



## CONTRACT FOR THE SALE OF LAND RESIDENTIAL PROPERTY

**Notice to purchaser:** This is a contract for the sale of residential land. You may be bound by the terms of this contract if it is signed by both you and the vendor. You should seek independent legal advice if you are unsure about the terms contained in this contract. Contracts for the sale of land may be subject to a 2 day cooling-off period (exercisable by the purchaser) under section 5 of the *Land and Business (Sale and Conveyancing) Act 1994*.

The Vendor agrees to sell and the Purchaser agrees to buy the property at the price and on the terms set out herein.

**VENDOR** John Newton & Lucy Mary Patricia Newton (nee Combe)  
2/30 Henry Street, Payneham South Australia 5070

**PURCHASER** Incontinence Superannuation Fund  
and/or Nominee

ACN \_\_\_\_\_ Mobile \_\_\_\_\_ Phone +675 305 6612

**THE PROPERTY** being improved / ~~unimproved~~ land situated at and known as  
2/30 Henry Street, Payneham South Australia 5070 being Unit 2 on Strata Plan 1474 in the area named  
Payneham in the Hundred of Adelaide and being the whole of the land as described in the Certificate of Title  
Register Book Volume 5054 Folio 493

### GST Conditions of Sale (General Conditions clause 21)

- |  |   |
|--|---|
| 1. The Vendor is registered or required to be registered for GST.<br>If No, GST does not apply. Do not complete questions 2, 3 and 4.<br>If Yes, answer question 2.  | No <input checked="" type="checkbox"/> Yes <input type="checkbox"/> |
| 2. The sale of the Property is the supply of residential premises which is input taxed.<br>If No, answer question 3.<br>If Yes, GST does not apply. Clause 21.2 applies. Do not complete question 3 and 4. | No <input type="checkbox"/> Yes <input type="checkbox"/>            |
| 3. The margin scheme is to be applied to the sale of the Property.<br>If No or Yes, answer question 4.   | No <input type="checkbox"/> Yes <input type="checkbox"/>            |
| 4. GST is to be added to the Purchase Price.<br>If No, clause 21.4 applies. If Yes, clause 21.3 applies.   | No <input type="checkbox"/> Yes <input type="checkbox"/>            |

|                       |                             |                     |
|-----------------------|-----------------------------|---------------------|
| <b>PURCHASE PRICE</b> | Amount Payable for Property | <u>\$320,000.00</u> |
| <b>GST</b>            | GST payable (if applicable) | _____               |
|                       | <b>TOTAL</b>                | <u>\$320,000.00</u> |
| <b>DEPOSIT</b>        | <u>\$ 10,000.00</u>         |                     |

The deposit will be paid:

- immediately after auction; or if no auction  
 if the cooling off right is waived then on signing this Contract; or  
 on the next day following the expiration of the "cooling off" period, being 2 business days after service of the Form 1.  
 other: \_\_\_\_\_

tick or cross the applicable boxes

**SETTLEMENT DATE**

Settlement will be:

(a) the 27<sup>th</sup> day of February 20 15; or  
(b) within \_\_\_\_\_, whichever is the later;  
or such other date as mutually agreed in writing.

**SCHEDULE**

**Inclusions:** Other property (chattels and fixtures and fittings) included in the sale  
Fixed floor coverings, light fittings, window treatments and compliant smoke alarm.

**Consumer Credit Chattels (if any)**

None

**Exclusions:** Other property (fixtures and fittings and other property) not included in the sale (use an Annexure as necessary)

Vendor's                       Occupier's                       personal effects                       non standard telephones  
 loose floor coverings                       furniture                       dishwasher                       other as detailed or attached  
Outdoor furniture and potted plants.

**Known Encroachments and Fences not on Boundaries (if any)**

None Known

**Alterations and Improvements erected without consent ("notified works" if any) (General Condition 5)**

None Known

**Works to be carried out by Vendor prior to settlement (if any "Vendor's Works")**

None

**Swimming Pool and Spa Compliance**                       Not Applicable                       Pool on Property                       Pool Complies

The Vendor must by law at or before settlement ensure that the swimming pool and spa ("Pool") complies with all Pool safety requirements. For Pools constructed pre June 1993 refer *Development Act 1993* and Ministerial Specification SA 76D and safety barriers. If constructed after 1993 refer to the *Development Act 1993* and Regulations and Australian Standards AS 1926.

If works are required detail the works

**Tenancies (if applicable)**

Tenant NOT APPLICABLE  
Periodic or Fixed \_\_\_\_\_  
Period: from \_\_\_\_\_ to \_\_\_\_\_  
Rent Payable: \$ \_\_\_\_\_ per \_\_\_\_\_ Bond with tribunal  No  Yes \$ \_\_\_\_\_

**Matters Affecting Title**

(Only complete if a Form 1 is not served at the time of Contract and a 'cooling off' period is not applicable.)  
Details all encumbrances (existing or intended to be created) not to be discharged prior to settlement.

tick or cross the applicable boxes

INITIALS

2/30 Henry Street, Payneham

**SPECIAL CONDITIONS**  
(clause 14)

**SC 1 FINANCE**

SC 1.1 This Contract is conditional upon the Purchaser obtaining, on or before the date specified below, approval in writing for a loan in the amount specified below (or such lesser amount as the Purchaser may accept) at the interest rate specified below and otherwise on such terms and conditions that the lender requires acceptable to the Purchaser, to assist in purchasing the property ("the approval"). Upon notification of the approval to the Vendor this conditional provision will be satisfied and notwithstanding that the lender may subsequently withdraw the approval the Purchaser will be bound by this Contract.

SC 1.2 The Purchaser will use best endeavours to obtain the loan.

SC 1.3 In the event that the approval is not obtained on or before the latest date for approval and provided the Purchaser has not waived this special condition and communicated such waiver to the Vendor in writing then either party (but, in the case of the Purchaser, provided it has complied with SC1.2) may immediately terminate this Contract by giving notice in writing to the other party.

SC 1.4 In the event of termination of the contract pursuant to SC1.3 and provided the Purchaser has complied with SC1.2 all monies paid by or on behalf of the Purchaser shall be repaid to the Purchaser.

SC 1.5 In the event of termination of this Contract pursuant to SC1.3 in circumstances where the Purchaser has failed to comply with SC1.2 the Vendor will be entitled to the deposit which is forfeited and to proceed against the Purchaser for damages for breach of Contract.

**Latest date for approval** Ninth day of January 2015  
**Amount of Loan** \$ \_\_\_\_\_ (or less than) \_\_\_\_\_  
**Interest Rate** \_\_\_\_\_ % per annum (or less than) \_\_\_\_\_

**SC 2 SALE OF THE PURCHASER'S PROPERTY**

The Purchaser will use all best endeavours to sell and effect settlement of the property, the subject of this clause.

SC 2.1 \*This Contract is conditional upon the Purchaser entering into a contract on or before the \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_ for the sale of property at \_\_\_\_\_ for a price of not less than \$ \_\_\_\_\_ or such lesser sum that the Purchaser may accept and settlement of that contract occurring on or before the \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_

SC 2.2 \*This Contract is conditional upon the sale of the Purchaser's property, being the property at \_\_\_\_\_ settling on or before the \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_ pursuant to a contract entered into by the Purchaser dated the \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_

*\* delete if not applicable*

SC 2.3 In the event that the condition in SC2.1 or SC 2.2 (if applicable) is not satisfied within the time prescribed and provided the Purchaser has not waived this special condition and communicated such waiver to the Vendor in writing either party (but, in the case of the Purchaser, provided it has used all best endeavours as required by this clause) may immediately terminate this Contract by giving notice in writing to the other.

SC 2.4 In the event of termination of this Contract pursuant to SC2.3 and provided the Purchaser has used all best endeavours all monies paid by or on behalf of the Purchaser shall be repaid to the Purchaser.

SC 2.5 In the event of termination of this Contract pursuant to SC2.3 in circumstances where the Purchaser has failed to use best endeavours the Vendor will be entitled to the deposit which is forfeited and to proceed against the Purchaser for damages for breach of Contract.

**OTHER CONDITIONS**  
(rule off if this area is not needed)

Subject to satisfactory building and pest inspection by Friday 5th December 2014. Wednesday 10th

INITIALS

**GENERAL CONDITIONS**

**1 Encumbrances**

The property is sold subject to and together with the encumbrances that are not to be discharged prior to settlement as detailed:

- 1.1 if a Form 1 is served before or contemporaneously with the execution of this Contract by the Purchaser, then as detailed in the Form 1; or
- 1.2 as detailed herein under Matters Affecting Title in the Schedule.

**2 Moneys Payable Prior to Settlement**

All moneys payable by the Purchaser prior to the Settlement Date will be paid to the Vendor's agent or representative who will hold the moneys as stakeholder pending settlement.

**3 Settlement**

- 3.1 Settlement will take place at the Lands Titles Office, or such other location as the parties will agree, on the Settlement Date.
- 3.2 The Purchaser will, not less than seven (7) days prior to the settlement date and at the Purchaser's expense tender a Transfer of the property to the Vendor. The Vendor may allow the Purchaser possession of the executed Transfer in escrow for stamping prior to settlement but for all purposes the Transfer will be the property of the Vendor.
- 3.3 At settlement, subject to the Vendor having performed all of the Vendor's obligations under the Contract up to settlement, the Purchaser will pay to the Vendor by bank cheques the balance of the Purchase Price and other moneys payable by the Purchaser on settlement in exchange for the registration documents. If for any reason a cheque tendered at settlement is not paid on presentation, the Purchaser will re-convey the property to the Vendor. Prior to any reconveyance the unpaid amount of any cheque will be a charge on the property in favour of the Vendor.
- 3.4 The Purchaser will pay the cost of the first 2 bank cheques required by the Vendor at settlement and the Vendor will pay the cost of any additional bank cheques required by it. Cheque details will be advised by the Vendor not less than 2 business days prior to settlement.
- 3.5 Subject to clause 9.4(d) all outgoings and income relating to the property will be apportioned and adjusted as between the Vendor and Purchaser to midnight on the day prior to settlement. The Vendor will pay all outgoings up to the date of settlement and thereafter the Purchaser will pay all outgoings.
- 3.6 If at the date of settlement the property is connected to a sewer line and if any moneys are or will become owing to the water authority or otherwise in respect of that connection, the amount of those moneys will be paid by the Vendor on or before settlement.
- 3.7 The parties may settle under protest should there be any dispute as to the amount payable under the Contract at settlement.

**4 Possession**

- 4.1 Subject to the Purchaser having performed all of the Purchaser's obligations under the Contract, the Purchaser will be entitled to and the Vendor will give vacant possession of the property to the Purchaser subject only to any tenancies specified.
- 4.2 The Vendor will remove all excluded chattels and fixtures from the property prior to settlement and make good any damage caused thereby.
- 4.3 The Vendor will carry out any works as detailed in the Schedule (Vendor's Works) in a proper and workman like manner prior to the Settlement Date.
- 4.4 The Purchaser is not entitled to access to the property until settlement unless agreed to in writing by the Vendor.
- 4.5 In the event the Purchaser is granted possession prior to Settlement Date the Purchaser will execute a licence agreement with the Vendor prior to taking possession and any breach of the terms of such a licence agreement will be deemed a default under the Contract and subject to the Vendor's rights to termination pursuant to clause 9.2.

**5 Purchaser's Risk**

The property will be at the risk of the Purchaser from the date of this Contract and without limiting the effect thereof the Purchaser is obliged to meet the cost of any repairs or loss (including but not limited to) for any electrical, mechanical or structural problems existing after the date of the Contract. The Vendor will notify the Purchaser of any breakdown or damage to the property needing attention within a reasonable time. The Vendor will reasonably maintain and use the property until settlement but is not liable for repairs or breakdown costs unless caused by the Vendor's negligence. The Purchaser buys the property subject to the notified works in the Schedule above.

**6 Vendor's Warranties**

There are not within the Vendor's knowledge except as stated in this Contract and in the Form 1:

- 6.1 any outstanding or impending demands, orders or requisitions of any competent authority relating to the property;
- 6.2 any proposals for the re-alignment, widening or alteration of the level of any road adjoining the property by any competent authority that would materially affect the property or the use thereof;
- 6.3 except in relation to a strata unit or community lot or as detailed in the certificate of title, any sewers, drains, pipes, cables or other installations passing through the property providing the relevant services to other land;
- 6.4 any outstanding or impending notice, demand or liability to join in or contribute to the construction or repair of a dividing fence between the property and any adjoining land under the *Fences Act* or otherwise;

- 6.5 any encroachments onto the property by any building or structure from the adjoining land;
- 6.6 any amounts owing to any competent authority in respect of works performed or to be performed or any expenses incurred or to be incurred by the authority in relation to the property;
- 6.7 any notice of resumption or intended resumption of the property or any part thereof by any competent authority; or any buildings and improvements which are not on or within the boundaries of the property and so far as the Vendor is aware, all dividing fences and walls are on the boundaries of the property.

**7 Warranties if Property is subject of Strata or Community Title**

In addition to the warranties in clause 6, where the property is a strata unit or community lot there are not within the Vendor's knowledge except as stated in the Form 1:

- 7.1 any facts or circumstances relating to the common property that will materially affect the Purchaser's use or enjoyment of the property or the common property except those mentioned in the Contract or disclosed to the Purchaser in writing prior to the date of this Contract, or apparent on inspection or mentioned in the strata or community plan or a schedule hereto;
- 7.2 any current or pending proceedings relating to the strata or community corporation or to the strata unit or community lot and there are no unsatisfied judgments or orders against the strata or community corporation;
- 7.3 any proposals for or any proceedings or procedures initiated for the variation of the schedule of entitlement in respect of the strata or community corporation or community lot/strata unit, the grant, variation or surrender of any easements or restrictive covenants which affect the land, or the transfer, lease or licence of any part of the common property; and
- 7.4 any current or impending proposals to pass any special resolutions of the strata or community corporation or to pass any resolution of the strata or community corporation and the Vendor undertakes to advise the Purchaser of any and all pending meetings and proposals relating to the strata or community corporation not less than 7 days prior to any formal meeting and warrants that it will vote only in accordance with the directions of the Purchaser.

**8 Misdescription**

This Contract will not be terminated for any error or misdescription of the property but the Purchaser will be entitled to seek compensation from the Vendor for any loss or damage arising from the error or misdescription subject to any claim being notified and demanded within 14 days of settlement.

**9 Default by Purchaser**

**9.1 Default in Payment of Deposit**

Notwithstanding any other provision of this Contract, in the event the Purchaser fails to pay all or any part of the deposit by the date specified then the Vendor will be entitled to immediately terminate the Contract without prior notice.

**9.2 Default by Purchaser Prior to Settlement**

In the event the Purchaser is in default in performing or observing any obligation imposed on the Purchaser under this Contract prior to settlement then the Vendor, in addition to any other rights or remedies it may have under this Contract or otherwise, may give the Purchaser notice in writing requiring the Purchaser to remedy the default within seven (7) days from service of the notice. If the Purchaser fails to comply with the notice the Vendor may terminate the Contract by further written notice without prejudice to the Vendor's rights and entitlements at law. The Vendor will be entitled to serve more than one notice without prejudice to any of its rights and obligations.

**9.3 Default by Purchaser in Settlement**

In the event the Purchaser defaults in the due observance or performance of the obligations on the Purchaser's part to settle and such default continues for a period of three (3) clear business days after the Settlement Date then the Vendor may serve a notice on the Purchaser requiring the default to be remedied and appointing a time for settlement being not less than three (3) clear business days after the service of the notice requiring the Purchaser to settle at the time and date appointed in the notice. If the Purchaser fails to comply with the notice the Vendor may terminate the Contract by further written notice without prejudice to the Vendor's rights and entitlements at law. The Vendor will be entitled to serve more than one notice without prejudice to any of its rights and obligations.

**9.4 Remedies of Vendor**

- (a) In the event this Contract is terminated by the Vendor then the Vendor may either retain the property or sell the property and in either event sue the Purchaser for damages.
- (b) The Vendor will be entitled to retain the deposit if this Contract is terminated by the Vendor.
- (c) If the Vendor re-sells the property the Vendor may retain absolutely any surplus arising from such re-sale in excess of the original Purchase Price and expenses arising from the re-sale and all losses and expenses incurred by the Vendor resulting from the Purchaser's default.
- (d) In the event this Contract settles on a date after the date for settlement first agreed to by the parties and as stated in the Contract (and whether or not subsequently varied by agreement) and provided that the delay in settlement is not due to the Vendor's default, the Purchaser will pay at settlement, if demanded by the Vendor, interest on the Purchase Price at the default rate for the period between the date for settlement first agreed and the date of actual settlement. In this event, at settlement all outgoings and income on the property shall be apportioned and adjusted to midnight on the day before the date for agreed settlement.

**10 Default by Vendor**

In the event the Vendor defaults in performing or observing any obligations or duties under the Contract and such default continues for a period of three (3) business days after the Settlement Date then the Purchaser in addition to any rights at law may serve a notice on the Vendor requiring the Vendor to remedy the breach within three (3) clear business days from service of the notice. If the Vendor fails to comply with the notice the Purchaser may terminate this Contract by further written notice without prejudice to the Purchaser's rights and entitlements at law. The Purchaser will be entitled to serve more than one notice without prejudice to any of its rights and obligations.

**11 Stakeholder may pay Moneys into Court**

In the event of a dispute between the Purchaser and the Vendor as to the application of the deposit then any person holding the deposit may pay the moneys into court. The person paying the moneys into court will be entitled to first deduct all their legal fees and actual costs incurred from the moneys held. Those costs will be claimable by the parties between themselves subject to any order of the court determining the dispute and which party should pay them.

**12 Arbitration**

Any dispute involving the sum of \$50,000 or less will be determined by an independent arbitrator appointed by the then President of the Society or his nominee at the request of either party. The determination of the arbitrator will be final and binding between the parties and the provisions of the *Commercial Arbitration Act* will apply. The costs of the arbitration will be paid by such party/s as directed by the arbitrator. The arbitrator will advise of and request payment of reasonable fees prior to acting and in default of agreement to same may refuse to act. The parties will have no right of appeal under section 38(2) or to apply with respect to a question of law under section 39(1) of the *Commercial Arbitration Act*. The arbitrator will direct and determine all procedure for the arbitration.

**13 Notices, Service and Interest for Late Settlement**

13.1 Subject to other provisions allowing immediate termination, neither the Vendor nor the Purchaser will be entitled to terminate this Contract on the ground of the other's default in performing or observing an obligation imposed on that other party under the Contract, unless

- (a) the party not in default has first given to the party in default a written notice specifying the default complained of, which notice will require that the default be remedied within the period stipulated in the notice; and
- (b) the party in default fails to remedy the default within the period stipulated in that notice.

13.2 The Vendor may at any time serve a demand on the Purchaser certifying the amount due by way of principal and interest which interest will be calculated on a daily rate from the day following the day that any moneys were due and payable under the Contract (without serving any prior notices) and interest may be stated as a continuing daily rate. The Purchaser will pay interest to the Vendor at the default rate (as defined) on monies due and payable under the Contract but unpaid from the date the moneys first fell due under the Contract until date of payment.

13.3 The Purchaser will pay \$550.00 (inc GST) to the Vendor's solicitor or conveyancer for the cost of preparation and service of each default notice under the Contract which moneys will, together with interest at the default rate (if due), be added to and thereafter be deemed to be part of the purchase price. The Vendor will pay \$550 (inc GST) to the Purchaser's solicitor or conveyancer for each notice served under this Contract arising from a failure in settlement by the Vendor.

13.4 A notice served by registered mail will for all purposes be deemed served two (2) clear business days after posting.

13.5 Service may be effected by facsimile transmission to the party or the party's representative to such facsimile number advised from time to time such service being deemed immediate service.

13.6 Service on one or more of the persons together comprising the Vendor or Purchaser as the case may be will for all purposes be deemed service on all persons comprising the Vendor or Purchaser.

13.7 Service may be effected personally, by facsimile or by registered mail to the address of the person detailed in the Contract or the representative of the party.

13.8 Where a party is entitled to immediately terminate the Contract, such termination is to be effected by service on the other party of a written notice to that effect.

**14 Time of the Essence**

Time will be of the essence of this Contract in respect of any obligation under clauses 9, 10, 13 and all special conditions.

**15 Costs and Stamp Duty**

Each party will bear its own legal and other costs and expenses in entering into this Contract and settlement except as otherwise specified in damages and the Purchaser will pay all stamp duty assessed on the Contract and on the transfer to the Purchaser.

**16 Depreciable Items**

For the purposes of the *Income Tax Assessment Act, 1936 and 1997* ('the Tax Act'), the price of any improvements or items comprised in the property in respect of which depreciation has been allowed or is allowable under the Tax Act is the price allocated, or if no price is so allocated, the depreciated value thereof for the purposes of the Tax Act at the date of the Contract.

**17 Further Assurance and Best Endeavours**

Both the Vendor and the Purchaser will each use their best endeavours to deal with any "requisition notice" issued by the Lands Titles Office and to comply with any condition of this Contract. Subject to the Purchaser having performed all of the Purchaser's obligations under the Contract, the Vendor will with all reasonable dispatch do all things necessary to enable a registrable transfer of the property to be lodged and registered by the Land Titles Office.

**18 No Merger**

The provisions of the Contract continue for all purposes to subsist after settlement.

**19 Debits Tax and Special Lands Titles Office Fees**

In the event the deposit is repaid or to be repaid to the Purchaser for any purpose then the Purchaser will pay to the agent or other person holding the moneys as stakeholder such sum equal to the government charges dutiable against the moneys under the *Debits Tax Act, 1990* or such other similar Acts in force from time to time and amendments thereof and it will be lawful and it is agreed that the stakeholder may retain from the deposit moneys held such moneys equal to the taxes and levies charged against the deposit and apply them to the taxes accounting to the Purchaser for the balance. The Purchaser will pay any special charges of the Lands Titles Registration Office levied for settlements occurring on particular days.

**20 Foreign Investor**

The Purchaser warrants that it does not require approval from the Foreign Investment Review Board (or any similar organisation) for the purchase herein unless otherwise specified.

**21 GST General**

**21.1 General**

- (a) Terms used in this clause and in the GST Conditions of Sale have the same meaning as in the *A New Tax System (Goods and Services Tax) Act 1999* ('the GST Act'), unless the context otherwise requires.
- (b) This clause survives completion.
- (c) If the sale of the Property constitutes a mixed supply (for example, the sale is an input taxed supply only in part, or the margin scheme applies only in part, or full GST applies only in part) then the Vendor shall reasonably determine the consideration for the sale of each part, and these clauses shall apply as if the Property being supplied is that part only.

**21.2 Sale is Input Taxed**

If the sale of the Property is residential premises which is input taxed, the Purchaser warrants that the Property is to be used predominantly for residential accommodation.

**21.3 If GST is to be added**

If GST is to be added to the Purchase Price for the Property AND

- (a) The GST Conditions of Sale provide that the margin scheme is to be applied to the sale of the Property:
  - (i) the Vendor warrants that the Property was not acquired through a taxable supply in which the margin scheme did not apply;
  - (ii) the Vendor must obtain, at the Purchaser's expense, a valuation (if applicable) of the Property which complies with section 75-10(3) of the GST Act, and provide that valuation to the Purchaser not less than 7 days prior to Settlement;
  - (iii) the Purchaser must pay to the Vendor an additional amount on account of GST equal to 10% of the margin at Settlement, together with any costs incurred by the Vendor in relation to the valuation; and
  - (iv) the Vendor must choose to apply the margin scheme to the sale of the Property in completing its Business Activity Statement;

OR

- (b) The GST Conditions of Sale provide that the margin scheme will not be applied to the sale of the Property:
  - (i) the Purchaser must pay to the Vendor an additional amount on account of GST equal to the consideration for the sale of the Property multiplied by 10%; and
  - (ii) the Vendor must provide to the Purchaser a tax invoice in relation to the sale of the Property at Settlement.

**21.4 If GST is not to be added**

If GST is not to be added to the Purchase Price for the Property AND

- (a) The GST Conditions of Sale provide that the margin scheme is to be applied to the sale of the Property:
  - (i) the Vendor warrants that the Property was not acquired through a taxable supply in which the margin scheme did not apply;
  - (ii) the Vendor must obtain, at the Vendor's expense, a valuation (if applicable) of the Property which complies with section 75-10(3) of the GST Act and provide that valuation to the Purchaser not less than 7 days prior to Settlement; and
  - (iii) the Vendor must choose to apply the margin scheme to the sale of the Property in completing its Business Activity Statement;

OR

- (b) The GST Conditions of Sale provide that the margin scheme will not be applied to the sale of the Property: the Vendor must provide to the Purchaser a tax invoice in relation to the sale of the Property at Settlement.

**22 Release of security interests**

- 22.1 This provision applies if any part of the property is subject to a security interest to which the *Personal Property Securities Act 2009 (Cth)* ('the PPS Act') applies.
- 22.2 The Vendor must ensure that at or before settlement, the Purchaser receives:
- (a) a release from the secured party releasing the security interest in respect of the property; or
  - (b) a statement in writing in accordance with section 275(1)(b) of the PPS Act setting out that the amount or obligation that is secured is nil at the due date for settlement; or
  - (c) a written approval or correction in accordance with section 275(1)(c) of the PPS Act indicating that, on the due date for settlement, the personal property included in the contract is not or will not be property in which the security interest is granted
- if the security interest is registered in the Personal Properties Securities Register.
- 22.3 The Vendor is not obliged to ensure that the Purchaser receives a release, statement, approval or correction in respect of any personal property that is sold in the ordinary course of the Vendor's business of selling personal property of that kind unless, in the case of goods that may or must be described by a serial number in the Personal Properties Securities Register, the Purchaser advises the Vendor at least 21 days before the due date for settlement that the goods are to be held as inventory.
- 22.4 The Vendor is not obliged to ensure that the Purchaser receives a release, statement, approval or correction in respect of any personal property that:
- (a) is not described by serial number in the Personal Property Securities Register; and
  - (b) is predominantly used for personal, domestic or household purposes; and
  - (c) has a market value of not more than \$5,000 or, if a greater amount has been prescribed for the purposes of section 47(1) of the PPS Act, not more than that prescribed amount.
- 22.5 A release for the purposes of this clause 22.2(a) must be in writing and in a form published by the a professional legal body, Law Council of Australia or the Australian Bankers Association or in a form acceptable to the Vendor in its discretion or published under the PPS Act.
- 22.6 If the Purchaser receives a release under clause 22.2(a), the Purchaser must provide the Vendor with a copy of the release at or as soon as practicable after settlement.
- 22.7 In addition to ensuring a release is received under clause 22.2(a), the Vendor must ensure that at or before settlement, the Purchaser receives a written undertaking from a secured party to register a financing change statement to reflect that release if the property being released includes goods of a kind that are described by serial number in the Personal Property Securities Register.
- 22.8 The Purchaser must advise the Vendor of any security interest that the Purchaser reasonably requires to be released at least 21 days before the due date for settlement.
- 22.9 Words and phrases used in this clause which are defined in the *Personal Property Securities Act 2009 (Cth)* have the same meaning herein.

*NO*



**Interpretation**

In these Conditions unless the Contract otherwise requires:

"the Act" means the *Land and Business (Sale and Conveyancing) Act 1994* as amended from time to time.

"the agent" means the agent for the Vendor registered under the *Land Agents Act 1994*.

"business day" means any day other than a Saturday, Sunday or public holiday in South Australia.

"community lot" means a community lot or community strata lot in a Community Plan deposited or intended to be deposited at the Lands Titles Office;

"default notice" means a notice given pursuant to clauses 9,10 and/or 13.1.

"default rate" means the rate of interest published by the Reserve Bank of Australia for the cash rate, on the day of the default first occurring or on the date of Settlement, plus five (5) percentage points, or at the Vendor's election the Vendor's then commercial banking overdraft rate plus two (2) percentage points; and for all purposes the parties agree these are reasonable estimations of the cost of or loss of use of money to the Vendor and damages. A statement from the representative of the party, being a calculation of interest will be prima facie evidence of the rate and will be deemed the amount of interest payable.

"deposit" means the amount detailed in this Contract as payable for a deposit and may include a "Deposit Guarantee" or "Deposit Bond" in the Vendor's discretion which are guarantees by a registered insurance company or bank to pay to the Agent or Vendor an amount agreed as the deposit in the event of a default in settlement by the Purchaser.

"encumbrance" includes a mortgage, charge, bill of sale, lien, pledge, easement, restrictive covenant, building condition, writ, warrant, caveat and the claim stated therein, or other right or interest affecting the property or any part thereof.

"Form 1" means the Form 1, under the Act.

"income" means all rent, benefits and other moneys received or receivable directly arising from the rights and use of the property.

"land" means the freehold land (including a strata unit or community lot) or leasehold land, together with all buildings and other improvements thereon including all Vendor's fixtures and fittings the subject of the Contract detailed herein.

"latest date for approval" means, if the Contract is subject to the approval of a loan, 5:00pm on the day specified in this Contract as "the latest date for approval" in respect of such loan.

"other property" means the chattels and personal items (if any) described in the Contract and agreed to be sold thereby.

"outgoings" means and includes:

- (a) all rates, taxes, levies, assessments and charges or other outgoings (periodical or otherwise) chargeable or payable in respect of the property; and
- (b) if the property is or includes a strata unit or community lot;
  - (i) all contributions in respect thereof levied by the strata corporation payable under the *Strata Titles Act, 1988* or by the Community Corporation under the *Community Titles Act* and if there is no fund or there are insufficient funds or if the Vendor is in default or arrears of payments then the Vendor will pay to the Purchaser in proportion of the Vendor's liability for unit entitlement moneys adjusted to equal the Vendor's liability for contributions to the strata or community fund; and
  - (ii) all rents, fees and other periodical amounts payable under any lease, licence or agreement; and
- (c) land tax which will be adjusted on the basis that the land constitutes a single holding; and
- (d) water consumption which will be adjusted on the pro rata daily rate of the current water consumption rates and any consumption and charges will be adjusted prior to settlement or otherwise so soon as is practical after settlement and the Vendor will pay for any water use in proportion to the consumption year up to settlement.

"person" will mean and include a corporation.

"the property" means the land described on page 1 together with any chattels agreed to be sold.

"registration documents" means a transfer in registrable form for the Lands Title Office together with any applications, transfers, instruments, declarations or documents required to be tendered at the settlement to enable the conveyance of clear title.

"representative" means the agent, solicitor or conveyancer acting for the party concerned.

"Society" means the Society of Auctioneers and Appraisers (SA) Incorporated.

"special condition" means all the provisions in this Contract so titled and or in any annexure attached so titled.

"strata unit" means a unit on a strata plan registered at the Lands Titles Office.

A reference to an Act of Parliament or to a section of an Act includes any amendment thereto or re-enactment thereof for the time being in force. Where two (2) or more persons are named in this Contract as the Vendor or the Purchaser, their liability under this Contract is joint and several. Where the day or last day for doing an act is not a business day, the day or last day for doing the act will be deemed to be the next following business day.

|   |  |   |
|---|--|---|
| <b>PURCHASER</b><br><u>Trustee - Nathan Brook</u><br><u>[Signature]</u> | <b>WITNESS</b><br><u>Susan Kerland</u><br><u>[Signature]</u> | <b>DATE</b><br><u>01/12/14</u><br><u>01/12/14</u> |
| _____   | _____  | _____   |
| _____   | _____  | _____   |

|               |                |             |
|---------------|----------------|-------------|
| <b>VENDOR</b> | <b>WITNESS</b> | <b>DATE</b> |
| _____         | _____          | _____       |
| _____         | _____          | _____       |
| _____         | _____          | _____       |

|   |                |             |
|---|----------------|-------------|
| <b>VENDOR by the Agent or Auctioneer<br/>If sold at auction</b> | <b>WITNESS</b> | <b>DATE</b> |
| _____   | _____          | _____       |
| _____   | _____          | _____       |

**AUCTION CONDITIONS**

The Conditions of Sale of Real Property By Public Auction, of the Society or the Real Estate Institute of South Australia exhibited prior to the Auction will apply to the Contract. If sold by auction then the deposit of 10% of the Purchase Price (or such other amount notified by the auctioneer or agent prior to the auction and advised to the Purchaser prior to the auction) is payable in cash or by cheque immediately upon the successful acceptance of the bid unless a Deposit Guarantee or Deposit Bond is accepted by the Vendor in the Vendor's discretion and delivered on acceptance of this Contract. The Vendor is not bound to accept any Deposit Guarantee or Deposit Bond.

**NOTE**

There is no "cooling off" period under the Act if purchased at auction or if the Purchaser bids at the auction and enters into a contract that day or if the Purchaser waives the "cooling off" period by obtaining independent legal advice and delivers a certificate from a lawyer with the offer (Section 5 of the Act). A company does not have a "cooling off" period.

**PRIVACY ISSUES**

The Agent may use personal information collected from this Contract to perform its obligations for the Vendor and it is agreed the Agent may disclose this information for general purposes to legal advisers, conveyancers, financial institutions, insurers, valuers and the agents of banks and financiers who may provide finance or insurance, their agents, or any other persons and for all purposes for any valuation databases. The Agent will only disclose information to other parties as required to perform their duties under this Contract, for the purposes specified above or as otherwise allowed under the Privacy Act 1988. If you would like to access this information you can do so by contacting the Agent at the address and contact numbers in this Contract. You can correct any information if it is inaccurate, incomplete or out-of-date. Real estate and tax law requires some of this information to be collected.

**NOTE: ALL PARTIES SHOULD INITIAL ALL PAGES**

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*NB*

INITIALS