

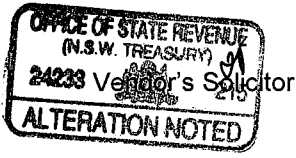
Contract for the sale of land – 2005 edition

TERM

MEANING OF TERM

Vendor's agent
Vendor

Without intervention of agent
H. N. Olsen Pty Limited ACN 000 151 422



~~5 Moorina Road~~
~~RYMBLE NSW 2073~~

691 Old Princes Hwy, Sutherland NSW 2232

Colin Biggers & Paisley Pty Ltd
Level 42, 2 Park Street
SYDNEY NSW 2000

Ref: BBM.153460
Ph: (02) 8281 4555
Fax: (02) 8281 4567

Completion date
Land
(Address, plan details and title reference)

See special condition 54
687 Old Princes Highway, Sutherland NSW 2232
Lot 25 in Deposited Plan 6641
Folio Identifier 25/6641

Improvements

VACANT POSSESSION subject to existing tenancies
 HOUSE garage carport home unit carspace none
 other:

Attached copies

Documents in the List of Documents as marked or as numbered:
 Other documents:

A real estate agent is permitted by legislation to fill up the items in this box in a sale of residential property.

Inclusions

3 HA

Exclusions

Tenant's fittings and fixtures

Purchaser

Kellaway BT Pty Ltd ACN 612 133 721 as to 50/100, **Hund BT Pty Ltd** ACN 612 133 874 as to 25/100 and **Barber BT Pty Ltd** ACN 612 133 776 as to 25/100

Purchaser's solicitor

Price \$ 960,000
Deposit \$ 96,000
Balance \$ 864,000

(10% of the price, unless otherwise stated)

Contract date

13 June 2017

(if not stated, the date this contract was made)

SEE EXECUTION PAGE

Vendor

Witness

SEE EXECUTION PAGE

GST AMOUNT (optional)
The price includes
GST of: \$

Purchaser

JOINT TENANTS tenants in common in unequal shares

Witness

Tax information (the parties promise this is correct as far as each party is aware)

Vendor duty is payable NO yes in full yes to an extent

Deposit can be used to pay vendor duty NO yes

Land tax is adjustable NO yes

GST: Taxable supply NO yes in full yes to an extent

Margin scheme will be used in making the taxable supply NO yes

This sale is not a taxable supply because (one or more of the following may apply) the sale is:

- not made in the course or furtherance of an enterprise that the vendor carries on (section 9-5(b))
- by a vendor who is neither registered nor required to be registered for GST (section 9-5(d))
- GST-free because the sale is the supply of a going concern under section 38-325
- GST-free because the sale is subdivided farm land or farm land supplied for farming under Subdivision 38-O
- input taxed because the sale is of eligible residential premises (sections 40-65, 40-75(2) and 195-1)

HOLDER OF STRATA OR COMMUNITY TITLE RECORDS – Name, address and telephone number

Office of State Revenue
NSW Treasury
Client No: 24233
Duty: \$ 50- Trans No: 9130741-001
Asst details: _____
21.7.17

List of documents

General	Strata or community title (clause 23 of the contract)
<input checked="" type="checkbox"/> 1 property certificate for the land	<input type="checkbox"/> 24 property certificate for strata common property
<input checked="" type="checkbox"/> 2 plan of the land	<input type="checkbox"/> 25 plan creating strata common property
<input type="checkbox"/> 3 unregistered plan of the land	<input type="checkbox"/> 26 strata by-laws not set out in <i>legislation</i>
<input type="checkbox"/> 4 plan of land to be subdivided	<input type="checkbox"/> 27 strata development contract or statement
<input type="checkbox"/> 5 document that is to be lodged with a relevant plan	<input type="checkbox"/> 28 strata management statement
<input checked="" type="checkbox"/> 6 section 149(2) certificate (Environmental Planning and Assessment Act 1979)	<input type="checkbox"/> 29 leasehold strata - lease of lot and common property
<input checked="" type="checkbox"/> 7 section 149(5) information included in that certificate	<input type="checkbox"/> 30 property certificate for neighbourhood property
<input type="checkbox"/> 8 sewerage connections diagram	<input type="checkbox"/> 31 plan creating neighbourhood property
<input checked="" type="checkbox"/> 9 sewer mains diagram	<input type="checkbox"/> 32 neighbourhood development contract
<input type="checkbox"/> 10 document that created or may have created an easement, profit à prendre, restriction on use or positive covenant disclosed in this contract	<input type="checkbox"/> 33 neighbourhood management statement
<input type="checkbox"/> 11 section 88G certificate (positive covenant)	<input type="checkbox"/> 34 property certificate for precinct property
<input type="checkbox"/> 12 survey report	<input type="checkbox"/> 35 plan creating precinct property
<input type="checkbox"/> 13 section 317A certificate (certificate of compliance)	<input type="checkbox"/> 36 precinct development contract
<input type="checkbox"/> 14 building certificate given under <i>legislation</i>	<input type="checkbox"/> 37 precinct management statement
<input type="checkbox"/> 15 insurance certificate (Home Building Act 1989)	<input type="checkbox"/> 38 property certificate for community property
<input type="checkbox"/> 16 brochure or note (Home Building Act 1989)	<input type="checkbox"/> 39 plan creating community property
<input type="checkbox"/> 17 section 24 certificate (Swimming Pools Act 1982)	<input type="checkbox"/> 40 community development contract
<input type="checkbox"/> 18 lease (with every relevant memorandum or variation)	<input type="checkbox"/> 41 community management statement
<input type="checkbox"/> 19 other document relevant to tenancies	<input type="checkbox"/> 42 document disclosing a change of by-laws
<input type="checkbox"/> 20 old system document	<input type="checkbox"/> 43 document disclosing a change in a development or management contract or statement
<input type="checkbox"/> 21 Crown tenure card	<input type="checkbox"/> 44 document disclosing a change in boundaries
<input type="checkbox"/> 22 Crown purchase statement of account	<input type="checkbox"/> 45 certificate under Management Act – section 109 (Strata Schemes) or section 26 (Community Land)
<input type="checkbox"/> 23 Statutory declaration regarding <i>vendor duty</i>	

WARNINGS

- Various Acts of Parliament and other matters can affect the rights of the parties to this contract. Some important matters are actions, claims, decisions, licences, notices, orders, proposals or rights of way involving

AGL Gas Networks Limited	Government Business & Government Procurement	Public Works Dept
Council	Heritage Office	Roads & Traffic Authority
County Council	Infrastructure Planning and Natural Resources	Rural Lands Protection Board
East Australian Pipeline Limited	Land & Housing Corporation	Sustainable Energy Development
Education & Training Dept	Mine Subsidence Board	Telecommunications authority
Electricity authority	Owner of adjoining land	Water, sewerage or drainage authority
Environment & Conservation Dept	Primary Industries Department	
Fair Trading	RailCorp	

If you think that any of these matters affects the property, tell your solicitor.
- A lease may be affected by the Agricultural Tenancies Act 1990, the Residential Tenancies Act 1987 or the Retail Leases Act 1994.
- If any purchase money is owing to the Crown, it may become payable when the transfer is registered.
- If a consent to transfer is required under legislation, see clause 27 as to the obligations of the parties.
- The vendor should continue the vendor's insurance until completion. If the vendor wants to give the purchaser possession before completion, the vendor should first ask the insurer to confirm this will not affect the insurance.
- The purchaser will usually have to pay stamp duty on this contract. The sale will also usually be a vendor duty transaction. If duty is not paid on time, a party may incur penalties.
- If the purchaser agrees to the release of deposit any rights in relation to the land (for example, the rights mentioned in clause 2.8) may be subject to the rights of other persons such as the vendor's mortgagee.
- The purchaser should arrange insurance as appropriate.

DISPUTES

If you get into a dispute with the other party, the Law Society and Real Estate Institute encourage you to use informal procedures such as negotiation, independent expert appraisal or mediation (for example mediation under the Law Society Mediation Guidelines).

AUCTIONS

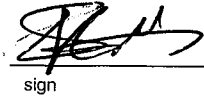
Regulations made under the Property Stock and Business Agents Act 2002 prescribe a number of conditions applying to sales by auction.

Signing Page

Signed sealed and delivered by each party as a deed.

Vendor

Signed by H.N.
Olsen Pty Limited
under s.127(1) of the
Corporations Act
2001



sign

DIRECTOR.

office (director)

SEBASTIAN EMIL KELLOWAY.
full name



sign

Director

office (director or secretary)

Cullen Ruth Hurd
full name

Signing Page


Signed sealed and delivered by each party as a deed.

Purchaser

Signed by **Kellaway
BT Pty Ltd ACN 612
133 721** under
s.127(1) of the
*Corporations Act
2001*



sign



office (director)

STEPHEN ERIC KELLAWAY

full name



sign



office (director or secretary)

PRUDENCE J. KELLAWAY

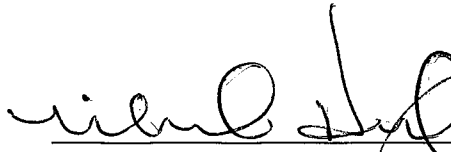

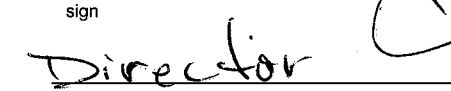
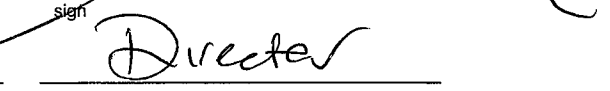
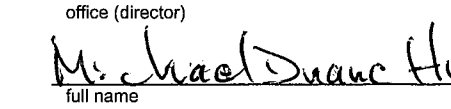
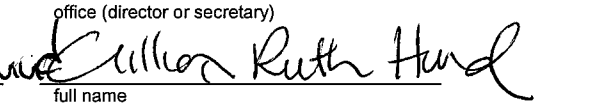
full name

Signing Page

Signed sealed and delivered by each party as a deed.

Purchaser

Signed by **Hund BT
Pty Ltd ACN 612 133
874** under s.127(1) of
the *Corporations Act
2001*

 _____	 _____
sign	sign
 _____	 _____
office (director)	office (director or secretary)
 _____	 _____
full name	full name

Signing Page

Signed sealed and delivered by each party as a deed.

Purchaser

Signed by Barber BT
Pty Ltd ACN 612 133
776 under s.126(1) of
the Corporations Act
2001

Cathy Barber
sign

DIRECTOR
office (sole director)

CATHERINE BARBER
full name

Special Conditions

687 - 691 Old Princes Highway, Sutherland NSW 2232

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Additional Clauses

30. Definitions and Interpretation

30.1 Definitions

In this Contract:

Adverse Affectation has the meaning given in the Regulation.

Authority means an authority having jurisdiction over the property (including its occupation, use or development) including any government, statutory body, corporation or service provider.

Building Certificate means a certificate issued in accordance with sections 149A-149E of the Environmental Planning and Assessment Act 1979 (NSW).

Claim means any claim, notice, demand, proceeding, investigation, judgement or action of any kind.

Completion Date means the due date for completion stated on the front page of this Contract.

Continuing Expenses means rates and charges of the municipal Council, the water authority and any other Authority which relate to services, supplies, rates and charges or other matters in respect of which liability passes or is assigned to the purchaser on Completion.

Contract means this contract of sale which consists of the Standard Form and the Special Conditions including any schedules or attachments.

Contract Date means the date of this Contract as shown on the front page of this Contract.

Conveyancing Act means the Conveyancing Act 1919 (NSW).

Cost means any cost, charge, expense, outgoing, payment, fee or penalty of any kind including legal and professional fees.

Default Rate means 7% per annum simple interest calculated on a daily basis.

Discharge means a registrable discharge, or surrender or withdrawal, of an Encumbrance.

Disclosed Documents means all documents or other information disclosed or referred to in this Contract or provided to the purchaser or its agents or advisors on behalf of the vendor by its agents or advisors.

Exclusions means all items noted as exclusions on the front page of this Contract.

Encumbrance includes a mortgage, lease or caveat.

Governmental Agency means any government or any governmental, semi-governmental, administrative, fiscal or judicial body, department, commission, authority, tribunal, agency or entity.

Inclusions means all fixtures and fittings, chattels, plant and equipment on the land except the Exclusions.

Law means any law whether that law arises under statute or common law or pursuant to any act, statutory instrument, regulation, order, ordinance, rule, by-law, proclamation, control, permit, approval, licence, notice or directive of any Authority or otherwise and includes any law relating to or affecting the property or its occupation, use or development.

Loss means any loss, damage (including death or injury) or Cost of any kind.

LPI means the Land and Property Information NSW.

Operating Expenses means all outgoings and operating expenses relating to the property including rates, taxes, assessments and land tax (including levies under the *Parking Space Levy Act 1992* (NSW)).

Price means the purchase price shown on the front page of this Contract.

Regulation means the Conveyancing (Sale of Land) Regulation 2010 (NSW).

Special Conditions means these special conditions.

Standard Form means the NSW Standard Form of Contract for Sale of Land - 2005 edition as amended by the Special Conditions.

30.2 Interpretation

In this Contract, unless the context requires otherwise:

- (a) the singular includes the plural and vice versa;
- (b) words denoting any gender include all genders;
- (c) where a word or phrase is defined, its other grammatical forms have a corresponding meaning;
- (d) a reference to a party, clause, paragraph, schedule or attachment is a reference to a party, clause, paragraph, schedule or attachment to, or of, this Contract;
- (e) a reference to this Contract includes the Standard Form, the Special Conditions and any schedules or attachments;
- (f) headings are for convenience and do not affect interpretation;
- (g) if there is more than one person named as purchaser then the provisions of this Contract bind those persons jointly and severally;
- (h) a reference to "\$", "A\$" or "dollar" is a reference to Australian currency;
- (i) a reference to a time is a reference to Australian Eastern Standard Time or Australian Eastern Daylight Time, whichever is appropriate;
- (j) a reference to a party includes its executors, administrators, successors, substitutes (including persons taking by novation) and permitted assigns;
- (k) words and expressions denoting natural persons include bodies corporate, partnerships, associations, firms, governments and governmental authorities and agencies and vice versa;
- (l) a reference to any legislation or to any provision of any legislation includes:
 - (1) any modification, re-enactment or replacement of the legislation; and
 - (2) all legislation, statutory instruments and regulations issued under the legislation or provision;
- (m) the words "including", "for example", "such as" or other similar expressions (in any form) are not words of limitation;

- (n) reference to a party's liability to pay GST includes the liability of a member of a GST group in which that party is also a member; and
- (o) terms described on pages 1 and 2 of the Standard Form or defined in clause 30.1 of the Contract:
 - (1) have the same meanings when used in this Contract unless inconsistent with defined terms in clause 30.1 and whether or not in italics; and
 - (2) are capitalised when used in these Special Conditions; and
- (p) if there is any inconsistency between the Standard Form and Special Conditions, the Special Conditions prevail.

31. Variation of Standard Form

Clauses 1 to 29 (inclusive) in the Standard Form are amended as follows:

(a) Clause 1 - Definitions

- (1) In the definition of "adjustment date" the word "completion" is deleted and replaced with the words "Completion Date".
- (2) The definition of "bank" is deleted and replaced with:

"bank a body corporate authorised to carry on banking business in Australia under section 9 of the Banking Act 1959 (Cth) and which is listed in Schedule 1;"
- (3) The definition of "settlement cheque" is deleted and replaced with:

"settlement cheque an unendorsed cheque made payable to the person to be paid and drawn on its own funds by a bank or, if authorised in writing by the vendor or its solicitor, some other cheque;"
- (4) The following words are added at the end of the definition of "requisition":

"and which is not prohibited or restricted under any provision of this Contract;"

(b) Clause 2 - Deposit and other payments before completion

- (1) Clause 2.4: the words "cash (up to \$2,000) or" are deleted from this clause.
- (2) Clause 2.9: insert the following words at the end of clause 2.9:

"The deposit holder is not liable to the vendor or purchaser for loss of interest on the deposit, however occurring (other than by reason of fraud)".

(c) Clause 3 - Payment of vendor duty out of the deposit

This clause is deleted and replaced with:

"3 Deleted;"

(d) Clause 4 - Transfer

This clause is deleted and replaced with:

"4.5 Deleted;"

(e) Clause 7 - Claims by purchaser

Clauses 7.1.1 and 7.1.3 are deleted and the following new clause 7.1.3 substituted: "the purchaser does not serve notice waiving the claims by the completion date or the date occurring 14 days after service of the claim (whichever is earlier).

(f) Clause 8 - Vendor's right to rescind

Clauses 8.1 and 8.2 are deleted and the following new Clauses substituted:

"8.1 the vendor is unable or unwilling to comply with a requisition;

8.2 the vendor serves a notice of intention to rescind that specifies the requisition."

(g) Clause 9 – Purchaser's default

Omit clause 9.1 and substitute the following:

"keep or recover the deposit plus such further amount ("additional amount") which when added to the deposit equals 10% of the price (and the purchaser agrees the sum of the deposit and the additional amount represents a genuine pre-estimate of the vendor's losses, damages, costs and expenses in respect of the purchaser's failure to comply with this Contract);".

(h) Clause 10 - Restrictions on rights of purchaser

(1) Clause 10.1: The words "or ask the vendor to take any action or incur any Cost or delay completion" are added after the word "requisition" in this clause.

(2) Clause 10.1.8: The word "substance" is deleted and replaced with the word "existence".

(3) Clause 10.1.9: The word "substance" is deleted and replaced with the word "existence".

(4) Clause 10.2: The words "or delay completion" are added after the word "rescind" in this clause.

(i) Clause 14 - Adjustments

(1) Clause 14.1: The words "rates, water, sewerage and drainage service and usage charges, land tax and all other periodic outgoings" are deleted from this clause and replaced by the words "Operating Expenses".

(2) Clause 14.4.1: The words "and this Contract says that land tax is adjustable" are deleted.

(3) Clause 14.4.2: The words "the person who owned the land owned no other land;" are deleted.

(4) Clause 14.4.2: The words "the land was not subject to a special trust or owned by a non-concessional company; and" are deleted.

(5) The following is added as a new clause 14.4.3:

"14.4.3 on a multiple holding basis."

(j) Clause 16 - Completion

- (1) Clause 16.7: The words "cash (up to \$2,000)" are deleted.
- (2) Clause 16.12: The words "unless the nominated place is within the city of Sydney" are added at the end of this clause.

(k) Clause 20 - Miscellaneous

- (1) Clause 20.6.5: The words ", unless it is not received" are deleted and replaced with the words "on the day of transmission unless the facsimile is transmitted on a day which is not a business day or after 5.00pm on a business day in which case the notice is deemed to have been served at 9.00am on the next business day following the date of transmission."
- (2) Clause 20.10: The words "survey report" are deleted and replaced with the words "Disclosed Document".

(l) Clause 25 - Qualified title, limited title and old system title

This clause is deleted and replaced with:

"25 Deleted;".

(m) Clause 26 - Crown purchase money

This clause is deleted and replaced with:

"26 Deleted;".

(n) Clause 27 - Consent to transfer

This clause is deleted and replaced with:

"27 Deleted;".

(o) Clause 28 - Unregistered plan

This clause is deleted and replaced with:

"28 Deleted;".

(p) Clause 29 - Conditional Contract

This clause is deleted and replaced with:

"29 Deleted;".

32. Identity

32.1 Purchaser admits

The purchaser admits that:

- (a) the property as inspected by it is identical with the property described on the front page of the Standard Form;
- (b) any structure, fence, wall or improvement is located on or inside the title boundary to the land;
- (c) improvements located on adjoining properties do not encroach on to the land; and

- (d) any improvements on the land comply with all Laws.

32.2 No requisitions

The purchaser must not:

- (a) make any requisition, objection or Claim;
- (b) ask the vendor to take any action or incur any Cost; or
- (c) delay completion or rescind or terminate this Contract,

because of any matter, or any failure of the property to comply in any respect with any matter referred to in clause 32.1.

33. Laws

33.1 Laws affecting the property and its use

- (a) The property is sold subject to all Laws affecting the property, its use and development.
- (b) No Law constitutes a defect in the vendor's title or affects the validity of this Contract.

33.2 No requisitions etc.

The purchaser must not:

- (a) make any requisition, objection or Claim;
- (b) ask the vendor to take any action or incur any Cost; or
- (c) delay completion or rescind or terminate this Contract,

because of any matter, or any failure of the property to comply in any respect with any matter, referred to in clause 33.1.

33.3 Purchaser's risk

The purchaser:

- (a) is responsible for remedying, at its own Cost, any failure of the property to comply on the Contract Date with any Laws affecting the property; and
- (b) indemnifies the vendor in respect of all Claims and Loss which the vendor may incur or may become liable for as a result of the purchaser's failure to remedy any such failure.

34. Condition of property

34.1 No warranty or representation

The vendor makes no warranty or representation about:

- (a) the property;
- (b) the condition or state of repair, including as to structural soundness, of the property;
- (c) the suitability for use of the property and the potential for future development of the property;

- (d) the zoning of and planning restriction on the property;
 - (e) the boundaries, description or area of the property;
 - (f) the value and exact nature of the property; or
 - (g) the present and future economic viability of the property,
- and the purchaser relies on its own enquiries, inspection and knowledge in this respect.

34.2 No requisition etc.

The purchaser must not:

- (a) make any requisition, objection or Claim,
- (b) ask the vendor to take any action or incur any Cost, or
- (c) delay Completion or rescind or terminate this Contract,

because of or in connection with:

- (d) any matter referred to in clause 34.1;
- (e) any dilapidation, infestation, defect (latent or patent) or mechanical breakdown which may affect the property before Completion;
- (f) the roof or surface water drainage from the property being connected to a sewerage service;
- (g) there being or not being an easement or other right in respect of a service referred to in clause 10.1;
- (h) any sewerage service passing through the property;
- (i) any improvements erected over a sewerage service or easement;
- (j) the presence in or on the property of asbestos or other hazardous substances;
- (k) the condition or existence, non-existence or inadequacy of services;
- (l) the means of or lack of access to the property;
- (m) the absence of any fence in or around the property;
- (n) the present or future expenses associated with the ownership and operation of the property;
- (o) whether there are any notices or orders by any Authority, including a notice or order requiring work to be done or money spent in connection with the property; and
- (p) anything in connection with the property which is disclosed or referred to in this Contract.

35. Risk

35.1 Risk passes

- (a) The purchaser carries the risk of loss or damage to the property from the Completion Date until completion.

- (b) The vendor is not required to carry out any repair works, alterations or improvements to the property from the Contract Date.
- (c) The provisions of sections 66J to 66N of the Conveyancing Act do not apply to this Contract.

35.2 No requisitions etc

The purchaser must not:

- (a) make any requisition objection or Claim;
- (b) ask the vendor to take any action or incur any Cost; or
- (c) delay completion, or rescind or terminate this Contract,

because of the state of repair and condition of the property at Completion.

36. Whole Contract

36.1 Entire Agreement

The parties agree that this Contract constitutes the entire agreement between the parties in relation to the property and its purchase.

36.2 Conditions not in Contract

Any promise, condition, representation, information or warranty relating to or leading up to this transaction which has been provided or made by or on behalf of the vendor which is not set out or expressly referred to in this Contract is expressly negated and withdrawn.

37. Merger

The conditions of this Contract do not merge on Completion. Each condition will continue in force for as long as necessary to give effect to it.

38. Completion

38.1 Issue of notice to complete

- (a) If completion does not occur on or before the Completion Date, at any time thereafter either party (not then being in default under this Contract) may serve on the other a notice ("notice to complete") requiring completion of this Contract on a specified date being not less than 14 days ("notice period") after the date of service of the notice to complete.
- (b) The parties agree that:
 - (1) the notice period is sufficient.
 - (2) time will be essential for compliance with the notice to complete.
 - (3) a party receiving the notice to complete cannot allege the notice to complete is invalid unless, when making the allegations, it provides full details of the grounds on which it bases its allegations.
- (c) A party may, at any time, withdraw its notice to complete without prejudice to the right to give a further notice.

38.2 Completion despite charge for outgoing

If any Encumbrance (excluding a caveat lodged by or on behalf of the purchaser) to which this Contract is not subject is noted on the certificate of title for the property on completion, then:

- (a) the purchaser must accept a duly executed Discharge which will remove the Encumbrance together with the applicable registration fee;
- (b) when the vendor gives the purchaser a Discharge, the vendor is regarded as having given the purchaser a transfer of the property free from the Encumbrance; and
- (c) without limiting paragraph (a), the vendor is not required to remove a charge on the property for an outgoing until completion is effected,

and vendor is entitled to serve a notice to complete on the purchaser despite the existence of a charge or an Encumbrance on the property at the time the notice is served or at any time after.

39. Purchaser Delay

- (a) If for any reason other than default on the part of the vendor, the purchaser does not complete this Contract on or before the Completion Date, then on Completion the purchaser must pay the vendor (by bank cheque at completion) interest calculated at the Default Rate on the Price payable under this Contract in respect of the period commencing on the day after the Completion Date and ending on Completion. It is agreed that this interest calculation represents a genuine pre-estimate of the vendor's losses and damages if completion is delayed otherwise than by vendor default.
- (b) Despite paragraph (a), the purchaser need not pay interest under this paragraph in respect of any period during which the purchaser's failure to complete is caused by the inability of the vendor to complete or, if the vendor is able to complete but fails to do so, by the vendor's failure to complete.
- (c) The purchaser is in default and cannot require the vendor to complete this Contract unless the interest payable under this Contract is paid to the vendor on Completion.

40. Not used

41. Deposit

- (a) Each party must, within 7 days of the Contract Date, notify the depositholder in writing of its tax file number.
- (b) Each party authorises the depositholder to give its tax file number to the Bank with which the Deposit is to be invested.
- (c) The depositholder need not invest the Deposit if he is not given the tax file number of both parties.
- (d) The purchaser authorises the depositholder to:
 - (1) lodge the deposit immediately after the Contract Date in accordance with Printed condition 2.9; and
 - (2) withdraw the deposit and pay the interest earned under this Contract.
- (e) If this Contract is completed, or is rescinded and neither party is in default, the vendor and the purchaser are entitled to the interest earned on the deposit in equal shares.

- (f) If the vendor terminates this Contract because of the purchaser's default, or rescinds, the vendor is entitled to all interest earned on the deposit.
- (g) If the purchaser terminates this Contract because of the vendor's default, or rescinds, the purchaser is entitled to all interest earned on the deposit.

42. Stamp Duty

The purchaser must:

- (a) pay all stamp duty payable in respect of this Contract; and
- (b) stamp this Contract in accordance with the provisions of the Duties Act 1997 (NSW) and all other applicable Laws.

43. Not used

44. Not used

45. Insolvency

If:

- (a) any of the following events occur in relation to the purchaser (unless the event occurs as part of a solvent reconstruction, amalgamation, merger or consolidation that has been approved in writing by the vendor):
 - (1) it becomes insolvent as defined in the Corporations Act 2001 (Cth) ('Corporations Act') states that it is insolvent or is presumed to be insolvent under an applicable Law;
 - (2) it is wound up, dissolved or declared bankrupt or takes, or tries to take, advantage of Part X of the Bankruptcy Act 1966 (Cth);
 - (3) it becomes an insolvent under administration as defined in the Corporations Act;
 - (4) a liquidator, provisional liquidator, Controller (as defined in the Corporations Act), administrator, trustee for creditors, trustee in bankruptcy or other similar person is appointed to, or takes possession or control of, any or all of its assets or undertaking;
 - (5) it enters into or becomes subject to:
 - (A) any arrangement or composition with one or more of its creditors or any assignment for the benefit of one or more of its creditors; or
 - (B) any re-organisation, moratorium, deed of company arrangement or other administration involving one or more of its creditors;
 - (6) an application or order is made (and, in the case of an application, it is not stayed, withdrawn or dismissed within 30 days), resolution passed, proposal put forward, or any other action taken which is preparatory to or could result in any of 55(a) - 554(e) above;
 - (7) it is taken, under section 459F(1) of the Corporations Act, to have failed to comply with a statutory demand;

- (8) it suspends payment of its debts, ceases or threatens to cease to carry on all or a material part of its business or becomes unable to pay its debts when they fall due;
 - (9) any matter relating to it becomes subject to an investigation under the Australian Securities and Investments Commission Act 2001 (Cth) or the Corporations Act; or
 - (10) it dies or ceases to be of legal capacity or is otherwise incapable of managing its own affairs;
- (b) anything occurs which has a substantially similar effect to any of the events listed in clauses 45(a)(1) – 45(a)(10) or any action is taken that is preparatory to or could result in any of those events; or
 - (c) the purchaser entered into this Contract in its capacity as the trustee of a trust, and then ceases to be the trustee of that trust,

then the purchaser is in default under this Contract in an essential respect and the vendor can terminate this Contract by serving a notice on the purchaser.

46. Warranties as to capacity

46.1 Warranties

Subject to clause 46.1 the purchaser represents and warrants that, as at the Contract Date and Completion:

- (a) it has full legal capacity and power to:
 - (1) own property; and
 - (2) enter into and perform its obligations under this Contract;
- (b) it has taken all action required, and obtained or been granted all consents, approvals, permissions and authorisations, whether internal or external, necessary to enable it to enter into, and perform its obligations under, this Contract;
- (c) this Contract constitutes a valid and legally binding obligation of it in accordance with its terms; and
- (d) no representation, warranty or other information provided by it contains any untrue statement of material fact or omits to state a material fact necessary to ensure that the representation, warranty or information is not misleading.

46.2 No breach

- (a) Despite anything in clause 46.1 the purchaser is not in breach of the warranties contained in clause 52.1 in respect of any matters which have been disclosed to the vendor.
- (b) The vendor acknowledges that:
 - (1) the purchaser is not liable for any inaccuracy in or breach of any of the warranties given by the purchaser under this Contract, if the inaccuracy or breach or the facts giving rise to the inaccuracy or breach is evidenced in the information which has been given to the vendor; and

- (2) the liability of the purchaser for any claim under the warranties given by the purchaser under this Contract, will be reduced or extinguished to the extent that the claim has arisen from any act or omission by the vendor.

47. Disclosed Documents

47.1 Purchaser acknowledgement

The purchaser acknowledges and warrants to the vendor that:

- (a) copies of the Disclosed Documents were inspected by it prior to it entering into this Contract;
- (b) the vendor makes no warranty or representation:
 - (1) as to the accuracy or completeness of the Disclosed Documents;
 - (2) that it has complied with any of the matters contained or referred to in the Disclosed Documents;
 - (3) that it holds any title (whether encumbered or unencumbered) to, or any rights under, any of the Disclosed Documents; or
 - (4) that it has in its possession or control all originals or counterparts of the Disclosed Documents;
 - (5) it has made its own assessment and enquiries in relation to the Disclosed Documents;
 - (6) it has not entered into this Contract in reliance upon any of the Disclosed Documents or upon any matter or thing referred to in any of the Disclosed Documents; and
 - (7) it is aware of, and made its own enquiries in relation to, any Adverse Affectations, if any, noted or disclosed in those Disclosed Documents.

47.2 Adverse Affectations

- (a) If the vendor does not disclose an Adverse Affectation the purchaser's only remedy for a breach of a warranty prescribed by the Regulation is the remedy prescribed by that Regulation.
- (b) Clause 19.2.3 does not apply.

47.3 No requisitions etc

The purchaser must not:

- (a) make any requisition, objection or Claim;
- (b) ask the vendor to take any action or incur any Cost; or
- (c) delay Completion or rescind or terminate this Contract,

because of any matter referred to in clause 47.1 or any matter or thing referred to in any of the Disclosed Documents including any Adverse Affectation.

48. Not used

49. Transfer

The purchaser must serve the form of transfer at least 14 days before the completion date. If the transfer is not served at least 14 days before the completion date the vendor may, in its discretion, have the transfer prepared by the vendor's solicitor, the purchaser must pay to the vendor the sum of \$440, being a genuine pre-estimate of the damages payable by the vendor in connection with the preparation of the transfer. It is essential provision of this Contract that this amount be paid on completion in addition to all other monies required to be paid by the purchaser under this Contract at that time.

50. Fences and Boundaries

The purchaser cannot make any objection, requisition or claim for compensation if any boundary of the property is not fenced or if any boundary fence or wall should not be on or within the boundary.

51. Services

51.1 Installation and connection of services

The purchaser acknowledges that the vendor has no responsibility for the installation or connection of any services.

51.2 No objection to services

The purchaser may not make any demand, objection, requisition or claim for compensation or claim any right to rescind or terminate this Contract in respect of:

- (a) the nature, location, availability or non-availability of any service;
- (b) the property being subject to any service or mains, pipes or connections for any service declaring that the purchaser shall be responsible at its cost for connecting all such services to the property;
- (c) the property having the benefit of any rights or easements in respect of any service or mains, pipes or connections for any service;
- (d) any defects in any service;
- (e) any underground or surface stormwater drain passing through or over the property; or
- (f) any manhole or vent on the property.

52. General

52.1 Notices

- (a) A notice or other communication including, but not limited to, any request demand, consent or approval, to or by a party to this Contract:
 - (1) must be in legible writing and in English;
 - (2) may be delivered or sent by post, email, hand or fax;
 - (3) must be sent to the address, email address and/or fax number of the recipient as set out in this Contract or notified from time to time by the recipient to the sender;

- (4) must be signed by an officer, employee, solicitor or conveyancer of the sender;
 - (5) can be relied upon by the recipient (and the recipient is not liable to any other person for any consequences of that reliance) if the recipient believes it to be genuine, correct and authorised by the sender.
- (b) A notice or other communication including, but not limited to, any request demand, consent or approval, to or by a party to this Contract that complies with this Special Condition is regarded as given and received:
- (1) if it is delivered or sent by fax or email, when recorded on the sender's transmission result report unless:
 - (A) within 24 hours of that time the recipient informs the sender that the transmission was received in an incomplete or illegible form;
 - (B) the transmission result report indicates non-transmission or a faulty or incomplete transmission; or
 - (C) it is received after 5pm in which case it will be taken to have been served on the next Business Day.
 - (2) if it is sent by mail:
 - (A) within Australia – 3 Business Days after posting; or
 - (B) to or from a place outside Australia – 7 Business Days after posting.
- (c) In this Special Condition a reference to any person who is a "recipient", "sender" or "party" includes a reference to that person's officer, employee, solicitor or conveyancer.

52.2 Severability

If any provision of this Contract is illegal or unenforceable, then the provision must be read down so as to give it as much effect as possible. If it is not possible to give the provision any effect at all, then it must be severed from the rest of the Contract.

52.3 Further assurance

Each party must do or cause to be done all things necessary or reasonably desirable to give full effect to this Contract and the transactions contemplated by it (including, but not limited to, the execution of documents).

53. Subject to Finance

53.1 Purchaser to procure finance

This contract is subject to the purchaser procuring finance for acquisition of the property within 3 months of the date of this contract ("**Finance Approval Period**").

53.2 Failure to obtain finance

In the event the purchaser cannot obtain the finance set out on clause 53.1, the purchaser may rescind this contract at any time and clause 19 will apply.

53.3 Unconditional contract

This contract will become unconditional on the date the purchaser provides the vendor notice in writing with supporting written evidence that the purchaser has obtained unconditional finance approval in accordance with clause 53.1.

54. Completion Date

The completion date of this contract means the date being 10 days after the date of notice from the purchaser to the vendor that the purchaser has obtained finance in accordance with clause 53.3 or any earlier date as agreed in writing between the parties.

55. Lease

- (a) On completion the purchaser must accept, and lodge for registration before its transfer, the lease to H N Olsen Funerals Pty Limited, a copy of which is attached to the contract.
- (b) The purchaser must not:
 - (1) make any requisition, objection or Claim;
 - (2) ask the vendor to take any action or incur any Cost; or
 - (3) delay Completion or rescind or terminate this Contract,because of any matter referred to in clause 55.

LAND AND PROPERTY INFORMATION NEW SOUTH WALES - TITLE SEARCH

FOLIO: 25/6641

SEARCH DATE	TIME	EDITION NO	DATE
-----	----	-----	----
14/4/2016	11:56 AM	2	16/4/2014

LAND

LOT 25 IN DEPOSITED PLAN 6641
LOCAL GOVERNMENT AREA SUTHERLAND SHIRE
PARISH OF SUTHERLAND COUNTY OF CUMBERLAND
TITLE DIAGRAM DP6641

FIRST SCHEDULE

H N OLSEN PTY LIMITED

(TZ AI520044)

SECOND SCHEDULE (3 NOTIFICATIONS)

- 1 RESERVATIONS AND CONDITIONS IN THE CROWN GRANT(S)
- 2 654236 LAND EXCLUDES MINERALS AND IS SUBJECT TO RIGHTS TO
MINE
- 3 AI520045 MORTGAGE TO WESTPAC BANKING CORPORATION

NOTATIONS

UNREGISTERED DEALINGS: NIL

*** END OF SEARCH ***

57
1/3/12

S. SUTHERLAND

6641

PLAN

of subdivision of lots 1, 7, 8, 9, 10, and 11 of sec 4 and lots 1, 2, 3 and 4 of sec 5 and the Exchange Corner shown on D.P. 802.

Parish of Sutherland

County of Cumberland

DP 6641

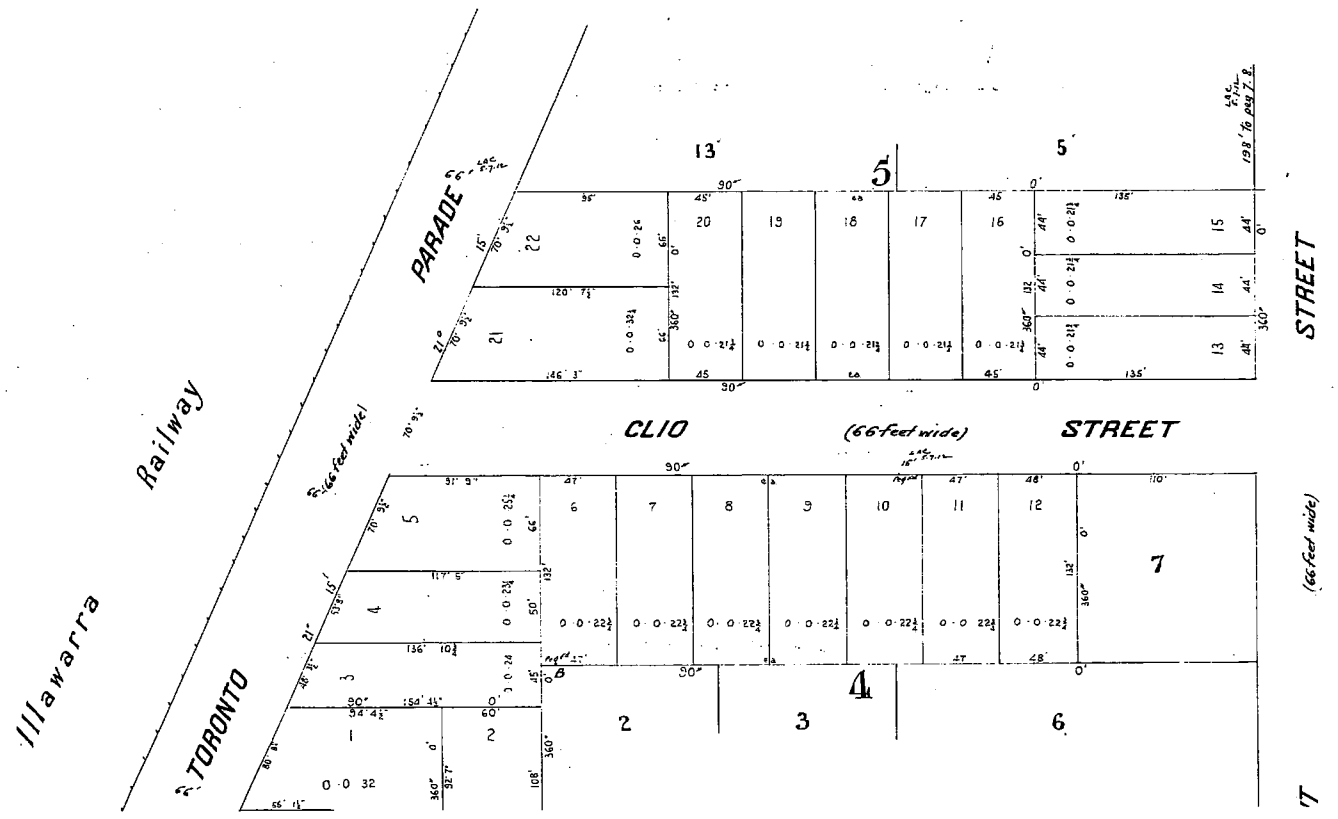
CONVERSION TABLE ADDED IN REGISTRAR GENERAL'S DEPARTMENT

DP 6641

FEET INCHES	MFTRES
10	3.05
20	6.10
29	10 1/2
44	13.41
45	13.715
47	14.325
48	14.63
48	14.72
50	15.24
53	16.36
55	16.8
60	18.29
60	20.35
61	18.87
64	19.725
66	20.115
70	21.565
70	21.575
75	23.01
78	23.825
80	24.585
80	24.585
80	24.585
91	27.795
91	27.795
92	28.21
92	28.22
94	28.765
95	28.955
96	29.305
108	32.92
109	33.485
110	33.53
117	35.79
120	36.765
132	40.235
135	41.15
136	41.725
141	43.29
146	44.575
154	47.055
164	56.22
195	59.39
198	60.35

AC RD P	SO M
19 1/4	486.9
20 1/2	518.5
21 1/2	543.8
21 3/4	550.1
22	556.4
22 3/4	575.4
23 1/4	588.1
24	607
25 1/4	638.6
26	657.6
32	809.4
32 1/4	815.7

AC RD P	HA
.47	.01
6600	.29
32000	11



Revised 10-10-92
Surrey
S. J. Macdonald

ETON ST

ILLAWARRA

TORONTO

ILLAWARRA

THE GRAND

ROAD

PARADE

MERTON ST

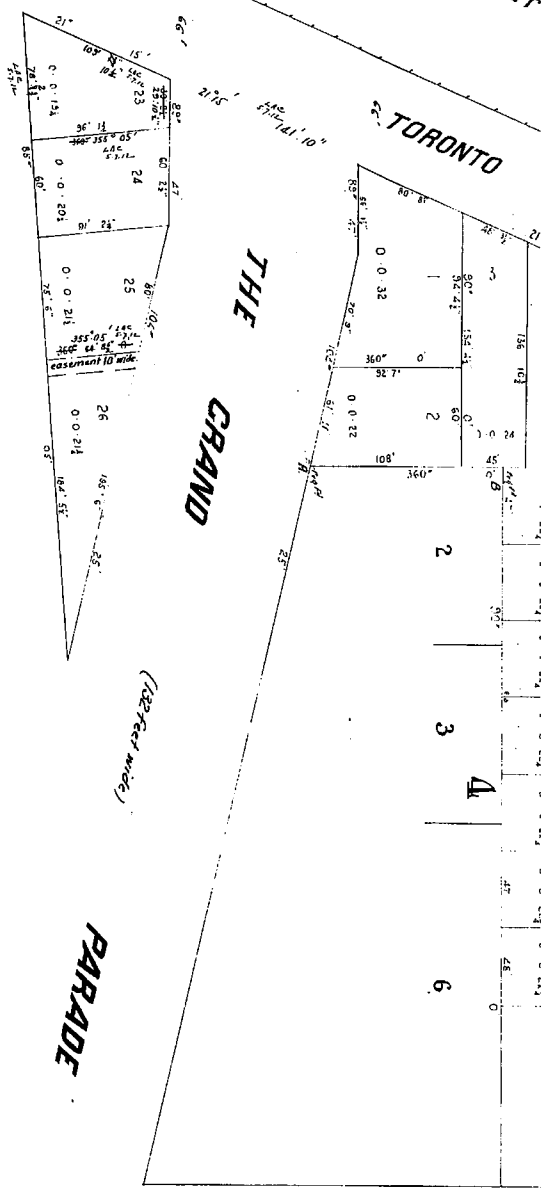
BELMONT

Agreement taken from AB
Date of Survey December 1911
Scale 60 Feet to an Inch

Arnold & Co. S.P.
9 Feb 1912

DP 6641 (E)

DP 6641 (E)



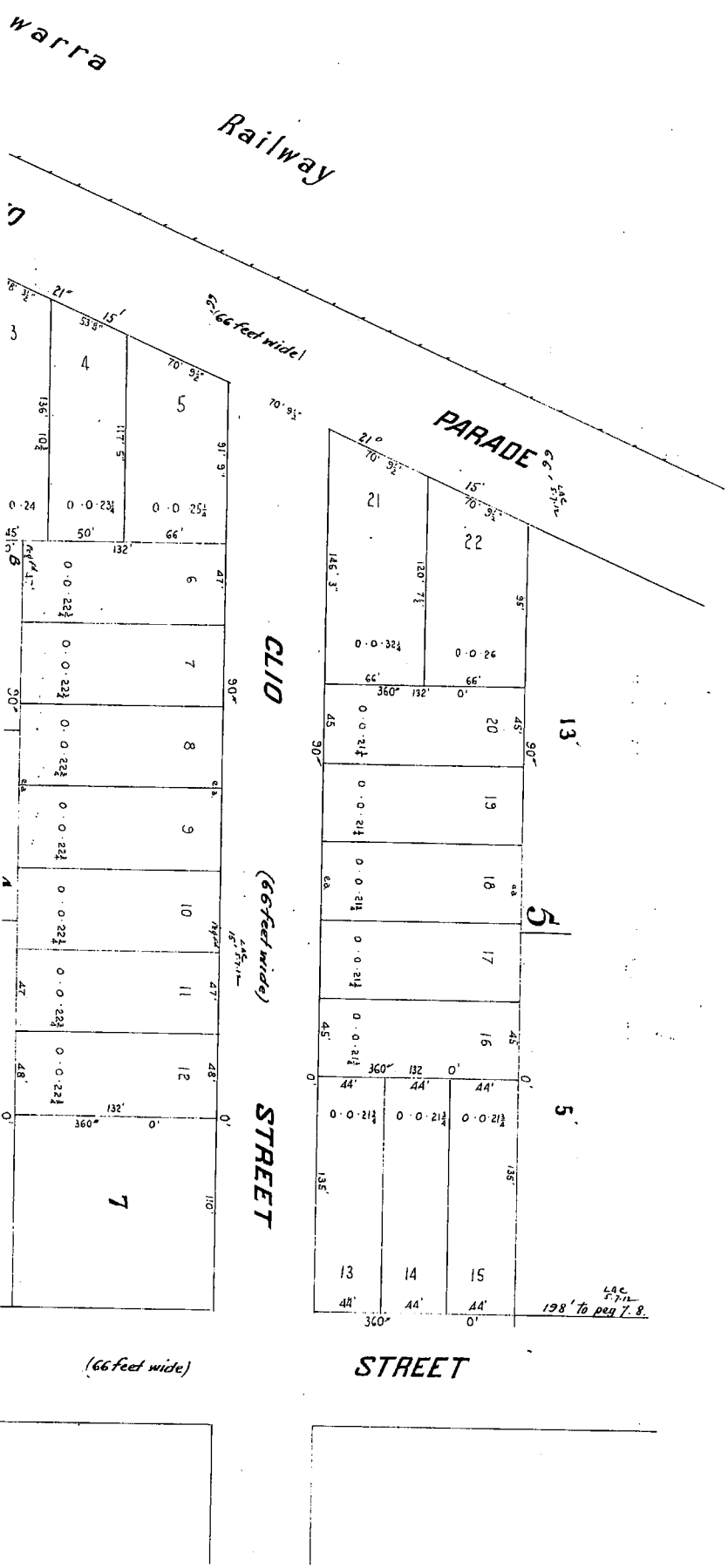
PLAN

00041

of subdivision of lots 1,7,8,9,10 and 11 of sec 4 and lots 1,2,3 and 4 of sec 5 and the Exchange Corner shown on DP 802.

Parish of Sutherland County of Cumberland

DP 6641



RECD 5-MAR-1912 2:24 PM

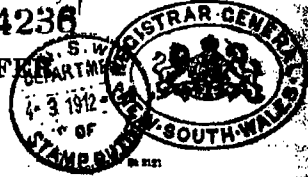
RECD 11-MAR-1912 10:09 AM

Transferee
Endorsement
Certificate

New South Wales.

654236

MEMORANDUM OF TRANSFER (PROPERTY ACT, 1900.)



FEE SIMPLE

16 APR 1912 4 P.M.

Name, residence, occupation, or other designation, in full of Transferor.

I, THE HOLT SUTHERLAND ESTATE COMPANY LIMITED (hereinafter called the Company) being registered as the proprietors for a term of fifty six years from the 1st day of July 1899 under the Memorandum of Lease Registered Number 50990 as extended by The Holt Sutherland Estate Act 1900 in the land hereinafter described

If a lease estate, and if so, in full of the lease and including the required alterations.

being registered as the proprietor of an Estate in fee simple in the land hereinafter described, subject, however, to such encumbrances, liens, and interests, as are notified by memorandum underwritten or endorsed hereon, in consideration of the sum of ONE HUNDRED AND

All existing encumbrances must be noted hereon. (See page 2.)

SIXTY TWO POUNDS TEN SHILLINGS

(£162/10/-)

If the consideration be not pecuniary, state its nature concisely.

Name, residence, occupation, or other designation in full of transferee.

paid to me by ARTHUR COOPER of Sutherland Farmer to The Perpetual Trustee Company Limited the Australian Trustee of the Will of Thomas Holt Act of Sydney pursuant to Section seven of the said Holt Sutherland Estate Act 1900 the receipt of which sum is hereby acknowledged by the said Perpetual Trustee Company Limited (certified by the receipt hereto annexed signed by the Manager thereof) DOETH HEREBY in exercise and in the receipt whereof I hereby acknowledge, pursuant of the power and direction in Section Seven of the said Holt Sutherland Estate Act 1900 and of all other powers enabling it appoint and transfer to the said Arthur Cooper all the estate and interest of the registered proprietor in fee simple in the surface of

If a minor, state of what age, and forward as table or declaration as to date of birth. If married woman, state name, residence, and occupation of husband.

do hereby transfer to the said

If the property more than one, either as joint tenants or tenants in common.

Address, roads, or other particulars of the land.

Arthur Cooper and interest, as such registered proprietor, in ALL THAT piece of land containing

Parish or town and county.

situate in the Parish of Sutherland County of Cumberland

"The whole" or "part," as the case may be.

being part of the land comprised in Certificate of Title

"Crown Grant," or "Certificate of Title," State out of what estate.

These references will suffice, if the whole land, the grant or certificate be transferred.

dated the 2nd day of May 1907 registered volume No. 1776 folio 27 and in the said Lease Number 50990 and being the surface of the whole of the land also in the piece of land as follows: the land comprised in sub-lease Number 642575 dated the Seventeenth day of January one thousand nine hundred and twelve from the Holt Sutherland Estate Company Limited to the said Arthur Cooper AND doeth also transfer to the said Arthur Cooper ALL the estate and interest of which it the said Holt Sutherland Estate Company Limited is registered proprietor together with all its rights and powers in respect thereof as comprised in the said Lease Number 50990 in and so far only as regards the land comprised in the sublease Number 642575 EXCEPT AND RESERVING unto the said Company and its assigns during the residue now unexpired of the term of the said Lease Number 50990 as extended by the Holt Sutherland Estate Act 1900 and subject thereto unto

If a part only unless a plan has been deposited, in which case a reference to the No. of allotment and No. of plan will be sufficient; a description or plan will be required and may be either embodied in this transfer or annexed thereto, with an explanatory prefix: "as delineated in the plan hereon (or annexed hereto)" or "as described as follows, viz."

Any enclosure must be signed by the parties and their signatures witnessed. It should also be set forth any right of way or easement, or exception, if there be any such not fully disclosed either in the principal description or memorandum of encumbrances.

[Rule up all blanks before signing.]

Any provision in addition to, or modification of, the covenants implied by the Act, may also be inserted.

The Registrar General of New South Wales is not responsible for the validity of the instrument if the alteration is not made by consent. The words rejected at the time of registration shall be retained in the instrument as if they had not been altered, the alteration being verified by signatures or initials in the margin of the instrument.

53787

MEMORANDUM OF ENCUMBRANCES, &c, REFERRED TO.

See note "a" page 1.
A very short note of
the particulars will
suffice.

[Rule up all blanks before signing.]

In witness whereof, I have herewith subscribed my name, at
the _____ day of _____ in the year
of our Lord one thousand nine hundred and _____

Signed in my presence by the said

WHO IS PERSONALLY KNOWN TO ME

Transferrer.*

Signed

This instrument to
be signed or acknowledged
before the Registrar-
General or Deputy
Registrar-General, or
a Notary Public, or
J.P., or Commissioner
for A.M.D.A.M., to whom
the Transferrer is
known, no further
authentication is
required. Otherwise
the instrument must
appear before
one of the above
authorities to make
a declaration in the
usual form.

This applies only to
instruments signed
within the State.
If the parties be
resident without the
State, but in any
British Possession, the
instrument must be
signed or acknowledged
before the Registrar-
General or Recorder of
Title of such
Possession, or before
any Judge, Notary
Public, Governor,
Commissioner Resident,
or Chief Secretary of
such Possession. If
signed in the
United Kingdom, then
before the Mayor or
Chief Officer of any
Corporation, or a
Notary Public. And if
signed at any foreign
place, then before the
British Consular
Officer at such place.

If the Transferrer or
Transferee signs by a
mark, the attestation
must state "that the
instrument was read
over and explained to
him, and that he
appeared fully to
understand the same."

Repeat attestation for
additional parties if
required.
21 211.

* If signed by virtue of any power of attorney, the original must be produced, and an attested copy deposited, accompanied by the usual declaration that no notice of revocation has been received.

L.L.
L.L.
L.L.
 the person or persons for the time being entitled to the mines and premises next herein excepted and reserved in reversion immediately expectant on the said Lease Number 50990 (all of whom including the Perpetual Trustee Company Limited and other the Australian Trustees or Trustee for the time being of the said Will of the said Thomas Holt deceased are hereinafter included in the term of reversioner and reversioners) all mines beds seams and veins of coal iron and other metals and minerals comprised in the said Lease Number 50990 which are known or shall or may be discovered hereafter as lying and being under the surface of the land hereby appointed and transferred TOGETHER with liberty for the Company and its assigns during such residue and subject thereto for the reversioner and reversioners without entering on the surface of the said land hereby appointed ~~and transferred TOGETHER with liberty for the Company and its assigns during such residue and subject thereto for the reversioner and reversioners without entering on the surface of the said land hereby appointed~~ and without doing any act which may disturb or cause any damage to any house or houses building or buildings now erected or - - henceforth to be erected on the said land hereby appointed or be a nuisance to the occupiers of such houses or buildings or any of them to get work and win the said mines seams and veins of coal and iron and other metals and minerals and for such purpose to make maintain and use any necessary and convenient underground works whatsoever and subject to and reserving unto the person or persons entitled thereto all rights of way across the said land hereby appointed and excepting and reserving unto the reversioner and reversioners all metals and minerals not comprised in the said Lease Number 50990 and which are now known or shall be discovered hereafter as lying under the surface of the said land hereby appointed TOGETHER with liberty for the reversioner or reversioners without entering on the surface of the said land hereby appointed and without doing any acts which may disturb or cause any damage to any house or houses building or buildings now erected or hereafter to be erected in the land hereby appointed or be a nuisance to the occupiers of such houses or buildings or any of them to get work and win the said metals and minerals hereby lastly hereinbefore excepted and reserved and for such purpose to make and maintain and use any - - necessary and convenient underground works whatsoever to the intent that the said Arthur Cooper may become the registered proprietor in fee simple of the surface lands comprised in the said sublease Number 642575 to the extent only directed and intended by the said Holt Sutherland Estate Act 1900 PROVIDED ALWAYS that the Company and its assigns shall hold the residue of the lands comprised in the said Lease Number 50990 SUBJECT to all the provisos conditions and agreements in the said Lease contained and on the part of the Company to be observed and performed as (if at all)

varied by the Holt Sutherland Estate Act 1900 and to the provisions of the same Act And the reversioner and reversioners shall in respect of such residue be entitled to the benefit of all conditions and powers of re-entry for non-payment of rent and other powers and reservations in the said Lease contained in all respects as if this transfer had not been made. -

IN WITNESS whereof the Common Seal of the Holt Sutherland Estate Company Limited was hereunto affixed at Sydney the *twenty first* day of *February* in the year one thousand nine hundred and twelve.

THE COMMON SEAL of THE HOLT SUTHERLAND ESTATE COMPANY LIMITED was affixed - hereto by the Directors present at a Meeting of the Board of Directors of that Company held this *twenty first* day of *February* 1912 and such Directors thereupon signed this transfer in the presence of :-

W. B. Jackson
E. J. Simpson } *Directors*

H. Macmillan
Secretary.

ACCEPTED and I hereby certify this Transfer to be correct for the purpose of the Real Property Act.

Arthur Cooper
Transferee.

SIGNED in my presence by the said - -
ARTHUR COOPER who is personally known
to me :- *John Buchanan*
Solicitor

PERPETUAL TRUSTEE COMPANY, LTD.

2, 4 & 6 SPRING STREET, SYDNEY.

No. P 7864

4th March 1912.

Received from Arthur Cooper Esq. -
the sum of One hundred sixty two Pounds 10/- of Sydney & Co. being
being the purchase money for the fee simple of all that piece of land situated in
Parish of Sutherland County of Cumberland being the whole of the land comprised
in Sub Lease No. 1095 dated 17th January 1912 from Holt Sutherland Estate Co
Limited to the said Arthur Cooper part of the land comprised in Sub Lease
No. 5920.

L162-10.

W. B. Jackson Manager.
W. B. Jackson Secretary.

654236 Transfer of Lease of
No. Memorandum of Transfer of
2nd 3/4 per. Ling "Exchange Corner"
on DP 102, Chire of Sutherland
Pl. of Sutherland, Co. of Grant.
Reserving all mines &c.

Lodged by
(Name) BUCHANAN & SMITHERS
(Address) 2 Hunter Street

THE HOLT SUTHERLAND ESTATE CO. Transferor,
LTD.

ARTHUR COOPER Transferee.

Particulars entered in the Register Book, Vol. 1776
Folio 27 and on Lease No 50990

the 16th day of April, 1912,
at minutes 4 o'clock
in the afternoon.



56924
10 51 1880/1014

MAY 1912
13. 3. 12
15. 3. 12
16. 4. 12
17. 10. 12
24. 4. 12
MAY 7. 1912
25. 5. 12
28. 5. 12
31. 5. 12
44. 5. 12

2251 157
654236

B

57172

REGISTRATION IS SUBJECT TO THE FOLLOWING INFORMATION:-
No Transfer can be registered until the fees are paid.
If a part only of the land be transferred, and it is desired to have a Certificate of Title issued for the remainder, this should be stated, and a new Certificate will then be prepared on payment of an additional fee, but to save this expense, it is intended to make several Transfers of portions, the Certificates may remain in the Land Titles Office, either until the Title be sold, or until application be made for a Certificate of the adjoining residue.
Transfer in common must receive separate Certificates. No fee will be required for each additional Certificate.
The fee on Transfer is 10s. and 20s. for every new Certificate, whether issued in a Transfer or required for the residue. By the Amendment Act of 1905, the purchaser is not compelled to take with a new Certificate of Title if the whole of the land is transferred, and he may have the original Title returned to him, with a memorial of his Transfer endorsed thereon, at a cost of 2s. only.
Certificates will only be delivered on payment of Purchase or other duties, or upon an order obtained before a Magistrate.
N.B. - All Leases shall be subject to the above rules for January, 1905, and 1906, and the provisions of the Land Titles Amendment Act and rules in relation thereto as amended by that Act.

For the signature of the Transferee here to an ordinary attestation is sufficient. Unless the instrument contains some special covenant by the Transferee, his signature will be dispensed with in cases where it is established that it cannot be procured without difficulty. It is, however, always desirable to afford a clue for detecting forgery or impersonation, and for this reason it is essential that the signature should, if possible, be obtained.

Accepted, and I hereby certify this Transfer to be correct for the purposes of the Real Property Act.

Signed in my presence by the said

WHO IS PERSONALLY KNOWN TO ME

Transferee.

(* The above may be signed by the Solicitor, when the signature of Transferee cannot be procured. See note "c" in margin.)
N.B.—Section 117 requires that the above Certificate be signed by Transferee or his Solicitor and renders liable any person falsely or negligently certifying to a penalty of \$50; also, to damage recoverable by parties injured.

FORM OF DECLARATION BY ATTESTING WITNESS.⁴

Appeared before me, at _____, the _____ day of _____, one thousand nine hundred and _____ the attesting witness to this instrument, and declared that he personally knew the person signing the same, and whose signature thereto he has attested; and that the name purporting to be such signature of the said _____ is his own handwriting, and that he was of sound mind, and freely and voluntarily signed the same.

May be made before either Registrar-General, Deputy Registrar-General, a Justice of the Peace, or Commissioner for Affidavits.

Not required if the instrument itself is made or acknowledged before one of these parties.

Name of witness and residence.

Name of Transferee.

Name of Transferee.

Registrar-General, Deputy, Justice of the Peace, or Commissioner for Affidavits.

Applicant:

InfoTrack Pty Limited
D X 578
SYDNEY

Planning Certificate – Section 149(2)(5) Certificate Environmental Planning and Assessment Act, 1979

Certificate no:	e149:16/1663	Delivery option:	
Certificate date:	14/04/2016	Your reference:	153460

Property:

Lot 25 DP 6641
687 Old Princes Highway SUTHERLAND NSW 2232

Zone:

Sutherland Shire Local Environmental Plan 2015

Zone B3 Commercial Core

Notes:

- (a) *The information in this certificate only relates to the real property Identifier associated with the property and not to any licence or permissive occupancy that may be attached to and included in the property details contained in the description of the land.*
- (b) *The Environmental Planning and Assessment Act 1979 will be referred to in this Certificate as 'the Act'.*

Disclaimer:

- (a) *This certificate contains information provided to Council by third parties and is as current as the latest information available to Council at the time of production of this document. Council does not warrant the accuracy of the information contained within the information provided by third parties and has not independently verified the information. It is strongly recommended that you contact the relevant third parties to confirm the accuracy of the information.*

**INFORMATION PURSUANT TO SECTION 149(2),
ENVIRONMENTAL PLANNING & ASSESSMENT ACT, 1979**

1. Names of relevant instruments and DCPs

1. The name of each environmental planning instrument that applies to the carrying out of development on the land:

Sutherland Shire Local Environmental Plan 2015

Greater Metropolitan Regional Environmental Plan No. 2 - Georges River Catchment (5/2/1999) (deemed SEPP).

* Sydney Regional Environmental Plan No.09 (Extractive Industry (No.2) 1995) (deemed SEPP).

* SEPP (Building Sustainability Index: Basix) 2004.

* SEPP (Exempt and Complying Development Codes) 2008

* SEPP (Affordable Rental Housing) 2009

* SEPP No. 19 – Bushland in Urban Areas.

* SEPP No. 21 – Caravan Parks.

* SEPP No. 32 – Urban Consolidation (Redevelopment of Urban Land).

* SEPP No. 33 – Hazardous and Offensive Development.

* SEPP No. 39 – Spit Island Bird Habitat.

* SEPP No. 50 – Canal Estates.

* SEPP No. 55 – Remediation of Land.

* SEPP No. 62 – Sustainable Aquaculture.

* SEPP No. 64 – Advertising and Signage.

* SEPP No. 65 – Design Quality of Residential Flat Development.

* SEPP (Housing for Seniors or People with a Disability) 2004: (Does not apply to land to which State Environmental Planning Policy (Kurnell Peninsula) 1989 applies).

* SEPP (State Significant Precincts) 2005.

* SEPP (Mining, Petroleum Production and Extractive Industries) 2007.

* SEPP (Infrastructure) 2007.

2. The name of each proposed environmental planning instrument that will apply to the carrying out of development on the land and that is or has been the subject of community consultation or on public exhibition under the Act (unless the Director-General has notified the council that the making of the proposed instrument has been deferred indefinitely or has not been approved):

Draft State Environmental Planning Policy (Competition) 2010

applies and aims to promote economic growth and competition and remove anti competitive barriers in planning and assessment.

3. The name of each development control plan that applies to the carrying out of development on the land:

* DAs lodged under Sutherland Shire Local Environmental Plan 2015 will be assessed using amended Draft Sutherland Shire Development Control Plan 2015 until the DCP is finalised. This approach was endorsed by Council at its meeting on 21 September, 2015 (DAP030-16).

Note: In this clause, proposed environmental planning instrument includes a planning proposal for a LEP or a draft environmental planning instrument.

2. Zoning and land use under relevant LEPs

For each environmental planning instrument or proposed instrument referred to in clause 1 (other than a SEPP or proposed SEPP) in any zone (however described).

- (a) The name and number of the zone:

**Sutherland Shire Local Environmental Plan 2015
Zone B3 Commercial Core**

- (b) Permitted without consent:

Home occupations

- (c) Permitted with consent:

Child care centres; Commercial premises; Community facilities; Educational establishments; Entertainment facilities; Function centres; Hotel or motel accommodation; Information and education facilities; Medical centres; Passenger transport facilities; Recreation facilities (indoor); Registered clubs; Respite day care centres; Restricted premises, Roads;

Any other development not specified in item (b) or (d).

- (d) Prohibited:

Advertising structures; Agriculture; Air transport facilities; Airstrips; Animal boarding or training establishments; Attached dwellings; Biosolids treatment facilities; Boat building and repair facilities; Boat launching

ramps; Boat sheds; Camping grounds; Caravan parks; Cemeteries; Charter and tourism boating facilities; Depots; Dual occupancies; Dwelling houses; Eco-tourist facilities; Electricity generating works; Exhibition homes; Exhibition villages; Farm buildings; Forestry; Freight transport facilities; General industries; Heavy industrial storage establishments; Heavy industries; Helipads; Highway service centres; Home-based child care; Home occupations (sex services); Industrial retail outlets; Industrial training facilities; Jetties; Marinas; Multi dwelling housing; Open cut mining; Recreation facilities (major); Resource recovery facilities; Rural industries; Rural worker's dwellings; Semi-detached dwellings; Sewage treatment plants; Sex services premises; Storage premises; Transport depots; Truck depots; Vehicle body repair workshops; Warehouse or distribution centres; Waste disposal facilities; Water recycling facilities; Water supply systems; Wholesale supplies.

- (e) Minimum land dimensions fixed for the erection of a dwelling-house on the land:

Under Sutherland Shire Local Environmental Plan 2015 there are no relevant development standards for the erection of a dwelling house due to site dimensions.

- (f) Does the land include or comprise critical habitat?

No

- (g) Is the land in a conservation area?

No

- (h) Is an item of environmental heritage situated on the land?

There is no item of environmental heritage situated on the property.

2A. Zoning and land use under State Environmental Planning Policy (Sydney Region Growth Centres) 2006

To the extent that the land is within any zone (however described) under:

(a) Part 3 of the *State Environmental Planning Policy (Sydney Region Growth Centres) 2006 (the 2006 SEPP)*, or

(b) a Precinct Plan (within the meaning of the 2006 SEPP), or

(c) a proposed Precinct Plan that is or has been the subject of community consultation or on public exhibition under the Act,

the particulars referred to in clause 2 (a)-(h) in relation to that land (with a reference to "the instrument" in any of those paragraphs being read as a reference to Part 3 of the 2006 SEPP, or the Precinct Plan or proposed Precinct Plan, as the case requires).

Note: Sutherland Shire Council does not currently have any land in the Growth Centres that has been zoned by a Precinct Plan in the Appendices to this SEPP, proposed to be zoned in a draft Precinct Plan (that has been publicly exhibited or formally consulted on) or has been zoned under Part 3 of the Growth Centres SEPP.

3. Complying Development

- (1) The extent to which the land is land on which complying development may be carried out under each of the codes for complying development because of the provisions of clauses 1.17A (1) (c) to (e), (2), (3) and (4) and 1.19 of *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*.
- (2) The extent to which complying development may not be carried out on that land because of the provisions of clauses 1.17A (1) (c) to (e), (2), (3) and (4) and 1.19 of that Policy and the reasons why it may not be carried out under those clauses.
- (3) If the council does not have sufficient information to ascertain the extent to which complying development may or may not be carried out on the land, a statement that a restriction applies to the land, but it may not apply to all of the land, and that council does not have sufficient information to ascertain the extent to which complying development may or may not be carried out on the land.

General Housing Code

Complying development may be carried out on the land under the General Housing Code.

(Note: this code applies only to land within, or proposed to be within, the following zones R1, R2, R3, R4 or RU5. Check the zoning on the front of this certificate.)

Housing Alterations Code

Complying development may be carried out on the land under the Housing Internal Alterations Code.

Commercial and Industrial Alterations Code

Complying development may be carried out on the land under the General Commercial and Industrial Code.

Commercial and Industrial (New Buildings and Additions) Code

Complying development may be carried out on the land under the General Commercial and Industrial Code.

(Note: this code applies only to land within, or proposed to be within, the following zones B1, B2, B3, B4, B5, B6, B7, B8, IN1, IN2, IN3, IN4 or SP3. Check the zoning on the front of this certificate.)

Subdivisions Code

Complying development may be carried out on the land under the Subdivisions Code.

Rural Housing Code

Complying development may be carried out on the land under the Rural Housing Code.

(Note: this code applies only to land within, or proposed to be within, the following zones RU1, RU2, RU3, RU4, RU6 or R5. Check the zoning on the front of this certificate.)

General Development Code

Complying development may be carried out on the land under the General Development Code.

Demolition Code

Complying development may be carried out on the land under the Demolition Code.

Fire Safety Code

Complying development may be carried out on the land under the Fire Safety Code.

4. Coastal Protection

Is the land affected by section 38 or 39 of the *Coastal Protection Act 1979* (so far as Council has been notified by the Department of Services, Technology and Administration)?

No

4A. Information relating to beaches and coasts

- (1) In relation to a coastal council - whether an order has been made under Part 4D of the *Coastal Protection Act 1979* in relation to temporary coastal protection works (within the meaning of that Act) on the land (or on public land adjacent to that land), except where the Council is satisfied that such an order has been fully complied with.
- (2) In relation to a coastal council:
 - (a) whether the Council has been notified under section 55X of the *Coastal Protection Act 1979* that temporary coastal protection works (within the meaning of that Act) have been placed on the land (or on public land adjacent to that land), and
 - (b) if works have been so placed – whether the council is satisfied that the works have been removed and the land restored in accordance with that Act.

Note: Sutherland Shire Council has not issued any orders or been notified of any temporary coastal protection works to date.

4B. Annual charges under Local Government Act 1993 for coastal protection services that relate to existing coastal protection works

In relation to a coastal council—whether the owner (or any previous owner) of the land has consented in writing to the land being subject to annual charges under section 496B of the Local Government Act 1993 for coastal protection services that relate to existing coastal protection works (within the meaning of section 553B of that Act).

There are no properties subject to annual charges under section 496B of the Local Government Act 1993 for coastal protection services.

Note. "Existing coastal protection works" are works to reduce the impact of coastal hazards on land (such as seawalls, revetments, groynes and beach nourishment) that existed before the commencement of section 553B of the Local Government Act 1993.

5. Mine Subsidence

Is the land proclaimed to be mine subsidence district within the meaning of section 15 of the *Mine Subsidence Compensation Act, 1961*?

No

6. Road Widening and Road Realignment

(a) Is the land affected by a road widening or road realignment under Division 2 of Part 3 of the *Roads Act 1993*?

No

(b) Is the land affected by any road widening or road realignment under any environmental planning instrument?

No

(c) Is the land affected by any road widening or road realignment under any resolution of the Council?

No

7. Council and other public authority policies on hazard risk restrictions

(a) Is the land affected by a policy adopted by the council that restricts the development of the land because of the likelihood of landslip, bushfire, tidal inundation, subsidence, acid sulfate or any other risk?

No

- (b) Is the land affected by a policy adopted by any other public authority that restricts the development of the land because of the likelihood of landslip, bushfire, tidal inundation, subsidence, acid sulphate or any other risk?

No

7A. Flood related development controls information

- (1) Whether or not development on that land or part of the land for the purposes of dwelling houses, dual occupancies, multi dwelling housing or residential flat buildings (not including development for the purposes of group homes or seniors housing) is subject to flood related development controls.

No

- (2) Whether or not development on that land or part of the land for any other purpose is subject to flood related development controls.

No

- (3) Words and expressions in this clause have the same meanings as in the Instrument set out in the Schedule to the Standard Instrument (Local Environmental Plans) Order 2006.

8. Land reserved for acquisition

Whether or not any environmental planning instrument or proposed environmental planning instrument referred to in clause 1 makes provision in relation to the acquisition of the land by a public authority, as referred to in section 27 of the Act?

No

9. Contribution Plans

Council has adopted the following Contribution Plans that apply to the land:

- * The 2005 Shire Wide Open Space and Recreation Facilities Contribution Plans applies to this property (Effective 1/1/05).

- * The 2003 Community Facilities Contributions Plan applies to this property (Effective 14/12/04).
- * The Sutherland Centre Contribution Plan applies to this property (Effective 12/12/06).
- * The Sutherland Centre S94A Contribution Plan applies to this property (Effective 27/05/08).

9A. Biodiversity certified land

If the land is biodiversity certified land (within the meaning of Part 7AA of the *Threatened Species Conservation Act 1995*), a statement to that effect.

No

10. Biobanking agreements

If the land is land to which a biobanking agreement under Part 7A of the *Threatened Species Conservation Act 1995* relates, a statement to that effect (but only if the council has been notified of the existence of the agreement by the Director-General of the Department of Environment, Climate Change and Water).

No

11. Bush fire prone land

Is the land bush fire prone?

No

12. Property Vegetation Plans

Has Council been notified that a property vegetation plan under the *Native Vegetation Act 2003* applies to the land?

No

13. Orders Under Trees (Disputes Between Neighbours) Act 2006

Whether an order has been made under the Trees (Disputes Between Neighbours) Act 2006 to carry out work in relation to a tree on the land (but only if Council has been notified of the order).

No.

14. Directions under Part 3A

Is there a direction by the Minister in force under section 75P (2) (c1) of the Act that a provision of an environmental planning instrument prohibiting or restricting the carrying out of a project or a stage of a project on the land under Part 4 of the Act that does not have effect?

No

15. Site compatibility certificates and conditions for seniors housing

Is there a current site compatibility certificate (seniors housing) under State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004, of which the council is aware, in respect of proposed development on the land? If there is a certificate, the period for which the certificate is current. Are there any terms of a kind referred to in clause 18 (2) of that Policy that have been imposed as a condition of consent to a development application granted after 11 October 2007 in respect of the land?

No

16. Site compatibility certificates for infrastructure

Is there a valid site compatibility certificate (of which the council is aware), issued under clause 19 of State Environmental Planning Policy (Infrastructure) 2007 in respect of proposed development on the land?

No

17. Site compatibility certificates and conditions for affordable rental housing

Is there a current site compatibility certificate (affordable rental housing), of which the council is aware, in respect of proposed development on the land? If so this statement sets out the period for which the certificate is current and any conditions pursuant to cl17(1) of SEPP (Affordable Rental Housing) 2009.

No

18. Paper subdivision information

Is the land subject to any development plan adopted by a relevant authority or that is proposed to be subject to a consent ballot? If so, this statement sets out the date of any subdivision order that applies to the land.

Note: Words and expressions used in this clause have the same meaning as they have in Part 16C of this Regulation.

No

19. Site verification certificates

Is there a current site verification certificate, of which the council is aware, in respect of the land?

If so, this statement includes:

- (a) the matter certified by the certificate, and
- (b) the date on which the certificate ceases to be current (if any), and
- (c) that a copy may be obtained from the head office of the Department of Planning and Infrastructure.

Note. A site verification certificate sets out the Director-General's opinion as to whether the land concerned is or is not biophysical strategic agricultural land or critical industry cluster land—see Division 3 of Part 4AA of State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007.

No

Note: The following matters are prescribed by section 59 (2) of the Contaminated Land Management Act 1997 as additional matters to be specified in a planning certificate:

- (a) Is the land significantly contaminated land within the meaning of that Act?

No

(b) Is the land subject to a management order within the meaning of that Act?
No

(c) Is the land the subject of an approved voluntary management proposal within the meaning of that Act?
No

(d) Is the land subject to an ongoing maintenance order within the meaning of that Act?
No

(e) Is the land subject of a site audit statement within the meaning of that Act?
No

Any Other Prescribed Matter

Note: Section 26 of the Nation Building and Jobs Plan (State Infrastructure Delivery) Act 2009 provides that a planning certificate must include advice about any exemption under section 23 or authorisation under section 24 of that Act if the Council is provided with a copy of the exemption or authorisation by the Co-ordinator General under the Act.
No

Additional Information

Council holds additional information relating to this property for provision in accordance with Section 149(5) of the Environmental Planning and Assessment Act, 1979.

**ADDITIONAL INFORMATION PURSUANT TO SECTION 149(5),
ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979**

The following additional information relating to the land is provided in good faith. The information is not exhaustive of matters likely to affect the land. Section 149(6) states that a council shall not incur any liability in respect of any advice provided in good faith pursuant to subsection (5).

The land may contain drainage infrastructure vested in Council, which is protected by statutory rights of access and maintenance. When this property is redeveloped Council reserves the right to impose a condition of development consent requiring an easement to be granted in Council's favour over the infrastructure.

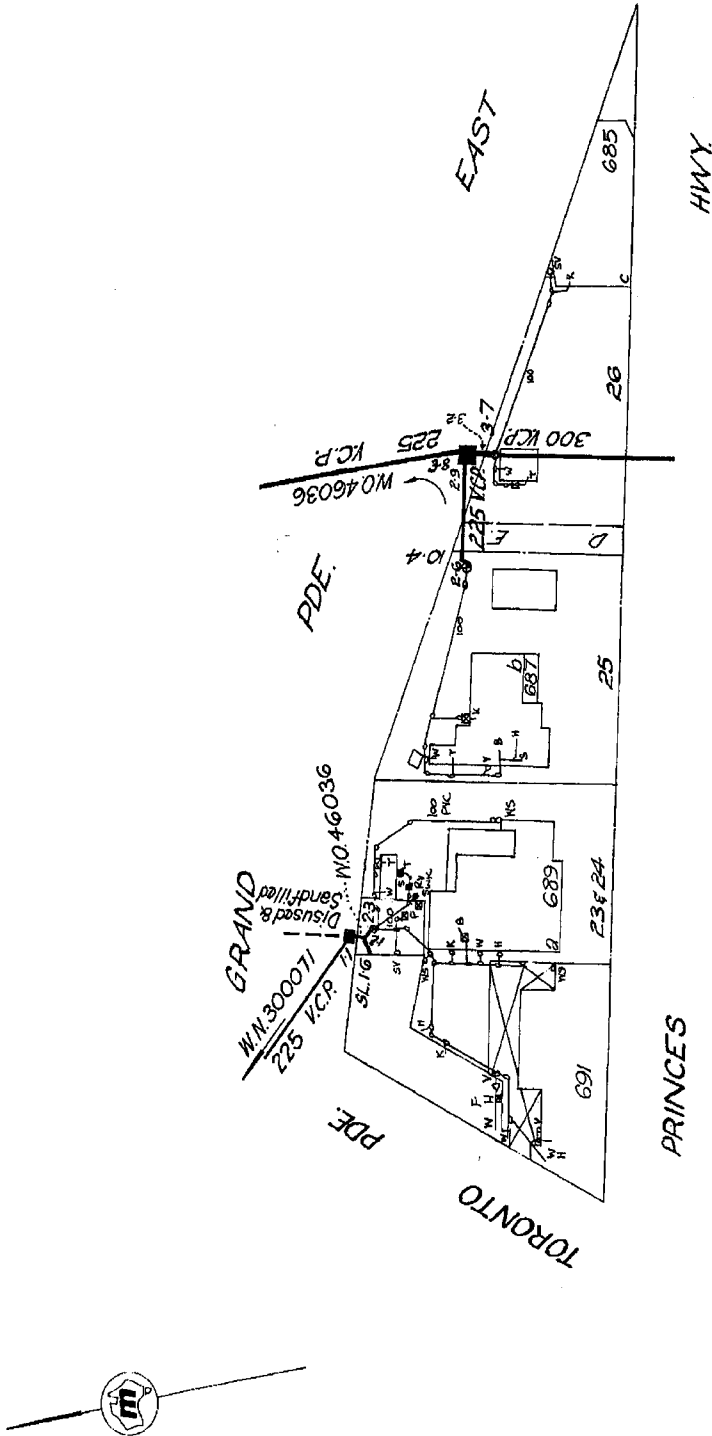
For further information please telephone [02] 9710 0333.

Yours faithfully



Mark Carlon
Manager Environmental Planning

No. 0489307

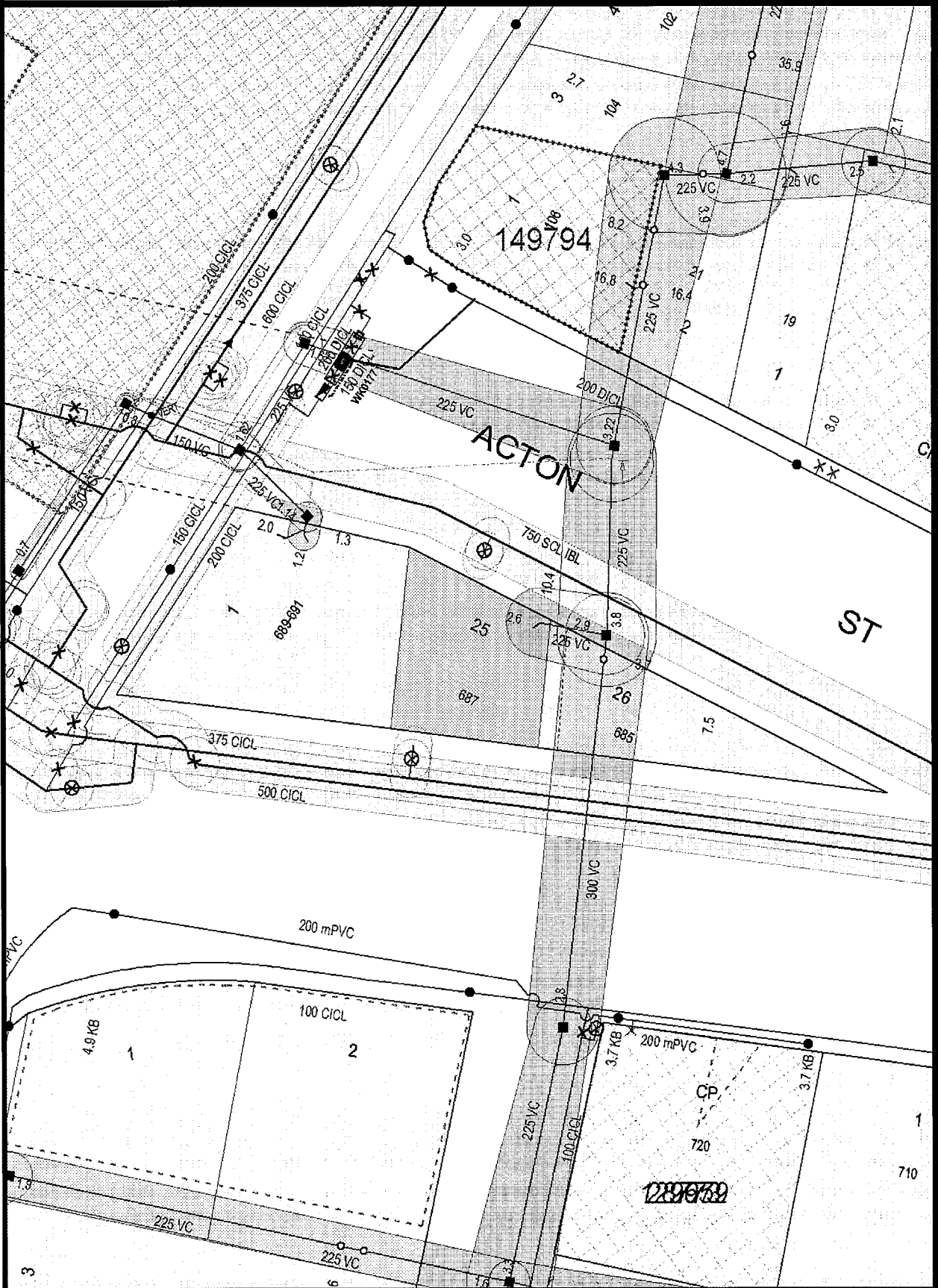


W.N. 300071

(Sutherland) W.O. 46036

W.C. Supervised by Bth. Inspected by Shr. Examined by Ben. K.S. Tuhs. Chief Inspector Plg. Tracing Checked Dge. Int. Dge. Ext.		Date Date Date		PLUMBING Supervised by Inspector Date Date		BRANCH OFFICE Date Outfall Drainier Plumber Boundary Trap /Is not required		SEWER AVAILABLE Where the sewer is not available and a special inspection is involved the Board accepts no responsibility in relation to the eventual position of the Board's Sewer.		SYMBOLS AND ABBREVIATIONS Boundary Trap Inspection Shaft Pit Grease Interceptor Gully P Trap Reflux Valve Cleaning Eye Verr Vertical Pipe SV Vent Pipe DC Down Cast Cowl		IP Induct Pipe MF Mica Flip T Tuhs K Kitchen Sink W Water Closet B Bath H Handbasin S Shower WIP Wrought Iron Pipe CIP Cast Iron Pipe F Floor Waste M Washing Machine	
M.W.S. & D.B. Municipality of Sutherland						Scale 1:500 Distances/depths in metres; pipe diameters in millimetres							
for House Services Engineer													

NOTE This diagram only indicates availability of a sewer and any sewerage service shown as existing in Sydney Water's records. The existence and position of Sydney Water's sewers, stormwater channels, pipes, mains and structures should be ascertained by inspection of maps available at any of Sydney Water's Customer Centres. Position of structures, boundaries, sewers and sewerage services shown hereon are approximately only.



NOTE This diagram only indicates availability of a sewer and any sewerage service shown as existing in Sydney Water's records. The existence and position of Sydney Water's sewers, stormwater channels, pipes, mains and structures should be ascertained by inspection of maps available at any of Sydney Water's Customer Centres. Position of structures, boundaries, sewers and sewerage services shown hereon are approximately only.

Form: 07L
Licence: 01-06-027
Licensee: Colin Biggers & Paisley Pty Ltd
Release: 4.4

LEASE
New South Wales
Real Property Act 1900

Leave this space clear. Affix additional pages to the top left-hand corner

PRIVACY NOTE: Section 31B of the Real Property Act 1900 (RP Act) authorises the Registrar General to collect the information required by this form for the establishment and maintenance of the Real Property Act Register. Section 96B RP Act requires that the Register is made available to any person for search upon payment of a fee, if any

STAMP DUTY

Office of State Revenue use only

(A) TORRENS TITLE

Property leased Lot 1 in Deposited Plan 736041 and Lot 25 in Deposited Plan 6641 being 687-691 Old Princes Highway, Sutherland NSW 2232

(B) LODGED BY

Document Collection Box	Name, Address or DX, Telephone and Customer Account Number if any Reference: _____	CODE L
-------------------------	---	----------------------

(C) LESSOR

H.N. Olsen Pty Ltd ACN 000 151 422

The lessor leases to the lessee the property referred to above.

(D)

Encumbrances (if applicable):

(E) LESSEE

H N Olsen Funerals Pty Limited ACN 002 651 756
--

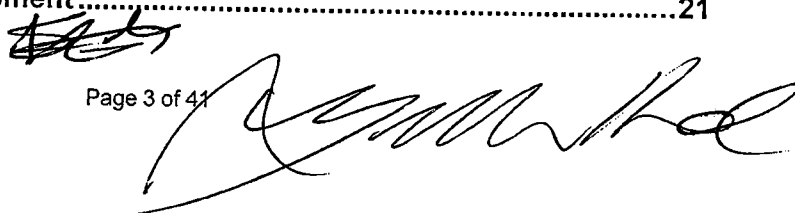
(F) TENANCY:

- (G)**
- TERM** Ten (10) years
 - COMMENCING DATE** 1 July 2016
 - TERMINATING DATE** 30 June 2026
 - With an **OPTION TO RENEW** for two (2) further periods of five (5) years each as set out in Item 12 in Annexure A.
 - With an **OPTION TO PURCHASE** set out in N/A
 - Together with and reserving the **RIGHTS** set out in **ANNEXURE A** hereto.
 - Incorporates the provisions or additional material set out in **ANNEXURE A** hereto.
 - Incorporates the provisions set out in N/A No(s). N/A
 - The **RENT** is set out in Item 6 of the Reference Schedule in Annexure A.

This is Annexure "A" referred to in the lease between H.N. Olsen Pty Ltd ACN 000 151 422 as Lessor and H N Olsen Funerals Pty Limited ACN 002 651 756 as Lessee

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Item 2	Premises 687-691 Old Princes Highway, Sutherland NSW 2232	
Item 3	Lessor H.N. Olsen Pty Ltd ACN 000 151 422 687-691 Old Princes Highway Sutherland NSW 2232 Fax:	
Item 4	Lessee H N Olsen Funerals Pty Limited ACN 002 651 756 687-691 Old Princes Highway Sutherland NSW 2232 Fax:	
Item 5	Outgoings 100%	
Item 6	Base Rent \$300,000 per annum plus GST	
Item 7	(a) Review Date	(b) Type of review <i>CPI Review, Fixed Increase Review or Market Review</i>
	1 July 2017	The greater of CPI Review and Fixed Increase Review
	1 July 2018	The greater of CPI Review, Fixed Increase Review and Market Review
	1 July 2019	The greater of CPI Review and Fixed Increase Review
	1 July 2020	The greater of CPI Review and Fixed Increase Review
	1 July 2021	The greater of CPI Review, Fixed Increase Review and Market Review
	1 July 2022	The greater of CPI Review and Fixed Increase Review



	1 July 2023	The greater of CPI Review and Fixed Increase Review
	1 July 2024	The greater of CPI Review, Fixed Increase Review and Market Review
	1 July 2025	The greater of CPI Review, Fixed Increase Review and Market Review
Item 8	CPI Index	
	Sydney all groups index number	
Item 9	Fixed Increase Review	
	3%	
Item 10	Commencement Date	
	1 July 2016	
Item 11	Expiry Date	
	30 June 2026	
Item 12	Option of renewal	
	Two (2) further periods of five (5) years	
Item 13	Permitted Use	
	Funeral business and related activities including catering services.	
Item 14	Bank Guarantee	
	Not applicable	
Item 15	Trust	
	Not applicable	
Item 16	Guarantor	
	Not applicable	
Item 17	Car Parking Licence	
	Not applicable	
Item 18	Licence Fee	
	Not applicable	




Terms

1. Defined Terms and Interpretation

1.1 Definitions

The following definitions, together with those in the Reference Schedule, apply unless the context requires otherwise:

Air-Conditioning Equipment means all plant in the Building used for the production and reticulation of chilled water or conditioned or circulating air but does not include any air-conditioning equipment owned, hired or leased (other than from the Lessor) by the Lessee.

Authority means any court, or any local, state or federal government, statutory or public authority or any other person having jurisdiction over the Building, Land and/or Premises.

Bank Guarantee means an unconditional undertaking in favour of the Lessor by a bank approved by the Lessor to pay the amount set out in Item 14 of the Reference Schedule to the Lessor upon demand and which is otherwise in a form and containing provisions which are acceptable to the Lessor in its absolute discretion.

Base Rent means the rent specified in Item 6 of the Reference Schedule as adjusted from time to time in accordance with this Lease.

Building means the building erected on the Land in which the Premises is located.

Building Manager means the manager or managing agent of the Building appointed by the Lessor from time to time and includes the employees, servants and agents of that manager.

Business Day means a day other than a Saturday, Sunday or public holiday in New South Wales.

Car Park means the parts of the Building designated by the Lessor from time to time for the parking of vehicles and includes driveways and ramps giving access to and from those parts of the Building.

Claim means any claim, demand, remedy, suit, injury, damage, loss, cost, liability, action, proceeding, right of action, claim for compensation and claim for abatement of any monetary obligation.

Commencement Date means the date specified in Item 10 of the Reference Schedule.

Common Areas means the areas of the Building and the Land provided at any time by the Lessor for common use. They include parking areas, driveways, walkways, loading docks, stairs, escalators, lifts and toilets.

Contamination means any substance, including without limitation, asbestos, synthetic mineral fibre or polychlorinated biphenyls, the presence of which:

- (a) is or may be a significant risk of harm to human health or the environment;
- (b) breaches of any Environmental Law or other law; or

could result in an Authority issuing a notice in respect of the Substance.

CPI Index means the Consumer Price Index specified in Item 8 of the Reference Schedule published by the Australian Bureau of Statistics. If the reference base of that index is up-dated, the required conversion will be made to preserve the intended continuity of the calculations. If the CPI Index ceases to exist, it means an index that the

Lessor decides reflects changes in the cost of living in the capital city of the State in which the Building is situated.

Default Rate means the rate of 12% per calendar month.

Environmental Law means:

- (a) all laws relating to town planning, the environment, noise, development, construction of structures, health, Contamination, radiation, pollution, waste disposal, land management and hazardous materials;
- (b) all conditions of all consents, approvals, authorisations, licences and permits issued under any law in clause (a); and
- (c) regulations and any order, guideline, notice, direction or requirement of any Authority in relation to these matters.

Expiry Date means the date specified in Item 11 of the Reference Schedule.

Financial Year means each 12 month period from 1 July to the following 30 June.

Guarantor means a person named as guarantor in Item 16 of the Reference Schedule.

GST means the goods and services tax as relevant, any related interest, penalties, fines or other charge.

GST Amount means, in relation to a Payment, an amount arrived at by multiplying the Payment (or the relevant part of a Payment if only part of a Payment is the consideration for a Taxable Supply) by the appropriate rate of GST (being 10% when the GST Law commenced).

GST Law has the meaning given to that term in A New Tax System (Goods and Services Tax) Act 1999, or, if that Act is not valid or does not exist for any reason, means any Act imposing or relating to the imposition or administration of a goods and services tax in Australia and any regulation made under that Act.

Input Tax Credit has the meaning given in the GST Law.

Land means:

- (d) the land specified in Item 1 of the Reference Schedule;
- (e) any land amalgamated with the Land; and
- (f) any additional land which is managed, operated or used in conjunction with the Land and which the Lessor elects to treat as part of the Land.

Lease means:

- (a) these lease terms;
- (b) the Reference Schedule and, where applicable, the land registry form to which these terms relate;
- (c) all appendices, plans, attachments or annexures; and
- (d) the Rules,

and where this Lease is required to be registered to pass a legal estate or interest to the Lessee but is not registered for any reason, any tenancy or obligation arising in contract, by operation of law, in equity or by any other means.

Legally Incapacitated means bankrupt, insolvent under administration, mentally disabled or ill, imprisoned, dead, in liquidation, administration or receivership, de-registered, or otherwise without full legal capacity (including where an application for bankruptcy or winding up has been presented and is pending or where insolvency is deemed to exist and including where receivership relates only to some of a person's assets).

Lessee's Equipment means all fixtures, fittings, plant, equipment, furnishings, partitions, cabling, floor coverings or other items owned or leased by the Lessee and installed in or about the Premises or the Building or any other property in the Premises which are not Lessor's Fixtures.

Lessee's Invitees means each of the Lessee's employees, agents, contractors, consultants, clients, workmen, invitees, visitors, sublessees, licensees and others, who are at any time, on or adjacent to the Premises or the Building (whether with or without invitation) or who are otherwise relevant to the Premises or the Building. It includes the Lessee's customers while they are in the Premises or otherwise under the Lessee's control;

Lessor's Fixtures means all plant, equipment, fittings, fixtures and furniture of the Lessor installed in or relevant to the Premises, including (without limitation) all air-conditioning equipment, security or fire alarm systems, stop clocks, fire hoses, hydrants, fire and smoke detectors, other fire prevention aids, firefighting systems, window coverings, blinds and light fittings.

Officer means, in respect of a party to this Lease, any director, alternate director, secretary, assistant secretary, executive officer, attorney, managing agent or solicitor of that party, and in the case of the Lessor, includes the Building Manager and any person employed by the Lessor holding a position which includes the word "Manager".

Payment means the amount of any consideration (other than a GST Amount) paid or provided by the Lessee for this Lease or by the Lessor or the Lessee for any other Supply made under or in connection with this Lease and includes any amount payable by way of indemnity, reimbursement, compensation or damages.

Permitted Use means the use specified in Item 13 of the Reference Schedule.

Premises means the part of the Building described in Item 2 of the Reference Schedule (including any of the Lessor's Fixtures in the Premises):

- (a) up to the centre line of any walls which separate the Premises from other premises;
- (b) up to the internal finished surfaces of other walls;
- (c) up to the internal finished surfaces of the floor and ceiling (above any false or suspended ceiling);
- (d) up to the external finished surfaces of any walls or doors which separate the Premises from any Common Areas or areas not intended for letting; and
- (e) including all areas occupied by any window mullions, window frames, structural columns, engaged perimeter columns or piers and areas occupied by additional facilities specially constructed for the Lessee within the Premises.

Reference Schedule means the Reference Schedule in this Lease.

Retail Legislation means the Retail Leases Act 1994 and any regulations.

Review Date means a date so specified in column (a) of Item 7 of the Reference Schedule.

Rules means the rules (if any) of the Building made or amended by the Lessor from time to time in accordance with this Lease.

Services mean all services or systems provided in or to the Building from time to time. This includes any lighting, gas, fuel, power, water, sewerage, drainage, loading docks, plant rooms, storage areas, fire services, sprinkler systems, telecommunications, lifts, escalators, security systems, air-conditioning and all associated fittings, fixtures, appliances, plant and equipment.

State includes a Territory.

Substance means any solid, liquid or gas and any radiation, radioactivity or magnetic activity.

Supply has the meaning given in the GST Law.

Taxable Supply has the meaning given in the GST Law.

Term means the period of time from the Commencement Date to the Expiry Date or any earlier date on which this Lease is determined and includes any period of holding over.

Trust means the trust specified in Item 15 of the Reference Schedule.

Valuer means a valuer with the qualifications required by the Retail Legislation agreed by the Lessor and the Lessee or, failing agreement, appointed by the person specified in the Retail Legislation at the request of either party.

WHS Legislation means the *Work Health and Safety Act 2011* (NSW) and the *Work Health and Safety Regulation 2011* (NSW).

Works means any works, alterations, additions or installations in or to the Premises and the Building including installation of internal partitions, shop fittings, blinds, awnings and floor coverings within the Premises and any refurbishment work.

1.2 Rules of interpretation

The following rules of interpretation apply unless the context requires otherwise:

- (a) headings are for convenience only and do not affect interpretation;
- (b) the singular includes the plural and the plural includes the singular;
- (c) a gender includes all genders;
- (d) a person includes an individual and a corporation;
- (e) a reference to any party to this Lease includes its successors and assigns. A reference to the Lessor includes any agents and employees of the Lessor, including the Building Manager;
- (f) a reference to a right or obligation of any party comprising 2 or more people confers that right, or imposes that obligation, on each of them individually and both (or all) of them together;
- (g) unless stated otherwise, one word or provision does not limit the effect of another;
- (h) reference to the whole includes part;
- (i) all obligations are taken to be required to be performed properly and punctually;

- (j) where anything is permitted in an emergency, the opinion of the Lessor as to the existence or non-existence of an emergency is conclusive;
- (k) reference to a month means a calendar month;
- (l) every obligation by the Lessee is taken to include an obligation by the Lessee to ensure that each of the Lessee's Invitees comply with that obligation;
- (m) if the Lessee requires the Lessor's consent, approval or agreement for any action, the Lessee must obtain it in writing before the Lessee starts to take that action;
- (n) no rule of construction will apply to the disadvantage of one party on the basis that that party put forward this Lease or any part of it;
- (o) a reference to any person or body which is renamed or replaced or ceases to exist will be deemed to be a reference to the person or body that, in the opinion of the Lessor, serves substantially the same purpose as that person or body; and
- (p) if any part of a provision of this Lease is unenforceable, illegal or invalid, that part will be read down or, if not possible, severed, but so as to maintain (as far as possible) all other parts of this Lease (unless to do so would change the underlying principal commercial purposes of this Lease).

1.3 Applicable laws

The following apply to this Lease:

- (a) this Lease is governed by the law of the State in which the Building is located;
- (b) a reference to legislation includes an amendment of or substitution for it and a regulation or statutory instrument issued under it; and
- (c) the provisions of any legislation which alters the effect of any provision of this Lease will not apply as far as they can be lawfully excluded.

2. Term

2.1 Term of Lease

This Lease starts on the Commencement Date and its provisions bind the parties on and from that date, whenever this Lease is signed or dated. It ends at midnight on the Expiry Date.

2.2 Holding over

If the Lessor consents to the Lessee continuing to occupy the Premises after the Expiry Date, the Lessee will do so for a fixed term of 1 month and then for successive periods of 1 month each. Either party may end the monthly tenancy at any time by giving 1 months' notice to the other. The terms of this Lease will apply to the Lessee's holding over.

3. Requirements for all payments

3.1 Monthly instalments

- (a) The Lessee must pay the Base Rent, by equal monthly instalments in advance.
- (b) The Lessee must pay the first instalment on or before the Commencement Date. Each subsequent instalment must be paid on or before the first day of each month during the Term.

- (c) Each monthly instalment will be 1/12th of the then current annual amount payable (except if the first or last instalment relates only to part of a month).
- (d) If any instalment payable is for a period of less than 1 month, the amount payable will be 1/365th of the annual amount payable multiplied by the number of days in the period.

3.2 General requirements

The Lessee must make all payments under this Lease:

- (a) at the place and in the way required by the Lessor;
- (b) without demand; and
- (c) without any deduction or right of set-off.

3.3 Direct debit authority

Without limiting clause 3.2(a), the Lessor may require the Lessee to make monthly payments (including Base Rent and Outgoings) by direct debit or electronic funds transfer. The Lessee must ensure that there are always sufficient funds in its bank account to enable those deductions to be made.

3.4 Interest on overdue moneys

The Lessee must pay to the Lessor interest at the Default Rate on any rent or other moneys due by the Lessee to the Lessor which is unpaid for more than 7 days after it is due. The interest will:

- (a) accrue from day to day;
- (b) if unpaid be capitalised on the last day of each month and shall itself bear interest at the Default Rate; and
- (c) be payable at any time on demand by the Lessor, and in any event (without demand) on payment of the overdue amount to which it relates.

3.5 Apportionment of money received

Any money paid to the Lessor (either before or after the Expiry Date) under this Lease may be appropriated as the Lessor determines despite any purported appropriation or condition of payment by the person paying it.

3.6 Effect of expiry or termination

The Lessee's obligations to make payments under this Lease or to give the Lessor information to enable it to calculate payments are not affected by the expiry or termination of this Lease.

4. Base Rent

4.1 Payment of Base Rent

- (a) The Lessee must pay the Base Rent to the Lessor in accordance with clause 3.
- (b) No adjustment of the Base Rent in accordance with this clause 4 can reduce the amount of the Base Rent.

4.2 CPI rent reviews

On each Review Date for which a "CPI Review" is specified in the Reference Schedule the Base Rent will be adjusted in accordance with the following formula:

$$R1 = R0 \times I$$

Where: R1 = the adjusted Base Rent
R0 = the Base Rent immediately prior to the Review Date
I = the CPI increment to be applied, calculated as follows:
(CPI1/CPI0)

Where: CPI1 = the CPI Index last published before the relevant Review Date
CPI0 = the CPI Index last published before the date 1 year prior to the relevant Review Date (or the Commencement Date where it occurred within the period of 1 year prior to the relevant Review Date)

4.3 Fixed increase reviews

On each Review Date for which a "Fixed Increase Review" is specified in the Reference Schedule, the Base Rent will be increased by the percentage or the amount specified in Item 9 of the Reference Schedule.

4.4 Market review of Base Rent

On each Review Date for which a "Market Review" is specified in the Reference Schedule, the Base Rent will be the current market rent of the Premises agreed or determined in accordance with the following procedure:

- (a) not earlier than 3 months before and not later than 3 months after the relevant Review Date, either the Lessor or the Lessee may notify the other of the amount it considers to be the current market rent for the Premises at the relevant Review Date;
- (b) if neither party gives a notice within the period in paragraph (a), the parties are taken to have agreed that the current market rent from the relevant Review Date is the Base Rent payable immediately before that Review Date;
- (c) if the Lessee and the Lessor cannot agree on the current market rent within 1 month after the date of the first notice given under paragraph (a), the current market rent for the Premises at the relevant Review Date is to be determined by a Valuer;
- (d) the Valuer must have regard to written submissions made by the Lessor and Lessee and must give a written determination and reasoning;
- (e) the Valuer's determination will be final and binding on the parties;
- (f) the Valuer's fees must be borne equally by the Lessor and Lessee;
- (g) any variation in the Base Rent, when agreed or decided, will take effect from the relevant Review Date;

- (h) if the Base Rent has not been determined by a Review Date, the Lessee must continue to pay Base Rent at the rate applicable prior to the relevant Review Date until the new Base Rent has been determined or agreed; and
- (i) any adjustment required on determination of or agreement on the Base Rent must be paid to the Lessor or credited to the account of the Lessee within 14 days of determination of or agreement on the Base Rent under this clause.

5. Outgoings

- (a) The Lessee will pay to the Lessor on demand its proportion of the Outgoings calculated on the basis that those expenses are deemed to have been paid at the time the obligation to pay them arose.
- (b) The Lessee's proportion of Outgoings will be the percentage specified in Item 5 of the Reference Schedule.
- (c) The Lessee will pay on account to the Lessor on the first day of each Month its proportion of the Lessor's estimate of Outgoings calculated on a Monthly basis. For the period between the Commencement Date and the end of the lease year in which the Commencement Date occurs, the Lessor's estimate shall be the amount specified in any supplementary statement provided by the Lessor and for the remainder of the Term shall be the amount notified to the Lessee under clause 5(d).
- (d) By not later than one Month prior to the commencement of each lease year, the Lessor will give the Lessee an estimate of Outgoings for that lease year. By not later than 3 Months following the end of each lease year the Lessor will give the Lessee a statement prepared by a qualified auditor of the Lessor giving reasonable details of Outgoings for the preceding lease year. An adjustment will be then made and one party will pay to the other on demand the amount necessary to make the adjustment.
- (e) If the Lease is assigned or transferred any payment to or credit given by the Lessor in accordance with such adjustment will be made or given by the Lessor to the person or corporation who is in possession of the Premises at the time when such payment or credit becomes due.
- (f) Outgoings means all amounts paid or payable by the Lessor in connection with the Land or the Building (other than the cost of capital works or structural works) including:
 - (i) all rates, assessments, levies or taxes levied or assessed to be levied by any Authority, levies and charges imposed by any strata, community title or similar legislation and land taxes.
 - (ii) all premiums and other costs of insurance as the Lessor thinks fit;
 - (iii) all charges for water, gas, oil, electricity, light, power fuel, (including, for the avoidance of doubt, any carbon or greenhouse gas emission or similar charges related to the foregoing), telephone, loud speaker and intercommunication systems sewerage and all other services furnished or supplied to the Building for the benefit or purposes of the Building;
 - (iv) all costs of repairs and maintenance to and painting of the Building (other than work of a structural nature or work the responsibility of any Lessee or occupant of the Building). Where any repairs maintenance and painting involving expenditure are carried out the Lessor may at its election either include the whole of such expenditure in the lease year in which it was

incurred or may apportion the expenditure over the years of the anticipated duration of the item on which the expenditure was incurred;

- (v) all costs of the detection, prevention and eradication of rodents, pests, insects and vermin;
 - (vi) all cost of cleaning the Common Areas, hampers, signs and the interior and exterior of the Building including the cost of any garbage removal service and any garbage compacting service for the Building or the cost (including rent, interest charges, wages and removal costs) of operating any garbage removal service and garbage compacting service for the Building whether within the Building or elsewhere;
 - (vii) all costs of management, control and administration of the Building whether such management, control and administration services are performed at the Building or elsewhere and whether performed by the Lessor or by others;
 - (viii) all costs of gardening, landscaping and providing and maintaining decorative features in Common Areas and on the Land;
 - (ix) all costs of caretaking and security in respect of the Building;
 - (x) all costs associated with running, maintaining and servicing lifts, escalators, travelators, fire detection and extinguishing equipment, security equipment, toilets, water closets, washrooms and other equipment (excluding air-conditioning) the supply of towels and other toilet requisites within the Building including the cost of personnel to operate such services;
 - (xi) all repairs maintenance and running costs in respect of the provision of air-conditioning to the Building;
 - (xii) all other outgoings, costs and expenses in each lease year now or later assessed, charged, paid or otherwise incurred in respect of either or both the Building or the Lessor in relation to the Building and in the conduct management maintenance use and occupation of the Building. The outgoings costs and expenses included within this paragraph will not be limited by reference to any of the preceding paragraphs and none of the preceding paragraphs will be limited by any other of those paragraphs, and unless otherwise stated, amounts paid or incurred by the Lessor shall be determined by reference to invoices received by the Lessor.
- (g) Expenses properly chargeable to a capital account, interest on loans raised for the purpose of capital expenses, depreciation and rent paid by the Lessor for any land comprising any part of the Building do not form part of the Outgoings.

6. Other Costs

6.1 Charges levied on Premises

The Lessee must pay or reimburse the Lessor by the due date all costs for all utilities including electricity, gas, oil, water, garbage removal, cleaning, sanitary and telephone, separately supplied, metered, consumed or connected to, in or on the Premises.

6.2 Lease costs

The Lessee must pay to the Lessor on demand:

- (a) the cost of preparation of a survey plan of the Premises (if applicable);

- (b) all stamp duty and registration fees on this Lease; and
- (c) the Lessor's legal and other costs (on a full indemnity basis) in relation to:
 - (i) the negotiation, preparation and registration (if applicable) of this Lease;
 - (ii) any application for consent required under this Lease (whether or not the consent is given);
 - (iii) any surrender or early termination of this Lease;
 - (iv) any litigation or arbitration in which the Lessor is made a party or is otherwise involved, arising directly or indirectly out of this Lease or the Lessee's occupancy of the Premises (except where a court or arbitrator awards costs in favour of the Lessee against the Lessor); and
 - (v) default by the Lessee under this Lease.

6.3 GST

- (a) The parties agree that
 - (i) all Payments have been set or determined without regard to the impact of GST;
 - (ii) if the whole or any part of a Payment is the consideration for a Taxable Supply for which the payee is liable to GST, the GST Amount in respect of the Payment must be paid to the payee as an additional amount, either concurrently with the Payment or as otherwise agreed in writing; and
 - (iii) the payee will provide to the payer a Tax invoice.
- (b) Despite any other provision of this Lease, if a Payment due under this Lease is a reimbursement or indemnification by one party of an expense, loss or liability incurred or to be incurred by the other party, the Payment shall exclude, any part of the amount to be reimbursed or indemnified for which the other party can claim an Input Tax Credit.
- (c) Each party will comply with its obligations under the Competition and Consumer Act 2010 in respect of any Payment to which it is entitled under this Lease.

7. Use of the Premises

7.1 Permitted Use

The Lessee must not:

- (a) use the Premises for any purpose except the Permitted Use; or
- (b) apply to an Authority for any licence, consent or approval to use the Premises for a purpose other than the Permitted Use.

7.2 No warranty about suitability or exclusivity

The Lessee acknowledges that no promise, representation or warranty has been given by or on behalf of the Lessor:

- (a) about the suitability of the Premises or the Building for any use or for any business to be carried on or as to other businesses to be carried on in the Building;

- (b) that others have leased, will continue to lease or will not be permitted to lease premises within the Building; or
- (c) that the Lessee has any exclusive or limited shared right to carry on the type of use or business or to sell any particular product permitted under this Lease.

7.3 Compliance with laws/Authority requirements

The Lessee must (subject to clause 9.2), at its own expense:

- (a) comply with all laws and requirements of Authorities relating to or affecting the Premises, the Lessee's Equipment and the Lessee's use or occupation of the Premises, including laws and requirements of Authorities that arise as a result of the sex or number of persons in the Premises;
- (b) immediately provide a copy to the Lessor of all consents, licences and approvals received from Authorities and any requirements of Authorities notified to or served on the Lessee; and
- (c) obtain, maintain and comply with all consents, licences or approvals from all Authorities which may from time to time be necessary or appropriate for the Lessee's business or the Permitted Use.

7.4 Conduct of Lessee's business

The Lessee must:

- (a) not do or carry on in the Premises any harmful or offensive trade, business or occupation or anything which may cause annoyance, nuisance, damage or disturbance to the Lessor or to any other tenant or occupier of the Building or any owner or occupier of any land or building near the Land;
- (b) not keep any animals or birds in the Premises or the Building (unless expressly allowed in the Permitted Use);
- (c) not misuse, interfere with, overload or obstruct access to any Services;
- (d) not use or operate any musical instruments, audio equipment, radios, amplifiers, televisions, audio-visual or other equipment which is audible or visible from outside the Premises;
- (e) not install in the Premises any vending or amusement machine without the Lessor's consent;
- (f) not cover or obstruct the air-conditioning ducts and outlets or the skylights and windows which reflect or admit air or light into any part of the Building nor cover nor obstruct any lights or other means of illumination;
- (g) not use the drains, basins, sinks or toilets in the Premises or the Building for any purpose other than those for which they were designed, nor place into them any substances which they were not designed to receive;
- (h) participate in emergency evacuation procedures and emergency evacuation drills from the Building and ensure the Lessee's employees are made aware of the safety and emergency procedures for the Building;
- (i) not affix any television or radio mast, antennae or satellite dish to any part of the Building without the Lessor's consent;
- (j) immediately notify the Lessor and any relevant Authority if any infectious illness or infestation of pests, insects or vermin occurs in the Premises and, at the Lessee's

cost, carry out the procedures required by the relevant Authority or the Lessor in relation to the Premises (and any other part of the Building which is affected as a result of the Lessee's occupation of the Premises);

- (k) not store flammable, volatile or explosive substances in the Premises or the Building except as is necessary for the conduct of the Permitted Use, and then only in quantities which are reasonably appropriate and in accordance with all laws and requirements of Authorities; and
- (l) not smoke in the Building.

7.5 Security of Premises

- (a) The Lessee must;
 - (i) keep all keys and access cards in the Lessee's control at all times and, if any key or access card is lost, stolen, destroyed or mutilated, pay for its replacement;
 - (ii) ensure that all exterior doors and windows in the Premises are securely fastened at all times when the Premises are not occupied; and
 - (iii) ensure that the Lessor has at all times a current after hours contact number for the Lessee or its manager.
- (b) The Lessor may enter and secure the Premises if the Lessee fails to do so (but is not liable to the Lessee if it does not).
- (c) If the Lessor is unable to contact the Lessee in an emergency to obtain authority to carry out any work which the Lessee is required to do under this Lease, the Lessor may carry out the work on behalf of the Lessee (but is not liable to the Lessee if it does not). The Lessee must reimburse to the Lessor the cost of carrying out the work within 7 days of demand.

7.6 Lessee's signage

- (a) The Lessee must not write, paint, display or affix any sign, advertisement, flag or notice on any part of the outside of the Premises or the outside or inside of the Building or elsewhere where it is visible outside the Premises, except with the Lessor's consent. The Lessee must also obtain the Lessor's consent to the material, colour, size, design, wording, type face and style and position of any proposed signage. The Lessee will provide the Lessor with an artist's impression of any signage being installed or erected on the Premises whenever it seeks the Lessor's consent in respect of this clause 7.6. The Lessor will not unreasonably withhold its consent or impose unreasonable conditions on the erection of the Lessee's trading sign.
- (b) If required by the Lessor, the Lessee must install *No Smoking* signs in the Premises.
- (c) The Lessor may enter the Lessee's name and description on any directory boards in the Building and all lettering, signs and other distinctive marks shall be carried out by the Lessor at the Lessee's cost.

7.7 Use of Common Areas

The Lessee must not:

- (a) use any walkway, pavement, forecourt, entrance, lift lobby, lift, corridor, passageway, stairway or landing comprised in a Common Area except as necessary for the purpose of access to and from the Premises;

- (b) (without the Lessor's consent which may be withheld in its absolute discretion) use any Common Areas for any business or commercial purpose or for the display or advertisement of any goods or services;
- (c) obstruct any Common Area; and
- (d) litter or leave any hazard on any part of the Common Areas.

7.8 Structural Overloading

- (a) The Lessee shall observe the maximum floor loading nominated from time to time by the Lessor (acting reasonably) and shall not permit the floors, roadways, hardstand areas or other sealed surfaces of the Premises or the Land to be broken, strained or damaged by overloading them in any manner.
- (b) The Lessee shall not load the ceiling or roof structure of the Premises without the Lessor's prior consent.
- (c) The Lessee shall not install upon the Premises any safe, heavy machinery, compactus or other heavy plant and equipment without the Lessor's prior consent (not to be unreasonably withheld).
- (d) The Lessee shall repair any damage caused as a result of the Lessee's breach of this clause 7.8.

8. Environmental Laws and Contamination

The Lessee must:

- (a) not cause or allow any Contamination of the Premises or the Land or any breach of an Environmental Law;
- (b) at its sole cost and expense promptly remediate any Contamination to the Premises or the Land and cease and make good any breach of an Environmental Law caused by the Lessee or the Lessee's Invitees; and
- (c) indemnifies the Lessor in relation to (and releases the Lessor from) any liability or loss arising from Contamination of the Land or the Premises by the Lessee or a breach of any Environmental Law by the Lessee.

9. Maintenance and Repairs

9.1 Maintenance and repair obligations

The Lessee must at all times:

- (a) keep the Premises clean and free of pests and vermin;
- (b) maintain the Premises as a first class premises having regard to the Permitted Use;
- (c) keep the Lessee's Equipment in good repair and condition;
- (d) keep the Lessor's Fixtures and the Services within or exclusively serving the Premises maintained, serviced and in good repair (and if required by the Lessor must enter and keep current at the Lessee's cost, regular periodic maintenance contracts with contractors approved by the Lessor);
- (e) immediately repair any damage to the Premises or any other part of the Building caused by the wilful or negligent act or omission of the Lessee, any Lessee's Invitee or any trespasser while the trespasser is in the Premises;

- (f) immediately replace all damaged or non-operative electric light bulbs and tubes in the Premises; and
- (g) immediately replace all glass broken by the Lessee or by any of the Lessee's Invitees.

9.2 Structural alterations and repair

Nothing in this Lease will require the Lessee to effect structural alterations, additions, replacement or repair except where it arises from:

- (a) the Lessee's use or occupation of the Premises;
- (b) the sex or number of the Lessee's Invitees; or
- (c) any deliberate or negligent act or omission by the Lessee or of the Lessee's invitees.

9.3 Notice to Lessor of damage and accidents

The Lessee must immediately give written notice to the Lessor of any:

- (a) damage, accident to or defects in the Premises or in the Building; or
- (b) circumstances likely to cause any damage or injury within the Premises or the Building, of which the Lessee has notice (actual or constructive).

9.4 Lessor's right of access

The Lessor may, on giving reasonable notice to the Lessee (except in an emergency when no notice is required) enter the Premises to:

- (a) view the state of repair and condition of the Premises;
- (b) carry out any repairs considered necessary or desirable by the Lessor or do anything which the Lessor is required to do under this Lease (but in doing so must endeavour to minimise disruption to the Lessee); and
- (c) carry out any repairs or works which the Lessee is required or liable to do under this Lease or by any law or by any Authority requirement but has failed to do (at the Lessee's expense).

10. Air-Conditioning Equipment

The Lessor and the Lessee acknowledge to each other and agree that the Lessee has responsibility for (including to pay all costs of) the ongoing and periodic maintenance, servicing, operation and repair of the Air-Conditioning Equipment and must, at its cost, enter into and maintain a comprehensive preventative maintenance contract for the Air-Conditioning Equipment approved by the Lessor (acting reasonably) with a specialist contractor for the regular service, maintenance and repair of the Air-Conditioning Equipment.

11. Lessee's fitout, alterations and additions

11.1 Alterations to Premises require approval

The Lessee must not:

- (a) carry out any Works; or

- (b) alter, interfere with or make any connections to the Lessor's Fixtures or the Services,

without the Lessor's consent and the approval of each relevant Authority.

11.2 Application for approval of Works

The Lessee must seek the Lessor's approval of the Works by submitting detailed drawings and specifications of the Works to the Lessor and paying the Lessor's consultants' costs of approving and supervising the Works.

11.3 Carrying out Works

Once approved, the Lessee must ensure the Works are carried out at the Lessee's cost:

- (a) in a proper and workmanlike manner using high quality materials;
- (b) in accordance with:
 - (i) the approvals of the Lessor and each relevant Authority;
 - (ii) the plans, drawings and specifications of the Works;
 - (iii) all directions of the Lessor or its nominated representative; and
 - (iv) all lawful requirements; and
- (c) by contractors who effect and maintain insurances with reputable insurers in connection with the Works as required by the Lessor.

11.4 Structural alterations

All structural alterations to the Premises, Building or modification to the Services to the Premises necessary to meet the Lessee's requirements which the Lessor agrees to carry out will be carried out by the Lessor's contractors in accordance with the Lessee's directions (but subject to and without limiting clause 11.3) at the Lessee's cost. The risk of any works undertaken in connection with any works contemplated by this clause is in all respects the risk of the Lessee.

11.5 Works to be paid for by the Lessee

The Lessee must pay for:

- (a) any Works carried out by the Lessor's contractors under clause 11.4 (including the cost of considering the Lessee's request for the Works and obtaining any relevant approvals); and
- (b) any part of the Works the Lessor agrees to carry out,

such payment to be made to the Lessor before the work is commenced on production by the Lessor of a costed order for the Works. If a costed order is not submitted, payment must be made immediately on production of a certificate by the Lessor or its nominated representative as to the cost of the Works.

11.6 Workplace health and safety

- (a) Subject to clause 11.6(b), if the Lessee carries out or commissions to be carried out on the Land or Premises, Works that are a construction project (as defined in the WHS Legislation), the Lessee acknowledges and agrees that for the purposes of the WHS Legislation, the Lessee:

- (i) is the principal contractor for the Works and will discharge the obligations imposed on a principal contractor under the WHS Legislation, unless the Lessee:
 - (A) engages another person as principal contractor for the Works; and
 - (B) authorises that person to have management and control of the workplace and the Works and to discharge the duties of principal contractor under the WHS Legislation; and
 - (ii) has management and control of the workplace and the Works.
- (b) If the Lessee carries out or procures to be carried out on the Land or Premises, Works commissioned by the Lessor (including if acting as agent for the Lessor) that are a construction project (as defined in the WHS Regulation), then for the purposes of the WHS Legislation:
- (i) the Lessor engages the Lessee as principal contractor for the Works;
 - (ii) the Lessee accepts the engagement as principal contractor and will discharge the obligations imposed on a principal contractor under the WHS Legislation; and
 - (iii) the Lessor authorises the Lessee to manage and control the workplace and the Works and to discharge the duties of principal contractor under the WHS Legislation.
- (c) For all Works by the Lessee under this Lease (including the Works referred to in clauses 11.6(a) and 11.6(b)), the Lessee:
- (i) must comply with, and must ensure compliance with:
 - (A) the WHS Legislation (including licensing requirements); and
 - (B) any WHS management plan and safe work method statements (as those terms are defined in the WHS Legislation) where relevant;
 - (ii) is responsible for the Works at all times until they are completed; and
 - (iii) must promptly provide the Lessor with any information requested by the Lessor relating to the Works and work health and safety.

11.7 Ownership of Works

- (a) The parties agree that the Works referred to in this clause form part of the Premises and are part of the Lessor's Fixtures under the Lease.
- (b) The Lessee must at its cost promptly do all things necessary to transfer title and all relevant warranties to the Works to the Lessor, at no cost to the Lessor, although no formal delivery of the Works is required.
- (c) Despite any other provision of the Lease, the parties agree that:
 - (1) title to the Works remains with the Lessor from its installation in the Premises;
 - (2) the Works are not part of the Lessee's Equipment under the Lease; and
 - (3) the Lessee must repair and maintain the Works (as part of the Lessor's Fixtures) in accordance with the Lease (at the Lessee's cost).

11.8 Certificate on Completion

On completion of the Works, the Lessee must deliver to the Lessor a certificate from all relevant Authorities stating that the Works have been completed in accordance with the requirement of those Authorities. The Lessor may, in its absolute discretion, accept a certificate of completion from an engineer or architect nominated by the Lessor in place of a certificate from the relevant Authorities.

12. Insurance and indemnities

12.1 Lessee's insurances

- (a) The Lessee must effect on or before the Commencement Date and keep current during the Term, insurance policies covering:
 - (i) public liability for an amount in respect of any single accident of not less than \$20,000,000 or any other amount as the Lessor may notify the Lessee from time to time (including insurance in respect of any loss or injury arising out of the Lessee placing its property on or otherwise using the Common Areas outside the Premises from time to time during the Term);
 - (ii) industrial special risks, covering the Lessee's Equipment in the Premises for its full value;
 - (iii) workers' compensation; and
 - (iv) plate glass for its replacement value.
- (b) Each insurance policy must:
 - (i) be taken out with an insurance company approved by the Lessor;
 - (ii) cover the risks and otherwise be on terms acceptable to the Lessor and the Lessor's insurer;
 - (iii) note the address of the Premises; and
 - (iv) be taken out in the names of the Lessor and the Lessee.
- (c) The Lessee must, prior to the Commencement Date and whenever reasonably required by the Lessor, give the Lessor evidence that it has complied with clauses 12.1(a) and (b).

12.2 Effect on Lessor's insurances

The Lessee must not, without the Lessor's consent, do anything in the Premises or the Building which might:

- (a) increase the rate of any premium in respect of any insurance; or
- (b) render any insurance void or voidable,

relating to the Premises or the Building or any property or risk associated with them and the Lessee must pay to the Lessor on demand all extra premiums and amounts payable in respect of any insurance due to extra risk caused by the Lessee's use or occupation of the Premises.

12.3 Risk

The Lessee uses and occupies the Premises and carries out all work in them at the Lessee's own risk.

12.4 Exclusion of Lessor's liability

The Lessee agrees that the Lessor, the Building Manager and any person claiming through or under either of them will not be responsible for, and releases them to the full extent permitted by law from, liability in respect of any:

- (a) Claim relating to any Lessee's Equipment or other property of the Lessee or any other person in the Building or any part of it however occurring; or
- (b) loss, damage, death or injury to any property or person in the Building or on any land near the Building, unless it results from the negligence of the Lessor or its agents, employees, managers or contractors.

12.5 Indemnities

The Lessee indemnifies the Lessor, the Building Manager and any person claiming through or under either of them against all Claims for which they may become liable, whether during or after the Term, in respect of, arising from or contributed to by:

- (a) any act, neglect, default or omission of the Lessor or the Lessee's Invitees or any other person claiming through or under the Lessee or of any trespasser while the trespasser is in the Premises; and
- (b) the Lessee's use and occupation of the Premises.

12.6 Limitation of Liability

The Lessee's liability and indemnity under clause 12.5 are limited to the extent that the damage loss injury or death giving rise to the Claim was caused or contributed to by the Lessor.

13. Damage and destruction

13.1 Damage or destruction of Building

If the Building or the Premises are damaged or destroyed so that the Premises cannot be used:

- (a) if the Lessor notifies the Lessee that the Lessor considers that the damage is such as to make any repair impracticable or undesirable, the Lessor may terminate this Lease by giving not less than 7 days' notice to the Lessee;
- (b) if the Lessor does not commence repair of the damage within a reasonable time (having regard to the nature and extent of the damage or destruction), the Lessee may serve on the Lessor notice of intention to terminate this Lease and, unless the Lessor within 1 month of that notice commences and proceeds with reasonable expedition to repair the damage, the Lessee may terminate this Lease by notice to the Lessor and immediately on the giving of that further notice, this Lease shall be at an end; and
- (c) a proportion of the Base Rent, according to the nature and extent of the damage or destruction sustained will abate until the Premises can be used.

13.2 Liabilities on termination

No liability will attach to the Lessor or to the Lessee as a result of termination of this Lease under this clause but that termination will not affect the rights of either party in respect of any preceding breach of this Lease.

13.3 Damage by Lessee

The provisions of clauses 13.1(b) and 13.1(c) will not apply where the damage or destruction has been caused by or contributed to, or arises from, any act of omission of the Lessee or the Lessee's Invitees or by any other person claiming through or under the Lessee.

13.4 Resumption

If any part of the Land is resumed by a competent Authority and, as a result, the Premises are unusable or inaccessible, either the Lessor or the Lessee may terminate this Lease by notice to the other.

13.5 No Obligation to restore

This clause 13 does not oblige the Lessor to restore or reinstate the Building or the Premises.

14. Assignment and other dealings

14.1 Dealings generally

The Lessee must not:

- (a) sublease the Premises or any part of them;
- (b) mortgage, charge or otherwise encumber the Lessee's interest in this Lease or the Premises; or
- (c) except with the prior consent of the Lessor:
 - (i) assign the Premises or its interest in this Lease; or
 - (ii) licence or otherwise part with possession of the Premises.

14.2 Application for consent to assignment

The Lessee must, at least 21 days before the proposed assignee intends taking possession of the Premises pursuant to an assignment, make a written request for the Lessor's consent together with:

- (a) in relation to each proposed assignee and any proposed guarantor;
 - (i) their full names and addresses (including, in the case of individuals their current residential addresses);
 - (ii) for each individual, a character reference;
 - (iii) at least 2 business references (including the current name and contact details for each referee);
 - (iv) an up to date summary of assets and liabilities prepared by and signed by a public accountant;
 - (v) copies of current bank account, overdraft and mortgage statements; and

- (vi) any other information required by the Lessor to establish the proposed assignee's or proposed guarantor's financial position; and
- (b) copies of all agreements between the Lessee and the proposed assignee and any other party to the dealing which relates to the dealing.

14.3 Requirements to be satisfied for consent.

The Lessor will not unreasonably withhold its' consent to a proposed assignment where:

- (a) the Lessee has complied with clause 14.2; and
- (b) the Lessee proves to the Lessor's reasonable satisfaction that the proposed assignee is:
 - (i) a suitable, respectable, responsible and solvent person who is no less financially substantial than the Lessee with experience in and a good reputation for conducting the business permitted to the standard required under this Lease;
 - (ii) capable of performing the Lessee's obligations under this Lease; and
 - (iii) capable of adequately carrying on the Permitted Use (or any other business approved by the Lessor) in the Premises in an efficient and profitable manner and capable of generating Turnover at least equal to that of the Lessee.

14.4 Conditions of Lessor's consent

Any consent by the Lessor to a proposed assignment given under this clause is conditional on each of the following occurring before the proposed assignee takes possession of the Premises:

- (a) the Lessee and the proposed assignee entering a deed of consent with the Lessor in the form required by the Lessor;
- (b) if required by the Lessor, the proposed assignee providing security in favour of the Lessor (in a form or by persons acceptable to the Lessor);
- (c) the Lessee paying the Lessor all reasonable costs incurred by the Lessor in respect of the assignment or the proposed assignment including the Lessor's administrative, legal and investigation costs; and
- (d) any default by the Lessee under this Lease arising up to the date of completion of the proposed assignment being remedied.

14.5 Change in corporate ownership

If the Lessee is a company (other than a company the shares in which are listed on a recognised stock exchange) any:

- (a) transfer, transmission, issue, trust, amendment to rights or other dealing with shares; or
- (b) any other event or circumstances which:
 - (i) alters the effective control of the Lessee; or
 - (ii) results in the shareholders of the Lessee at the Commencement Date (or, if this Lease has been assigned to the Lessee, then at the date of the

assignment) together beneficially holding or controlling 50% or less of the voting, income or capital participation rights in the Lessee,

is deemed to be a breach of clause 14.1 unless the Lessor's prior consent to the dealing has been given. Clauses 14.2 to 14.4 apply to an application for Lessor's consent as if the proposed transferee or person acquiring control over the Lessee was a proposed assignee of the Premises.

14.6 Mortgage of Lessee's Equipment

The Lessee must not mortgage, charge, lease or otherwise deal with any of the Lessee's Equipment without the Lessor's consent which will not be unreasonably withheld where the Lessee's financier enters an agreement with the Lessor prepared by the Lessor at the Lessee's cost and otherwise on terms and conditions satisfactory to the Lessor.

14.7 Lessee still responsible

Notwithstanding any consent given under this clause, the Lessee will remain responsible to the Lessor for ensuring compliance with the Lessee's obligations under this Lease. The Lessee indemnifies the Lessor against all Claims resulting from the occupation of the Premises by an assignee.

15. Lessor's obligations and management of the Building

15.1 Lessor's covenants

Subject to the rights and reservations of the Lessor under this Lease, the Lessor:

- (a) agrees while the Lessee pays the Base Rent and complies with its other obligations under this Lease, the Lessee may occupy and enjoy the Premises during the Term without any interruption by the Lessor;
- (b) will permit the Lessee and the Lessee's Invitees to use the Common Areas for the purposes for which they were designed or intended to be used;
- (c) will use reasonable endeavours to maintain the Building in a structurally sound condition and, to keep the Common Areas clean;
- (d) will use reasonable endeavours to ensure the Services are operational and functional during normal business hours but the Lessee will not be entitled to terminate this Lease or have any Claim against the Lessor if:
 - (i) any of the Services are inoperative or fall to function, or if the Lessor shuts off or removes any of the Services due to the need to repair or maintain or replace the Services or the operation of any laws or requirements of any Authorities; or
 - (ii) the Lessor closes the Building or any part of it in an emergency.

15.2 Reservations

The Lessor reserves the right to:

- (a) add to, excise land from, subdivide or otherwise change the size or configuration of the Building;
- (b) dedicate land or grant easements or other rights in favour of, or enter into any arrangement or agreement with, any owners, lessees or occupiers or others having an interest in any land (including the Building) near the Premises or with any Authority;

- (c) use the roof and external walls of the Building and other parts of the Building which are not leased for any purpose, including the right to erect and display advertising signs on them or to grant leases or licences or otherwise authorise any person to use any of those areas;
- (d) erect kiosks, signs, seating and other structures in the Common Areas and grant leases or licences to use any part of the Common Areas provided those structures do not substantially impede access to or visibility of the Premises;
- (e) permit any person to hold any function, exhibition or display in any part of the Common Areas;
- (f) install, maintain, use, repair, alter, service and replace any Services for the Building;
- (g) temporarily close any part of the Common Areas including the Car Park and loading bays whilst carrying out any works required to be done in the Building;
- (h) name or create a logo for the Building and to change them from time to time; and
- (i) exclude or remove from the Building any person who is breaching this Lease or the Rules,

but the Lessor when exercising its rights in this clause must not do so in a way which substantially or permanently affects the enjoyment of any rights conferred on the Lessee by this Lease.

15.3 Rules

The Lessor may make Rules not inconsistent with this Lease as it considers appropriate for:

- (a) the management, safety, security protection, care or cleanliness of the Building;
- (b) the preservation of good order in the Building;
- (c) what the Lessor considers to be conducive to the general convenience, comfort and health of the occupiers or invitees in respect of the Building; and
- (d) compliance with requirements of any Authorities relating to the Building,

and may amend, add to, cancel or suspend the Rules. The Rules bind the Lessee from the time that written notice of the Rules is given to the Lessee.

15.4 Additions and alterations to Building

- (a) The Lessor may at any time during the Term extend, alter, renovate or refurbish the Building and may:
 - (i) change the Common Areas or any facilities;
 - (ii) add or remove levels to the Building;
 - (iii) change the tenancy mix of the Building;
 - (iv) change the size, location arrangement or means of access to the Car Park; and
 - (v) construct buildings on the Car Park or any Common Areas,

and for that purpose may, without incurring any liability to the Lessee limit access to or close parts of the Common Areas and interrupt the Services to the Premises but the Lessor will endeavour not to cause undue inconvenience to the Lessee and the conduct of the Lessee's business.

- (b) The Lessee will not be entitled to make any Claim against the Lessor in relation to any works undertaken by the Lessor under clause 15.4(a).

15.5 For sale/to let

The Lessor is entitled to:

- (a) during the last 3 months of the Term, place signs on parts of the Premises as it reasonably considers appropriate and, after giving reasonable notice to the Lessee, show prospective tenants through the Premises; and
- (b) at any time, after giving reasonable notice to the Lessee, show prospective purchasers of the Building through the Premises.

16. Not used

17. Default and Termination

17.1 Events of default

An event of default occurs if:

- (a) any instalment of Base Rent or any other amount payable by the Lessee is not paid within 7 days of the day on which it ought to have been paid (whether or not formal or legal demand for payment has been made);
- (b) the Lessee fails or refuses to carry out any repairs properly required by any written notice within the time specified in the notice;
- (c) contrary to the provisions of this Lease:
 - (i) the Lessee assigns, grants a licence or otherwise disposes, deals with or parts with possession of the Premises or the Lessee's interest in this Lease or any part of them or any interest in them; or
 - (ii) an event occurs in relation to the corporate ownership of the Lessee which this Lease deems to be a breach of the Lessee's obligation not to assign its interest in this Lease;
- (d) the Lessee fails to duly and promptly perform or observe any of the obligations contained in this Lease which are required to be performed or observed by the Lessee; or
- (e) any Lessee or guarantor of the Lessee's obligations under this Lease becomes Legally Incapacitated.

17.2 Termination of Lease

If an event of default has occurred, the Lessor may, without prejudice to any other Claim which the Lessor has or may have against the Lessee or any other person in respect of that event of default:

- (a) (subject to any prior demand or notice as is required by law) re-enter into and take possession of the Premises (by force if necessary) and eject or prevent re-entry by the Lessee and all other persons from them, and on the Lessor so doing this Lease shall be absolutely determined; and/or

- (b) by written notice to the Lessee determine this Lease, and from the date of giving of the notice this Lease shall be absolutely determined; or
- (c) by written notice to the Lessee elect to convert this Lease into a tenancy from month to month, in which event from the date of the notice the Lessee will hold the Premises as tenant from month to month under the provisions of this Lease relating to the holding over.

17.3 Damages for breach

The parties agree that if any of the events referred to in clauses 17.1(a) or 17.1(c) occur, the Lessee will be deemed to have breached a fundamental and essential condition in this Lease, amounting to a repudiation of this Lease by the Lessee and where the Lessor has re-entered the Premises or determined this Lease:

- (a) the Lessee must pay to the Lessor on demand as liquidated damages the difference between all those moneys payable under clauses 4 and 5 which would have been payable by the Lessee for the balance of the Term had it not been determined and the amount (if any) which the Lessor does receive or reasonably anticipates (at the time when the Lessor makes a claim for damages under this clause or, if litigation proceeds to judgment in favour of the Lessor, at the time of the Judgment) that it will receive during the balance of the Term from other lessees or occupiers of the Premises;
- (b) to the extent that the liquidated damages represents an acceleration of payments which would otherwise have been received over a period of time, each respective accelerated component of that amount will be rebated at the rate of 12% per annum; and
- (c) that rebate will be calculated with effect from the day following the day on which the liquidated damages (taking into account any such rebate) are received by the Lessor in full, and until that date, the Lessor will be entitled to interest at the Default Rate on payment which would have accrued under this Lease had it not been determined.

The provisions of this clause will not limit the Lessor's right to recover damages for any other loss suffered by it.

17.4 Lessor to mitigate loss

If the Lessee abandons the Premises or the Lessor re-enters the Premises, the Lessor must take reasonable steps to mitigate its loss and to endeavour to re-lease the Premises at a reasonable rent and on reasonable terms, but the Lessor's conduct will not of itself constitute acceptance of the Lessee's breach or repudiation or a surrender by operation of law.

17.5 Lessor may rectify

The Lessor may, but is not obliged to, remedy at any time without notice any default by the Lessee under this Lease. All reasonable costs incurred by the Lessor in remedying a default will constitute a liquidated debt owed by the Lessee to the Lessor and must be paid by the Lessee to the Lessor on demand.

17.6 Entry not to constitute forfeiture

If the Lessee vacates the Premises during the Term, neither acceptance of the keys nor entry into the Premises by the Lessor or by any person on behalf of the Lessor for the purpose of inspecting, cleaning, repairing, refurbishing or altering the Premises or showing the Premises to prospective lessees or licensees, or advertising of the Premises for reletting will constitute a re-entry or waiver of the Lessor's rights to recover in full all rent and other amounts payable by the Lessee under this Lease.

17.7 Waiver

- (a) The Lessor's failure to take advantage of any default by the Lessee will not be construed as a waiver of that default, nor shall any custom or practice between any of the parties in the course of administering this Lease.
- (b) A waiver by the Lessor of a particular breach by the Lessee will not be deemed to be a waiver of any subsequent breach.
- (c) The demand by the Lessor for, or subsequent acceptance by or on behalf of the Lessor of, rent or any other moneys payable under this Lease will not constitute a waiver of any earlier breach by the Lessee of any obligation contained in this Lease regardless of the Lessor's knowledge of any earlier breach at the time of acceptance of the rent or other moneys.

17.8 Earlier breaches

The expiration or determination of this Lease will not prejudice or affect any rights or remedies of the Lessor against the Lessee in respect of any earlier breach by the Lessee of any obligations of the Lessee.

17.9 Power of Attorney

The Lessee irrevocably appoints the Lessor and each Officer of the Lessor jointly and severally, its attorney to:

- (a) at the cost of the Lessee, perform all acts and do all things required to be done by the Lessee under this Lease and do anything relating to the Premises as fully and effectually as the Lessee could do wherever the Lessee has failed to do so promptly; and
- (b) act after the power to forfeit, terminate or re-enter in this Lease has become exercisable (proof of which shall be a statutory declaration by or on behalf of the Lessor) to sign:
 - (i) a transfer, surrender or request to record the determination of this Lease; and
 - (ii) a withdrawal of any caveat lodged by the Lessee affecting the Premises or the Building.

18. End of the Term

18.1 Vacate Premises

At the end of the Term, the Lessee must:

- (a) give the Premises back to the Lessor in the condition required by this Lease; and
- (b) return all keys and access cards for the Premises to the Lessor.

18.2 Lessee's Make Good Obligations

During the last 7 days of the Term, the Lessee must (unless the Lessor has notified the Lessee that it is not required to make good and the Lessee has paid the Lessor the agreed cost of making good the premises):

- (a) subject to clause 18.3, remove from the Premises and any other relevant part of the Building:

the Lessee's Equipment, stock and all other property of the Lessee;

- (b) repair (by replacement if necessary) all damage caused by the installation and use of the Lessee's Equipment (including replacing floor coverings and ceiling tiles which have been holed, filling in holes and restoring original surfaces to walls, floors and ceilings and removing cabling);
- (c) remove all lettering, signs and other distinctive marks from the Premises and the Building; and
- (d) repair any damage caused to the Premises or the Building in carrying out the work required by this clause.

18.3 Failure to remove Lessee's Equipment

Any item required to be removed from the Premises or Building under clause 18.2 and not removed before the end of the Term:

- (a) will be deemed to have been abandoned by the Lessee and becomes the property of the Lessor; and
- (b) may, at the Lessor's option be:
 - (i) removed and stored at the risk of the Lessee;
 - (ii) removed and disposed of; or
 - (iii) otherwise disposed of, used or dealt with as the Lessor thinks fit,

and the Lessee must pay the Lessor on demand for the cost of removal, storage and disposal.

19. Not used

20. Guarantee

20.1 Guarantee

Each Guarantor guarantees to the Lessor the prompt performance and observance of all of the Lessee's obligations contained or implied in this Lease.

20.2 Indemnity

- (a) Each Guarantor indemnifies the Lessor against any Claim which the Lessor pays, suffers or incurs, or is liable for howsoever arising as a result of:
 - (i) any default by the Lessee under this Lease; or
 - (ii) this Lease being or becoming unenforceable against the Lessee for any reason (including without limit disclaimer of this Lease by a liquidator or trustee in bankruptcy).
- (b) Each Guarantor must pay to the Lessor on demand any money owing to the Lessor under this indemnity.
- (c) Each guarantor's obligations under this clause 20.2 are separate and independent from its obligations under clause 20.1.

20.3 Covenants

- (a) Each Guarantor is liable to the Lessor for:

- (i) the observance by the Lessee of all of the Lessee's obligations contained or implied in this Lease; and
 - (ii) any damage incurred by the Lessor as a result of:
 - (A) failure by the Lessee to promptly perform or observe any of the Lessee's obligations contained or implied in this Lease; and/or
 - (B) the termination of this Lease by the Lessor.
- (b) Until the Lessor has received all money payable by the Lessee or the Guarantors under this Lease neither the Lessee nor the Guarantors may:
- (i) claim or receive the benefit of any:
 - (A) dividend or distribution;
 - (B) payment out of the estate or assets; or
 - (C) payment in the liquidation, winding up or bankruptcy,
 of any person liable jointly with the Lessee to the Lessor or liable under any security for any money payable by the Lessee or the Guarantor;
 - (ii) prove in any estate or in relation to any asset in any liquidation, winding up or bankruptcy in competition with the Lessor unless the amount the Lessor is entitled to will not be reduced as a result;
 - (iii) exercise its right to be subrogated to the Lessor's rights against the Lessee or any other Guarantor or any security of the Lessor; and/or
 - (iv) exercise any right as Guarantor in competition with the Lessor.
- (c) Each Guarantor must pay the Lessor on demand by the Lessor any expense incurred by the Lessor in respect of the Lessor's exercise or attempted exercise of any right of the Lessor under this Lease.
- (d) If the Lessor assigns or transfers its interest in this Lease, the assignee receives the benefit of each of the Guarantor's covenants, agreements, guarantees and indemnities.
- (e) Each Guarantor's obligations under this Lease are continuing obligations and are irrevocable and unconditional.
- (f) The guarantee and indemnity may be enforced against a Guarantor without the Lessor being required to first exercise any right against:
- (i) the Lessee; or
 - (ii) any other Guarantor,

to enforce any security held for the Lessee's obligations under this Lease.

20.4 Several liability

If there is more than one Guarantor, the Guarantors are jointly and severally bound even if a person named as guarantor does not execute this Lease.

20.5 Continuing effect

The obligations of a Guarantor under this clause 20 are not released, discharged or otherwise affected by:

- (a) this Lease not being registered;
- (b) a sub-lease of the Premises;
- (c) the Lessor assigns or transfers its interest in this Lease;
- (d) the grant of any time, waiver, forbearance or other concession by the Lessor to the Lessee or any Guarantor;
- (e) any delay or failure by the Lessor to take action against the Lessee or any Guarantor;
- (f) any full or partial release of the Lessee or any Guarantor;
- (g) any arrangement, composition or compromise entered into by the Lessor, the Lessee, any Guarantor or any other person;
- (h) any extinguishment, failure, loss, release, discharge, abandonment, impairment, compound, composition or compromise, in whole or in part of this Lease, any other document or agreement;
- (i) any variation, novation, renewal or assignment of this Lease;
- (j) the addition or release of any Guarantor to this Lease at any time, even if any person named as Guarantor does not execute this Lease;
- (k) any moratorium or other suspension of any right, power, authority, discretion or remedy conferred on the Lessor by the Lease, any statute, any court or otherwise;
- (l) any payment to the Lessor, including any payment which at or after the payment date is illegal, void, voidable, avoided or unenforceable;
- (m) the winding up of the Lessee or bankruptcy of any Guarantor;
- (n) a disclaimer of the Lease by a liquidator or trustee in bankruptcy;
- (o) any Guarantor not executing or otherwise being bound by this Lease or any other guarantee of or security for the Lessee's obligations under this Lease;
- (p) the unenforceability of the guarantee and indemnity against 1 or more of the Guarantors;
- (q) the death or legal incapacity of the Lessor, Lessee, any Guarantor or other person; or
- (r) the failure of the Lessee or a Guarantor to comply with any provisions of this Lease.

21. Option of renewal

21.1 Option

- (a) The Lessee, from the expiry of the Lease, is entitled to take a renewed lease of the Premises for the further term of years, if any, set out in item 12 of the Reference Schedule on the conditions of this clause 21.

- (b) The Lessor, if the Lessee:
 - (i) gives the Lessor, not more than 6 months and no less than 3 months from the expiry of the Term, written notice of the intention to renew; and
 - (ii) is not in default under the Lease,must grant to the Lessee, at the Lessee's own cost, a renewal of the Lease for that further term of years unless clause 21.2 applies.

21.2 Lessor's entitlement to refuse to grant further Term

The Lessor may refuse to grant a lease for the renewed term if:

- (a) the Lessee fails during the Term, to pay:
 - (i) the Base Rent; or
 - (ii) any other money payable to the Lessor under the Lease,within 7 days after the due date for payment;
- (b) the Lessee has been in breach of any other of the Lessee's covenants and the Lessor serves notice on the Lessee requiring the Lessee to comply with the Lessee's covenants; or
- (c) at the date of service of the Lessee's notice, the Lessee is in default under any of the Lessee's covenants in respect of which the Lessor has served a written notice on the Lessee requiring the Lessee to comply.

21.3 Terms of Lease

The renewed lease for an option term is in the same form as this Lease except that:

- (a) the Base Rent payable at the commencement date is determined in accordance with clause 4.4 as if that commencement date was a Review Date specified as a Market Review in the reference schedule;
- (b) items 10 and 11 of the Reference Schedule are amended appropriately;
- (c) item 12 of the Reference Schedule is amended:
 - (i) in the case where a further option exists, to read "one further term of five (5) years"; or
 - (ii) in the case where no further option exists, to read "Not applicable";
- (d) where no further option periods remain, this clause 21 is deleted; and
- (e) the lease form is otherwise amended only if and to the extent necessary to enable registration of the renewed lease.

22. Car parking

22.1 Licence

In consideration of the Lessee paying the Licence Fee in accordance with this clause 22, the Lessor grants the Lessee a non-exclusive licence to park the number of cars shown in Item 17 of the Reference Schedule in the Car Park 24 hours a day seven days a week.

22.2 Term

The licence begins on the Commencement Date and ends, subject to clause 22.3, on the earlier of the Expiry Date and the date this Lease ends.

22.3 Holding over

If the Lessee continues to occupy the Premises under clause 2.2, this licence continues until the Lessee's occupation of the Premises under clause 2.2 ends.

22.4 Licence Fee

The Lessee must pay the annual licence fee set out in Item 18 as changed under clause 22.6, in the same way and at the same times as the Lessee must pay the Base Rent.

22.5 Parking Space Levy and other charges

- (a) In addition to the Licence Fee, on or before 1 September in each year of the Term of the licence and any continuation of it, the Lessee must pay to the Lessor the whole or a proportionate part (if any part of the period in respect of which the levy is payable does not fall within the term or any continuation of it) of any levy that is or will be payable by the Lessor under the Parking Space Levy Act 1992 in respect of the number of parking spaces the Lessee may use under the licence.
- (b) In addition to the Licence Fee and the parking space levy under clause 22.5(a), the Lessee must pay to the Lessor the amount of any other charge or impost levied by any Authority which is attributable to the number of parking spaces the Lessee may use under the licence.

22.6 Review of Licence Fee

The Licence Fee is to be reviewed on each Review Date in accordance the provisions of clause 4 as if the references to "Base Rent" were to the Licence Fee.

22.7 Use of licensed areas

The Lessee:

- (a) uses the Car Park at its own risk;
- (b) must not use the Car Park for any purpose other than to park one motor car in each of the parking spaces;
- (c) must not do anything in the Car Park which could cause danger, disturbance or inconvenience to others in the Building or the Car Park;
- (d) must not litter the Car Park or bring any vehicle into it which is unsafe or which drips oil or other fluid; and
- (e) must comply with the Lessor's reasonable requirements and directions in connection with the operation, safety and security of the Car Park.

22.8 Assignment and sub-licensing

- (a) The Lessee may only assign this licence to a person to whom it assigns this lease or sub-lets the Premises in accordance with clause 14.
- (b) Clause 14 applies to the assignment of this licence and the sub-licence of the car spaces as if a reference to an assignment of this Lease was a reference to an assignment of the licence and a reference to the sub-lease of the Premises was a reference to a sub-licence of the parking spaces.

22.9 Removing cars

- (a) When the licence ends the Lessee must remove the cars from the Car Park and return any car park keys or access cards to the Lessor.
- (b) If the Lessee does not comply with clause 22.9 promptly, the Lessor may treat the cars as abandoned. The cars become the property of the Lessor and the Lessor may deal with them in any way it sees fit at the Lessee's expense

23. Demolition

Regardless of any other provision contained in this Lease, the Lessor and the Lessee agree that:

- (a) if at any time during the Term the Lessor provides the Lessee with details of a proposed demolition, substantial repair, renovation or reconstruction of the building or part of the building of which the Premises forms part (**Demolition Works**) sufficient to indicate a genuine proposal for the Demolition Works to be carried out within a reasonably practicable time after this Lease is to be terminated in accordance with this clause 23, then the Lessor may by giving 6 months' notice in writing to the Lessee determine this Lease;
- (b) if the Lessor gives the notice referred to in clause 23(a) the Lessee may terminate this Lease by giving the Lessor not less than 7 days' notice in writing of termination at any time within 6 months before the termination date notified by the Lessor;
- (c) on termination of this Lease pursuant to this clause 23 the Lessee shall cease trading in and vacate the Premises and shall remove all the Lessee's fixtures and fittings from the Premises;
- (d) the termination of this Lease pursuant to this clause 23 shall be without prejudice to the rights of either party in respect of any antecedent breach, matter or thing; and
- (e) subject to section 35 of the Retail Legislation, the Lessee shall not be entitled to make any claim (including a claim for compensation) against the Lessor in respect of or arising out of the termination of this Lease pursuant to this clause 23.

24. Miscellaneous Provisions

24.1 Notices

- (a) Any notice:
 - (i) given by the Lessor under this Lease may be signed by the Lessor or any Officer of the Lessor or any other person authorised by the Lessor;
 - (ii) served or given by the Lessee under this Lease must be signed by the Lessee or any Officer of the Lessee; and
 - (iii) is deemed to be properly given if in writing and;
 - (A) delivered personally to the party to whom it is addressed;
 - (B) (in the case of a notice to the Lessee), delivered to or left addressed to it at the Premises; or
 - (C) sent by post or fax to the addressee at the addresses specified in the Reference Schedule or other address notified in writing by one party to the other for the purposes of this clause.

- (b) The following provisions apply in relation to service by post or fax:
 - (i) any notice sent by post by the Lessee to the Lessor must be sent by security post or certified mail;
 - (ii) any notice sent by post will be deemed to have been given on the second Business Day after the date of posting; and
 - (iii) any notice sent by fax will be deemed to have been given upon completion of an apparently successful transmission (but if sent after 5:00 pm on a Business Day is deemed to have been given on the following Business Day).

24.2 Authority to date and complete

The Lessee irrevocably authorises the Lessor and any Officer of the Lessor:

- (a) to complete all blanks in this Lease and in any other document necessary to procure the stamping and registration of this Lease, including (without limitation) the Commencement Date, the Expiry Date, the date of execution of this Lease and any information in the Reference Schedule; and
- (b) to rectify any manifest error and to make any alterations, deletions or additions in order to procure stamping or registration of this Lease.

24.3 No obligation to enforce other leases

The Lessor does not warrant that any Lease term or Rule applies to or will be enforced in respect of another tenant or occupier of any part of the Building. The Lessor will not be liable to the Lessee or any Lessee's Invitee for any failure or refusal to enforce any obligation on the part of any tenant or occupier of the Building.

24.4 Whole agreement

This Lease comprises the whole of the agreement between the parties in respect of the Premises and any other agreement between them which may have existed prior to this Lease being entered is terminated or surrendered.

24.5 Head lease and other interests

The Lessee will permit any person having an estate or interest in the Premises superior to or concurrent with the Lessor to:

- (a) exercise the powers of the Lessor or that other person to enter and view the Premises and carry out repairs, renovations, maintenance and other work in the Premises; and
- (b) exercise or perform their lawful rights or obligations in relation to that estate or interest.

24.6 Confidentiality

The Lessee must keep confidential and not disclose to any other person the contents of this Lease and all other documents and information made available to the Lessee in the course of the negotiation and performance of this Lease. This provision does not apply to any disclosure:

- (a) agreed to in writing by the Lessor;
- (b) required by law or by any applicable stock exchange listing rules;

- (c) to solicitors, or other professional advisers under a duty of confidentiality;
- (d) to a bank or other financial institution for the purpose of raising funds or maintaining compliance with credit arrangements;
- (e) to any other consultant of the Lessee who signs a confidentiality agreement in favour of the Lessor; or
- (f) effected by registration of this Lease.

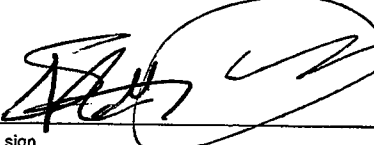
Signing Page

EXECUTED as a Deed.

Each attorney signing this document under a power of attorney certifies, by the attorney's signature, that the attorney has no notice of the revocation of the power of attorney.

Lessor

Signed by H.N.
Olsen Pty Ltd ACN
000 151 422 under
s.127(1) of the
Corporations Act
2001



sign

sign

DIRECTOR

office (director)

DIRECTOR

office (director or secretary)

STEPHEN ERIC KELLAWAY GILLIAN RUTH HUND
full name full name

Lessee

Signed by H N Olsen
Funerals Pty
Limited ACN 002
651 756 under
s.127(1) of the
Corporations Act
2001



sign

sign

DIRECTOR

office (director)

DIRECTOR

office (director or secretary)

STEPHEN ERIC KELLAWAY GILLIAN RUTH HUND
full name full name

WARNING SWIMMING POOLS

An owner of property on which a swimming pool is situated must ensure that the pool complies with the requirements of the *Swimming Pools Act 1992*. Penalties apply. Before purchasing a property on which a swimming pool is situated, a purchaser is strongly advised to ensure that the swimming pool complies with the requirements of that Act.

WARNING SMOKE ALARMS

The owners of certain types of buildings and strata lots must have smoke alarms (or in certain cases heat alarms) installed in the building or lot in accordance with regulations under the *Environmental Planning and Assessment Act 1979*. It is an offence not to comply. It is also an offence to remove or interfere with a smoke alarm or heat alarm. Penalties apply.

IMPORTANT NOTICE TO VENDORS AND PURCHASERS

Before signing this contract you should ensure that you understand your rights and obligations, some of which are not written in this contract but are implied by law.

For example, as purchaser you should be satisfied that finance will be available at the time of completing the purchase (even if settlement might occur many months after signing this contract – in particular, if you are buying off the plan).

COOLING OFF PERIOD (PURCHASER'S RIGHTS)

1. This is the statement required by section 66X of the *Conveyancing Act 1919* and applies to a contract for the sale of residential property.
2. The purchaser may rescind the contract at any time before 5 p.m. on the fifth business day after the day on which the contract was made, **EXCEPT** in the circumstances listed in paragraph 3.
3. There is **NO COOLING OFF PERIOD**:
 - (a) if, at or before the time the contract is made, the purchaser gives to the vendor (or the vendor's solicitor or agent) a certificate that complies with section 66W of the Act; or
 - (b) if the property is sold by public auction; or
 - (c) if the contract is made on the same day as the property was offered for sale by public auction but passed in; or
 - (d) if the contract is made in consequence of the exercise of an option to purchase the property, other than an option that is void under section 66ZG of the Act.
4. A purchaser exercising the right to cool off by rescinding the contract will forfeit to the vendor 0.25% of the purchase price of the property. The vendor is entitled to recover the amount forfeited from any amount paid by the purchaser as a deposit under the contract and the purchaser is entitled to a refund of any balance.

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The vendor sells and the purchaser buys the *property* for the price under these provisions instead of Schedule 3 Conveyancing Act 1919, subject to any *legislation* that cannot be excluded.

1 Definitions (a term in italics is a defined term)

In this contract, these terms (in any form) mean -

<i>adjustment date</i>	the earlier of the giving of possession to the purchaser or completion;
<i>bank</i>	a bank as defined in the Banking Act 1959, the Reserve Bank or a State bank;
<i>business day</i>	any day except a bank or public holiday throughout NSW or a Saturday or Sunday;
<i>cheque</i>	a cheque that is not postdated or stale;
<i>depositholder</i>	vendor's agent (or if no vendor's agent is named in this contract, the vendor's <i>solicitor</i>);
<i>document of title</i>	document relevant to the title or the passing of title;
<i>GST Act</i>	A New Tax System (Goods and Services Tax) Act 1999;
<i>GST rate</i>	the rate mentioned in section 4 of A New Tax System (Goods and Services Tax Imposition - General) Act 1999 (10% as at 1 July 2000);
<i>legislation</i>	an Act or a by-law, ordinance, regulation or rule made under an Act;
<i>normally</i>	subject to any other provision of this contract;
<i>party</i>	each of the vendor and the purchaser;
<i>property</i>	the land, the improvements, all fixtures and the inclusions, but not the exclusions;
<i>requisition</i>	an objection, question or requisition (but the term does not include a claim);
<i>rescind</i>	rescind this contract from the beginning;
<i>serve</i>	serve in writing on the other <i>party</i> ;
<i>settlement cheque</i>	an unendorsed <i>cheque</i> made payable to the person to be paid and drawn on its own funds by - <ul style="list-style-type: none"> ● a <i>bank</i>; or ● a building society, credit union or other FCA institution as defined in Cheques Act 1986; that carries on business in Australia; or if authorised in writing by the vendor or the vendor's <i>solicitor</i> , some other <i>cheque</i> ;
<i>solicitor</i>	in relation to a <i>party</i> , the <i>party's</i> solicitor or licensed conveyancer named in this contract or in a notice <i>served</i> by the <i>party</i> ;
<i>terminate</i>	terminate this contract for breach;
<i>vendor duty</i>	vendor duty imposed under Chapter 4 of the Duties Act 1997;
<i>within</i>	in relation to a period, at any time before or during the period;
<i>work order</i>	a valid direction, notice or order that requires work to be done or money to be spent on or in relation to the <i>property</i> or any adjoining footpath or road.

2 Deposit and other payments before completion

- 2.1 The purchaser must pay the deposit to the *depositholder* as stakeholder.
- 2.2 *Normally*, the purchaser must pay the deposit on the making of this contract, and this time is essential.
- 2.3 If this contract requires the purchaser to pay any of the deposit by a later time, that time is also essential.
- 2.4 The purchaser can pay any of the deposit only by unconditionally giving cash (up to \$2,000) or a *cheque* to the *depositholder* or to the vendor, vendor's agent or vendor's *solicitor* for sending to the *depositholder*.
- 2.5 If any of the deposit is not paid on time or a *cheque* for any of the deposit is not honoured on presentation, the vendor can *terminate*. This right to *terminate* is lost as soon as the deposit is paid in full.
- 2.6 If the vendor accepts a bond or guarantee for the deposit, clauses 2.1 to 2.5 and 3 do not apply.
- 2.7 If the vendor accepts a bond or guarantee for part of the deposit, clauses 2.1 to 2.5 and 3 apply only to the balance.
- 2.8 If any of the deposit or of the balance of the price is paid before completion to the vendor or as the vendor directs, it is a charge on the land in favour of the purchaser until *termination* by the vendor or completion, subject to any existing right.
- 2.9 If each *party* tells the *depositholder* that the deposit is to be invested, the *depositholder* is to invest the deposit (at the risk of the *party* who becomes entitled to it) with a *bank*, credit union or permanent building society, in an interest-bearing account in NSW, payable at call, with interest to be reinvested, and pay the interest to the *parties* equally, after deduction of all proper government taxes and financial institution charges and other charges.

3 Payment of vendor duty out of the deposit

- 3.1 This clause applies only if this contract says the deposit can be used to pay vendor duty.
- 3.2 If the amount held by the *depositholder* (disregarding the value of any bond or guarantee) exceeds the amount of *vendor duty*, the *parties* direct the *depositholder* to release the amount of *vendor duty* on the following terms -
- 3.2.1 the *depositholder* is to draw a *cheque* ("the vendor duty cheque") in favour of the Office of State Revenue and in a form acceptable to the Office of State Revenue for payment of *vendor duty*;
- 3.2.2 the *depositholder* is not to draw that *cheque* earlier than 14 days before the completion date; and
- 3.2.3 the receipt of a letter from the vendor's *solicitor* requesting the vendor duty cheque will be sufficient authority for the *depositholder* to draw and release that cheque.
- 3.3 The vendor's *solicitor* will use the vendor duty cheque for the sole purpose of payment of the *vendor duty* relating to this transaction.
- 3.4 If this contract is not completed in circumstances that there is, or may be, no liability for *vendor duty* -
- 3.4.1 if the vendor duty cheque has been forwarded to the vendor's *solicitor* but has not been used to pay *vendor duty*, that cheque must be returned immediately to the *depositholder* for cancellation;
- 3.4.2 if the vendor duty cheque has been used to pay *vendor duty* -
- the amount of *vendor duty* is repayable upon demand;
 - the vendor must lodge an application for refund of *vendor duty*; and
 - the vendor irrevocably authorises the Office of State Revenue to pay to the *depositholder* the refund of *vendor duty*;
- 3.4.3 each *party* must do whatever else is necessary to ensure that the *party* whose funds were used to pay *vendor duty* receives the refund; and
- 3.4.4 rights under this clause continue even if the contract has been *rescinded* or *terminated*.

4 Transfer

- 4.1 *Normally*, the purchaser must *serve* the form of transfer at least 14 days before the completion date.
- 4.2 If any information needed for the form of transfer is not disclosed in this contract, the vendor must *serve* it.
- 4.3 If the purchaser *serves* a form of transfer and the transferee is not the purchaser, the purchaser must give the vendor a direction signed by the purchaser personally for this form of transfer.
- 4.4 The vendor can require the purchaser to include a form of covenant or easement in the transfer only if this contract contains the wording of the proposed covenant or easement, and a description of the land benefited.
- 4.5 If this sale is exempt from *vendor duty* -
- 4.5.1 the vendor can (but does not have to) *serve* an application for exemption from *vendor duty* in the form satisfactory to the Office of State Revenue *within 7 days* after the contract date;
- 4.5.2 if that application is attached to this contract or has been provided to the purchaser before the contract date, the application is *served* on the contract date; and
- 4.5.3 if the vendor complies with clause 4.5.1 -
- the purchaser must have the form of transfer marked by the Office of State Revenue in relation to *vendor duty* before *serving* the form of transfer; and
 - on completion the vendor must pay to the purchaser \$33.

5 Requisitions

- If the purchaser is or becomes entitled to make a *requisition*, the purchaser can make it only by *serving* it -
- 5.1 if it arises out of this contract or it is a general question about the *property* or title - *within 21 days* after the contract date;
- 5.2 if it arises out of anything *served* by the vendor - *within 21 days* after the later of the contract date and that *service*; and
- 5.3 in any other case - *within* a reasonable time.

6 Error or misdescription

- 6.1 The purchaser can (but only before completion) claim compensation for an error or misdescription in this contract (as to the *property*, the title or anything else and whether substantial or not).
- 6.2 This clause applies even if the purchaser did not take notice of or rely on anything in this contract containing or giving rise to the error or misdescription.
- 6.3 However, this clause does not apply to the extent the purchaser knows the true position.

7 Claims by purchaser

The purchaser can make a claim (including a claim under clause 6) before completion only by *servicing* it with a statement of the amount claimed, and if the purchaser makes one or more claims before completion -

- 7.1 the vendor can *rescind* if in the case of claims that are not claims for delay -
- 7.1.1 the total amount claimed exceeds 5% of the price;
 - 7.1.2 the vendor *serves* notice of intention to *rescind*; and
 - 7.1.3 the purchaser does not *serve* notice waiving the claims *within* 14 days after that *service*; and
- 7.2 if the vendor does not *rescind*, the *parties* must complete and if this contract is completed -
- 7.2.1 the lesser of the total amount claimed and 10% of the price must be paid out of the price to and held by the *depositholder* until the claims are finalised or lapse;
 - 7.2.2 the amount held is to be invested in accordance with clause 2.9;
 - 7.2.3 the claims must be finalised by an arbitrator appointed by the *parties* or, if an appointment is not made *within* 1 month of completion, by an arbitrator appointed by the President of the Law Society at the request of a *party* (in the latter case the *parties* are bound by the terms of the Conveyancing Arbitration Rules approved by the Law Society as at the date of the appointment);
 - 7.2.4 the purchaser is not entitled, in respect of the claims, to more than the total amount claimed and the costs of the purchaser;
 - 7.2.5 net interest on the amount held must be paid to the *parties* in the same proportion as the amount held; and
 - 7.2.6 if the *parties* do not appoint an arbitrator and neither *party* requests the President to appoint an arbitrator *within* 3 months after completion, the claims lapse.

8 Vendor's right to rescind

The vendor can *rescind* if -

- 8.1 the vendor is, on reasonable grounds, unable or unwilling to comply with a *requisition*;
- 8.2 the vendor *serves* a notice of intention to *rescind* that specifies the *requisition* and those grounds; and
- 8.3 the purchaser does not *serve* a notice waiving the *requisition within* 14 days after that *service*.

9 Purchaser's default

If the purchaser does not comply with this contract (or a notice under or relating to it) in an essential respect, the vendor can *terminate* by *servicing* a notice. After the *termination* the vendor can -

- 9.1 keep or recover the deposit (to a maximum of 10% of the price);
- 9.2 hold any other money paid by the purchaser under this contract as security for anything recoverable under this clause-
 - 9.2.1 for 12 months after the *termination*; or
 - 9.2.2 if the vendor commences proceedings under this clause *within* 12 months, until those proceedings are concluded; and
- 9.3 sue the purchaser either -
 - 9.3.1 where the vendor has resold the *property* under a contract made *within* 12 months after the *termination*, to recover -
 - the deficiency on resale (with credit for any of the deposit kept or recovered and after allowance for any capital gains tax or goods and services tax payable on anything recovered under this clause); and
 - the reasonable costs and expenses arising out of the purchaser's non-compliance with this contract or the notice and of resale and any attempted resale; or
 - 9.3.2 to recover damages for breach of contract.

10 Restrictions on rights of purchaser

10.1 The purchaser cannot make a claim or *requisition* or *rescind* or *terminate* in respect of -

- 10.1.1 the ownership or location of any fence as defined in the Dividing Fences Act 1991;
 - 10.1.2 a service for the *property* being a joint service or passing through another property, or any service for another property passing through the *property* ('service' includes air, communication, drainage, electricity, garbage, gas, oil, radio, sewerage, telephone, television or water service);
 - 10.1.3 a wall being or not being a party wall in any sense of that term or the *property* being affected by an easement for support or not having the benefit of an easement for support;
 - 10.1.4 any change in the *property* due to fair wear and tear before completion;
 - 10.1.5 a promise, representation or statement about this contract, the *property* or the title, not set out or referred to in this contract;
 - 10.1.6 a condition, exception, reservation or restriction in a Crown grant;
 - 10.1.7 the existence of any authority or licence to explore or prospect for gas, minerals or petroleum;
 - 10.1.8 any easement or restriction on use the substance of which is disclosed in this contract or any non-compliance with the easement or restriction on use; or
 - 10.1.9 anything the substance of which is disclosed in this contract (except a caveat, charge, mortgage or writ).
- 10.2 The purchaser cannot *rescind* or *terminate* only because of a defect in title to or quality of the inclusions.
- 10.3 *Normally*, the purchaser cannot make a claim or *requisition* or *rescind* or *terminate* or require the vendor to change the nature of the title disclosed in this contract (for example, to remove a caution evidencing qualified title, or to lodge a plan of survey as regards limited title).

11 Compliance with work orders

- 11.1 *Normally*, the vendor must by completion comply with a *work order* made on or before the contract date and if this contract is completed the purchaser must comply with any other *work order*.
- 11.2 If the purchaser complies with a *work order*, and this contract is *rescinded* or *terminated*, the vendor must pay the expense of compliance to the purchaser.

12 Certificates and inspections

- The vendor must do everything reasonable to enable the purchaser, subject to the rights of any tenant -
- 12.1 to have the *property* inspected to obtain any certificate or report reasonably required;
- 12.2 to apply (if necessary in the name of the vendor) for -
- 12.2.1 any certificate that can be given in respect of the *property* under *legislation*; or
- 12.2.2 a copy of any approval, certificate, consent, direction, notice or order in respect of the *property* given under *legislation*, even if given after the contract date; and
- 12.3 to make 1 inspection of the *property* in the 3 days before a time appointed for completion.

13 Goods and services tax (GST)

- 13.1 In this clause, enterprise, input tax credit, margin scheme, supply of a going concern, tax invoice and taxable supply have the same meanings as in the *GST Act*.
- 13.2 *Normally*, if a *party* must pay the price or any other amount to the other *party* under this contract, GST is not to be added to the price or amount.
- 13.3 If under this contract a *party* must make an adjustment, pay an expense of another party or pay an amount payable by or to a third party (for example, under clauses 14 or 20.7) -
- 13.3.1 the *party* must adjust or pay on completion any GST added to or included in the amount; but
- 13.3.2 if this contract says this sale is a taxable supply, and payment would entitle the *party* to an input tax credit, the adjustment or payment is to be worked out by deducting any input tax credit to which the party receiving the adjustment is or was entitled and adding the *GST rate*.
- 13.4 If this contract says this sale is the supply of a going concern -
- 13.4.1 the *parties* agree the supply of the *property* is a supply of a going concern;
- 13.4.2 the vendor must, between the contract date and completion, carry on the enterprise conducted on the land in a proper and business-like way;
- 13.4.3 if the purchaser is not registered by the completion date, the *parties* must complete and the purchaser must pay on completion, in addition to the price, an amount being the price multiplied by the *GST rate* ("the retention sum"). The retention sum is to be held by the *depositholder* and dealt with as follows:
- if *within* 3 months of completion the purchaser *serves* a letter from the Australian Taxation Office stating the purchaser is registered, the *depositholder* is to pay the retention sum to the purchaser; but
 - if the purchaser does not *serve* that letter *within* 3 months of completion, the *depositholder* is to pay the retention sum to the vendor; and
- 13.4.4 if the vendor, despite clause 13.4.1, *serves* a letter from the Australian Taxation Office stating the vendor has to pay GST on the supply, the purchaser must pay to the vendor on demand the amount of GST assessed.
- 13.5 *Normally*, the vendor promises the margin scheme will not apply to the supply of the *property*.
- 13.6 If this contract says the margin scheme is to apply in making the taxable supply, the parties agree that the margin scheme is to apply to the sale of the property.
- 13.7 If this contract says the sale is not a taxable supply -
- 13.7.1 the purchaser promises that the *property* will not be used and represents that the purchaser does not intend the *property* (or any part of the *property*) to be used in a way that could make the sale a taxable supply to any extent; and
- 13.7.2 the purchaser must pay the vendor on completion in addition to the price an amount calculated by multiplying the price by the *GST rate* if this sale is a taxable supply to any extent because of -
- a breach of clause 13.7.1; or
 - something else known to the purchaser but not the vendor.
- 13.8 If this contract says this sale is a taxable supply in full and does not say the margin scheme applies to the *property*, the vendor must pay the purchaser on completion an amount of one-eleventh of the price if -
- 13.8.1 this sale is not a taxable supply in full; or
- 13.8.2 the margin scheme applies to the *property* (or any part of the *property*).
- 13.9 If this contract says this sale is a taxable supply to an extent -
- 13.9.1 clause 13.7.1 does not apply to any part of the *property* which is identified as being a taxable supply; and
- 13.9.2 the payments mentioned in clauses 13.7 and 13.8 are to be recalculated by multiplying the relevant payment by the proportion of the price which represents the value of that part of the *property* to which the clause applies (the proportion to be expressed as a number between 0 and 1). Any evidence of value must be obtained at the expense of the vendor.
- 13.10 *Normally*, on completion the vendor must give the recipient of the supply a tax invoice for any taxable supply by the vendor by or under this contract.
- 13.11 The vendor does not have to give the purchaser a tax invoice if the margin scheme applies to a taxable supply.

14 Adjustments

- 14.1 *Normally*, the vendor is entitled to the rents and profits and will be liable for all rates, water, sewerage and drainage service and usage charges, land tax and all other periodic outgoings up to and including the *adjustment date* after which the purchaser will be entitled and liable.
- 14.2 The *parties* must make any necessary adjustment on completion.
- 14.3 If an amount that is adjustable under this contract has been reduced under *legislation*, the *parties* must on completion adjust the reduced amount.
- 14.4 The *parties* must adjust land tax for the year current at the *adjustment date* -
- 14.4.1 only if land tax has been paid or is payable for the year (whether by the vendor or by a predecessor in title) and this contract says that land tax is adjustable;
- 14.4.2 by adjusting the amount that would have been payable if at the start of the year -
- the person who owned the land owned no other land;
 - the land was not subject to a special trust or owned by a non-concessional company; and
 - if the land (or part of it) had no separate taxable value, by calculating its separate taxable value on a proportional area basis.
- 14.5 If any other amount that is adjustable under this contract relates partly to the land and partly to other land, the *parties* must adjust it on a proportional area basis.
- 14.6 *Normally*, the vendor can direct the purchaser to produce a *settlement cheque* on completion to pay an amount adjustable under this contract and if so -
- 14.6.1 the amount is to be treated as if it were paid; and
- 14.6.2 the *cheque* must be forwarded to the payee immediately after completion (by the purchaser if the *cheque* relates only to the *property* or by the vendor in any other case).
- 14.7 If on completion the last bill for a water, sewerage or drainage usage charge is for a period ending before the *adjustment date*, the vendor is liable for an amount calculated by dividing the bill by the number of days in the period then multiplying by the number of unbilled days up to and including the *adjustment date*.
- 14.8 The vendor is liable for any amount recoverable for work started on or before the contract date on the *property* or any adjoining footpath or road.

15 Completion date

The *parties* must complete by the completion date and, if they do not, a *party* can serve a notice to complete if that *party* is otherwise entitled to do so.

16 Completion• **Vendor**

- 16.1 On completion the vendor must give the purchaser any *document of title* that relates only to the *property*.
- 16.2 If on completion the vendor has possession or control of a *document of title* that relates also to other property, the vendor must produce it as and where necessary.
- 16.3 *Normally*, on completion the vendor must cause the legal title to the *property* (being an estate in fee simple) to pass to the purchaser free of any mortgage or other interest, subject to any necessary registration.
- 16.4 The legal title to the *property* does not pass before completion.
- 16.5 If the vendor gives the purchaser a document (other than the transfer) that needs to be lodged for registration, the vendor must pay the lodgment fee to the purchaser, plus another 20% of that fee.
- 16.6 If the purchaser *serves* a land tax certificate showing a charge on any of the land, on completion the vendor must give the purchaser a land tax certificate showing the charge is no longer effective against the land.

• **Purchaser**

- 16.7 On completion the purchaser must pay to the vendor, by cash (up to \$2,000) or *settlement cheque*, the price (less any deposit paid) and any other amount payable by the purchaser under this contract (less any amount payable by the vendor to the purchaser under this contract).
- 16.8 If the vendor requires more than 5 *settlement cheques*, the vendor must pay \$10 for each extra *cheque*.
- 16.9 If any of the deposit is not covered by a bond or guarantee, on completion the purchaser must give the vendor an order signed by the purchaser authorising the *depositholder* to account to the vendor for the deposit.
- 16.10 On completion the deposit belongs to the vendor.

• **Place for completion**

- 16.11 *Normally*, the *parties* must complete at the completion address, which is -
- 16.11.1 if a special completion address is stated in this contract - that address; or
- 16.11.2 if none is stated, but a first mortgagee is disclosed in this contract and the mortgagee would usually discharge the mortgage at a particular place - that place; or
- 16.11.3 in any other case - the vendor's *solicitor's* address stated in this contract.
- 16.12 The vendor by reasonable notice can require completion at another place, if it is in NSW, but the vendor must pay the purchaser's additional expenses, including any agency or mortgagee fee.
- 16.13 If the purchaser requests completion at a place that is not the completion address, and the vendor agrees, the purchaser must pay the vendor's additional expenses, including any agency or mortgagee fee.

17 Possession

- 17.1 *Normally*, the vendor must give the purchaser vacant possession of the *property* on completion.
- 17.2 The vendor does not have to give vacant possession if -

- 17.2.1 this contract says that the sale is subject to existing tenancies; and
 17.2.2 the contract discloses the provisions of the tenancy (for example, by attaching a copy of the lease and any relevant memorandum or variation).

17.3 *Normally*, the purchaser can claim compensation (before or after completion) or *rescind* if any of the land is affected by a protected tenancy (a tenancy affected by Part 2, 3, 4 or 5 Landlord and Tenant (Amendment) Act 1948).

18 Possession before completion

18.1 This clause applies only if the vendor gives the purchaser possession of the *property* before completion.

18.2 The purchaser must not before completion -

- 18.2.1 let or part with possession of any of the *property*;
 18.2.2 make any change or structural alteration or addition to the *property*; or
 18.2.3 contravene any agreement between the *parties* or any direction, document, *legislation*, notice or order affecting the *property*.

18.3 The purchaser must until completion -

- 18.3.1 keep the *property* in good condition and repair having regard to its condition at the giving of possession; and
 18.3.2 allow the vendor or the vendor's authorised representative to enter and inspect it at all reasonable times.

18.4 The risk as to damage to the *property* passes to the purchaser immediately after the purchaser enters into possession.

18.5 If the purchaser does not comply with this clause, then without affecting any other right of the vendor -

- 18.5.1 the vendor can before completion, without notice, remedy the non-compliance; and
 18.5.2 if the vendor pays the expense of doing this, the purchaser must pay it to the vendor with interest at the rate mentioned in Schedule J of the Supreme Court Rules 1970.

18.6 If this contract is *rescinded* or *terminated* the purchaser must immediately vacate the *property*.

18.7 If the *parties* or their *solicitors* on their behalf do not agree in writing to a fee or rent, none is payable.

19 Rescission of contract

19.1 If this contract expressly gives a *party* a right to *rescind*, the *party* can exercise the right -

- 19.1.1 only by *servicing* a notice before completion; and
 19.1.2 in spite of any making of a claim or *requisition*, any attempt to satisfy a claim or *requisition*, any arbitration, litigation, mediation or negotiation or any giving or taking of possession.

19.2 *Normally*, if a *party* exercises a right to *rescind* expressly given by this contract or any *legislation* -

- 19.2.1 the deposit and any other money paid by the purchaser under this contract must be refunded;
 19.2.2 a *party* can claim for a reasonable adjustment if the purchaser has been in possession;
 19.2.3 a *party* can claim for damages, costs or expenses arising out of a breach of this contract; and
 19.2.4 a *party* will not otherwise be liable to pay the other *party* any damages, costs or expenses.

20 Miscellaneous

20.1 The *parties* acknowledge that anything stated in this contract to be attached was attached to this contract by the vendor before the purchaser signed it and is part of this contract.

20.2 Anything attached to this contract is part of this contract.

20.3 An area, bearing or dimension in this contract is only approximate.

20.4 If a *party* consists of 2 or more persons, this contract benefits and binds them separately and together.

20.5 A *party's solicitor* can receive any amount payable to the *party* under this contract or direct in writing that it is to be paid to another person.

20.6 A document under or relating to this contract is -

- 20.6.1 signed by a *party* if it is signed by the *party* or the *party's solicitor* (apart from a direction under clause 4.3);
 20.6.2 *served* if it is *served* by the *party* or the *party's solicitor*;
 20.6.3 *served* if it is *served* on the *party's solicitor*, even if the *party* has died or any of them has died;
 20.6.4 *served* if it is *served* in any manner provided in s170 of the Conveyancing Act 1919;
 20.6.5 *served* if it is sent by fax to the *party's solicitor*, unless it is not received;
 20.6.6 *served* on a person if it (or a copy of it) comes into the possession of the person; and
 20.6.7 *served* at the earliest time it is *served*, if it is *served* more than once.

20.7 An obligation to pay an expense of another *party* of doing something is an obligation to pay -

- 20.7.1 if the *party* does the thing personally - the reasonable cost of getting someone else to do it; or
 20.7.2 if the *party* pays someone else to do the thing - the amount paid, to the extent it is reasonable.

20.8 Rights under clauses 11, 13, 14, and 17 continue after completion, whether or not other rights continue.

20.9 The vendor does not promise, represent or state that the purchaser has any cooling off rights.

20.10 The vendor does not promise, represent or state that any attached survey report is accurate or current.

20.11 A reference to any *legislation* includes a reference to any corresponding later *legislation*.

20.12 Each *party* must do whatever is necessary after completion to carry out the *party's* obligations under this contract.

20.13 Neither taking possession nor *servicing* a transfer of itself implies acceptance of the *property* or the title.

20.14 The details and information provided in this contract (for example, on page 1) are, to the extent of each *party's* knowledge, true, and are part of this contract.

20.15 Where this contract provides for choices, a choice in BLOCK CAPITALS applies unless a different choice is marked.

21 Time limits in these provisions

21.1 If the time for something to be done or to happen is not stated in these provisions, it is a reasonable time.

21.2 If there are conflicting times for something to be done or to happen, the latest of those times applies.

- 21.3 The time for one thing to be done or to happen does not extend the time for another thing to be done or to happen.
- 21.4 If the time for something to be done or to happen is the 29th, 30th or 31st day of a month, and the day does not exist, the time is instead the last day of the month.
- 21.5 If the time for something to be done or to happen is a day that is not a *business day*, the time is extended to the next *business day*, except in the case of clause 2 (deposit).
- 21.6 *Normally*, the time by which something must be done is fixed but not essential.
- 22 Foreign Acquisitions and Takeovers Act 1975**
- 22.1 The purchaser promises that the Commonwealth Treasurer cannot prohibit and has not prohibited the transfer under the Foreign Acquisitions and Takeovers Act 1975.
- 22.2 This promise is essential and a breach of it entitles the vendor to *terminate*.
- 23 Strata or community title**
- 23.1 This clause applies only if the land (or part of it) is a lot in a strata, neighbourhood, precinct or community scheme (or on completion is to be a lot in a scheme of that kind).
- 23.2 In this contract -
 'change', in relation to a scheme, means -
- a registered or registrable change from by-laws set out in this contract or set out in *legislation* and specified in this contract;
 - a change from a development or management contract or statement set out in this contract; or
 - a change in the boundaries of common property;
- 'common property' includes association property for the scheme or any higher scheme;
 'contribution' includes an amount payable under a by-law;
 'normal expenses', in relation to an owners corporation for a scheme, means normal operating expenses usually payable from the administrative fund of an owners corporation for a scheme of the same kind;
 'owners corporation' means the owners corporation or the association for the scheme or any higher scheme;
 'the *property*' includes any interest in common property for the scheme associated with the lot;
 'special expenses', in relation to an owners corporation, means its actual, contingent or expected expenses, except to the extent they are normal expenses, due to fair wear and tear, disclosed in this contract or covered by moneys held in the sinking fund.
- 23.3 Clauses 11, 14.8 and 18.4 do not apply to an obligation of the owners corporation, or to property insurable by it.
- 23.4 Clauses 14.4.2 and 14.5 apply but on a unit entitlement basis instead of an area basis.
- 23.5 The *parties* must adjust under clause 14.1 -
- 23.5.1 a regular periodic contribution;
- 23.5.2 a contribution which is not a regular periodic contribution but is disclosed in this contract; and
- 23.5.3 on a unit entitlement basis, any amount paid by the vendor for a normal expense of the owners corporation to the extent the owners corporation has not paid the amount to the vendor.
- 23.6 If a contribution is not a regular periodic contribution and is not disclosed in this contract -
- 23.6.1 the vendor is liable for it if it was levied before the contract date (unless it relates to work not started by that date), even if it is payable by instalments;
- 23.6.2 the vendor is also liable for it to the extent it relates to work started by the owners corporation before the contract date; and
- 23.6.3 the purchaser is liable for all other contributions levied after the *contract date*.
- 23.7 The vendor must pay or allow to the purchaser on completion the amount of any unpaid contributions for which the vendor is liable under clause 23.6.
- 23.8 *Normally*, the purchaser cannot make a claim or *requisition* or *rescind* or *terminate* in respect of -
- 23.8.1 an existing or future actual, contingent or expected expense of the owners corporation;
- 23.8.2 a proportional unit entitlement of the lot or a relevant lot or former lot, apart from a claim under clause 6; or
- 23.8.3 a past or future change in the scheme or a higher scheme.
- 23.9 However, the purchaser can *rescind* if -
- 23.9.1 the special expenses of the owners corporation at the later of the contract date and the creation of the owners corporation when calculated on a unit entitlement basis (and, if more than one lot or a higher scheme is involved, added together), less any contribution paid by the vendor, are more than 1% of the price;
- 23.9.2 in the case of the lot or a relevant lot or former lot in a higher scheme -
- a proportional unit entitlement for the lot is not disclosed in this contract; or
 - a proportional unit entitlement for the lot is disclosed in this contract but the lot has a different proportional unit entitlement at the contract date or at any time before completion; or
- 23.9.3 a change before the contract date or before completion in the scheme or a higher scheme substantially disadvantages the purchaser and is not disclosed in this contract.
- 23.10 The purchaser must give the vendor 2 copies of a proper form of notice of the transfer of the lot addressed to the owners corporation and signed by the purchaser.
- 23.11 The vendor must complete and sign 1 copy of the notice and give it to the purchaser on completion.
- 23.12 Each *party* can sign and give the notice as agent for the other.
- 23.13 The vendor must *serve* a certificate under section 109 Strata Schemes Management Act 1996 or section 26 Community Land Management Act 1989 in relation to the lot, the scheme or any higher scheme at least 7 days before the completion date.

- 23.14 The purchaser does not have to complete earlier than 7 days after *service* of the certificate and clause 21.3 does not apply to this provision.
- 23.15 On completion the purchaser must pay the vendor the prescribed fee for the certificate.
- 23.16 The vendor authorises the purchaser to apply for the purchaser's own certificate.
- 23.17 The vendor authorises the purchaser to apply for and make an inspection of any record or other document in the custody or control of the owners corporation or relating to the scheme or any higher scheme.
- 23.18 If a general meeting of the owners corporation is convened before completion -
- 23.18.1 if the vendor receives notice of it, the vendor must immediately notify the purchaser of it; and
- 23.18.2 the purchaser can require the vendor to appoint the purchaser (or the purchaser's nominee) to exercise any voting rights of the vendor in respect of the lot at the meeting.

24 Tenancies

- 24.1 If a tenant has not made a payment for a period preceding or current at the *adjustment date* -
- 24.1.1 for the purposes of clause 14.2, the amount is to be treated as if it were paid; and
- 24.1.2 the purchaser assigns the debt to the vendor on completion and will if required give a further assignment at the vendor's expense.
- 24.2 If a tenant has paid in advance of the *adjustment date* any periodic payment in addition to rent, it must be adjusted as if it were rent for the period to which it relates.
- 24.3 If the *property* is to be subject to a tenancy on completion or is subject to a tenancy on completion -
- 24.3.1 the vendor authorises the purchaser to have any accounting records relating to the tenancy inspected and audited and to have any other document relating to the tenancy inspected;
- 24.3.2 the vendor must *serve* any information about the tenancy reasonably requested by the purchaser before or after completion; and
- 24.3.3 *normally*, the purchaser can claim compensation (before or after completion) if -
- any of Parts 2 to 7 of the Retail Leases Act 1994 applies to the tenancy, unless this contract discloses that the tenancy commenced on or after 1 August 1994;
 - a disclosure statement required by the Act was not given when required;
 - such a statement contained information that was materially false or misleading;
 - a provision of the lease is not enforceable because of a non-disclosure in such a statement; or
 - the lease was entered into in contravention of the Act.
- 24.4 If the *property* is subject to a tenancy on completion -
- 24.4.1 the vendor must allow or transfer -
- any remaining bond money or any other security against the tenant's default (to the extent the security is transferable);
 - any money in a fund established under the lease for a purpose and compensation for any money in the fund or interest earned by the fund that has been applied for any other purpose;
 - any money paid by the tenant for a purpose that has not been applied for that purpose and compensation for any of the money that has been applied for any other purpose; and
- 24.4.2 if the security is not transferable, each *party* must do everything reasonable to cause a replacement security to issue for the benefit of the purchaser and the vendor must hold the original security on trust for the benefit of the purchaser until the replacement security issues;
- 24.4.3 the vendor must give to the purchaser -
- a proper notice of the transfer addressed to the tenant;
 - any certificate given under the Retail Leases Act 1994 in relation to the tenancy;
 - a copy of any disclosure statement given to the tenant under the Retail Leases Act 1994;
 - a copy of any document served on the tenant under the lease and written details of its service, if the document concerns the rights of the landlord or the tenant after completion; and
 - any document served by the tenant under the lease and written details of its service, if the document concerns the rights of the landlord or the tenant after completion;
- 24.4.4 the vendor must comply with any obligation to the tenant under the lease, to the extent it is to be complied with by completion; and
- 24.4.5 the purchaser must comply with any obligation to the tenant under the lease, to the extent that the obligation is disclosed in this contract and is to be complied with after completion.
- 24.5 Rights under this clause continue after completion, whether or not other rights continue.

- 25 Qualified title, limited title and old system title**
- 25.1 This clause applies only if the land (or part of it) -
 25.1.1 is under qualified, limited or old system title; or
 25.1.2 on completion is to be under one of those titles.
- 25.2 The vendor must *serve* a proper abstract of title *within 7 days* after the contract date.
- 25.3 If an abstract of title or part of an abstract of title is attached to this contract or has been lent by the vendor to the purchaser before the contract date, the abstract or part is *served* on the contract date.
- 25.4 An abstract of title can be or include a list of documents, events and facts arranged (apart from a will or codicil) in date order, if the list in respect of each document -
 25.4.1 shows its date, general nature, names of parties and any registration number; and
 25.4.2 has attached a legible photocopy of it or of an official or registration copy of it.
- 25.5 An abstract of title -
 25.5.1 must start with a good root of title (if the good root of title must be at least 30 years old, this means 30 years old at the contract date);
 25.5.2 in the case of a leasehold interest, must include an abstract of the lease and any higher lease;
 25.5.3 *normally*, need not include a Crown grant; and
 25.5.4 need not include anything evidenced by the Register kept under the Real Property Act 1900.
- 25.6 In the case of land under old system title -
 25.6.1 in this contract 'transfer' means conveyance;
 25.6.2 the purchaser does not have to *serve* the form of transfer until after the vendor has *served* a proper abstract of title; and
 25.6.3 each vendor must give proper covenants for title as regards that vendor's interest.
- 25.7 In the case of land under limited title but not under qualified title -
 25.7.1 *normally*, the abstract of title need not include any document which does not show the location, area or dimensions of the land (for example, by including a metes and bounds description or a plan of the land);
 25.7.2 clause 25.7.1 does not apply to a document which is the good root of title; and
 25.7.3 the vendor does not have to provide an abstract if this contract contains a delimitation plan (whether in registrable form or not).
- 25.8 The vendor must give a proper covenant to produce where relevant.
- 25.9 The vendor does not have to produce or covenant to produce a document that is not in the possession of the vendor or a mortgagee.
- 25.10 If the vendor is unable to produce an original document in the chain of title, the purchaser will accept a photocopy from the Registrar General of the registration copy of that document.
- 26 Crown purchase money**
- 26.1 This clause applies only if purchase money is payable to the Crown, whether or not due for payment.
- 26.2 The vendor is liable for the money, except to the extent this contract says the purchaser is liable for it.
- 26.3 To the extent the vendor is liable for it, the vendor is liable for any interest until completion.
- 26.4 To the extent the purchaser is liable for it, the *parties* must adjust any interest under clause 14.1.
- 27 Consent to transfer**
- 27.1 This clause applies only if the land (or part of it) is restricted title land (land that cannot be transferred without consent under *legislation*).
- 27.2 The purchaser must properly complete and then *serve* the purchaser's part of an application for consent to transfer of the land (or part of it) *within 7 days* after the contract date.
- 27.3 The vendor must apply for consent *within 7 days* after *service* of the purchaser's part.
- 27.4 If consent is refused, either *party* can *rescind*.
- 27.5 If consent is given subject to one or more conditions that will substantially disadvantage a *party*, then that *party* can *rescind* *within 7 days* after receipt by or *service* upon the *party* of written notice of the conditions.
- 27.6 If consent is not given or refused -
 27.6.1 *within 42 days* after the purchaser *serves* the purchaser's part of the application, the purchaser can *rescind*;
 or
 27.6.2 *within 30 days* after the application is made, either *party* can *rescind*.
- 27.7 If the *legislation* is the Western Lands Act 1901 each period in clause 27.6 becomes 90 days.
- 27.8 If the land or part is described as a lot in an unregistered plan, each time in clause 27.6 becomes the later of the time and 35 days after creation of a separate folio for the lot.
- 27.9 The completion date becomes the later of the completion date and 14 days after *service* of the notice granting consent to transfer.
- 28 Unregistered plan**
- 28.1 This clause applies only if some of the land is described as a lot in an unregistered plan.
- 28.2 The vendor must do everything reasonable to have the plan registered *within 6 months* after the contract date, with or without any minor alteration to the plan or any document to be lodged with the plan validly required or made under *legislation*.

- 28.3 If the plan is not registered *within* that time and in that manner -
- 28.3.1 the purchaser can *rescind*; and
- 28.3.2 the vendor can *rescind*, but only if the vendor has complied with clause 28.2.
- 28.4 Either *party* can serve notice of the registration of the plan and every relevant lot and plan number.
- 28.5 The completion date becomes the later of the completion date and 21 days after *service* of the notice.
- 28.6 Clauses 28.2 and 28.3 apply to a plan that is to be registered before the plan is registered.
- 29 Conditional contract**
- 29.1 This clause applies only if a provision says this contract or completion is conditional on an event.
- 29.2 If the time for the event to happen is not stated, the time is 42 days after the contract date.
- 29.3 If this contract says the provision is for the benefit of a *party*, then it benefits only that *party*.
- 29.4 If anything is necessary to make the event happen, each *party* must do whatever is reasonably necessary to cause the event to happen.
- 29.5 A *party* can *rescind* under this clause only if the *party* has substantially complied with clause 29.4.
- 29.6 If the event involves an approval and the approval is given subject to a condition that will substantially disadvantage a *party* who has the benefit of the provision, the *party* can *rescind within 7 days* after either *party serves* notice of the condition.
- 29.7 If the *parties* can lawfully complete without the event happening -
- 29.7.1 if the event does not happen *within* the time for it to happen, a *party* who has the benefit of the provision can *rescind within 7 days* after the end of that time;
- 29.7.2 if the event involves an approval and an application for the approval is refused, a *party* who has the benefit of the provision can *rescind within 7 days* after either *party serves* notice of the refusal;
- 29.7.3 the completion date becomes the later of the completion date and 21 days after the earliest of -
- either *party serving* notice of the event happening;
 - every *party* who has the benefit of the provision *serving* notice waiving the provision;
 - the end of the time for the event to happen.
- 29.8 If the *parties* cannot lawfully complete without the event happening -
- 29.8.1 if the event does not happen *within* the time for it to happen, either *party* can *rescind*;
- 29.8.2 if the event involves an approval and an application for the approval is refused, either *party* can *rescind*;
- 29.8.3 the completion date becomes the later of the completion date and 21 days after either *party serves* notice of the event happening.
- 29.9 A *party* cannot *rescind* under clauses 29.7 or 29.8 after the event happens.

