



## **CONTRACT OF SALE**

**Dated this 26 day of  
October, 2019**

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**KENNETH JAMES BUCKLEY &  
DEBORAH ANN BUCKLEY**

**SALE TO**

**HELEN MARIE WAGNER & DONALD  
WILLIAM WAGNER AS TRUSTEES FOR  
HM WAGNER SUPER FUND**

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**"HICKLETON"  
Property: LOT 75 ON AG513**

Carvosso & Winship  
Solicitors  
2 Stuart Street  
DALBY QLD 4405

Tel: 07 4662 2033  
Fax: 07 4662 1093

## REFERENCE SCHEDULE

- A** Contract Date:
- B** Seller's Agent: Fitzsimmons Nominees Pty Ltd t/a Fitzsimmons Real Estate  
Address: 47 Condamine Street, Dalby Qld 4405  
Licence No: 1004869 Facsimile: 07 4662 2076 Phone: 07 4662 5311  
ABN: 66497931730 Email Address: [fitzre@bigpond.net.au](mailto:fitzre@bigpond.net.au)
- C** Seller/s: **KENNETH JAMES BUCKLEY & DEBORAH ANN BUCKLEY**  
Address: 2330 Dalby Cooyar Road, Kaimkillenbun Qld 4406  
Facsimile Phone: 0438 860 554  
ABN: 343 840 691 99 Email Address: [deeaybee@harbourisp.net.au](mailto:deeaybee@harbourisp.net.au)
- D** Seller's Solicitor: Carvosso & Winship Solicitors  
Address: 2 Stuart Street, Dalby Qld 4405  
Facsimile: 07 4662 1093 Phone: 07 4662 2033  
ABN: Email Address: [Jamiewa@carwin.com.au](mailto:Jamiewa@carwin.com.au)
- E** Buyer/s: **HELEN MARIE WAGNER & DONALD WILLIAM WAGNER AS TRUSTEES FOR HM WAGNER SUPER FUND**  
Address: 62 Recreation Reserve Road, Highfields Qld 4352  
Facsimile Phone: 0408 904 060  
ABN: Email Address: [dwwagner@bigpond.com.au](mailto:dwwagner@bigpond.com.au)
- F** Buyer's Solicitor: Bernays Lawyers  
Address: PO Box 31 Toowoomba Qld 4350  
Facsimile: 07 4638 4595 Phone: 07 4632 1266  
ABN: Email Address: [bernayslegal@bernays.com.au](mailto:bernayslegal@bernays.com.au)
- G** Stakeholder: Fitzsimmons Nominees Pty Ltd t/a Fitzsimmons Real Estate  
Facsimile: 07 4662 2076 Phone: 07 4662 5311
- H PARTICULARS OF LAND SOLD:**  
Address: 2330 Dalby Cooyar Road, Kaimkillenbun Qld 4406  
Description: Lot 75 on AG513

KJB: AS  
Helen

Title Reference: 18783209

Area: 106.589ha (more or less)

**I IMPROVEMENTS INCLUDED IN SALE:**

The fixed structures on the land and all items fixed to them (including stoves; hot water systems; carpets; curtains and blinds and their fittings; clothes lines; satellite dishes and television antennae; in-ground plants; crops presently growing on the land; and the Seller's interest in the boundary fences or the fences which are used as boundary fences), internal fencing and including:

- Dwelling house
- 30m x 20m (approx.) Machinery Shed
- All fixed water improvements and irrigation bore
- 9 hydrants and taps, side roll irrigator and all associated equipment
- Steel panel cattle yards with ramp
- Dishwasher
- Wood heater
- 2 split air-conditioning units in dwelling

**J PLANT, MACHINERY AND CHATTELS INCLUDED IN SALE:**

NIL

(Attach inventory if insufficient space)

**K THE LAND IS SOLD AS:**

**Freehold** (subject to the provisions of clause 9)

(Cross out that which does not apply)

~~Leasehold (subject to the conditions of the Crown leasehold title)~~

**L ENCUMBRANCES:** (If the Property is sold free from Encumbrances, insert "Nil". If the Property is sold subject to Encumbrances they must be specifically described in this Item.)

NIL

**M PURCHASE PRICE:** \$1,100,000.00

**N DEPOSIT:** \$110,000.00

**O DEFAULT INTEREST:** ten point six five (10.65) per cent simple interest per annum.

**P DATE FOR COMPLETION:** 27 November 2019

**Q CITY OR TOWN FOR COMPLETION:** DALBY

MS. 06  
D. H. H.

## INDEX

1. Sale and Purchase
2. Purchase Price
3. Deposit
4. Finance *Intentionally deleted*
5. Completion
6. Agent
7. Buyer's Right of Early Access
8. Buyer's Right to Depasture Livestock *Intentionally deleted*
9. Title
10. Seller's Statement and Warranties
11. Pending Completion
12. Adjustments
13. Requirements of Authorities
14. Rights after Completion
15. Default
16. Costs
17. Time
18. Governing Law and Jurisdiction
19. Apportionment
20. Safety Switches and Smoke Alarms
21. Abandonment
22. Water Licence
23. Notices
24. GST
25. Definitions and Interpretation
26. Exchange of Counterparts
27. Guarantee and Indemnity
28. Reservation of Use of Dwelling
29. Share Farming Arrangement
30. Due Diligence
31. Contract Subject to Seller's Purchase Contract
32. Contemporaneous Settlement

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Dm  
Hm

**1. SALE AND PURCHASE**

The person named in item C ("the Seller") agrees to sell to the person named in item E ("the Buyer") the property described in Items H, I and J ("the property");

- (1) subject to the encumbrances described in Item L;
  - (2) exclusive of the items described in the Schedule; and
- on the terms and conditions herein.

**2. PURCHASE PRICE**

The consideration or price shall be the sum stated in Item M.

**3. DEPOSIT**

- (1) A deposit of the sum stated in Item N shall be paid on or before the signing hereof to the stakeholder named in Item G for the Seller (called "the stakeholder").
- (2) The stakeholder is authorised and directed to invest the deposit at call in the names of the Seller and the Buyer.
- (3) On completion, the stakeholder must pay the deposit to the Seller and any interest earned on its investment to the Seller and the Buyer in equal half shares.
- (4) If this contract is terminated, the stakeholder must pay the deposit and any interest earned on its investment to the party entitled to the deposit.
- (5) If there is income from the investment of the deposit in respect of any financial year to which no beneficiary is presently entitled for the purpose of the *Income Tax Assessment Act 1936* (Cth) as at 30 June of that financial year:
  - (a) the parties must pay to the stakeholder the tax assessed to it in respect of that income [other than tax in the nature of a penalty for late lodgement (**Penalty**) which the stakeholder must bear itself] and all expenses of the stakeholder in connection with the preparation and lodgement of the tax return, payment of the tax, and furnishing to the parties the information and copy documents they reasonably require;
  - (b) if the tax (other than Penalty) and the stakeholder's expenses are not paid to the stakeholder on demand, it may deduct them from the deposit and income;
  - (c) if tax is not assessed on the income when the deposit and income are due to be paid to the party entitled, the stakeholder may deduct and retain its estimate of the assessment; and
  - (d) as between the parties, the tax must be paid by the party receiving the income on which the tax is assessed, and the stakeholder's expenses must be paid by the party receiving the deposit.

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*[Signature]*

- (i) any pipeline, lease, licence, authority or application under the *Mineral Resources Act 1989*, the *Geothermal Energy Act 2010*, the *Petroleum Act 1923* or the *Petroleum and Gas (Production and Safety) Act 2004* affects the land;
- (j) the area of land stated in this contract is incorrect;
- (k) the boundaries of the land are incorrect;
- (l) any of the boundary fences are "give and take" fences;
- (m) any of the boundary fences are not erected on the actual boundaries of the land or are not owned (partly or wholly) by the Seller;
- (n) any boundaries of the land are unfenced;
- (o) any noxious weeds are growing on any part of the land or if any notice or order exists or is issued requiring noxious weeds to be cleared and destroyed;
- (p) the Seller does not hold bore or water licences relating to the property;
- (q) the use of the property is unlawful under any town planning scheme or any improvements on the land have not been approved or do not comply with any approval issued by a competent authority;
- (r) the access to the land is other than by way of adjoining road dedicated for public use as a road or by way of registered easement to a road dedicated for public use;
- (s) the land or any part of it is dedicated as a protected area or is affected by a conservation agreement or conservation plan under the *Nature Conservation Act 1992*;
- (t) the property is entered on the Heritage Register or is the subject of a stop order, restoration order or non-development order or is a declared protected area or restricted zone under the *Queensland Heritage Act 1992*;
- (u) the land is listed on the Environmental Management Register or the Contaminated Land Register or has ever been used for any notifiable activity listed in Schedule 3 of the *Environmental Protection Act 1994*;
- (v) there exists any claim on the land or any part of it under the *Aboriginal Land Act 1991*, *Native Title Act 1993* (Cth) or *Native Title (Queensland) Act 1993* or at common law;
- (w) the property is included in the World Heritage List compiled under the Convention for the Protection of the World's Cultural and Natural Heritage;
- (x) there exists any restriction on the clearing of vegetation or a property map of assessable vegetation in respect of the property;

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D. S. [signature]

4. Intentionally deleted

**5. COMPLETION**

- (1) Delivery and vacant possession of the land shall be given and taken on the date of completion being the date stated in Item P.
- (2) The parties agree that completion shall be effected at the place stated in Item Q or such other place as directed by the solicitors for the Seller.
- (3) At completion the balance of the consideration shall be paid to the credit of the Seller or in such manner as the solicitors for the Seller may direct, such payment to be made on delivery being given and taken and in exchange for documents mentioned in clause 5(4).
- (4) On payment by the Buyer of the balance of the purchase money and all other moneys payable by the Buyer hereunder the Seller will deliver to the Buyer or the Buyer's solicitors a properly executed registrable transfer or transfers of the interest in the land hereby sold in favour of the Buyer capable of immediate registration and all other documents necessary to vest the property in the Buyer free from all encumbrances save as set out in Item L (provided that such transfers and other documents shall have been prepared by the Buyer or the Buyer's solicitors in sufficient time to allow the same to be so executed).
- (5) Clauses 5(3) and 5(4) have effect subject to the operation of clause 5A

**5A. CGT WITHHOLDING – FOREIGN RESIDENT SELLER**

- (1) This clause applies if this sale is a transaction to which Subdivision 14-D in Schedule 1 to the *Taxation Administration Act 1953* (Cth) (entitled "Capital proceeds involving foreign residents and taxable Australian property") ("the Withholding Law") applies.
- (2) The Seller hereby irrevocably directs the Buyer to draw and produce to the Seller at settlement a bank cheque in favour of the Deputy Commissioner of Taxation or, if the Buyer's Solicitor requests, the Buyer's Solicitor's Trust Account, for an amount determined under s 14-200(3) (a) of the Withholding Law or, if a copy of a variation notice under s 14-235 of such Law is provided to the Buyer prior to settlement, the lesser amount specified in that notice.
- (3) The Buyer must before settlement complete on the Australian Taxation Office website an online *Foreign Resident Capital Gains Withholding Purchaser Payment Notification Form* for each person comprising the Buyer and notify the Seller of the resulting payment reference number or numbers on or before settlement.
- (4) The Seller must return the bank cheque referred to in subclause (2) to the Buyer's Solicitor (or if there is no Buyer's Solicitor, the Buyer) at settlement.
- (5) The Buyer must pay the amount referred to in subclause (2) to the Commissioner in accordance with s 14-200 of the Withholding Law and give the Seller evidence that the Buyer has done so within 2 business days of settlement occurring.

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**6. AGENT**

The Seller acknowledges that the person named in Item B is the sole agent effecting this sale.

**7. BUYER'S RIGHT OF EARLY ACCESS**

- (1) Following notice from the Buyer under clause 30(2)(ii) in accordance to the terms herein that the Buyer has satisfied or waived the Bore Inspection, the Seller hereby licenses the Buyer to access the fallowed cultivation area on the land and at all reasonable times for the purpose of spraying and otherwise maintaining the cultivation areas upon it and planting crops according to the season.
- (2) The Buyer hereby indemnifies the Seller against any damages or expenses suffered or incurred by the Seller or for any action or claim made by any other person against the Seller as a consequence of the Buyer's exercise of the Buyer's rights under clause 7(1). The Buyer acknowledges that access to the property pursuant to this clause 7 will be at the Buyer's risk entirely.
- (3) If this contract is not completed for any reason other than the default of the Buyer the Seller shall compensate the Buyer for all herbicide, fertiliser and seed used in exercise of the Buyer's rights under clause 7(1) at invoice landed costs, as well as for contract work performed in the course of exercise of those rights, at a rate in accordance with rates ruling in the district as determined by an Agent as agreed between the parties whose decision will be final and binding on the parties. The Buyer must deliver to the Seller a tax invoice prior to payment.
- (4) The right of early access given to the Buyer under this clause 7 will extend to the Buyer's agents, employees and contractors.

8. Intentionally deleted

**9. TITLE**

The land is sold subject to:-

- (1) all covenants and conditions contained in or endorsed on the instrument of title or the Freehold Land Register;
- (2) the provisions of the *Land Title Act 1994* and any other Acts affecting the land;
- (3) any of the matters referred to in clause 10(7) which are shown to exist.

**10. SELLER'S STATEMENT AND WARRANTIES**

- (1) Subject to clause 10(6), the Buyer is not entitled to deliver to the Seller requisitions or enquiries on or into the Seller's title to the property.
- (2) The Seller states that, except as disclosed in this contract, each of the following statements is accurate at the time the Seller executed this contract:-

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[Handwritten signatures]



- (a) The Seller has free and unqualified capacity and power to contract and to complete this contract;
  - (b) The Seller is not under any legal disability which affects the Seller's capacity to contract and to complete this contract; and
  - (c) If the Seller is a trustee, the Seller has free and unqualified power of sale under the instrument creating the trust, and that instrument does not require the consent or authority of any person to the entering into of this contract or the completion of this contract.
- (3) The Seller states that, except as disclosed in this contract, each of the following statements will be accurate at completion:
- (a) There is not current litigation by any person claiming an estate or interest in the property;
  - (b) There is no unsatisfied judgment, order or writ of execution which affects the property;
  - (c) No order has been made under Part 11 of the *Property Law Act 1974* which operates as a charge on the land;
  - (d) There is no order of a court or other competent authority affecting the ability of the Seller to complete this contract;
  - (e) No notice has been issued by a competent authority nor proceedings instituted in a court pursuant to any statute which renders the interest of the Seller in the property liable to forfeiture to the Crown;
  - (f) If the land is Crown leasehold title, the Crown leasehold title is not rendered liable to forfeiture by reason of the non-observance or non-performance of the covenants or conditions of the lease;
  - (g) If the Seller is a natural person, the Seller is not bankrupt nor has the Seller signed any authority under section 188 of the *Bankruptcy Act 1966* (Cth);
  - (h) If the Seller is a corporation within the meaning of the *Corporations Act 2001* (Cth) or any similar legislation applicable in the Seller's place of incorporation:-
    - (i) the Seller is not in liquidation;
    - (ii) no action has been taken by or against the Seller which could lead to the winding up of the Seller;
    - (iii) the Seller is not under official management;
    - (iv) an administrator, controller or managing controller has not been appointed to the Seller or in respect of the whole or any part of the property; and

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D. J. Brown

- (v) a compromise or arrangement has not been proposed between the Seller and its members or creditors nor agreed to by the members or creditors nor sanctioned by a court; and
- (i) The Seller is the registered owner or the lessee of the land (according to the title expressed or implied by this contract).
- (4) If a statement contained in either clause 10(2) or clause 10(3) is not accurate then the Buyer may terminate this contract by notice in writing to the Seller.
- (5) If this contract is terminated pursuant to clause 10(4) the deposit and other moneys paid under this contract must be refunded to the Buyer and the Seller will be liable by way of damages as compensation for the loss suffered by the Buyer in such sum as at the time this contract was made was reasonably foreseeable as the loss liable to result, and which does in fact result from a termination of this contract due to a statement contained in either clause 10(2) or clause 10(3) not being accurate.
- (6) If requested by the Buyer in writing, the Seller must within 14 days:
  - (a) produce to the Buyer all unregistered documents relating to the property and full and proper particulars of all unregistered dealings that relate to the property; and
  - (b) deliver to the Buyer photocopies of these documents or dealings (if the dealings are in writing) certified by the Seller or the Seller's solicitor as being true copies.
- (7) No requisitions or objections will be made or compensation allowed if: -
  - (a) there is any stock route, road or reservation of a road traversing the land;
  - (b) there is any gate erected across a road traversing the land;
  - (c) the Seller does not hold any permit or authority to enclose any road within the boundaries of the land or to carry rabbit-proof or other fencing across any road dividing or adjoining the land;
  - (d) an order concerning the land has issued under the *Stock Route Management Act 2002*;
  - (e) there is any proposal for realignment, widening or siting of a road by any competent authority affecting the land;
  - (f) there is any transmission line for electricity or telephone purposes traversing the land above or below ground;
  - (g) there is any easement or wayleave agreement allowing transmission lines for electricity or telephone purposes to traverse the land;
  - (h) electricity or telephone services to the property traversing other lands are not supported by easements or wayleave agreements;

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- (y) the Seller has not complied with any relevant legislation, regulation, code or direction in relation to asbestos materials on the property;
  - (z) there exists a livestock dip or livestock spray on the property;
  - (aa) any of the improvements are not located within boundaries of the property.
- (8) The Seller warrants and undertakes with the Buyer as follows:-
- (a) that the Seller has not received any notice of any resumption from the land;
  - (b) that there is no agistment agreement affecting the land;
  - (c) that the Seller is not aware of any claim in respect of any boundary fences;
  - (d) that the Seller has not received notice requiring any work to be done in pursuance of the *Pastoral Workers' Accommodation Act 1980* or any other Acts which has not been fully complied with;
  - (e) that there are no agreements for the supply of water to or from the land;
  - (f) that no notice has been received from any Local Government or other Authority requiring the destruction of burr or other noxious weeds on the land which has not been complied with;
  - (g) that all rates and taxes affecting the property (except current assessments) have been paid;
  - (h) that the Seller has not received notice of any proposal to declare all or any part of the land a national park or of any orders or declarations (or proposed orders or declarations) under the *Nature Conservation Act*;
  - (i) that there has been no illegal clearing of vegetation on the land that will or may cause the Buyer to assume liability under the *Vegetation Management Act 1999*;
  - (j) that the land is classified with the Department of Agriculture, Fisheries and Forestry as:-
    - (a) having no ERP status under the National Organochlorine Residue Management Program;
    - (b) not being on any target testing list for any antimicrobial or chemical residues;
    - (c) not being subject to any quarantines, directions, restrictions or undertakings for diseases of stock; and
    - (d) not being known to be infected with cattle ticks.
- (9) The Buyer acknowledges that:-

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- (a) no warranty as to the state and condition of the land, its improvements, plant, furniture and other assets, or as to the carrying capacity of the land or the nature of the country or as to the sufficient capacity or extent of any tanks, dams, bores or other water facilities or as to any natural or artificial water is given or implied;
- (b) the Buyer purchases the property relying on the Buyer's own inspection or knowledge or inquiries and not on any brochure or advertisement issued or published in respect of this sale or any representations made by or on behalf of the Seller or the Seller's agent;
- (c) any warranty which would otherwise be implied in respect of any chattels included in the sale pursuant to the *Sale of Goods Act 1896* is hereby expressly negated;
- (d) the Buyer shall accept liability (if any) which may be outstanding regarding fencing and the Seller shall not be liable for any claim made or to be made by any adjoining Crown tenants, owners, occupiers or other persons or any other charges for the erection, substitution or repairing of the boundary fences or the fences purporting to be boundary fences of the land or any portion thereof either prior to or subsequent to the contract. If there shall be any claim or liability then the same shall be taken over by the Buyer;
- (e) the Seller shall not be liable under the provisions of the *Neighbourhood Disputes (Dividing Fences and Trees) Act 2011* or otherwise for the erection or to contribute to the erection of any dividing or boundary fence between the land or any part thereof and any adjoining lands.

#### 11. PENDING COMPLETION

- (1) The risk of all damage destruction or loss of or to the property from whatever cause arising shall be borne by the Buyer as from and including the date hereof and the Seller shall not be liable to make any abatement of price or otherwise compensate the Buyer in respect thereof.
- (2) The Seller shall not depasture or permit to be depastured on the cultivation of the land prior to the date of completion any livestock other than the number depastured thereon at the date hereof and their progeny. The Seller will remove all livestock from the land within five (5) days of the Approval Date. Despite any other provision contained in this clause 11, the Seller will not permit livestock to be depastured on any part of the land other than those paddocks in which livestock were depastured at the time the Buyer carried out the Buyer's inspection of the land prior to the signing of this contract.
- (3) Subject to clause 11(1) the Seller shall conduct the business at present carried on by the Seller on the land in a good and husbandlike manner and in accordance with approved methods and shall take all steps necessary to maintain all property and assets included in the sale in at least as good order and condition as the same are as at the date hereof (fair wear and tear, fire, flood, storm and tempest excepted).
- (4) The Seller shall take all steps necessary to ensure that any necessary registrations in respect of the business conducted by the Seller on the land are kept in full force and effect.

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*AKW*

- (5) If possession is given before completion:
- (a) the Buyer must maintain the property in substantially its condition at the date of possession, fair wear and tear excepted;
  - (b) entry into possession is under a licence personal to the Buyer revocable at any time and does not: -
    - (i) create a relationship of landlord and tenant; or
    - (ii) waive the Buyer's rights under this contract;
  - (c) the Buyer must insure the property to the Seller's satisfaction;
  - (d) the Buyer indemnifies the Seller against any damages or expenses suffered or incurred by the Seller as a result of the Buyer's possession of the property.

## 12. ADJUSTMENTS

- (1) The Seller is liable for outgoings to the completion date. The Buyer is liable for outgoings after the completion date.
- (2) Subject to clauses 12(3), 12(4), 12(5) and 12(6), outgoings for periods including the completion date must be adjusted:
  - (a) for those paid, on the amount paid;
  - (b) for those assessed but unpaid, on the amount payable (excluding any discount); and
  - (c) for those not assessed: -
    - (i) on the amount the relevant authority advises will be assessed (excluding any discount); or
    - (ii) if no advice on the assessment to be made is available, the amount of the latest assessment (excluding any discount).
- (3) If there is no separate assessment of rates for the land at the completion date and the Local Government does not apportion rates between the Buyer and the Seller, then:
  - (a) the amount of rates to be adjusted is that proportion of the assessment equal to the ratio of the area of the land to the area of the parcel in the assessment; and
  - (b) if an assessment of rates includes charges imposed on a "per lot" basis, then the portion of those charges to be adjusted is the amount assessed divided by the number of lots in that assessment.
- (4) Land tax must be adjusted:

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DLO. dhu

- (a) on the assessment that the Office of State Revenue would issue for the land tax year current at the completion date if the Seller was a natural person resident in Queensland and the land was the Seller's only land; or
- (b) if there is no separate unimproved value for the land, on a notional unimproved value equal to:

Unimproved value of the parcel that x Area of land  
includes the land under the Area of the parcel  
*Land Valuation Act 2010*

- (5) If land tax is unpaid at the completion date and the Office of State Revenue has advised that it will issue a final clearance for the land on payment of a specific amount, then the Buyer may deduct the specific amount from the balance purchase price at completion and must pay it promptly to the Office of State Revenue. If an amount is deducted under this clause, then land tax will be treated as paid at the completion date for the purposes of clause 12(2).
- (6) Any outgoings assessable on the amount of water used must be adjusted on the charges that would be assessed on the total water usage for the assessment period, determined by assuming that the actual rate of usage shown by the meter reading made before completion continues throughout the assessment period. The Buyer must obtain and pay for the meter reading.
- (7) If any outgoings are assessed but unpaid at the completion date, then the Buyer may deduct the amount payable from the balance purchase price at completion and pay it promptly to the relevant authority. If an amount is deducted under this clause, the outgoing will be treated as paid at the completion date for the purposes of clause 12(2).

### 13. REQUIREMENTS OF AUTHORITIES

- (1) Any valid notice or order by any competent authority or court requiring work to be done or money spent in relation to the property ("work or expenditure") must be fully complied with:
  - (a) if issued before the contract date, by the Seller before the completion date;
  - (b) if issued on or after the contract date, by the Buyer.
- (2) Any work or expenditure that is the Buyer's responsibility under clause 13(1)(b), which is required to be done before the completion date, must be done by the Seller unless the Buyer directs the Seller not to and indemnifies the Seller against any liability for not carrying out the work. If the Seller does the work, or spends the money, the reasonable cost of that work or reasonable expenditure must be added to the balance purchase price.
- (3) The Seller authorises the Buyer to inspect records held by any authority (including the Department of Natural Resources and Mines, Ergon Energy, SunWater and the Department of Agriculture and Fisheries and local government) relating to the property.

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*[Handwritten signatures]*

**14. RIGHTS AFTER COMPLETION**

Despite completion and registration of the transfer, any term of this contract that can take effect after completion or registration remains in force.

**15. DEFAULT**

- (1) The Seller may affirm or terminate if the Buyer fails to comply with any provision of this contract.
- (2) If the Seller affirms this contract under clause 15(1), the Seller may sue the Buyer for:
  - (a) damages;
  - (b) specific performance;
  - (c) damages and specific performance.
- (3) If the Seller terminates this contract under clause 15(1), the Seller may do all or any of the following:
  - (a) resume possession of the property;
  - (b) forfeit the deposit and interest earned on its investment;
  - (c) sue the Buyer for damages;
  - (d) resell the property.
- (4) Resale
  - (a) The Seller may recover from the Buyer as liquidated damages:
    - (i) any deficiency in price on a resale; and
    - (ii) the Seller's expenses connected with any repossession, any failed attempt to sell, and the resale;provided the resale settles within 2 years of termination of this contract.
  - (b) Any profit on a resale belongs to the Seller.
- (5) The Seller may claim damages for any loss the Seller suffers as a result of the Buyer's default, including legal costs on a solicitor and own client basis.
- (6) Without affecting the Seller's other rights, if any money payable by the Buyer under this contract is not paid when due, the Buyer must pay the Seller at completion interest on that money calculated at the rate of 10.65% (ten point six five percent) per annum from the due date for payment until payment is made. The Seller may recover the interest from the Buyer as liquidated damages.

**16. COSTS**

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- (1) The parties hereto shall each bear their own costs of and incidental to the preparation of this agreement for sale.
- (2) The stamp duty payable on this agreement shall be paid by the Buyer who shall also bear all costs including stamp duties and registration fees of and incidental to the preparation and delivery of all transfers and other documents necessary to vest in the Buyer the property purchased.

**17. TIME**

Time shall in all cases be deemed to be of the essence of this contract.

**18. GOVERNING LAW AND JURISDICTION**

This contract is entered into under the law of the State of Queensland and all issues (if any) arising out of this contract shall be justiciable only in a court of competent jurisdiction in the State of Queensland.

**19. APPORTIONMENT**

Each party is entitled to adopt the party's own apportionment for taxation purposes.

**20. SAFETY SWITCHES AND SMOKE ALARMS**

The Seller discloses that approved safety switches have been installed for the general purpose socket-outlets in the residence on the land and complying smoke alarms have been installed in that residence, and otherwise the Seller makes no representations and gives no warranties about the number, condition, quality or working order of any such switches or alarms.

**21. ABANDONMENT**

Subject to clause 28 herein, any chattels not removed from the land by the time completion takes place will be deemed to be abandoned and will become the property of the Buyer.

**22. WATER LICENCE**

- (1) The Seller holds the following water licence:

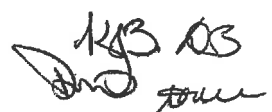
Water licence number 94024R

- (2) From the date of completion, the Buyer will:

- (a) assume the Seller's obligations under the water licence; and
- (b) indemnify the Seller against any damages and expenses connected with the water licence.

**23. NOTICES**

- (1) Notices under this contract may be signed by a party or the party's solicitor.
- (2) Notices are effectively given if:

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- (a) delivered or posted to the other party or that party's solicitor;
  - (b) sent to the facsimile number of the other party or that party's solicitor; or
  - (c) sent by electronic mail transmission to the email address of the other party or that party's solicitor.
- (3) Posted notices will be treated as given 2 business days after posting.
- (4) Notices sent by facsimile will be treated as given when the sender obtains a clear transmission report.
- (5) Notices by a party's solicitor to the other party or the other party's solicitor (for example, varying the Finance Date or completion date) will be treated as given with the firstmentioned party's authority.
- (6) In the event that the parties execute a facsimile contract the parties agree: -
  - (a) that a signed facsimile transmission of this contract shall constitute a binding contract;
  - (b) to expeditiously sign an original and duplicate copy of this contract with the intention that the executed original will be received by the Buyer and the executed duplicate by the Seller as soon as possible.

#### 24. GST

- (1) "GST" means any tax calculated by reference to the value of goods and services provided, calculated and levied at the point of sale or supply of the goods or services and includes GST within the meaning of that abbreviation in the GST Act.
- (2) "GST Act" means *A New Tax System (Goods and Services Tax) Act 1999* (Cth) and includes other GST-related legislation and regulations under the Act and other legislation, as amended or replaced from time to time.
- (3) Except for the defined terms in this contract, capitalised expressions and "GST" have the same meaning as in the GST Act.
- (4) The Seller warrants that a farming business has been continuously carried on, on the land for at least the period of five (5) years preceding the supply.
- (5) The Buyer warrants that the Buyer intends that a farming business will be carried on, on the land.
- (6) Despite any other provisions of this contract, if GST is imposed on the supply of the property or any part of the property, the amount the Buyer must pay to the Seller is increased by the amount of that GST and any penalties imposed provided that the Seller must issue a valid tax invoice to the Buyer.

#### 25. DEFINITIONS AND INTERPRETATION

In this contract unless the context otherwise requires:-

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a reference to an Item by a letter of the alphabet is to the corresponding Item in the Reference Schedule annexed to this contract.

"the Buyer" shall mean and include the Buyer and its successors if the Buyer is a corporation and if the Buyer is an individual shall mean and include the Buyer and his or her executor or administrator and when two or more Buyers are parties hereto shall mean and include the Buyers and each or any of them and their and each or any of their executors or administrators and when more than one person shall be a Buyer hereunder agreements and undertakings on the part of the Buyers shall be jointly and severally binding on each Buyer.

"the Seller" shall mean and include the Seller and its successors if the Seller is a corporation and if the Seller is an individual shall mean and include the Seller and his or her executor or administrator and when two or more Sellers are parties hereto shall mean and include the Sellers and each or any of them and their and each or any of their executors or administrators.

"outgoings" means:

- (1) rates or charges on the land by any competent authority (for example, council rates, water rates, fire service levies);
- (2) land tax; and
- (3) Crown rental

words importing the singular number or plural number shall include the plural number and singular number respectively, and words importing one gender only shall include the opposite gender and the neuter gender, and words importing the neuter gender only shall include the masculine and feminine genders, and references to Acts and Statutes shall include all amending or replacement legislation and all Regulations, By-laws and Ordinances issued thereunder.

## **26. EXCHANGE OF COUNTERPARTS**

- (1) This contract may be executed in any number of counterparts. Each counterpart is an original but the counterparts together are one and the same contract.
- (2) This contract is binding on the parties on the exchange of counterparts. A copy of a counterpart sent by facsimile machine or electronic mail transmission must be treated as an original counterpart.

## **27. GUARANTEE AND INDEMNITY**

27.1 Where the Buyer is a company or trust, the Buyer agrees to provide a guarantee and indemnity in the form of the Directors Guarantee annexed and on the terms below:

- 27.1.1 if the Buyer is a Proprietary Limited company having more than one director – by all directors;
- 27.1.2 if the Buyer is a Proprietary Limited company with a sole director – by that director and the majority shareholder of that company;
- 27.1.3 if the Buyer is an individual trustee – by the primary beneficiary of that trust; or

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27.1.4 if the Buyer is a corporate trustee – by all directors and by the primary beneficiary of that trust.

27.2 If the guarantee is not executed in accordance with these conditions, the Buyer shall be deemed to be in breach of the Contract and the Seller shall be entitled to all such remedies available to it under this Contract and otherwise at law consequent of such breach.

27.3 All stamp duty on the Guarantee and Indemnity shall be paid by the Buyer and if not paid by the Buyer may be paid by the Seller and recovered from the Buyer as a liquidated debt payable on demand.

## **28. RESERVATION OF USE OF DWELLINGS**

- (1) The Seller reserves the right free of charge for himself and family members to occupy the dwelling and curtilage on the property for a period of up to two (2) months from completion. During such occupation the Seller shall pay for any repairs, all telephone and electricity charges consumed in relation thereto. During such occupation the Seller and family members shall use the dwellings with reasonable care. On the expiration of the period of occupation the Seller and family members shall vacate the dwellings and deliver all keys to the Buyers.
- (2) The Seller agrees to indemnify and keep indemnified the Buyers against all actions, claims and demands, losses and damages whatsoever arising out of the occupation by the Seller and family members of the dwellings on the property after the date of completion.
- (3) The Seller must maintain (with a reputable insurer) at all times during its occupation of the Property under this clause, a policy against public liability insurance for at least \$20,000,000.00 per event and will provide the Buyer with evidence of the required insurance if requested.
- (4) The Seller acknowledges that his, and his family members' occupation of the Property is at his sole risk and expense.

## **29. SHARE FARMING ARRANGEMENT**

- (1) The Seller discloses and the Buyer acknowledges there is currently a share farming arrangement in place in respect of the property and the parties agree that the Seller and/or the share farmer will retain the first cut of Lucerne on the property prior to completion.
- (2) The share farming arrangement will not be in place by the date of completion and the Seller will ensure that the share farmer removes all farming equipment by the date of completion.
- (3) The Seller will reimburse any inputs into the cultivation to the share farmer.

## **30. DUE DILIGENCE**

- (1) This Contract is subject to and conditional upon the Buyer being satisfied with the outcome of all investigations, searches, enquiries and inspections which it may desire to make in respect of the subject matter of this Contract including, but not

*KJB. AS*  
*[Signature]*

limited to, a water bore investigation, within fourteen (14) days of the date of this Contract ("the Due Diligence Date").

(2) In the event the Buyer is not satisfied with the results of its enquiries then it may by notice in writing to the Seller, terminate this Contract whereupon this Contract shall be at an end and all deposit moneys refunded in full.

(3) In the event that the Buyer has not given any written notification of:-

- (a) termination of this Contract;
- (b) satisfaction in respect of the matters set out herein; or
- (c) waiver of the Buyer's rights in relation to this clause,

to the Seller by 5.00 pm on the Due Diligence Date then the Seller may, by notice in writing to the Buyer, terminate this Contract whereupon all deposit moneys paid hereunder shall be refunded in full, subject to the Buyer's continuing right to give any notice referred to above at any time prior to receiving the Seller's notice in accordance with this clause.

(4) The Buyer shall not cause any damage to the property and will follow all reasonable directions of the Seller when on the property making such investigations. The Buyer indemnifies the Seller in respect of any loss or damage suffered by the Seller or for any action or claim made by any other person against the Seller as a result of the carrying out of such investigations and tests.

(5) The Seller will allow the Buyer and/or the Buyer's agents access to the property at reasonable times and after a minimum of 24 hours' notice for the purposes of carrying out such enquiries and any enquiries must be conducted by the Buyer or the Buyer's agents so as not to interfere with the Seller's activities on the Property, including the Seller's use of the water bore.

### 31. CONTRACT SUBJECT TO SELLER'S PURCHASE CONTRACT

(1) This contract is subject to and conditional upon the Sellers entering into a contract for the purchase of the property located at 206 Bunya Mountains Road, Kaimkillenbun Qld within 7 days of the date of this contract at a price and upon terms and conditions wholly satisfactory to the Sellers herein;

(2) The Sellers will keep the Buyers informed of the progress of the aforesaid Contract.

(3) Settlement of this matter is to be effected contemporaneously with settlement of the Sellers' contract under Special Condition 31(1).

(4) Should the Seller fail to enter into a contract for the purchase of the property referred to in Special Condition 31(1) hereof within 7 days of the date of this Contract then the parties may

- i. terminate this contract by written notice to the other whereupon all money paid hereunder shall be paid in full to the Buyer without deduction, or

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[Handwritten signatures]

- ii. the parties may agree to an extension for the satisfaction of any of the Special Conditions 31(1) and 31(3) with time to remain of the essence.
- (5) The Seller may waive the benefit of this Special Condition by written notice to the Buyer.

**32. CONTEMPORANEOUS SETTLEMENT**

- (1) This contract is subject to and conditional upon the contemporaneous settlement of the Seller's purchase contract of the property located at 206 Bunya Mountains Road, Kaimkillenbun Qld, failing which this Contract will be at an end, the deposit refunded to the Buyer and neither party will have any claim against the other apart from a claim based on the rights either of the parties may have against the other as a result of any breach of this Contract prior to the contract coming to an end.

KB. KB  
Sho [signature]

**THE SCHEDULE HEREINBEFORE REFERRED TO**

The following items are specifically excluded and excepted from sale and such shall remain the property of the Seller or the other persons mentioned at (6) below notwithstanding completion of this contract.

- (1) All livestock.
- (2) All hides and skins.
- (3) All brands and earmarks used in connection with the property.
- (4) All stores, fuel and other materials on the land or in course of transit to and from the land.
- (5) All items of plant, motor vehicles, furniture and machinery (other than as set out in Item J).
- (6) The private and personal effects of the Seller, employees of the Seller and their respective families.

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[Handwritten signature]

EXECUTED as an agreement.

SIGNED by  
**KENNETH JAMES BUCKLEY**  
in the presence of:

.....  
Witness

)  
) KJBuckley

SIGNED by  
**DEBORAH ANN BUCKLEY**  
in the presence of:

.....  
Witness

)  
) D. Buckley

SIGNED by  
**HELEN MARIE WAGNER**  
**AS TRUSTEE**  
in the presence of:

.....  
Witness

.....  
Witness

)  
) HWagner

SIGNED by  
**DONALD WILLIAM WAGNER**  
**AS TRUSTEE**  
in the presence of:

.....  
Witness

.....  
Witness

)  
) DWagner

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DWB