

## ELECTRONIC AGREEMENT FOR SALE AND PURCHASE OF LAND

<b>1 Vendor</b> Full name(s) and address           ABN / ACN (if applicable)	<b>John Maxwell Hissey</b>  PO Box 3068, Port Augusta West SA 5700
<b>2 Purchaser</b> Full name(s) and address           Purchaser provides this email for service of a Form 1   ABN / ACN (if applicable)	<b>Christopher Pace AND/OR NOMINEE</b>  19-21 Flinders Highway, Port Kenny SA 5671
<b>3 Land</b>	The WHOLE of the land in Certificate of Title Volume 5635 Folio 271 known as  <b>13 Flinders Highway, Port Kenny SA 5671</b>
<b>4 Purchase Price</b>	ONE HUNDRED AND FORTY FIVE THOUSAND DOLLARS (\$145,000.00)  Includes GST <input type="checkbox"/>
<b>5 Deposit</b>	TWO THOUSAND DOLLARS \$2,000.00  Date deposit is payable: At expiration of cooling-off period  Deposit holder: Johnston Withers Trust Account
<b>6 Balance of the Purchase Price</b> (Clauses 3.2 & 5.3)	ONE HUNDRED AND FORTY THREE THOUSAND DOLLARS (\$143,000.00)

7	<b>GST</b> (Clause 25)	The sale of the Land;	(Select only <b>one</b> 'Yes' box below)
			Yes
		(a) is an input taxed supply of residential premises to be used predominantly for residential accommodation to which GST Law section 40-65(1) applies and section 40-65(2) does not apply	<input type="checkbox"/>
		(b) is not a taxable supply, as the Vendor is not, and is not required to be, registered for GST	<input checked="" type="checkbox"/>
		(c) is a taxable supply of real property, with the margin scheme under GST Law Division 75 not to apply	<input type="checkbox"/>
		(d) is a taxable supply of real property, to which the margin scheme under GST Law Division 75 applies	<input type="checkbox"/>
		(e) is a taxable supply of commercial residential premises	<input type="checkbox"/>
		(f) is a taxable supply of residential premises to which GST Law section 40-65(2) applies	<input type="checkbox"/>
		(g) is GST-free as a supply of a going concern under GST Law section 38-325.	<input type="checkbox"/>
		(h) is GST-free as a supply of potential residential land subdivided from farm land to which GST Law section 38-475 applies.	<input type="checkbox"/>
		(i) is GST-free as a supply of farm land supplied for a farming business to which GST Law section 38-480 applies.	<input type="checkbox"/>
		(j) is a supply that is partly taxable and partly non-taxable. The GST exclusive values of those respective supplies are as follows	<input type="checkbox"/>
		<b>Taxable Supply</b>	
		Description of Property	
		GST exclusive value	\$
		<b>Non-Taxable Supply</b>	
		Description of property	
		GST exclusive value	\$
		<b>Total</b>	\$

8 <b>Settlement Date</b>	<b>The 31st Day of May 2022</b> <b>or such other date as agreed between the parties</b>
9 <b>Tenancies</b> (Clause 7)	Not Applicable
10 <b>Encumbrances</b> (Clause 2.1)	Mortgage No. 11156199
11 <b>Included Property</b> (Clause 10)	Walk-in/Walk-out basis
12 <b>Excluded Property</b> (Clause 11)	Not Applicable
13 <b>Vendor Works</b> (Clause 6.4)	Not Applicable
14 <b>Unauthorised Works</b> (Clause 2.1 & 12)	None Known
15 <b>Default Rate</b> (Clauses 2.1, 18 & 19)	Refer to Clauses 2.1, 18 & 19
16 <b>Notices &amp; Demands</b> (Clause 21)	None Known
17 <b>Costs</b> (Clause 23)	The Purchaser is responsible for all costs associated with this transaction. (Vendor costs will be \$2,400.00 inc GST.)
18 <b>Special Conditions</b> (Clause 16)	It is agreed and understood by both parties that this Contract is subject to the Purchaser's Accountant completing the establishment of the Purchaser's self-managed superannuation fund known as "Pacey's Plan B Super Fund" by 22 April 2022.
19 <b>Other Terms</b> (Clause 2.1)	Other Terms – Electronic Conveyancing <del>Other Terms – Foreign Resident Capital Gains Withholding</del> <del>Other Terms – GST Withholding</del> Other Terms - General

## AGREEMENT FOR THE SALE & PURCHASE OF LAND

### Terms and Conditions

#### 1. Agreement of Sale and Purchase

The Vendor agrees to sell, and the Purchaser agrees to buy the Land from the Vendor for the Purchase Price, on the terms and conditions set out in this Agreement.

#### 2. Definitions and Interpretations

##### 2.1 Definitions

In this Agreement, except where inconsistent with the context or unless this Agreement otherwise requires:

"**the Act**" means the *Land & Business (Sale and Conveyancing) Act 1994* as amended;

"**this Agreement**" means this Agreement, the Schedule and any Annexure;

"**Annexure**" means any annexure or addendum to this Agreement including Other Terms and Special Conditions;

"**Applicable Law**" means any relevant Act of Parliament or regulation of that Act, a by-law, an ordinance or rule, and any applicable common law or law of equity;

"**Business Day**" means any day other than a Saturday, Sunday or a public holiday in the State of South Australia;

"**Certificate of Title**" means the Certificate of Title issued by the Registrar General of South Australia in respect of the Land;

"**Cooling Off Period**" means the prescribed time under section 5(8) of the Act, but shall not apply for a sale under those conditions prescribed under section 5(7) of the Act;

"**Deposit**" means the amount specified in Item 5;

"**Deposit Holder**" means the person or entity described in Item 5;

"**Default Rate**" means the percentage rate expressed in Item 15 of the Schedule, or if the words "The Default Rate" appear in Item 15, the rate shall be five (5) percentage points above the cash rate set by the Reserve Bank of Australia as at the day that any default first occurs under this Agreement, or if the Vendor so elects, the rate of interest charged by the Commonwealth Bank of Australia on commercial overdrafts plus two (2) percentage points;

"**Electronic Workspace**" has the same meaning attributed to that term under the Participation Rules last determined by the Registrar General in under the *Electronic Conveyancing National Law (South Australia) Act 2013 (SA)*;

"**Encumbrance**" means any right or interest affecting the Land described in Item 10;

"**Excluded Property**" means the items specified in Item 12;

**"Form 1"** means the Vendor's statement required to be served on the Purchaser pursuant to the Act;

**"GST"** means and goods and services tax imposed by and defined in *A New Tax System (Goods and Services Tax) Act 1999* as amended;

**"GST Withholding Amount"** means the amount determined in accordance with section 14-250 of Schedule 1 of the *Taxation Administration Act 1953 (Cth)* in connection with the sale of the Land, as specified in the Vendor's Notice where applicable;

**"Income"** means all moneys received or receivable by the Vendor from rent, fees, benefits and other monies arising from the use of the Land by a third party;

**"Included Property"** means the items specified in Item 11;

**"Land"** means the land specified in Item 3 and includes the Included Property and any improvements thereon together with any easements, rights, privileges and other appurtenances referred to in the Certificate of Title subject to:

- a) any easements, rights, privileges, exceptions or reservations to which the Land is subject as referred to in the Certificate of Title or Form 1; and
- b) any Encumbrance;

**"New Residential Premises"** has the same meaning attributed to that term in section 995-1 of the *Income Tax Assessment Act 1997 (Cth)*;

**"Notice"** means a notice given by one Party to the other, and signed by the Party giving it, or that Party's Representative;

**"Other Terms"** means those terms (if any) specified in Item 19;

**"Outgoings"** means:

- a) all rates, levies, taxes (including land tax), charges (including water supply charges), assessments and all other amounts chargeable to or payable by the Vendor in respect of the Land;
- b) if the Land comprises a strata unit or community lot as defined in the *Strata Titles Act 1988* ("the STA") and *Community Titles Act 1996* ("the CTA") respectively and subject to clause 9 of this Agreement, any monies paid by the Vendor in advance of the Settlement Date to a fund or funds established under Section 27 of the STA or Section 6 of the CTA;

**"Party"** means a party to this Agreement;

**"Potential Residential Land"** has the same meaning attributed to that term in section 995-1 of the *Income Tax Assessment Act 1997 (Cth)*;

**"Purchase Price"** means the amount specified in Item 4;

**"Purchaser"** means the person or entity described in Item 2;

**"Representative"** means in respect of a Party, that Party's conveyancer or solicitor;

**"Residential Premises"** has the same meaning attributed to that term in section 995-1 of the *Income Tax Assessment Act 1997 (Cth)*;

**"Schedule"** means the schedule to this Agreement;

**"Security Interest"** has the meaning attributed that that expression under the *Personal Property Securities Act 2009 (Cth)*;

**"Settlement"** means the completion of the sale and purchase of the Land from the Vendor to the Purchaser;

**"Settlement Date"** means the date specified in Item 8;

**"Special Conditions"** means those terms and conditions (if any) specified in Item 18;

**"Specified Date"** means the date specified in any Special Condition or Other Term as the case may be as the date on or before which that special condition or term is to be satisfied. Where no such date is specified, the Specified Date shall mean the Settlement Date;

**"Tenancies"** means any lease or tenancy set out in Item 9;

**"Transfer"** means a transfer instrument in the form prescribed in the *Real Property Act 1886* (as amended) necessary to transfer title to the Land to the Purchaser;

**"Unauthorised Works"** means the works specified in Item 14;

**"Vendor"** means the person or entity described in Item 1;

**"Vendor Works"** means the work to be carried out by the Vendor before the Settlement Date, as described in Item 13;

**"Vendor's Notice"** means the notice the Purchaser is required to give in accordance with section 14-255 of Schedule 1 of the *Taxation Administration Act 1953 (Cth)*, in the form set out in the GST Withholding Notice comprising part of this Agreement.

## 2.2 Interpretation

In this Agreement, except where inconsistent with the context or unless this Agreement otherwise requires:

- Words denoting the singular shall include the plural and vice versa;
- A reference to a natural person includes that person's executors, administrators, personal representatives, permitted nominees and assigns;
- A reference to a corporation shall include that corporation and its successors, assigns and permitted nominees;
- A reference to a clause is a reference to the corresponding clause of this Agreement unless otherwise indicated;
- A reference to an Act of Parliament includes a regulation, by-law, requisition or order made under that Act and any amendment to or re-enactment of that Act, regulation, by-law, requisition or order from time to time in force;
- A reference to an Item means a reference to the appropriate Item in the Schedule;
- To the extent of any inconsistency, the Special Conditions or Other Terms will prevail;
- Terms which are defined in the Act, the Development Act, the GST Law which appear in this Agreement as capitalised terms have the same meaning in this Agreement;

- Headings to clauses and punctuation in this Agreement are for ease of reference and convenience only and do not form part of this Agreement or affect its interpretation.

### 3. Payment of Deposit

- 3.1 The Purchaser shall, immediately after the expiration of the Cooling Off Period (if applicable) or such date as may be specified in Item 5, pay the Deposit to the Deposit Holder, and the Deposit Holder shall hold the Deposit as stakeholder pending Settlement.
- 3.2 The Balance of the Purchase Price will be paid by the Purchaser at Settlement in accordance with the Vendor's or the Vendor's Representative's directions.

### 4. Adjustment of Outgoings and Income

- 4.1 All Outgoings in respect of the Land are to be adjusted to midnight on the day before the Settlement Date.
- 4.2 All Income arising from the Land is to be adjusted to midnight on the day before the Settlement Date.
- 4.3 Outgoings and Income under this clause 4 shall be apportioned on a daily basis and any amount payable by one Party to the other must be paid at Settlement.
- 4.4 Land tax is to be adjusted on the basis that the Land comprises the only land owned by the Vendor.
- 4.5 All land tax payable on the Land for the financial year in which Settlement occurs shall be paid in full by the Vendor on the Settlement Date, whether or not the land tax is due and payable at the time of Settlement.
- 4.6 Where water supply charges are chargeable against the Land, the Vendor or their Representative must apply to the authority supplying the water, for the water meter to be read on a date as close as possible to Settlement to ascertain the water usage, and a pro rata adjustment shall be made by the Vendor's Representative using the current annual water allowance charged by that authority.
- 4.7 Where the Land comprises a lot in a deposited community plan or a unit in a deposited strata plan, clause 9 will apply.

### 5. Settlement

- 5.1 Settlement shall take place on the Settlement Date at the Land Titles Office in Adelaide, unless:
  - 5.1.1. An alternative venue is mutually agreed between the Parties; and
  - 5.1.2. Both Parties agree that Settlement shall be conducted electronically.
- 5.2 Provided that the Purchaser is not in default of its obligations under this Agreement, the Vendor must deliver to the Purchaser, on or before the Settlement Date:
- 5.3 A Transfer duly certified by the Vendor's Representative in accordance with section 273 of the *Real Property Act 1886*. If the Transfer is provided to the Purchaser before the Settlement Date, it shall remain the property of the Vendor, and the Purchaser or their Representative will hold the Transfer in escrow pending Settlement; and

- 5.4 Any assignment or other instrument required to complete the transfer of title in the Land to the Purchaser, free of any mortgage, encumbrance, lien, charge or caveat, except as specified in Item 10.
- 5.5 No later than at least one (1) Business Day prior to the Settlement Date, the Vendor must advise the Purchaser or the Purchaser's Representative, details of any bank cheques required on the Settlement Date and if the Vendor fails to do so, the Purchaser must at the request of the Vendor or the Vendor's Representative, pay the Balance of the Purchase Price due to the trust account of the Vendor's Representative on the Settlement Date.
- 5.6 The Purchaser shall be required to pay the maximum cost of two 2 bank cheques, requested by the Vendor in accordance with clause 5.3 above.
- 5.7 Settlement may occur notwithstanding any dispute between the Parties as to amounts payable by either in accordance with this Agreement prior to the Settlement Date and Settlement will not constitute a waiver of the rights of either Party.

## **6 Vacant Possession**

- 6.1 At Settlement the Purchaser will be given vacant possession of the Land, subject to any Tenancies.
- 6.2 The Vendor shall give to the Purchaser:
  - 6.2.1 All keys and security devices associated with the Land;
  - 6.2.2 Possession of the Included Property.
- 6.3 If there is Excluded Property, it shall be removed by the Vendor on or before the Settlement Date, and the Vendor will, at the sole cost of the Vendor, make good any damage caused by the removal of the Excluded Property.
- 6.4 If any Vendor Works are required to be carried out, then such works shall be completed by the Vendor prior to the Settlement Date in a proper and workmanlike manner.
- 6.5 The Purchaser shall not have a right of possession or entry to the Land prior to Settlement.

## **7 Tenancies**

- 7.1 In respect of any Tenancies, the Vendor assigns its right, title and interest under such arrangements to the Purchaser on Settlement.
- 7.2 Where applicable, the Vendor will hand to the Purchaser at Settlement all documents as may be required to transfer to the Purchaser any bond money held by a relevant authority in respect of any Tenancies and any other related documents.
- 7.3 After Settlement the Purchaser will observe and perform all of the covenants, terms and conditions and provisions as may be contained in any lease or tenancy agreements (if any) relating to the Tenancies as lessor or landlord as the context requires.
- 7.4 The Purchaser shall indemnify and keep indemnified the Vendor against any action, claim, proceeding, demand, cost, expense, loss or damage which the Vendor may sustain or incur by reason of any breach or default under any tenancy or lease agreements which occurs after Settlement.



## 8 Title and Risk

- 8.1 The Land shall be at the risk of the Purchaser from the date of this Agreement.
- 8.2 Prior to Settlement, the Vendor shall exercise all reasonable care in order to keep the Land in the same state of repair as it existed at the date of signing of this Agreement, fair wear and tear excepted.
- 8.3 Subject to clause 8.2, the Purchaser shall take the Land in the state and condition existing at the time the Purchaser takes vacant possession or the Settlement Date, whichever occurs earlier.
- 8.4 The Vendor shall be under no liability in respect of any damage caused to the Land after the date of this Agreement, except where such damage has been caused by any breach of clause 8.2, or by any malicious or wilful damage caused by the Vendor, or the Vendor's tenant, after the date of this Agreement.

## 9 Strata and Community Title

If the Land or part of it comprises a lot in a deposited community plan or a unit in a deposited strata plan, the following provisions will apply:

- 9.1 The Vendor declares that to the best of the Vendor's knowledge, information and belief, except as may be otherwise expressed in this Agreement, that at the date of this Agreement there is:
  - 9.1.1 No breach of the *Strata Titles Act 1988* or the Articles of the Strata Corporation or the *Community Titles Act 1996* or the bylaws of the corporations.
  - 9.1.2 No litigation for a claim of any sort has been commenced or is pending against the relevant corporation.
- 9.2 If at the Settlement Date the Vendor has paid any monies to one or more funds established under the *Strata Titles Act 1988* or the *Community Titles Act 1996* prior to the due date, the prepayment will be adjusted for at Settlement.
- 9.3 The Vendor will be liable for any deficiency for its default in payment to the corporation up to the Settlement Date and any overdue payments will be adjusted for at Settlement.
- 9.4 Where the relevant corporation has declared a special levy for the cost of any work done or to be done on the common property of the strata or community corporation, then:
  - 9.4.1 If the amount payable is levied prior to the date of execution of this Agreement, payment of that amount shall be the responsibility of the Vendor.
  - 9.4.2 If the full amount payable, is levied on or after the date of execution of this Agreement, payment of amount payable shall be the responsibility of the Purchaser.
- 9.5 Where the Purchaser has not previously been supplied with copies of the documents required to be made available to the Land owner by the relevant corporation under the *Strata Titles Act 1988* or the *Community Titles Act 1996*, then the Vendor will use its best endeavours to obtain such documents and deliver them to the Purchaser before Settlement.
- 9.6 At the request of the Purchaser, the Vendor will apply to the secretary of the relevant corporation to authorise the Purchaser to inspect the records of the corporation.

**10 Included Property**

Ownership of the Included Property shall pass to the Purchaser on Settlement and the Vendor warrants that at Settlement:

- 10.1 the Included Property is fully owned by the Vendor;
- 10.2 the Vendor has a legal right to sell the Included Property; and
- 10.3 The Included Property will pass to the Purchaser free from Security Interests or other encumbrances.

**11 Excluded Property**

- 11.1 The Excluded Property is not included in the sale of the Land and shall remain the property of the Vendor.
- 11.2 The Vendor agrees to use all reasonable care to remove the Excluded Property from the Land and to indemnify the Purchaser for any damage to the Land caused as a consequence of such removal.

**12 Vendor's Warranties**

- 12.1 The Vendor warrants that, to the best of the Vendor's knowledge at the date of this Agreement, and except where otherwise disclosed in this Agreement or the Form 1, the Vendor is not aware of:
  - 12.1.1 any proposals, current or pending, for the widening or re-direction of any road adjoining the Land by any authority; and
  - 12.1.2 any claims, demands or requisitions in respect of the repair or erection of fences between the Land and adjoining properties; and
  - 12.1.3 any existing or impending notices, orders, claims, demands or other requirements in on or in respect of the Land given by any authority; and
  - 12.1.4 any amounts owing to any authority for works performed on or in respect of the Land; and
  - 12.1.5 except as detailed in Item 14, the Vendor is not aware of any unapproved building work carried out on the Land without any necessary approvals first had and obtained.

**13 Purchaser's Warranties**

- 13.1 The Purchaser warrants that it:
  - 13.1.1 has entered into this Agreement without any inducement or duress from or by any party on behalf of the Vendor; and
  - 13.1.2 has not relied on any warranty or representation made or implied by the Vendor, or any person purporting to be acting on behalf of the Vendor in relation to the Land, including any warranty or representation as to the condition or fitness of the Land, except as are contained in this Agreement; and
  - 13.1.3 has inspected or has had the opportunity to inspect the Land; and

- 13.1.4 has received Form R3 from the Vendor prior to signing this Agreement (if applicable); and
- 13.1.5 has the full legal capacity to enter into this Agreement; and
- 13.1.6 subject to any Special Condition to the contrary, does not require the approval of the Foreign Investment Review Board (FIRB) or a similar body or authority, to purchase the Land.

#### **14 Title**

- 14.1 The Certificate of Title in the name of the Vendor shall be conclusive evidence of title.

#### **15 Misdescription**

- 15.1 In this clause 15, an error or misdescription of the Land means an error or misdescription in this Agreement relating to the area of the Land, a physical structure or a feature on the Land or a boundary thereon.
- 15.2 The Vendor does not warrant that:
  - 15.2.1 all walls and fences are on the boundary of the Land; and
  - 15.2.2 any improvement or fixture on the Land does not encroach on any adjoining land; and
  - 15.2.3 any improvement or fixture on any adjoining land does not encroach on the Land.
- 15.3 Subject to this clause 15, an omission or misdescription of the Land shall not entitle the Purchaser to invalidate this Agreement or to terminate this Agreement or delay Settlement.
- 15.4 Where the Purchaser claims there has been an omission or misdescription of the Land in this Agreement and claims compensation therefrom, the Purchaser must, not later than 10 Business Days of Settlement or not later than 10 Business Days of the Purchaser taking vacant possession of the Land, whichever is the earlier, serve on the Vendor written notice outlining the basis on which the claim is made.
- 15.5 If the Purchaser fails to give notice to the Vendor in accordance with clause 15.4, then any entitlement for compensation the Purchaser may have had arising from the error or misdescription shall not be available.

#### **16 Special Conditions**

- 16.1 This Agreement is subject to the satisfactory performance of the Special Conditions described in Item 18 (if any).
- 16.2 The Party required to satisfy a Special Condition shall use its best endeavours to do so by the date specified in the Special Condition (if any).
- 16.3 If a Special Condition has not been satisfied before the required date (where applicable) and where the Party required to satisfy any Special Condition has;
  - 16.3.1 complied with clause 16.2; and
  - 16.3.2 is not in breach of any other such terms and conditions of the Special Conditions,

either Party may terminate this Agreement by giving written notice to the other of its intention to do so, provided that there is no notice provision in the Special Condition in which case the notice provision in the Special condition shall prevail.

16.4 If this Agreement is terminated pursuant to clause 16.3, the Purchaser shall be entitled to a refund of the Deposit and any other money paid to the Deposit Holder or to the Vendor under this Agreement.

16.5 If the Party required to satisfy any Special Condition has:

16.5.1 not complied with clause 16.2; or

16.5.2 is otherwise in breach of any other terms and conditions of the Special Condition,

then that Party shall be deemed to be in default under this Agreement; and

16.5.3 if the defaulting Party is the Purchaser, clause 18 of this Agreement shall apply; or

16.5.4 if the defaulting Party is the Vendor, clause 19 of this Agreement shall apply.

## 17 Swimming Pool or Spa

If the Land includes a swimming pool or spa, the Vendor must provide to the Purchaser a certificate of compliance evidencing that such swimming pool or spa complies with the requirements of the *Planning, Development and Infrastructure Act 2016 (SA)* and or the *Planning, Development and Infrastructure (Swimming Pool Safety) Regulations 2019 (SA)*.

## 18 Default by Purchaser

18.1 If the Purchaser makes default in the payment of the Deposit by the date specified in Item 5;

18.1.1 the Vendor may, at any time after the default occurs, give notice in writing to the Purchaser ("Notice of Default"), requiring the Purchaser to remedy the default(s) within a period of three (3) Business Days after the service of the Notice of Default, or such longer period as may be specified therein.

18.1.2 If the Purchaser fails to remedy the default(s) within the period specified in the Notice of Default, this Agreement will automatically terminate.

18.1.3 Any termination of this Agreement pursuant to clause 18.1.2 shall not prejudice any other rights or remedies available to the Vendor under this Agreement or at law.

18.1.4 The Notice of Default given under sub-clause 18.1.1;

18.1.4.1 must specify that if the default(s) is/are not remedied within the time specified therein that this Agreement will automatically terminate; and

18.1.4.2 may be given more than once.

18.2 If for any reason, other than the default or neglect of the Vendor, Settlement does not take place on the Settlement Date or if the Purchaser makes default in the payment of the Purchase Price or any part of it, then;

18.2.1 the Purchaser shall pay interest at the Default Rate on the Purchase Price less any deposit paid by the Purchaser pursuant to this Agreement; and

18.2.2 such interest shall be calculated from the Settlement Date to either:

- 18.2.2.1 the date on which settlement is eventually effected; or
  - 18.2.2.2 the date on which this Agreement is terminated as a result of the Purchaser's default,
- as the case may be.
- 18.2.3 Interest payable by the Purchaser under this clause 18.2 shall be in addition to and without prejudice to any other rights or remedies available to the Vendor by reason of the default by the Purchaser.
- 18.3 If the Purchaser makes default by failing to settle on the Settlement Date and such default continues for not less than three (3) Business Days, the Vendor may at any time thereafter serve a notice on the Purchaser to complete settlement ("Notice to Complete") and:
- 18.3.1 The Notice to Complete must specify a date and time for settlement, and shall require the Purchaser to complete the settlement on that date and time at the Lands Titles Registration Office in Adelaide.
  - 18.3.2 The time for settlement appointed in a Notice to Complete shall be a time between 11:30 am and 2.30 pm on a Business Day not less than fourteen (14) days after the service of the Notice to Complete.
  - 18.3.3 If the Purchaser fails to comply with the requirements of a Notice to Complete at the time set down for settlement therein, the Vendor may terminate this Agreement by a further notice in writing to the Purchaser, without prejudice to any other rights of the Vendor.
  - 18.3.4 A Notice to Complete can be given to the Purchaser more than once and any subsequent notice may state a period of not less than 7 days in lieu of 14 days, as required in accordance with clause 18.3.2.
- 18.4 Where Settlement is not completed on the Settlement Date by reason of a default by the Purchaser, but settlement takes place on a subsequent date, all Income shall be re-adjusted as at midnight on the day immediately preceding the day settlement occurs but Outgoings shall remain adjusted to the Settlement Date.
- 18.5 If this Agreement is terminated by the Vendor as a result of the Purchaser's non-compliance with any notice served upon it pursuant to the provisions of this clause 18;
- 18.5.1 all money paid or payable by the Purchaser by way of deposit shall be forfeited to the Vendor; and
  - 18.5.2 the Vendor may, at the Vendor's option, either;
    - 18.5.2.1 retain the Land and the Included Property and recover from the Purchaser damages for breach of contract; or
    - 18.5.2.2 resell the Land and the Included Property by public auction or private contract; and
      - 18.5.2.2.1 where the price for which the Land is resold ("Resale Price"), less all costs, expenses, and other charges of and incidental to the Purchaser's default including costs of resale is less than the Purchase Price, the Purchaser shall pay an amount equal to such deficiency to the Vendor; and

18.5.2.2.2 the Vendor may recover that deficiency as and by way of liquidated damages: and

18.5.2.2.3 any deposit paid by the Purchaser pursuant to this Agreement shall be taken into account when assessing any damages claimed by the Vendor.

18.6 In the event that the Resale Price is in excess of all damages incurred by the Vendor, then any such excess amount shall belong absolutely to the Vendor.

18.7 The Vendor shall be under no obligation to provide a Transfer in order to exercise any of its rights under this clause 18.

18.8 The Vendor may exercise any of its rights and remedies under this clause 18 without prejudice to any other rights or remedies the Vendor may have under this Agreement, or under any Applicable Law.

## 19 **Default by Vendor**

19.1 If the Vendor defaults in performing or observing any obligations or duties under this Agreement, the Purchaser may give notice in writing to the Vendor, requiring the Vendor to remedy the default within a period of three (3) Business Days after the service of the notice or such longer period as the Purchaser may specify in the notice.

19.2 Such Purchaser's notice shall state either:

19.2.1 that this Agreement will terminate if the Vendor's default is not remedied within the period stated in the notice, in which case any money paid by the Purchaser to the Vendor under this Agreement shall be immediately refunded by the Vendor or its Representative; or

19.2.2 that Settlement will be postponed until the default specified in the notice is remedied in which case the Vendor shall at the sole discretion of the Purchaser, pay to the Purchaser, in the Purchaser's absolute discretion, either;

19.2.2.1 interest at the Default Rate on the full amount of the Purchase Price until the default is remedied and such remedy notified to the Purchaser; or

19.2.2.2 the monetary amount of the damages actually suffered by the Purchaser.

19.3 If Settlement is postponed in accordance with clause 19.2.2, Outgoings shall be adjusted to midnight on the day immediately preceding the actual day of settlement but Income shall be adjusted to the Settlement Date.

19.4 The Purchaser may exercise any of its rights and remedies under this clause 19 without prejudice to any other rights or remedies the Purchaser may have under this Agreement, or under any Applicable Law.

19.5 More than one notice pursuant to this clause 19 may be given by the Purchaser.

## 20 **Time**

Time is of the essence with regards to clauses 18 and 19 of this Agreement.

## 21 **Notices and Demands**

21.1 A Notice shall be deemed to have been duly served or made;

- 21.1.1 at the time it is hand delivered to the addressee; or
- 21.1.2 at the time it is left at the physical address of the addressee, or at the last known place of residence or business of the addressee; or
- 21.1.3 if sent by express post to the addressee at any such address or place, on the next business day after posting, unless proven otherwise; or
- 21.1.4 if sent by email, within the time prescribed in Section 13 of the *Electronic Communications Act 2000 (SA)*;
- 21.1.5 if sent by facsimile, at the time noted on the confirmation printout or record that the transmission of such facsimile was successful.

## 22 Non Merger

Any provision of this Agreement which is not fully performed and satisfied at settlement shall not merge in the settlement and shall continue in full force and effect after, and notwithstanding, settlement.

## 23 Costs

- 23.1 The costs of and incidental to the preparation of this Agreement shall be paid by the Party specified in Item 17 of the Schedule.
- 23.2 The Vendor shall pay all costs relating to the preparation of the discharge, surrender or withdrawal of any mortgage, encumbrance, lien or caveat (if such caveat has not been lodged by the Purchaser) which are required to be discharged, surrendered or withdrawn on, or before the Settlement Date and shall pay all Land Titles Office registration fees as applicable.
- 23.3 The Purchaser shall pay the costs of and incidental to the preparation of the Transfer (but excluding the costs referred to in clause 23.2) and all associated stamp duty, registration fees, government fees and duties and disbursements.

## 24 Liability of Vendor and Purchaser

Where a Party consists of more than one person then each of those persons shall be bound jointly and severally to observe and perform any covenant or obligation pursuant to this Agreement.

## 25 GST

- 25.1 GST shall not be payable by the Purchaser to the Vendor in respect of any taxable supply unless otherwise stated in this Agreement.
- 25.2 Notwithstanding sub-clause 25.1 the Purchaser must pay to the Vendor, the amount of GST payable by the Vendor;
  - 25.2.1 resulting solely from any action taken or intended to be taken by the Purchaser after the Settlement Date, including a change of use of the Land; or
  - 25.2.2 if the supply made under this Agreement is of land on which a farming business is carried on, and the supply (or a part of it) does not satisfy the requirements of section 38-480 of the GST Act; or
  - 25.2.3 if the supply made under this contract is of a going concern and the supply (or a part of it) does not satisfy the requirements of section 38-325 of the GST Act.

- 25.3 The Purchaser must pay to the Vendor any GST payable by the Vendor in respect of a taxable supply made under Agreement in addition to the Purchase Price if it is stated in this Agreement the Purchase Price is 'plus GST'.
- 25.4 If the Purchaser is liable to pay GST, the Purchaser is not required to make payment until provided with a tax invoice, unless the margin scheme applies.
- 25.5 If the supply made under this Agreement is of land on which a 'farming business' is carried on ("farm land"), then:
- 25.5.1 the vendor warrants that the Land is land on which a farming business has been carried on for a period of 5 years preceding the date of supply; and
  - 25.5.2 the Purchaser warrants that the Purchaser intends to carry on farming after Settlement.
- 25.6 If Item 7 specifies that the supply made under this Agreement is a 'going concern':
- 25.6.1 the Parties agree that this Agreement is for the supply of a going concern and a supply which is 'GST free' in accordance with the GST Act; and
  - 25.6.2 the Purchaser warrants that the Purchaser is, or will prior to Settlement, be registered for GST; and
  - 25.6.3 the Vendor must carry on the enterprise, being the going concern referred to in this clause 25.6, until the date of supply.
  - 25.6.4 The Purchaser shall, in the event of any assignment at any time of all or part of its rights, benefits and interest in this Agreement, then such assignment shall, as a condition of such assignment, be bound by the same warranties and agreements as contained in this clause 25.6.
- 25.7 If Item 7 specifies that the supply made under this Agreement is a 'margin scheme' supply, the Parties agree that the margin scheme applies to this Agreement and that GST shall be calculated by the Vendor in the manner specified in Section 75 of the GST Act; and
- 25.7.1 Any costs relating to valuation of any supply for the purposes of calculating the GST under the margin scheme if applicable shall be borne solely by the Party requesting its application.
  - 25.7.2 Any valuation required for the application of the margin scheme must be conducted and prepared in a form which complies with the requirements of the GST Act.
- 25.8 In this clause 25;
- 25.8.1 Terms used have the same meaning as in *the A New Tax System (Goods and Services Tax) Act 1999* (Cth) ("the GST Act") unless the context otherwise requires.
  - 25.8.2 'GST' includes penalties and interest.

## 26 Privacy

The Parties acknowledge and agree that a Representative of a Party may use personal information collected from the Parties to act as agent and perform their obligations under this Agreement.



**27 Severance**

If any provision in this Agreement is found by a Court to be invalid or unenforceable, then such provision is to be severed from this Agreement and the remaining provisions stand.

**28 Governing Law**

This Agreement is governed by and construed in accordance with the laws of South Australia and the parties submit to the jurisdiction of the Courts of South Australia.

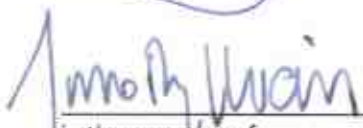
DATED this                      day of                      2022

Signed by the Vendor

Signed by the Purchaser

  
\_\_\_\_\_  
John Maxwell Hissey

\_\_\_\_\_  
Christopher Pace

  
\_\_\_\_\_  
in the presence of

\_\_\_\_\_  
in the presence of

TIMOTHY JOHN WEISS

A Commissioner for taking Affidavits in the  
Supreme Court of the State of South Australia

\_\_\_\_\_  
Witness

Each Party acknowledges and consents to each signing this Agreement themselves or by their attorneys and or representatives (and any Notice under this Agreement or the Act) by electronic and/or digital signatures pursuant to the *Electronic Communications Act 2000 (SA)* and also delivering this Agreement, the related Form 1 and any Notices by email.

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**OTHER TERMS**  
**ELECTRONIC CONVEYANCING**

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- 1 The provisions in this Annexure shall only apply if all parties have agreed that settlement pursuant to this Agreement shall be conducted as an Electronic Conveyancing Transaction.
- 2 In these provisions:
  - "Participation Rules" means the rules for participation in the national electronic conveyance system as set out in the *Electronic Conveyancing National Law (South Australia) Act 2013* ("ECNL").
  - "ELNO", "ELN" have the meanings given to them in the ECNL.
  - "Electronic Workspace" has the meaning given to it in the Participation Rules.
  - "Electronic Conveyancing Transaction" means a conveyancing transaction effected for the Parties by their respective Representatives as subscribers, using an ELN and in accordance with the ECNL and the Participation Rules.
  - words and phrases shall have the same meaning as they have in the Participation Rules unless the context provides otherwise.
- 3 No Party is obliged to agree to Settlement being completed as an Electronic Conveyancing Transaction.
- 4 Notwithstanding that the Parties may have agreed to conduct Settlement as an Electronic Conveyancing Transaction, either Party may subsequently give notice to the other stating that it no longer wishes to do so, upon which the provisions in this Annexure cease to apply.
- 5 In the event that settlement is to be completed as an Electronic Conveyancing Transaction, then it shall be conducted in accordance with the Participation Rules and the provisions of this Annexure will have priority over any other provision in this Agreement to the extent of any inconsistency.
- 6 If at the time an Electronic Conveyancing Transaction is due to be conducted there is a failure of the computer systems of the Land Registry, the Reserve Bank of Australia or the ELNO ("system failure") which prevents completion of Settlement, such failure to complete for that reason shall not be deemed a default under this Agreement by either Party, in which case:
  - 6.1 if the Electronic Workspace does not allow for the Parties to proceed to a financial settlement, then the Parties must do all things necessary to enable the Electronic Conveyancing Transaction to occur on the next Business Day, or on such other date as may be mutually agreed; or
  - 6.2 If the Electronic Workspace allows the Parties to choose whether financial settlement is to occur notwithstanding the system failure, the Parties may mutually agree to proceed with a financial settlement.
  - 6.3 Each Party shall pay its own costs in relation to any fees charged by an ELNO in respect of the Electronic Conveyancing Transaction.

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**OTHER TERMS**  
**FOREIGN RESIDENT CAPITAL GAINS WITHHOLDING**

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- 1 The provisions in this Annexure shall only apply if:
    - 1.1 the Purchase Price is \$750,000.00 or more; or
    - 1.2 the market value of the Land is or will be \$750,000.00 or more at or immediately after Settlement; or
    - 1.3 the sale under this Agreement is not an excluded transaction within the meaning of section 14-215(1) of Schedule 1 to the *Taxation Administration Act 1953 (Cth)*; and
    - 1.4 the Purchaser is required to pay the Commissioner, an amount ("the amount") in accordance with section 14-235 of Schedule 1 to the *Taxation Administration Act 1953 (Cth)*.
  - 2 The amount shall be deducted from the balance of funds payable to the Vendor at Settlement.
  - 3 Notwithstanding anything to the contrary contained in this Agreement, the Purchaser must:
    - 3.1 pay, or cause to be paid, as soon as is reasonably practical or possible after Settlement, the amount to the Australian Taxation Office in the manner prescribed by the Commissioner; and
    - 3.2 upon payment being made, promptly provide evidence of payment to the Vendor; and
    - 3.3 otherwise comply or ensure that the terms of these provisions are complied with.
  - 4 Where the Settlement is conducted as an Electronic Conveyancing Transaction (as defined in clause 2 of Annexure 1 of this Agreement), the terms of clause 3 of this Annexure are deemed to have been complied with if the amount is included in the settlement statement requiring its payment to the Commissioner.
  - 5 The Vendor must within 5 Business Days of request by the Purchaser, provide to the Purchaser all information which may be required to enable the Purchaser to comply with its obligation to pay the amount to the Commissioner in accordance with section 14-200 of Schedule 1 to the *Taxation Administration Act 1953 (Cth)*.
  - 6 At least 5 Business Days before the due date for Settlement, the Vendor must provide to the Purchaser any clearance certificate or other document evidencing the variation of the amount in accordance with section 14-235(2) of Schedule 1 to the *Taxation Administration Act 1953 (Cth)*.
  - 7 Any interest or penalties payable to the Commissioner resulting from late payment of the amount shall be the responsibility of the Purchaser.
  - 8 Unless the context requires otherwise, words and phrases defined in Subdivision 14-D of Schedule 1 to the *Taxation Administration Act 1953 (Cth)* have the same meaning as in the provisions in this Annexure.
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**OTHER TERMS**  
**GST WITHHOLDING**

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- ~~1 If the sale of the Land constitutes or includes either a supply of Residential Premises or a supply of Potential Residential Land, the Vendor must give the Purchaser a Vendor's Notice not less than 2 business days prior to the Settlement Date where reasonably practicable, failing which the Vendor must give such notice prior to Settlement.~~
  - ~~2 In the event that the Vendor gives more than one Vendor's Notice to the Purchaser prior to Settlement, the latest version shall prevail over any previous Vendor's Notice(s) given by the Vendor.~~
  - ~~3 The remaining provisions in this Annexure apply only if the sale of the Land constitutes or includes either a supply of New Residential Premises or a supply of Potential Residential Land to which sections 14-250 and 14-255 of Schedule 1 of the *Taxation Administration Act 1953 (Cth)* apply.~~
  - ~~4 The Purchaser will retain the GST Withholding Amount from the Purchase Price and remit the GST Withholding Amount to the Australian Taxation Office at, or as soon as reasonably practicable after Settlement.~~
  - ~~5 In the event that the Vendor is not a supplier liable for GST in relation to the taxable supply pursuant to this Agreement, the Vendor will specify the relevant supplier details in a Vendor's Notice.~~
  - ~~6 In the event that part or all of the consideration for the sale of the Land is not expressed in the Purchase Price, the Vendor will include the GST inclusive market value of such consideration not expressed in the Purchase Price in a Vendor's Notice.~~
  - ~~7 As soon as practicable after receiving a Vendor's Notice and prior to Settlement, the Purchaser will electronically submit to the Australian Taxation Office a 'GST property settlement withholding notification' (form one), or such other form as may be approved in accordance with the requirements of the *Taxation Administration Act 1953 (Cth)* at the time, and provide evidence of such lodgement to the satisfaction of the Vendor.~~
  - ~~8 The Purchaser will pay the GST Withholding Amount in accordance with the following:~~
    - ~~8.1 Where Settlement is to be effected electronically in accordance with the *Electronic Conveyancing National Law (South Australia) Act 2013 (SA)*, the Purchaser will pay the GST Withholding Amount to the Australian Taxation Office at Settlement, by way of an electronic transfer of funds via the Electronic Workspace; or~~
    - ~~8.2 Where Settlement is not to be effected electronically in accordance with Clause 8.1 (above), by:~~
      - ~~(a) The Purchaser at Settlement delivering to the Vendor's Representative a bank cheque for an amount equivalent to the GST Withholding Amount, made payable to the Deputy Commissioner of Taxation, following the receipt of which the Vendor's Representative must:~~
        - ~~(i) immediately issue the Purchaser a receipt, including details of the transaction and the bank cheque particulars; and~~
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~~(iii) — as soon as reasonably practicable following Settlement, provide the bank cheque to the Australian Taxation Office to effect payment of the GST Withholding Amount, and provide the Purchaser with evidence of the Vendor having made payment;~~

~~OR~~

~~(b) — The use of any other method permitted by the *Taxation Administration Act 1953 (Cth)*, whereby evidence of payment must be provided to the other party as soon as reasonably practicable following Settlement.~~

~~9 — Immediately following Settlement, the Purchaser will electronically submit to the Australian Taxation Office a 'GST property settlement date confirmation' (form 2), or such other form as may be approved in accordance with the requirements of the *Taxation Administration Act 1953 (Cth)* at the time, and provide evidence of such lodgement to the satisfaction of the Vendor.~~

~~10 — Either party will immediately forward to the other party any acknowledgement from the Australian Taxation Office that the GST Withholding Amount has been received.~~

~~11 — The Vendor acknowledges and agrees that the Purchaser's strict compliance with the Purchaser's obligations under Schedule 1 of the *Taxation Administration Act 1953 (Cth)* to pay the GST Withholding Amount is a complete discharge of the Purchaser's obligations under this Agreement to pay that portion of the Purchase Price equivalent to the GST Withholding Amount.~~

~~12 — In the event of any penalties or interest resulting from late payment or non-payment of the GST Withholding Amount, the Purchaser must pay such penalties or interest, save to the extent that:~~

~~12.1 — Such penalties or interest arise from any act or omission by the Vendor or by the Vendor's Representative; or~~

~~12.2 — The Vendor's Notice specifies that the Purchaser is not required to pay a GST Withholding Amount and, as at the Settlement Date, there is nothing in this Agreement, nor any other circumstances relating to this Agreement, which make it unreasonable for the Purchaser to determine the Vendor's Notice is correct,~~

~~in which case, to the extent that either of the above exceptions applies, the Vendor is responsible for, and indemnifies the Purchaser against, payment of any such penalties or interest.~~

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**GST WITHHOLDING NOTICE**

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## 1. Vendor's Notice (select one box only).

- ☒ **YES** – this constitutes written notice of the Vendor pursuant to section 14-255 of Schedule 1 of the *Taxation Administration Act 1953 (Cth)*.
- ☐ **NO** – the Vendor will give to the Purchaser written notice independently of this Agreement pursuant to section 14-255 of Schedule 1 of the *Taxation Administration Act 1953 (Cth)*

If YES - the Vendor must complete paragraph 2 below.

## 2. The Vendor states:

- ☐ **YES** – the Purchaser is required to pay the GST Withholding Amount to the Australian Taxation Office in accordance with the terms of the GST Withholding provisions of this Agreement and the *Taxation Administration Act 1953 (Cth)*.
- ☒ **NO** – the Purchaser is not required to pay any GST Withholding Amount to the Australian Taxation Office in accordance with the *Taxation Administration Act 1953 (Cth)*.

If YES - complete the remaining paragraphs 3 to 5 inclusive of this notice.

If NO - strike through the remainder of this notice.

## 3. GST Withholding Amount to be paid by Purchaser to the Australian Taxation Office

\$

The Purchaser is ultimately responsible for ensuring the correct GST Withholding Amount is paid to the Australian Taxation Office

## 4. \*Supplier liable for GST:

Name:

ABN:

Postal Address:

Phone:

Supplier's proportion of GST Withholding Amount \$

## 5. GST-inclusive market value of any non-monetary consideration:

\$

*\*In the event of there being more than one supplier, the Vendor must provide the details in paragraphs 4 and 5 (above) for each supplier.*

Refer to the Annexure titled GST Withholding for the provisions dealing with when the Purchaser is required to pay the GST Withholding Amount.

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**OTHER TERMS – GENERAL**

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1. The Vendor and Purchaser acknowledge and agree that Johnston Withers & Associates (“the Conveyancer”) has been instructed to prepare this Agreement and any statutory forms required under the Land and Business (Sale and Conveyancing) Act 1994 (as amended) following private negotiations between the Vendor and Purchaser.
2. It is acknowledged by both the Vendor and the Purchaser that Johnston Withers & Associates are acting as Conveyancers in the preparation of this agreement and any statutory forms required under the Land and Business (Sale and Conveyancing) Act 1994 and therefore make no representation as to:-
  - a) the property or any aspect of the sale or;
  - b) any matters that affect the property or;
  - c) the correctness of the disclosures made in this Agreement and the associated Form 1
3. Notwithstanding anything to the contrary contained in this Agreement, the Parties expressly agree that in the event this Agreement is terminated for any reason whatsoever, then the Conveyancer shall be reimbursed in equal parts by the Vendor and the Purchaser for the costs of preparation of this Agreement and for the costs of all required statutory and other searches.
4. The Vendor and the Purchaser confirm that that Johnston Withers & Associates has not given any taxation, zoning and legal advice (including GST and capital gains tax) and has expressly advised each part to this agreement to seek expert advice on all such taxation, legal and other concerns.
5. This Agreement may be executed in any number of counterparts and by the parties on separate counterparts. Each counterpart constitutes the agreement of each party who has executed and delivered that counterpart.



### SPECIAL CONDITION A FINANCE

1. A reference to an Item is a reference to an item in the Schedule of these Special Conditions.
2. This Agreement is subject to the person or entity named in Item 1 ("the Lender") agreeing on or before the date specified in Item 2 to grant to the Purchaser a loan ("Loan") of not less than the amount specified in Item 3 upon the security of a first mortgage over the Land.
  - 2.1 Upon notification of unconditional approval to the Vendor this Special Condition A will be satisfied and notwithstanding that the Lender may subsequently withdraw the approval, the Purchaser will remain bound by this Agreement.
3. The Loan shall be:
  - 3.1 for the term specified in Item 4;
  - 3.2 at an interest rate not exceeding the rate specified in Item 5; and
4. The Purchaser shall promptly make an application for the Loan and provide to the Lender such information and do such things as may be reasonably necessary to obtain the Lender's agreement to approve the Loan to the Purchaser.
5. If the Purchaser fails to comply with the provisions of these Special Conditions, clause 16 of this Agreement shall apply.
6. Where the Lender does not agree by the date specified in Item 2 to grant the Loan to the Purchaser on or before the Settlement Date, then unless the Purchaser has given notice in writing to the Vendor waiving these Special Conditions, the Purchaser may at any time thereafter determine this Agreement by giving written notice to the Vendor.
7. Unless, not later than two (2) business days after the date specified in Item 2, the Purchaser delivers to the Vendor either:
  - 7.1 a written notice signed by the Lender that the Lender has agreed to grant the Loan to the Purchaser; or
  - 7.2 a written notice signed by the Purchaser stating that the Purchaser waives its rights under these Special Conditions;
 the Vendor may at any time thereafter determine this Agreement by giving written notice to the Purchaser.
8. Upon the determination of this Agreement pursuant to Clause 7 above, all moneys paid by the Purchaser to the Vendor or its Representative shall be refunded to the Purchaser without deduction.
9. Upon the refund of all moneys paid by the Purchaser, neither the Vendor nor the Purchaser shall have any claim against the other directly or indirectly arising out of this Agreement.

#### SCHEDULE

1	LENDER	:	
2	DATE	:	
3	LOAN AMOUNT	:	
4	TERM	:	
5	INTEREST RATE	:	