

Contract for Residential Lots in a Community Titles Scheme

Eleventh Edition

This document has been approved by The Real Estate Institute of Queensland Limited and the Queensland Law Society Incorporated as being suitable for the sale and purchase of Residential Lots in a Community Titles Scheme in Queensland except for new residential property in which case the issue of GST liability must be dealt with by special condition.

The Seller and Buyer agree to sell and buy the Property under this contract.

REFERENCE SCHEDULE

Contract Date: _____

SELLER'S AGENT

NAME:	Kangaroo Point Real Estate		
ABN:		LICENCE NO:	4046234
ADDRESS:	180 Main Street		
SUBURB:	Kangaroo Point	STATE:	QLD POSTCODE: 4169
PHONE:	MOBILE:	FAX:	EMAIL:
07 3320 1000		07 3320 1001	

SELLER

NAME:	Westpac Banking Corporation as mortgagee exercising power of sale under mortgage no. 712316642		ABN:	33 007 457 141
ADDRESS:	C/- FTI Consulting Level 20, 345 Queen Street			
SUBURB:	BRISBANE	STATE:	QLD	POSTCODE: 4000
PHONE:	MOBILE:	FAX:	EMAIL:	

NAME:		ABN:	
ADDRESS:			
SUBURB:		STATE:	POSTCODE:
PHONE:	MOBILE:	FAX:	EMAIL:

SELLER'S SOLICITOR

■ or any other solicitor notified to the Buyer

NAME:	Herbert Smith Freehills		
REF:	82674920	CONTACT:	Cameron Lack
ADDRESS:	Level 29, 480 Queen Street		
SUBURB:	BRISBANE	STATE:	QLD POSTCODE: 4000
PHONE:	MOBILE:	FAX:	EMAIL:
07 3258 6373		07 3258 6444	cameron.lack@hsf.com

INITIALS (Note: Initials not required if signed with Electronic Signature)

BUYER

NAME:				ABN:	
ADDRESS:					
SUBURB:		STATE:		POSTCODE:	
PHONE:	MOBILE:	FAX:	EMAIL:		

NAME:				ABN:	
ADDRESS:					
SUBURB:		STATE:		POSTCODE:	
PHONE:	MOBILE:	FAX:	EMAIL:		

BUYER'S AGENT *(If applicable)*

NAME:				
ABN:		LICENCE NO:		
ADDRESS:				
SUBURB:		STATE:		POSTCODE:
PHONE:	MOBILE:	FAX:	EMAIL:	

BUYER'S SOLICITOR *(If applicable)*■ *or any other solicitor notified to the Seller*

NAME:				
REF:		CONTACT:		
ADDRESS:				
SUBURB:		STATE:		POSTCODE:
PHONE:	MOBILE:	FAX:	EMAIL:	

PROPERTY

Lot:	ADDRESS:	Unit 3, 33 Ellis Street		
	SUBURB:	Kangaroo Point	STATE:	QLD
			POSTCODE:	4169
Description:	Lot:	401	On:	<input type="checkbox"/> BUP <input type="checkbox"/> GTP <input checked="" type="checkbox"/> SP
				196637
	Scheme:	The Cliffs Kangaroo Point Community Titles Scheme		
		Community Titles Scheme: 39265		
Title Reference:	50746178			
Present Use:	Residential			
Local Government:	Brisbane City			
Excluded Fixtures:	Nil			

INITIALS (Note: Initials not required if signed with Electronic Signature)

Included Chattels:

Nil

PRICE

Deposit Holder: Kangaroo Point Real Estate

Deposit Holder's Trust Account: KP Real Estate Sales Trust Account

Bank: Westpac Banking Corporation

BSB: 034 041 Account No: 358 493

Purchase Price:

\$

■ Unless otherwise specified in this contract, the Purchase Price includes any GST payable on the supply of the Property to the Buyer.

Deposit:

\$ 10% of the Purchase Price

Initial Deposit payable on the day the Buyer signs this contract unless another time is specified below.

Default Interest Rate:

\$ Not applicable

Balance Deposit (if any) payable on:

%

■ If no figure is inserted, the Contract Rate applying at the Contract Date published by the Queensland Law Society Inc will apply.

FINANCE

Finance Amount:

\$ Not applicable

■ Unless all of "Finance Amount", "Financier" and "Finance Date" are completed, this contract is not subject to finance and clause 3 does not apply.

Financier:

Finance Date:

BUILDING AND/OR PEST INSPECTION DATE

Inspection Date:

Not applicable

■ If 'Inspection Date' is not completed, the contract is not subject to an inspection report and clause 4.1 does not apply.

MATTERS AFFECTING PROPERTY

Title Encumbrances:

Is the Property sold subject to any Encumbrances? No Yes, listed below

BMS No. 711943688
Refer to special condition 3.2(b)

■ **WARNING TO SELLER:** You are required to disclose all Title Encumbrances which will remain after settlement (for example, easements on your title and statutory easements for sewerage and drainage which may not appear on a title search). Failure to disclose these may entitle the Buyer to terminate the contract or to compensation. It is NOT sufficient to state "refer to title", "search will reveal", or similar.

Tenancies:

TENANTS NAME: Not applicable

■ If the property is sold with vacant possession from settlement, insert 'Nil'. Otherwise complete details from Residential Tenancy Agreement.

TERM AND OPTIONS:

STARTING DATE OF TERM:

ENDING DATE OF TERM:

RENT:

BOND:

\$

\$

INITIALS (Note: Initials not required if signed with Electronic Signature)

Managing Agent:

AGENCY NAME: Not applicable

PROPERTY MANAGER:

ADDRESS:

SUBURB:

STATE:

POSTCODE:

PHONE:

FAX:

MOBILE:

EMAIL:

POOL SAFETY FOR NON-SHARED POOLS

Complete the following questions if there is a non-shared pool in the Lot

Q1. Is there a non-shared pool on the Lot? Yes No Clause 4.2 of this contract does not apply**Q2.** If the answer to Q1 is Yes, is there a Compliance or Exemption Certificate for the non-shared pool at the time of contract? Yes Clause 5.3(1)(f) applies No Clause 4.2 applies (except for auction and some other excluded sales)**Q3.** If the answer to Q2 is No, has a Notice of No Pool Safety Certificate been given prior to contract? Yes No

■ **WARNING TO SELLER:** Failure to comply with the Pool Safety Requirements is an offence with substantial penalties.

■ **WARNING TO BUYER:** If there is no Compliance or Exemption Certificate at Settlement, the Buyer becomes responsible at its cost to obtain a Pool Safety Certificate within 90 days after settlement. The Buyer can also become liable to pay any costs of rectification necessary to comply with the Pool Safety Requirements to obtain a Pool Safety Certificate. The Buyer commits an offence and can be liable to substantial penalties if the Buyer fails to comply with this requirement.

■ If there is a pool on the Lot and Q2 is not completed then Clause 4.2 applies.

■ Note: This is an obligation of the Seller under Section 16 of the Building Regulation 2006.

POOL SAFETY INSPECTOR

Pool Safety Inspector:

Pool Safety Inspection Date:

■ The Pool Safety Inspector must be licensed under the Building Act 1975 and Building Regulation 2006.

■ Clause 4.2(2) applies except where this contract is formed on a sale by auction and some other excluded sales.

STATUTORY WARRANTIES AND CONTRACTUAL RIGHTS

The Seller gives notice to the Buyer of the following matters:

(a) Latent or Patent Defects in Common Property or Body Corporate Assets (s 223(a)(b))*

Refer to Disclosure Statement.

(b) Actual or Contingent or Expected Liabilities of Body Corporate (s 223(2)(c)(d))*

Refer to Disclosure Statement.

(c) Circumstances in Relation to Affairs of Body Corporate (s 223(3))*

Refer to Disclosure Statement.

(d) Exceptions to Warranties in clause 7.4(3)*

Refer to Disclosure Statement.

(e) Proposed Body Corporate Resolutions (clause 8.4)*

Refer to Disclosure Statement.

■ **WARNING TO SELLER:** The Body Corporate and Community Management Act 1997 and the Contract include warranties by the Seller about the Body Corporate and the Scheme land. Breach of a warranty may result in a damages claim or termination by the Buyer. Sellers should consider whether to carry out an inspection of the Body Corporate records to complete this section.

*Include in attachment if insufficient space

INITIALS (Note: Initials not required if signed with Electronic Signature)

ADDITIONAL BODY CORPORATE INFORMATION

Interest Schedule Lot Entitlement of Lot:	Refer to Disclosure Statement.
Aggregate Interest Schedule Lot Entitlement:	Refer to Disclosure Statement.
Contribution Schedule Lot Entitlement of Lot:	Refer to Disclosure Statement.
Aggregate Contribution Schedule Lot Entitlement:	Refer to Disclosure Statement.

INSURANCE POLICIES

Insurer:	Refer to Disclosure Statement.	Policy No:
Building:		
Public liability:		
Other:		

POOL SAFETY FOR SHARED POOLS

Only complete the following questions if there is a shared pool on the Land.

- A.** Is there a shared pool on the Land or on adjacent land used in association with the Land? Yes No
-
- B.** If the answer to A is Yes, is there a Compliance or Exemption Certificate for the shared pool at the time of contract? Yes No
-
- C.** If the answer to B is No, has a Notice of No Pool Safety Certificate been given prior to contract? Yes No

Note: This is an obligation of the Seller under Section 16 of the Building Regulation 2006.

ELECTRICAL SAFETY SWITCH AND SMOKE ALARM

This section must be completed unless the Lot is vacant.

The Seller gives notice to the Buyer that an Approved Safety Switch for the General Purpose Socket Outlets is:
(select whichever is applicable)

- installed in the residence
- not installed in the residence

■ **WARNING:** By giving false or misleading information in this section, the Seller may incur a penalty. The Seller should seek expert and qualified advice about completing this section and not rely on the Seller's Agent to complete this section.

The Seller gives notice to the Buyer that a Compliant Smoke Alarm(s) is/are:
(select whichever is applicable)

- installed in the residence
- not installed in the residence

■ **WARNING:** Failure to install a Compliant Smoke Alarm is an offence under the Fire and Emergency Services Act 1990.

NEIGHBOURHOOD DISPUTES (DIVIDING FENCES AND TREES) ACT 2011

The Seller gives notice to the Buyer in accordance with Section 83 of the *Neighbourhood Disputes (Dividing Fences and Trees) Act 2011* that the Land:
(select whichever is applicable)

- is not affected by any application to, or an order made by, the Queensland Civil and Administrative Tribunal (QCAT) in relation to a tree on the Land or
- is affected by an application to, or an order made by, QCAT in relation to a tree on the Land, a copy of which has been given to the Buyer prior to the Buyer signing the contract.

■ **WARNING:** Failure to comply with s83 *Neighbourhood Disputes (Dividing Fences and Trees) Act 2011* by giving a copy of an order or application to the Buyer (where applicable) prior to Buyer signing the contract will entitle the Buyer to terminate the contract prior to Settlement.

INITIALS (Note: Initials not required if signed with Electronic Signature)

Is the Buyer registered for GST and acquiring the Land for a creditable purpose?
(select whichever is applicable)

Yes

No

[Note: An example of an acquisition for a creditable purpose would be the purchase of the Land by a building contractor, who is registered for GST, for the purposes of building a house on the Land and selling it in the ordinary course of its business.]

The Seller gives notice to the Buyer in accordance with section 14-255(1)(a) of the Withholding Law that:
(select whichever is applicable)

- the Buyer is *not* required to make a payment under section 14-250 of the Withholding Law in relation to the supply of the Property
- the Buyer is required to make a payment under section 14-250 of the Withholding Law in relation to the supply of the Property. Under section 14-255(1) of the Withholding Law, the Seller is required to give further details prior to settlement.

■ **WARNING:** the Buyer warrants in clause 2.5(6) that this information is true and correct.

■ **WARNING:** All sellers of residential premises or potential residential land are required to complete this notice. Section 14-250 of the Withholding Law applies to the sale of 'new residential premises' or 'potential residential land' (subject to some exceptions) and requires an amount to be withheld from the Purchase Price and paid to the ATO. The Seller should seek legal advice if unsure about completing this section.

INITIALS (Note: Initials not required if signed with Electronic Signature)

SPECIAL CONDITIONS

Refer to Schedule 1.

SETTLEMENT

SETTLEMENT
DATE:

30 days after the Contract Date, subject to special condition 5.

■ *or the next Business Day if that is not a
Business Day in the Place for Settlement.*

PLACE FOR
SETTLEMENT:

BRISBANE

■ *If Brisbane is inserted, this is a reference to
Brisbane CBD.*

SIGNATURES

The contract may be subject to a 5 business day statutory cooling-off period. A termination penalty of 0.25% of the purchase price applies if the Buyer terminates the contract during the statutory cooling-off period.

It is recommended the Buyer obtain an independent property valuation and independent legal advice about the contract and his or her cooling-off rights, before signing.

BUYER: Refer to Schedule 1

WITNESS: Refer to Schedule 1

BUYER: Refer to Schedule 1

WITNESS: Refer to Schedule 1

By placing my signature above I warrant that I am the Buyer named in the Reference Schedule or authorised by the Buyer to sign.

[**Note:** No witness is required if the Buyer signs using an Electronic Signature]

SELLER: Refer to Schedule 1

WITNESS: Refer to Schedule 1

SELLER: Refer to Schedule 1

WITNESS: Refer to Schedule 1

By placing my signature above I warrant that I am the Seller named in the Reference Schedule or authorised by the Seller to sign.

[**Note:** No witness is required if the Seller signs using an Electronic Signature]

DEPOSIT
HOLDER:

■ *Who acknowledges having received the Initial Deposit and agrees to hold that amount and any Balance Deposit when received as Deposit Holder for the parties as provided in the Contract.*

INITIALS (Note: Initials not required if signed with Electronic Signature)

TERMS OF CONTRACT

FOR RESIDENTIAL LOTS IN A COMMUNITY TITLES SCHEME

1. DEFINITIONS

1.1 In this contract:

- (1) terms in **bold** in the Reference Schedule and the Disclosure Statement have the meanings shown opposite them unless the context requires otherwise; and
- (2) (a) **“Approved Safety Switch”** means a residual current device as defined in the *Electrical Safety Regulation 2013*;
- (b) **“ATO”** means the Australian Taxation Office;
- (c) **“ATO Clearance Certificate”** means a certificate issued under s14-220(1) of the Withholding Law which is current on the date it is given to the Buyer;
- (d) **“Balance Purchase Price”** means the Purchase Price, less the Deposit, adjusted under clause 2.6;
- (e) **“Bank”** means an authorised deposit-taking institution within the meaning of the *Banking Act 1959 (Cth)*.
- (f) **“Body Corporate”** means the body corporate of the Scheme;
- (g) **“Body Corporate Debt”** has the meaning in the Regulation Module but excludes the Body Corporate Levies for the period which includes the Settlement Date;
- (h) **“Body Corporate Levies”** means regular periodic contributions levied on the owner of the Lot (including, if applicable, levied under an exclusive use by-law) excluding any Special Contribution;
- (i) **“Bond”** means a bond under the *Residential Tenancies and Rooming Accommodation Act 2008*;
- (j) **“Building”** means any building that forms part of the Lot or in which the Lot is situated;
- (k) **“Building Inspector”** means a person licensed to carry out completed residential building inspections under the *Queensland Building and Construction Commission Regulations 2003*;
- (l) **“Business Day”** means a day other than:
- (i) a Saturday or Sunday;
 - (ii) a public holiday in the Place for Settlement; and
 - (iii) a day in the period 27 to 31 December (inclusive)
- (m) **“CGT Withholding Amount”** means the amount determined under section 14-200(3)(a) of the Withholding Law or, if a copy is provided to the Buyer prior to settlement, a lesser amount specified in a variation notice under section 14-235;
- (n) **“Compliance or Exemption Certificate”** means:
- (i) a Pool Safety Certificate; or
 - (ii) a building certificate that may be used instead of a Pool Safety Certificate under section 246AN(2) of the *Building Act 1975*; or
 - (iii) an exemption from compliance on the grounds of impracticality under section 245B of the *Building Act 1975*;
- (o) **“Compliant Smoke Alarm”** means a smoke alarm complying with the requirements for smoke alarms in domestic dwellings under the *Fire and Emergency Services Act 1990*;
- (p) **“Contract Date”** or **“Date of Contract”** means the date inserted in the Reference Schedule;
- (q) **“Court”** includes any tribunal established under statute;
- (r) **“Disclosure Statement”** means the statement under section 206 (existing lot) or section 213 (proposed lot) of the *Body Corporate and Community Management Act 1997*;
- (s) **“Electronic Signature”** means an electronic method of signing that identifies the person and indicates their intention to sign the contract;
- (t) **“Encumbrances”** includes:
- (i) unregistered encumbrances;
 - (ii) statutory encumbrances; and
 - (iii) Security Interests.
- (u) **“Essential Term”** includes, in the case of breach by:
- (i) the Buyer: clauses 2.2, 2.5(1), 2.5(5), 5.1 and 6.1; and
 - (ii) the Seller: clauses 2.5(5), 5.1, 5.3(1)(a) – (d), 5.3(1)(e)(ii) & (iii), 5.3(1)(f), 5.5 and 6.1;
- but nothing in this definition precludes a Court from finding other terms to be essential;
- (v) **“Exclusive Use Areas”** means parts of the common property for the Scheme allocated to the Lot under an exclusive use by-law;
- (w) **“Financial Institution”** means a Bank, building society or credit union;
- (x) **“General Purpose Socket Outlet”** means an electrical socket outlet as defined in the *Electrical Safety Regulation 2013*;
- (y) **“GST”** means the goods and services tax under the GST Act;
- (z) **“GST Act”** means *A New Tax System (Goods and Services Tax) Act* and includes other GST related legislation;
- (aa) **“GST Withholding Amount”** means the amount (if any) determined under section 14-250 of the Withholding Law required to be paid to the Commissioner of Taxation;
- (bb) **“Improvements”** means fixed structures in the Lot (such as stoves, hot water systems, fixed carpets, curtains, blinds and their fittings, clothes lines, fixed satellite dishes and television antennae, in-ground plants) but does not include the Reserved Items;
- (cc) **“Keys”** means keys, codes or devices in the Seller's possession or control for all locks or security systems on the Property or necessary to access the Property;
- (dd) **“Land”** means the scheme land for the Scheme;
- (ee) **“Notice of no pool safety certificate”** means the Form 36 under the *Building Regulation 2006* to the effect that there is no Pool Safety Certificate issued for the Land and/or the Lot;
- (ff) **“Notice of nonconformity”** means a Form 26 under the *Building Regulation 2006* advising how the pool does not comply with the relevant pool safety standard;
- (gg) **“Outgoings”** means:
- (i) rates or charges on the Lot by any competent authority (for example, council rates, water rates, fire service levies) but excludes land tax; and
 - (ii) Body Corporate Levies;
- (hh) **“Pest Inspector”** means a person licensed to undertake termite inspections on completed buildings under the *Queensland Building and Construction Commission Regulations 2003*;
- (ii) **“Pool Safety Certificate”** has the meaning in section 231C(a) of the *Building Act 1975*;
- (jj) **“Pool Safety Requirements”** means the requirements for pool safety contained in the *Building Act 1975* and *Building Regulation 2006*;
- (kk) **“Pool Safety Inspection Date”** means the Pool Safety Inspection Date inserted in the Reference Schedule. If no date is inserted in the Reference

Schedule, the Pool Safety Inspection Date is taken to be the earlier of the following:

- (i) the Inspection Date for the Building and/or Pest Inspection; or
 - (ii) 2 Business Days before the Settlement Date;
- (ll) **"Pool Safety Inspector"** means a person authorised to give a Pool Safety Certificate;
- (mm) **"PPSR"** means the Personal Property Securities Register established under *Personal Property Securities Act 2009 (Cth)*;
- (nn) **"Property"** means:
- (i) the Lot;
 - (ii) the right to any Exclusive Use Areas;
 - (iii) the Improvements;
 - (iv) the Included Chattels;
- (oo) **"Regulation Module"** means the regulation module for the Scheme;
- (pp) **"Rent"** means any periodic amount, including outgoings, payable under the Tenancies;
- (qq) **"Reserved Items"** means the Excluded Fixtures and all chattels in the Lot and Exclusive Use Areas other than the Included Chattels;
- (rr) **"Scheme"** means the community titles scheme containing the Lot;
- (ss) **"Security Interests"** means all security interests registered on the PPSR over Included Chattels and Improvements;
- (tt) **"Special Contribution"** means an amount levied by the Body Corporate under the Regulation Module for a liability for which no provision or inadequate provision has been made in the budget of the Body Corporate;
- (uu) **"Transfer Documents"** means:
- (i) the form of transfer under the *Land Title Act 1994* required to transfer title in the Lot to the Buyer; and
 - (ii) any other document to be signed by the Seller necessary for stamping or registering the transfer;
- (vv) **"Transport Infrastructure"** has the meaning defined in the *Transport Infrastructure Act 1994*; and
- (ww) **"Withholding Law"** means Schedule 1 to the *Taxation Administration Act 1953 (Cth)*.

1.2 Words and phrases defined in the *Body Corporate and Community Management Act 1997* have the same meaning in this contract unless the context indicates otherwise.

2. PURCHASE PRICE

2.1 GST

- (1) Unless otherwise specified in this contract, the Purchase Price includes any GST payable on the supply of the Property to the Buyer.
- (2) If a party is required to make any other payment or reimbursement under this Contract, that payment or reimbursement will be reduced by the amount of any input tax credits to which the other party (or the representative member for a GST group of which it is a member) is entitled.

2.2 Deposit

- (1) The Buyer must pay the Deposit to the Deposit Holder at the times shown in the Reference Schedule. The Deposit Holder will hold the Deposit until a party becomes entitled to it.
- (2) The Buyer will be in default if it:
 - (a) does not pay the Deposit when required;
 - (b) pays the Deposit by a post-dated cheque; or
 - (c) pays the Deposit by cheque which is dishonoured on presentation.
- (3) The Seller may recover from the Buyer as a liquidated debt any part of the Deposit which is not paid when required.

2.3 Investment of Deposit

If:

- (1) the Deposit Holder is instructed by either the Seller or the Buyer; and
 - (2) is lawful to do so;
- the Deposit Holder must:
- (3) invest as much of the Deposit as has been paid with any Financial Institution in an interest-bearing account in the names of the parties; and
 - (4) provide the parties' tax file numbers to the Financial Institution (if they have been supplied).

2.4 Entitlement to Deposit and Interest

- (1) The party entitled to receive the Deposit is:
 - (a) if this contract settles, the Seller;
 - (b) if this contract is terminated without default by the Buyer, the Buyer; and
 - (c) if this contract is terminated owing to the Buyer's default, the Seller.
- (2) The interest on the Deposit must be paid to the person who is entitled to the Deposit.
- (3) If this contract is terminated, the Buyer has no further claim once it receives the Deposit and interest unless the termination is due to the Seller's default or breach of warranty.
- (4) The Deposit is invested at the risk of the party who is ultimately entitled to it.

2.5 Payment of Balance Purchase Price

- (1) On the Settlement Date, the Buyer must pay the Balance Purchase Price by Bank cheque as the Seller or the Seller's Solicitor directs.
- (2) Despite any other provision of this contract, reference to a "Bank cheque" in clause 2.5:
 - (a) includes a cheque drawn by a building society or credit union on itself;
 - (b) does not include a cheque drawn by a building society or credit union on a Bank;and the Seller is not obliged to accept a cheque referred to in clause 2.5(2)(b) on the Settlement Date.
- (3) If both the following apply:
 - (a) the sale is not an excluded transaction under s14-215 of the Withholding Law; and
 - (b) the Seller has not given the Buyer on or before settlement for each person comprising the Seller either:
 - (i) an ATO Clearance Certificate; or
 - (ii) a variation notice under s14-235 of the Withholding Law which remains current at the Settlement Date varying the CGT Withholding Amount to nil,

then:

- (c) for clause 2.5(1), the Seller irrevocably directs the Buyer to draw a bank cheque for the CGT Withholding Amount in favour of the Commissioner of Taxation or, if the Buyer's Solicitor requests, the Buyer's Solicitor's Trust Account;
 - (d) the Buyer must lodge a Foreign Resident Capital Gains Withholding Purchaser Notification Form with the ATO for each person comprising the Buyer and give copies to the Seller with the payment reference numbers (PRN) on or before settlement;
 - (e) the Seller must return the bank cheque in paragraph (c) to the Buyer's Solicitor (or if there is no Buyer's Solicitor, the Buyer) at settlement; and
 - (f) the Buyer must pay the CGT Withholding Amount to the ATO in accordance with section 14-200 of the Withholding Law and give the Seller evidence that it has done so within 2 Business Days of settlement occurring.
- (4) For clause 2.5(3) and section 14-215 of the Withholding Law, the market value of the CGT asset is taken to be the Purchase Price less any GST included in the Purchase Price for which the Buyer is entitled to an input tax credit unless:
 - (a) the Property includes items in addition to the Lot and Improvements; and
 - (b) no later than 2 Business Days prior to the Settlement Date, the Seller gives the Buyer a valuation of the Lot and Improvements prepared by a registered valuer,

in which case the market value of the Lot and Improvements will be as stated in the valuation.

- (5) If the Buyer is required to pay the GST Withholding Amount to the Commissioner of Taxation at settlement pursuant to section 14-250 of the Withholding Law:
- (a) the Seller must give the Buyer a notice in accordance with section 14-255(1) of the Withholding Law;
 - (b) prior to settlement the Buyer must lodge with the ATO:
 - (i) a *GST Property Settlement Withholding Notification* form ("Form 1"); and
 - (ii) a *GST Property Settlement Date Confirmation* form ("Form 2");
 - (c) on or before settlement, the Buyer must give the Seller copies of:
 - (i) the Form 1;
 - (ii) confirmation from the ATO that the Form 1 has been lodged specifying the Buyer's lodgement reference number and payment reference number;
 - (iii) confirmation from the ATO that the Form 2 has been lodged; and
 - (iv) a completed ATO payment slip for the Withholding Amount;
 - (d) the Seller irrevocably directs the Buyer to draw a bank cheque for the GST Withholding Amount in favour of the Commissioner of Taxation and deliver it to the Seller at settlement; and
 - (e) the Seller must pay the GST Withholding Amount to the ATO in compliance with section 14-250 of the Withholding Law promptly after settlement.
- (6) The Buyer warrants that the statements made by the Buyer in the Reference Schedule under GST Withholding Obligations are true and correct.

2.6 Adjustments to Balance Purchase Price

- (1) The Seller is liable for Outgoings and is entitled to Rent up to and including the Settlement Date. The Buyer is liable for Outgoings and is entitled to Rent after the Settlement Date.
- (2) Subject to clauses 2.6(3), 2.6(5) and 2.6(17), Outgoings for periods including the Settlement 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 or the Body Corporate advises will be assessed (excluding any discount); or
 - (ii) if no advice on the assessment to be made is available, on the amount of the latest assessment (excluding any discount).
- (3) If there is no separate assessment of rates for the Lot at the Settlement Date and the Local Government informs the Buyer that it will 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 interest schedule lot entitlement of the Lot to the aggregate interest schedule lot entitlement of the Scheme; 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) The seller is liable for land tax assessed on the Lot for the financial year current at the Settlement Date. If land tax is unpaid at the Settlement Date and the Office of State Revenue advises that it will issue a final clearance for the Lot on payment of a specified amount, then the Buyer may deduct the specified amount from the Balance Purchase Price at settlement and must pay it promptly to the Office of State Revenue.
- (5) 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 settlement continues throughout the assessment period. The Buyer must obtain and pay for the meter reading.

- (6) If any Outgoings are assessed but unpaid at the Settlement Date, then the Buyer may deduct the amount payable from the Balance Purchase Price at settlement and pay it promptly to the relevant authority or the Body Corporate, as appropriate. If an amount is deducted under this clause, the relevant Outgoing will be treated as paid at the Settlement Date for the purposes of clause 2.6(2).
- (7) Arrears of Rent for any rental period ending on or before the Settlement Date belong to the Seller and are not adjusted at settlement.
- (8) Unpaid Rent for the rental period including both the Settlement Date and the following day ("**Current Period**") is not adjusted until it is paid.
- (9) Rent already paid for the Current Period or beyond must be adjusted at settlement.
- (10) If Rent payments are reassessed after the Settlement Date for periods including the Settlement Date, any additional Rent payment from a Tenant or refund due to a Tenant must be apportioned under clauses 2.6(7), 2.6(8), 2.6(9) and 2.6(10).
- (11) Payments under clause 2.6(10) must be made within 14 days after notification by one party to the other but only after any additional payment from a Tenant has been received.
- (12) The Seller is liable for:
 - (a) any Special Contribution for which a levy notice has been issued on or before the Contract Date; and
 - (b) any other Body Corporate Debt (including any penalty or recovery cost resulting from non-payment of a Body Corporate Debt) owing in respect of the Lot at settlement.

The Buyer is liable for any Special Contribution levied after the Contract Date.

- (13) If an amount payable by the Seller under clause 2.6(12) is unpaid at the Settlement Date, the Buyer may deduct the specified amount from the Balance Purchase Price at settlement and must pay it promptly to the Body Corporate.
- (14) For the purposes of clause 2.6(12), an amount payable under an exclusive use by-law will be treated as levied on the date it is due.
- (15) The cost of Bank cheques payable at settlement:
 - (a) to the Seller or its mortgagee are the responsibility of the Buyer; and
 - (b) to parties other than the Seller or its mortgagee are the responsibility of the Seller.
- (16) The Seller is not entitled to require payment of the Balance Purchase Price by means other than Bank cheque without the consent of the Buyer.
- (17) Upon written request by the Buyer, the Seller will, prior to Settlement, give the Buyer a written statement, supported by reasonable evidence, of:
 - (a) all Outgoings and all Rent for the Property to the extent they are not capable of discovery by search or enquiry at any office of public record or pursuant to the provisions of any statute; and
 - (b) any other information which the Buyer may reasonably require for the purpose of calculating or apportioning any Outgoings or Rent under this clause 2.6.

If the Seller becomes aware of a change to the information provided the Seller will as soon as practicably provide the updated information to the Buyer.

3. FINANCE

- 3.1 This contract is conditional on the Buyer obtaining approval of a loan for the Finance Amount from the Financier by the Finance Date on terms satisfactory to the Buyer. The Buyer must take all reasonable steps to obtain approval.
- 3.2 The Buyer must give notice to the Seller that:
 - (1) approval has not been obtained by the Finance Date and the Buyer terminates this contract; or
 - (2) the finance condition has been either satisfied or waived by the Buyer.
- 3.3 The Seller may terminate this contract by notice to the Buyer if notice is not given under clause 3.2 by 5pm on the Finance Date.

This is the Seller's only remedy for the Buyer's failure to give notice.

- 3.4 The Seller's right under clause 3.3 is subject to the Buyer's continuing right to give written notice to the Seller of satisfaction, termination or waiver pursuant to clause 3.2.

4. BUILDING AND PEST INSPECTION REPORTS AND POOL SAFETY

4.1 Building and Pest Inspection

- (1) This contract is conditional on the Buyer obtaining a written building report from a Building Inspector and a written pest report from a Pest Inspector (which may be a single report) on the Property by the Inspection Date on terms satisfactory to the Buyer. The Buyer must take all reasonable steps to obtain the reports (subject to the right of the Buyer to elect to obtain only one of the reports).
- (2) The Buyer must give notice to the Seller that:
 - (a) a satisfactory Inspector's report under clause 4.1(1) has not been obtained by the Inspection Date and the Buyer terminates this contract. The Buyer must act reasonably; or
 - (b) clause 4.1(1) has been either satisfied or waived by the Buyer.
- (3) If the Buyer terminates this contract and the Seller asks the Buyer for a copy of the building and pest reports, the Buyer must give a copy of each report to the Seller without delay.
- (4) The Seller may terminate this contract by notice to the Buyer if notice is not given under clause 4.1(2) by 5pm on the Inspection Date. This is the Seller's only remedy for the Buyer's failure to give notice.
- (5) The Seller's right under clause 4.1(4) is subject to the Buyer's continuing right to give written notice to the Seller of satisfaction, termination or waiver pursuant to clause 4.1(2).

4.2 Pool Safety for non-shared pool on Lot

- (1) This clause 4.2 applies if:
 - (a) there is a pool on the Lot and the answer to Q2 of the Reference Schedule is No or Q2 is not completed (for a non-shared pool on the Lot); and
 - (b) this contract is not a contract of a type referred to in section 160(1)(b) of the *Property Occupations Act 2014*.
- (2) This contract is conditional upon:
 - (a) the issue of a Pool Safety Certificate; or
 - (b) a Pool Safety Inspector issuing a Notice of nonconformity stating the works required before a Pool Safety Certificate can be issued,by the Pool Safety Inspection Date.
- (3) The Buyer is responsible for arranging an inspection by a Pool Safety Inspector at the Buyer's cost. The Seller authorises:
 - (a) the Buyer to arrange the inspection; and
 - (b) the Pool Safety Inspector to advise the Buyer of the results of the inspection and to give the Buyer a copy of any notice issued.
- (4) If a Pool Safety Certificate has not issued by the Pool Safety Inspection Date, the Buyer may give notice to the Seller that the Buyer:
 - (a) terminates this contract; or
 - (b) waives the benefit of this clause 4.2The Buyer must act reasonably.
- (5) The Seller may terminate this contract by notice to the Buyer if notice is not given under clause 4.2(4) by 5pm on the Pool Safety Inspection Date.
- (6) The Seller's right under clause 4.2(5) is subject to the Buyer's continuing right to give written notice to the Seller of termination or waiver pursuant to clause 4.2(4).
- (7) The right of a party to terminate under this clause 4.2, ceases upon receipt by that party of a copy of a current Pool Safety Certificate.
- (8) If the Buyer terminates this contract under clause 4.2(4)(a), and the Seller has not obtained a copy of the Notice of nonconformity issued by the Pool Safety Inspector, the Seller may request a copy and the Buyer must provide this to the Seller without delay.

5. SETTLEMENT

5.1 Time and Date

- (1) Settlement must occur between 9am and 4pm AEST on the Settlement Date.
- (2) If the parties do not agree on where settlement is to occur, it must take place in the Place for Settlement at the office of a solicitor or Financial Institution nominated by the Seller, or, if the Seller does not make a nomination, at the land registry office in or nearest to the Place for Settlement.

5.2 Transfer Documents

- (1) The Transfer Documents must be prepared by the Buyer's Solicitor and delivered to the Seller a reasonable time before the Settlement Date.
- (2) If the Buyer pays the Seller's reasonable expenses, it may require the Seller to produce the Transfer Documents at the Office of State Revenue nearest the Place for Settlement for stamping before settlement.

5.3 Documents and Keys at Settlement

- (1) In exchange for payment of the Balance Purchase Price, the Seller must deliver to the Buyer at settlement:
 - (a) any instrument of title for the Lot required to register the transfer to the Buyer; and
 - (b) unstamped Transfer Documents capable of immediate registration after stamping; and
 - (c) any instrument necessary to release any Encumbrance over the Property in compliance with the Seller's obligation in clause 7.2; and
 - (d) if requested by the Buyer not less than 2 clear Business Days before the Settlement Date, the Keys; and
 - (e) if there are Tenancies:
 - (i) the Seller's copy of any Tenancy agreements;
 - (ii) a notice to each tenant advising of the sale in the form required by law; and
 - (iii) any notice required by law to transfer to the Buyer the Seller's interest in any Bond; and
 - (f) if the answer to Q2 in the Reference Schedule is Yes, a copy of a current Compliance or Exemption Certificate, if not already provided to the Buyer.
- (2) If the Keys are not delivered at Settlement under clause 5.3(1)(d), the Seller must deliver the Keys to the Buyer. The Seller may discharge its obligation under this provision by authorising the Seller's Agent to release the Keys to the Buyer.

5.4 Assignment of Covenants and Warranties

- At settlement, the Seller assigns to the Buyer the benefit of all:
- (1) covenants by the tenants under the Tenancies;
 - (2) guarantees and Bonds (subject to the requirements of the *Residential Tenancies and Rooming Accommodation Act 2008*) supporting the Tenancies; and
 - (3) manufacturers' warranties regarding the Included Chattels;
 - (4) builders' warranties on the Improvements;
- to the extent that they are assignable and the Buyer accepts the assignment. However, the right to recover arrears of Rent is not assigned to the Buyer and section 117 of the *Property Law Act 1974* does not apply.

5.5 Possession of Property and Title to Included Chattels

- On the Settlement Date, in exchange for the Balance Purchase Price, the Seller must give the Buyer vacant possession of the Lot and Exclusive Use Areas except for the Tenancies. Title to the Included Chattels passes at settlement.

5.6 Reservations

- (1) The Seller must remove the Reserved Items from the Property before settlement.
- (2) The Seller must repair at its expense any damage done to the Property in removing the Reserved Items. If the Seller fails to do so, the Buyer may repair that damage.
- (3) Any Reserved Items not removed before settlement will be considered abandoned and the Buyer may, without limiting its other rights, complete this contract and appropriate those Reserved Items or dispose of them in any way.
- (4) The Seller indemnifies the Buyer against any damages and expenses resulting from the Buyer's actions under clauses 5.6(2) or 5.6(3).

6. TIME

6.1 Time of the Essence

Time is of the essence of this contract, except regarding any agreement between the parties on a time of day for settlement.

6.2 Suspension of Time

- (1) This clause 6.2 applies if a party is unable to perform a Settlement Obligation solely as a consequence of a Natural Disaster but does not apply where the inability is attributable to:
 - (a) damage to, destruction of or diminution in value of the Property or other property of the Seller or Buyer; or
 - (b) termination or variation of any agreement between a party and another person whether relating to the provision of finance, the release of an Encumbrance, the sale or purchase of another property or otherwise.
- (2) Time for the performance of the parties' Settlement Obligations is suspended and ceases to be of the essence of the contract and the parties are deemed not to be in breach of their Settlement Obligations.
- (3) An Affected Party must take reasonable steps to minimise the effect of the Natural Disaster on its ability to perform its Settlement Obligations.
- (4) When an Affected Party is no longer prevented from performing its Settlement Obligations due to the Natural Disaster, the Affected Party must give the other party a notice of that fact, promptly.
- (5) When the Suspension Period ends, whether notice under clause 6.2(4) has been given or not, either party may give the other party a Notice to Settle.
- (6) A Notice to Settle must be in writing and state:
 - (a) that the Suspension Period has ended;
 - (b) a date, being not less than 5 nor more than 10 Business Days after the date the Notice to Settle is given, which shall become the Settlement Date; and
 - (c) that time is of the essence.
- (7) When Notice to Settle is given, time is again of the essence of the contract.
- (8) In this clause 6.2:
 - (a) "**Affected Party**" means a party referred to in clause 6.2(1);
 - (b) "**Natural Disaster**" means a tsunami, flood, cyclone, earthquake, bushfire or other act of nature;
 - (c) "**Settlement Obligations**" means, in the case of the Buyer, its obligations under clauses 2.5(1) and 5.1(1) and, in the case of the Seller, its obligations under clauses 5.1(1), 5.3(1)(a) – (e) and 5.5;
 - (d) "**Suspension Period**" means the period during which the Affected Party (or if both the Buyer and Seller are Affected Parties, either of them) remains unable to perform a Settlement Obligation solely as a consequence of a Natural Disaster.

7. MATTERS AFFECTING THE PROPERTY

7.1 Title

The Lot is sold subject to the *Body Corporate and Community Management Act 1997* and the by-laws of the Body Corporate.

7.2 Encumbrances

The Property is sold free of all Encumbrances other than the Title Encumbrances, Tenancies, statutory easements implied by part 6A of the *Land Title Act 1994* and interests registered on the common property for the Scheme.

7.3 Requisitions

The Buyer may not deliver any requisitions or enquiries on title.

7.4 Seller's Warranties

- (1) The Seller warrants that, except as disclosed in this contract, at settlement:
 - (a) it will be the registered owner of an estate in fee simple in the Lot and will own the Improvements and Included Chattels;
 - (b) it will be capable of completing this contract (unless the Seller dies or becomes mentally incapable after the Contract Date); and
 - (c) there will be no unsatisfied judgment, order (except for an order referred to in clause 7.6(1)(b)) or writ affecting the Property.

- (2) The Seller warrants that, except as disclosed in this contract, at the Contract Date and at settlement there are no current or threatened claims, notices or proceedings that may lead to a judgment, order or writ affecting the Property.
 - (3) The Seller warrants that, except as disclosed in this contract, at the Contract Date:
 - (a) there is no unregistered lease, easement or other right capable of registration and which is required to be registered to give indefeasibility affecting the common property or Body Corporate assets;
 - (b) there is no proposal to record a new community management statement for the Scheme and it has not received a notice of a meeting of the Body Corporate to be held after the Contract Date or notice of any proposed resolution or a decision of the Body Corporate to consent to the recording of a new community management statement for the Scheme;
 - (c) all Body Corporate consents to improvements made to common property and which benefit the Lot, or the registered owner of the Lot, are in force; and
 - (d) the Additional Body Corporate Information is correct (if completed).
 - (4) If the Seller breaches a warranty in clause 7.4(1) or clause 7.4(2), the Buyer may terminate this contract by notice to the Seller.
 - (5) If:
 - (a) the Seller breaches a warranty in clause 7.4(3); or
 - (b) the Additional Body Corporate Information is not completed;and, as a result, the Buyer is materially prejudiced, the Buyer may terminate this contract by notice to the Seller given within 14 days after the Contract Date but may not claim damages or compensation.
 - (6) Clauses 7.4(4) and 7.4(5) do not restrict any statutory rights the Buyer may have which cannot be excluded by this contract.
 - (7) (a) The Seller warrants that, except as disclosed in this contract or a notice given by the Seller to the Buyer under the *Environmental Protection Act 1994* ("**EPA**"), at the Contract Date:
 - (i) there is no outstanding obligation on the Seller to give notice to the administering authority under EPA of notifiable activity being conducted on the Land; and
 - (ii) the Seller is not aware of any facts or circumstances that may lead to the Land being classified as contaminated land within the meaning of EPA.(b) If the Seller breaches a warranty in clause 7.4(7), the Buyer may:
 - (i) terminate this contract by notice in writing to the Seller given no later than 2 Business Days before the Settlement Date; or
 - (ii) complete this contract and claim compensation, but only if the Buyer claims it in writing before the Settlement Date.
- (8) The Seller does not warrant that the Present Use is lawful.

7.5 Survey and Mistake

- (1) The Buyer may survey the Lot.
- (2) If there is:
 - (a) an error in the boundaries or area of the Lot;
 - (b) an encroachment by structures onto or from the Lot; or
 - (c) a mistake or omission in describing the Lot or the Seller's title to it;which is:
 - (d) immaterial; or
 - (e) material, but the Buyer elects to complete this contract;the Buyer's only remedy against the Seller is for compensation, but only if claimed by the Buyer in writing on or before settlement.

- (3) The Buyer may not delay settlement or withhold any part of the Balance Purchase Price because of any compensation claim under clause 7.5(2).
- (4) If there is a material error, encroachment or mistake, the Buyer may terminate this contract before settlement.

7.6 Requirements of Authorities

- (1) Subject to clause 7.6(5), 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 Settlement Date;
 - (b) if issued on or after the Contract Date, by the Buyer.
- (2) If any Work or Expenditure that is the Seller’s responsibility under clause 7.6(1)(a) is not done before the Settlement Date, the Buyer is entitled to claim the reasonable cost of work done by the Buyer in accordance with the notice or order referred to in clause 7.6(1) from the Seller after settlement as a debt.
- (3) Any Work or Expenditure that is the Buyer’s responsibility under clause 7.6(1)(b), which is required to be done before the Settlement 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 Expenditure must be added to the Balance Purchase Price.
- (4) The Buyer may terminate this contract by notice to the Seller if there is an outstanding notice at the Contract Date under section 246AG of the *Building Act 1975* that affects the Property. The Buyer may terminate this contract by notice to the Seller if there is an outstanding notice at the Contract Date under sections 247 or 248 of the *Building Act 1975* or sections 167 or 168 of the *Planning Act 2016* that affects the Property or Land.
- (5) Clause 7.6(1) does not apply to orders disclosed under section 83 of the *Neighbourhood Disputes (Dividing Fences and Trees) Act 2011*.

7.7 Property Adversely Affected

- (1) If at the Contract Date:
 - (a) the Present Use is not lawful under the relevant town planning scheme;
 - (b) the Land is affected by a proposal of any competent authority to alter the dimensions of any Transport Infrastructure or locate Transport Infrastructure on the Land;
 - (c) access or any service to the Land passes unlawfully through other land;
 - (d) any competent authority has issued a current notice to treat, or notice of intention to resume, regarding any part of the Land;
 - (e) there is an outstanding condition of a development approval attaching to the Lot under section 73 of the *Planning Act 2016* or section 96 of the *Economic Development Queensland Act 2012* which, if complied with, would constitute a material mistake or omission in the Seller’s title under clause 7.5(2)(c);
 - (f) the Property is affected by the *Queensland Heritage Act 1992* or is included in the World Heritage List;
 - (g) the Property is declared acquisition land under the *Queensland Reconstruction Authority Act 2011*; or
 - (h) there is a charge against the Lot under s104 of the *Foreign Acquisitions and Takeovers Act 1975*, and that has not been disclosed in this contract, the Buyer may terminate this contract by notice to the Seller given on or before settlement.
- (2) If no notice is given under clause 7.7(1), the Buyer will be treated as having accepted the Property subject to all of the matters referred to in that clause.
- (3) The Seller authorises the Buyer to:
 - (a) inspect records held by any authority, including Security Interests on the PPSR, relating to the Property or the Land; and
 - (b) apply for a certificate of currency of the Body Corporate’s insurance from any insurer.

7.8 Dividing Fences

Notwithstanding any provision in the *Neighbourhood Disputes (Dividing Fences and Trees) Act 2011*, the Seller need not contribute to the cost of building any dividing fence between the Lot and any adjoining land owned by it. The Buyer waives any right to claim contribution from the Seller.

8. RIGHTS AND OBLIGATIONS UNTIL SETTLEMENT

8.1 Risk

The Property is at the Buyer’s risk from 5pm on the first Business Day after the Contract Date.

8.2 Access

After reasonable notice to the Seller, the Buyer and its consultants may enter the Property:

- (1) once to read any meter;
- (2) for inspections under clause 4;
- (3) once to inspect the Property before settlement; and
- (4) once to value the Property before settlement.

8.3 Seller’s Obligations After Contract Date

- (1) The Seller must use the Property reasonably until settlement. The Seller must not do anything regarding the Property or Tenancies that may significantly alter them or result in later expense for the Buyer.
- (2) The Seller must promptly upon receiving any notice, proceeding or order that affects the Property or requires work on the Property, give a copy to the Buyer.
- (3) Without limiting clause 8.3(1), the Seller must not without the prior written consent of the Buyer, give any notice or seek or consent to any order that affects the Property or make any agreement affecting the Property that binds the Buyer to perform.

8.4 Body Corporate Meetings

- (1) The Seller must promptly give the Buyer a copy of:
 - (a) any notice it receives of a proposed meeting of the Body Corporate to be held after the Contract Date; and
 - (b) resolutions passed at that meeting and prior to settlement.
- (2) The Buyer may terminate this contract by notice in writing to the Seller given before settlement if it is materially prejudiced by:
 - (a) any resolution of the Body Corporate passed after the Contract Date, other than a resolution, details of which are disclosed to the Buyer in this contract; or
 - (b) where the Scheme is a subsidiary scheme, any resolution of a body corporate of a higher scheme.
- (3) In clause 8.4(2) a resolution includes a decision of the Body Corporate Committee to consent to recording a new community management statement.
- (4) If the Buyer is not given a copy of the resolutions before settlement, it may sue the Seller for damages.

8.5 Information Regarding the Property

Upon written request of the Buyer but in any event before settlement, the Seller must give the Buyer:

- (1) copies of all documents relating to any unregistered interests in the Property;
- (2) full details of the Tenancies to allow the Buyer to properly manage the Property after settlement;
- (3) sufficient details (including the date of birth of each Seller who is an individual) to enable the Buyer to undertake a search of the PPSR.

8.6 Possession Before Settlement

If possession is given before settlement:

- (1) the Buyer must maintain the Property in substantially its condition at the date of possession, fair wear and tear excepted;
- (2) entry into possession is under a licence personal to the Buyer revocable at any time and does not:
 - (a) create a relationship of landlord and tenant; or
 - (b) waive the Buyer’s rights under this contract;
- (3) the Buyer must insure the Property to the Seller’s satisfaction; and
- (4) the Buyer indemnifies the Seller against any expense or damages incurred by the Seller as a result of the Buyer’s possession of the Property.

8.7 Seller’s Obligations After Contract Date

- (1) The Seller must promptly upon receiving any notice, proceeding or order that affects the Property or requires work on the Property, give a copy to the Buyer.

- (2) After the Contract Date, the Seller must not without the prior written consent of the Buyer, give any notice, seek or consent to any order or make an agreement that affects the Property.

9. PARTIES' DEFAULT

9.1 Seller and Buyer May Affirm or Terminate

Without limiting any other right or remedy of the parties including those under this contract, or any right at common law, if the Seller or Buyer, as the case may be, fails to comply with an Essential Term, or makes a fundamental breach of an intermediate term, the Seller (in the case of the Buyer's default) or the Buyer (in the case of the Seller's default) may affirm or terminate this contract.

9.2 If Seller Affirms

If the Seller affirms this contract under clause 9.1, it may sue the Buyer for:

- (1) damages;
- (2) specific performance; or
- (3) damages and specific performance.

9.3 If Buyer Affirms

If the buyer affirms this contract under clause 9.1, it may sue the Seller for:

- (1) damages;
- (2) specific performance; or
- (3) damages and specific performance.

9.4 If Seller Terminates

If the Seller terminates this contract under clause 9.1, it may do all or any of the following:

- (1) resume possession of the Property;
- (2) forfeit the Deposit and any interest earned;
- (3) sue the Buyer for damages;
- (4) resell the Property.

9.5 If Buyer Terminates

If the Buyer terminates this contract under clause 9.1, it may do all or any of the following:

- (1) recover the Deposit and any interest earned;
- (2) sue the Seller for damages.

9.6 Seller's Resale

- (1) If the Seller terminates this contract and resells the Property, the Seller may recover from the Buyer as liquidated damages:
 - (a) any deficiency in price on a resale; and
 - (b) its expenses connected with any repossession, any failed attempt to resell, and the resale;provided the resale settles within 2 years of termination of this contract.
- (2) Any profit on a resale belongs to the Seller.

9.7 Seller's Damages

The Seller may claim damages for any loss it suffers as a result of the Buyer's default, including its legal costs on an indemnity basis and the cost of any Work or Expenditure under clause 7.6(3).

9.8 Buyer's Damages

The Buyer may claim damages for any loss it suffers as a result of the Seller's default, including its legal costs on an indemnity basis.

9.9 Interest on Late Payments

- (1) The Buyer must pay interest at the Default Rate:
 - (a) on any amount payable under this contract which is not paid when due; and
 - (b) on any judgement for money payable under this contract.
- (2) Interest continues to accrue:
 - (a) under clause 9.9(1)(a), from the date it is due until paid; and
 - (b) under clause 9.9(1)(b), from the date of judgement until paid.
- (3) Any amount payable under clause 9.9(1)(a) in respect of a period prior to settlement must be paid by the Buyer at settlement. If this contract is terminated or if any amount remains unpaid after settlement, interest continues to accrue.
- (4) Nothing in this clause affects any other rights of the Seller under this contract or at law.

10. GENERAL

10.1 Seller's Agent

The Seller's Agent is appointed as the Seller's agent to introduce a buyer.

10.2 Foreign Buyer Approval

The Buyer warrants that either:

- (1) the Buyer's purchase of the Property is not a notifiable action; or
- (2) the Buyer has received a no objection notification, under the *Foreign Acquisitions and Takeovers Act 1975*.

10.3 Duty

The Buyer must pay all duty on this contract.

10.4 Notices

- (1) Notices under this contract must be in writing.
- (2) Notices under this contract or notices required to be given by law may be given and received by the party's solicitor.
- (3) Notices under this contract or required to be given by law may be given by:
 - (a) delivering or posting to the other party or its solicitor; or
 - (b) sending it to the facsimile number of the other party or its solicitor stated in the Reference Schedule (or another facsimile number notified by the recipient to the sender); or
 - (c) sending it to the email address of the other party or its solicitor stated in the Reference Schedule (or another email address notified by the recipient to the sender).
- (4) Subject to clause 10.4(5), a notice given after this contract is entered into in accordance with clause 10.4(3) will be treated as given:
 - (a) 5 Business Days after posting;
 - (b) if sent by facsimile, at the time indicated on a clear transmission report; and
 - (c) if sent by email, at the time it is sent.
- (5) Notices given by facsimile, by personal delivery or by email between 5pm on a Business Day (the "first Business Day") and 9am on the next Business Day (the "second Business Day") will be treated as given or delivered at 9am on the second Business Day.
- (6) If two or more notices are treated as given at the same time under clause 10.4(5), they will be treated as given in the order in which they were sent or delivered.
- (7) Notices or other written communications by a party's solicitor (for example, varying the Inspection Date, Finance Date or Settlement Date) will be treated as given with that party's authority.
- (8) For the purposes of clause 10.4(3)(c) and clause 12.2 the notice or information may be contained within an email, as an attachment to an email or located in an electronic repository accessible by the recipient by clicking a link in an email.

10.5 Business Days

- (1) If anything is required to be done on a day that is not a Business Day, it must be done instead on the next Business Day.
- (2) If the Finance Date or Inspection Date fall on a day that is not a Business Day, then it falls on the next Business Day.

10.6 Rights After Settlement

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

10.7 Further Acts

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

10.8 Severance

If any term or part of a term of this contract is or becomes legally ineffective, invalid or unenforceable in any jurisdiction it will be severed and the effectiveness, validity or enforceability of the remainder will not be affected.

10.9 Interpretation

(1) Plurals and Genders

Reference to:

- (a) the singular includes the plural and the plural includes the singular;
- (b) one gender includes each other gender;
- (c) a person includes a body corporate; and

- (d) a party includes the party's executors, administrators, successors and permitted assigns.

(2) Parties

- (a) If a party consists of more than one person, this contract binds them jointly and each of them individually.
- (b) A party that is a trustee is bound both personally and in its capacity as a trustee.

(3) Statutes and Regulations

Reference to statutes includes all statutes amending, consolidating or replacing them.

(4) Inconsistencies

If there is any inconsistency between any provision added to this contract and the printed provisions, the added provision prevails.

(5) Headings

Headings are for convenience only and do not form part of this contract or affect its interpretation.

10.10 Counterparts

- (1) This contract may be executed in two or more counterparts, all of which will together be deemed to constitute one and the same contract.
- (2) A counterpart may be electronic and signed using an Electronic Signature.

11. ELECTRONIC SETTLEMENT

11.1 Application of Clause

- (1) Clause 11 applies if the Buyer, Seller and each Financial Institution involved in the transaction agree to an Electronic Settlement and overrides any other provision of this contract to the extent of any inconsistency.
- (2) Acceptance of an invitation to an Electronic Workspace is taken to be an agreement for clause 11.1(1).
- (3) Clause 11 (except clause 11.5(2)) ceases to apply if either party gives notice under clause 11.5 that settlement will not be an Electronic Settlement.

11.2 Completion of Electronic Workspace

- (1) The parties must:
- (a) ensure that the Electronic Workspace is completed and all Electronic Conveyancing Documents and the Financial Settlement Schedule are Digitally Signed prior to settlement; and
- (b) do everything else required in the Electronic Workspace to enable settlement to occur on the Settlement Date.
- (2) If the parties cannot agree on a time for settlement, the time to be nominated in the Workspace is 4pm AEST.
- (3) If any part of the Purchase Price is to be paid to discharge an Outgoing:
- (a) the Buyer may, by notice in writing to the Seller, require that the amount is paid to the Buyer's Solicitor's trust account and the Buyer is responsible for paying the amount to the relevant authority;
- (b) for amounts to be paid to destination accounts other than the Buyer's Solicitor's trust account, the Seller must give the Buyer a copy of the current account for the Outgoing to enable the Buyer to verify the destination account details in the Financial Settlement Schedule.
- (4) If the Deposit is required to discharge any Encumbrance or pay an Outgoing at settlement:
- (a) the Deposit Holder must, if directed by the Seller at least 2 Business Days prior to Settlement, pay the Deposit (and any interest accrued on investment of the Deposit) less commission as clear funds to the Seller's Solicitor;
- (b) the Buyer and the Seller authorise the Deposit Holder to make the payment in clause 11.2(4)(a);
- (c) the Seller's Solicitor will hold the money as Deposit Holder under the Contract;
- (d) the Seller and Buyer authorise the Seller's Solicitor to pay the money as directed by the Seller in accordance with the Financial Settlement Schedule.

11.3 Electronic Settlement

- (1) Clauses 5.1(2) and 5.2 do not apply.
- (2) Payment of the Balance Purchase Price electronically as directed by the Seller's Solicitor in the Financial Settlement

Schedule satisfies the Buyer's obligation in clause 2.5(1) and 2.5(3)(f).

- (3) The Seller and Buyer will be taken to have complied with:
- (a) clause 2.5(3)(c), (e) and (f); and
- (b) clause 2.5(5)(d) and (e),
- (as applicable) if at settlement the Financial Settlement Schedule specifies payment of the relevant amount to the account nominated by the Commissioner of Taxation.
- (4) The Seller will be taken to have complied with clauses 5.3(1)(b) and (c) if, at settlement, the Electronic Workspace contains Transfer Documents and (if applicable) releases of the Encumbrances (other than releases of Encumbrances referred to in clause 11.3(4)) for Electronic Lodgement in the Land Registry.
- (5) The Seller will be taken to have complied with clause 5.3(1)(c), (d), (e) and (f) if the Seller's Solicitor:
- (a) confirms in writing prior to settlement that it holds all relevant documents which are not suitable for Electronic Lodgement and all Keys (if requested under clause 5.3(1)(d)) in escrow on the terms contained in the QLS E-Conveyancing Guidelines; and
- (b) gives a written undertaking to send the documents and Keys (if applicable) to the Buyer or Buyer's Solicitor no later than the Business Day after settlement; and
- (c) if requested by the Buyer, provides copies of documents in the Seller's Solicitors possession.
- (6) A party is not in default to the extent it is prevented from complying with an obligation because the other party or the other party's Financial Institution has not done something in the Electronic Workspace.
- (7) Any rights under the contract or at law to terminate the contract may not be exercised during the time the Electronic Workspace is locked for Electronic Settlement.

11.4 Computer System Unavailable

- (1) If settlement fails and cannot occur by 4pm AEST on the Settlement Date because a computer system operated by the Land Registry, Office of State Revenue, Reserve Bank, a Financial Institution or PEXA is inoperative, neither party is in default and the Settlement Date is deemed to be the next Business Day. Time remains of the essence.
- (2) A party is not required to settle if Electronic Lodgement is not available. If the parties agree to Financial Settlement without Electronic Lodgement, settlement is deemed to occur at the time of Financial Settlement.

11.5 Withdrawal from Electronic Settlement

- (1) Either party may elect not to proceed with an Electronic Settlement by giving written notice to the other party.
- (2) A notice under clause 11.5(1) may not be given later than 5 Business Days before the Settlement Date unless an Electronic Settlement cannot be effected because:
- (a) the transaction is not a Qualifying Conveyancing Transaction; or
- (b) a party's solicitor is unable to complete the transaction due to death, a loss of legal capacity or appointment of a receiver or administrator (or similar) to their legal practice or suspension of their access to PEXA; or
- (c) the Buyer's or Seller's Financial Institution is unable to settle using PEXA.
- (3) If clause 11.5(2) applies:
- (a) the party giving the notice must provide satisfactory evidence of the reason for the withdrawal; and
- (b) the Settlement Date will be extended to the date 5 Business Days after the Settlement Date.

11.6 Costs

Each party must pay its own fees and charges of using PEXA for Electronic Settlement.

11.7 Definitions for clause 11

In clause 11:

"Digitally Sign" and "Digital Signature" have the meaning in the ECNL.

"ECNL" means the Electronic Conveyancing National Law (Queensland).

"Electronic Conveyancing Documents" has the meaning in the *Land Title Act 1994*.

“Electronic Lodgement” means lodgement of a document in the Land Registry in accordance with the ECNL.

“Electronic Settlement” means settlement facilitated by PEXA.

“Electronic Workspace” means a shared electronic workspace within PEXA that allows the Buyer and Seller to affect Electronic Lodgement and Financial Settlement.

“Financial Settlement” means the exchange of value between Financial Institutions in accordance with the Financial Settlement Schedule.

“Financial Settlement Schedule” means the electronic settlement schedule within the Electronic Workspace listing the source accounts and destination accounts.

“PEXA” means the system operated by Property Exchange Australia Ltd for settlement of conveyancing transactions and lodgement of Land Registry documents.

“Qualifying Conveyancing Transaction” a transaction that is not excluded for Electronic Settlement by the rules issued by PEXA, Office of State Revenue, Land Registry, or a Financial Institution involved in the transaction.

12. ELECTRONIC CONTRACT AND DISCLOSURE

12.1 Electronic Signing

If this contract is signed by any person using an Electronic Signature, the Buyer and the Seller:

- (a) agree to enter into this contract in electronic form; and
- (b) consent to either or both parties signing the contract using an Electronic Signature.

12.2 Pre-contract Disclosure

The Buyer consents to the Seller's use of electronic communication to give any notice or information required by law to be given to the Buyer and which was given before the Buyer signed this contract.

Schedule 1

Special Conditions - 3 / 33 Ellis Street, Kangaroo Point QLD
4169

1.1 Definitions

In this Contract, words starting with capitalised letters have the following meanings:

Word	Meaning
Claim	any claim, demand, proceeding or cause of action including, but not limited to: <ul style="list-style-type: none">• in contract (including, but not limited to, breach of warranty);• in tort (including, but not limited to, misrepresentation or negligence); or• under statute (including, but not limited to, under the <i>Australian Consumer Law (Competition and Consumer Act 2010 (Cth), Schedule 2)</i> or Part V or VI of the <i>Fair Trading Act 1989 (Qld)</i>).
Contract	this contract, including the ' <i>Reference Schedule</i> ', Standard Terms, schedules and these Special Conditions.
Mortgage	registered mortgage no. 712316642 over the Property.
Mortgagee	Westpac Banking Corporation A.B.N. 33 007 457 141.
Mortgagee Agents	Andrew Weatherley and John Richard Park, appointed as agents for the Mortgagee in respect of the Property.
Object and Objection	delay the Settlement Date, refuse to effect Settlement, make any Claims against the Seller, the Mortgagee Agents, and/or the Mortgagee, withhold all or part of the Purchase Price, seek an adjustment to or a reduction in the Purchase Price, or terminate this Contract.
PPSA	the <i>Personal Property Securities Act 2009 (Cth)</i> .
Security Interest	has the same meaning as in the PPSA.

Word	Meaning
Settlement	settlement of the sale and purchase of the Property in accordance with this Contract.
Special Conditions	these special conditions contained in this Schedule 1.
Standard Terms	the REIQ ' <i>Terms of Contract for Residential Lots in a Community Titles Scheme (Eleventh Edition)</i> '.

1.2 Standard Terms

- (a) Except as set out above, words in these Special Conditions have the same meaning as in the Standard Terms.
- (b) The Standard Terms do not apply to this Contract to the extent that they are excluded or modified by these Special Conditions.
- (c) The Special Conditions prevail in the event of any express or implied inconsistency between the Standard Terms and the Special Conditions.

1.3 Interpretation

Unless the context requires a different interpretation:

- (a) headings are only for convenience and do not affect interpretation and,
- (b) a promise or agreement by 2 or more persons binds them jointly and each of them individually; and
- (c) no rule of construction applies to the disadvantage of a party only because that party was responsible for preparing this Contract or a provision of this Contract.

2 Sale by Seller as mortgagee exercising power of sale

2.1 Mortgagee exercising power of sale

- (a) The Buyer acknowledges that the Seller is selling the Property as mortgagee exercising power of sale under the Mortgage.
- (b) The Buyer accepts that all events have happened entitling the Seller to exercise its power of sale and the Buyer is not entitled to make any requisitions or Objections in respect of the Seller's capacity to sell the Property.
- (c) The receipt by the Seller of any moneys payable under this Contract is a sufficient discharge for the Buyer, who is not entitled to enquire as to the disposal of those moneys.

2.2 Mortgagee provisions

- (a) To the fullest extent permitted by law, the Buyer releases and discharges the Seller from any Claim which the Buyer might otherwise have against the Seller arising directly or indirectly out of:
- (1) this Contract and the sale of the Property, but not including any breach of the written terms of this Contract by the Seller;
 - (2) any discussions, negotiations, representations or arrangements made prior to the Contract Date between any of the Seller, the Mortgagee Agents, the Seller's Agent, or any of their related bodies corporate, agents, officers or employees and the Buyer or any of its related bodies corporate, agents, officers or employees;
 - (3) any representation, warranty, covenant or provision which is not expressly contained in the written terms of this Contract; and
 - (4) any act, omission or negligence of the Seller.
- (b) Except in the case of fraud, gross negligence or breach of duty by the Seller, the liabilities of the Seller under this Contract can be enforced against the Seller only to the extent that the Seller is actually indemnified for the liability from the controllership of the Property.
- (c) The limitation of the Seller's liabilities set out in Special Condition 2.2(b) applies despite any other provision of this Contract and extend to any liabilities in any way connected with any representation, warranty, conduct, omission, agreement or transaction related to this Contract.

2.3 Benefit of releases and indemnities

The Buyer acknowledges that where it has agreed to do or refrain from doing an act or acts in this Contract for the benefit of the Mortgagee Agents and any other third parties, those covenants are for the benefit of the Mortgagee Agents and those third parties and are given pursuant to section 55 of the *Property Law Act 1974* (Qld).

3 Sale in 'as is, where is' conditions

3.1 Seller's warranties

The Seller warrants only that the description of the Lot has been taken from the land title register under the *Land Title Act 1994* (Qld) and is believed by the Seller to be correct.

3.2 Condition of Property

- (a) The Property is sold on an 'as is where is' basis in all respects including:
- (1) the location of the Property;
 - (2) the condition and state of repair of the Property;
 - (3) any error in the description of the boundaries or area of the Property;
 - (4) any actual or alleged encroachments by or onto the Lot or the Land; and

- (5) any contamination of or environmental harm to or emanating from the Property,

but excluding any statutory rights and remedies of the Buyer in respect of such matters that cannot be lawfully excluded.

(b) The Buyer buys the Property subject to:

- (1) the rights and interests reserved to the Crown in the deed of grant;
- (2) the Title Encumbrances;
- (3) all statutory rights relating to water supply, sewerage, drainage, electricity, telephone and other services in, passing through or over the Lot whether or not protected by registered easement;
- (4) any liabilities, obligations, requisitions, directions, recommendations and notices which may now or in the future be outstanding regarding the Property. The Buyer indemnifies the Seller against any costs, expenses or liabilities incurred by the Seller in respect of them (unless this Contract is terminated without default on the part of the Buyer);
- (5) any defects, dilapidation, want of repair, pollution, contamination, infestation or the presence of any dangerous substance as at Settlement of this Contract and any liability concerning it or them under any law;
- (6) all installations, services and utilities (or the lack of one or more of them), including their location, nature, condition, quality, fitness or suitability for any purpose or availability for connection, whether they be:
 - (A) shared with any other property;
 - (B) provided for the benefit of any other property and pass through or over or are located on the Property; or
 - (C) responsible for the creation of an Encumbrance burdening or benefiting the title to the Property described in this Contract; and
- (7) the Community Management Statement for the Scheme.

3.3 Acknowledgements

The Buyer:

- (a) acknowledges that the Seller has afforded the Buyer the opportunity to inspect the Property and to conduct its own enquiries concerning the Property, the Body Corporate, the Scheme and the Land, before the Buyer entered into this Contract;
- (b) acknowledges that the Buyer has had the opportunity to take legal advice in relation to this Contract prior to entering into or being bound by this Contract;
- (c) subject to Special Condition 4.5, will accept the Property with all Encumbrances, encroachments, faults and defects at Settlement whether or not they are known or apparent by inspection;
- (d) confirms that it has inspected the Property and conducted any enquiries concerning the Property, the Body Corporate, the Scheme and the Land that it deemed necessary or desirable, including in respect of all risks, contingencies and other circumstances;

- (e) has not been induced to enter into this Contract, has undertaken and relied on its own enquiries in deciding to enter into this Contract, and has not relied on any statement, representation or warranty made by or on behalf of the Seller, the Mortgagee Agents, the Mortgagee, the Seller's Agent or any of their respective partners, officers, employees or agents except as set out in this Contract;
- (f) acknowledges receipt of the disclosure statement in Schedule 3 prior to entry into this Contract; and
- (g) acknowledges that the Buyer has reviewed the disclosure statement in Schedule 3 and will accept the Property at Settlement subject to all disclosures it contains.

3.4 No warranties or representations

- (a) Without limiting Special Condition 3.1, the Buyer acknowledges and agrees that neither the Seller, the Mortgagee Agents or the Mortgagee warrant that:
 - (1) any information or materials provided by the Seller, the Mortgagee Agents, the Mortgagee, the Seller's Agent or any of their partners, officers, employees or agents prior to the execution of this Contract are complete, correct or accurate or can be relied upon by any person (including, without limitation, any Information Memorandum prepared by the Seller's Agent);
 - (2) the Land and the Lot are not contaminated land within the meaning of the *Environmental Protection Act 1994* (Qld) or that they are not the subject of or the cause of environmental harm for the purposes of any environmental protection legislation;
 - (3) any notices, requisitions, directions, orders or recommendations delivered by any government department, local authority, the Body Corporate or any other authority have been complied with or carried out;
 - (4) any permissions, consents, approvals or licences desirable or required from any government department, local authority, the Body Corporate or any other authority in relation to the Property or any use of the Property or business carried on from the Property have been obtained or, having been obtained, have been complied with in all respects;
 - (5) where any consent, approval, permit or licence has been granted by any government department, local authority, the Body Corporate or any other authority, such consent, approval, permit or licence is valid, operative and can be relied upon by any party;
 - (6) the Property has any capacity, custom or availability to it of any services;
 - (7) the Property is suitable for any use or fit for any purpose, including its apparent purpose;
 - (8) any structures, plant, equipment or other things installed within the Property are properly installed, or fit for any purpose, including their apparent purpose;
 - (9) the Land, the Lot or any part of them is not affected by a proposal of any government department, local authority, the Body Corporate or any other authority including in relation to the realignment, widening,

resiting, resumption or diversion of any road adjacent to the Land or the Land, or is not subject to a current notice to treat or notice of intention to resume;

- (10) all services to the Lot and the Land which pass through other land are protected by registered easement or by statutory authority;
 - (11) the Land and the Lot are not affected by flooding;
 - (12) the means of access to and egress from the Land and the Lot and all terms of all easements and licences benefiting the Land and the Lot are adequate or fit for any purpose;
 - (13) the Land and the Lot are not subject to any unregistered easements, rights or permits to pass;
 - (14) the Seller has complied with and has not committed any offence under any laws in respect of the Property or any business conducted on the Property;
 - (15) the Property does not contain asbestos, or has not been constructed using asbestos containing materials;
 - (16) the Seller or the Mortgagee Agents are liable for the ongoing upkeep and maintenance of services to the Property, including but not limited to sewerage, water, electricity and gas;
 - (17) the affairs and management of the Body Corporate and Scheme are in order or are in compliance with any applicable laws, rules, regulations or other requirements; or
 - (18) any other state of affairs does or does not exist in respect of the Property, the Land, the Body Corporate or the Scheme unless specifically provided for in this Contract.
- (b) Subject to any statutory rights which cannot be lawfully excluded, the Buyer does not have any rights or remedies against the Seller under this Contract or otherwise in respect of:
- (1) any warranties or representations of whatever nature by the Seller, its agents, employees, solicitors or any other person on behalf of the Seller;
 - (2) the terms and conditions of this Contract, the Property or any other matter addressed in this Contract; or
 - (3) any matter arising in connection with or incidental to the sale by the Seller and the purchase by the Buyer.
- (c) The Buyer acknowledges and agrees that all warranties and terms implied by any statute in relation to:
- (1) the Property, the Land, the Scheme or the Body Corporate;
 - (2) any other matter addressed in this Contract; and
 - (3) any matter arising in connection with or incidental to the sale by the Seller and the purchase by the Buyer,

are excluded to the extent that such exclusion is not precluded by law. Any exclusions under this Contract do not exclude statutory rights of the Buyer which cannot be lawfully excluded.

3.5 Buyer waives claims

The Buyer is not entitled to Object because of any matter set out in this Special Condition 3.

4 Excluded and amended terms

4.1 Exclusions

Standard Terms 1.1(2)(ss), 3, 4, 5.3(1)(c), 5.6, 7.2, 7.4, 7.5(2), 7.5(3), 7.5(4), 7.6, 7.7(1), 7.7(2), 8.3, 8.4, 8.5, 8.6, 8.7(2) and 11 do not apply to this Contract.

4.2 Errors or misdescription

The Buyer must not make any requisition or Objection in relation to any error or misdescription of the Lot or the Land.

4.3 Boundaries and encroachments

- (a) The Buyer cannot Object if:
 - (1) walls or fences on the Lot or the Land that should be on the boundaries of the Lot or the Land are not; and
 - (2) there are encroachments on, to or from the Lot or the Land.
- (b) The Buyer cannot Object in relation to any error in the boundaries of the Land or the Lot, or any encroachments.

4.4 Dividing fences

Standard Term 7.8 is replaced by the following clause:

Neither the Seller, the Mortgagee Agents or the Mortgagee need contribute to the cost of building any dividing fence between the Lot or the Land and any adjoining land. The Buyer waives any right to claim contribution from the Seller, the Mortgagee Agents and the Mortgagee in respect of any dividing fences.

4.5 Release of mortgage, charge, Security Interest, or withdrawal of caveat or other Encumbrance

- (a) The Seller is not required to provide any release or partial release, withdrawal or request for withdrawal of any mortgage, Security Interest, charge, caveat or other Encumbrance unless it is required in order to:
 - (1) register the Transfer Documents provided by the Seller; or
 - (2) release or partially release a Security Interest registered in favour of the Mortgagee in respect of the Property.
- (b) If the Property is subject to any registered mortgage, Security Interest, charge, caveat or other encumbrance which is required to be released pursuant to Special Condition 4.5(a), then the Buyer will accept at Settlement an unstamped and duly executed release or partial release, withdrawal or request for withdrawal of mortgage, Security Interest, charge, caveat or other Encumbrance so far as it relates to the Property together with any requisite stamp duty

declaration required for registration of that release, partial release, withdrawal or request for withdrawal.

4.6 Keys at Settlement

To the extent that there are keys, codes or devices for locks or security systems on the Property in the possession of the Mortgagee, the Seller must deliver such keys, codes and devices to the Buyer on the Settlement Date. The Buyer agrees that the Seller discharges its obligation under this provision by authorising the Seller's Agent to release the keys, codes and devices to the Buyer upon Settlement.

4.7 Adjustments

- (a) Standard Term 1.1(2)(gg) (Outgoings) is amended by deleting "but excludes land tax" and replacing it with "and includes land tax".
- (b) Standard Term 2.6(4) is replaced by the following clause:
"Land tax must be adjusted on the assessment that the Office of State Revenue has issued or will issue to the registered owner of the Lot for the land tax year current at the Settlement Date."
- (c) Standard Term 2.6(15) is deleted. The cost of all bank cheques is borne by the Buyer.
- (d) Clause 2.6(17) is replaced by the following clause:
"As the Seller may not be aware of the Outgoings or amounts paid, the Buyer must prepare and give to the Seller a reasonable time before Settlement:
 - (a) *a settlement statement in reasonable detail setting out the Buyer's calculation of the Balance Purchase Price; and*
 - (b) *copies of searches or other enquiries used to make those calculations."*
- (e) The parties agree that the parties' entitlement to adjustments under Standard Term 2.6 ends on Settlement.

4.8 Requirements of authorities

- (a) 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 by the Buyer after Settlement, regardless of whether issued before, on or after the Contract Date.
- (b) The Buyer is not entitled to make any Objection in respect of any Work or Expenditure in respect of the Property.

4.9 Included Chattels

Standard Term 5.5 is replaced by the following clause:

- (1) *On the Settlement Date, in exchange for the Balance Purchase Price, the Seller must give the Buyer vacant possession of the Lot and Exclusive Use Areas except for the Tenancies.*
- (2) *To the extent the Seller has and is able to convey title to the Included Chattels title passes at Settlement.*
- (3) *If:*

- (a) *the Seller falls to convey title to any of the Included Chattels at Settlement; or*
- (b) *any of the Included Chattels are missing, damaged, defective or otherwise removed from the Lot before Settlement those items shall be excluded from the Included Chattels; and*
- (c) *the Buyer must not object, make a claim for compensation or damage or seek a reduction in the Purchase Price or seek to terminate this Contract as a result."*

4.10 Third party goods

The Buyer agrees and acknowledges that:

- (a) at Settlement, there may be goods, chattels, fixtures, utilities, infrastructure and other things and property on or in the Property that may have been abandoned, or may be subject to Claims by third parties;
- (b) the Seller makes no warranties or representations in respect of any such things, and may (but is not required to) remove them either before or after Settlement;
- (c) the Seller does not purport to pass title to any such things to the Buyer, or otherwise sell them under this Contract; and
- (d) the Buyer is not entitled to make any Claim or Objection in respect of any such things on or in the Property before, at or after Settlement, or the exercise of any rights under this Special Condition.

5 Restrictions on the Seller

5.1 Seller's rights

- (a) At the Settlement Date, if the Seller is for any reason unable to:
 - (1) deliver vacant possession of the Property to the Buyer;
 - (2) provide the Buyer with a transfer of the Land that is capable of immediate registration (including, without limitation, due to the existence of a caveat or writ of execution on the title to the Land); or
 - (3) provide to the Buyer, for each person comprising the registered owner of the Land, either :
 - (A) an ATO Clearance Certificate;
 - (B) a variation notice under s14-235 of the Withholding Law which remains current at the Settlement Date varying the CGT Withholding amount; or
 - (4) otherwise perform any of its obligations under this Contract,
 then the Seller may, by notice in writing to the Buyer:
 - (5) terminate this Contract; or
 - (6) extend the Settlement Date until the day 10 Business Days after the Seller notifies the Buyer that the Seller is able to provide:
 - (A) vacant possession of the Property;
 - (B) a transfer capable of immediate registration;

- (C) an ATO Clearance Certificate or a variation notice under s14-235 of the Withholding Law for each person comprising the registered owner of the Land; or
 - (D) otherwise perform its obligations under this Contract.
- (b) The Buyer acknowledges that the Seller is selling this Property as mortgagee exercising power of sale and the inclusion of this Special Condition 5 is reasonably necessary having regard to the nature of the sale.

5.2 Buyer's rights

The Buyer cannot Object where the Seller terminates this Contract or extends the Settlement Date under this Special Condition 5, or where this Contract is terminated under Special Condition 5.3.

5.3 Termination of the Contract

Either party may terminate this Contract by giving notice in writing to the other if Settlement is not effected on or before the date being 3 months after the initial Settlement Date (i.e. the Settlement Date as set out in this Contract or as agreed by the parties before any extension under Special Condition 5.1).

5.4 Notices

The Seller may give a notice under Special Condition 5.1 more than once.

6 General Provisions

6.1 Severance

If any term or part of a term of this Contract is or becomes legally ineffective, invalid or unenforceable in an jurisdiction it will be severed and the effectiveness, validity or enforceability of the remainder will not be affected.

6.2 Entire agreement

This Contract represents the entire agreement of the parties about its subject matter and any previous agreements, understandings and negotiations on that subject matter (be they oral or written) cease to have any effect.

6.3 Counterparts

This Contract may be executed in any number of counterparts (including email and facsimile counterparts) and:

- (a) each counterpart is deemed an original; and
- (b) all the counterparts together constitute one instrument, which is deemed to be dated on the earlier of the date of exchange or the date acceptance is communicated in writing (including by email and facsimile).

6.4 Electronic transaction

By signing this Contract, the parties agree and acknowledge that:

- (a) it is reasonable for the parties to expect that information in respect of this Contract and the Business provided by electronic communication will be readily accessible by the other parties; and
- (b) the parties consent for the purposes of the *Electronic Transactions (Queensland) Act 2001* (Qld) to information in respect of this Contract and the Business being given by electronic communication.

7 Guarantee and indemnity

- (a) If the Buyer is a company or includes a company, other than a Public Company as defined in the *Corporations Act 2001* (Cth), then the Buyer must:
 - (1) procure the due execution of a guarantee and indemnity from each director of the company in the form of the guarantee and indemnity contained in Schedule 2 of this Contract; and
 - (2) deliver the duly executed guarantee and indemnities to the Seller within 2 business days of execution of this Contract.
- (b) The parties agree that this Special Condition 7 is an essential term of this Contract, a breach of which permits the Seller to exercise its rights under Standard Term 9.

Execution

The Contract may be subject to a 5 business day statutory cooling-off period. A termination penalty of 0.25% of the purchase price applies if the Buyer terminates the contract during the cooling-off period.

It is recommended the Buyer obtain an independent property valuation and independent legal advice about the contract and his or her cooling-off rights, before signing.

Buyer (individual/s)

Signed by

in the presence of

sign here ► _____

sign here ► _____
Witness

print name _____

print name _____

Buyer (individual/s)

Signed by

in the presence of

sign here ► _____

sign here ► _____
Witness

print name _____

print name _____

The Contract may be subject to a 5 business day statutory cooling-off period. A termination penalty of 0.25% of the purchase price applies if the Buyer terminates the contract during the cooling-off period.

It is recommended the Buyer obtain an independent property valuation and independent legal advice about the contract and his or her cooling-off rights, before signing.

Buyer (Company)

Signed by the Buyer

sign here ☐

Director or Sole Director and Company Secretary
(strikethrough as applicable)

print name

sign here ☐

Director/Secretary

print name

Seller

Executed by the Seller
by its duly authorised agent:

sign here ►

print name

in the presence of

sign here ►

Witness

print name

Schedule 2

Deed of guarantee and indemnity - 3 / 33 Ellis Street, Kangaroo Point QLD

DATE:

PARTIES: Westpac Banking Corporation ABN 33 007 457 141 as mortgagee exercising power of sale under mortgage no. 712316642 of
c/- FTI Consulting, Level 20, 345 Queen Street Brisbane QLD 4000
(**'the Seller'**)

and _____
(Print name)

of _____

(Print address)

(**'the Guarantor'**)

1 Consideration

The Guarantor gives this guarantee in consideration of the Seller entering into this Contract with the Buyer at the request of the Guarantor (which request is confirmed by the Guarantor's execution of this guarantee), for the benefit of the Seller, the Mortgagee Agents and the Mortgagee.

2 Guarantee

- (a) The Guarantor irrevocably and unconditionally guarantees the due performance by the Buyer of all its covenants and obligations under the Contract including, but not limited to (the **'Buyer's Obligations'**):
- (1) the punctual payment of the Deposit;
 - (2) the punctual payment of the Purchase Price;
 - (3) the punctual payment of interest (at the Default Interest Rate) payable on default of any term of this Contract;
 - (4) the punctual payment of all other moneys (if any) owing by the Buyer to the Seller under this Contract;
 - (5) doing all things necessary to ensure the Buyer complies with the Buyer's Obligations,
- and the Guarantor hereby indemnifies the Seller, each Mortgagee Agents and the Mortgagee against any loss or liability, cost, charge, expense, outgoing or payment the Seller incurs arising from or connected with the failure of the Buyer to comply with the Buyer's Obligations or the failure of the Guarantor to perform or comply with any of the clauses of this Guarantee.
- (b) All of the Guarantor's obligations contained in Clause 2(a) are called **'the Guarantor's Obligations'**.

3 Performance of Guarantee

- (a) If the Buyer does not perform the Buyer's Obligations when due, the Guarantor must, on written demand from the Seller, at its cost, do or perform or arrange to be done or performed, the Buyer's Obligations.
- (b) Each of the Guarantor's Obligations:
- (1) is a principal obligation and is not to be treated as ancillary or collateral to any other right or obligation however created or arising;
 - (2) may be enforced against the Guarantor without the Seller or the Mortgagee Agents or Mortgagee first being required to exhaust any remedy it may have against the Buyer or to enforce any security it may hold with respect to the Buyer's Obligations;
 - (3) is a continuing guarantee and indemnity for the whole of the Buyer's Obligations and is irrevocable and remains in full force and effect until discharged; and
 - (4) is not to be considered as wholly or partially discharged by the performance at any time of any of the Buyer's Obligations or by any settlement of account or by any other matter or thing whatever and applies to the present and future scope of the Buyer's Obligations.

4 Liability not affected

- (a) The liability of the Guarantor is absolute and is not affected by any act, omission, matter or thing which but for this provision might operate to release or otherwise exonerate the Guarantor from the Guarantor's Obligations in whole or in part including, without limitation:
- (1) the grant to the Buyer or any other person of any time, waiver or other indulgence or concession, or the discharge or release of any other security held by the Seller or the Mortgagee Agents or Mortgagee in respect of the Buyer's Obligations;
 - (2) any transaction or arrangement that may take place between the Seller and the Buyer, the Guarantor, the Mortgagee Agents, the Mortgagee or any other person;
 - (3) the Insolvency of the Buyer;
 - (4) the Seller or the Mortgagee Agents or Mortgagee exercising or refraining from exercising any other security or any of the rights, powers or remedies conferred on it by law or by this Contract or any other agreement with any person, or taking or failing to take any other security;
 - (5) the variation (including a variation which increases the Buyer's Obligations), extinguishment, unenforceability, failure, loss, release, discharge, abandonment or transfer either in whole or in part of this Contract, or any security on the date of this Contract or in the future held by the Seller or the Mortgagee Agents or Mortgagee from the Buyer, the Guarantor or any other person;
 - (6) the Buyer's Obligations or any part of them being or becoming wholly or partially illegal, void, voidable or unenforceable;
 - (7) the failure by the Seller or the Mortgagee Agents or Mortgagee to give notice to the Guarantor of any default by the Buyer under this Contract;
 - (8) any legal limitation, disability, incapacity or other circumstances related to the Buyer; or
 - (9) the failure of any Guarantor to execute this Guarantee or the granting of this Guarantee by any Guarantor being or becoming void or voidable.
- (b) In this contract the expression '**Insolvency**' includes administration, bankruptcy, compromise, arrangement, amalgamation, receivership, reconstruction, winding up, liquidation, dissolution, and assignment for or compromise with creditors and '**Insolvent**' is to be construed accordingly.

5 Variation of contract

This Guarantee extends to cover this Contract as amended, varied replaced, either with or without the consent of the Guarantor.

6 Insolvency of Buyer

If the Buyer becomes Insolvent, then the Guarantor agrees that:

- (a) the Guarantor will not lodge a proof of debt in any Insolvency of the Buyer unless and until the Guarantor's Obligations and the Buyer's Obligations have been discharged in full;
- (b) the Seller may prove in the Insolvency of the Buyer for all moneys owing by the Buyer in respect of the Contract and for all damages, losses and other amounts that the Seller is entitled to prove for in respect of the Buyer's Obligations;
- (c) the Seller may retain and carry into a suspense account any dividends received in the Insolvency of the Buyer and need not appropriate those dividends to discharge the Guarantor's Obligations until it has received sufficient funds to discharge the whole of the Guarantor's Obligations. Until that happens, the Guarantor is liable for the whole of the Guarantor's Obligations as if the Seller had not received the dividends set aside; and
- (d) the Seller may, in its absolute discretion, appropriate any dividends received in the Insolvency of the Buyer (which are less than the amount required to discharge the whole of the Guarantor's Obligations) to discharge any part of the Guarantor's Obligations at any time.

7 Benefit

The Guarantor acknowledges that this Guarantee and Indemnity is given in favour of and for the benefit of the Mortgagee and that this Guarantee and Indemnity should be interpreted and is enforceable by the Mortgagee as if reference to the Seller includes reference to the Mortgagee.

EXECUTED AS A DEED

Signed, sealed and delivered by:

Guarantor

Witness

Print name

Print name

Seller

Witness

Print name

Print name

Schedule 3

Body Corporate Disclosure Statement - 3 / 33 Ellis Street,
Kangaroo Point QLD 4169

DISCLOSURE STATEMENT

Pursuant to Section 206 & Additional Information pursuant to Section 223
BODY CORPORATE & COMMUNITY MANAGEMENT ACT 1997 (AS AMENDED)

LOT 401 “THE CLIFFS KANGAROO POINT”

PROPERTY DETAILS

CTS No. : 39265
 Lot Number : 401
 Unit Number : 3
 Scheme Address : 33 Ellis Street, Kangaroo Point QLD 4169
 Plan Type & Number : SP 196637
 Regulation Module : Standard Module

Information (if any) prescribed under
 Regulation Module : Not Applicable

LOT ENTITLEMENTS

CONTRIBUTION Lot Entitlement	10	INTEREST Lot Entitlement	1,304
Aggregate	70	Aggregate	10,000

The CONTRIBUTION Schedule of Lot entitlements are **EQUAL**

FINANCIAL INFORMATION

Scheme Financial Year : 1 November to 31 October

The balance of the Administration Fund is \$1,137.92 DEBIT AS AT 14 February 2019

The balance of the Sinking Fund is \$26,629.59 CREDIT AS AT 14 February 2019

ANNUAL CONTRIBUTIONS:

PAYMENT PERIODS	DUE DATE	ADMINISTRATION FUND (Gross)	SINKING FUND (Gross)	INSURANCE FUND (Gross)
01/03/19 to 30/06/19	01/03/19	\$3,583.30	\$968.40	\$1,238.80
01/07/19 to 31/10/19	01/07/19	\$3,583.30	\$968.40	\$1,238.80
Annual TOTAL		\$7,166.60	\$1,936.80	\$2,477.60
Pre-Issue				
01/11/19 to 28/02/20	01/11/19	\$3,547.40	\$1,452.50	\$1,282.22

Levy Discount : A discount does not apply

Details of other contributions for this Lot : Nil

- (I) The annual contributions payable by the owner of the lot are calculated based on the contribution schedule lot entitlements for lots in the scheme, except for that part of the administrative fund annual contributions attributable to insurance. The insurance component, being \$2,477.60, is based on the interest schedule lot entitlement for lots included in the scheme. The balance of the administrative fund annual contributions, being \$7,166.60, is based on the contribution schedule lot entitlements for lots included in the scheme.
- (II) The contribution schedule lot entitlements and the interest schedule lot entitlements for lots included in the scheme are set out in the Community Management Statement for the scheme

The Seller is not the original owner of the Lot

Improvements to the Common Property for which the owner of the Lot is responsible : Nil

BODY CORPORATE MANAGER

Name : Sovereign Strata
 Address : PO Box 3067, Darra QLD 4076
 Telephone : (07) 3376 1322

The Body Corporate Manager is not engaged to perform the functions of a committee.

BODY CORPORATE SECRETARY

Name : Gregory Johnson
Address : C/- PO Box 3067, Darra QLD 4076
Telephone : (07) 3376 1322

Who is responsible for issuing Body
Corporate Information Certificates? : Sovereign Strata

Is there a Committee for the
Body Corporate? : Yes

Body Corporate assets required to be
recorded on a Register maintained by
the Body Corporate are : Yes - See attached

INSURANCE

Insurer : QBE Insurance (Australia) Limited
Policy No. : HU0029071
Date Due : 31 January 2020

Building : \$15,744,484.00
Common Contents : \$142,807.00
Public Liability : \$20,000,000.00

IMPLIED WARRANTIES (Additional information pursuant to section 223)

**Particulars of Body Corporate mortgages or charges
over its assets or any unsatisfied judgements against it** : Nil

**Latent or patent defects relating to the Common
Property or Body Corporate assets based on a
Search of the body corporate records or verbal
Information, other than defects arising from fair
wear and tear and any defects disclosed in the
contract of sale**

: There is no evidence in the body corporate records of any
patent or latent defects

Exclusions: Fair wear and tear. All Purchasers should show due diligence and employ a suitably qualified contractor to carry out a building and pest inspection of the common property and the subject lot to protect their interests.

**Any other matters that may be of interest or that may
materially prejudice the purchaser**

: There were no further matters of significant interest disclosed
in the records made available at the time of our inspection.

Does it appear from the records inspected that the Body Corporate can meet its actual, contingent or expected liabilities (other than normal operating expenses) from its available funds

: Following inspection of the body corporate records it appears that the body corporate can meet its actual or expected liabilities from the current funds available (including any outstanding levies).

Extent to which the original owner has complied with the combustible cladding checklist

No action taken to date/ Unable to confirm action
 Registered the building and completed Part 1 of the Combustible Cladding Checklist by 29 March 2019

Dated 18/4/2019

[Signature]
Signature of Seller(s)/Seller(s) Agent

ACKNOWLEDGEMENT

The Buyer acknowledges –

The Buyer acknowledges having received this Disclosure Statement before entering into the Contract to buy the mentioned Lot

Dated.....
Signature of Buyer(s)

Disclaimer:

Information contained in this report was obtained by carrying out a physical inspection of the Body Corporate records made available under Section 205 of the BCCM Act. SCLS Pty Ltd cannot be held liable for any failure of the Secretary or managing agent to make all books and records available for inspection under Section 205 of the BCCM Act. You should be aware that all of the records may not have been available for inspection and the records may not have been complete or sufficiently well organized to allow a thorough inspection.

Recommendations:

It is recommended that the Disclosure Statement be updated if the Body Corporate holds a meeting after preparation of this Statement, as affairs of the Body Corporate change quite regularly.

A physical inspection of the building, grounds or the subject Lot has **NOT** been carried out by Sun City Legal Services. As such, we highly recommend a building and pest inspection report be commissioned by the purchaser. A building and pest inspection report may assist by providing details of any unknown defects in the common property or the subject lot.



Phone: (07) 3284 2772
Fax: (07) 3036 5553
Email: helpdesk@scls.com.au
Web: www.scls.com.au

ASSET REGISTER

THE CLIFFS KANGAROO POINT CTS 39265

Description	Type	Method of Acquisition	Date of Acquisition	Acquired from	Original Cost	Cost to date	Market Value
3 SPEED FAN MOTOR	Plant and Machinery	Purchase	24/10/14	CRYSTAL CLEAR POOL HEATING* PO BOX 694 BUDDINA QLD 4575	984.00	984.00	984.00
Page Totals					984.00	984.00	984.00
Report Totals					984.00	984.00	984.00

A pool safety certificate is required in Queensland when selling or leasing a property with a regulated pool. This form is to be used for the purposes of sections 246AA and 246AK of the *Building Act 1975*.

1. Pool safety certificate number

Certificate number: PSC0009249

2. Location of the swimming pool

Lot/s on plan details are usually shown on the title documents and rates notices

Street address:

33 ELLIS ST

KANGAROO POINT QLD

Postcode

4 1 6 9

Lot and plan details:

9999/SP/196637

Local government area:

BRISBANE CITY

3. Exemptions or alternative solutions for the swimming pool (if known and applicable)

If it is known that an exemption or alternative solution is applicable to the swimming pool please state this. This will help provide pool owners with a concise and practical explanation of the exemption or alternative solution. It will also help to ensure the ongoing use of the pool and any future modifications do not compromise compliance with the pool safety standard.

No disability exemption applies; No impracticality exemption applies

No alternative solution applies

4. Shared pool or non-shared pool

Shared pool



Non-shared pool



5. Pool safety certificate validity

Effective date:

0 4 / 0 2 / 2 0 1 9

Expiry date:

0 4 / 0 2 / 2 0 2 0

6. Certification

This certificate states that the pool safety inspector has inspected the regulated pool and is satisfied that the pool is a complying pool under the *Building Act 1975*.

I certify that I have inspected the swimming pool and I am reasonably satisfied that, under the *Building Act 1975*, the pool is a complying pool.

Name:

JAMIE HOLMES

Pool safety inspector licence number:

PS100526

Signature:

Other important information that could help save a young child's life

It is the pool owner's responsibility to ensure that the pool (including the barriers for the pool) is properly maintained at all times to comply with the pool safety standard under the *Building Act 1975*. Gates and doors giving access to the pool must always be kept securely closed while they are not in use. High penalties apply for non-compliance. It is essential that parents and carers carefully supervise young children around swimming pools at all times. Parents should also consider beginning swimming lessons for their young children from an early age. Please visit www.qbcc.qld.gov.au/home-building-owners/pool-safety for further information about swimming pool safety. This pool safety certificate does not certify that a building development approval has been given for the pool or the barriers for the pool. You can contact your local government to ensure this approval is in place.

Privacy statement

The Queensland Building and Construction Commission is collecting personal information as required under the *Building Act 1975*. This information may be stored by the QBCC, and will be used for administration, compliance, statistical research and evaluation of pool safety laws. Your personal information will be disclosed to other government agencies, local government authorities and third parties for purposes relating to administering and monitoring compliance with the *Building Act 1975*. Personal information will otherwise only be disclosed to third parties with your consent or unless authorised or required by law.

RTI: The information collected on this form will be retained as required by the *Public Records Act 2002* and other relevant Acts and regulations, and is subject to the Right to Information regime established by the *Right to Information Act 2009*.

This is a public document and the information in this form will be made available to the public.