


VILLAS ON FALSO Sale Contract

Reference Schedule

Contract Date		
Agent:	(Full Name)	IPG PROPERTY MANAGEMENT PTY LTD
	(Licence no)	4026300
	(Address)	PO BOX 2588 SOUTHPORT BC QLD 4215
	(Telephone)	075531 0888 (Email) clientservices@ipgroup.net.au
Seller	(Full Name)	Crossacres Blunder Rd QLD Pty Ltd A.C.N. 603 253 256
	(Address)	PO Box 340, UNDERWOOD QLD 4119
	(Telephone)	07 3489 6000 (Facsimile) 07 3208 7855
Seller's Solicitors:	(Name)	Minter Ellison – Gold Coast
	(Address)	PO Box 11, VARSITY LAKES QLD 4227
	(Telephone)	07 5553 9484 (Facsimile) 07 5575 9911
Buyer	(Full Name)	COUZENS HOLDINGS PTY LTD ACN 616658256 ATF R&D
	(A.C.N)	(Name of Trust) COUZENS SUPERFUND
	(Address)	17 Greenway Place, DECEPTION BAY QLD
	(Telephone)	0431799486 (Facsimile)
Buyer's Solicitors:	(Name)	Quinn & Scattini Lawyers
	(Address)	PO Box 293, Mermaid Beach, QLD
	(Telephone)	075554 6700 (Facsimile) 075554 6900
Deposit Holder	(Name)	Minter Ellison Gold Coast ABN 69 399 090 230
Property	(Address)	Proposed Lot No. <u>3</u> "Villas on Falso", 949 Blunder Road, Doolandella QLD 4077 (Off Falso Place)
	(Description)	Proposed Lot No. <u>3</u> as highlighted on the attached Plan contained in the Disclosure Documents
	(Exclusive Use area)	The area identified as <u>3 A</u> on the draft exclusive use plan contained in the Disclosure Documents
Purchase Price		\$ <u>381,500.00</u>
Deposit	(Total Deposit)	\$ <u>38,150.00</u> payable to the Deposit Holder

	(Initial Deposit)	\$1000.00 payable on signing of this Contract
	(Balance Deposit)	\$37,150.00 payable 14 days after the Contract Date or Finance Approval, whichever is the later
	(Payable by)	<input type="checkbox"/> Cash OR <input type="checkbox"/> Bank Guarantee (Tick Box) If paying by Bank Guarantee, refer to special condition 8.16 in the Contract.
Finance	(Finance Approval)	Financier: Any bank or other financial institution Finance Approval Date: 21 days from Contract Date Finance Amount: Sufficient to complete purchase (If not applicable, please cross out)
Guarantor	(Full Name 1)	
	(Address 1)	
	(Full Name 2)	
	(Address 2)	
Settlement Date	(Settlement Date)	Refer to clause 22 of the Sale Conditions
Foreign Interest	(Foreign Interest)	<input type="checkbox"/> No <input type="checkbox"/> Yes (Tick which is applicable. If not completed, Buyer is assumed to not be a foreign interest).
Personal Use	(Personal Use)	<input type="checkbox"/> No <input type="checkbox"/> Yes (Tick which is applicable. If not completed, Buyer is assumed non-personal use).



 Buyer 1 initials



 Buyer 2 initials

 Seller initials

 Guarantor 1 initials

 Guarantor 2 initials

SALE CONDITIONS

1. Reference Schedule

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

2. Disclosure Documents

Terms used in the **disclosure documents** (including the **disclosure statement** contained in the **disclosure documents**), unless otherwise defined, have the meanings given to them in this contract.

3. BCCM Act

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

4. Meaning of Words

In this contract, unless the context otherwise indicates, words marked in bold have the following meaning:

Act means the *Body Corporate and Community Management Act 1997*.

approval means any approval of an **Authority** including any federal, state or **Local Government** or any authority or financier relating to the **land**, the **development**, the **lot** or the **contract** and any other decision of a third party which affects the **Seller's** ability to settle the **contract**.

Authority means any body, government, person or otherwise having or exercising control over the use or operation of the **scheme** or the **development** or any services to be provided to the **scheme** or the **development**.

balance price means the **Purchase Price**, less any cash **deposit**, adjusted in accordance with this contract.

bank cheques mean a cheque issued by a bank as defined in Section 5 of the *Banking Act 1959 (Cth)* or a bank constituted under a law of a State of Australia and drawn on itself.

body corporate means the body corporate created under Section 30 of the Act upon establishment of the **scheme**.

body corporate agreements means the following agreements, drafts of which are contained in the Disclosure Documents

- (a) a body corporate management agreement between the **body corporate** and a body corporate administration company;
- (b) a **service contractors agreement**; and
- (c) a **letting authorisation agreement**.

body corporate levies means the levies paid by lot owners to the body corporate for, amongst other things, the administration of the **scheme**.

by-laws means the by-laws of the **scheme** as amended from time to time.

Builder means the builder appointed by the **Seller** under the **Building Contract** to build the **development**.

building means any building to be built within or on the **scheme land** incorporating the **lot**.

building contract means the contract (if any) between the **Seller** and the **Builder** for building works in connection with the **building**.

business day means a day other than a Saturday, Sunday or public holiday in Brisbane.

certificate of classification means the certificate issued by the **Local Government** or an appropriately qualified private certifier, confirming that the **building** has been completed in accordance with the requirements of the **Local Government** and any other relevant **Authority**.

chattels means the chattels listed in the **specifications**, intended for inclusion in the **lot**.

community management statement means the community management statement recorded in order to establish the **scheme**.

common property means the common property of the **scheme**.

committee means the committee of the **body corporate**.

contract means this sale contract entered into between the **Buyer** and the **Seller** for the sale of the **lot**.

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

development means the proposed development to be known as "counder" intended to be constructed on the **land**.

disclosure documents means the documents delivered to the **Buyer** before signing the **contract**, including the **disclosure statement** and other documents relevant to the **development**, and the **building** and the **lot**.

disclosure statement means the disclosure statement required under Section 213 of the **Act** contained in the **disclosure documents**.

existing lot means a lot that has an indefeasible title under the **LTA**.

Expert means an expert (if any) nominated by the President of the Queensland Master Builders Association at the request of the **Seller**.

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

GST Amount means any **payment** (or the relevant **payment**) multiplied by the appropriate rate of GST (currently 10%).

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

Guarantee means the guarantee and indemnity contained in clause 62.

interest means any interest (if any) that is earned on the investment of a cash **deposit**.

land means the land as described in the **disclosure documents** and any additional adjoining or nearby land acquired by the **Seller** over which the **Seller** acquires rights for development as part of the **development** and where the context permits, includes any land derived from the **land**. The **scheme land** is part of the **land**.

letting authorisation agreement means a letting authorisation agreement between the **body corporate** and a letting agent for the **scheme** a draft of which is contained within the **disclosure documents**.

Local Government means Brisbane City Council.

lot means the lot or proposed lot in the **scheme** which is sold under this **contract**.

lot entitlement means the contribution schedule lot entitlement and the interest schedule lot entitlement of a lot in the **scheme**.

LTA means the Land Titles Act 1994.

marketing material means all published marketing materials (including website) and display boards produced by and being the authority of the **Seller**.

minor variation means a variation which has no material adverse effect on a reasonable person in the position of the **Buyer** and does not result in the **property** or the **building** being substantially different to that described in this **contract**. Without limitation to what constitutes a **minor variation**, if the area of the **lot** on the **plan** is not more than 5% different to the area of the **lot** as shown on the **identification plan**, that variation or change is deemed to be a **minor variation**.

module means the *Body Corporate and Community Management (Accommodation Module) Regulation 2008*.

object means to object generally and includes to:

- (a) object to a variation change or substitution;
- (b) object to title;
- (c) avoid or attempt to avoid this **contract**;
- (d) refuse to effect **settlement**;
- (e) delay **settlement**;
- (f) claim compensation or any reduction in the **purchase price**;

- (g) retain any part of the **purchase price**;
- (h) require the **Seller** to carry out any works to the **property**;
- (i) withhold a consent; or
- (j) seek an injunction.

outgoings means:

- (d) rates or charges on the **land** or the **lot** by any **Authority** (including **Local Government** rates, water charges, fire service levies etc);
- (e) land tax;
- (f) body corporate levies; and
- (g) body corporate insurance paid by the **Seller** as original owner of all lots in the **scheme**.

parties means the **Seller** and the **Buyer**.

payments means any amount payable under or in connection with this **contract** including any amount payable by way of indemnity, reimbursement or otherwise and includes the provisions or any non-monetary consideration.

plan means the draft survey plan contained in the **disclosure documents** and to be registered pursuant to the *Land Title Act 1994 (Qld)* in respect of the **scheme** of which the **lot** is situated.

plan registration means the registration of the **plan** that creates the **lot** under the *Land Title Act 1994*.

Power of Attorney means the power of attorney granted by the **Buyer** to the **Seller** under clause 37 of this **contract**.

Pre-Settlement Inspection has the meaning given to it in clause 13.5.

Project Manager means any project manager appointed by the **Seller** for the **development** from time to time and if no project manager is appointed, then the architect for the **development**.

Property Occupations Act means the *Property Occupations Act 2014 (Qld)*.

proposed community management statement means the proposed

community management statement included in the **disclosure documents**.

proposed lot entitlement means the proposed contribution schedule lot entitlement and the interest schedule lot entitlement of a proposed lot in the **scheme** as shown in the **proposed community management statement**.

scheme means the community title scheme to be established upon recording of the first **community management statement**.

scheme land means the land described in the **disclosure documents** which is to be developed to create the scheme.

service contractors agreement means a body corporate service contractors agreement between the **body corporate** and a service contractor for the **scheme** a draft of which is contained in the **disclosure documents**.

settlement means settlement of this **contract** as required under clause 22.

settlement date means the date for **settlement** calculated in accordance with clause 22.

special conditions means the special conditions (if any) contained in schedule 1 forming part of this **contract**.

specifications means the specifications included in the **disclosure documents** and any items forming part of them which could be varied in accordance with clause 10.6(b).

substantial variation means a reduction in the area of the **lot** by more than 5% from that shown in the **plan** and where the reduction in area detrimentally affects the **lot** to a substantial extent.

sunset date means the date 5½ years after the **contract date** as extended in accordance with the **contract**.

title means the title to the **lot**.

transfer documents means:-

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

5. Interpretation

5.1 Headings are for reference only and do not form part of the **contract**.

5.2 In the **contract**, unless the contrary intention appears:

- (a) the singular includes the plural, and the plural includes the singular;
- (b) reference to a gender includes any other gender;
- (c) other forms of defined words have corresponding meanings;
- (d) if an obligation is imposed on two or more parties, each party is liable for the obligation individually and together with each other person;
- (e) reference to a person includes any other entity or association;
- (f) reference to a party includes that party's personal representatives, successors and assigns;
- (g) reference to a document includes any variation or replacement of it;
- (h) reference to something which comprises more than one part or aspect includes a reference to each or any part or aspect;
- (i) reference to a group of persons includes a reference to all of them collectively, any two or more of them collectively, and each of them individually;
- (j) when this **contract** requires anything not to be done, this includes not allowing or permitting the thing to be done;
- (k) reference to a statute, regulation or other law includes all regulations and instruments made under that law and all consolidations, amendments, re-enactments or replacements;
- (l) despite completion of this **contract** any term of this **contract** which can take effect

after the settlement of the **contract**, remains in force;

(m) a reference to time is a reference to Queensland time; and

(n) the **contract** takes effect as a deed.

6. Intentions

6.1 On the **settlement date** the **Seller** will be the registered owner of the **lot**.

6.2 Subject to the **Seller's** right to terminate this **contract** and its other rights under this **contract** in connection with the **development**, the **Seller** intends to construct the **development** on the **land**.

6.3 The **Seller** intends to subdivide the **land** generally in accordance with the **plan**.

6.4 The **Seller** intends to effect **plan registration** generally in accordance with the **plan** subject to its rights under the **contract** to vary the **plan**.

7. Agreement to Sell and Purchase

7.1 The **Seller** agrees to sell to the **Buyer**, and the **Buyer** agrees to purchase from the **Seller** (on the terms set out in this **contract**), freehold title to the **lot** for the **purchase price** free from encumbrances except those specified in the **contract**, the **disclosure documents** and the encumbrances created or implied by the **Act**, and the *Land Title Act 1994*.

8. Payment of Deposit

8.1 The **parties** nominate the **deposit holder** as trustee for the purposes of the **Act**.

8.2 The **Buyer** must pay the **deposit** to the **deposit holder** at the relevant times referred to in the Reference Schedule. The **deposit holder** will hold the **deposit** until a party becomes entitled to it.

8.3 The **Buyer** will be in default if the **Buyer**:

- (a) does not pay the **deposit** when required;
- (b) pays the **deposit** by post-dated cheque; or

- (c) pays the **deposit** by cheque which is dishonoured on its first presentation.
- 8.4 Without waiving any of the **Seller's** rights under this **contract**, if the **Buyer** is in default due to the failure to pay the **deposit** at the times referred to in the Reference Schedule, then the **Seller** may elect to terminate this **contract** and refund to the **Buyer** any part of the **deposit** that the **Buyer** has paid.
- 8.5 Where the **deposit** equals 10% of the **purchase price** the **deposit holder** will invest the **deposit** when fully paid in an interest bearing bank account. Where the amount of the **deposit** paid is less than 10% of the **purchase price**, the **deposit holder** may, if instructed by both the **Buyer** and the **Seller**, invest the amount of the **deposit** paid. The **deposit holder** may, if instructed by the **Seller**, withdraw the amount invested from investment at any time within 30 days prior to the **settlement date**.
- 8.6 If settlement of the **contract** occurs, the interest earned on the **deposit** will be paid to the **Seller**.
- 8.7 If settlement of the **contract** does not occur, the interest earned on the **deposit** will be paid to whoever is entitled to the **deposit**.
- 8.8 If this **contract** is terminated without default by the **Buyer**, the **Buyer** has no further claim once it receives the **deposit** and **interest**.
- 8.9 The **deposit** and the **interest** are at the risk of whoever is ultimately entitled to those amounts, and the **deposit holder** is not responsible for any loss caused by the investment of the **deposit** unless such loss or diminution is as a result of an act committed or omitted in personal, conscious, fraudulent bad faith by the **deposit holder**.
- 8.10 If the **deposit** is to be invested, the **Buyer** must notify the **deposit holder** of the **Buyer's** Australian tax file number (if applicable) together with any other information or assistance necessary for the purpose of investment, within 7 days after the date the **Buyer** pays the **deposit**.
- 8.11 The **parties** indemnify the **deposit holder** for the costs of preparing and lodging any income tax return required in respect of the investment of the **deposit**
- and authorise the **deposit holder** to deduct those costs from the **interest**.
- 8.12 The **Buyer** authorises the **deposit holder** to release the **deposit** to the **Seller** immediately, should any of the following occur:
- (a) settlement of the **contract**; or
 - (a) the **deposit** is forfeited under clause 23.4.
- 8.13 The **deposit holder** has no obligation to invest the **deposit**:-
- (a) until the **Buyer** gives the **deposit holder** its tax file number;
 - (b) unless the **deposit** equals 10% of the **Purchase Price** or as otherwise agreed in accordance with clause 8.5;
 - (c) until the whole of the **deposit** is paid;
 - (d) if the **settlement date** is anticipated to be less than 90 days after the **contract date**;
 - (e) if the **Buyer** has notified the **Seller** that it intends to substitute a cash payment of the **deposit** with a bank guarantee in accordance with this **contract**.
- 8.14 Instead of paying the **deposit** as a cash payment, the **Buyer** may lodged with the **deposit holder** a bank guarantee which satisfies the requirements of this clause.
- 8.15 If the **Buyer** has already paid a cash **deposit**, the **Buyer** may at any time elect to replace that cash **deposit** with a bank guarantee which satisfies the requirements of this clause.
- 8.16 In order to satisfy the requirements of this clause, a bank guarantee must:
- (a) be issued by an Australian bank;
 - (b) be for the amount of the **deposit**;
 - (c) be issued in favour of **Minter Ellison Trust Account** (as "Favouree" as opposed to specifying the **Seller** as Favouree);
 - (d) specify that the **Seller** has agreed to accept the bank guarantee

- instead of payment of a cash deposit;
- (e) require the bank to pay **Minter Ellison** the **deposit** without first checking with the **Buyer**;
- (f) contain the names of the **Seller** and the **Buyer** (and no other third party) and make reference to this **contract** and the sale made under it, (ie):-

Crossacres Blunder Rd QLD Pty Ltd A.C.N. 603 253 256 (Unit No.) "Villas on Falso" to (Buyers Name); and
- (g) have no expiry date and be unconditional and irrevocable.

8.17 The **Seller's Solicitor** may call upon a bank guarantee lodged pursuant to this clause if:

- (a) this **contract** has been terminated for default by the **Buyer** and the **Seller** has declared the **deposit** forfeited; or
- (b) the **Buyer** has delivered a bank guarantee which is limited by time and the **Buyer** has failed (whether or not requested to do so by the **Seller's Solicitors**) to replace the bank guarantee with either a cash deposit or a further bank guarantee at least 20 **business days** before the expiry date of the bank guarantee.

8.18 The **Seller** may, in its total discretion, accept a bank guarantee which does not comply with the provisions of this clause. If that happens, if directed by the **Seller** at any time before **settlement** to do so, the **Buyer** must, at the **Buyer's** expense, within 10 **business days** after direction, replace the bank guarantee with an instrument which complies with the provisions of this clause, failing which, the **Buyer** will be in fundamental breach of this **contract** entitling termination of this **contract** by the **Seller**.

8.19 The **Buyer** must not do anything which may cause the bank guarantee to be withdrawn, revoked, terminated, compromised or limited in any way.

8.20 Notwithstanding clause 8.18, the **Seller** or the **Seller's Solicitor** is not required to notify the **Buyer** that:

- (a) the bank guarantee is due to expire and must be replaced; or
- (b) a call is to be made on the bank guarantee,

as a precondition to a call being made.

8.21 If the **Seller's Solicitor** calls upon the bank guarantee, the proceeds received must be dealt with in accordance with the terms of the **Act** and this **contract**.

8.22 The **deposit holder** shall not be liable for the loss of the bank guarantee or for making any call on or demand under the bank guarantee unless that action occurs as a result of or in consequence of an act committed or omitted in personal, conscious, fraudulent bad faith by the **deposit holder**. All persons claiming any beneficial interest in or over the bank guarantee are deemed to take with notice of and subject to the protection conferred by this clause upon the **deposit holder**.

9. Seller's Conditions

9.1 This **contract** is subject to the **Seller** satisfying the following conditions on or before the **sunset date**:-

- (a) the **Seller** obtaining the necessary **Authority approvals**;
- (b) construction of the **property** being substantially complete, except for minor omissions and defects which the **Project Manager** has certified will not prejudice any convenient use of the **property**;
- (c) registration of the **plan**;
- (d) recording the **Community Management Statement**; and
- (e) issue of a **certificate of classification** (or equivalent) under the Building Code of Australia for the **building** or interim **certificate of classification** (or equivalent) permitting occupation of the **property** and the **lot**.

9.2 The **Seller** cannot waive compliance of subclause 1, however the **Seller** may terminate this **contract** by giving notice in writing to the **Buyer**, prior to the **sunset date** if:-

- (a) an **Authority** refuses to grant, revokes, withdraws, changes, suspends or declares invalid a necessary permit or approval;
 - (b) an **Authority** refuses to seal the **community management statement** or the **plan**;
 - (c) an **Authority** imposes conditions on a permit, certificate or **approval** with which the **Seller** is unwilling or unable to comply or is dissatisfied with (in the last two cases because, in the **Seller's** opinion, complying with the condition may prevent or hinder or delay the profitable completion and/or disposal of the **development** or any part of it);
 - (d) the **Seller** forms the opinion that **plan registration** will not be achieved by the **sunset date**;
 - (e) in the **Seller's** opinion market, economic or site conditions become unfavourable; or
 - (f) building costs rise and exceed the amount expected in the **Seller's** feasibility.
- 9.3 If the **Seller** gives notice under subclause 2 to the **Buyer**, then:-
- (a) the **deposit** and any **interest** earned on the **deposit** must be released to the **Buyer**;
 - (b) the **Buyer** has no further claim against the **Seller**.
- 9.4 If the **Seller** has not satisfied subclause 1 by the **sunset date** due to delays attributable to:
- (a) damage by fire, explosion, earthquake, lightning or storm;
 - (b) an act of war or civil commotion;
 - (c) industrial disputes or disturbance of any kind;
 - (d) disputes with neighbouring owners;
 - (e) delays in obtaining an **approval** but only if the **Seller** has acted reasonably in trying to obtain that **approval**;
 - (f) unfavourable weather conditions;
 - (g) delays in construction of any part of the **development**, including unavailability of materials or contractors for the building of the **building**;
 - (h) any time extension granted by the **Seller** to the **Builder** under the **building contract**; or
 - (i) anything else beyond the **Seller's** control,
- then the **Seller** may extend the **sunset date** by a period equal to the period of the delay. Certification by the **Project Manager** as to the causes and period of delay is sufficient proof of the things stated in the certificate.
- 9.5 If subclause 1 is not satisfied by the **sunset date** (as extended) then either party may terminate this **contract** by notice in writing to the other. If this happens:
- (a) the **deposit** and **interest** must be released to the **Buyer**; and
 - (b) the **Buyer** has no further claim against the **Seller**.
- 9.6 Nothing in this **contract** prohibits the **Buyer** and the **Seller** extending the date by which subclause 1 must be satisfied by mutual agreement.

10. Building and Property

- 10.1 The **Seller** will cause the **building**, including the **lot**, to be built substantially in accordance with the **plan** and the **specifications**, in a good and workmanlike manner and in accordance with all applicable laws, regulations and standards.
- 10.2 Nothing in sub-clause 1 in any way limits the **Seller's** rights in this **contract** to make variations to the **building** and the **property**.
- 10.3 All **common property** finishes and landscaping will be determined by the **Seller** in its discretion, but will be generally to a standard but not necessarily the same design as the finishes and landscaping proposed for the **common property** as set out in the

- disclosure documents and/or marketing material.**
- 10.4 The **Buyer** has no right to require variations to the building of the **property**.
- 10.5 If the **Buyer** and the **Seller** agree to variations in the building of the **property**, then a separate agreement must be entered into and payment of the cost of the variations must be made at **settlement**.
- 10.6 Subject to any entitlement the **Buyer** may have under the **Act**, the **Seller** may do all or any of the following and the **Buyer** will not **object** if the **Seller** does so (unless the **Buyer** is materially prejudiced):
- (a) make changes to the design, configuration or layout of the **lot**, providing the changes or variations are a **minor variation**;
 - (b) change the **specifications** as long as the **lot** contains **specifications** of an equivalent standard to those specified in the **specifications**;
 - (c) make any change to the **lot** caused by anything beyond the **Seller's** reasonable control (for example requirements of an **Authority**, practicalities of construction or availability of materials);
 - (d) vary the area of the **lot** compared with that shown in the **plan** provided that the variation is a **minor variation**; and/or
 - (e) make changes or variations to the design, dimensions and layout of areas of **common property** or the **development** provided that such changes or variations are **minor variations**.
- 10.7 Each change or variation of the **property** is to be considered separately in determining if the variation or change is a **minor variation**.
- 10.8 Subclauses 1, 2, 3 and 4 do not apply if **plan registration** occurred before the **contract date**.
- 10.9 The **Buyer** agrees that:
- (a) As the **property** has been sold "off the plan" there are likely to be discrepancies between the

property as described in any **marketing material** and the **disclosure documents** and the **building** once built;

- (b) the **Seller** makes no promises or representations that the **property** once built will be in accordance with the **marketing material** or as provided for in the **disclosure documents**.

- 10.10 The **Buyer** must not withhold any part of the **purchase price** or delay **settlement** on account of any defect in the **lot** or the **development**, even if it is due to defective materials or workmanship.

11. Chattels

- 11.1 On **settlement**, the **lot** will contain the **chattels**.
- 11.2 Ownership of the **chattels** will pass to the **Buyer** on **settlement**.
- 11.3 With effect from **settlement**, the **Seller** assigns to the **Buyer** all of its rights under any transferable manufacturers' or suppliers' warranties on the **chattels**.
- 11.4 The **Seller** may in its total discretion, substitute, or vary **chattels**, materials, fixtures, fittings and colours described or shown in the **specifications** or shown in any display apartment, display board, colour scheme board or listed in any **marketing materials** with other similar **chattels**, materials, fixtures or fittings of equivalent quality.
- 11.5 Any furniture shown on any floor layout plan of the **lot** showing suggested furniture layout does not in any way mean that the furniture is sold by the **Seller** to the **Buyer** under this **contract**. If furniture is sold, it must be specifically provided for in the **special conditions** or in a separate agreement.

12. Buyer's rights of compensation and termination

- 12.1 Subject to sub-clause 4, if there is a change or variation to the **building** or **property** which is not excused by clause 10 (or other provisions of this **contract**), then the **Buyer** is not entitled to terminate or avoid this **contract** but is only entitled to claim compensation from the **Seller**.

12.2 Any such claim for compensation is only valid if the **Buyer** has lodged in writing a claim for compensation with the **Seller**:

(a) where the **Seller** has given notice to the **Buyer**, before giving notice calling for **settlement**, that the variation has been made or intended to be made, on or before the earlier of:

(i) the day 30 days after the **Seller** has given the **Buyer** notice that the variation has been made or intended to be made; or

(ii) the day which is 7 days before the date fixed as the **settlement date**; or

(b) where the **Seller** gives notice to the **Buyer** on or after the date the **Seller** gives notice to the **Buyer** calling for **settlement**, that the variation has been made or is intended to be made, on or before the **settlement date**.

12.3 The measure of compensation will be the reduction in value (if any) to the **property** occurring as a result of the variation, such value to be determined by a valuer agreed between the parties and failing agreement by a valuer selected by the President for the time being of the Queensland Law Society (or their nominee) at the request of either of the **Buyer** or the **Seller**. The valuation provided by the valuer appointed under this clause is binding on the **Buyer** and the **Seller**. The costs of the valuer must be paid equally by the **Buyer** and the **Seller**.

12.4 If there is a variation which is so substantial (including, a **substantial variation**) as to justify the **Buyer** terminating or avoiding this **contract**, then the **Buyer's** only right is to terminate this **contract** and recover the **deposit** and **interest**. The **Buyer** has no right to damages arising out of the termination or to require specific performance of this **contract**.

13. Inspection and Defects Fixing

13.1 The **Buyer** shall deliver to the **Seller** one list in writing of faults and defects (excluding dents, scratches and marks on

surfaces to the **lot**) due to faulty material or workmanship not being of the standard commensurate with the **specifications** (the sole judge of which shall be the **Expert** acting as an expert whose decision shall be binding on the parties) after **settlement** and within 90 days after practical completion of the **building** has been reached under the **building contract** and the **Seller** shall within a reasonable period after receipt of such notice cause such faults and defects to be amended and made good at its own cost. The **Buyer** shall have no right or claim for compensation against the **Seller** in respect of any fault or defect not so notified by the **Buyer**. When every fault and defect so notified to the **Seller** has been amended and made good, the **Seller's** obligations to the **Buyer** hereunder shall be wholly discharged. All disputes between the parties in relation to any defect shall be determined by the **Expert** whose decision shall be final and binding on the parties. The parties shall pay the costs of the **Expert** in equal shares.

13.2 The **Buyer** acknowledges that the **Seller** is not required to rectify any defect for equipment and/or appliances that are sold with a manufacturer's warranty to the extent that the manufacturer's warranty will satisfy the **Seller's** obligation under the *Competitor and Consumer Act 2010*.

13.3 The **Buyer** must rely on its rights under this clause and has no right to **object** by reason of any defect, fault or any deficiency in the **lot** or in the **chattels**.

13.4 The **Buyer** acknowledges that due to temperature changes and normal settlement, concrete floors, driveways, terraces, tiled areas and exposed concrete services, cornices and architraves and similar areas may develop imperfections (such as cracks). The **Buyer** agrees that the **Seller** does not have to fix those kinds of imperfections unless they result from defects of workmanship or materials.

13.5 Pre-Settlement Inspection

(a) The **Seller** agrees to allow the **Buyer** to inspect the **lot** once only during the period before the **settlement date** as notified by the **Seller** to the **Buyer**, and the **Buyer** will be accompanied by a representative of the **Seller** ("**Pre-Settlement Inspection**").

- (b) The **Seller** shall notify the **Buyer** of the times available for the **Pre-Settlement Inspection**.
- (c) The **Buyer** shall not be entitled to undertake more than one **Pre-Settlement Inspection**.
- (d) The purpose of the **Pre-Settlement Inspection** is to allow the **Buyer** to:-
 - (i) identify the lot; and
 - (ii) identify any scratches, dents and marks on the surfaces to the lot.
- (e) The **Buyer** may notify the **Seller** in writing of any scratches, dents and marks appearing on surfaces to the lot prior to **settlement** which shall be dealt with as a defect pursuant to sub-clause 1. Should the **Buyer** fail to notify the **Seller** in writing of any scratches, dents or marks prior to **settlement**, then the **Buyer** shall be deemed to have accepted the lot with all scratches, dents and marks and the **Buyer** will not **object** in respect of the scratches, dents and marks not so notified by the **Buyer**.
- (f) Should the **Buyer** be of the opinion that there exists in the lot defects due to faulty materials or workmanship only, the matter shall be referred to the **Seller** and dealt with in accordance with sub-clause 1 and the provisions of sub-clause 3 and 4 shall apply.

13.6 Due to insurance requirements and safety of persons and property, the **Buyer** is not entitled to undertake inspections of the lot and **development** without a **Pre-Settlement Inspection** being arranged. The **Buyer** shall not undertake any inspection of the lot and **development** other than in accordance with this clause.

14. Title to Lot

14.1 The **Buyer** is not entitled to deliver to the **Seller** requisitions or enquiries as to the **Seller's** title to the lot.

14.2 The **title** to the **land** and the lot is under the *Land Title Act 1994* and the Act. The

Buyer accepts **title** subject to the requirements of these Acts.

14.3 The **Buyer** accepts **title** and the **property** subject to and must not **object** as a result of the following matters:

- (a) the **community management statement**;
- (b) any rights or interest reserved in favour of the Crown;
- (c) all notifications, easements and registrations (other than a mortgage) on the title for the **common property** or the **title**;
- (d) any easements benefitting or burdening the **title, land, scheme land** or **common property**, whether statutory or otherwise, including those for:
 - (i) the passage or provision of services;
 - (ii) support; and
 - (iii) projections.
- (e) all notifications, easements, statutory covenants and restrictions in relation to the **title, land, scheme land, common property** or the **property** reasonably required in order to satisfy the requirements of any **Authority** as a condition of approving the **scheme**, the registration of the **plan** or any approval of the **development**.

14.4 The **Seller** promises the **Buyer** that:

- (a) the **Seller** is not aware of any proposed resumption affecting the lot not disclosed in the **contract** or **disclosure documents**;
- (b) the **Seller** is not aware of any claim which may materially adversely affect the lot; and
- (c) at **settlement**, the **title** will be free from adverse encumbrances except those authorised by the **Act** or this **contract**.

15. Seller's Warranties

15.1 The **Seller** warrants that each of the following matters are accurate at the **contract date**:

- (a) the **Seller** has full capacity to sign the **contract**, and is not under any legal disability which prevents the **Seller** from doing so; and
- (b) the **Seller** is not under any form of external administration under the *Corporations Act*.

15.2 The **Seller** warrants that each of the following matters will be accurate on the **settlement date**:

- (a) the **Seller** will be the registered owner of the **lot**;
- (b) the **body corporate** has no outstanding or potential liabilities other than for:
 - (i) its ordinary operating expenses;
 - (ii) insurances required by the **Act**;
 - (iii) other purposes referred to in the **contract** and the **disclosure documents**; and
 - (iv) any other liabilities incurred by the **body corporate** in the conduct of its affairs from the commencement of the **scheme**;
- (c) no order has been made by a court for termination of the **scheme**;
- (d) there are no unsatisfied judgments against the **body corporate**;
- (e) there are no proceedings by any person claiming an interest in the **lot**; and
- (f) there are no unsatisfied judgments or executions affecting the **lot**.

16. Buyer must not Object

16.1 Subject to any rights of the **Buyer** under the **Act**, and without limitation to the **Seller's** rights elsewhere in this **contract**, the **Buyer** will not **object** as a result of:

- (a) subject to clause 10.3 in respect of changes to the **lot** or the **building**, the **Seller** changing the design of or configuration of lots or buildings in the **development**;
- (b) the **lot entitlement** and all matters contained in, endorsed upon or annexed to the **community management statement** or the **plan**;
- (c) subdividing or amalgamating any lots in the **development** excluding the **lot**;
- (d) changes in the number of lots in the **development** or the size, location, contribution schedule lot entitlement or interest schedule lot entitlement of any lot in the **development** (including the **lot**), or in or to the **common property**, or any amalgamation of lots;
- (e) changes in the numbering of the **lot** or of any other lot or any alteration to the address of the **property** or the **scheme**;
- (f) changes to the proposed **by-laws** set out in the **proposed community management statement** including, without limitation, granting to a lot in the **scheme** rights of exclusive use or special privilege over an area or areas of the common property of the **scheme** for any purposes the **Seller** decides;
- (g) changes to the location of any walls, hallways or the layout of the **development**;
- (h) any minor alteration to the location of the **lot** or any other lot in the **scheme** from those shown in the **disclosure documents**;
- (i) any change in the location or description of areas of **common property** intended to be allocated for the exclusive use and enjoyment of the **lot**;

- (j) any alteration to the **lot entitlement** of the **lot** or any other **lot** from the **proposed lot entitlement**;
- (k) any alteration in the aggregate **lot entitlement** of all **lots** in the **scheme**;
- (l) the transfer or incorporation of any additional land into the **scheme** whether as a **lot** or common property;
- (m) the transfer, dedication or excise of any land (whether a **lot** or part of the common property) out of the **scheme**;
- (n) the **Seller** disclosing the **Buyers** details shown in the **contract** to a proposed letting agent for the **scheme**;
- (o) replacement of any material disclosed in the **disclosure statement**;
- (p) any boundary of the **land** is not fenced, or any boundary fence is not upon the boundary;
- (q) of any encroachment on the common property of the **scheme** by improvements on neighbouring land, or vice versa;
- (r) the building name shown on the **contract** not forming part of the name of the **body corporate** or the **building**;
- (s) of the existence on, or passage through the **land, lot, common property** or any adjoining property of mains, pipes, wires or connections of any water, sewerage, drainage, gas, electricity, telephone or other system or service or the overhang of eaves or drains or gutters of any other **lot**, or any easements or other rights for those purposes;
- (t) of any easements or other interests (other than a mortgage) noted on the **plan** arising under the **Act** or the *Land Title Act 1994* or a building management statement;
- (u) of any easement, covenant or other right required by law to be given to any relevant authority or the owner of any neighbouring land or any other buyer of a **lot** in the **development**;
- (v) the **Seller** is a trustee of a trust which is not disclosed on the title to the **lot** or noted as **Seller** in the Reference Schedule;
- (w) the **Seller** causing the **body corporate** to hold one or more extraordinary general meetings whilst the **Seller** is the sole member of the **body corporate** and appoints a chairperson, secretary and treasurer, and attends to any other matters or business as the **Seller** considers necessary, for example those matters referred to in Sections 54, 56, 62 and Chapter 3, Part 3, Division 2 of the **Act** and Chapter 4 and Chapter 6 of the **module**;
- (x) the **Seller** causing the **body corporate** to enter into any agreements or arrangements including the **body corporate agreements** on terms that are different to those disclosed in the **contract** or **disclosure statement**;
- (y) the **Seller** not causing the **body corporate** to enter into the **body corporate agreements** or any one or none of them;
- (z) the service contractor under the **service contractors agreement** not residing within the **scheme**;
- (aa) the committee of the **body corporate** holding meetings and attending to matters which are not restricted issues for the committee, including consenting to a new **community management statement** for the **scheme**;
- (bb) the **body corporate** becoming a party to any easement which in the **Seller's** opinion is required for the **development** or by adjoining land owners, provided the **lot** is not adversely affected by the easements;
- (cc) occupation authorities, exclusive use or special privileges are granted over parts of the **common property** of the **scheme**;

- (dd) the **Seller** being unable to provide the type and design of the finishes and **chattels** in accordance with the **contract** provided any substitutes comply with relevant building codes and **approvals**;
 - (ee) the **body corporate** grants an approval for improvements on common property that are for the benefit of the **lot** or another lot and imposes conditions on the relevant owner of the benefited lot to be responsible for the maintenance, repair and running costs of the improvement on the **common property**;
 - (ff) the **body corporate** grants or accepts easements over part of or for the benefit of the **common property** of the **scheme**;
 - (gg) a change to the regulation module applicable to the **scheme** prior to the recording of the first **community management statement**;
 - (hh) the **body corporate** grants a lease or licence to any person over any part of the **common property** for any purpose or accepts a lease or licence over any property;
 - (ii) the **body corporate** consents to a new **community management statement** to amalgamate or subdivide lots in the **development**;
 - (jj) the proposed first **community management statement** in the **disclosure documents** does not accurately show the location of services in the **common property** on a services location diagram;
 - (kk) the services in the **common property** of the **scheme** cannot be accurately located until the **development** is substantially complete;
 - (ll) the **body corporate** grants areas of exclusive use or access over parts of the **common property** of the **scheme** which may be required under the terms of a building management statement
- for the **development** or a **body corporate agreement** relating to the service contractor or letting agent;
 - (mm) the **lot** or the **common property** being recorded on the Contaminated Land Register, Environmental Management Register or any similar register maintained by an **Authority** because the **land** or the **scheme land** is or was recorded on such a register;
 - (nn) the **land**, the **scheme land**, the **common property**, or the **lot** being recorded in the Contaminated Land Register or the Environmental Management Register because of something that occurs or contamination that is discovered during building of that **development** (or any part of it) or because of the installation of improvements within the **development** (or any part of it).
 - (oo) any services or facilities proposed to be located on the **common property** of the **scheme** are not constructed or completed by the **settlement date**.
- 16.2 This clause 16.2 applies if, as at the **contract date**, the **lot** is an **existing lot** and the **body corporate** has not held its first extraordinary general meeting. For the purposes of Section 209(1)(b)(ii) of the **Act** the **Buyer** agrees that any efforts by the **Buyer** to verify information contained in the **disclosure statement** will not be reasonable until the first extraordinary general meeting has been held and the **body corporate** has had reasonable time to update its records.

17. Body corporate agreements

- 17.1 The **Seller** may, within 12 months after establishment of the **scheme**, cause the **body corporate** to enter into the **body corporate agreements** with any party or parties which, in the **Seller's** opinion, are reasonably qualified to perform the obligations contained in that agreement.
- 17.2 The **Seller** may change the terms of the **body corporate agreements** as considered necessary by the **Seller** or the **Seller's Solicitors** for the effective

- control and management of the **scheme**, the **building** and the **development**. Subject to any rights of the **Buyer** under the **Act**, the **Buyer** must not **object** to any changes to the **body corporate agreements**.
- 17.3 The **Buyer** agrees that the terms of the proposed **body corporate agreements**:
- (a) achieve a fair and reasonable balance between the interests of the parties to those agreements; and
 - (b) are appropriate for the **scheme**,
- and that the powers to be exercised and functions required to be performed by the service contractor and letting agent under the:
- (a) **service contractors agreement**; and
 - (b) **letting authorisation agreement**,
- are appropriate for the **scheme** and do not adversely affect the **body corporate** or its ability to carry out its function.
- 17.4 The **body corporate** consents to the **Seller** causing the **body corporate** to enter into the **body corporate agreements** on the basis that the **Seller** will receive fees (or other benefits) for causing those agreements or any one or more of them to be entered into. The **Buyer** affirms any such action to be taken by the **Seller**.
- 17.5 The **Buyer** must not object or in any way make a claim or participate in (including voting for, authorising or otherwise procuring that) the **body corporate** objecting or making any claim arising out of the **Seller**:
- (a) causing the **body corporate agreements** or any one or more of them to be entered into with a party which is not related to the **Seller**;
 - (b) causing the **body corporate agreements** or any one or more of them to be entered into with a party or parties related to the **Seller**, including by common shareholders or company officers to the **Seller**; or
 - (c) obtaining a fee or deriving any form of benefit as a result of the **body corporate** entering into the **body corporate agreements** or any one or more of them.
- 17.6 The **Buyer** must vote against any motion of the **body corporate** that the **body corporate** object to or make a claim in relation to the matters set out in this clause.
- 17.7 Notwithstanding **settlement**, if there is a breach or anticipated breach by the **Buyer** of this clause, the **Seller** will be entitled to all reasonable **costs** incurred and all losses suffered as a result of, or arising from, the breach.
- 17.8 The **Seller** discloses to the **Buyer** that the amount of the fee that it may receive or the value that it or its associates may derive as a result of causing the **body corporate** to enter into the **service contractors agreement** and the **letting authorisation agreement** may be in the range of \$80,000.00 to \$120,000.00 or possibly more and will be retained by the **Seller** (or its associates) without distribution or payment of any part of it to the **body corporate**.
- 17.9 The **Buyer** acknowledges that the **Seller** has agreed to enter into this **contract** in reliance upon the acknowledgements and agreements made by the **Buyer** in this clause.

18. Infrastructure Agreement

- 18.1 The **Seller** may at the first extraordinary general meeting of the **body corporate**, cause the **body corporate** to enter into any necessary infrastructure agreements with the **lot owners** and/or **Authority** and/or other parties to allow **lot owners** the use and benefit of infrastructure utilities servicing their **lot**.

19. Payment of Price

- 19.1 At **settlement**, the **Buyer** must pay the **purchase price** or if a cash **deposit** is paid, the **balance price** by **bank cheques** as directed by the **Seller** or the **Seller's Solicitor**.

20. Adjustments

20.1 At **settlement**, the **Purchase Price** shall be adjusted for **outgoings** as provided for in this clause.

20.2 **Outgoings** are adjusted on the basis that:

- (a) the **Seller** must pay all **outgoings** for the period up to and including the **settlement date**;
- (b) the **Buyer** must pay all **outgoings** for the period after the **settlement date**.

20.3 Usually, **outgoings** must be adjusted:

- (a) if paid, on the amount paid;
- (b) if assessed but unpaid, on the amount payable (excluding any discount); or
- (c) if not assessed, on the amount that the Seller's Solicitor, acting reasonably, determines as the basis on which the adjustment will be made.

20.4 Land tax will be calculated for apportionment purposes on the basis that, as at midnight on the previous 30th June, the **Seller** owned no land other than its interest in the **land**, or if there was at that date a separate valuation for the **lot**, that the **Seller** owned no land other than the **lot**. If there is no separate valuation for the **lot**, then the land tax amount for apportionment purposes for the **lot** shall be determined using the following formula:-

$$\frac{\text{Amount} \times \text{CE}}{\text{ACE}}$$

Where:

Amount = amount of land tax payable on the **land**.

CE = Contribution entitlement for the **lot**.

ACE = Aggregate contribution entitlement for all **lots** in the **scheme**.

20.5 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 following will apply:

(a) Land tax will be apportioned on the greater of the specified amount or the amount calculated under sub-clause 4;

(b) the specified amount will be deducted from the **balance price** at **settlement** and paid by the **Seller** promptly after **settlement** to the Office of State Revenue; and

(c) Land tax will be treated as paid at the **settlement date**.

20.6 The amount paid by the **Seller** for **body corporate** or building insurance shall be adjusted using the following formula:

$$\frac{P \times IE}{AIE}$$

Where:

P = Premium paid by the **Seller**.

IE = Interest entitlement for the **lot**.

AIE = Aggregate interest entitlement for all **lots** in the **scheme**.

20.7 No adjustment shall be made in respect of water usage.

20.8 If any **outgoings** (other than land tax, which is dealt with under sub-clause 5), are assessed but unpaid at the **settlement date**, then the **Buyer** may deduct the amount payable from the **balance price** and pay it to the relevant authority or entity. If an amount is deducted under this clause, the relevant **outgoings** will be treated as paid at the **settlement date**.

20.9 There shall be an adjustment equal to the Queensland Land Registry registration fee for any mortgage or other encumbrance registered over the **title** which is being released at **settlement**.

20.10 If **settlement** does not occur on the **settlement date** due to the **Buyer's** default, or the **settlement date** is extended by agreement between the **Seller** and the **Buyer** following a request for an extension by the **Buyer**, then **outgoings**, at the **Seller's** election may be adjusted as if **settlement** took place on the original date specified for **settlement** under this contract.

21. Transfer Documents

- 21.1 Before the **settlement date** and in sufficient time for the **Seller** to sign them before the **settlement date**, the **Buyer** or the **Buyer's Solicitors** must provide to the **Seller's Solicitors** the **transfer documents**.
- 21.2 On receipt of an undertaking from the **Buyer's Solicitors** that the **transfer documents** will be used for stamping purposes only pending **settlement**, the **Seller** will lend the **transfer documents** to the **Buyer's Solicitors** without charge for stamping before **settlement**.

22. Settlement

- 22.1 The **settlement date** is the later of:
- (a) 14 days after the **Seller** notifies the **Buyer** that the **scheme** has been established; and
 - (b) 3 days after the date the **Seller** notifies the **Buyer** that:
 - (i) a **certificate of classification** has issued; or
 - (ii) (in the reasonable opinion of the **Seller**) the **lot** is ready for occupation and the **Seller** is ready to settle.
- 22.2 Settlement must take place at the **Seller's Solicitors** office or at any other place in Brisbane as notified by the **Seller** on the **settlement date** at a time agreed between 9.00am and 5.00pm and in default of agreement at a time that the **Seller** nominates between 2.00pm and 5.00pm. Clause 29 does not apply to any time which may be agreed upon between 9.00am and 5.00pm.
- 22.3 On the **settlement date**, the **Buyer** must:
- (a) pay to the **Seller** the **purchase price**, less the cash **deposit** held by the **deposit holder**;
 - (b) pay to the **Seller** any other money owing to it by the **Buyer** under the **contract**; and
 - (c) provide a letter addressed to the **deposit holder**, if required, authorising the payment of the

deposit to the **Seller** (or a person nominated by the **Seller**).

- 22.4 On the **settlement date**, the **Seller** must give to the **Buyer**:
- (a) vacant possession of the **lot** unless agreed between the **Buyer** and **Seller** (or the **Seller's agent**).
 - (b) properly completed unstamped Land Registry Form 1 Transfer;
 - (c) properly completed Land Registry Form 24 and the Land Registry Form 25 (if applicable);
 - (d) any certificate of title for the **lot** required to register the transfer;
 - (e) a properly signed release (full or partial) of any mortgage over the **lot** and, if it is unstamped, a *Duties Act 2001* Form 5.5;
 - (f) any other properly signed document required by law to be signed by the **Seller** to allow stamping or registration of the transfer; and
 - (g) all keys, access devices and codes applicable to the **lot** and the **development** or make them available to the **Buyer** at the **development**.

22.5 No paper certificate of title for the **title** will be provided at **settlement**. The **Buyer** acknowledges that the titling arrangements practiced by the Queensland Land Registry are computerised so that a paper certificate of title is not issued unless registered by the registered owner. The **Seller** will not request a paper certificate of title and the **Buyer** will not object to there being no paper certificate of title at **settlement**.

22.6 Notwithstanding anything else in this **contract**, the parties agree that if the **Seller** gives the **Buyer** a notice pursuant to section 214 of the **Act**, the **settlement date** will be one **business day** after the period prescribed by that section of the **Act**.

23. Buyer's Breach of the Contract

23.1 The **Buyer** is in breach of the **contract** if:

- (a) the **Buyer** breaches or fails to comply with any obligation under the **contract**; or
- (b) the **Buyer**, being a natural person:
 - (i) is sentenced to imprisonment for a term exceeding 1 month; or
 - (ii) is committed to a psychiatric hospital or in the **Seller's** opinion becomes of unsound mind; or
- (c) the **Buyer**, being a company;
 - (i) is subject to an application for its winding up;
 - (ii) is ordered to be wound up;
 - (iii) enters into a scheme of arrangement with creditors;
 - (iv) resolves to go into voluntary liquidation;
 - (v) enters into a scheme of arrangement for reconstruction purposes; or
 - (vi) becomes subject to any form of external administration referred to in the *Corporations Act*.

23.2 If the **Buyer** breaches the **contract**, the **Seller** may affirm or terminate the **contract**.

23.3 If the **Seller** affirms the **contract**, the **Seller** may:

- (a) sue the **Buyer** for damages for breach, or sue for specific performance and damages in addition to or instead of specific performance; and
- (b) recover from the **Buyer** as a liquidated debt any part of the **deposit** that the **Buyer** has failed to pay, and the amount recovered by the **Seller** must be paid to the **deposit holder**.

23.4 If the **Seller** terminates the **contract** the **Seller** may:

- (a) declare any part of the **deposit** paid by the **Buyer** forfeited and/or sue the **Buyer** for damages for breach; or
- (b) declare any part of the **deposit** paid by the **Buyer** forfeited and/or re-sell the **lot**, and any deficiency in the price on a resale, including any additional outgoings and the expenses arising from the resale shall be recoverable by the **Seller** from the **Buyer** as liquidated damages,

and in either case the **Seller** may recover from the **Buyer** as a liquidated debt any part of the **deposit** that the **Buyer** failed to pay.

23.5 The **Seller's** rights under this clause are in addition to any other rights which the **Seller** may have at law or in equity.

23.6 The **Buyer** indemnifies the **Seller** for all and any loss the **Seller** suffers and **costs** the **Seller** incurs as a result of the **Buyer's** default.

23.7 The **Seller** is entitled to damages for losses suffered and **costs** incurred as a result of the **Buyer's** default, including legal costs on a solicitor and own client basis.

23.8 If before **settlement** the **Buyer** dies, then the **Seller** may terminate this **contract** in which case the **deposit** and **interest** must be released to the **Buyer's** estate or trustee as the case may be.

24. Seller's Breach of the Contract

24.1 The **Seller** is in breach of the **contract** if the **Seller** breaches or fails to comply with any obligation under the **contract**.

24.2 If the **Seller** breaches the **contract**, the **Buyer** may affirm or terminate the **contract**.

24.3 If the **Buyer** affirms this **contract** after the **Seller** breaches the **contract**, it may sue the **Seller** for damages and, if the **building** and the **property** has been built, for specific performance or both.

24.4 If the **Buyer** terminates this **contract** after the **Seller** breaches the **contract**, the **Buyer** may do any or all of the following:-

- (a) sue the **Seller** for the **deposit** (if paid) and any **interest**; and
- (b) sue the **Seller** for damages.

24.5 The **Seller** indemnifies the **Buyer** for all and any loss the **Buyer** suffers and **costs** the **Buyer** incurs as a result of the **Seller's** default.

24.6 The **Buyer** is entitled to damages for losses suffered and **costs** incurred as a result of the **Seller's** default, including legal costs on a solicitor and own client basis.

25. Interest

25.1 Without limiting any other right either the **Buyer** or the **Seller** have against the other, if money payable by a party under this **contract** is not paid when due, the party must:-

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

calculated at 15% per annum on the amount outstanding from the due date for payment until payment is made (inclusive). That interest may be recovered from the relevant party as liquidated damages.

25.2 For avoidance of doubt, and without waiver of the **Seller's** rights, if the **Buyer** fails to effect **settlement** on the due date, then the **Seller** may elect to charge interest (which is payable at **settlement**) on the full **purchase price** without making any allowance for the **deposit** having been paid by the **Buyer** (this clause is included in these Sale Conditions to take into account that the **Buyer** is entitled to receive the **interest** if this **contract** settles).

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

26. Notice of Default to be given by Buyer before Termination

26.1 This clause does not apply if the **Buyer** has indicated in the Reference Schedule that the **property** is being acquired for Personal Use (that is, if the **Buyer** has ticked YES to Personal Use).

26.2 This clause applies:-

- (a) notwithstanding any other provision of this **contract**;
- (b) if the **Seller** is in default; and
- (c) such default entitles the **Buyer** to terminate this **contract**.

26.3 If this clause applies, the **Buyer** must not terminate or purport to terminate this **contract** unless:

- (a) the **Buyer** has first given the **Seller** a notice which specifies the default and requires the **Seller** to remedy the default within a period of not less than 10 **business days** after the notice is given to the **Seller**; and
- (b) the 10 **business days** period has expired and the **Seller** has not remedied the default.

27. Risk

Subject to Section 64 of the *Property Law Act 1974*, the **lot** and the finishes and **chattels** are at the **Buyer's** risk on and from the date that the **Seller** gives notice of **plan registration** to the **Buyer**. However if **plan registration** has occurred at the **contract date** the risk is the **Buyer's** from 5.00pm on the first day after the **contract date**.

28. Costs

The **Seller** and the **Buyer** must pay their own costs associated with the **contract**, but the **Buyer** must pay all stamp or transfer duty. If the **Buyer** does not, the **Seller** may pay it and recover it from the **Buyer** as a liquidated debt.

29. Time of the Essence

- 29.1 In every respect, time is of the essence of this contract.
- 29.2 If a date by which something under this contract must be done is extended by agreement between the Buyer and the Seller or by right of a party under this contract, for example, the date for payment of the deposit or the settlement date, then, despite the extension, time remains of the essence of this contract whether or not the term of the agreement or notification recording the extension specified that time is to remain of the essence as a term of the agreement or notification to extend.

30. Measurement of Time

In relation to measurement of time:

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

31. No Merger

Even after settlement of the contract and registration of the transfer documents, any term or condition of the contract which can still take effect remains in full force and effect.

32. Misdescriptions

If there is any mistake in the contract regarding the description of the land, the lot or the common property of the scheme, the contract will not be annulled, but if the mistake is material, then the affected party is entitled to reasonable compensation (unless the rights of the affected party are restricted by the contract).

33. Scheme Name

The Buyer agrees that as at the contract date the Seller intends the name of the scheme to be "Villas on Falso". Notwithstanding this, the Seller may choose any other name that it thinks fit as

the name of the scheme for the purposes of the first community management statement and for the purposes of the plan, and the Buyer may not object to the name that the Seller chooses.

34. Assignment of the Land

- 34.1 The Seller may at any time, without the Buyer's consent, assign its interest or part of its interest in the contract and the land (or any part of it) to another person.
- 34.2 If the Seller assigns the land (or any part of it) as contemplated by sub-clause 1, then the Seller must deliver to the Buyer:
- (a) notice of assignment of this contract in accordance with Section 199 of the *Property Law Act 1974*; and
 - (b) a deed poll signed by the assignee, under which the assignee agrees to be bound by the obligations of the Seller under this contract.
- 34.3 Upon delivery to the Buyer of the notice and deed in accordance with sub-clause 2:
- (a) the Seller is released from all liabilities and obligations to the Buyer under this contract;
 - (b) the Buyer (and the guarantor, if any) becomes bound by the terms of this contract but in favour of the assignee, as if the assignee was originally named in this contract instead of the Seller;
 - (c) the Buyer must, within 10 business days, if the Buyer has secured payment of the deposit by way of lodgement of a bank guarantee, which bank guarantee cannot be assigned to the assignee, replace the bank guarantee with a cash deposit or a new bank guarantee which specifies the assignee as the Seller; and
 - (d) any cash deposit will be held for the benefit of the Buyer and the assignee on the terms of this contract.

35. Enquiries of Body Corporate

The **Seller** authorises the **Buyer** and its solicitors to apply to the **body corporate** to do any of the things specified in Section 205 of the Act.

36. Development Controls and Management Arrangements

36.1 Upon recording of the first **community management statement** the **Seller** may cause the **body corporate** to do any or all of the following:

- (a) hold its first general meeting and appoint a chairperson, secretary and treasurer at that meeting;
- (b) enter into an agreement with a supplier or manager of utility services for supply to the **scheme** or **body corporate**;
- (c) enter into a deed in compliance with Section 116 of the Act;
- (d) enter into an arrangement to hire purchase and/or lease (or any similar type of arrangements) assets of the **body corporate**; and
- (e) do anything else that the **Seller** is permitted to cause the **body corporate** to do under the **contract**.

36.2 To remove any doubt, the **Seller** is not obliged to do any of the things in clause 36.1, and if the **Seller** does not, the **Buyer** cannot object.

37. Power of Attorney

37.1 The **Buyer** irrevocably appoints, on a joint and several basis:

- (a) the **Seller**; and
- (b) if the **Seller** is a company or company trustee, each director, secretary and principal officer of the **Seller**;

to be attorney of the **Buyer**.

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

- (a) to attend and vote (or do either) in the name of the **Buyer** at all meetings of the **body corporate** or of the **committee**; and
- (b) to complete, sign and lodge any voting paper (or any other document include a proxy, appointment form, corporate owner nominee notification form or other representative notification form and any other notice under the Regulation Module) 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** in respect of any motion or resolution,

for or relating to any one or more of the matters or things set out in the "Power of Attorney" disclosure contained in the **disclosure documents**.

37.3 The **Power of Attorney** expires on the latest date permitted under Section 219 (3) of the Act and not sooner than that date.

37.4 As far as it is lawful, the rights of the **Seller** under this clause can be exercised in the **Seller's** total discretion and to the exclusion of the **Buyer**. Without limitation, the rights of the **Seller** under this clause can be exercised:

- (a) even if the exercise involves a conflict of interest or duty; or
- (b) even if the attorney has a personal interest in doing so.

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

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

37.7 While the **Power of Attorney** remains in effect, the **Buyer** must not transfer, assign or mortgage the **property** except to a transferee, assignee or mortgagee who has first given a power of attorney in favour of the **Seller** (and if the **Seller** is a company or company trustee, each director, secretary and principal officer of the **Seller**) on the same terms as the **Power of Attorney**. If the **Buyer** does

not comply with this provision, the **Buyer** indemnifies the **Seller** against all loss and damage incurred by the **Seller** as a result.

- 37.8 If directed to do so by the **Seller** at any time, the **Buyer** must, at the **Buyer's** expense take all steps available in order to give full effect to the **Power of Attorney** including signing and completing any further instrument provided by the **Seller**.
- 37.9 So as to ensure the validity of the **Power of Attorney**, the **Buyer's** signing of the **contract** must be witnessed. The **Seller** may at any time declare itself not bound by this **contract** until such time as the **Buyer's** signing has been properly witnessed.
- 37.10 For the purposes of this clause, the **Seller** includes any assignee of the **Seller**.

38. Personal Guarantee

- 38.1 This clause applies if the **Buyer**:
- (a) is a company;
 - (b) is a company trustee of a trust; or
 - (c) is an individual trustee of a trust.
- 38.2 If this clause applies, the **Buyer** must arrange that its performance under this **contract** is guaranteed, in the form of the **guarantee**, by:
- (a) in the case of the **Buyer** being a company, the directors of the company, and if required by the **Seller**, the shareholders of the company;
 - (b) in the case of the **Buyer** being a company and a trustee of a trust, the directors of the company, and if required by the **Seller**, the shareholders of the company and the principal beneficiaries of the trust; and
 - (c) 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.
- 38.3 The **guarantee** must be signed by the **Guarantors** and witnessed before the **Seller** signs this **contract**.

- 38.4 The **Buyer**, and the **Guarantors** by signing the **guarantee**, acknowledge that if the **Seller** transfers or assigns its interest in this **contract** and/or the **land** (or any part of it, for instance, the **scheme land**), the **Seller** also assigns or transfers the benefit of the **Guarantor's** obligations and indemnities under the **guarantee** to the transferee or assignee.

39. Buyer a Trustee

- 39.1 The **Buyer** warrants to the **Seller** that the **Buyer** is not buying the **property** as undisclosed trustee of any trust.
- 39.2 If the **Buyer** is described in the Reference Schedule as being trustee of a trust, then the **Buyer** warrants to the **Seller** that the **Buyer**:-
- (a) is sole trustee of the trust;
 - (b) makes this **contract** for the sole benefit of the beneficiaries of the trust;
 - (c) has taken all steps necessary to entitle it to be indemnified from the assets of the trust against any liability undertaken under this **contract**; and
 - (d) will, upon request, deliver to the **Seller** copies of all documents establishing or amending the trust or making appointments under the trust.

40. Age of Majority

The **Buyer**, if a natural person, whether buying as a trustee of a trust or for its own benefit, warrants to the **Seller** that the **Buyer** is at least 18 years of age at the **contract date**.

41. Entire Agreement

- 41.1 The **contract** sets out the entire agreement between the **Buyer** and the **Seller**, and supersedes all prior negotiations.
- 41.2 The **Buyer** warrants that it has not relied on any statement made by the **Seller** (other than one contained in the **contract**), nor any real estate agent or other consultant appointed by the **Seller**, and that the **Buyer** has signed the

contract after making its own investigations and enquiries. The **Buyer** agrees that it does not have any right to **object** on the ground of any such alleged statement.

- 41.3 In particular, the **Buyer** warrants that it has not relied on any artist's impression, model, display unit, plans, sketches, specifications or sales aid of any description (other than as contained in the **contract**) and the **Buyer** agrees that it does not have any right to make **object** on the ground of any such alleged reliance.
- 41.4 The **Seller** agrees that no real estate agent or other consultant appointed by the **Seller** has authority to change or waive any term of the **contract**, except the **Seller's Solicitors**.
- 41.5 The **Buyer** warrants to the **Seller** that the **Buyer's Solicitor** or agent has the **Buyer's** authority to make changes to the **contract** on its behalf.
- 41.6 The **Buyer** agrees that amendments to the **contract** are enforceable against the **Seller** only if they are made to the Reference Schedule, Sale Details or set out in Special Conditions and have been initialled by the **Seller** or accepted by the **Seller** through notice in writing from the **Seller's Solicitors**.

42. Display Units and Signs

- 42.1 The **Buyer** must not **object** against the **Seller's** efforts to sell and/or lease lots in the **development**, either before or after the **settlement date**.
- 42.2 In particular, the **Seller** may:
- (a) Use any lot (other than the **lot**) in the **development** as a display unit;
 - (b) display signs;
 - (c) use the **common property**; and
 - (d) have uninterrupted access to the **development** between 9.00am and 5.00pm on each day.
- 42.3 The **Seller** exercising its rights under this clause, must at all times give reasonable consideration to the **Buyer's** convenience and comfort.

43. Variation

An amendment or variation to this **contract** is not effective unless it is in writing and signed by or on behalf of both of the **Buyer** and the **Seller**.

44. Waiver

- 44.1 A party's failure or delay to exercise a power or right does not operate as a waiver of that power or right.
- 44.2 The exercise of a power or right does not preclude either its exercise in the future or the exercise of any other power or right.
- 44.3 A waiver is not effective unless it is in writing.
- 44.4 Waiver of a power or right is effective only in respect of the specific instance to which it relates and for the specific purpose for which it is given.

45. Severance

If it is held by a Court that:

- (a) any part, clause or part of a clause of this **contract** is void, voidable, illegal or unenforceable; or
- (b) this **contract** is void, voidable, illegal or unenforceable unless any part, clause or part of a clause of this **contract** is severed from this **contract**,

that part, clause or part of the clause will be severed from this **contract** unless to do so would change the underlying principal commercial purposes of this **contract**.

46. Staged Development

Intentionally Deleted

47. Finance

- 47.1 If the details under the heading Finance in the Reference Schedule have not been crossed out, then this **contract** is conditional on the **Buyer** obtaining approval of a loan for the **finance amount** from the **financier** by the **finance approval date** on terms satisfactory to

the **Buyer** (acting reasonably). The **Buyer** must take all reasonable steps to obtain approval.

47.2 The **Buyer** must give the **Seller** notice that:

- (a) approval has not been obtained by the **finance approval date** and the **contract** is terminated; or
- (b) the finance condition in clause 47.1 has been either satisfied or waived by the **Buyer**.

47.3 The **Seller** may terminate the **contract** by notice to the **Buyer** if the **Buyer** does not give notice to the **Seller** under clause 47.2 by 5.00pm on the **finance approval date**. This is the **Seller's** only remedy for the **Buyer's** failure to give notice.

47.4 The **Seller's** right under clause 47.3 is subject to the **Buyer's** continuing right to terminate the **contract** under clause 47.2(a) or waive the benefit of this clause by giving written notice to the **Seller** of the waiver.

48. Caveat and Settlement Notice

48.1 The **Buyer**:

- (a) must not lodge or register a caveat affecting the **land** (or any part of it) or the **lot**; and
- (b) must ensure that the **Buyer's** financier or any other person acting on the **Buyer's** behalf complies with this clause 48.1.

48.2 The **Buyer**:

- (a) must not lodge a settlement notice under the *Land Title Act 1994* over the **lot** until 5 days after the **Seller** gives notice to the **Buyer** of **plan registration** under clause 22.1; and
- (b) must not lodge a settlement notice over any other part of the **land** (other than the **lot**); and
- (c) must ensure the **Buyer's** financier or any other person acting on the **Buyer's** behalf complies with this clause 48.2.

48.3 The **Buyer** irrevocably appoints the **Seller** and the **Seller's** directors and secretary, severally, to be the **Buyer's**

attorney for the purpose of signing any document (including a withdrawal of caveat) and doing anything in order to procure the release/withdrawal of any caveat lodged or registered by **Buyer**.

48.4 The **Buyer** agrees that the power of attorney given to the **Seller** in subclause 3 is a "power of attorney given as security" in terms of section 10 the *Powers of Attorney Act 1998* and may not be revoked by the **Buyer** without consent of the **Seller** and may be exercised even if it involves a conflict of duty or if the attorney has a personal interest in doing so.

49. Instalment Contract

49.1 In this clause:

"**PLA Act**" means the *Property Law Act 1974*.

"**Instalment Contract**" has the meaning given to it under Section 71 of the *PLA Act*.

49.2 If:

- (a) it is found that this **contract** is an **instalment contract**; or
- (b) any interpretation of any annexure or **special condition** causes this **contract** to be or become an **instalment contract**; or
- (c) any negotiation or agreement reached between the **Seller** and the **Buyer** following formation of this **contract** causes this **contract** to be or become an **instalment contract**,

then the **Buyer** consents to the **Seller** mortgaging and or charging the **land** (including the **lot**) on terms and conditions the **Seller** in its total discretion determines. The **Buyer** acknowledges this consent is consent for the purposes of Section 73(1) of the *PLA*.

49.3 Despite any contrary provision in this **contract** including a contrary provision contained in the **special conditions**, the **Buyer** is not bound to make a payment or payments of amounts which total in excess of 10% of the **purchase price** (including any variations) without becoming entitled to receive a conveyance in exchange for the payment

or payments. If the **Buyer** pays more than 10% of the **purchase price** as **deposit**, the **Buyer** is entitled to a refund of the amount in excess of 10% upon request to the **Seller**. If the **Seller** refunds an amount paid in excess of the 10% **deposit**, the **Buyer** will still be required to pay the **purchase price** less any cash **deposit** paid at **settlement**.

49.4 Nothing in this **contract** permits the **Buyer** to elect that the **contract** be performed in a manner which would constitute it to be an **instalment contract**. The provisions of sub-clause 3 are mandatory overriding provisions and override any other provision of this **contract** including the **special conditions**. The **Buyer** is not bound to make payment or payments of amounts which total in excess of 10% of the **purchase price** without being entitled to receive a conveyance in exchange for the payment or payments.

50. F.I.R.B. Requirements

50.1 The **Buyer** warrants to the **Seller** that its status as a "foreign person" within the meaning of the provisions of the *Foreign Acquisitions and Takeovers Act 1975* (Foreign Interest) as shown in the Reference Schedule is correct.

50.2 If the **Buyer** is a Foreign Interest, the **Buyer** warrants to the **Seller** that either:

- (a) the Treasurer of Australia has consented under the *Foreign Acquisitions and Takeovers Act 1975* to the **Buyers'** purchase of the **property**; or
- (b) the Treasurer's consent is not required to the **Buyers'** purchase of the **property**; or
- (c) the **Buyer** has received from the **Seller** a copy of a consent under the *Foreign Acquisitions and Takeovers Act 1975* to sell up to 50% of the apartments in the development to Foreign Interests.

50.3 In order to permit the **Seller** to comply with its obligations to the Treasurer of Australia, the **Buyer** must, within 10 **business days** after receiving a request from the **Seller**, give to the **Seller's Solicitors** a statement showing:

- (a) the name, citizenship and ordinary residence of any individual **Buyer**;
- (b) if the **Buyer** is a company, the names, citizenship and ordinary residential address of all directors and shareholders of the **Buyer**;
- (c) if the **Buyer** is acting as trustee, the names, citizenship and ordinary residential addresses of all principal beneficiaries of trust;
- (d) whether or not the **Buyer** is a Foreign Interest; and
- (e) any other relevant information reasonably required by the **Seller**.

50.4 The **Buyer** agrees that if any of the particulars given under sub-clause 3 change before **settlement**, then the **Buyer** must give a further statement to the **Seller's Solicitors** within 5 **business days** of the change occurring.

50.5 If the **Buyer** does not deliver a statement as required by sub-clauses 3 and 4, the **Buyer** will be in default of this **contract**.

50.6 The **Buyer** consents to any information given by the **Buyer** under this clause being included in any reports to be provided to any relevant **Authority**.

51. Service of Notices

51.1 A notice required or permitted by the **contract** must be in writing.

51.2 The **Seller** may serve a notice on the **Buyer** by:

- (a) giving it to the **Buyer** personally;
- (b) posting or faxing it to the address or fax number shown in the Reference Schedule; or
- (c) posting, faxing or emailing it to the **Buyer's Solicitors**.

51.3 The **Buyer** may serve a notice on the **Seller** by posting, faxing or emailing it to the **Seller's Solicitors**.

51.4 Any notice given by post is deemed to have been given 2 **business days** after it was posted.

51.5 Any notice given by fax is deemed to have been given on production of a transmission report by the machine from which the fax was sent, indicating that the fax was successfully sent in its entirety. However, if a fax is sent on a day which is not a **business day** or after 5.00pm on a **business day**, it is deemed to have been sent on the next **business day**.

51.6 A notice may be given by a party's solicitor and any notice or other written communication given by a party's solicitor will be deemed to be given with that party's authority.

51.7 The **Seller** may send notices by email to the **Buyer** and its solicitor. Such notice will be taken as validly given if the **Seller** receives an electronic notification that the email was delivered to the recipient. The **Seller** may, in the **Seller's** discretion, notify the **Buyer** that it will also accept notices from the **Buyer** in email format on the same terms.

51.8 In relation to any obligation the **Seller** has under Section 214(2) of the **Act** ("Section") to give a "further statement", for the purposes of the Section, the parties agree that the **Seller** may give the **Buyer** the "further statement" at any time up to the later of:

(a) 5.00 pm on the date the **Seller** gives notice to the **Buyer** calling for **settlement**; and

(b) the time the **Seller** is required to give the "further statement" under the Section.

51.9 The **Buyer** and **Seller** agree that no notice or further disclosure of any kind made by the **Seller** to the **Buyer** constitutes a "further statement" for the purposes of Section 214 of the **Act** unless any such notice or disclosure specifically states that it is intended to constitute such a further statement.

51.10 For the purposes of Section 11 and 12 of the Electronic Transactions (Qld) Act 2001, the **Buyer** and the **Seller** consent to information being given by electronic communication.

51.11 For the purposes of Section 191 of the Body Corporate and Community Management (Accommodation Module) Regulation 2008 the **Buyer** authorises the **Seller** and the **Seller's Solicitor** to act as its agent to give notice to the **body**

corporate after **settlement** that the **Buyer** has become the owner of the lot. The **Seller** is authorised to use the latest contact particulars of the **Buyer** given to it by the **Buyer** for the purposes of giving the notice to the **body corporate** and if no such particulars have been given, then the **Buyer's** particulars in the Reference Schedule.

52. Exclusive Use Areas

52.1 Each exclusive use area described under the heading **property** in the Reference Schedule will attach to the lot. If an area of exclusive use is to attach to the lot by allocation, the **Seller** agrees to give the proper notices to the **body corporate** to give effect to the allocation on or before the **settlement date**. For the purposes of the **Act**, the **Buyer** agrees to the allocation of the area of exclusive use common property to the lot.

52.2 Subject to any entitlement the **Buyer** has under the **Act**, the **Buyer** will not **object** to and will not be materially prejudiced by any change in the location of or any **minor variation** in the size or dimensions of any exclusive use area applicable to the lot or any other lot in the development.

52.3 The **Buyer** will not **object** if the **community management statement** which contains the authorised allocation of the relevant area referred to under the heading **property** in the **Reference Schedule**, has not been recorded by the **settlement date**.

53. Proposed Schedule of Body Corporate Levies

53.1 The **Seller** has obtained an estimate of the costs in respect of the **body corporate** for the first year after **plan registration**. The proposed amount of **body corporate levies** referred to in the **disclosure statement** is an estimate only. Other than in respect of rights the **Buyer** may have under the **Act**, the **Buyer** will not **object** where the actual expenditure differs from the proposed amount of **body corporate levies** due to matters beyond the **Seller's** control such as (without limitation) increases in taxes or changes in law.

53.2 This clause does not apply and the **Buyer** will not **object** in relation to the proposed

amount of **body corporate levies** if **plan registration** has occurred on or before the **contract date**.

54. Queensland Law Applies

54.1 The **contract** is governed by Queensland law. The **Buyer**, **Seller** and the **guarantor** submit to the exclusive jurisdiction of the courts of Queensland.

55. Further Acts

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

55.2 Without limiting sub-clause 1, if requested to do so by the **Seller**, the **Buyer** must, at its own expense, do all things necessary in order to complete any omission, rectify any error, waive any statutory right (so far as it is lawful to do so) or resolve any ambiguity in this **contract** so as to facilitate this **contract** being considered by the **Seller's** construction financier as a presale for construction funding purposes.

56. Privacy Notice & Acknowledgement

56.1 The **Seller's** policy is to comply fully with the National Privacy Principles for the fair handling of personal information as set out in the Privacy Act 1988 (as amended).

56.2 The **Seller** will provide to the **Buyer** on request access to the **Buyer's** personal information. More information on how the **Seller** manages the personal information it holds is available from the **Seller** whose contact details are shown in the Reference Schedule.

56.3 The **Seller** uses the **Buyer's** personal information for the purpose of providing the **Seller's** products and services to the **Buyer**, improving and marketing the **Seller's** products and services generally and obtaining finance. The **Seller** may use the information to make further contact with the **Buyer** for the purpose of providing information on the **Seller's** range of products and services.

56.4 The **Seller** may disclose the **Buyer's** personal information as may be required to the **Seller's** consultants, related

companies, contractors, financiers, credit providers, insurers, marketing agents, sales agents, rental agents, staff and to any government body charged with the responsibility of recording transactions relating to the transfer of land.

56.5 The **Buyer's** failure to provide accurate and up to date personal information may mean that the **Seller** cannot proceed with this **contract**.

56.6 The **Seller** may also disclose to a Credit Reporting Agency pursuant to Section 18E(8)(c) of the *Privacy Act* personal information relating to any application for finance or credit that the **Buyer** may make through or with the **Seller's** assistance.

56.7 The **Buyer** consents to the **Seller** using the **Buyer's** information in the **Seller's** absolute discretion for the purposes, uses and disclosures described above, or in the **Seller's** opinion related to them, and acknowledges that in providing consent to the disclosure and use of the **Buyer's** personal information that such information may be utilised for any other authorised purpose under Part IIIA of the *Privacy Act* (as amended).

57. Resale

If, prior to **settlement**, the **Buyer** enters into a contract, option agreement or other arrangement for the sale of the **property**, the **Buyer** must immediately give to the **Seller**, details of such sale, including:

- (a) purchase price;
- (b) identity of new buyer;
- (c) contact details of the new buyer; and
- (d) any other information reasonably required by the **Seller**.

58. Representation on Views

58.1 This clause applies in relation to any representations made by or on behalf of the **Seller** about potential views available from a **building** or the **lot** at or after **settlement**. Without limitation, such representations may have been made to the **Buyer** as follows:

- (a) orally;

- (b) by depiction in photographs and/or commentary contained in the Marketing Material;
- (c) by depiction in photographs and/or commentary displayed in the onsite sales centre (if any) and/or any other sales centre;
- (d) by depiction in photographs and/or commentary in advertising materials (including photographic depiction in print and/or electronic media and motion film depiction in television and/or electronic advertising; or
- (e) by actual viewing by the **Buyer** onsite from any viewing platform or apparatus,

(the **View Representations**).

58.2 The **Buyer** acknowledges that:

- (a) the **Seller** has no control over future development by parties unrelated to the **Seller** of properties surrounding the **land**; and
- (b) if properties surrounding the **land** are developed, such development may interrupt the views from a **building** or the **lot** as compared to those represented in any **View Representations**.

58.3 The **Buyer** must not object as a result of the actual views available to the **Buyer** from the **building** or the **lot** at or after **settlement** not being the same as the potential views represented in any **View Representations** because any development surrounding the **land** which occurs before or after **settlement** restricts (whether wholly or partially) the actual views available to the **Buyer**.

59. Agent

59.1 The **Seller** acknowledges the appointment of the **Agent** as the **Seller's Agent** to introduce the **Buyer** to buy the **lot**.

60. Saturdays, Sundays, Public Holidays

60.1 If anything to be done under the **contract** falls on a day which is not a **business**

day, then it must be done on the next **business day**.

61. Seller May Sign By Attorney

61.1 The **Seller** acknowledges that the **contract**, the **disclosure statement** and any documents to be signed by the **Seller** under the **contract**, may be signed by an attorney duly appointed by the **Seller**.

62. Guarantor

62.1 Each **guarantor**:

- (a) confirms their request for the **Seller** to enter into the **contract** with the **Buyer**;
- (b) accepts all obligations specified in the **contract**;
- (c) agrees to be bound as a party to the **contract**;
- (d) guarantees to the **Seller** that the **Buyer** will comply with the **contract**; and
- (e) signs the **contract** as a deed.

62.2 The **guarantor** guarantees to the **Seller** payment of all money and the performance of all obligations by the **Buyer** under the **contract**. The **guarantor** is liable to the **Seller** if the **Buyer** breaches the **contract**. The **guarantor** agrees to pay to the **Seller** any money for the **Seller's** loss due to the breach, as a liquidated debt.

62.3 The **guarantor** is liable:

- (a) even if the **Seller** does not sue the **Buyer** or does not enforce all of its rights against the **Buyer**, or the **Seller** delays in doing so;
- (b) even if the **contract** is varied;
- (c) even after the **contract** is terminated - for any breach that occurred before the **contract** was terminated or arose out of the **contract** being terminated;
- (d) even if a **guarantor** has not signed the **contract**;
- (e) even if the **Seller** has breached the **contract**;

- (f) even after the **Seller** has assigned its rights under the **contract**;
 - (g) even if the **Buyer**, being a company, is or becomes subject to any form of external administration referred to in the *Corporations Act* and enters into a compromise or arrangement with any of its creditors, or both;
 - (h) even if the **Seller** has given a concession to the **Buyer** or to the **guarantor** or to any other person;
 - (i) even if the **Seller** enters into any agreement, composition of compromise relating to this **contract** between the **Buyer** and the **Seller** or any other person;
 - (j) even if this **contract** is disclaimed following the **Buyer's** insolvency; or
 - (k) even if the **Seller** cannot enforce its rights against the **Buyer** under this **contract**.
- 62.4 If the **Buyer** dies or becomes incompetent or insolvent, the **Seller** has the **Buyer's** authority to claim or prove on the **Buyer's** behalf for all money owed, owing, or contingently owed or owing under the **contract** or guarantee contained in the **contract**.
- 62.5 The **Seller** may recover from the **guarantor** all of its costs, including legal costs on a full indemnity basis in enforcing this guarantee and the **contract**.
- 62.6 The **guarantor** indemnifies the **Seller** against any liability, loss and costs incurred by the **Seller** resulting from the **Buyer's** breach of the **contract**. The indemnity contained in this clause is independent of and in addition to the guarantee given under clauses 62.1 to 62.4.
- 62.7 If the **Seller** exercises its rights of assignment under clause 34, the **Seller** may also assign the benefit of all of the **guarantor's** obligations in this clause.
- 62.8 The **contract** is binding on the **Buyer** and the **Seller** even if the **guarantor** does not sign the **contract**, but in that case the **Seller** may end the **contract** by giving the **Buyer** written notice, at any time until the **guarantor** has signed the **contract**.

- 62.9 A **guarantor's** liability under this guarantee is not prejudiced, affected or discharged by any compounding, compromise, release, abandonment, waiver, variation, relinquishment or renewal of any of the **Buyer's** rights or those of a co-guarantor.
- 62.10 The **guarantor** is not entering into the **contract** as a result of any representation, promise or statement by the **Seller** or anyone on the **Seller's** behalf that is not contained in this **contract** and clauses 41.2 and 41.3 apply with appropriate changes to the **guarantor**.
- 62.11 A **guarantor** who is a trustee is bound both personally and in their capacity as a trustee. A **guarantor** means and includes the **guarantor's** successors as trustee of the trust and any co-trustees. A trust means any trust of which the **guarantor** is trustee whether the existence of the trust is disclosed to the **Seller** or not.

63. GST

- 63.1 The **Buyer** and the **Seller** agree that the **purchase price** is inclusive of **GST** but all other **payments** have been calculated without regard to **GST**.
- 63.2 Notwithstanding sub-clause 1, if and to the extent that any part of the supply of the **property** is a Taxable Supply, the **Buyer** and the **Seller** agree that, if it is legally entitled to do so, the **Seller** will apply the **margin scheme** to work out the amount of **GST** payable on that supply. The **Seller** need not issue a Tax Invoice to the **Buyer** for any Taxable Supply where the **GST** is calculated under the **margin scheme**.
- 63.3 If the whole or any part of any payment other than the **purchase price** is the consideration for a taxable supply for which the payee is liable to pay **GST**, the payer must pay to the payee an additional amount equal to the **GST Amount**, either concurrently with the payment or as otherwise agreed in writing between the payer and the payee.
- 63.4 Any reference to a cost or expense in this **contract** excludes any amount in respect of **GST** forming part of the relevant cost or expense when incurred by the relevant party for which that party can claim an Input Tax Credit.

- 63.5 The payer will pay to the payee on demand any interest, penalties, fines or other charges to the extent that they arise from the payer's failure to make a payment when due under the **contract**.
- 63.6 This clause will not merge on **settlement** or termination of this **contract**.
- 63.7 Words starting with a capital letter which are not defined in this clause but which have a defined meaning in the **GST Law** have the same meaning in this **contract**.
- 63.8 This clause binds any other entity who is or becomes the supplier or recipient of the supply of the **property** or any other supply under or by reason of this **contract**.

64. Disclosure

64.1 *Statutory Notices and Statements*

The Buyer acknowledges receiving, before signing this **contract**:

- (a) the **disclosure statement** duly signed and dated by the **Seller** or duly signed and dated by a person authorised by the **Seller** to do so;
- (b) the statement required by Section 213 of the **Act** duly signed and dated by the **Seller**;
- (c) details of the **proposed lot entitlement** and exclusive use areas (if any), as set out in the **disclosure documents**; and
- (d) a copy of the **proposed community management statement** and the **plan**, clearly identifying the **lot**.

64.2 *Buyer Promises*

Subject to the sub-clause below titled "Retraction of Acknowledgements or Promises", the **Buyer** promises the **Seller** that the **Buyer**:

- (a) has read the statements described in sub-clause 1;
- (b) is aware of its rights under Section 213 of the **Act**;
- (c) is aware of the conditions set out in this **contract** as regards to

changes and variations to the **property**, each **building** and the **development**.

64.3 *Separate Notices and Statements*

- (a) The **Buyer** acknowledges that the notices and statements acknowledged to have been received under sub-clause 1 are each separate notices and statements.
- (b) If the **Seller** has not itself signed and dated the statutory disclosure statements contained in the **disclosure documents**, the **Seller** affirms that it has authorised the signatory to bind the **Seller** to the information contained in the **disclosure documents** and to sign and date the statutory disclosure statements as the **Seller's** authorised signatory and agent.

64.4 *Buyer's Acknowledgement and Promises – Disclosure Statement*

- (a) The **Buyer** acknowledges that the **disclosure statement** comprises only that portion of the material contained in the **disclosure documents** that is necessary to constitute a "disclosure statement" as required by Section 213 of the **Act**. For avoidance of doubt, the **disclosure statement** does not comprise the entire contents of the **disclosure documents**.
- (b) Subject to the sub-clause below titled "Retraction of Acknowledgments of Promises", the **Buyer** promises the **Seller** that, before the **Buyer** signed this **contract**, the **Buyer** reviewed the contents of the **disclosure statement** and had opportunity to take legal advice about the **disclosure statement** and this **contract**. The **Buyer** agrees that:

- (i) the **disclosure statement** is substantially complete for the purposes of Section 213 of the **Act**; and

- (ii) the **Buyer** cannot **object**, given the **Buyer's** promises and agreements under this clause, as result of the content or any deficiency in the **disclosure statement**.

64.5 **Buyer's Promise – Property Occupation Act**

Subject to the sub-clause below titled "Retraction of Acknowledgements or Promises", the **Buyer** promises the **Seller** that before the **Buyer** signed this contract, the **Buyer** first received, signed and dated the Form 8 which was separately given to the **Buyer** by the **Agent** (or if there is no Agent, by the **Seller**, if the **Seller** is a property developer for the purposes of the **Property Occupations Act**).

64.6 **Use of Property and Other Promises**

- (a) In this sub-clause "Personal Use" means the use of the **property** by the **Buyer** for personal, domestic or household use or consumption.
- (b) Subject to the sub-clause below titled "Retraction of Acknowledgments or Promises", the **Buyer** promises the **Seller** that:
 - (i) its acquisition of the **property** is for the purposes of Personal Use or non-Personal Use as elected by the **Buyer** in the Reference Schedule is correct as at the **Contract Date**;
 - (ii) the **Buyer** has, before signing this **contract**, read this **contract** and the disclosure materials, statements and notices contained within the **disclosure documents** (or has been given an opportunity to do so) and took or was given an opportunity to take legal advice and any other

advice the **Buyer** considered appropriate about this **contract** and the content of the **disclosure documents**;

- (iii) the **Buyer**, before signing this **contract**, was given an effective opportunity by the **Seller** and/or the **Seller's** agents to negotiate the terms of this **contract**, including an opportunity to reject its terms, and that, accordingly, in making this **contract**, the **Buyer** has either negotiated those terms or chosen not to negotiate those terms;

- (iv) the **Buyer** agrees that the **Sale Conditions**, in particular terms that:

- A. permit variations or changes to the **development**, the **building** or the **property**;
- B. permit termination and dealings with the **deposit** on termination;
- C. limit the ability of the **Buyer** to **object** or participate in the **body corporate** objecting to the **Seller** being paid or retaining fees, payments or other benefits as a result of the **Seller** causing the **body corporate** to enter into the **body corporate agreements** (or any one or more of them) or causing the allocation of areas of **common property** for the

exclusive use of occupiers for the time being in the scheme;

this contract in relation to this contract

- D. limit the right of the **Buyer** to object to, or refrain from providing consent for, the further carrying out of the **development** or the **scheme**;

given the nature of the **property** sold (it being sold "off the plan") are reasonably necessary and required to protect the legitimate interests of the **Seller**.

64.7 Retraction of Acknowledgements of Promises

- (a) Subject to clause 64.7(b) below, if within 5 **business days** after the **Contract Date** the **Buyer** wishes to retract or vary any or all of the acknowledgements or promises made in this clause, the **Buyer** must give notice to the **Seller** of such in which case:
- (i) the **Buyer** is taken to have given the **Seller** notification that the **Buyer** terminates this **contract**;
 - (ii) the **Seller** is taken to have accepted the **Buyer's** notification of termination;
 - (iii) this **contract** is at an end and neither party has any further claim against the other; and
 - (iv) the **deposit** paid and any **interest** must be released to the **Buyer**.
- (b) clause 64.7(a) above does not apply if the **Buyer** has given to the **Seller** written notice under Section 167 of the **Property Occupations Act** waiving the cooling off period applicable to

65. Seller's Promises

The **Seller** promises the **Buyer** that it:

- (a) acknowledges the **Buyer's** promises contained in the preceding clause; and
- (b) will rely on the **Buyer's** promises contained in the preceding clause in its conduct of the transaction arising out of this **contract** and all matters incidental to it.

66. Intentionally Deleted

67. Approved Safety Switch

- 67.1 The **Seller** gives notice that an approved safety switch for the general purpose socket outlet will be installed in the lot by the **settlement date**.

68. Approved Smoke Alarm

- 68.1 The **Seller** gives notice that a compliant smoke alarm will be installed in the lot by the **settlement date**.

69. Buyer's Managed Investment Act Acknowledgement

"**Letting Agent**" means the letting agent who is to be appointed as letting agent for the **scheme** on its formation pursuant to the **letting authorisation agreement**.

"**RG140**" means the ASIC Regulatory Guide 140 issued 13 November 2000 in relation to Service Strata Schemes as amended from time to time.

- 69.1 The **Buyer** acknowledges that:

- (a) RG140 represents the ASIC's interpretation of the application of the managed investment provisions contained in Chapter 5C of the Corporations Act 2001 ("Corporations Act");
- (b) for a serviced strata apartment complex which is a managed

investment scheme, the Corporations Act requires, amongst other things, that the managed investment scheme be registered, that the operator of the managed investment scheme be licensed and a prospectus be issued;

- (c) neither the **Seller** or the **Letting Agent** proposes to conduct a serviced apartment operation at the **scheme**;
- (d) there is no obligation on the buyer of an apartment to make their apartment available to the **Seller** or the **Letting Agent** for letting to prospective tenants;
- (e) no apartment in the **scheme** will be made available for letting on an overnight or short term basis;
- (f) there is no understanding between or amongst buyers of apartments and the **Seller** or **Letting Agent** that apartments made available to the **Letting Agent** for letting to prospective tenants will be let on a rotational or other basis, it being accepted that a tenant will have the right to select an apartment and may have a preference for a particular apartment; and
- (g) if a buyer of an apartment makes that apartment available to the **Letting Agent** for letting to prospective tenants:
 - (i) it is the intention that any letting will be for a period

of not less than 90 days; and

- (ii) there will be no pooling of rental income between the apartments.

69.2 In view of the acknowledgements contained in sub-clause 1, the **Seller** does not consider its sale of apartments or the operation of the letting business to be conducted by the **Letting Agent** to be a serviced strata scheme, and is therefore not subject to the provisions of the RG140 or Chapter 5C of the Corporations Act.

69.3 The **Buyer** acknowledges that:

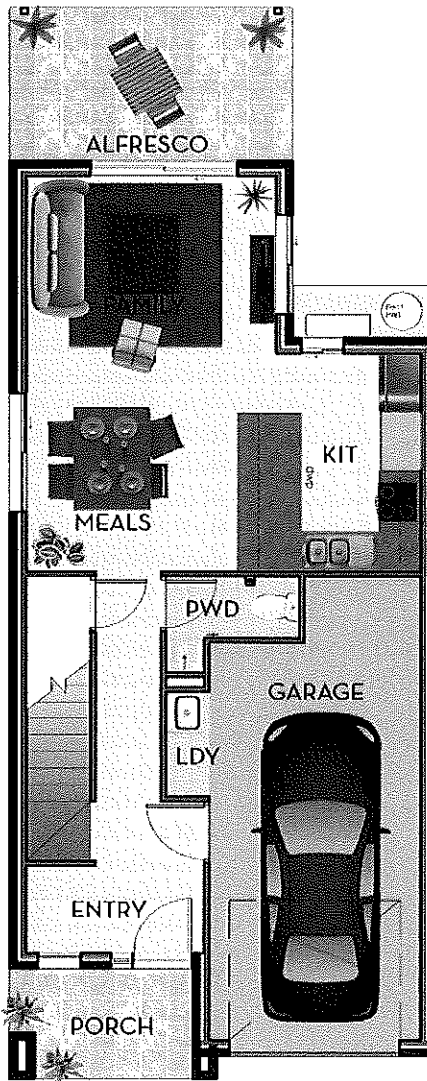
- (a) it has been given the opportunity to obtain independent legal advice in relation to RG140 and Chapter 5C of the Corporations Act, including the rights the **Buyer** may have under Section 601MB of the Corporations Act; and
- (b) if it is determined that a serviced strata scheme is being operated at the **scheme** (whether by the **Seller** or the **Letting Agent**) then it would not be just and equitable for the **Buyer** to invoke the provisions of Chapter 5C of the Corporations Act, including Section 601MB.

70. Special Conditions

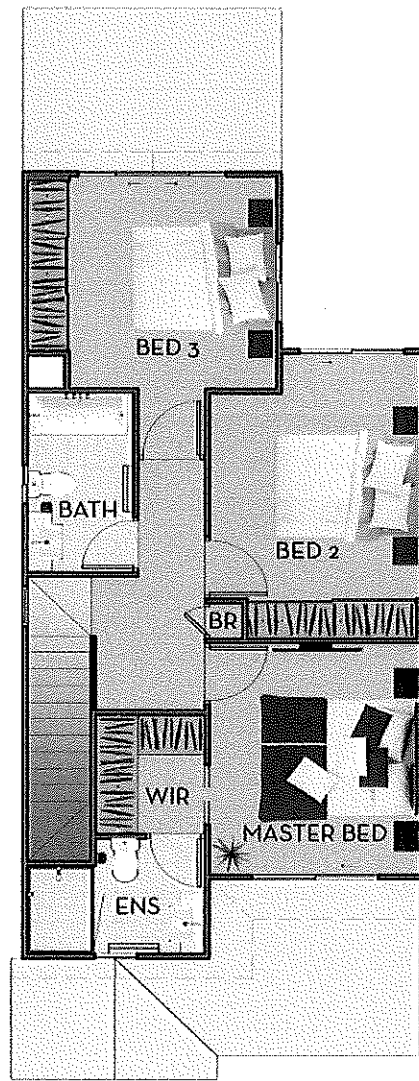
70.1 To the extent that there is any inconsistency between the **special conditions** and the **Sale Conditions**, the **special conditions** (if any) prevail.



UNIT 3



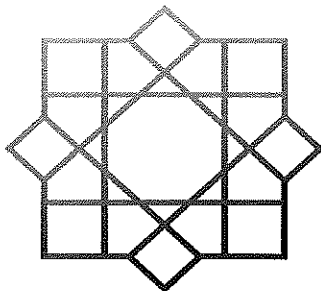
Ground Floor



First Floor

Floor Areas

Unit 3 GF Living	45.82 m ²
Unit 3 Garage	25.72 m ²
Unit 3 Alfresco	8.71 m ²
Unit 3 Porch	3.25 m ²
Unit 3 FF Living	69.76 m ²
Unit 3 Balcony	3.39 m ²
156.65 m ²	



VILLAS ON FALSO

SIGNING PAGE

SIGNED AS A DEED

SIGNED by the **seller** by its duly authorised person/Attorney)
)
)



By its duly constituted Attorney Garth Thomas Silva under Power Attorney Registered No. _____

Witness

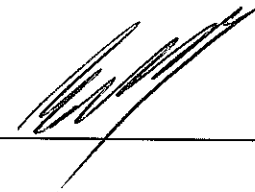
The contract may be subject to a 5 business day statutory cooling-off period. A termination penalty of 0.25% of the purchase price applies if the buyer terminates the contract during the statutory cooling off period. It is recommended the buyer obtain an independent property valuation and independent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

[Signing space where buyer is an individual(s)]

SIGNED SEALED AND DELIVERED by the **buyer** in the presence of:)
)
)

⇒  _____


) COUZENS HOLDINGS PTY LTD ACN 616658256 ATF R&D COUZENS SUPERFUND
Print Name

⇒  _____
Witness

⇒ _____
Print Name

[Signing space where buyer is a company]

Signed by the **buyer** pursuant to section 127 of the Corporations Act)
)
)
)

⇒ _____
*Director/**Sole Director and Sole Secretary

Print Name

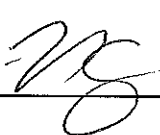

⇒ _____
Director/Secretary

Print Name


* Delete if a sole director/secretary proprietary company
** Delete if not a sole director/secretary proprietary company

[Signing space for guarantor]

SIGNED SEALED AND DELIVERED by the **guarantor** in the presence of:)
)
)
)
)
)

⇒  _____


COUZENS HOLDINGS PTY LTD ACN 616658256
Print Name ATF R&D COUZENS SUPERFUND

⇒  _____
Witness

⇒ _____
Print Name