



# Contract of sale of land

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## IMPORTANT NOTICE TO PURCHASERS – COOLING-OFF

### Cooling-off period (Section 31 of the *Sale of Land Act 1962*)

You may end this contract within 3 clear business days of the day that you sign the contract if none of the exceptions listed below applies to you.

You must either give the vendor or the vendor's agent **written** notice that you are ending the contract or leave the notice at the address of the vendor or the vendor's agent to end this contract within this time in accordance with this cooling-off provision.

You are entitled to a refund of all the money you paid EXCEPT for \$100 or 0.2% of the purchase price (whichever is more) if you end the contract in this way.

### EXCEPTIONS: the 3-day cooling-off period does not apply if:

- you bought the property at a publicly advertised auction or on the day on which the auction was held; or
- you bought the land within 3 clear business days before a publicly advertised auction was to be held; or
- you bought the land within 3 clear business days after a publicly advertised auction was held; or
- the property is used primarily for industrial or commercial purposes; or
- the property is more than 20 hectares in size and is used primarily for farming; or
- you and the vendor previously signed a contract for the sale of the same land in substantially the same terms; or
- you are an estate agent or a corporate body.

## NOTICE TO PURCHASERS OF PROPERTY OFF-THE-PLAN

### Off-the-plan sales (Section 9AA(1A) of the *Sale of Land Act 1962*)

You may negotiate with the vendor about the amount of the deposit moneys payable under the contract of sale, up to 10 per cent of the purchase price.

A substantial period of time may elapse between the day on which you sign the contract of sale and the day on which you become the registered proprietor of the lot.

The value of the lot may change between the day on which you sign the contract of sale of that lot and the day on which you become the registered proprietor

## Approval

This contract is approved as a standard form of contract under section 53A of the *Estate Agents Act 1980* by the Law Institute of Victoria Limited. The Law Institute of Victoria Limited is authorised to approve this form under the *Legal Profession Uniform Law Application Act 2014*.

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**WARNING TO ESTATE AGENTS**

DO NOT USE THIS CONTRACT FOR SALES OF 'OFF THE PLAN' PROPERTIES  
UNLESS IT HAS BEEN PREPARED BY A LEGAL PRACTITIONER

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# Contract of sale of land

The Vendor agrees to sell and the Purchaser agrees to buy the Property, being the Land and the Goods, for the Price and on the terms set out in this contract. The Asset Vendor agrees to sell and the Purchaser agrees to buy the Assets for the Asset Price and on the terms set out in this contract.

The terms of this contract are contained in the –

- particulars of sale; and
- special conditions, if any; and
- general conditions (which are in standard form: see general condition 6.1)

in that order of priority.

## SIGNING OF THIS CONTRACT

**WARNING:** THIS IS A LEGALLY BINDING CONTRACT. YOU SHOULD READ THIS CONTRACT BEFORE SIGNING IT.

Purchasers should ensure that they have received a section 32 statement from the vendor before signing this contract. In this contract, "section 32 statement" means the statement required to be given by a vendor under section 32 of the *Sale of Land Act 1962*.

The authority of a person signing –

- under power of attorney; or
  - as director of a corporation; or
  - as agent authorised in writing by one of the parties –
- must be noted beneath the signature.

Any person whose signature is secured by an estate agent acknowledges being given by the agent at the time of signing a copy of the terms of this contract.

**EXECUTED by WIDDEN PROPERTY PTY** )  
**LIMITED ACN 677 743 001** in accordance with )  
section 127 of the Corporations Act 2001 )  
(Cth): )


Signed by:  


39E2316765AD41D

Signature of **ANTONY WEBSTER THOMPSON**  
who states that he is the sole director and sole  
company secretary of **WIDDEN PROPERTY PTY**  
**LIMITED ACN 677 743 001**

~~This offer will lapse unless accepted within [ ] clear business days (3 clear business days if none specified)~~  
In this contract, "business day" has the same meaning as in section 30 of the *Sale of Land Act 1962*

EXECUTED by IMPERIUM FARM PTY LTD ACN )  
164 261 787 (FORMERLY KNOWN AS SUN )  
FARM LAND PTY LTD) in accordance with )  
section 127 of the Corporations Act 2001 )  
(Cth):


  
Mei Ching Cheng (Jul 29, 2024 12:34 GMT+8)

Director/Secretary

Mei Ching Cheng

Name (please print)

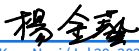
EXECUTED by IMPERIUM STUD PTY LTD ACN )  
163 851 358 (FORMERLY KNOWN AS SUN )  
STUD PTY LTD) in accordance with section )  
127 of the Corporations Act 2001 (Cth): )

  
Mei Ching Cheng (Jul 29, 2024 12:34 GMT+8)

Director/Secretary

Mei Ching Cheng

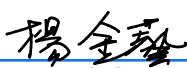
Name (please print)

  
Yang Kam Ngai (Jul 29, 2024 16:15 GMT+8)

Director

Yang Kam Ngai

Name (please print)

  
Yang Kam Ngai (Jul 29, 2024 16:15 GMT+8)

Director

Yang Kam Ngai

Name (please print)

The **DAY OF SALE** is the date by which all parties have signed this contract, being:

30 July 2024.

## Particulars of sale

### Vendor

Name: Imperium Farm Pty Ltd ACN 164 261 787 (formerly known as Sun Farm Land Pty Ltd)  
 Address: 18-24 Moray Street, Southbank VIC 3006  
 Email: danielle@8029.hk

### Asset Vendor

Name: Imperium Stud Pty Ltd ACN 163 851 358 (formerly known as Sun Stud Pty Ltd)  
 Address: 18-24 Moray Street, Southbank VIC 3006  
 Email: danielle@8029.hk

### Vendor's legal practitioner

Name: Clayton Utz  
 Address: Level 18, 333 Collins Street, Melbourne VIC 3000  
 Email: jmartin@claytonutz.com / andrewgibbons@claytonutz.com  
 Tel: (03) 9286 6978

### Purchaser

Name: Widden Property Pty Limited ACN 677 743 001  
 Address: Widden Stud, Widden Valley Via Denman NSW 2328  
 ABN/ACN: 677 743 001  
 Email: derek@widden.com

### Purchaser's legal practitioner or conveyancer

Name: Kardos Scanlan  
 Address: Level 5, 44 Martin Place, Sydney NSW 2000  
 Email: todd.nosti@kardosscanlan.com.au  
 Tel: 02 8004 9738 Ref: WIDD02406

### Land (general condition 7)

The land is described in the table below –

Certificate of Title reference	being lot	on plan
Volume 10412 Folio 302	Lot 7	Plan of subdivision 113038
Volume 09737 Folio 630	Crown Allotment 32	Section A Parish of Kerrie
Volume 09051 Folio 996	Lot 2	Plan of Subdivision 111306
Volume 09553 Folio 468	Crown Allotment 33	Section A Parish of Kerrie

~~If no title or plan references are recorded in the table, the land is as described in the section 32 statement or the register search statement and the document referred to as the diagram location in the register search statement attached to the section 32 statement~~

The land includes all improvements and fixtures to the extent owned by the Vendor.

### Property address

The address of the land is: 56 and 146 Mt Eliza Road, Riddells Creek Vic 3431

### Goods sold with the land (general condition 6.3(f)) (*list or attach schedule*)

All improvements, fixtures, fittings and chattels on the Land on the Day of Sale, but excluding any such improvement, fixture, fitting or chattel which is:

- (a) an Asset (it being acknowledged that the Assets are being sold separately by the Asset Vendor to the Purchaser under this contract); or

- (b) not owned by the Vendor, such as any improvement, fixture, fitting or chattel on the Land owned by the Tenant.

**Payment to Asset Vendor**

Asset Price	\$1,000,000	exclusive of GST (if applicable)
Asset Deposit	\$100,000	which is payable on the Day of Sale
Balance	\$900,000	payable at Settlement exclusive of GST (if applicable)

**Payment to Vendor**

Price	\$6,000,000	exclusive of GST (if applicable)
Land Deposit	<u>\$600,000</u>	which is payable on the Day of Sale
Balance	<u>\$5,400,000</u>	payable at Settlement exclusive of GST (if applicable)

**Deposit bond**

☐ General condition 15 applies only if the box is checked

**Bank guarantee**

☐ General condition 16 applies only if the box is checked

**GST** (general condition 19) See special conditions 16, 17 and 18.

~~Subject to general condition 19.2, the price includes GST (if any), unless the next box is checked~~

☐ ~~GST (if any) must be paid in addition to the price if the box is checked~~

☐ ~~This sale is a sale of land on which a 'farming business' is carried on which the parties consider meets the requirements of section 38-480 of the GST Act if the box is checked~~

☐ ~~This sale is a sale of a 'going concern' if the box is checked~~

☐ ~~The margin scheme will be used to calculate GST if the box is checked~~

**Settlement** (general conditions 17 & 26.2)

**is due on** the day that is the later of:

- 37 days after the Day of Sale; and
- 7 days after the date that the Vendor obtains from Land Use Victoria the physical replacement certificates of title for the titles comprising the Land (or otherwise obtains electronic control of those replacement certificates of titles).

**Lease** (general condition 5.1)

☐ At settlement the purchaser is entitled to vacant possession of the property unless the box is checked, in which case the property is sold subject to\*:

(\*only one of the boxes below should be checked after carefully reading any applicable lease or tenancy document)

☒ the Lease which is for a term ending on 30/03/2026 with 1 option to renew, of 5 years

OR

☐ a residential tenancy for a fixed term ending on ...../...../20.....

OR

☐ a periodic tenancy determinable by notice

**Terms contract** (general condition 30)

☐ This contract is intended to be a terms contract within the meaning of the *Sale of Land Act 1962* if the box is checked. *(Reference should be made to general condition 30 and any further applicable provisions should be added as special conditions)*

**Loan** (general condition 20)

☐ This contract is subject to a loan being approved and the following details apply if the box is checked:

Lender: .....

(or another lender chosen by the purchaser)

Loan amount: no more than \$..... Approval date: ...../...../20.....

**Building report**

☐ General condition 21 applies only if the box is checked

**Pest report**

☐ General condition 22 applies only if the box is checked

# Special Conditions

## 1. DEFINITIONS & INTERPRETATION

### 1.1 Definitions

In this Contract, unless the contrary intention appears or the context otherwise required:-

- 1.1.1 **Asset Vendor's Warranties** means any warranty given by the Asset Vendor to the Purchaser under this contract.
- 1.1.2 **Asset Deposit** has the meaning given in the particulars of sale.
- 1.1.3 **Assets** means all improvements, fixtures, fittings and chattels on the Land at the Day of Sale owned by the Asset Vendor including each asset listed in **Schedule 1** to this contract.
- 1.1.4 **Assets Price** has the meaning given in the particulars of sale.
- 1.1.5 **Contaminant** means a solid, liquid, gas, odour, temperature, sound, vibration or radiation or substance which makes or may make any land (including the Property), air, water or environment:
  - (a) to the extent applicable, unfit or unsafe for habitation or occupation by humans or animals;
  - (b) harmful, noxious or poisonous to human health or the environment;
  - (c) degraded in its capacity to support plant life;
  - (d) otherwise environmentally degraded; and
  - (e) not comply with any law regulating or relating to the environment (including any direction, notice, order or policy given or made under that law),
 and **Contaminated** and **Contamination** each have a corresponding meaning.
- 1.1.6 **Encumbrances** means any Security Interest, charge, lien, mortgage, pledge, assignment by way of security, title retention arrangement, preferential right or trust arrangement or any arrangement having the same or equivalent effect.
- 1.1.7 **Goods** means the goods sold with the Land as described in the particulars of sale, in the section headed "Goods sold with the land", but excluding the Assets.
- 1.1.8 **GST** has the same meaning as in the GST Act.
- 1.1.9 **GST Act** means the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).
- 1.1.10 **Land** means the land sold under this contract as described in the particulars of sale, in the section headed "Land".
- 1.1.11 **Land Deposit** has the meaning given in the particulars of sale.
- 1.1.12 **Lease** means the Lease between the Vendor and Tenant for a term of 5 years commencing on 31 March 2021.
- 1.1.13 **Planning Restriction** means any restriction on the use or development of the Land under any planning scheme, statute, regulation, local law or permit condition or imposed by any authority empowered to control the use or development of the Land.
- 1.1.14 **PPSA** means the Personal Property Securities Act 2009 (Cth) (and the regulations made under it).
- 1.1.15 **Property** means:
  - (a) the Land, and any improvement and fixtures on that Land to the extent owned by the Vendor; and

(b) the Goods,

but in all cases excluding the Assets and anything not owned by the Vendor, including anything owned by the Tenant.

**1.1.16 Purchaser Rights** means:

- (a) making requisitions or objections;
- (b) claiming compensation or damages;
- (c) rescinding or purporting to rescind;
- (d) calling on the Vendor or the Asset Vendor to amend title or bear the cost of doing so;
- (e) seeking a reduction in the Price;
- (f) refusing or delaying payment of the whole or part of the Price;
- (g) retaining part or the whole of the Price;
- (h) postponing Settlement;
- (i) avoiding obligations,

under this contract or bringing any claim against the Vendor or the Asset Vendor (or any of their agents, employees or contractors).

**1.1.17 Rent** means the rent and outgoings payable under the Lease.

**1.1.18 Security Interest** means a security interest under the PPSA.

**1.1.19 Settlement or Settlement Date** means the date on which vacant possession or entitlement to the rents and profits from the Land is given, namely, upon acceptance of title and payment of the Price, and **Settle** has a corresponding meaning.

**1.1.20 Tenant** means Widden Stud Victoria Pty Limited ACN 647 712 418.

**1.1.21 Title and Capacity Warranties** means those Vendor's Warranties contained in:

- (a) special condition 12.1; and
- (b) general conditions 6.3 and 6.4.

**1.1.22 Vendor's Warranties** means any warranty given by the Vendor to the Purchaser under this contract.

**1.1.23 Windfall Gains Tax** means:

- (a) "windfall gains tax" as defined in the *Windfall Gains Tax Act 2021* (Vic) and any regulations made pursuant to it; and/or
- (b) any other tax or levy that is imposed, paid or payable on the uplift in the value of the Property resulting from a rezoning decision affecting the Property, together with any interest and penalties payable in relation to those taxes or levies.

## 1.2 Interpretation

Wherever appearing in this Contract:-

**1.2.1** words importing persons shall include corporations;



- 1.2.2 a word importing the singular includes the plural (and vice versa) and a word indicating a gender includes every other gender;
- 1.2.3 any headings are for ease of reference only and shall not affect the construction of this Contract;
- 1.2.4 references to a party include that party's legal personal representatives and successors;
- 1.2.5 "**includes**" in any form is not a word of limitation;
- 1.2.6 a reference to any thing (including any amount) is a reference to the whole and each part of it; and
- 1.2.7 references to section 32 statement and Vendor Statement are used intermittently throughout this Contract and both mean and refer to a statement required to be given by a Vendor under section 32 of the *Sale of Land Act 1962* (Vic) in accordance with Division 2 of Part II of that Act.

## **2. AMENDMENTS TO & CLARIFICATION OF GENERAL CONDITIONS OF THE CONTRACT OF SALE**

### **2.1 Changes to general conditions**

- 2.1.1 General condition 6.1 is amended by deleting "the month and year set out at the foot of this page" and inserting "August 2019" in its place.
- 2.1.2 General condition 17.1(a) is amended by inserting "to the vendor and must pay the Asset Price to the Asset Vendor".
- 2.1.3 In general conditions 17.3, the reference to the "deposit" is taken to be replaced with a reference to the "Asset Deposit and Land Deposit (as applicable)".
- 2.1.4 General condition 28 does not apply to any amounts to which section 10H of the Sale of Land Act 1962 applies.
- 2.1.5 In the event that the Price is less than the threshold amount referred to in Section 10G of the Sale of Land Act (and determined in accordance with Section 10I of the Sale of Land Act 1962):
  - (a) For the purposes of general condition 23, the expression "periodic outgoings" does not include any amounts to which section 10G of the Sale of Land Act 1962 applies; and
  - (b) General condition 28 does not apply to any amounts to which section 10G of the Sale of Land Act 1962 applies.
- 2.1.6 In general condition 35.4:
  - 2.1.6.1. the following is inserted at the end of the opening line: "or if this contract ends where the Vendor accepts a repudiation by the Purchaser and terminates this contract"; and
  - 2.1.6.2. general condition 35.4(a) is deleted and replaced with the following: "the Land Deposit up to 10% of the price and the Assets Deposit up to 10% of the Assets Price are each forfeited to (as applicable) the Vendor and the Assets Vendor as their absolute property, whether the Land Deposit or Assets Deposit (as applicable) has been paid or not".

## 2.2 **Inapplicable general conditions**

General conditions 1.6, 3, 4, 9, 12, 13, 28.1, 31.4, 31.5 and 31.6 do not apply.

## 2.3 **Inconsistency**

If there is any inconsistency between these special conditions and the general conditions, these special conditions prevail to the extent of that inconsistency.

# 3. **IDENTITY AND CONDITION OF PROPERTY**

## 3.1 **As is, where is**

Without limiting the Purchaser's rights in respect of the Vendor's Warranties and the Asset Vendor's Warranties, the Purchaser acknowledges that:

3.1.1 the Vendor sells the Property; and

3.1.2 the Asset Vendor sells the Assets,

on an "as is, where is" basis, in their present state and condition, subject to:

3.1.3 all defects (if any) latent or patent and whether or not the same could or should have been apparent on the Purchaser's inspection; and

3.1.4 any matter referred to in this contract or the Vendor Statement.

## 3.2 **Purchaser's satisfied with Property and Assets**

The Purchaser represents and warrants to the Vendor that:

3.2.1 the Purchaser has entered into this contract on the basis that it has carried out, or had the opportunity to carry out, its due diligence of the Property and the Assets; and

3.2.2 without limiting the Purchaser's rights in respect of the Vendor's Warranties and the Asset Vendor's Warranties, because of the Purchaser's own due diligence, inspection and enquiries, the Purchaser:

- (a) is satisfied in all respects about the Property and the Assets, including as to:
  - (i) the title to, and the nature, quality, condition and state of repair of, the Property and the Assets;
  - (ii) whether the Property and the Assets comply with all laws and requirements of authorities, and any non-compliance;
  - (iii) the existence or otherwise of any notice, order, consent, permit, approval, licence or requirement of an authority in connection with the Property and the Assets, and any non-compliance;
  - (iv) the existence (or non-existence) of services, easements and other rights; and
  - (v) any Planning Restriction affecting the Property; and
- (b) is satisfied in all respects about the Lease;
- (c) accepts the Property and the Assets as they are and subject to all defects (latent or patent) and all dilapidation, infestation and mechanical breakdown including any matter referred to in this contract; and
- (d) is satisfied about the purposes for which the Property and the Assets may be used, including in respect of all restrictions and prohibitions on their use and development and any future income or future expenses in connection with the Property and the Assets.

## 3.3 **Environmental liability**

- 3.3.1 To the fullest extent permitted by law, the provisions of this contract govern all rights, powers, privileges, claims, liabilities, duties and obligations as between the parties in respect of any Contamination in connection with the Property.
- 3.3.2 Without limiting any other provision in this special condition 3.3, on and from Settlement, the Purchaser:
- (a) will be responsible at its own cost, including for complying with all laws which regulate or relate to the environment (including any direction, notice, order or policy given or made under that law) and which apply in respect of; and
  - (b) releases the Vendor and the Asset Vendor from any claim, cost, loss or liability in connection with;
- any Contaminant which is or may be on, in, above, under or emanating from or onto the Property, regardless of when the Contaminant may have come onto the Property or emanated from it.
- 3.3.3 The Vendor warrants to the Purchaser as at the Day of Sale that, to the best of the Vendor's knowledge and belief but on the basis that, in order to arrive at that knowledge and belief, the Vendor has not (and has no obligation) to make any enquiries (including any enquiries of any person or undertake any testing), there is no Contaminant on, in, above, under or emanating from or onto the Property that was caused during the period from the date on which the Vendor became the registered proprietor of the Land until the date the Tenant first took occupation of the Land under the Lease.

#### 3.4 **No exercise of Purchaser Rights**

The Purchaser must not exercise any Purchaser Rights because of any of the matters in this special condition 3, including special conditions 3.2.

### 4. **LEASE**

#### 4.1 **Property sold subject to Lease**

The Purchaser acknowledges and agrees that:

- 4.1.1 the Property is sold subject to the Lease;
- 4.1.2 it has inspected and has satisfied itself in all respects about the Lease;
- 4.1.3 the Vendor need not take any action to enforce obligations under the Lease;
- 4.1.4 prior to signing this Contract, the Purchaser received a waiver executed by the Tenant under which the Tenant irrevocably waived any claim the Tenant might (but for the waiver) have had under clause 14 of the Lease in respect of the sale of the Property the subject of this Contract; and
- 4.1.5 if the Tenant lodges a caveat on title claiming an interest under the Lease, then the Purchaser must execute (and procure any mortgagee of the Purchaser to execute) a document recognising that interest and, on Settlement, the Purchaser must accept a consent from the Tenant consenting to registration of the transfer to the Purchaser and any mortgage to that mortgagee, and the Purchaser may not require the Vendor to have that caveat withdrawn.

#### 4.2 **Exclusion from Sale**

The Purchaser acknowledges that this sale does not include any goods, plant, equipment, fixtures, fittings or other items owned by the Tenant or leased by the Tenant from third parties (excluding the lease of Assets from the Asset Vendor). The Purchaser takes title of the Land subject to the right of the Tenant to remove such items in accordance with the terms of the Lease or under any law.

#### 4.3 **No Claims in connection with Leases**

Without limiting any condition in this contract preventing the Purchaser from exercising a Purchaser Right, the Purchaser may not exercise a Purchaser Right:

- 4.3.1 because of anything in connection with any matter referred to in special condition 4.1 and special condition 4.2; or
- 4.3.2 because:
  - (a) the Lease is not legally binding; or
  - (b) the Lease is not in existence at Settlement; or
  - (c) the Tenant is in breach of its obligations at Settlement; or
  - (d) the Tenant is not in possession of the Property at Settlement.

#### 4.4 **Purchaser's Obligations after Settlement**

From the Settlement Date, the Purchaser must observe and perform and be bound by all of the obligations of the Vendor (as landlord) under or in connection with the Lease.

#### 4.5 **Powers of the Vendor**

- 4.5.1 Up to and including Settlement, the Vendor must observe and perform and be bound by all of the obligations of the Vendor (as landlord) under or in connection with the Lease.
- 4.5.2 Up to and including Settlement, the Vendor, acting reasonably, may:
  - (a) do anything which the Vendor is obliged to do in respect of the Lease; or
  - (b) do anything the Vendor considers reasonably necessary or convenient for the proper management of the Land.
- 4.5.3 The Vendor must not enter into a new lease without the prior written consent of the Purchaser.

#### 4.6 **Adjustment of Rent**

- 4.6.1 Rent will accrue to the Vendor up to and including the Settlement Date and after the Settlement Date, the Rent will accrue to the Purchaser.
- 4.6.2 Any Rent paid in advance of the Settlement Date shall be apportioned on the Settlement Date in accordance with general condition 23.
- 4.6.3 No adjustment is to be made for any Rent which is payable but unpaid and relates to any period after the Settlement Date.

#### 4.7 **Notice to Tenant**

On Settlement, the Vendor must give to the purchaser a duly signed notice addressed to the Tenant advising it of the sale, which the Purchaser must serve on the Tenant promptly after Settlement.

#### 4.8 **Assignment of lease on Settlement**

- 4.8.1 Subject to special condition 4.8.3, on Settlement the Vendor will assign to the Purchaser the benefit of each of the landlord's rights, remedies and covenants under and in respect of the Lease over the Property at the Settlement Date.
- 4.8.2 The Purchaser agrees that from and after Settlement the Purchaser accepts that assignment, and must recognise and give effect to the rights of the Tenant in respect of the Lease at Settlement.
- 4.8.3 Despite anything in this contract to the contrary and despite section 141 of the *Property Law Act 1958* (Vic), the Vendor retains the right after Settlement to recover money for the period up to and including Settlement under or in connection with the Lease. The

right to recover that money does not pass to the Purchaser. If this special condition 4.8.3 does not preserve the Vendor's right to recover that money, then, if asked by the Vendor, the Purchaser must assign to the Vendor the right to recover it.

**4.9 Security Deposit**

- 4.9.1 The Vendor acknowledges that the Tenant has provided a Security Deposit to the Vendor in the amount of \$27,500 (inclusive of GST) (**Security Deposit**).
- 4.9.2 On Settlement, the Vendor will assign to the Purchaser the benefit of the Security Deposit by allowing to the Purchaser an amount equal to the Security Deposit.

**5. SEVERABILITY**

If any part of this Contract is or becomes void or unenforceable or is illegal then that part shall if possible be read down and construed as far as is necessary to be legal and enforceable or (if such is impossible) shall be severed from this Contract to the intent that all parts that shall not be or become void or unenforceable or illegal shall remain in full force and effect and be unaffected by such severance. So far as may be legally permissible the provisions of any Act (Commonwealth or State present or future) shall not apply to this Contract so as to abrogate extinguish impair diminish fetter delay or otherwise detrimentally affect any rights remedies or powers of the Vendor or the Asset Vendor.

**6. NON-MERGER**

Any provision of this Contract which is capable of taking effect after Settlement of this Contract shall not merge on Settlement but shall continue in full force and effect.

**7. WAIVER**

The non-exercise of or delay in exercising any power or right of a party does not operate as a waiver of that power or right, nor does any single exercise of the power or right preclude any other or further exercise of it or in the exercise of any other power or right. A power or right may only be waived in writing and signed by the party to be bound by the waiver.

**8. READING DOWN**

The conditions of this Contract shall be so construed as not to infringe the provision of any Act whether Commonwealth or State but if any such condition on its true interpretation does infringe any such provision or is otherwise void or unenforceable that condition shall be read down to such extent as may be necessary to ensure that it does not so infringe and as may be reasonable in all circumstances so as to give it a valid operation and in the event that the infringing condition cannot be so read down it shall be deemed to be void and severable and the remaining conditions of this Contract shall have full force and effect.

**9. DUE DILIGENCE CHECKLIST**

The Purchaser acknowledges that the Due Diligence Checklist as required by the *Sale of Land Act 1962* (Vic) was made available to the Purchaser at the time the Land was offered for sale.

**10. ASSETS**

- 10.1 The Asset Vendor agrees to sell, and the Purchaser agrees to buy, the Assets on the Settlement Date, free from any Encumbrances (but subject to the rights of the Tenant to those Assets under the Lease) for the Asset Price.
- 10.2 The Asset Vendor warrants that the Asset Vendor:
  - 10.2.1 has the right to sell the Assets;
  - 10.2.2 is under no legal disability;
  - 10.2.3 is in possession of the Assets, either personally or through the Tenant;
  - 10.2.4 has not previously sold or granted any option to purchase, or granted a pre-emptive right

which is current over the Assets and which gives another party rights which have priority over the interest of the purchaser; and

- 10.2.5 will at Settlement be the legal and unencumbered owner of the Assets.
- 10.3 At Settlement the Asset Vendor must deliver to the Purchaser:
  - 10.3.1 any discharges of Encumbrances relating to the Assets necessary to give the Purchaser clear title to the Assets and General Condition 11 applies in relation to Assets as if set out in full.
  - 10.3.2 all title documents and transfers of title in respect of each Asset (if applicable) to the Purchaser including without limitation; and
  - 10.3.3 signed transfer forms for any motor vehicles being transferred under this contract.
- 10.4 Apart from the Asset Vendor's Warranties, the Asset Vendor does not make any representation or warranty about the Assets, including in connection with the condition or state of repair of the Assets, and the Purchaser accepts them in their state of repair at Settlement.
- 10.5 The Asset Vendor is not liable for, and the Purchaser releases the Asset Vendor from any claim, cost, loss or liability incurred in connection with any damage to, mechanical breakdown of, or fair wear and tear to, the Assets.
- 10.6 Despite anything in this contract, the Asset Vendor has no obligation to:
  - 10.6.1 maintain, repair or carry out any works in connection with the Assets; or
  - 10.6.2 obtain and/or provide to the Purchaser a roadworthy certificate pursuant to the requirements of the *Road Safety Act 1986* and *Road Safety (Vehicles) Regulation 2009* in relation to any motor vehicle that forms part of the Assets.
- 10.7 The Asset Vendor need not give formal delivery of the Assets but must leave them at the Property on Settlement.

## 11. **GOODS**

- 11.1 Apart from the Vendor's Warranties, the Vendor does not make any representation or warranty about the Goods, including in connection with the condition or state of repair of the Goods, and the Purchaser accepts them in their state of repair at Settlement.
- 11.2 The Vendor is not liable for, and the Purchaser releases the Vendor from any claim, cost, loss or liability incurred in connection with any damage to, mechanical breakdown of, or fair wear and tear to, the Goods which occur after the Day of Sale.
- 11.3 Despite anything in this contract, the Vendor has no obligation to maintain, repair or carry out any works in connection with the Goods.
- 11.4 The Vendor need not give formal delivery of the Goods but must leave them at the Property on Settlement.
- 11.5 The Vendor discloses that it does not have the information necessary to enable the Purchaser to calculate how Division 43 of the Income Tax Assessment Act 1997 (Cth) will apply to any capital works (within the meaning of that division) which form part of the Property. The Purchaser acknowledges and accepts that the Vendor is not obliged to give that information to the Purchaser. Without limiting any condition in this contract preventing the Purchaser from exercising a Purchaser Right, the Purchaser may not exercise a Purchaser Right because the Vendor does not give that information to the Purchaser.

## 12. **VENDOR WARRANTIES**

- 12.1 Without limiting the warranties given by the Vendor under General Condition 6, the Vendor and the Asset Vendor each represent and warrant to the Purchaser that as at the date of this document that:
  - 12.1.1 it is duly incorporated and validly exists under the laws of its place of incorporation;
  - 12.1.2 it has full power and authority to enter into this document and has taken all necessary action to authorise the execution, delivery and performance of this document in

accordance with its terms.

12.2 Notwithstanding any other condition of this Contract, the parties agree that:

12.2.1 the Vendor and the Asset Vendor are not liable to the Purchaser in respect of any claims for breach of (as applicable) the Vendor's Warranties or the Asset Vendor's Warranties unless all of the following are satisfied:

12.2.1.1. the Purchaser has provided to the Vendor or the Asset Vendor (as applicable) in writing reasonable details of the claim (setting out reasonable details of the fact, circumstance or matter giving rise to the Claim, the nature of the Claim and the Purchaser's calculation of the loss suffered) within 6 months after Settlement;

12.2.1.2. within 3 months after receiving notification of a claim in accordance with special condition 12.1.1, the claim has been:

12.2.1.2.1. admitted or satisfied by the Vendor or the Asset Vendor (as applicable); or

12.2.1.2.2. settled between the Vendor or the Asset Vendor (as applicable) and the Purchaser; or

12.2.1.2.3. made the subject of legal proceedings instituted and served by the Purchaser; and

12.2.1.2.4. the amount awarded or agreed as being payable in respect of the claim is not less than \$100,000 (even if separate matters form part of the relevant claim, and are aggregated, provided no separate matter involves a Claim in respect of that matter of less than \$50,000);

12.2.2 subject to special condition 12.2.3, the maximum aggregate liability to the Purchaser of both the Vendor and the Asset Vendor for any and all claims by the Purchaser under or in connection with this Contract (when aggregated together with any liability of the Vendor and the Asset Vendor to the Tenant under the Lease) shall not in any event exceed \$1,500,000.

12.2.3 the maximum aggregate liability to the Purchaser for a claim for a breach of:

12.2.3.1. a Title and Capacity Warranty shall not in any event exceed 100% of the Price, but otherwise special condition 12.2.2 applies; and

12.2.3.2. an Asset Vendor's Warranty shall not in any event exceed 100% of the Asset Price, but otherwise special condition 12.2.2 applies; and

12.2.4 the Vendor and the Asset Vendor are not liable to the Purchaser for any claim to the extent that the claim is for loss of opportunity, loss of bargain, loss of revenue, loss of profit, damage to goodwill and business reputation or other consequential or indirect loss, however arising.

### 13. **PURCHASER WARRANTIES**

The Purchaser represents and warrants to each of the Vendor that and the Asset Vendor as at the date of this document that:

13.1 it is duly incorporated and validly exists under the laws of its place of incorporation; and

13.2 it has full power and authority to enter into this document and has taken all necessary action to authorise the execution, delivery and performance of this document in accordance with its terms.

### 14. **ACKNOWLEDGMENTS**

14.1 The parties agree that:

- (a) the Vendor's obligations and liabilities under this document are interdependent with the Asset Vendor's obligations and liabilities under this document and vice versa;
  - (b) Settlement of the Vendor's sale of the Property to the Purchaser under this contract must occur simultaneously with completion of the Asset Vendor's sale of the Assets to the Purchaser under this contract; and
  - (c) despite anything in this contract, the Vendor shall not be required to Settle under this contract unless completion of the Asset Vendor's sale of the Assets to the Purchaser occurs at the same time (and vice versa).
- 14.2 If the Purchaser, the Vendor or the Asset Vendor are in default of their respective obligations under this contract, that will constitute a default under this contract.
- 14.3 If the Purchaser is entitled to terminate this contract due to a default by the Vendor or the Asset Vendor, the Purchaser may exercise that right regardless if the other vendor party has not defaulted under this contract.

## 15. **DEPOSIT**

General Condition 14 is deleted and replaced with the following:

- 15.1 The Purchaser acknowledges and agrees that, without limitation, it is an essential term of this contract that the Purchaser pays the Asset Deposit to the Asset Vendor and Land Deposit to the Vendor in accordance with, and by the date required under, this contract.
- 15.2 Without limiting the Vendor's and Asset Vendor's rights (as applicable), despite any other provision in this contract (including general condition 34), the Vendor or the Asset Vendor (as applicable) may immediately terminate this contract by notice in writing to the Purchaser if the Purchaser fails to pay the Asset Deposit and Land Deposit in accordance with, and by the date required under, this contract.
- 15.3 The Purchaser must pay the Asset Deposit and Land Deposit to the Purchaser's legal practitioner's trust account.
- 15.4 The parties must direct the Purchaser's legal practitioner to pay the Asset Deposit and Land Deposit to the party entitled when the Asset Deposit or Land Deposit is released, the contract is settled, or the contract is ended.
- 15.5 The Purchaser's legal practitioner may pay the Asset Deposit and the Land Deposit into court if it is reasonable to do so.
- 15.6 Payment of the Asset Deposit and Land Deposit will be made by electronic funds transfer to the relevant party entitled to the Asset Deposit or Land Deposit (as applicable).

## 16. **GST**

- 16.1 For the purposes of this special condition:
  - 16.1.1 words and phrases used in this special condition that are defined in the GST Act have the same meaning as in that GST Act (as amended from time to time) unless the context requires otherwise;
  - 16.1.2 unless otherwise expressly stated, all consideration to be provided under any other provision of this contract is exclusive of GST (**GST Exclusive Consideration**). Any consideration that is specified to be inclusive of GST must not be taken into account in calculating the GST payable in relation to a supply for the purpose of this special condition 16;
  - 16.1.3 any part or progressive or periodic component of a supply that is treated as a separate supply for GST purposes (including attributing GST payable to tax periods) will be treated as a separate supply for the purposes of this special condition 16;
  - 16.1.4 a reference to a supply is to a supply made under or in connection with this contract.



- 16.2 To the extent that GST is or becomes payable in respect of all or any part of a supply made by a party (**Supplier**) under or in connection with this contract:
- 16.2.1 the GST Exclusive Consideration to be provided under this contract for that supply is increased by an amount equal to the GST payable by the Supplier (excluding any excess GST);
- 16.2.2 the recipient must pay the additional amount payable under special condition 16.2.1 to the Supplier at the same time as the first part of any consideration is provided for that supply or on receipt of a valid tax invoice for the supply to which the additional amount relates, whichever is the later.
- 16.3 If the GST payable in relation to a supply made under or in connection with this contract varies from the additional amount paid by the recipient under special condition 16.2 then the Supplier will provide a corresponding refund or credit to, or will be entitled to receive the amount of that variation from, the recipient. The recipient's obligation to pay the variation only arises upon the receipt of an adjustment note.
- 16.4 Any payment or reimbursement required to be made under or in connection to this contract that is calculated by reference to a cost, expense, or other amount paid or incurred will be limited to the total cost, expense or amount less the amount of any input tax credit to which an entity is entitled for the acquisition to which the cost, expense or amount relates.

## **17. GOING CONCERN - SALE OF LAND (AND GOODS)**

- 17.1 The Vendor and Purchaser agree that (subject to special condition 17.4 below) the supply of the Land (and any Goods to be sold with the Land) under this contract is a supply of a going concern for consideration.
- 17.2 The Vendor warrants that it:
- 17.2.1 will supply to the Purchaser all the things that are necessary for the continued operation of the enterprise constituted by the Land; and
- 17.2.2 will carry on the enterprise constituted by the Land until the day of the supply.
- 17.3 The Purchaser warrants that at Settlement, it will be registered or required to be registered under the GST Act.
- 17.4 However, for the purposes of special condition 17.1, the Vendor and Purchaser agree that:
- 17.4.1 any residential premises that are situated on the Land will not form part of the sale of the Land as a supply of a going concern under special condition 17.1; and
- 17.4.2 those residential premises will be sold as an input taxed supply from the Vendor to the Purchaser.

## **18. GOING CONCERN - SALE OF ASSETS**

- 18.1 The Asset Vendor and Purchaser agree that the supply of the Assets under this contract is a supply of a going concern for consideration.
- 18.2 The Asset Vendor warrants that it:
- 18.2.1 will supply to the Purchaser all the things that are necessary for the continued operation of the enterprise constituted by the Assets; and
- 18.2.2 will carry on the enterprise constituted by the Assets until the day of the supply.
- 18.3 The Purchaser warrants that at Settlement, it will be registered or required to be registered under the GST Act.

## **19. STAMP DUTY**

- 19.1 The Purchaser must pay all stamp duty (including fines and penalties) payable on this contract, on any instruments entered into under this contract, and in respect of any transaction evidenced

by this contract (including in connection with the transfer of the Property and the Assets).

- 19.2 If the transaction contemplated by this contract is one that the Commissioner of State Revenue considers to be a complex duties online transaction, then:
- (a) the Purchaser must do all things and provide all documents to the Commissioner of State Revenue Office to enable the Commissioner of State Revenue Office to assess the stamp duty payable on this contract in time to enable Settlement to take place on the date for Settlement under this contract; and
  - (b) if the Purchaser fails to ensure the digital duties form is lodged for assessment within 7 days of the Day of Sale and as a result, Settlement takes place after the date that is the later of:
    - (A) 37 days from the Day of Sale; and
    - (B) 7 days after the date that the Vendor obtains from Land Use Victoria the physical replacement certificates of title for the titles comprising the Land (or otherwise obtains electronic control of those replacement certificates of titles),

**(Vendor Ready Settlement Date)**

the Purchaser is deemed to be in default in payment of the balance of the Price and the Vendor will be entitled to interest on that balance in accordance with this contract from the Vendor Ready Settlement Date until the Settlement Date (without prejudice to any other rights of the Vendor).
- 19.3 The Purchaser indemnifies on demand the Vendor against any claim, cost, loss or liability suffered or incurred by the Vendor in connection with the stamp duty (including fines and penalties) referred to in special condition 19.1 and any breach by the Purchaser of this special condition 16.

## 20. **COSTS**

Without limiting any other provision in this contract, the parties agree to pay their own legal costs in connection with the preparation, negotiation, execution and settlement of this contract and other related documentation, except for stamp duty. This special condition does not limit a party's right to recover costs in a claim for breach of contract.

## 21. **Applicable law**

This contract is governed by the law in force in the State of Victoria. Each party submits to the non-exclusive jurisdiction of the courts of that place.

## 22. **WINDFALL GAINS TAX**

### 22.1 **Acknowledgement**

- 22.1.1 The Vendor warrants and represents and the Purchaser acknowledges that as at the Day of Sale, no Windfall Gains Tax has been assessed in respect of the Property.
- 22.1.2 Prior to the Settlement Date, the Vendor must not pursue a rezoning of the Property.

### 22.2 **Purchaser liable**

22.2.1 The Purchaser must:

- (a) pay when due; and
- (b) indemnify and keep the Vendor indemnified against any claim, cost, loss or liability suffered or incurred by the Vendor in connection with,

any Windfall Gains Tax payable in respect of or in connection with the Property, after the Day of Sale.

**22.3 Vendor to provide notice to Purchaser**

Prior to Settlement, the Vendor must provide to the Purchaser, within 5 Business Days after receipt by the Vendor, a copy of any Windfall Gains Tax notice of assessment.

**22.4 Increases in Property Expenses**

The Purchaser is liable for, and indemnifies the Vendor against, any increases in property expenses or other outgoings payable in respect of or in connection with the Property as a result of the Purchaser procuring any rezoning of the Property, or undertaking any action that results in a liability for Windfall Gains Tax arising in respect of the Property.

**23. No assignment and no nomination**

The Purchaser must not assign or otherwise deal with its rights under this contract or allow any interest in them to arise or to be varied in each case, without the prior written consent of the Vendor. Despite any provision in this contract or at general law, the Purchaser may not nominate a substitute or additional purchaser.

**24. FIRB**

The Purchaser represents and warrants in favour of the Vendor and the Asset Vendor that the Purchaser does not require the consent or approval of the Treasurer to this contract, or the transactions contemplated by this contract (including the acquisition of the Property) under the Foreign Acquisitions and Takeovers Act 1975 (Cth). The Purchaser indemnifies each of the Vendor and the Asset Vendor for any claim, cost, loss or liability suffered or incurred by the Vendor or the Asset Vendor in connection with a breach by the Purchaser of the representation and warranty in this special condition.

**25. Entire agreement**

Without limiting special condition 3, the Purchaser acknowledges that:

- 25.1 this contract is the sole repository of the agreement between the parties;
- 25.2 except for the Vendor's Warranties and the Asset Vendor's Warranties, there are no terms, conditions, representations or warranties relating to the sale of the Property and the Assets which have been relied upon by the Purchaser in entering into this contract;
- 25.3 the Purchaser has relied solely on its own inspection and inquiries in purchasing the Property and the Assets.

**26. Announcements and disclosure**

- 26.1 The Vendor (or any related body corporate of the Vendor) may make public announcements or disclose details (including in accordance with any stock exchange requirements) relating to this contract, the parties to this contract or the transactions the subject of this contract without the prior written consent of the Purchaser.
- 26.2 Without limiting special condition 26.1, prior to making any public announcement, the Vendor agrees to provide the Purchaser with prior notice of such public announcement and a draft copy (if applicable).

**27. Replacement Certificates of Title**

- 27.1 The Purchaser acknowledges that, as at the Day of Sale, the Vendor has disclosed to the Purchaser that the Vendor is applying to, but has not yet obtained from, Land Use Victoria the

physical replacement certificates of titles for the titles comprising the Land (or otherwise obtains electronic control of those replacement certificates of title).

27.2 The Vendor must:

- 27.2.1 use reasonable endeavours to obtain those physical replacement certificates of title for the titles comprising the Land (or otherwise obtain electronic control of those replacement certificates of title) from Land Use Victoria as soon as possible after the Day of Sale; and
- 27.2.2 promptly notify the Purchaser after the Vendor has obtained from Land Use Victoria those physical replacement certificates of title for the titles comprising the Land (or otherwise obtains electronic control of those replacement of those certificates of title).

## General Conditions

### Contract signing

#### 1. ELECTRONIC SIGNATURE

- 1.1 In this general condition "electronic signature" means a digital signature or a visual representation of a person's handwritten signature or mark which is placed on a physical or electronic copy of this contract by electronic or mechanical means, and "electronically signed" has a corresponding meaning.
- 1.2 The parties consent to this contract being signed by or on behalf of a party by an electronic signature.
- 1.3 Where this contract is electronically signed by or on behalf of a party, the party warrants and agrees that the electronic signature has been used to identify the person signing and to indicate that the party intends to be bound by the electronic signature.
- 1.4 This contract may be electronically signed in any number of counterparts which together will constitute the one document.
- 1.5 Each party consents to the exchange of counterparts of this contract by delivery by email or such other electronic means as may be agreed in writing.
- 1.6 Each party must upon request promptly deliver a physical counterpart of this contract with the handwritten signature or signatures of the party and all written evidence of the authority of a person signing on their behalf, but a failure to comply with the request does not affect the validity of this contract.

#### 2. LIABILITY OF SIGNATORY

Any signatory for a proprietary limited company purchaser is personally liable for the due performance of the purchaser's obligations as if the signatory were the purchaser in the case of a default by a proprietary limited company purchaser.

#### 3. ~~GUARANTEE~~

~~The vendor may require one or more directors of the purchaser to guarantee the purchaser's performance of this contract if the purchaser is a proprietary limited company.~~

#### 4. NOMINEE

The purchaser may no later than 14 days before the due date for settlement nominate a substitute or additional person to take a transfer of the land, but the named purchaser remains personally liable for the due performance of all the purchaser's obligations under this contract.

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## Title

#### 5. ENCUMBRANCES

- 5.1 The purchaser buys the property subject to:
  - (a) any encumbrance shown in the section 32 statement other than mortgages or caveats; and
  - (b) any reservations, exceptions and conditions in the crown grant; and
  - (c) any lease or tenancy referred to in the particulars of sale.
- 5.2 The purchaser indemnifies the vendor against all obligations under any lease or tenancy that are to be performed by the landlord after settlement.

#### 6. VENDOR WARRANTIES

- 6.1 The vendor warrants that these general conditions 1 to 35 are identical to the general conditions 1 to 35 in the form of contract of sale of land published by the Law Institute of Victoria Limited and the Real Estate Institute of Victoria Ltd in the month and year set out at the foot of this page.
- 6.2 The warranties in general conditions 6.3 and 6.4 replace the purchaser's right to make requisitions and inquiries.
- 6.3 The vendor warrants that the vendor:
  - (a) has, or by the due date for settlement will have, the right to sell the land; and
  - (b) is under no legal disability; and
  - (c) is in possession of the land, either personally or through a tenant; and
  - (d) has not previously sold or granted any option to purchase, agreed to a lease or granted a pre-emptive right which is current over the land and which gives another party rights which have priority over the interest of the purchaser; and
  - (e) will at settlement be the holder of an unencumbered estate in fee simple in the land; and
  - (f) will at settlement be the unencumbered owner of any improvements, fixtures, fittings and goods sold with the land.
- 6.4 The vendor further warrants that the vendor has no knowledge of any of the following:

- (a) public rights of way over the land;
- (b) easements over the land;
- (c) lease or other possessory agreement affecting the land;
- (d) notice or order directly and currently affecting the land which will not be dealt with at settlement, other than the usual rate notices and any land tax notices;
- (e) legal proceedings which would render the sale of the land void or voidable or capable of being set aside.

6.5 The warranties in general conditions 6.3 and 6.4 are subject to any contrary provisions in this contract and disclosures in the section 32 statement.

6.6 If sections 137B and 137C of the *Building Act 1993* apply to this contract, the vendor warrants that:

- (a) all domestic building work carried out in relation to the construction by or on behalf of the vendor of the home was carried out in a proper and workmanlike manner; and
- (b) all materials used in that domestic building work were good and suitable for the purpose for which they were used and that, unless otherwise stated in the contract, those materials were new; and
- (c) domestic building work was carried out in accordance with all laws and legal requirements, including, without limiting the generality of this warranty, the *Building Act 1993* and regulations made under the *Building Act 1993*.

6.7 Words and phrases used in general condition 6.6 which are defined in the *Building Act 1993* have the same meaning in general condition 6.6.

## 7. IDENTITY OF THE LAND

7.1 An omission or mistake in the description of the property or any deficiency in the area, description or measurements of the land does not invalidate the sale.

7.2 The purchaser may not:

- (a) make any objection or claim for compensation for any alleged misdescription of the property or any deficiency in its area or measurements; or
- (b) require the vendor to amend title or pay any cost of amending title.

## 8. SERVICES

8.1 The vendor does not represent that the services are adequate for the purchaser's proposed use of the property and the vendor advises the purchaser to make appropriate inquiries. The condition of the services may change between the day of sale and settlement and the vendor does not promise that the services will be in the same condition at settlement as they were on the day of sale.

8.2 The purchaser is responsible for the connection of all services to the property after settlement and the payment of any associated cost.

## 9. CONSENTS

The vendor must obtain any necessary consent or licence required for the vendor to sell the property. The contract will be at an end and all money paid must be refunded if any necessary consent or licence is not obtained by settlement.

## 10. TRANSFER & DUTY

10.1 The purchaser must prepare and deliver to the vendor at least 7 days before the due date for settlement any paper transfer of land document which is necessary for this transaction. The delivery of the transfer of land document is not acceptance of title.

10.2 The vendor must promptly initiate the Duties on Line or other form required by the State Revenue Office in respect of this transaction, and both parties must co-operate to complete it as soon as practicable.

## 11. RELEASE OF SECURITY INTEREST

11.1 This general condition applies if any part of the property is subject to a security interest to which the *Personal Property Securities Act 2009 (Cth)* applies.

11.2 For the purposes of enabling the purchaser to search the Personal Property Securities Register for any security interests affecting any personal property for which the purchaser may be entitled to a release, statement, approval or correction in accordance with general condition 11.4, the purchaser may request the vendor to provide the vendor's date of birth to the purchaser. The vendor must comply with a request made by the purchaser under this condition if the purchaser makes the request at least 21 days before the due date for settlement.

11.3 If the purchaser is given the details of the vendor's date of birth under general condition 11.2, the purchaser must

- (a) only use the vendor's date of birth for the purposes specified in general condition 11.2; and
- (b) keep the date of birth of the vendor secure and confidential.

11.4 The vendor must ensure that at or before settlement, the purchaser receives—

- (a) a release from the secured party releasing the property from the security interest; or

- (b) a statement in writing in accordance with section 275(1)(b) of the *Personal Property Securities Act 2009 (Cth)* setting out that the amount or obligation that is secured is nil at settlement; or
  - (c) a written approval or correction in accordance with section 275(1)(c) of the *Personal Property Securities Act 2009 (Cth)* indicating that, on settlement, the personal property included in the contract is not or will not be property in which the security interest is granted.
- 11.5 Subject to general condition 11.6, the vendor is not obliged to ensure that the purchaser receives a release, statement, approval or correction in respect of personal property—
  - (a) that—
    - (i) the purchaser intends to use predominantly for personal, domestic or household purposes; and
    - (ii) has a market value of not more than \$5000 or, if a greater amount has been prescribed for the purposes of section 47(1) of the *Personal Property Securities Act 2009 (Cth)*, not more than that prescribed amount; or
  - (b) that is sold in the ordinary course of the vendor's business of selling personal property of that kind.
- 11.6 The vendor is obliged to ensure that the purchaser receives a release, statement, approval or correction in respect of personal property described in general condition 11.5 if—
  - (a) the personal property is of a kind that may or must be described by serial number in the Personal Property Securities Register; or
  - (b) the purchaser has actual or constructive knowledge that the sale constitutes a breach of the security agreement that provides for the security interest.
- 11.7 A release for the purposes of general condition 11.4(a) must be in writing.
- 11.8 A release for the purposes of general condition 11.4(a) must be effective in releasing the goods from the security interest and be in a form which allows the purchaser to take title to the goods free of that security interest.
- 11.9 If the purchaser receives a release under general condition 11.4(a) the purchaser must provide the vendor with a copy of the release at or as soon as practicable after settlement.
- 11.10 In addition to ensuring that a release is received under general condition 11.4(a), the vendor must ensure that at or before settlement the purchaser receives a written undertaking from a secured party to register a financing change statement to reflect that release if the property being released includes goods of a kind that are described by serial number in the Personal Property Securities Register.
- 11.11 The purchaser must advise the vendor of any security interest that is registered on or before the day of sale on the Personal Property Securities Register, which the purchaser reasonably requires to be released, at least 21 days before the due date for settlement.
- 11.12 The vendor may delay settlement until 21 days after the purchaser advises the vendor of the security interests that the purchaser reasonably requires to be released if the purchaser does not provide an advice under general condition 11.11.
- 11.13 If settlement is delayed under general condition 11.12 the purchaser must pay the vendor—
  - (a) interest from the due date for settlement until the date on which settlement occurs or 21 days after the vendor receives the advice, whichever is the earlier; and
  - (b) any reasonable costs incurred by the vendor as a result of the delay—
 as though the purchaser was in default.
- 11.14 The vendor is not required to ensure that the purchaser receives a release in respect of the land. This general condition 11.14 applies despite general condition 11.1.
- 11.15 Words and phrases which are defined in the *Personal Property Securities Act 2009 (Cth)* have the same meaning in general condition 11 unless the context requires otherwise.

## 12. BUILDER WARRANTY INSURANCE

The vendor warrants that the vendor will provide at settlement details of any current builder warranty insurance in the vendor's possession relating to the property if requested in writing to do so at least 21 days before settlement.

## 13. GENERAL LAW LAND

- 13.1 The vendor must complete a conversion of title in accordance with section 14 of the *Transfer of Land Act 1958* before settlement if the land is the subject of a provisional folio under section 23 of that Act.
- 13.2 The remaining provisions of this general condition 13 only apply if any part of the land is not under the operation of the *Transfer of Land Act 1958*.

- 13.3 The vendor is taken to be the holder of an unencumbered estate in fee simple in the land if there is an unbroken chain of title starting at least 30 years before the day of sale proving on the face of the documents the ownership of the entire legal and equitable estate without the aid of other evidence.
- 13.4 The purchaser is entitled to inspect the vendor's chain of title on request at such place in Victoria as the vendor nominates.
- 13.5 The purchaser is taken to have accepted the vendor's title if:
- (a) 21 days have elapsed since the day of sale; and
  - (b) the purchaser has not reasonably objected to the title or reasonably required the vendor to remedy a defect in the title.
- 13.6 The contract will be at an end if:
- (a) the vendor gives the purchaser a notice that the vendor is unable or unwilling to satisfy the purchaser's objection or requirement and that the contract will end if the objection or requirement is not withdrawn within 14 days of the giving of the notice; and
  - (b) the objection or requirement is not withdrawn in that time.
- 13.7 If the contract ends in accordance with general condition 13.6, the deposit must be returned to the purchaser and neither party has a claim against the other in damages.
- 13.8 General condition 17.1 [settlement] should be read as if the reference to 'registered proprietor' is a reference to 'owner' in respect of that part of the land which is not under the operation of the *Transfer of Land Act 1958*.

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## Money

### 14. DEPOSIT

- 14.1 The purchaser must pay the deposit:
- (a) to the vendor's licensed estate agent; or
  - (b) if there is no estate agent, to the vendor's legal practitioner or conveyancer; or
  - (c) if the vendor directs, into a special purpose account in an authorised deposit-taking institution in Victoria specified by the vendor in the joint names of the purchaser and the vendor.
- 14.2 If the land sold is a lot on an unregistered plan of subdivision, the deposit:
- (a) must not exceed 10% of the price; and
  - (b) must be paid to the vendor's estate agent, legal practitioner or conveyancer and held by the estate agent, legal practitioner or conveyancer on trust for the purchaser until the registration of the plan of subdivision.
- 14.3 The deposit must be released to the vendor if:
- (a) the vendor provides particulars, to the satisfaction of the purchaser, that either-
    - (i) there are no debts secured against the property; or
    - (ii) if there are any debts, the total amount of those debts together with any amounts to be withheld in accordance with general conditions 24 and 25 does not exceed 80% of the sale price; and
  - (b) at least 28 days have elapsed since the particulars were given to the purchaser under paragraph (a); and
  - (c) all conditions of section 27 of the *Sale of Land Act 1962* have been satisfied.
- 14.4 The stakeholder must pay the deposit and any interest to the party entitled when the deposit is released, the contract is settled, or the contract is ended.
- 14.5 The stakeholder may pay the deposit and any interest into court if it is reasonable to do so.
- 14.6 Where the purchaser is deemed by section 27(7) of the *Sale of Land Act 1962* to have given the deposit release authorisation referred to in section 27(1), the purchaser is also deemed to have accepted title in the absence of any prior express objection to title.
- 14.7 Payment of the deposit may be made or tendered:
- (a) in cash up to \$1,000 or 0.2% of the price, whichever is greater; or
  - (b) by cheque drawn on an authorised deposit-taking institution; or
  - (c) by electronic funds transfer to a recipient having the appropriate facilities for receipt.
- However, unless otherwise agreed:



- (d) payment may not be made by credit card, debit card or any other financial transfer system that allows for any chargeback or funds reversal other than for fraud or mistaken payment, and
- (e) any financial transfer or similar fees or deductions from the funds transferred, other than any fees charged by the recipient's authorised deposit-taking institution, must be paid by the remitter.

- 14.8 Payment by electronic funds transfer is made when cleared funds are received in the recipient's bank account.
- 14.9 Before the funds are electronically transferred the intended recipient must be notified in writing and given sufficient particulars to readily identify the relevant transaction.
- 14.10 As soon as the funds have been electronically transferred the intended recipient must be provided with the relevant transaction number or reference details.
- 14.11 For the purpose of this general condition 'authorised deposit-taking institution' means a body corporate for which an authority under section 9(3) of the *Banking Act 1959 (Cth)* is in force.

## 15. DEPOSIT BOND

- 15.1 This general condition only applies if the applicable box in the particulars of sale is checked.
- 15.2 In this general condition "deposit bond" means an irrevocable undertaking to pay on demand an amount equal to the deposit or any unpaid part of the deposit. The issuer and the form of the deposit bond must be satisfactory to the vendor. The deposit bond must have an expiry date at least 45 days after the due date for settlement.
- 15.3 The purchaser may deliver a deposit bond to the vendor's estate agent, legal practitioner or conveyancer within 7 days after the day of sale.
- 15.4 The purchaser may at least 45 days before a current deposit bond expires deliver a replacement deposit bond on the same terms and conditions.
- 15.5 Where a deposit bond is delivered, the purchaser must pay the deposit to the vendor's legal practitioner or conveyancer on the first to occur of:
  - (a) settlement;
  - (b) the date that is 45 days before the deposit bond or any replacement deposit bond expires;
  - (c) the date on which this contract ends in accordance with general condition 35.2 [default not remedied] following breach by the purchaser; and
  - (d) the date on which the vendor ends this contract by accepting repudiation of it by the purchaser.
- 15.6 The vendor may claim on the deposit bond without prior notice if the purchaser defaults under this contract or repudiates this contract and the contract is ended. The amount paid by the issuer satisfies the obligations of the purchaser under general condition 15.5 to the extent of the payment.
- 15.7 Nothing in this general condition limits the rights of the vendor if the purchaser defaults under this contract or repudiates this contract, except as provided in general condition 15.6.
- 15.8 This general condition is subject to general condition 14.2 [deposit].

## 16. BANK GUARANTEE

- 16.1 This general condition only applies if the applicable box in the particulars of sale is checked.
- 16.2 In this general condition:
  - (a) "bank guarantee" means an unconditional and irrevocable guarantee or undertaking by a bank in a form satisfactory to the vendor to pay on demand any amount under this contract agreed in writing, and
  - (b) "bank" means an authorised deposit-taking institution under the *Banking Act 1959 (Cth)*.
- 16.3 The purchaser may deliver a bank guarantee to the vendor's legal practitioner or conveyancer.
- 16.4 The purchaser must pay the amount secured by the bank guarantee to the vendor's legal practitioner or conveyancer on the first to occur of:
  - (a) settlement;
  - (b) the date that is 45 days before the bank guarantee expires;
  - (c) the date on which this contract ends in accordance with general condition 35.2 [default not remedied] following breach by the purchaser; and
  - (d) the date on which the vendor ends this contract by accepting repudiation of it by the purchaser.
- 16.5 The vendor must return the bank guarantee document to the purchaser when the purchaser pays the amount secured by the bank guarantee in accordance with general condition 16.4.

- 16.6 The vendor may claim on the bank guarantee without prior notice if the purchaser defaults under this contract or repudiates this contract and the contract is ended. The amount paid by the bank satisfies the obligations of the purchaser under general condition 16.4 to the extent of the payment.
- 16.7 Nothing in this general condition limits the rights of the vendor if the purchaser defaults under this contract or repudiates this contract except as provided in general condition 16.6.
- 16.8 This general condition is subject to general condition 14.2 [deposit].

## 17. SETTLEMENT

- 17.1 At settlement:
  - (a) the purchaser must pay the balance; and
  - (b) the vendor must:
    - (i) do all things necessary to enable the purchaser to become the registered proprietor of the land; and
    - (ii) give either vacant possession or receipt of rents and profits in accordance with the particulars of sale.
- 17.2 Settlement must be conducted between the hours of 10.00 am and 4.00 pm unless the parties agree otherwise.
- 17.3 The purchaser must pay all money other than the deposit in accordance with a written direction of the vendor or the vendor's legal practitioner or conveyancer.

## 18. ELECTRONIC SETTLEMENT

- 18.1 Settlement and lodgement of the instruments necessary to record the purchaser as registered proprietor of the land will be conducted electronically in accordance with the Electronic Conveyancing National Law. This general condition 18 has priority over any other provision of this contract to the extent of any inconsistency.
- 18.2 A party must immediately give written notice if that party reasonably believes that settlement and lodgement can no longer be conducted electronically. General condition 18 ceases to apply from when such a notice is given.
- 18.3 Each party must:
  - (a) be, or engage a representative who is, a subscriber for the purposes of the Electronic Conveyancing National Law,
  - (b) ensure that all other persons for whom that party is responsible and who are associated with this transaction are, or engage, a subscriber for the purposes of the Electronic Conveyancing National Law, and
  - (c) conduct the transaction in accordance with the Electronic Conveyancing National Law.
- 18.4 The vendor must open the electronic workspace ("workspace") as soon as reasonably practicable and nominate a date and time for settlement. The inclusion of a specific date and time for settlement in a workspace is not of itself a promise to settle on that date or at that time. The workspace is an electronic address for the service of notices and for written communications for the purposes of any electronic transactions legislation.
- 18.5 This general condition 18.5 applies if there is more than one electronic lodgement network operator in respect of the transaction. In this general condition 18.5 "the transaction" means this sale and purchase and any associated transaction involving any of the same subscribers.  
  
To the extent that any interoperability rules governing the relationship between electronic lodgement network operators do not provide otherwise:
  - (a) the electronic lodgement network operator to conduct all the financial and lodgement aspects of the transaction after the workspace locks must be one which is willing and able to conduct such aspects of the transaction in accordance with the instructions of all the subscribers in the workspaces of all the electronic lodgement network operators after the workspace locks;
  - (b) if two or more electronic lodgement network operators meet that description, one may be selected by purchaser's incoming mortgagee having the highest priority but if there is no mortgagee of the purchaser, the vendor must make the selection.
- 18.6 Settlement occurs when the workspace records that:
  - (a) there has been an exchange of funds or value between the exchange settlement account or accounts in the Reserve Bank of Australia of the relevant financial institutions or their financial settlement agents in accordance with the instructions of the parties; or
  - (b) if there is no exchange of funds or value, the documents necessary to enable the purchaser to become registered proprietor of the land have been accepted for electronic lodgement.
- 18.7 The parties must do everything reasonably necessary to effect settlement:
  - (a) electronically on the next business day, or
  - (b) at the option of either party, otherwise than electronically as soon as possible –

if, after the locking of the workspace at the nominated settlement time, settlement in accordance with general condition 18.6 has not occurred by 4.00 pm, or 6.00 pm if the nominated time for settlement is after 4.00 pm.
- 18.8 Each party must do everything reasonably necessary to assist the other party to trace and identify the recipient of any missing or mistaken payment and to recover the missing or mistaken payment.

18.9 The vendor must before settlement:

- (a) deliver any keys, security devices and codes ("keys") to the estate agent named in the contract,
- (b) direct the estate agent to give the keys to the purchaser or the purchaser's nominee on notification of settlement by the vendor, the vendor's subscriber or the electronic lodgement network operator;
- (c) deliver all other physical documents and items (other than the goods sold by the contract) to which the purchaser is entitled at settlement, and any keys if not delivered to the estate agent, to the vendor's subscriber or, if there is no vendor's subscriber, confirm in writing to the purchaser that the vendor holds those documents, items and keys at the vendor's address set out in the contract, and

give, or direct its subscriber to give, all those documents and items and any such keys to the purchaser or the purchaser's nominee on notification by the electronic lodgement network operator of settlement.

## 19. GST

19.1 The purchaser does not have to pay the vendor any amount in respect of GST in addition to the price if the particulars of sale specify that the price includes GST (if any).

19.2 The purchaser must pay to the vendor any GST payable by the vendor in respect of a taxable supply made under this contract in addition to the price if:

- (a) the particulars of sale specify that GST (if any) must be paid in addition to the price; or
- (b) GST is payable solely as a result of any action taken or intended to be taken by the purchaser after the day of sale, including a change of use; or
- (c) the particulars of sale specify that the supply made under this contract is of land on which a 'farming business' is carried on and the supply (or part of it) does not satisfy the requirements of section 38-480 of the GST Act; or
- (d) the particulars of sale specify that the supply made under this contract is of a going concern and the supply (or a part of it) does not satisfy the requirements of section 38-325 of the GST Act.

19.3 The purchaser is not obliged to pay any GST under this contract until a tax invoice has been given to the purchaser.

19.4 If the particulars of sale specify that the supply made under this contract is of land on which a 'farming business' is carried on:

- (a) the vendor warrants that the property is land on which a farming business has been carried on for the period of 5 years preceding the date of supply; and
- (b) the purchaser warrants that the purchaser intends that a farming business will be carried on after settlement on the property.

19.5 If the particulars of sale specify that the supply made under this contract is a 'going concern':

- (a) the parties agree that this contract is for the supply of a going concern; and
- (b) the purchaser warrants that the purchaser is, or prior to settlement will be, registered for GST; and
- (c) the vendor warrants that the vendor will carry on the going concern until the date of supply.

19.6 If the particulars of sale specify that the supply made under this contract is a 'margin scheme' supply, the parties agree that the margin scheme applies to this contract.

19.7 In this general condition:

- (a) 'GST Act' means *A New Tax System (Goods and Services Tax) Act 1999 (Cth)*; and
- (b) 'GST' includes penalties and interest.

## 20. LOAN

20.1 If the particulars of sale specify that this contract is subject to a loan being approved, this contract is subject to the lender approving the loan on the security of the property by the approval date or any later date allowed by the vendor.

20.2 The purchaser may end the contract if the loan is not approved by the approval date, but only if the purchaser:

- (a) immediately applied for the loan; and
- (b) did everything reasonably required to obtain approval of the loan; and
- (c) serves written notice ending the contract, together with written evidence of rejection or non-approval of the loan, on the vendor within 2 clear business days after the approval date or any later date allowed by the vendor; and
- (d) is not in default under any other condition of this contract when the notice is given.

20.3 All money must be immediately refunded to the purchaser if the contract is ended.

## 21. BUILDING REPORT

21.1 This general condition only applies if the applicable box in the particulars of sale is checked.

21.2 The purchaser may end this contract within 14 days from the day of sale if the purchaser:

- (a) obtains a written report from a registered building practitioner or architect which discloses a current defect in a structure on the land and designates it as a major building defect;

- (b) gives the vendor a copy of the report and a written notice ending this contract; and
- (c) is not then in default.

21.3 All money paid must be immediately refunded to the purchaser if the contract ends in accordance with this general condition.

21.4 A notice under this general condition may be served on the vendor's legal practitioner, conveyancer or estate agent even if the estate agent's authority has formally expired at the time of service.

21.5 The registered building practitioner may inspect the property at any reasonable time for the purpose of preparing the report.

## **22. PEST REPORT**

22.1 This general condition only applies if the applicable box in the particulars of sale is checked.

22.2 The purchaser may end this contract within 14 days from the day of sale if the purchaser:

- (a) obtains a written report from a pest control operator licensed under Victorian law which discloses a current pest infestation on the land and designates it as a major infestation affecting the structure of a building on the land;
- (b) gives the vendor a copy of the report and a written notice ending this contract; and
- (c) is not then in default.

22.3 All money paid must be immediately refunded to the purchaser if the contract ends in accordance with this general condition.

22.4 A notice under this general condition may be served on the vendor's legal practitioner, conveyancer or estate agent even if the estate agent's authority has formally expired at the time of service.

22.5 The pest control operator may inspect the property at any reasonable time for the purpose of preparing the report.

## **23. ADJUSTMENTS**

23.1 All periodic outgoings payable by the vendor, and any rent and other income received in respect of the property must be apportioned between the parties on the settlement date and any adjustments paid and received as appropriate.

23.2 The periodic outgoings and rent and other income must be apportioned on the following basis:

- (a) the vendor is liable for the periodic outgoings and entitled to the rent and other income up to and including the day of settlement; and
- (b) the land is treated as the only land of which the vendor is owner (as defined in the *Land Tax Act 2005*); and
- (c) the vendor is taken to own the land as a resident Australian beneficial owner; and
- (d) any personal statutory benefit available to each party is disregarded in calculating apportionment.

23.3 The purchaser must provide copies of all certificates and other information used to calculate the adjustments under general condition 23, if requested by the vendor.

## **24. FOREIGN RESIDENT CAPITAL GAINS WITHHOLDING**

24.1 Words defined or used in Subdivision 14-D of Schedule 1 to the *Taxation Administration Act 1953 (Cth)* have the same meaning in this general condition unless the context requires otherwise.

24.2 Every vendor under this contract is a foreign resident for the purposes of this general condition unless the vendor gives the purchaser a clearance certificate issued by the Commissioner under section 14-220 (1) of Schedule 1 to the *Taxation Administration Act 1953 (Cth)*. The specified period in the clearance certificate must include the actual date of settlement.

24.3 The remaining provisions of this general condition 24 only apply if the purchaser is required to pay the Commissioner an amount in accordance with section 14-200(3) or section 14-235 of Schedule 1 to the *Taxation Administration Act 1953 (Cth)* ("the amount") because one or more of the vendors is a foreign resident, the property has or will have a market value not less than the amount set out in section 14-215 of the legislation just after the transaction, and the transaction is not excluded under section 14-215(1) of the legislation.

24.4 The amount is to be deducted from the vendor's entitlement to the contract consideration. The vendor must pay to the purchaser at settlement such part of the amount as is represented by non-monetary consideration.

24.5 The purchaser must:

- (a) engage a legal practitioner or conveyancer ("representative") to conduct all the legal aspects of settlement, including the performance of the purchaser's obligations under the legislation and this general condition; and
- (b) ensure that the representative does so.

24.6 The terms of the representative's engagement are taken to include instructions to have regard to the vendor's interests and instructions that the representative must:

- (a) pay, or ensure payment of, the amount to the Commissioner in the manner required by the Commissioner and as soon as reasonably and practicably possible, from moneys under the control or direction of the representative in accordance with this general condition if the sale of the property settles;
- (b) promptly provide the vendor with proof of payment; and
- (c) otherwise comply, or ensure compliance, with this general condition;

despite:

- (d) any contrary instructions, other than from both the purchaser and the vendor; and
- (e) any other provision in this contract to the contrary.

24.7 The representative is taken to have complied with the requirements of general condition 24.6 if:

- (a) the settlement is conducted through an electronic lodgement network; and
- (b) the amount is included in the settlement statement requiring payment to the Commissioner in respect of this transaction.

24.8 Any clearance certificate or document evidencing variation of the amount in accordance with section 14-235(2) of Schedule 1 to the *Taxation Administration Act 1953 (Cth)* must be given to the purchaser at least 5 business days before the due date for settlement.

24.9 The vendor must provide the purchaser with such information as the purchaser requires to comply with the purchaser's obligation to pay the amount in accordance with section 14-200 of Schedule 1 to the *Taxation Administration Act 1953 (Cth)*. The information must be provided within 5 business days of request by the purchaser. The vendor warrants that the information the vendor provides is true and correct.

24.10 The purchaser is responsible for any penalties or interest payable to the Commissioner on account of late payment of the amount.

## 25. GST WITHHOLDING

25.1 Words and expressions defined or used in Subdivision 14-E of Schedule 1 to the *Taxation Administration Act 1953 (Cth)* or in *A New Tax System (Goods and Services Tax) Act 1999 (Cth)* have the same meaning in this general condition unless the context requires otherwise. Words and expressions first used in this general condition and shown in italics and marked with an asterisk are defined or described in at least one of those Acts.

25.2 The purchaser must notify the vendor in writing of the name of the recipient of the \*supply for the purposes of section 14-255 of Schedule 1 to the *Taxation Administration Act 1953 (Cth)* at least 21 days before the due date for settlement unless the recipient is the purchaser named in the contract.

25.3 The vendor must at least 14 days before the due date for settlement provide the purchaser and any person nominated by the purchaser under general condition 4 with a GST withholding notice in accordance with section 14-255 of Schedule 1 to the *Taxation Administration Act 1953 (Cth)*, and must provide all information required by the purchaser or any person so nominated to confirm the accuracy of the notice.

25.4 The remaining provisions of this general condition 25 apply if the purchaser is or may be required to pay the Commissioner an \*amount in accordance with section 14-250 of Schedule 1 to the *Taxation Administration Act 1953 (Cth)* because the property is \*new residential premises or \*potential residential land in either case falling within the parameters of that section, and also if the sale attracts the operation of section 14-255 of the legislation. Nothing in this general condition 25 is to be taken as relieving the vendor from compliance with section 14-255.

25.5 The amount is to be deducted from the vendor's entitlement to the contract \*consideration and is then taken to be paid to the vendor, whether or not the vendor provides the purchaser with a GST withholding notice in accordance with section 14-255 of Schedule 1 to the *Taxation Administration Act 1953 (Cth)*. The vendor must pay to the purchaser at settlement such part of the amount as is represented by non-monetary consideration.

25.6 The purchaser must:

- (a) engage a legal practitioner or conveyancer ("representative") to conduct all the legal aspects of settlement, including the performance of the purchaser's obligations under the legislation and this general condition; and
- (b) ensure that the representative does so.

25.7 The terms of the representative's engagement are taken to include instructions to have regard to the vendor's interests relating to the payment of the amount to the Commissioner and instructions that the representative must:

- (a) pay, or ensure payment of, the amount to the Commissioner in the manner required by the Commissioner and as soon as reasonably and practicably possible, from moneys under the control or direction of the representative in accordance with this general condition on settlement of the sale of the property;
- (b) promptly provide the vendor with evidence of payment, including any notification or other document provided by the purchaser to the Commissioner relating to payment; and
- (c) otherwise comply, or ensure compliance, with this general condition;

despite:

- (d) any contrary instructions, other than from both the purchaser and the vendor; and
- (e) any other provision in this contract to the contrary.

25.8 The representative is taken to have complied with the requirements of general condition 25.7 if:

- (a) settlement is conducted through an electronic lodgement network; and
- (b) the amount is included in the settlement statement requiring payment to the Commissioner in respect of this transaction.

25.9 The purchaser may at settlement give the vendor a bank cheque for the amount in accordance with section 16-30 (3) of Schedule 1 to the *Taxation Administration Act 1953 (Cth)*, but only if:

- (a) so agreed by the vendor in writing; and
- (b) the settlement is not conducted through an electronic lodgement network.

However, if the purchaser gives the bank cheque in accordance with this general condition 25.9, the vendor must:

- (c) immediately after settlement provide the bank cheque to the Commissioner to pay the amount in relation to the supply; and
- (d) give the purchaser a receipt for the bank cheque which identifies the transaction and includes particulars of the bank cheque, at the same time the purchaser gives the vendor the bank cheque.

25.10 A party must provide the other party with such information as the other party requires to:

- (a) decide if an amount is required to be paid or the quantum of it, or
- (b) comply with the purchaser's obligation to pay the amount,

in accordance with section 14-250 of Schedule 1 to the *Taxation Administration Act 1953 (Cth)*. The information must be provided within 5 business days of a written request. The party providing the information warrants that it is true and correct.

25.11 The vendor warrants that:

- (a) at settlement, the property is not new residential premises or potential residential land in either case falling within the parameters of section 14-250 of Schedule 1 to the *Taxation Administration Act 1953 (Cth)* if the vendor gives the purchaser a written notice under section 14-255 to the effect that the purchaser will not be required to make a payment under section 14-250 in respect of the supply, or fails to give a written notice as required by and within the time specified in section 14-255; and
- (b) the amount described in a written notice given by the vendor to the purchaser under section 14-255 of Schedule 1 to the *Taxation Administration Act 1953 (Cth)* is the correct amount required to be paid under section 14-250 of the legislation.

25.12 The purchaser is responsible for any penalties or interest payable to the Commissioner on account of non-payment or late payment of the amount, except to the extent that:

- (a) the penalties or interest arise from any failure on the part of the vendor, including breach of a warranty in general condition 25.11; or
- (b) the purchaser has a reasonable belief that the property is neither new residential premises nor potential residential land requiring the purchaser to pay an amount to the Commissioner in accordance with section 14-250 (1) of Schedule 1 to the *Taxation Administration Act 1953 (Cth)*.

The vendor is responsible for any penalties or interest payable to the Commissioner on account of non-payment or late payment of the amount if either exception applies.

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## Transactional

### 26. TIME & CO OPERATION

- 26.1 Time is of the essence of this contract.
- 26.2 Time is extended until the next business day if the time for performing any action falls on a day which is not a business day.
- 26.3 Each party must do all things reasonably necessary to enable this contract to proceed to settlement, and must act in a prompt and efficient manner.
- 26.4 Any unfulfilled obligation will not merge on settlement.

### 27. SERVICE

- 27.1 Any document required to be served by or on any party may be served by or on the legal practitioner or conveyancer for that party.
- 27.2 A cooling off notice under section 31 of the *Sale of Land Act 1962* or a notice under general condition 20 [loan approval], 21 [building report] or 22 [pest report] may be served on the vendor's legal practitioner, conveyancer or estate agent even if the estate agent's authority has formally expired at the time of service.
- 27.3 A document is sufficiently served:
  - (a) personally, or
  - (b) by pre-paid post, or
  - (c) in any manner authorized by law or by the Supreme Court for service of documents, including any manner authorised for service on or by a legal practitioner, whether or not the person serving or receiving the document is a legal practitioner, or
  - (d) by email.

27.4 Any document properly sent by:

- (a) express post is taken to have been served on the next business day after posting, unless proved otherwise;
- (b) priority post is taken to have been served on the fourth business day after posting, unless proved otherwise;
- (c) regular post is taken to have been served on the sixth business day after posting, unless proved otherwise;
- (d) email is taken to have been served at the time of receipt within the meaning of section 13A of the *Electronic Transactions (Victoria) Act 2000*.

27.5 In this contract 'document' includes 'demand' and 'notice', 'serve' includes 'give', and 'served' and 'service' have corresponding meanings.

## 28. NOTICES

28.1 The vendor is responsible for any notice, order, demand or levy imposing liability on the property that is issued or made before the day of sale, and does not relate to periodic outgoings.

28.2 The purchaser is responsible for any notice, order, demand or levy imposing liability on the property that is issued or made on or after the day of sale, and does not relate to periodic outgoings.

28.3 The purchaser may enter the property to comply with that responsibility where action is required before settlement.

## 29. INSPECTION

The purchaser and/or another person authorised by the purchaser may inspect the property at any reasonable time during the 7 days preceding and including the settlement day.

## 30. TERMS CONTRACT

30.1 If this is a 'terms contract' as defined in the *Sale of Land Act 1962*:

- (a) any mortgage affecting the land sold must be discharged as to that land before the purchaser becomes entitled to possession or to the receipt of rents and profits unless the vendor satisfies section 29M of the *Sale of Land Act 1962*; and
- (b) the deposit and all other money payable under the contract (other than any money payable in excess of the amount required to so discharge the mortgage) must be paid to a legal practitioner or conveyancer or a licensed estate agent to be applied in or towards discharging the mortgage.

30.2 While any money remains owing each of the following applies:

- (a) the purchaser must maintain full damage and destruction insurance of the property and public risk insurance noting all parties having an insurable interest with an insurer approved in writing by the vendor;
- (b) the purchaser must deliver copies of the signed insurance application forms, the policies and the insurance receipts to the vendor not less than 10 days before taking possession of the property or becoming entitled to receipt of the rents and profits;
- (c) the purchaser must deliver copies of any amendments to the policies and the insurance receipts on each amendment or renewal as evidence of the status of the policies from time to time;
- (d) the vendor may pay any renewal premiums or take out the insurance if the purchaser fails to meet these obligations;
- (e) insurance costs paid by the vendor under paragraph (d) must be refunded by the purchaser on demand without affecting the vendor's other rights under this contract;
- (f) the purchaser must maintain and operate the property in good repair (fair wear and tear excepted) and keep the property safe, lawful, structurally sound, weatherproof and free from contaminations and dangerous substances;
- (g) the property must not be altered in any way without the written consent of the vendor which must not be unreasonably refused or delayed;
- (h) the purchaser must observe all obligations that affect owners or occupiers of land;
- (i) the vendor and/or other person authorised by the vendor may enter the property at any reasonable time to inspect it on giving 7 days written notice, but not more than twice in a year.

## 31. LOSS OR DAMAGE BEFORE SETTLEMENT

31.1 The vendor carries the risk of loss or damage to the property until settlement.

31.2 The vendor must deliver the property to the purchaser at settlement in the same condition it was in on the day of sale, except for fair wear and tear.

31.3 The purchaser must not delay settlement because one or more of the goods is not in the condition required by general condition 31.2, but may claim compensation from the vendor after settlement.

31.4 The purchaser may nominate an amount not exceeding \$5,000 to be held by a stakeholder to be appointed by the parties if the property is not in the condition required by general condition 31.2 at settlement.

31.5 The nominated amount may be deducted from the amount due to the vendor at settlement and paid to the stakeholder, but only if the purchaser also pays an amount equal to the nominated amount to the stakeholder.

- 31.6 The stakeholder must pay the amounts referred to in general condition 31.5 in accordance with the determination of the dispute, including any order for payment of the costs of the resolution of the dispute.

### 32. BREACH

A party who breaches this contract must pay to the other party on demand:

- (a) compensation for any reasonably foreseeable loss to the other party resulting from the breach; and
- (b) any interest due under this contract as a result of the breach.

## Default

### 33. INTEREST

Interest at a rate of 2% per annum plus the rate for the time being fixed by section 2 of the *Penalty Interest Rates Act 1983* is payable at settlement on any money owing under the contract during the period of default, without affecting any other rights of the offended party.

### 34. DEFAULT NOTICE

34.1 A party is not entitled to exercise any rights arising from the other party's default, other than the right to receive interest and the right to sue for money owing, until the other party is given and fails to comply with a written default notice.

34.2 The default notice must:

- (a) specify the particulars of the default; and
- (b) state that it is the offended party's intention to exercise the rights arising from the default unless, within 14 days of the notice being given -
  - (i) the default is remedied; and
  - (ii) the reasonable costs incurred as a result of the default and any interest payable are paid.

### 35. DEFAULT NOT REMEDIED

35.1 All unpaid money under the contract becomes immediately payable to the vendor if the default has been made by the purchaser and is not remedied and the costs and interest are not paid.

35.2 The contract immediately ends if:

- (a) the default notice also states that unless the default is remedied and the reasonable costs and interest are paid, the contract will be ended in accordance with this general condition; and
- (b) the default is not remedied and the reasonable costs and interest are not paid by the end of the period of the default notice.

35.3 If the contract ends by a default notice given by the purchaser:

- (a) the purchaser must be repaid any money paid under the contract and be paid any interest and reasonable costs payable under the contract; and
- (b) all those amounts are a charge on the land until payment; and
- (c) the purchaser may also recover any loss otherwise recoverable.

35.4 If the contract ends by a default notice given by the vendor:

- (a) the deposit up to 10% of the price is forfeited to the vendor as the vendor's absolute property, whether the deposit has been paid or not; and
- (b) the vendor is entitled to possession of the property; and
- (c) in addition to any other remedy, the vendor may within one year of the contract ending either:
  - (i) retain the property and sue for damages for breach of contract; or
  - (ii) resell the property in any manner and recover any deficiency in the price on the resale and any resulting expenses by way of liquidated damages; and
- (d) the vendor may retain any part of the price paid until the vendor's damages have been determined and may apply that money towards those damages; and
- (e) any determination of the vendor's damages must take into account the amount forfeited to the vendor.

35.5 The ending of the contract does not affect the rights of the offended party as a consequence of the default.



# Schedule 1

## Assets

Vehicles	VIN/CHASSIS NO.
<b>Description</b>	
Navara 1DI5EB	VSKCVND40A0559330
Navara 1DI5EC	VSKCVND40A0561591
Navara 1DI5ED	VSKCVND40A0559879
Navara 1AF9XF	MNTVCUD40A0027494
Qashqai 1DI5EI	SJNFDAJ11A1137931
Qashqai 1DQ8SO	SJNFDAJ11A1227572
Mazda 3 (Unregistered)	JMOBL1OF100146684
Holden Combo C Van (Unregistered)	WOLOXCF2584308721
Navara Tray ute (Unregistered)	MNTAJUD22A0610589
Ford Transit LT Tray (Unregistered)	WFOAXXBDVAXP67610

Tractors	
<b>Description</b>	
Iseki Tractor 60hp with Forks	TG5570000222
John Deere Tractor 120hp	L06520F466423
Massy Ferguson Tractor 100hp (enclosed cab)	Serial No-1288665 VIN-E301022
Red Tractor (open cab) Massey Ferguson 353	TL22DT/V(MF353-4)
Red Tractor (older) Orchard tractor	DGM 32740 MA OM

Other Plant & Equipment	
<b>Description</b>	
RTV-Kawasaki Mule(B&PT)	JKAACE14JB501849
RTV-JohnDeere Gator(WSV)	1M0855DSVGM110780
RTV-Polaris Ranger(WSV)	4XATH90D4C2256476
Kubota RTV900(Replaced by Polaris Ranger)	A5KB1FDACCGOD3820
Quad Bike - Blue (Yamaha)	JY44SHWO13C110106
Horse Float (Plain White-Unregistered)	LZDKA18B1B1000254 Reg-U35 688
Horse Float (Blue Stripe)	6T9T27V9750104013 Reg-Q91 351
Horse Float(orange/blue)	6T9T27V9740104009 Reg-V94902

Cool Room - (Towable 6x4 trailer)	6T9T20V976001X101 Reg-D12 084
Land Cruiser Ute (Unregistered)	JT731PJ7508531447

2014 Nissan Navara - 173900km



2014 Nissan Navara - 118650km



2014 Nissan Qashqai - Joyce's car. (No photo available)

2014 Nissan Qashqai - 208139km



2014 Nissan Navara - 122790km



2014 Nissan Navara - 221880km



**Tractors (5)**



**Kubota, Kawasaki RTV (4)**







**Ride-on mowers (4, two are currently off farm being serviced)**



**Quad bikes (2)**





**Paddock slasher (3)**



**Tip trailers (3, one hitched to tractor)**





**Sun be Stud machinery (2)**

**Water furphy**



**Paddock spray unit**



**Paddock seeder**



**Silo & auger**



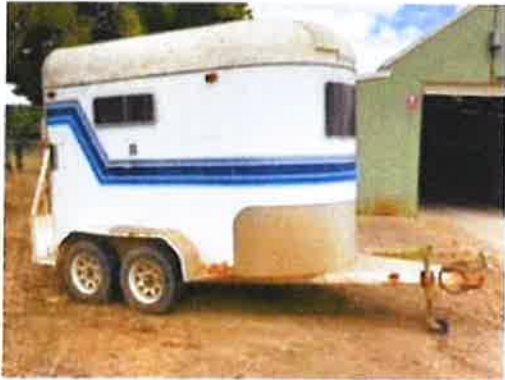
**Paddock super spreader**



**Horse float (2)**







Unleaded & diesel bowser



## Tools and Equipment

1 horse treadmill

Horse float (3rd)

Paddock seeder - small (2nd)

Hand mower

3 chain saws

2 air compressor

1 generator

3 welders

2 whipper snippers

1 pressure washer

1 towable cool room

1 sand grader Office count as per below:

**SUN STUD  
OFFICE**

- Printers x 4
- Cabinet x 17
- Desks x 10
- Office chairs x 17
- Computer screens x 10
- Front Desk x 1
- Wooden cabinet x 10
- Couch x 7
- Wooden chairs x 14
- Dining Table x 1
- Glass cabinet x 4
- Stools x 3
- Microwave x 1
- Coffee machine x 1
- Fridge x 1
- Bar Fridge x 1
- Washing Machine x 1
- Dryer x 1
- Tables x 4
- White Board x 2
- Scanner/print (Large commercial) x 1 (leased)
- Eft Machine x 1
- 5 x desktop computers
- Security system

- Laptop x 1
- Laminator x 1
- Split System Air Conditioner x 1
- Shredder x 1
- TV x 1

**SUN STUD  
Tools and Sundries**

- Workshop Area:**
- Cordless drill x 1
  - Cordless angle grinder x 1
  - Cordless impact driver x 2
  - Cordless saw x 1
  - Cordless blower x 1
  - Cordless battery charger x 1
  - Tape measure x 2
  - Handsaws x 2
  - Hack saws x2
  - Drill sets x 2
  - Individual drills – multiple
  - Spanners – multiple
  - Screw drivers – multiple
  - Allen key sets x 2
  - Multi grips x 2
  - Pliers x 3

- Tin snips x 1
- String lines x 2
- Hammers x 3
- Building square x2
- Bolt cutters x 2
- Boxes of screws & nails – multiple
- Pop rivet guns x 2
- Spirit level x 2
- Cable ties x 3 packets
- Socket sets x 3
- Spanner set x1
- Rattle gun x1
- Various oils & lubricant
- Crowbar x 1
- Jimmy bar x 1
- Ladders x 3
- Drill bench x 1

**Workshop:**

- Ladders x 4
- Heavy tow chains x 2
- Brooms x 2
- Post drivers x 2
- Drill bench x 1
- Electric saw x 1
- Electric drill x 1
- Electric grinder x 1

- Various other hand tools
- Various paints and brushes
- Miscellaneous fittings
- Battery jumper cords x 2
- Diesel containers x 3
- Petrol containers x 2
- Small fuel containers – multiple
- Trolley jacks x 3
- Stands x 3
- Tie down straps – various
- Electric cords – various

**Gardening:**

- Iron rake x 1
- Red rake x 7
- Leaf rake x 2
- Shovels / spades x 7
- Trenching shovel x1
- Post hole digger x 1
- Wood splitter x 1
- Various chemicals
- Whipper snipper with pole saw & hedging attachments x 1
- Mattic x 1
- Hand mower x 1

**Fencing:**

- fence strainers x2
- Gate fittings (new and used) multiple

Electric fence parts (new and used) multiple

Wire fasteners x 2 boxes

Wire applicator x 1

Staples – various

Bugle screws – various

Posts (new and used) multiple

Wire rollers – multiple

Gates (new and used) – multiple

### **Plumbing:**

Pipe fittings (new and used) multiple

Trough parts (new and used) multiple

Tap (new and used)

Poly pipe (new and used) multiple

Solvents

**Description**

**Condition**

Halters 25 , Leads 4 ,

Fair / Good



Leads 5 , Racing Ring Bits 5

Fair/Good



Ring Bits 20 ,Brass 5

Fair



## Saddles

9 Pads                      Poor/Fair/Good

2 Stock Saddles        Very Good



Stirrup Irons and Leathers      Fair/Good





Girths 18

Good



Stretch Girth 13

Fair/Good

Surcingle 8

Fair/Good



Bridles Various 30

Fair /20% Poor



Bits 16

Good



Eqimassage 3

Fair/Good



Saddle Blanket 7

Fair/Good





Boots – Various

Fair



Bits 11

Very Good



Fly Veils 8

Fair

Muzzle 1

Good



Assorted Light Rugs 100      30% Good 30% Fair 40% Poor

Rugs on Yearlings 30      Good



Assorted Light Rugs



Leather Sales Leads 7      V Good

Leather Sale Halters 11      V Good

Brass Bits 6      V Good



Leather Sales Yearling Halters 8 V Good



Leather Sales Foal Halters 14      Good

Leather Sales Leads 7              Good



Sales Plastic Containers 3



Heavy Yearling Rugs 25/30      Fair/Good



Bags Heavy Rugs 5



#### MARE BARN

5 Rearing Bits	Fair
20 Halters 7 Plastic	Fair/Good
4 Leads	Good



Neckstraps 100

Good



Mare Heavy rugs 15

Fair/Good





Foals Rugs 10 Fair / Good



Foal Rugs



Helmets 4      Good

Twich 4      Good

Stallion Roller 1 Good



Leads 4

Rearing Bits 2



Serving Boots 2 sets Fair/Good



Stallion Rugs -10

Good



Stallion Shanks 4

Fair/Good



Stallion Rugs



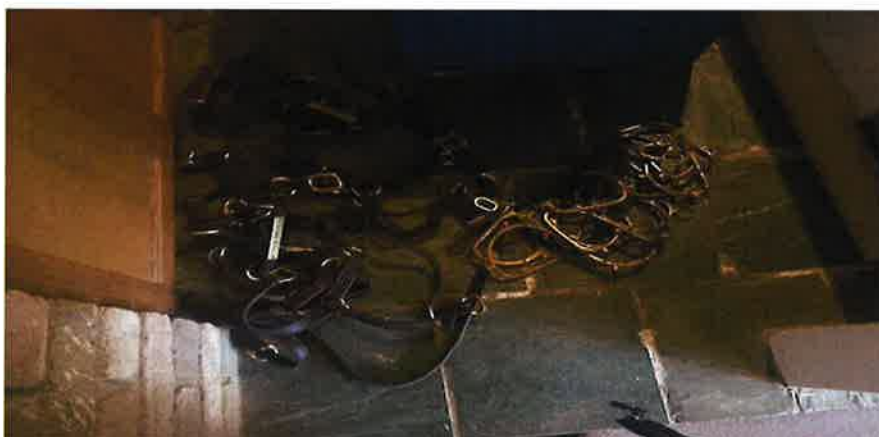


Serving Boots Good



Leather Sales Halters 6 Good

14 Brass Bits Good



Leather Sales Halters 20

Good



Leather Sales Leads 6

Good



Sales Bits 8 – 5 Brass

