interest in any Bond; and
 - if the answer to Q2 in the Reference Schedule is Yes, a copy of a current Compliance or Exemption Certificate, if not already provided to the Buyer.
- If the Keys are not delivered at Settlement under clause 5.3 (1)(d), the Seller must deliver the Keys to the Buyer. The Seller may discharge its obligation under this provision by authorising the Seller's Agent to release the Keys to the Buyer.

5.4 Assignment of Covenants and Warranties

At settlement, the Seller assigns to the Buyer the benefit of all:

- covenants by the tenants under the Tenancies;

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- (2) guarantees and Bonds (subject to the requirements of the *Rosdornial Tenancies and Rooming Accommodation Act 2008*) supporting the Tenancies; and
- (3) manufacturers' warranties regarding the Included Chattels;
- (4) builders' warranties on the Improvements;

to the extent that they are assignable and the Buyer accepts the assignment. However, the right to recover arrears of Rent is not assigned to the Buyer and section 117 of the *Property Law Act 1974* does not apply.

5.5 Possession of Property and Title to Included Chattels

On the Settlement Date, in exchange for the Balance Purchase Price, the Seller must give the Buyer vacant possession of the Lot and Exclusive Use Areas except for the Tenancies. Title to the Included Chattels passes at settlement.

5.6 Reservations

- (1) The Seller must remove the Reserved Items from the Property before settlement.
- (2) The Seller must repair at its expense any damage done to the Property in removing the Reserved Items. If the Seller fails to do so, the Buyer may repair that damage.
- (3) Any Reserved Items not removed before settlement will be considered abandoned and the Buyer may, without limiting its other rights, complete this contract and appropriate those Reserved Items or dispose of them in any way.
- (4) The Seller indemnifies the Buyer against any damages and expenses resulting from the Buyer's actions under clauses 5.6(2) or 5.6(3).

6. TIME

6.1 Time of the Essence

Time is of the essence of this contract, except regarding any agreement between the parties on a time of day for settlement.

6.2 Suspension of Time

- (1) This clause 6.2 applies if a party is unable to perform a Settlement Obligation solely as a consequence of a Natural Disaster but does not apply where the inability is attributable to:
 - (a) damage to, destruction of or diminution in value of the Property or other property of the Seller or Buyer; or
 - (b) termination or variation of any agreement between a party and another person whether relating to the provision of finance, the release of an Encumbrance, the sale or purchase of another property or otherwise.
- (2) Time for the performance of the parties' Settlement Obligations is suspended and ceases to be of the essence of the contract and the parties are deemed not to be in breach of their Settlement Obligations.
- (3) An Affected Party must take reasonable steps to minimise the effect of the Natural Disaster on its ability to perform its Settlement Obligations.
- (4) When an Affected Party is no longer prevented from performing its Settlement Obligations due to the Natural Disaster, the Affected Party must give the other party a notice of that fact, promptly.
- (5) When the Suspension Period ends, whether notice under clause 6.2(4) has been given or not, either party may give the other party a Notice to Settle.
- (6) A Notice to Settle must be in writing and state:
 - (a) that the Suspension Period has ended; and
 - (b) a date, being not less than 5 nor more than 10 Business Days after the date the Notice to Settle is given, which shall become the Settlement Date;
 - (c) that time is of the essence.
- (7) When Notice to Settle is given, time is again of the essence of the contract.
- (8) In this clause 6.2:
 - (a) "Affected Party" means a party referred to in clause 6.2(1);
 - (b) "Natural Disaster" means a tsunami, flood, cyclone, earthquake, bushfire or other act of nature;
 - (c) "Settlement Obligations" means, in the case of the Buyer, its obligations under clauses 2.5(1) and 5.1(1) and, in the case of the Seller, its obligations under clauses 5.1(1), 5.3(1)(a) - (e) and 5.5;
 - (d) "Suspension Period" means the period during which the Affected Party (or if both the Buyer and Seller are Affected

Parties, either of them) remains unable to perform a Settlement Obligation solely as a consequence of a Natural Disaster.

7. MATTERS AFFECTING THE PROPERTY

7.1 Title

The Lot is sold subject to the *Body Corporate and Community Management Act 1997* and the by-laws of the Body Corporate.

7.2 Encumbrances

The Property is sold free of all Encumbrances other than the Title Encumbrances, Tenancies, statutory easements implied by part 6A of the *Land Title Act 1994* and interests registered on the common property for the Scheme.

7.3 Requisitions

The Buyer may not deliver any requisitions or enquiries on title.

7.4 Seller's Warranties

- (1) The Seller warrants that, except as disclosed in this contract, at settlement:
 - (a) it will be the registered owner of an estate in fee simple in the Lot and will own the Improvements and Included Chattels;
 - (b) it will be capable of completing this contract (unless the Seller dies or becomes mentally incapable after the Contract Date); and
 - (c) there will be no unsatisfied judgment, order (except for an order referred to in clause 7.6(1)(b)) or writ affecting the Property.
- (2) The Seller warrants that, except as disclosed in this contract, at the Contract Date and at settlement there are no current or threatened claims, notices or proceedings that may lead to a judgment, order or writ affecting the Property.
- (3) The Seller warrants that, except as disclosed in this contract, at the Contract Date:
 - (a) there is no unregistered lease, easement or other right capable of registration and which is required to be registered to give indefeasibility affecting the common property or Body Corporate assets;
 - (b) there is no proposal to record a new community management statement for the Scheme and it has not received a notice of a meeting of the Body Corporate to be held after the Contract Date or notice of any proposed resolution or a decision of the Body Corporate to consent to the recording of a new community management statement for the Scheme;
 - (c) all Body Corporate consents to improvements made to common property and which benefit the Lot, or the registered owner of the Lot, are in force; and
 - (d) the Additional Body Corporate Information is correct (if completed).
- (4) If the Seller breaches a warranty in clause 7.4(1) or clause 7.4(2), the Buyer may terminate this contract by notice to the Seller.
- (5) If:
 - (a) the Seller breaches a warranty in clause 7.4(3); or
 - (b) the Additional Body Corporate Information is not completed; and, as a result, the Buyer is materially prejudiced, the Buyer may terminate this contract by notice to the Seller given within 14 days after the Contract Date but may not claim damages or compensation.
- (6) Clauses 7.4(4) and 7.4(5) do not restrict any statutory rights the Buyer may have which cannot be excluded by this contract.
- (7)
 - (a) The Seller warrants that, except as disclosed in this contract or a notice given by the Seller to the Buyer under the *Environmental Protection Act 1994* ("EPA"), at the Contract Date:
 - (i) there is no outstanding obligation on the Seller to give notice to the administering authority under EPA of notifiable activity being conducted on the Land; and
 - (ii) the Seller is not aware of any facts or circumstances that may lead to the Land being classified as contaminated land within the meaning of EPA.
 - (b) If the Seller breaches a warranty in clause 7.4(7), the Buyer may:
 - (i) terminate this contract by notice in writing to the Seller given no later than 2 Business Days before the Settlement Date; or

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- (ii) complete this contract and claim compensation, but only if the Buyer claims it in writing before the Settlement Date.

(8) The Seller does not warrant that the Present Use is lawful.

7.5 Survey and Mistake

(1) The Buyer may survey the Lot.

(2) If there is:

- (a) an error in the boundaries or area of the Lot;
- (b) an encroachment by structures onto or from the Lot; or
- (c) a mistake or omission in describing the Lot or the Seller's title to it;

which is:

- (d) immaterial; or
- (e) material, but the Buyer elects to complete this contract; the Buyer's only remedy against the Seller is for compensation, but only if claimed by the Buyer in writing on or before settlement.

(3) The Buyer may not delay settlement or withhold any part of the Balance Purchase Price because of any compensation claim under clause 7.6(2).

(4) If there is a material error, encroachment or mistake, the Buyer may terminate this contract before settlement.

7.6 Requirements of Authorities

(1) Subject to clause 7.6(5), any valid notice or order by any competent authority or Court requiring work to be done or money spent in relation to the Property ("Work or Expenditure") must be fully complied with:

- (a) if issued before the Contract Date, by the Seller before the Settlement Date;
- (b) if issued on or after the Contract Date, by the Buyer.

(2) If any Work or Expenditure that is the Seller's responsibility under clause 7.6(1)(a) is not done before the Settlement Date, the Buyer is entitled to claim the reasonable cost of work done by the Buyer in accordance with the notice or order referred to in clause 7.6(1) from the Seller after settlement as a debt.

(3) Any Work or Expenditure that is the Buyer's responsibility under clause 7.6(1)(b), which is required to be done before the Settlement Date, must be done by the Seller unless the Buyer directs the Seller not to and indemnifies the Seller against any liability for not carrying out the work. If the Seller does the work, or spends the money, the reasonable cost of that Work or Expenditure must be added to the Balance Purchase Price.

(4) The Buyer may terminate this contract by notice to the Seller if there is an outstanding notice at the Contract Date under section 246AG of the *Building Act 1975* that affects the Property. The Buyer may terminate this contract by notice to the Seller if there is an outstanding notice at the Contract Date under sections 247 or 248 of the *Building Act 1975* or sections 588 or 590 of the *Sustainable Planning Act 2009* that affects the Property or Land.

(5) Clause 7.6(1) does not apply to orders disclosed under section 83 of the *Neighbourhood Disputes (Dividing Fences and Trees) Act 2011*.

7.7 Property Adversely Affected

(1) If at the Contract Date:

- (a) the Present Use is not lawful under the relevant town planning scheme;
- (b) the Land is affected by a proposal of any competent authority to alter the dimensions of any Transport Infrastructure or locate Transport Infrastructure on the Land;
- (c) access or any service to the Land passes unlawfully through other land;
- (d) any competent authority has issued a current notice to treat, or notice of intention to resume, regarding any part of the Land;
- (e) the Property is affected by the *Queensland Heritage Act 1992* or is included in the World Heritage List; or
- (f) the Property is declared acquisition land under the *Queensland Reconstruction Authority Act 2011*;

and that has not been disclosed in this contract, the Buyer may terminate this contract by notice to the Seller given no later than 2 Business Days before the Settlement Date.

(2) If no notice is given under clause 7.7(1), the Buyer will be treated as having accepted the Property subject to all of the matters referred to in that clause.

(3) The Seller authorises the Buyer to:

- (a) inspect records held by any authority, including Security Interests on the PPSR, relating to the Property or the Land; and
- (b) apply for a certificate of currency of the Body Corporate's insurance from any insurer.

7.8 Dividing Fences

Notwithstanding any other provision in this contract, the Seller need not contribute to the cost of construction of any dividing fence between the Lot and any adjoining land owned by it. The Buyer waives any right to claim contribution from the Seller.

8. RIGHTS AND OBLIGATIONS UNTIL SETTLEMENT

8.1 Risk

The Property is at the Buyer's risk from 5pm on the first Business Day after the Contract Date.

8.2 Access

After reasonable notice to the Seller, the Buyer and its consultants may enter the Property:

- (1) once to read any meter;
- (2) for inspections under clause 4;
- (3) once to inspect the Property before settlement; and
- (4) once to value the Property before settlement.

8.3 Seller's Obligations After Contract Date

- (1) The Seller must use the Property reasonably until settlement. The Seller must not do anything regarding the Property or Tenancies that may significantly alter them or result in later expense for the Buyer.
- (2) The Seller must promptly upon receiving any notice, proceeding or order that affects the Property or requires work on the Property, give a copy to the Buyer.
- (3) Without limiting clause 8.3(1), the Seller must not without the prior written consent of the Buyer, give any notice or seek or consent to any order that affects the Property or make any agreement affecting the Property that binds the Buyer to perform.

8.4 Body Corporate Meetings

- (1) The Seller must promptly give the Buyer a copy of:
 - (a) any notice it receives of a proposed meeting of the Body Corporate to be held after the Contract Date; and
 - (b) resolutions passed at that meeting and prior to settlement.
- (2) The Buyer may terminate this contract by notice in writing to the Seller given before settlement if it is materially prejudiced by:
 - (a) any resolution of the Body Corporate passed after the Contract Date, other than a resolution, details of which are disclosed to the Buyer in this contract; or
 - (b) where the Scheme is a subsidiary scheme, any resolution of a body corporate of a higher scheme.
- (3) In clause 8.4(2) a resolution includes a decision of the Body Corporate Committee to consent to recording a new community management statement.
- (4) If the Buyer is not given a copy of the resolutions before settlement, it may sue the Seller for damages.

8.5 Information Regarding the Property

Upon written request of the Buyer but in any event before settlement, the Seller must give the Buyer:

- (1) copies of all documents relating to any unregistered interests in the Property;
- (2) full details of the Tenancies to allow the Buyer to properly manage the Property after settlement;
- (3) sufficient details (including the date of birth of each Seller who is an individual) to enable the Buyer to undertake a search of the PPSR.

8.6 Possession Before Settlement

If possession is given before settlement:

- (1) the Buyer must maintain the Property in substantially its condition at the date of possession, fair wear and tear excepted;
- (2) entry into possession is under a licence personal to the Buyer revocable at any time and does not:
 - (a) create a relationship of landlord and tenant; or
 - (b) waive the Buyer's rights under this contract;
- (3) the Buyer must insure the Property to the Seller's satisfaction; and

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- (4) the Buyer indemnifies the Seller against any expense or damages incurred by the Seller as a result of the Buyer's possession of the Property.

8.7 Seller's Obligations After Contract Date

- (1) The Seller must promptly upon receiving any notice, proceeding or order that affects the Property or requires work on the Property, give a copy to the Buyer.
- (2) After the Contract Date, the Seller must not without the prior written consent of the Buyer, give any notice, seek or consent to any order or make an agreement that affects the Property.

9. PARTIES' DEFAULT

9.1 Seller and Buyer May Affirm or Terminate

Without limiting any other right or remedy of the parties including those under this contract, or any right at common law, if the Seller or Buyer, as the case may be, fails to comply with an Essential Term, or makes a fundamental breach of an intermediate term, the Seller (in the case of the Buyer's default) or the Buyer (in the case of the Seller's default) may affirm or terminate this contract.

9.2 If Seller Affirms

If the Seller affirms this contract under clause 9.1, it may sue the Buyer for:

- (1) damages;
- (2) specific performance; or
- (3) damages and specific performance.

9.3 If Buyer Affirms

If the buyer affirms this contract under clause 9.1, it may sue the Seller for:

- (1) damages;
- (2) specific performance; or
- (3) damages and specific performance.

9.4 If Seller Terminates

If the Seller terminates this contract under clause 9.1, it may do all or any of the following:

- (1) resume possession of the Property;
- (2) forfeit the Deposit and any interest earned;
- (3) sue the Buyer for damages;
- (4) resell the Property.

9.5 If Buyer Terminates

If the Buyer terminates this contract under clause 9.1, it may do all or any of the following:

- (1) recover the Deposit and any interest earned;
- (2) sue the Seller for damages.

9.6 Seller's Resale

- (1) If the Seller terminates this contract and resells the Property, the Seller may recover from the Buyer as liquidated damages:

- (a) any deficiency in price on a resale; and
- (b) its expenses connected with any repossession, any failed attempt to resell, and the resale;
- provided the resale settles within 2 years of termination of this contract.

- (2) Any profit on a resale belongs to the Seller.

9.7 Seller's Damages

The Seller may claim damages for any loss it suffers as a result of the Buyer's default, including its legal costs on an indemnity basis and the cost of any Work or Expenditure under clause 7.6(3).

9.8 Buyer's Damages

The Buyer may claim damages for any loss it suffers as a result of the Seller's default, including its legal costs on an indemnity basis.

9.9 Interest on Late Payments

- (1) Without affecting the Seller's other rights, if any money payable by the Buyer under this contract is not paid when due, the Buyer must pay the Seller at settlement interest on that money calculated at the Default Interest Rate from the due date for payment until payment is made.
- (2) The Seller may recover that interest from the Buyer as liquidated damages.
- (3) Any judgment for money payable under this contract will bear interest from the date of judgment to the date of payment and the provisions of this clause 9.9 apply to calculation of that interest.

10. GENERAL

10.1 Agent

The Agent is appointed as the Seller's agent to introduce a buyer.

10.2 Foreign Investment Review Board

The Buyer warrants that either:

- (1) the Treasurer has consented under the *Foreign Acquisitions and Takeovers Act 1975 (Cth)* to the Buyer's purchase of the Property; or
- (2) the Treasurer's consent is not required to the Buyer's purchase of the Property.

10.3 Duty

The Buyer must pay all duty on this contract.

10.4 Notices

- (1) Notices under this contract must be in writing and may be given by a party's solicitor.
- (2) Notices may be given by:
- (a) delivering or posting to the other party or its solicitor; or
- (b) sending to the facsimile number or email address of the other party or its solicitor stated in the Reference Schedule or another facsimile number or email address specified in a notice given by the recipient to the sender.
- (Note: Whilst notices under this Contract may be sent by email they are not 'given' until they are capable of being retrieved by the addressee at the nominated email address in accordance with s 24 of the Electronic Transactions (Queensland) Act 2001)*
- (3) Posted notices will be treated as given 3 Business Days after posting.
- (4) Notices sent by facsimile will be treated as given when the sender obtains a clear transmission report.
- (5) Notices given after 5pm will be treated as given on the next Business Day.
- (6) Notices or other written communications by a party's solicitor (for example, varying the Inspection Date, Finance Date or Settlement Date) will be treated as given with that party's authority.

10.5 Business Days

- (1) If anything is required to be done on a day that is not a Business Day, it must be done instead on the next Business Day.
- (2) If the Finance Date or Inspection Date fall on a day that is not a Business Day, then it falls on the next Business Day.

10.6 Rights After Settlement

Despite settlement and registration of the transfer, any term of this contract that can take effect after settlement or registration remains in force.

10.7 Further Acts

If requested by the other party, each party must, at its own expense, do everything reasonably necessary to give effect to this contract.

10.8 Sovereignty

If any term or part of a term of this contract is or becomes legally ineffective, invalid or unenforceable in any jurisdiction it will be severed and the effectiveness, validity or enforceability of the remainder will not be affected.

10.9 Interpretation

(1) Plurals and Genders

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; and
- (d) a party includes the party's executors, administrators, successors and permitted assigns.

(2) Parties

- (a) If a party consists of more than one person, this contract binds them jointly and each of them individually.
- (b) A party that is a trustee is bound both personally and in its capacity as a trustee.

(3) Statutes and Regulations

Reference to statutes includes all statutes amending, consolidating or replacing them.

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(4) Inconsistencies

If there is any inconsistency between any provision added to this contract and the printed provisions, the added provision prevails.

(5) Headings

Headings are for convenience only and do not form part of this contract or affect its interpretation.

11. Electronic Settlement

11.1 Application of Clause

- (1) Clause 11 applies if the Buyer, Seller and each Financial Institution involved in the transaction agree to an Electronic Settlement and overrides any other provision of this contract to the extent of any inconsistency.
- (2) Acceptance of an invitation to an Electronic Workspace is taken to be an agreement for clause 11.1(1).
- (3) Clause 11 (except clause 11.5(2)) ceases to apply if either party gives notice under clause 11.5 that settlement will not be an Electronic Settlement.

11.2 Completion of Electronic Workspace

- (1) The parties must:
 - (a) ensure that the Electronic Workspace is completed and all Electronic Conveyancing Documents and the Financial Settlement Schedule are Digitally Signed prior to settlement; and
 - (b) do everything else required in the Electronic Workspace to enable settlement to occur on the Settlement Date.
- (2) If the parties cannot agree on a time for settlement, the time to be nominated in the Workspace is 4pm AEST.
- (3) If any part of the Purchase Price is to be paid to discharge an Outgoing:
 - (a) the Buyer may, by notice in writing to the Seller, require that the amount is paid to the Buyer's Solicitor's trust account and the Buyer is responsible for paying the amount to the relevant authority;
 - (b) for amounts to be paid to destination accounts other than the Buyer's Solicitor's trust account, the Seller must give the Buyer a copy of the current account for the Outgoing to enable the Buyer to verify the destination account details in the Financial Settlement Schedule.
- (4) If the Deposit is required to discharge any Encumbrance or pay an Outgoing at settlement:
 - (a) the Deposit Holder must, if directed by the Seller at least 2 Business Days prior to Settlement, pay the Deposit (and any interest accrued on investment of the Deposit) less commission as clear funds to the Seller's Solicitor;
 - (b) the Buyer and the Seller authorise the Deposit Holder to make the payment in clause 11(4)(a);
 - (c) the Seller's Solicitor will hold the money as Deposit Holder under the Contract;
 - (d) the Seller and Buyer authorise the Seller's Solicitor to pay the money as directed by the Seller in accordance with the Financial Settlement Schedule.

11.3 Electronic Settlement

- (1) Clauses 5.1(2) and 5.2 do not apply.
- (2) Payment of the Balance Purchase Price electronically as directed by the Seller's Solicitor in the Financial Settlement Schedule satisfies the Buyer's obligation in clause 2.5(1).
- (3) The Seller will be taken to have complied with clauses 5.3(1)(b) and (c) if, at settlement, the Electronic Workspace contains Transfer Documents and (if applicable) releases of the Encumbrances (other than releases of Encumbrances referred to in clause 11.3(4)) for Electronic Lodgement in the Land Registry.
- (4) The Seller will be taken to have complied with clause 5.3(1)(c), (d), (e) and (f) if the Seller's Solicitor:
 - (a) confirms in writing prior to settlement that it holds all relevant documents which are not suitable for Electronic Lodgement and all Keys (if requested under clause 5.3(1)(d)) in escrow on the terms contained in the QLS E-Conveyancing Guidelines; and
 - (b) gives a written undertaking to send the documents and Keys (if applicable) to the Buyer or Buyer's Solicitor no later than the Business Day after settlement; and
 - (c) if requested by the Buyer, provides copies of documents in the Seller's Solicitor's possession.

(5) A party is not in default to the extent it is prevented from complying with an obligation because the other party or the other party's Financial Institution has not done something in the Electronic Workspace.

(6) Any rights under the contract or at law to terminate the contract may not be exercised during the time the Electronic Workspace is locked for Electronic Settlement.

11.4 Computer System Unavailable

- (1) If settlement fails and cannot occur by 4pm AEST on the Settlement Date because a computer system operated by the Land Registry, Office of State Revenue, Reserve Bank, a Financial Institution or PEXA is inoperative, neither party is in default and the Settlement Date is deemed to be the next Business Day. Time remains of the essence.
- (2) A party is not required to settle if Electronic Lodgement is not available. If the parties agree to Financial Settlement without Electronic Lodgement, settlement is deemed to occur at the time of Financial Settlement.

11.5 Withdrawal from Electronic Settlement

- (1) Either party may elect not to proceed with an Electronic Settlement by giving written notice to the other party.
- (2) A notice under clause 11.5(1) may not be given later than 5 Business Days before the Settlement Date unless an Electronic Settlement cannot be effected because:
 - (a) the transaction is not a Qualifying Conveyancing Transaction; or
 - (b) a party's solicitor is unable to complete the transaction due to death, a loss of legal capacity or appointment of a receiver or administrator (or similar) to their legal practice or suspension of their access to PEXA; or
 - (c) the Buyer's or Seller's Financial Institution is unable to settle using PEXA.
- (3) If clause 11.5(2) applies:
 - (a) the party giving the notice must provide satisfactory evidence of the reason for the withdrawal; and
 - (b) the Settlement Date will be extended to the date 5 Business Days after the Settlement Date.

11.6 Costs

Each party must pay its own fees and charges of using PEXA for Electronic Settlement.

11.7 Definitions for clause 11

In clause 11:

Digitally Sign and Digital Signature have the meaning in the ECNL.

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 Land Registry in accordance with the ECNL.

Electronic Settlement means settlement facilitated by PEXA.

Electronic Workspace means a shared electronic workspace within PEXA that allows the Buyer and Seller to affect Electronic Lodgement and Financial Settlement.

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.

PEXA means the system operated by Property Exchange Australia Ltd for settlement of conveyancing transactions and lodgement of Land Registry documents.

Qualifying Conveyancing Transaction a transaction that is not excluded for Electronic Settlement by the rules issued by PEXA, Office of State Revenue, Land Registry, or a Financial Institution involved in the transaction.

INITIALS

Special Conditions

1. As is

- 1.1 The Property is sold in an "as is" condition and Clauses 7.4 to 7.7 of the Terms of Contract inclusive and Clause 8.4 of the Terms of Contract are deleted from this Contract.

2. Statutory Encumbrances

2.1 Additional Definition

The Seller and Buyer agree to add this definition to clause 1.1(2) of the Terms of Contract:

(ii) **"Statutory Encumbrances"** includes all rights that any authority or entity may have under any law about any type of infrastructure or works howsoever described (including any infrastructure for sewerage, drainage, water supply, energy or other services) located above on or under the surface of the Property, and all restrictions upon the owner or occupier of the Property from interfering with damaging or preventing access to any such infrastructure.

2.2 Replacement of clause 7.2 of the terms of contract

Clause 7.2 of the Terms of Contract is deleted and the following clause is inserted in lieu; "7.2. The Property is sold free of all Encumbrances other than the Title Encumbrances, Statutory Encumbrances and Tenancies, statutory easements implied by Part 6A of the Land Title Act 1994 and interests registered on the common property for the Scheme."

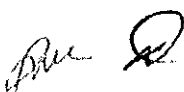
2.3 No requirement to provide a release of any Statutory Encumbrances which affects the Property

Because the Seller does not have sufficient familiarity with the Property, the Seller discloses that there may be Statutory Encumbrances affecting it.

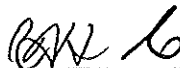
2.4 No requirement to provide a release of any Statutory Encumbrances which affects the Property

The Buyer:

- (a) has had an opportunity to discover whether there are any Statutory Encumbrances that affect the Property;
- (b) agrees that it will not require the Seller to procure the release of any Statutory Encumbrance at any time;
- (c) will not seek compensation from the Seller in relation to any Statutory Encumbrance; and
- (d) will not seek to cancel this Contract or take any other step in the event that any Statutory Encumbrance is found to exist.



Buyer initials



Seller initials

3. Facsimile / Email

- 3.1 It is acknowledged and agreed by the parties that this Contract may be entered into by and become binding on the parties named in the Contract upon one party signing the Contract that has been signed by the other (or a photocopy or facsimile or scanned email copy of that Contract) and transmitting a facsimile or scanned email copy of that Contract to the other party or to the other party's agent or solicitor. The parties agree that they will be bound by, have complied with and will comply with the *Electronic Transactions (Queensland) Act 2001 (Qld)* in relation to the execution of this Contract.

4. Included Chattels

- 4.1 The Included Chattels are sold in an "as is" condition without any express or implied warranty as to their condition or working order. The Buyer shall not be entitled to terminate this Contract and shall not make any objection, requisition or claim for compensation in respect thereof.

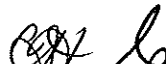
If the Buyer is a company the following special condition must be completed and the company directors must sign as Guarantors

5. Guarantee

- 5.1 In consideration of the Seller entering into this Contract with the Buyer at the request of the Guarantors, the Guarantors, jointly and severally guarantee to the Seller:
- (a) the performance and observance by the Buyer of all its obligations and warranties under the Contract, before, on and after completion of the sale;
 - (b) the payment of the balance purchase price and any other monies payable under the Contract by the Buyer to the Seller and to third parties ("the Guarantee").
- 5.2 Where there is more than one Guarantor:
- (a) the obligations of each Guarantor is joint and several;
 - (b) the Seller may enforce the Guarantee against all or any of them;
 - (c) any notice or demand may be served on all of them by serving any one of them; and
 - (d) the Guarantee remains binding on the other Guarantors, even if:
 - (i) any Guarantor did not sign this Contract or enter into the Guarantee;
 - (ii) the Guarantee is not binding on any Guarantor; or
 - (iii) the Seller releases any Guarantor from liability under the Guarantee.
- 5.3 This Guarantee is not discharged and the Seller's rights against the Guarantors are not affected by:



Buyer initials

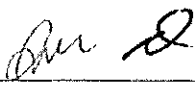


Seller initials

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

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

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


Buyer initials


Seller initials

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

PATRICIA MARIE MCNAMARA
Director's full name


Director's signature
as Guarantor

JAMES DOUGLAS DAVEY
Director's full name


Director's signature
as Guarantor

~~6 Finance~~

~~6.1 The Seller and Buyer agree that:~~

~~(a) Clause 3 of the Terms of Contract is deleted and replaced with the following clause 3:~~

~~"3. FINANCE~~

~~3.1 This contract is conditional on:~~

- ~~(1) the Trustee of the Fund obtaining approval of a loan for the Finance Amount from the Financier by the Finance Date on terms satisfactory to the Trustee of the Fund; and~~
- ~~(2) the Trustee of the Fund agreeing to provide the Finance Amount to the Buyer prior to the Finance Date.~~

~~3.2 The Buyer must give notice to the Seller that:~~

- ~~(1) the Trustee of the Fund has not obtained approval by the Finance Date and the Buyer terminates this contract; or~~
- ~~(2) the finance condition has been either satisfied or waived by the Buyer.~~

~~3.3 The Seller may terminate this contract by notice to the Buyer if notice is not given under clause 3.2 by 5pm on the Finance Date. This is the Seller's only remedy for the Buyer's failure to give notice.~~

~~3.4 The Seller's right under clause 3.3 is subject to the Buyer's continuing right to give written notice to the Seller of satisfaction, termination or waiver pursuant to clause 3.2."~~



Buyer initials


Seller initials

(b) The following definition is inserted in clause 1.1(2) of the Terms of Contract:-



"(r) **Trustee of the Fund**" means Davey Super Properties Pty Ltd ACN 167 495 990 as Trustee of the Davey Superannuation Fund."



Buyer Initials



Seller Initials