

## Warning statement

Property Agents and Motor Dealers Act 2000 – Chapter 11

Department of Employment, Economic  
Development and Innovation

This form is effective from 1 October 2010.

### Instructions

This form is to be attached to a proposed relevant contract of sale for residential property to be read and signed by a proposed buyer **BEFORE** the proposed buyer signs the proposed relevant contract.

**The seller or seller's agent must give the proposed buyer a clear statement directing the buyer's attention to the proposed relevant contract and to this warning statement before the proposed buyer signs the proposed relevant contract. Failure to give the proposed buyer a clear statement may give the buyer a right to terminate the contract under section 370 within 90 days of receiving a copy of the relevant contract unless settlement occurs earlier.**

#### Property address

**Note:** If no street address is applicable, use lot and plan information to identify the property

Street name and number ..... Lot 314, "ECCO", 70 - 78 VICTORIA STREET .....

Suburb ..... WEST END ..... State  Q  L  D ..... Postcode  4  1  0  1 .....

# WARNING

**DO NOT sign the proposed relevant contract for the above property until you have read and understood ALL SECTIONS of this form. DO NOT sign if you feel pressured.**

**The relevant contract is subject to a five (5) business day cooling-off period. You may terminate this contract during the cooling-off period. However, the seller may deduct a termination penalty of up to 0.25% of the purchase price from the deposit.**

### You should obtain independent:

- **legal advice** See note 1
- **valuation** See note 2

### Cooling-off period

#### What is the cooling-off period?

The cooling-off period is five (5) business days, during which you can change your mind about purchasing this property. Use this time to seek independent legal advice and an independent valuation of the property.

#### When does the cooling-off period start?

Your cooling-off period starts on the day you receive a copy of the completed relevant contract from the seller or seller's agent. The proposed contract becomes a relevant contract when both parties have signed. In any dispute about the commencement of the cooling-off period, it will be up to the seller to prove the buyer received a copy of the relevant contract. If you receive a copy of the relevant contract on a day other than a business day, the cooling-off period commences on the first business day after you receive a copy of the relevant contract

#### When does the cooling-off period end?

Your cooling-off period ends at **5.00pm on the fifth business day** after the cooling-off period started. A business day is a day other than a Saturday, Sunday or public holiday.

#### Can I waive or shorten the cooling-off period?

Yes, but only if you engage an independent lawyer who must give you a lawyer's certificate explaining the purpose and nature of the certificate. You should seek advice from your lawyer about the effect of waiving or shortening your cooling-off period. If you are waiving the cooling-off period, the lawyer's certificate must be given to the seller or seller's agent before you and the seller enter into the relevant contract.

## Cooling-off period continued

### What should I do during the five (5) day cooling-off period?

It is strongly recommended that you seek independent legal advice and obtain an independent valuation of the property during this time and that you understand and agree with the terms and conditions of the contract.

### How do I terminate the contract during the cooling-off period and what happens if the relevant contract is terminated?

If you want to terminate the contract at any time before the end of the five (5) day cooling-off period, you must give a signed, dated notice to the seller indicating that you wish to terminate the contract during the cooling-off period. The notice must state that the relevant contract is terminated under section 370A of the *Property Agents and Motor Dealers Act 2000*. The seller must refund your deposit within **14 days** of the termination. The seller may deduct a termination penalty of up to **0.25% of the purchase price**. Make sure you terminate any building contract associated with this property if you terminate this contract during the cooling-off period.

### What happens after the cooling-off period ends?

If you do not terminate the contract during the cooling-off period, you are legally bound by the contract, subject to the terms and conditions of the contract.

## Other important information

Read the attached proposed relevant contract. Do not be pressured into signing the proposed relevant contract before you have read it.

### Note 1 - Independent legal advice

Do you fully understand the legal consequences of signing the attached proposed relevant contract? Before signing the proposed relevant contract, it is strongly recommended that you seek independent legal advice and clarify any queries or concerns you have about buying the property. Are you sure the person you have obtained advice from is totally independent from the seller or seller's agent? **Exercise extreme caution in accepting the advice of anyone referred to you by the seller or seller's agent.**

### Note 2 - Independent valuation of the property

Are you sure the purchase price for this property is fair? You should consider obtaining an independent valuation of the property before you sign the contract, or before your cooling-off period ends. When choosing a valuer you should ask whether the valuer has any relationship with any person involved in selling the property and whether they have professional indemnity insurance. Before you engage the valuer ask about the cost of the valuation. For more information about valuations, go to [www.fairtrading.qld.gov.au/house-valuation.htm](http://www.fairtrading.qld.gov.au/house-valuation.htm).

### Building contracts

For building contracts associated with the purchase of residential property, you should ensure that the building contract price is not over-valued or inflated. Get a valuation or compare homes of similar value advertised or displayed by other home builders.

Domestic building contracts also have a cooling-off period under the *Domestic Building Contracts Act 2000* (section 72). Please check the Building Services Authority of Queensland website at [www.bsa.qld.gov.au](http://www.bsa.qld.gov.au) for further information about building contracts. Remember to terminate any building contracts related to this property if you terminate this contract.

### Claim fund and property developers

A claim fund exists which, in some cases, enables buyers to make a claim if they suffer financial loss because a real estate agent commits a claimable offence. Strict guidelines and timeframes apply. If you suffer loss while buying an investment property or buying any property from a property developer you can not make a claim for loss against the fund.

### How do I know if I'm dealing with a licensed real estate agent or property developer and/or obtain further information about purchasing real estate?

The Fair Trading website at [www.fairtrading.qld.gov.au](http://www.fairtrading.qld.gov.au) provides you with useful information about purchasing property. You can check that you are dealing with a licensed real estate agent or property developer at [www.fairtrading.qld.gov.au/are-you-licensed.htm](http://www.fairtrading.qld.gov.au/are-you-licensed.htm) or by phoning 13 13 04.

## Buyer's acknowledgment

I/we have read all sections of this warning statement and I/we acknowledge that by signing this warning statement, my/our attention has been directed to this warning statement and the attached proposed relevant contract by a clear statement and I/we have signed the warning statement BEFORE I/we signed the attached proposed relevant contract.

Signing this Warning Statement negates any termination right I/we may have had under section 370 of the *Property Agents and Motor Dealers Act 2000*.

Name URI SCHARF ..... JUDITH SCHARF .....

Name as trustees for The U and J Scharf Superannuation Fund .....

Signature Uri Scharf ..... Signature J. Scharf .....

Date 03/12/2013 ..... Date 03/12/2013 .....

## BCCM Form 14

### Information sheet (body corporate information)

Body Corporate and Community Management Act 1997  
This form is effective from 1 August 2013

#### WARNING

**You are strongly advised to obtain independent legal advice regarding any questions or concerns you have about purchasing the property or your prospective rights and obligations as a member of a body corporate.**

**Notice to agent:** The *Property Agents and Motor Dealers Act 2000* and *Body Corporate and Community Management Act 1997* (the Act) include strict requirements for presentation of prescribed warning statements and information sheets. Failure to comply may result in cancellation of the contract.

**By law the seller or the seller's agent must attach this information sheet to the contract. Do NOT sign the contract of sale without reading this information sheet.**

In addition to the contract, you should have before you:

- a separate warning statement, if the lot is a residential property, provided by the seller under the *Property Agents and Motor Dealers Act 2000*
- a disclosure statement provided by the seller, containing essential information about the body corporate that you will become a member of through purchasing this property (e.g. the amount of annual contributions currently set by the body corporate and payable by the lot owner)
- for proposed lots (off the plan), a community management statement for the scheme provided by the seller, containing important details about the scheme including details of any proposed future development of the scheme, the lot entitlements, by-laws and the regulation module applying to the scheme.

#### Community titles schemes

This contract warning contains important information you should read and understand before signing a contract to buy a lot in a community titles scheme. Community titles schemes include proposed lots purchased off the plan and existing lots within duplexes, residential unit blocks, high-rise apartment complexes, townhouse complexes and some commercial premises. They contain individually owned lots and common property such as lawns and access roadways.

Some new unit owners do not realise owning a lot in a community titles scheme brings with it certain obligations. You should carefully consider whether living or investing in a community titles scheme suits your lifestyle and financial needs. When a community titles scheme is established, a body corporate is created to administer the scheme. Each lot owner is automatically a member of their body corporate and enjoys certain rights and responsibilities.

Owners are **NOT** able to decline to be members of their body corporate. Normally, an elected committee carries out day-to-day functions on behalf of the body corporate. Bodies corporate may also engage service providers such as body corporate managers and on-site managers, caretakers and letting agents.

Common obligations of a body corporate include:

- administering the common property and any body corporate assets
- enforcing the by-laws for the scheme, such as noise levels, the keeping of pets, car parking and a range of other matters
- arranging compulsory body corporate insurance
- conducting general meetings of owners, adopting budgets, and levying contributions to fund the operation of the body corporate
- maintaining bank accounts, keeping records, and preparing financial statements

Common obligations of individual lot owners include:

- making financial contributions towards the body corporate administrative costs
- complying with by-laws
- maintaining their lot in good condition

## Suggested searches and matters to investigate

There are significant differences between owning a lot in a community titles scheme and owning other types of property (such as a detached house). In addition to carrying out conveyancing searches, it is also recommended you investigate a number of special body corporate matters through the following sources:

### 1. Department of Natural Resources and Mines

Buyers can obtain a copy of the community management statement (CMS) and plans for the scheme. Further information is available from Property, titles and valuations by phoning 13 QGOV (13 74 68) or via the Department website:

[www.dnrm.qld.gov.au](http://www.dnrm.qld.gov.au)

### 2. Department of Justice and Attorney-General, Office of the Commissioner for Body Corporate and Community Management

Conduct a search at the Office of the Commissioner for Body Corporate and Community Management for any Adjudicator's Orders (a decision regarding the outcome of a dispute) made concerning the scheme. General information and fact sheets are also provided about body corporate rules and regulations. For more information, phone 1800 060 119 or visit [www.justice.qld.gov.au/bccm](http://www.justice.qld.gov.au/bccm)

### 3. Body Corporate Secretary

Obtain a **Body Corporate Information Certificate** from the body corporate secretary, or body corporate manager, whose name and address is supplied in the disclosure statement. Compare the disclosure statement with the information certificate, as inaccurate information in the disclosure statement may give you grounds to cancel the contract (Sections 209 or 217 of the Act).

A search of the body corporate records can provide other important information, such as whether any improvements to the lot you are purchasing (balcony enclosure, air conditioning) were approved, whether any conditions apply, and who is responsible for their maintenance and insurance.

Also, check for any agreements the body corporate may have entered into, for example, caretaking, letting, body corporate management or lift maintenance.

## Checklist

- By purchasing this property, do you know you will be part of a body corporate?
- Are you aware of any contracts the body corporate is a party to?
- Have you read and understood the body corporate by-laws?
- Do you understand your likely financial contributions to the body corporate?
- Are you aware that an adjustment of lot entitlements may increase or decrease your financial contributions to the body corporate?
- Are you aware that your financial contributions to the body corporate will vary as the financial liabilities of the body corporate change?
- Do you understand your maintenance responsibilities?
- Do you understand the role of the body corporate manager and on-site manager (if appointed)?

## Buyer's Acknowledgement

I/we have read all sections of this information sheet and I/we have acknowledged and signed the information sheet BEFORE I/we signed the attached contract.

If the lot is residential property, I/we acknowledge that by signing this information sheet, my/our attention has been directed to this information sheet and the attached proposed relevant contract by a clear statement and that signing this information sheet negates any termination right I/we may have had under section 206A or 213A of the *Body Corporate and Community Management Act 1997*.

Name XURI SCHARF <sup>Joy</sup> JUDITH SCHARF  
Postal address as trustees for the U and J Scharf Superannuation Fund  
Suite 606, 168-180 Kent Street, MILKLA POINT, NSW 2200  
Telephone 0433 733 046 Email xuri.scharf@gmail.com  
Signature/s Xuri Scharf J Scharf Date 13/12/2013

Body Corporate and Community Management

[www.justice.qld.gov.au](http://www.justice.qld.gov.au)

1800 060 119

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# CONTRACT

## CONTRACT PARTICULARS:

Contract Date: 2014 day of DECEMBER 2013

1. **Seller:** RON BUILD PTY LTD ACN 122 509 479  
C/- Rostron Carlyle Solicitors  
Level 15, 270 Adelaide Street, Brisbane Q 4000
2. **Seller's Solicitors:** ROSTRON CARLYLE SOLICITORS  
GPO Box 3203, Brisbane, Qld 4001  
Tel: (07) 3009 8444 Fax: (07) 3009 8499  
Attn: Gavin McInnes | [g.mcinnnes@rostroncarlyle.com](mailto:g.mcinnnes@rostroncarlyle.com)
3. **Buyer:** X Uri Scharf and Judith Joy Scharf  
(Full names and addresses) AS TRUSTEES FOR THE U AND J SCHARF SUPERANNUATION FUND  
Suite 608, 168-180 Kent Street, Millers Point, NSW 2000  
Email: [uri.scharf@gmail.com](mailto:uri.scharf@gmail.com)
4. **Buyer's Solicitors:** NP CONVEYANCING  
PO Box 108, Pottsville, NSW 2489  
Tel: (02) 6676 0407 Fax: (02)  
Attn: Narelle Davis
5. **Property:** Proposed Lot No 314 identified on the Location Plan and as detailed on the Floor Layout Plans together with the Chattels  
Situated at 70-78 Victoria Street, West End
6. **Purchase Price:** \$528,000.00
7. **Deposit:** \$52,800.00  
**Initial Deposit:** \$1,000.00 holding deposit  
**Balance Deposit:** \$51,800.00 payable upon signing  
**Total:** \$52,800.00
8. **Agent:** Project Property Sales  
PO Box 3489, South Brisbane, Qld 4101  
Ph: 3844 0800 Fax: 3844 4802
9. **Stakeholder:** Rostron Carlyle Solicitors Trust Account
10. **Place for Settlement:** Brisbane
11. **Settlement Date:** The later of:  
30 days from the date hereof  
**OR**  
14 days after the Seller's Solicitors gives notice to the Buyer or its Solicitors that the Subdivision Plan has registered. Settlement must not take place prior to this date.  
**OR**  
Refer to Special Conditions  
**BUT** any event settlement must not take place earlier than 14 days after the Seller notifies the Buyer that the scheme has been established.



3. The following clause can be inserted as Special Condition 1

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- 3.1 This Contract is conditional upon the Buyer obtaining satisfactory finance within 21 days of the Contract Date from a lender of the Buyer's choice on terms satisfactory to the Buyer.
- 3.2 The Buyer must give notice to the Seller that:
- (1) approval has not been obtained and the contract is terminated; or
  - (2) the finance condition has been either satisfied or waived by the Buyer.
- 3.3 In the event that Special Condition 1.1 is not satisfied or waived by the Buyer by the due date, either party may elect to terminate this Contract in which event the Deposit shall be refunded to the Buyer.

# TERMS OF CONTRACT

The Seller agrees to sell and the Buyer agrees to buy the Property subject to the terms of this Contract

## 1. DEFINITIONS AND INTERPRETATIONS

**Existing Easements** means Easements in favour Brisbane City Council to be created upon registration of RP.

### 1.1 Purpose of clause

This clause explains the meaning of words used throughout this Contract and rules of interpretation which apply.

**Financial Institution** means a bank.

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

### 1.2 Dictionary of terms

In this Contract:

**Guarantee and Indemnity** means the form of Guarantee and Indemnity attaching to and forming part of this Contract, set out at Annexure "A".

- (1) terms in **bold** in the Contract Particulars have the meanings shown opposite them; and
- (2) unless the context otherwise indicates:

**Guarantor** means the person or persons required to sign the Guarantee and Indemnity pursuant to clause 14 (if applicable).

**Balance Purchase Price** means the Purchase Price less the Deposit, adjusted under clause 6.

**Lot** means the proposed lot in the Subdivision Plan to be sold under this Contract.

**BCCM Act** means the *Body Corporate and Community Management Act 1997* and the regulation module applying to the Scheme referred to in the Community Management Statement.

**Rates** mean all rates and charges by any competent authority (for example, council rates, water rates, fire service levies).

**Body Corporate Levies** means all contributions levied on the owner of the Lot by the Body Corporate under the BCCM Act.

**Scheme** means the community title scheme to be created under the BCCM Act by the Seller comprising the Scheme Land and the Community Management Statement.

**Body Corporate Notice** means any notice required under the BCCM Act to be given to the Body Corporate upon the transfer of the Lot.

**Scheme Buildings** means the improvements made or to be made to Scheme Land (including the building of which the Lot will be part) as part of the Development.

**Business Day** means a week day other than a public holiday in the Place for Settlement.

**Scheme Land** means the land originally described as Lots 100 on SP175598 County of Stanley Parish of South Brisbane.

**Chattels** means any chattels listed in the schedule of finishes.

**Subdivision Plan** means a building format plan to be lodged over part of the Scheme Land which, upon registration, will create a separate indefeasible title for the Lot under the *Land Title Act 1994*.

**Common Property** has the meaning given to it in the BCCM Act.

**Supply** has the meaning given to it in the GST Act.

**Community Management Statement** means the community management statement for the Scheme recorded in accordance with the BCCM Act. A copy of the proposed Community Management Statement forms part of the Disclosure Statement.

**Termination Date** means 2 years from the date of the Contract.

**Development** means the Ecco development being carried out on the Scheme Land as outlined in the Community Management Statement.

**Transfer Documents** means:

**Disclosure Statement** means the Disclosure Statement provided for this Contract.

- (i) the form of transfer under the *Land Title Act 1994* required to transfer title in the Lot to the Buyer; and
- (ii) any other document to be signed by the Seller necessary for stamping or registering the



transfer.

Contract that has been signed by the other party (or a photocopy or facsimile copy of it) and transmitting a facsimile copy of it to the other party or to the other party's agent or solicitor.

### 1.3 Interpretation

#### (1) Reference to:

- (i) the singular includes the plural and the plural includes the singular;
  - (ii) one gender includes each other gender;
  - (iii) a person includes a company;
  - (iv) a party includes the party's executors, administrators, successors, and permitted assigns; and
  - (v) an item or thing includes any part of it.
- (2) If a party consists of more than one person, this Contract binds them jointly and each of them individually.
- (3) Reference to statutes includes all statutes amending, consolidating, or replacing them.
- (4) Headings are for convenience only and do not affect the interpretation of this Contract.
- (5) If there is any inconsistency between a provision added to this Contract in the Special Conditions and the printed provisions, the added provision prevails.
- (6) If anything is required to be done on a day that is not a Business Day in the Place for Settlement, it must be done instead on the next Business Day.
- (7) Despite settlement and registration of the transfer, any term of this Contract that can take effect after settlement or registration remains in force.
- (8) If it is held by a court that:
- (i) any part of this contract is void, voidable, illegal or unenforceable; or
  - (ii) this Contract is void, voidable, illegal or unenforceable unless any part of this Contract is severed from this Contract;
- that part will be severed from this Contract unless to do so would change the underlying principal commercial purposes of this Contract.
- (9) The terms of this Contract are the entire agreement between the Seller and the Buyer despite any negotiation or discussions before the signing of this Contract.
- (10) This Contract is signed as a deed.
- (11) This Contract may be entered into by and becomes binding on the parties upon one party signing the

### 1.4 Clauses about time

Time is of the essence of this Contract.

## 2. DEPOSIT

### 2.1 Time for payment

The Buyer must pay the Deposit to the Stakeholder at the times shown in the Contract Particulars.

### 2.2 Stakeholder's obligation

The Stakeholder will hold the Deposit until a party becomes entitled to it. Where it applies, the Stakeholder will hold the deposit as trustee under the *Land Sales Act 1984*.

### 2.3 Investment of Deposit

- (1) The Stakeholder is authorised to:
  - (i) Invest as much of the Deposit as it is lawfully able to in an interest bearing account with a Financial Institution in the names of the parties;
  - (ii) Pay and release the Deposit to the Seller upon establishment of the Scheme.
- (2) The Deposit is invested at the risk of the party ultimately entitled to it.
- (3) The Stakeholder will not be liable to any party by reason of delay in investing the deposit.
- (4) The Stakeholder shall be entitled to deduct and retain out of the deposit or any income thereon such amount, if any, it estimates as may be necessary to meet any income tax or other tax imposed thereon. The parties (and each of them) shall indemnify the Stakeholder and the hold the Stakeholder indemnified against any liability for income tax or other taxes in respect of the deposit or any income arising from the deposit, and any costs of preparation of any income tax or other returns relating thereto and any other costs of or incidental to performance of the Stakeholder's duties, notwithstanding distribution or payment of such amount to one other of the parties.

### 2.4 Payment of deposit

The party entitled to receive the Deposit and any interest on the Deposit is:

- (1) if the Contract settles - the Buyer;

*is the seller*

*HC*  
*JIS*

(2) if the Contract is terminated without default by the Buyer - the Buyer; or

(3) if the Contract is terminated owing to the Buyer's default - the Seller.

(3) alter the area or dimensions of the Scheme Land;

(4) alter the number of lots or stages in the Scheme or the numbering, size, location, lot entitlement or permitted use of any lot in the Scheme (other than the size, location or permitted use of the Lot);

## 2.5 Entitlement to interest

The Buyer will be deemed to be presently entitled to any interest accrued on the Deposit for the purpose of the *Income Tax Assessment Act 1936*.

## 2.6 Rights after payment of deposit

If this Contract is terminated without default by the Buyer, the Buyer has no further claim against the Seller once it receives the Deposit and interest.

## 2.7 Failure to pay deposit

The Buyer is in default if it:

- (1) does not pay the Deposit when required;
- (2) pays the Deposit by post dated cheque; or
- (3) pays the Deposit by cheque which is dishonoured on presentation.

## 2.8 Payment by Bank Guarantee/Deposit Bond

The Seller may, at its discretion, accept an unconditional Bank Guarantee or Deposit Bond from the Buyer in favour of the Stakeholder instead of the Deposit. The Bank Guarantee or Deposit Bond must be in a form and from a Financial Institution approved by the Seller. If the Buyer defaults, the Seller may demand payment of the amount secured by the Bank Guarantee or Deposit Bond without reference to the Buyer and the Bank Guarantee or Deposit Bond must not have an expiry.

## 3. DEVELOPMENT AND SUBDIVISION

### 3.1 Development of scheme land

Subject to clauses 3.2, the Seller will complete the building of the Scheme Buildings on the Scheme Land substantially in accordance with the annexed location plan, floor layout plan and the schedule of finishes.

### 3.2 Changes to the development

Subject to the BCCM Act, the Seller may:

- (1) change the name of the Scheme;
- (2) make minor variations to the buildings and schedule of finishes due to matters beyond the control of the Seller;

(5) alter the Common Property or rights in relation to the use of the Common Property including granting exclusive use;

(6) change anything in the Community Management Statement (but the proportion which the interest schedule lot entitlement and contribution schedule lot entitlement for the Lot bear to the aggregate interest schedule lot entitlement and aggregate contribution schedule lot entitlement must not be substantially varied); and

(7) construct any services on or under the Scheme Land (which may not be protected by easement).

## 3.3 Buyer must complete

The Buyer must not withhold any part of the Balance Purchase Price, delay settlement or (unless specifically permitted by this Contract) make any objection or claim because of:

- (1) any of the matters in clause 3.2;
- (2) non completion of the facilities (if any) to be constructed on the Scheme Land;
- (3) the existence of any electrical sub-station on the Scheme Land;
- (4) any boundary of the Development not being fenced or any boundary fence or wall not being on or within the boundary;
- (5) the existence of the Existing Easements.

## 3.4 Completion of lots

- (1) The Seller will rectify any defects or other faults in the Lot but:
  - (i) it must be due to materials or workmanship not being in accordance with the building contract for the Scheme Buildings; and
  - (ii) it must be given notice of them within 180 days of the earlier of settlement or when the Buyer enters into possession of the Lot.
- (2) The Buyer is not entitled to delay settlement or withhold the Balance Purchase Price or any part of it at settlement by reason of any defect or fault in:
  - (i) the Lot;

- (ii) any other lot in the building of which the Lot forms part; or

(iii) the Chattels.

authority, Energex, Telstra, other statutory authority, adjoining owner or owner of a Lot within the Development.

#### 4.2 Seller warranties

- (3) Any valid claim is limited to reasonable rectification costs.

The Buyer may not deliver requisitions or enquiries on title.

#### 3.5 Marketing of development

The Buyer cannot object to the reasonable methods used by the Seller in marketing other lots in the Development including, without limitation, the use of signs on the Development, the use of Common Property and opening of display units.

The Seller warrants that at settlement:

- (1) it will be capable of completing this Contract;
- (2) there will be no unsatisfied judgment, order or writ affecting the Property; and
- (3) there will be no current or threatened claims, notices, or proceedings that may lead to a judgment, order, or writ affecting the Property.

#### 3.6 Sale of development

The Seller may, at any time before settlement, transfer or assign its interest in the Scheme Land to any person. If it does, the following provisions apply:

If a warranty in this clause is not correct, the Buyer may terminate this Contract by notice to the Seller. However the Buyer must show it is materially prejudiced by the inaccuracy (the onus of proof in that regard being on the Buyer).

- (1) the terms of this Contract (including any guarantee) will remain binding on the Buyer and will be enforceable by the assignee or transferee;
- (2) the Seller will give the Buyer a covenant signed by the transferee or assignee in which it agrees to be bound by the obligations of the Seller under this Contract; and
- (3) on delivery of the covenant to the Buyer, the Seller is released from all liabilities and obligations under this Contract.

#### 4.3 Mistake

If there is a mistake or error in the description of the Property, the Common Property, the Development or the Scheme Land, the Buyer's remedy will be limited to a claim for compensation. The Buyer may not delay settlement or withhold any part of the Purchase Price because of any compensation claim.

#### 3.7 Right to mortgage land

The Seller may, at any time, mortgage or charge the Scheme Land. The Buyer must not lodge a caveat against the Lot or the Scheme Land.

#### 4.4 No other encumbrances

The Property is sold free of encumbrances except for those referred to in this Contract.

### 4. TITLE TO THE LOT

#### 4.1 Issue of title

The title to the lot will be subject to:

### 5. SETTLEMENT

#### 5.1 Settlement date extension

Despite anything else in this Contract, if all necessary final approvals have not issued for the Lot by the Settlement Date, the Seller may, by notice to the Buyer, extend the Settlement Date to the day 3 days after such approvals have issued.

- (1) the BCCM Act and the easements for support, shelter and services affecting the Lot under the BCCM Act;
- (2) the Community Management Statement;
- (3) all notifications, easements and restrictions (other than any mortgage) on the title for the Scheme Land and the title for the Lot; and
- (4) any transfer, lease, easement, exclusive use or other right over the Common Property to the local

#### 5.2 Time and place for settlement

Settlement must occur on the Settlement Date at the Place for Settlement at the time after 10am but before 5pm nominated by the Seller's solicitors.

#### 5.3 Preparation of transfer documents

Unless the Seller's Solicitors elect to prepare them, the Transfer Documents must be prepared by the Buyer or Buyer's Solicitors and given to the Seller's Solicitors at

least 7 days before the Settlement Date.

#### **5.4 Stamping of transfer documents before settlement**

If the Buyer is not represented by a solicitor and pays the Seller's reasonable expenses, if requested the Seller will produce the Transfer Documents at the Office of State Revenue for stamping before settlement.

#### **5.5 Payment of balance purchase price**

On the Settlement date, the Buyer must pay the Balance Purchase Price to the Seller by bank cheques payable as directed by the Seller's Solicitors.

#### **5.6 Documents etc to be exchanged at settlement**

In exchange for the Balance Purchase Price, the Seller must give the Buyer at settlement:

- (1) vacant possession of the Lot;
- (2) the instrument of title for the Lot (if one is issued) required to register the transfer to the Buyer;
- (3) Transfer Documents capable of immediate registration after stamping;
- (4) a release in registrable form of any mortgage or withdrawal of any caveat lodged over the Lot (after stamping) (but the Buyer may not require the Seller to register the release or withdrawal before settlement or produce a discharge or release of any other charge); and
- (5) keys, codes, or devices in the Seller's possession or control for all locks and security systems on the Lot, as necessary, to allow access to the Lot.

#### **5.7 Title to chattels/assignment of warranties**

On settlement:

- (1) title to the Chattels (which must be free from encumbrances) passes to the Buyer; and
- (2) the Seller assigns to the Buyer the benefit of any manufacturer's or builder's warranties in relation to the Property to the extent they are assignable.

#### **5.8 Passing of risk**

Risk in the Property passes from the Seller to the Buyer on settlement.

### **6. ADJUSTMENT OF PURCHASE PRICE**

#### **6.1 Liability for outgoings**

The Seller is liable for Rates and land tax up to the day before the Subdivisional Plan registers. The Buyer is liable for them after that date.

#### **6.2 Adjustment of body corporate levies**

The Buyer is liable for all Body Corporate Levies payable for the Lot.

#### **6.3 Adjustment of rates**

Rates must be adjusted:

- (1) if they are paid, on the amount actually paid;
- (2) if they are unpaid, on the amount payable without allowance for any discount.

#### **6.4 Adjustment of rates where no separate assessment**

If the local authority has not issued a separate assessment of Rates for the Lot, then the Rates must be adjusted in the way reasonably decided by the Seller's Solicitors having regard to the usual practice of the local authority.

#### **6.5 Adjustment of land tax**

Land tax must be adjusted (assuming it has been paid for the Land Tax Year current at the Settlement Date) on the basis that the land tax deemed to be payable in respect of the Lot is calculated as if the Scheme Land was the only land owned by the Seller multiplied by the interest schedule lot entitlement of the Lot and divided by the aggregate interest schedule lot entitlement for all lots in the Scheme.

#### **6.6 Unpaid amounts**

The Buyer may not require any money to be retained, or payment made from the Purchase Price on account of unpaid land tax unless directed to do so by the Office of State Revenue. The Seller must pay the land tax when an assessment issued.

### **7. BUYER'S DEFAULT**

#### **7.1 Default**

If the Buyer fails to comply with any obligation under this Contract, the Seller may:

- (1) affirm the Contract and sue the Buyer for damages or for specific performance or both;
- (2) terminate the Contract and do all or any of the following:
  - (i) sue the Buyer for damages;

or its solicitor.

(ii) resell the Property;

(iii) resume possession of the Property;

(iv) forfeit the Deposit and accrued interest.

(3) Posted notices will be treated as given 2 Business Days after posting.

(4) Notices sent by facsimile will be treated as given when the sender obtains a clear transmission report.

(5) Notices by a party's solicitor to the other party or its solicitor (for example, varying the Settlement Date) will be treated as given with the first party's authority.

## 7.2 Resale

The Seller may recover from the Buyer as liquidated damages:

- (1) any deficiency in price on resale;
- (2) the Seller's expenses connected with this Contract, any repossession, any failed attempt to resell and the resale; and
- (3) the Rates, Body Corporate Levies and land tax that would have been payable by the Buyer if the Contract had settled.

Any profit on a resale belongs to the Seller.

## 7.3 Seller's damages

The Seller is entitled to damages for any loss which it suffers as a result of the Buyer's default, including legal costs on a solicitor and own client basis.

## 7.4 Interest on late payments

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 interest on that money calculated at the Contract rate published by the Queensland Law Society Inc from the due date for payment until payment is made. The Buyer must pay the interest when demanded by the Seller. The Seller may recover that interest from the Buyer as liquidated damages.

## 8. GENERAL

### 8.1 Stamp duty and costs

The Seller and Buyer must each pay their own costs relating to this Contract. However, the Buyer must pay all stamp duty on this Contract.

### 8.2 Notices

- (1) Notices under this Contract must be in writing and may be signed by a party or its solicitor.
- (2) Notices are effectively given if:
  - (i) delivered or posted to the other party or its solicitor; or
  - (ii) sent to the facsimile number of the other party

## 8.3 Foreign Investment Review Board (FIRB)

This Contract is subject to the Buyer obtaining FIRB approval to complete with the purchase of the property hereby sold within 60 days of the date hereof. The Buyer must use his best endeavours to obtain such approval expeditiously.

## 8.4 Death or insolvency of buyer

If, before completion of this Contract the Buyer:

- (1) dies;
- (2) becomes bankrupt or enters into a scheme of arrangement, composition or assignment with or in favour of his creditors;
- (3) is sentenced to imprisonment for a term exceeding one (1) month; or
- (4) is committed to a psychiatric hospital as defined in *The Mental Health Services Act 1974*;

then the Seller may terminate this Contract by notice whereupon the Seller must refund all money paid under this Contract and any interest earned on it. For the purposes of this clause "Buyer" includes any of the persons that comprise the Buyer.

## 8.5 Instalment contract

If this Contract is an instalment contract under the Property Law Act 1974, the Buyer consents to the Seller mortgaging the land from time to time.

## 8.6 Contract subject to registration

This Contract is subject to registration of the Subdivision Plan by the Termination Date.

## 9. BODY CORPORATE

### 9.1 Community Management Statement

The Seller must ensure that prior to Settlement the Community Management Statement recorded for the

Scheme is substantially similar to the Community Management Statement contained in the Disclosure Statement.

## 9.2 Budgets

The Seller has estimated the costs to the owner of each lot in the Scheme in respect of the administration fund levy and sinking fund levy for the first year of the operation of the Body Corporate. That estimate is set out in the proposed budget contained in the Disclosure Statement. The Seller does not warrant that the proposed budget is accurate and is not liable to the Buyer if the Body Corporate adopts a budget different from that proposed by the Seller provided that the Buyer is not materially affected.

## 9.3 Service Contracts

Following the recording of the Community Management Statement the Seller may cause the Body Corporate to enter into the following agreements:

- (1) an agreement with the Body Corporate Manager on similar terms disclosed in the Disclosure Statement with variations as the Seller may determine;
- (2) a caretaking agreement on similar terms disclosed in the Disclosure Statement with variations as the Seller may determine;
- (3) agreements with the service contractors (if any) as the seller may determine;
- (4) any other agreements to enable the Body Corporate to carry out its function as a Body Corporate.

## 9.4 Consideration for Service Contracts

The Buyer agrees that any consideration paid to cause the Body Corporate to enter any of the agreements referred to above will belong to the Seller absolutely.

## 9.5 Exclusive Use, Occupation Authorities and Special Rights

The Buyer acknowledges:

- (a) the Seller may allocate to other owners of lots exclusive use, occupation authorities or special rights over various parts of the Common Property.
- (b) such allocations will include the occupation authorities in favour of the proposed caretaker
- (c) that it shall not be materially prejudiced by any allocation of exclusive use, occupation authority, or special rights provided that access to the Lot is not directly affected.

## 9.6 Easements

Where an easement, lease, licence or other right over any part of the Common Property or a Lot is required by the Local Authority or other authority with appropriate jurisdiction or is considered necessary by the Seller for the provision of services for the benefit of the Body Corporate or any lot in the Scheme:

- (a) the Seller may do all things necessary to grant the easement, lease, licence or other right including, for example, holding a meeting of the Body Corporate at which it exercises the power of attorney
- (b) the Buyer may not make any objection, requisition or claim for compensation as a result of the grant of easement, lease, licence or other right;
- (c) the fact that the easement, lease, licence or other right may not then be registered in the Department of Environment and Resource Management.

## 10. POWER OF ATTORNEY

### 10.1 Appointment

As and from the Settlement Date the Buyer irrevocably appoints:

- (1) the Seller; and
- (2) if the Seller is a company, each director and secretary of the Seller;

and their substitutes, jointly and severally, to be the attorney of the Buyer for the following purposes:

- (3) attend and vote (or do either) in the name of the Buyer at all or any meetings of the Body Corporate or the Committee; and
- (4) complete, sign and lodge any voting paper (or any other document and a notice under the regulation module applying to the Scheme) to allow the Seller to vote in the name of the Buyer at all or any meetings of the Body Corporate or of the Committee of the Body Corporate in respect of any motion or resolution, for or relating to any one or more of the following:

- (i) any new Community Management Statement to be recorded to facilitate the development identified in the Community Management Statement, which development necessitates the lodgement of new community management statements to reflect the matters identified in the Community Management Statement;
- (ii) the variation of the Community Management Statement to rectify any inaccuracy, defect, error or omission in the Community Management Statement in order to facilitate

- the development;
- (iii) the giving of an occupation authority to a service contractor under the regulation module applying to the Scheme;
  - (iv) the issue of a continuing contravention notice under Section 182(2) or the issue of a future contravention notice under Section 183(2) of the BCCM Act;
  - (v) the issue of a notice under Sections 203(1) or (2) of the BCCM Act;
  - (vi) an application to be made for an order of an adjudicator under Section 238(1) of the BCCM Act;
  - (vii) an appeal to be lodged under Sections 289(2) or 304 of the BCCM Act;
  - (viii) the commencement of a proceeding under Section 312(1) of the BCCM Act;
  - (ix) the adoption of administrative and sinking fund budgets for the body corporate;
  - (x) any proposal involving spending above the limit for Committee spending;
  - (xi) engaging a body corporate manager or caretaker if details of the engagement or authorisation were disclosed to the Buyer before this Contract was entered into;
  - (xii) consenting to the recording of a new community management statement to include by-laws, the details of which by-laws inclusion were disclosed to the Buyer before this Contract was entered into;
  - (xiii) the variation of Lot Entitlement of one or more lots in the Scheme other than the Lot where that variation will not materially prejudice the Buyer;
  - (xiv) the granting of exclusive use of any part of the common property in favour of any lot for courtyards or parking
  - (xv) any proposal to purchase or lease personal property by the Body Corporate for its operations or for the facilities provided for use by the owner and occupiers of the Scheme;
  - (xvi) nominate a person for membership of the Committee and vote at any election of members of the Committee.
- (5) Complete, sign and lodge any written consent under Section 171(3) of the BCCM Act or Section 122(1) of the Regulation Module applying to the Scheme, as may be required to facilitate and perfect an allocation or grant under any of the exclusive use by-laws contained in the Community Management Statement.

(6) The Power of Attorney expires one (1) year after establishment of the Scheme.

(7) The Buyer gives to the Seller a limited proxy to act for the Buyer at Body Corporate meetings and vote in the following circumstances:

- (i) to engage a person as Body corporate Manager or service contractor in accordance with the terms of the engagement or authorisation disclosed in this Compliance Statement;
- (ii) consenting to the recording of a new Community Management Statement to include any of the variations contemplated in Clause 3.2 of the Contract;
- (iii) the granting of an occupation authority to the Body Corporate Manager or service contractor under the Regulation Module applying to the Scheme.

(8) The proxy expires one (1) year after the establishment of the Scheme.

## 10.2 New power of attorney

While this power of attorney remains in force the Buyer must not transfer the Lot except to a person who has first signed a deed in favour of the Seller containing the provisions of this clause and delivered it to the Seller or the Seller's Solicitor. If the Buyer does not comply with this provision, it indemnifies the Seller against all loss and damage incurred by the Seller as a result.

## 10.3 Deed

This clause <sup>10</sup> operates as a Deed agreed to come into effect and be deemed to have been entered into on the Settlement Date.

## 11. DISCLOSURE STATEMENT

### 11.1 Acknowledgement

The Buyer acknowledges that before it signed this Contract it received:

- (1) a PAMD Form 27c under sections 138 and 268 of the Property Agents and Motor Dealers Act 2000; and
- (2) the Disclosure Statement;
- (3) a direction drawing the Buyer's attention to the PAMD Form 30c which was attached as the first two pages of the Contract followed by the BCCM Form 14 followed by the Contract

### 11.2 No Representation

The Buyer has not relied on any representation made by

the Seller or the Agent in entering into this Contract other than as set out in this Contract. The Buyer agrees that information in brochures and models for the development is indicative only and is not to be relied on.

## 12. STAGING

### 12.1 Acknowledgment

The Buyer acknowledges that the Scheme is being developed in stages by the Seller as set out in the Community Management Statement attached to the Disclosure Statement

### 12.2 Buyer Not to object

The Buyer will not object to, or make any claim (including issuing any proceeding for an injunction or damages) relating to:

- (1) staging or alteration to the staging of the Scheme and/or the Development;
- (2) the introduction of further land into the Scheme;
- (3) the granting of Exclusive Use of Common Property for courtyard or carparking purposes for the benefit of any lot in future stages.
- (4) any building operation (including construction) of any improvements, or any other things done, on the Land and the noise, nuisance or other inconvenience which might arise from that;
- (5) the use by the Seller, and persons authorised by it, of the Common Property or other lots in the scheme to:
  - (i) give access to and egress from any part of the Land with or without vehicles and equipment; and
  - (ii) store building materials, vehicles, equipment or fill on the Land.
  - (iii) complying with any reasonable direction of the Seller (or those authorised by it) while construction or building operations are being carried out on the Land, including directions related to traffic (vehicle and pedestrian) flow.

In exercising its rights under this clause the Seller will use reasonable endeavours to prevent undue interference with the enjoyment, by the Buyer, of the Lot and the Common Property.

### 12.3 Seller's Authority

The Seller may:

- (1) carry out the Scheme and or the Development in

any number of stages as determined by the Seller;

- (2) carry out construction of the Development progressively within such timeframe and in any sequence determined by the Seller;
- (3) make facilities within the Development available for use at different times included after Settlement;
- (4) continue construction works causing as little disruption or inconvenience as reasonably possible to the Buyer and/or occupier of the Lot after settlement having regard to standard building practices;
- (5) record any number of Community Management Statements and survey plans in order to facilitate the carrying out of the Scheme and/or the Development in stages;
- (6) do any other thing which in the Seller's opinion is necessary to facilitate the carrying out of the Scheme and/or the Development in stages.

## 13. GST AND THE MARGIN SCHEME

- (1) In this Contract expressions with capital initial letters which are not defined in this Contract but which have a defined meaning in the GST Act have the same meaning in this Contract as in the GST Act.
- (2) The Purchase Price includes the Seller's liability for GST on the Supply of the Lot. The Buyer is not obliged to pay any additional amount to the Seller on account of GST and the Supply of the Lot.
- (3) The Seller promises that the Supply of the Lot made under this Contract is not a Taxable Supply under the GST Act and therefore no GST is payable on the Supply of the Lot.
- (4) The Seller must apply the Margin Scheme to the Taxable Supply (if any) made under this Contract and both the Buyer and the Seller agree that the Margin Scheme is to be applied.
- (5) If the Supply of the Lot is a Taxable Supply, the Seller promises that it is able to apply the Margin Scheme.
- (6) This Special Condition binds any other entity who is or becomes the supplier or the recipient of the Supply of the Lot under or by reason of this Contract.

## 14. BUYER A COMPANY OR TRUSTEE

- (1) This clause applies if the Buyer:
  - (i) is a company;



(ii) is a company trustee of a trust; or

(iii) is an individual trustee of a trust.

Seller transfers or assigns its interest in this Contract and/or the Land, the Seller also assigns or transfers the benefit of the Guarantor's obligations and indemnities under the Guarantee and Indemnity to the transferee or assignee.

~~(2) If this clause applies, the Buyer must arrange that its performance under this Contract is guaranteed by:~~

(i) 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;

(ii) 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 of the trust; and

(iii) in the case of the Buyer being an individual trustee of a trust, the Buyer in its personal capacity and, if required by the Seller, the principal beneficiaries of the trust.

(3) The guarantee will be in the form of the Guarantee and Indemnity.

(4) The Buyer, and the Guarantors by signing the Guarantee and Indemnity, acknowledge that if the

EXECUTED by the parties

SIGNED by the Buyer )

*Uri Scharf*

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*Uri Scharf*  
.....  
Witness

SIGNED by the Buyer )

*Uri Scharf*

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*Uri Scharf*  
.....  
Witness

SIGNED for and on behalf of the Seller )  
being duly authorised in that regard in the )  
presence of: )

*[Signature]*

.....  
*[Signature]*  
.....  
Witness

**STAKEHOLDER'S ACKNOWLEDGEMENT**

The Stakeholder named in the Particulars acknowledges having received the Initial Deposit or Deposit (as the case may be) and agrees to hold it as stakeholder for the parties as provided in this Contract.

.....  
Stakeholder