

**16SPRUHAN PTY LTD ACN 623 121 988 AS TRUSTEE FOR THE SCM
PROPERTY UNIT TRUST**

CONTRACT OF SALE OF REAL ESTATE

Property: 16 Spruhan Avenue, Norlane VIC 3214

PARTNERS LEGAL
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Ref: 206232

Contract of Sale of Real Estate*

Part 1 of the form of contract published by the Law Institute of Victoria Limited and The Real Estate Institute of Victoria Ltd

Property address **16 Spruhan Avenue, Norlane VIC 3214**

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 terms of this contract are contained in the -

- particulars of sale; and
- special conditions, if any; and
- general conditions

in that order of priority.

SIGNING OF THIS CONTRACT

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

Purchasers should ensure that, prior to signing this contract, they have received –

- a copy of the section 32 statement required to be given by a vendor under section 32 of the *Sale of Land Act 1962* in accordance with Division 2 of Part II of that Act; and
- a copy of the full terms of this contract.

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.

SIGNED BY THE PURCHASER:
..... on 2020

Print name(s) of person(s) signing:

State nature of authority, if applicable:

SIGNED BY THE VENDOR:
..... on 2020

Print name(s) of person(s) signing:

State nature of authority, if applicable:

The **DAY OF SALE** is the date by which both parties have signed this contract.

IMPORTANT NOTICE TO PURCHASERS	
Cooling-off period (Section 31 of the <i>Sale of Land Act 1962</i>) 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: <ul style="list-style-type: none">• you bought the property at or within 3 clear business days before or after a publicly advertised auction;• 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 have 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.

*This contract is approved by the Law Institute of Victoria Limited, a professional association within the meaning of the *Legal Profession Act 2004*, under section 53A of the *Estate Agents Act 1980*.

NOTICE TO PURCHASERS OF PROPERTY OFF-THE-PLAN

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

the contract of sale and the day on which you become the registered proprietor of the lot.

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.

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.

A substantial period of time may elapse between the day on which you sign

Particulars of sale

Agent

Real Estate Geelong Pty Ltd

of 52 North Valley Road, Highton VIC 3216

Email: wes@realestate-geelong.com.au

Tel: 0419 315 727 Ref: Wes Thornton

Vendor

16Spruhan Pty Ltd ACN 623 121 988 as trustee for the SCM Property Unit Trust

of 126 Head Street, Brighton VIC 3186

Vendor's legal practitioner or conveyancer

Partners Legal

Level 13, 636 St Kilda Road, Melbourne VIC 3004

PO Box 6852, Melbourne VIC 3004

Email: scohen@pwg.com.au

Tel: (03) 8508 7800 Ref: 206232

Purchaser

of

Purchaser's legal practitioner or conveyancer

of

Email:

Tel:

Fax:

Ref:

Land (general conditions 3 and 9)

The land is described in the table below -

Certificate of Title reference	being lot	on plan
Volume 06822 Folio 292	371	LP011342

The land includes all improvements and fixtures.

Property address

The address of the land is: 16 Spruhan Avenue, Norlane VIC 3214

Goods sold with the land (general condition 2.3(f)) (list or attach schedule)

Nil, vacant land.

Payment (general condition 11)

Price

Deposit

payable upon the Purchaser signing this Contract

Balance

payable at Settlement

GST (general condition 13)

The price includes GST (if any) unless the words '**plus GST**' appear in this box

If this sale is a sale of land on which a 'farming business' is carried on which the parties consider meets requirements of section 38-480 of the GST Act or of a 'going concern' then add the words '**farming business**' or '**going concern**' in this box

If the margin scheme will be used to calculate GST then add the words '**margin scheme**' in this box

Settlement (general condition 10)

is due on _____

Lease (general condition 1.1)

At settlement the purchaser is entitled to vacant possession of the property unless the words '**subject to lease**' appear in this box in which case refer to general condition 1.1.

If '**subject to lease**' then particulars of the lease are: not applicable

Terms contract (general condition 23)

If this contract is intended to be a terms contract within the meaning of the *Sale of Land Act* 1962 then add the words '**terms contract**' in this box and refer to general condition 23 and add any further provisions by way of special conditions.

This contract does not include any special conditions unless the words '**special conditions**' appear in this box

special conditions

Encumbrances

The sale is subject to the following encumbrances:

1. all easements, covenants, permits, encumbrances, and other like restrictions in this Contract or the Vendor's Statement; and
2. all registered and unregistered easements, covenants, encumbrances, restrictions and the like existing or to be created (either expressly or by implication under the Subdivision Act 1988 (Vic) in relation to the Property.

General Conditions

Part 2 being Form 2 prescribed by the *Estate Agents (Contracts) Regulations 2008*

Title

1. ENCUMBRANCES

- 1.1 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 in the crown grant; and
 - (c) any lease referred to in the particulars of sale.
- 1.2 The purchaser indemnifies the vendor against all obligations under any lease that are to be performed by the landlord after settlement.
- 1.3 In this general condition 'section 32 statement' means a statement required to be given by a vendor under section 32 of the Sale of Land Act 1962 in accordance with Division 2 of Part II of that Act.

2. VENDOR WARRANTIES

- 2.1 The vendor warrants that these general conditions 1 to 28 are identical to the general conditions 1 to 28 in the standard form of contract of sale of real estate prescribed by the Estate Agents (Contracts) Regulations 2008 for the purposes of section 53A of the Estate Agents Act 1980.
- 2.2 The warranties in general conditions 2.3 and 2.4 replace the purchaser's right to make requisitions and inquiries.
- 2.3 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 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.
- 2.4 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 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.
- 2.5 The warranties in general conditions 2.3 and 2.4 are subject to any contrary provisions in this contract and disclosures in the section 32 statement required to be given by the vendor under section 32 of the Sale of Land Act 1962 in accordance with Division 2 of Part II of that Act.
- 2.6 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*.
- 2.7 Words and phrases used in general condition 2.6 which are defined in the Building Act 1993 have the same meaning in general condition 2.6.

3. IDENTITY OF THE LAND

- 3.1 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.
- 3.2 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.

4. SERVICES

- 4.1 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.
- 4.2 The purchaser is responsible for the connection of all services to the property after settlement and the payment of any associated cost.

5. CONSENTS

The vendor must obtain any necessary consent or licence required for the sale. 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.

6. TRANSFER

The transfer of land document must be prepared by the purchaser and delivered to the vendor at least 10 days before settlement. The delivery of the transfer of land document is not acceptance of title. The vendor must prepare any document required for assessment of duty on this transaction relating to matters that are or should be within the knowledge of the vendor and, if requested by the purchaser, must provide a copy of that document at least 3 days before settlement.

7. RELEASE OF SECURITY INTEREST

- 7.1 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.
- 7.2 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 7.4, 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.
- 7.3 If the purchaser is given the details of the vendor's date of birth under condition 7.2, the purchaser must
- (a) only use the vendor's date of birth for the purposes specified in condition 7.2; and
 - (b) keep the date of birth of the vendor secure and confidential.
- 7.4 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.
- 7.5 Subject to general condition 7.6, 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 predominately 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.
- 7.6 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 7.5 if -
- (a) the personal property is of a kind that may be described by a 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.
- 7.7 A release for the purposes of general condition 7.4(a) must be in writing.
- 7.8 A release for the purposes of general condition 7.4(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.
- 7.9 If the purchaser receives a release under general condition 7.4(a) the purchaser must provide the vendor with a copy of the release at or as soon as practicable after settlement.
- 7.10 In addition to ensuring a release is received under general condition 7.4(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.
- 7.11 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.
- 7.12 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 7.11

- 7.13 If settlement is delayed under general condition 7.12, 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.
- 7.14 The vendor is not required to ensure that the purchaser receives a release in respect of the land. This general condition 7.14 applies despite general condition 7.1.
- 7.15 Words and phrases which are defined in the Personal Property Securities Act 2009 (Cth) have the same meaning in general condition 7 unless the context requires otherwise.

8. BUILDING 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.

9. GENERAL LAW LAND

- 9.1 This general condition only applies if any part of the land is not under the operation of the Transfer of Land Act 1958.
- 9.2 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.
- 9.3 The purchaser is entitled to inspect the vendor's chain of title on request at such place in Victoria as the vendor nominates.
- 9.4 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.
- 9.5 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.
- 9.6 If the contract ends in accordance with general condition 9.5, the deposit must be returned to the purchaser and neither party has a claim against the other in damages.
- 9.7 General condition 10.1 should be read, in respect of that part of the land which is not under the operation of the Transfer of Land Act 1958, as if the reference to 'registered proprietor' is a reference to 'owner'.

Money

10. SETTLEMENT

- 10.1 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.
- 10.2 The vendor's obligations under this general condition continue after settlement.
- 10.3 Settlement must be conducted between the hours of 10.00 a.m. and 4.00 p.m. unless the parties agree otherwise.

11. PAYMENT

- 11.1 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.
- 11.2 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.
- 11.3 The purchaser must pay all money other than the deposit:
- (a) to the vendor, or the vendor's legal practitioner or conveyancer; or
 - (b) in accordance with a written direction of the vendor or the vendor's legal practitioner or conveyancer.

- 11.4 At settlement, payments may be made or tendered:
- (a) in cash; or
 - (b) by cheque drawn on an authorised deposit-taking institution; or
 - (c) if the parties agree, by electronically transferring the payment in the form of cleared funds.
- 11.5 For the purpose of this general condition 'authorised deposit-taking institution' means a body corporate in relation to which an authority under subsection 9(3) of the Banking Act 1959 (Cth) is in force.
- 11.6 At settlement, the purchaser must pay the fees on up to three cheques drawn on an authorised deposit-taking institution. If the vendor requests that any additional cheques be drawn on an authorised deposit-taking institution, the vendor must reimburse the purchaser for the fees incurred.

12. STAKEHOLDING

- 12.1 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 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.
- 12.2 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.
- 12.3 The stakeholder may pay the deposit and any interest into court if it is reasonable to do so.

13. GST

- 13.1 The purchaser does not have to pay the vendor any GST payable by the vendor in respect of a taxable supply made under this contract in addition to the price unless the particulars of sale specify that the price is 'plus GST'. However the purchaser must pay to the vendor any GST payable by the vendor:
- (a) 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
 - (b) if 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 a part of it) does not satisfy the requirements of section 38-480 of the GST Act; or
 - (c) if 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.
- 13.2 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 the particulars of sale specify that the price is 'plus GST'.
- 13.3 If the purchaser is liable to pay GST, the purchaser is not required to make payment until provided with a tax invoice, unless the margin scheme applies.
- 13.4 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.
- 13.5 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.
- 13.6 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.
- 13.7 This general condition will not merge on either settlement or registration.
- 13.8 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.

14. LOAN

- 14.1 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.
- 14.2 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 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.
- 14.3 All money must be immediately refunded to the purchaser if the contract is ended.

15. ADJUSTMENTS

- 15.1 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 adjustment paid and received as appropriate.
- 15.2 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.

Transactional

16. TIME

- 16.1 Time is of the essence of this contract.
- 16.2 Time is extended until the next business day if the time for performing any action falls on a Saturday, Sunday or bank holiday.

17. SERVICE

- 17.1 Any document sent by –
- (a) post is taken to have been served on the next business day after posting, unless proved otherwise;
 - (b) 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*.
- 17.2 Any demand, notice, or document required to be served by or on any party may be served by or on the legal practitioner or conveyancer for that party. It is sufficiently served if served on the party or on the legal practitioner or conveyancer:
- (a) personally; or
 - (b) by pre-paid post; or
 - (c) in any manner authorised by law or the Supreme Court for service of documents, including any manner authorised for service on or by a legal practitioner; or
 - (d) by email.
- 17.3 This general condition applies to the service of any demand, notice or document by or on any party, whether the expression 'give' or 'serve' or any other expression is used.

18. NOMINEE

The purchaser may nominate a substitute or additional transferee, but the named purchaser remains personally liable for the due performance of all the purchaser's obligations under this contract.

19. 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.

20. 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.

21. NOTICES

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 that does not relate to periodic outgoings. The purchaser may enter the property to comply with that responsibility where action is required before settlement.

22. 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.

23. TERMS CONTRACT

23.1 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.

23.2 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.

24. LOSS OR DAMAGE BEFORE SETTLEMENT

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

24.2 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.

24.3 The purchaser must not delay settlement because one or more of the goods is not in the condition required by general condition 24.2, but may claim compensation from the vendor after settlement.

24.4 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 24.2 at settlement.

24.5 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.

24.6 The stakeholder must pay the amounts referred to in general condition 24.5 in accordance with the determination of the dispute, including any order for payment of the costs of the resolution of the dispute.

25. 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

26. 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 on any money owing under the contract during the period of default, without affecting any other rights of the offended party.

27. DEFAULT NOTICE

27.1 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.

27.2 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.

28. DEFAULT NOT REMEDIED

- 28.1 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.
- 28.2 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.
- 28.3 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.
- 28.4 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.
- 28.5 The ending of the contract does not affect the rights of the offended party as a consequence of the default.

Special Conditions

1 Definitions

ATO means the Australian Taxation Office.

Business Day means any day which is not a Saturday, Sunday or proclaimed public holiday in Victoria.

Claim means any and all claims, actions, disputes, differences, objections, demands, notices, proceedings, accounts, interest, costs (whether or not the subject of a court order), expenses and debts or liabilities of any kind (including those which are prospective or contingent and those the amount of which is not ascertained) of whatever nature and however arising.

Contract means this Contract of Sale of Real Estate.

Electronic Conveyancing National Law means the legislation applicable to the relevant State or Territory governing the provision and operation of electronic conveyancing.

Hazardous Materials includes all hazardous substances and any pollutant or contaminant defined as such in (or for the purposes of) any Federal, State or local statute, law, ordinance, rule or regulation, regulating or imposing a liability or standards of conduct concerning any such substance or material.

Insolvency Event means:

- (a) in the case of a natural person, if that person:
 - (i) becomes bankrupt;
 - (ii) assigns the person's estate; or
 - (iii) enters into a deed of arrangement or composition for the benefit of creditors.
- (b) in the case of a corporation, if that corporation:
 - (i) goes into liquidation (including provisional liquidation) other than a voluntary liquidation for the purposes of reconstruction or reorganisation;
 - (ii) is wound up or dissolved or has an application made for its winding up or dissolution;
 - (iii) enters into a scheme or arrangement with or makes an assignment for the benefit of its creditors or any class of them;
 - (iv) is placed under official management;
 - (v) has an agent in possession or a receiver and/or manager or an administrator appointed to the whole or any substantial part of its assets;
 - (vi) has an inspector or investigator appointed under the *Corporations Act 2001* (Cth).

Law means any law (including principles of law or equity established by decisions of courts) that applies in Victoria, and any rule, regulation, ordinance, order, by-law, local law, statutory instrument, control, restriction, direction or notice made under a law by any authority.

Property means the land as defined in the Particulars of Sale contained in this contract.

Purchaser Rights means:

- (a) making requisitions;
- (b) claiming compensation;
- (c) rescinding or purporting to rescind;
- (d) calling on the Vendor to amend title or bear any cost of doing so;
- (e) delaying settlement;
- (f) avoiding any of its obligations; and
- (g) making any other Claim,

under this contract.

Settlement Date means the settlement date in the particulars of sale in this Contract.

Tax Act means the *Taxation Administration Act 1953* (Cth).

Vendor's Statement means the statement made pursuant to section 32 of the *Sale of Land Act 1962* (Vic), a copy of which is attached to this contract.

2 Interpretation

- 2.1 Words importing the singular include the plural; words importing the plural include the singular; words importing one gender include the other gender.
- 2.2 In the case of each party that consists of more than one person (including in that expression any corporation) each of those persons covenants, agrees and declares that all of the covenants, agreements, declarations and consents contained in this contract and made and given by that party have been entered into, made and given and are binding upon that person both severally and also jointly with the other person or persons constituting that party.
- 2.3 In the event of any part of this contract being or becoming void or unenforceable or being illegal then that part 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.
- 2.4 Any provision of this contract which is capable of taking effect after completion of this contract shall not merge on transfer to the Purchaser of the Land but shall continue in full force and effect.
- 2.5 No waiver of any breach of this contract or any of the terms of this contract will be effective unless that waiver is in writing and is signed by the party against whom the waiver is claimed. No waiver of any breach shall operate as a waiver of any other breach or subsequent breach.
- 2.6 Where this contract provides for the Vendor to form an opinion then the Vendor may form that opinion entirely in its discretion without being subject to any measure or standard.
- 2.7 If there is any inconsistency between the provisions of the General Conditions and these Special Conditions then to the extent of any inconsistency the Special Conditions shall prevail.

3 Amendments to general conditions

- 3.1 General Condition 2.1 is deleted and replaced with the following:

'The Vendor warrants that these general conditions 1 to 28 are identical to the general conditions 1 to 28 in the standard form of contract of real estate prescribed by the *Estate Agents (Contracts) Regulations 2008* (Vic) prior to the revocation of the *Estate Agents (Contracts) 2008* (Vic) on 11 August 2018.'
- 3.2 General Condition 6 is deleted and replaced with the following:

'6 Transfer
- 6.1 If settlement and lodgement cannot be conducted electronically, the transfer of land document must be prepared by the purchaser and delivered to the vendor at least 10 days before settlement. The delivery of the transfer of land document is not acceptance of title.
- 6.2 If the transfer of land is not delivered to the vendor in accordance with general condition 6.1, the purchaser shall be deemed to have made default in payment of the residue of the price. The vendor shall not be obliged to complete this contract, and the purchaser

shall pay interest from the settlement date, until the expiration of 10 days from when the transfer of land is delivered to the vendor.

6.3 The vendor must prepare any document required for assessment of duty on this transaction relating to matters that are or should be within the knowledge of the vendor and, if requested by the purchaser, must provide a copy of that document at least 3 days before settlement.'

3.3 General Condition 7 is deleted and replaced with the following:

'7 Release of security interest

7.1 This general condition applies if any part of the property is subject to a security interest registered under the *Personal Property Securities Act 2009* (Cth). Words and phrases used in general condition 7 which are defined in the *Personal Property Securities Act 2009* (Cth) have the same meaning in general condition 7.

7.2 If a security interest in respect to any part of the property is registered in the Personal Property Securities Register, the vendor must ensure that at or before settlement, the purchaser receives a release from the secured party releasing the property that is subject to the security interest from the security interest.

7.3 The vendor is not obliged to ensure that the purchaser receives a release, statement, approval or correction in respect of any personal property that is required by the *Personal Property Securities Regulations 2009* to be described in a registration by a serial number and is not described by serial number in the Personal Property Securities Register.

7.4 If the purchaser receives a release under general condition 7.2, the purchaser must provide the vendor with a copy of the release at or as soon as practicable after settlement.

7.5 The purchaser must not grant a security interest over any part of the property prior to the settlement date. The purchaser must indemnify and hold harmless the vendor against all claims, damages or loss incurred by the vendor as a consequence of the purchaser granting a security interest over any part of the property in breach of this condition.

7.6 If the land is sold subject to a lease and the vendor has registered a security interest over any part of the property being sold or the tenant's property, the vendor must transfer the security interest to the purchaser on the settlement date and execute all documents necessary to facilitate registration of the transfer of the security interest.'

3.4 General condition 8 is deleted.

3.5 General condition 10.1(b)(i) is deleted and replaced with 'provide all title documents necessary to enable the Purchaser to become the registered proprietor of the land; and'.

3.6 General condition 11.6 is deleted. The Purchaser must pay the fees on all bank cheques requested by the Vendor at settlement.

3.7 General Condition 12.4 is added as follows:

'Where the purchaser is deemed by section 27(7) of the *Sale of Land Act 1962* (Vic) to have given the deposit release authorisation referred to in section 27(1) of the *Sale of Land Act 1962* (Vic), the purchaser is also deemed to have accepted title in the absence of any prior express objection to title.'

3.8 General condition 14 is deleted.

3.9 General Condition 18 is amended by adding the following: 'The purchaser may at any time up to 14 days prior to the settlement date nominate a substitute or additional purchaser(s). The named purchaser must at all times prior to the settlement date properly and punctually comply with its obligations under this contract and must provide the following to the vendor at least 14 days before the settlement date:

- 3.9.1 a nomination form in the form contained in Schedule 1, which nomination form has been properly completed and executed;
- 3.9.2 if the named purchaser nominates a substitute or additional purchaser(s) which is a company (other than a public company), the form of guarantee and indemnity contained in Schedule 2 executed by each of the directors of the substitute or additional purchaser(s).
- 3.10 General Condition 20 is deleted and replaced with 'If the purchaser is a company other than a public company, the purchaser must procure the execution of the form of the guarantee and indemnity contained in Schedule 2 by each of its directors and deliver it to the vendor together with this executed contract.'
- 3.11 General Conditions 24.4 to 24.6 are deleted.
- 3.12 General Condition 25 is amended by adding 'The purchaser acknowledges that without limitation, the definition 'reasonably foreseeable loss' includes:
 - 3.12.1 all costs associated with bridging finance to complete the vendor's purchase of another property;
 - 3.12.2 expenses payable by the vendor under any existing loans secured over the land or other property of the vendor;
 - 3.12.3 accommodation expenses incurred by the vendor;
 - 3.12.4 the vendor's legal costs and expenses as between solicitor and client incurred due to the breach, including the cost of issuing any default notice agreed at \$800 plus GST and the cost of \$200 plus GST for each and every rescheduled and extended settlement;
 - 3.12.5 penalties and any other expenses payable by the vendor due to any delay in completion of the purchase of another property; and
 - 3.12.6 if the default results in settlement being delayed until after 31 December in any calendar year, any additional land tax incurred by the vendor as a result of the land being included in the vendor's land tax assessment for the next calendar year.'
- 3.13 General Condition 26 is amended to read, 'Interest at the rate of 15% per annum is payable on any money owing by the purchaser under the contract during the period of default, without affecting any other rights of the Vendor.'
- 3.14 General Conditions 28.4(a) is deleted and replaced with 'an amount equal to 10% of the price is forfeited to the vendor as the vendor's absolute property'.

4 Electronic conveyancing

Settlement and lodgement will be conducted electronically in accordance with the Electronic Conveyancing National Law and this special condition 4 applies.

- 4.1 This special condition has priority over any other provision to the extent of any inconsistency.
- 4.2 A party must immediately give written notice if that party reasonably believes that settlement and lodgement can no longer be conducted electronically.
- 4.3 Each party must:
 - 4.3.1 be, or engage a representative who is, a subscriber for the purposes of the Electronic Conveyancing National Law;
 - 4.3.2 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

- 4.3.3 conduct the transaction in accordance with the Electronic Conveyancing National Law.
- 4.4 The Vendor must open the electronic workspace (**Workspace**) as soon as reasonably practicable. The Workspace is an electronic address for the service of notices and for written communications for the purposes of any electronic transactions legislation.
- 4.5 The Vendor must nominate a time of the day for locking of the Workspace at least seven (7) days before the due date for settlement.
- 4.6 Settlement occurs when the Workspace records that:
 - 4.6.1 the exchange of funds or value between financial institutions in accordance with the instructions of the parties has occurred; or
 - 4.6.2 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.
- 4.7 The parties must do everything reasonably necessary to effect settlement electronically on the Settlement Date.
- 4.8 Each party must do everything reasonably necessary to assist the other party to trace and identify the recipient of any mistaken payment and to recover the mistaken payment.

5 Deposit

- 5.1 The Purchaser authorises the Vendor's solicitor to place the Deposit in an interest bearing trust account in the joint names of the Vendor and the Purchaser immediately after the signing of this contract.
- 5.2 If the Deposit is invested in an interest bearing account, any interest which accrues on the Deposit will be paid to the party entitled to the Deposit and any tax credit will belong to the party entitled to receive the interest on the deposit.
- 5.3 The Vendor and the Purchaser must do all things necessary to enable the Vendor's solicitor to open the interest bearing trust account, including supplying any relevant tax file numbers.
- 5.4 The Vendor's solicitor will not be responsible for any loss occasioned by the investment of the Deposit and the party entitled to the Deposit will bear the risk of the loss of the Deposit.

6 Encumbrances

- 6.1 The Purchaser buys the Property sold subject to any applicable Law including, without limitation, the requirements of the relevant planning scheme and any permit, licence consent, certificate or other approval obtained or required to be obtained from any authority in relation to the Property (**Approval**).
- 6.2 The Purchaser admits that the Property is sold subject to the provisions of the *Subdivision Act 1988* (Vic) and buys the Property subject to all easements and encumbrances affecting the Property including those created or implied by the *Subdivision Act 1988* (Vic) or any Approval.

7 Foreign Investment Review Board (FIRB) approval

- 7.1 The Purchaser warrants to the Vendor that:
 - 7.1.1 the acquisition of the Property by the Purchaser does not fall within the scope of the *Foreign Acquisition and Takeovers Act 1975* (Cth) and is not examinable by the FIRB; or

7.1.2 if an approval or an indication of non-objection from the FIRB is required for the acquisition of the Property by the Purchaser under the *Foreign Acquisition and Takeovers Act 1975* (Cth), the Purchaser has obtained the approval or statement of non-objection.

7.2 The Purchaser agrees that if the warranty in this special condition is breached, the Purchaser will indemnify the Vendor against any Claims which the Vendor suffers as a direct or indirect result of a breach of that warranty.

8 Foreign resident capital gains withholding

8.1 Words defined or used in Subdivision 14-D of Schedule 1 to the Tax Act have the same meaning as this special condition unless the context requires otherwise.

8.2 If:

8.1.1 Subdivision 14-D of Schedule 1 to the Tax Act applies to this Contract; and

8.1.2 on or before the Settlement Date, the Vendor gives to the Purchaser a special clearance certificate issued by the Commissioner under section 14-200 (1) of Schedule 1 to the Tax Act.

the Purchaser must not withhold any money payable by the Purchaser under this contract for the purpose of subdivision 14-D of Schedule 1 to the Tax Act.

9 Purchaser to remit GST

9.1 If the Tax Act or any other Law mandates that the Purchaser is responsible for remitting the GST payable on this transaction to the ATO the Vendor will, prior to the Settlement Date, notify the Purchaser of the amount of GST payable on this transaction (**GST Amount**) together with any other information which the Vendor is required to provide to the Purchaser at law including without limitation, the Vendor's ABN, and the Purchaser must:

9.1.1 deduct the GST Amount from the balance of the purchase price payable by the Purchaser to the Vendor at settlement; and

9.1.2 remit the GST Amount to the ATO on the Settlement Date.

9.2 The Purchaser indemnifies the Vendor and will keep the Vendor informed, against all expenses, losses, damages, costs and penalties (on a solicitor and own client basis) that the Vendor may suffer as a result of the Purchaser failing to remit the GST to the ATO as required in Special Condition 9.1.

10 Insolvency event

If an Insolvency Event occurs in relation to the Purchaser, any nominated purchaser or any guarantor under the guarantee provided in accordance with this Contract at any time prior to the Settlement Date, the Purchaser is deemed to have fundamentally breached this Contract and the Vendor may at any time after the Insolvency Event, exercise any of its rights in accordance with this Contract including terminate this Contract.

11 Hazardous materials

On and from the settlement date, the Purchaser:

11.1 assumes full responsibility for the presence of Hazardous Materials on the Property and anything incidental to them, including compliance with all relevant legislation, all existing and future planning, environmental, building, heritage and similar controls relating to the use or development of the Property, including (as applicable) the planning scheme and any Approval, and the requirements of any authority in respect of them;

11.2 agrees to keep the Vendor indemnified against:

11.2.1 the responsibility referred to in special condition 11.1; and

11.2.2 all Claims, resulting in any way from the existence of Hazardous Materials on or emanating from the Property, including actions based on injury to the person or property; and

11.3 waives all Purchaser Rights in relation to any of the matters referred to in this special condition and agrees that those matters do not affect the Vendor's title to the Property.

12 Acknowledgements

The Purchaser acknowledges that:

12.1 no information, representation of warranty by the Vendor or the Vendor's agent was supplied or made with the intention or knowledge that it would be relied upon by the Purchaser and that no information, representation or warranty has in fact been so relied upon and that this contract contains the whole agreement between the Vendor and the Purchaser;

12.2 it has made all the enquires that a prudent and careful person would before entering into this Contract, and enters into this Contract on the basis of its inspection and the enquiries it has carried out, and relying on its own judgement;

12.3 any improvements on the Property may be subject to or require compliance with any applicable Law under which the improvements were constructed. Any failure to comply with any one or more of those laws shall be deemed not to constitute a defect in the Vendor's title;

12.4 it has received from the Vendor or the Vendor's agent, the Vendor's Statement executed by the Vendor and a copy of this Contract and has read and understood those documents (including any attachments); and

12.5 it shall not exercise any Purchaser Rights in relation to any of the matters referred to in this special condition and agrees that those matters do not affect the Vendor's title to the Property.

13 Purchaser warranty

The Purchaser warrants to the Vendor that it is empowered to enter this Contract and can do so without consent from any other person or otherwise has already obtained the consent.

14 Further assurances

The parties agree to sign all documents and do all things reasonably required to give full effect to the transaction recorded in this Contract.

15 Stamp duty

The Purchaser indemnifies the Vendor from and against all stamp duty or other like duty assessed under or in connection with the sale of the Property from the Vendor to the Purchaser pursuant to this Contract.

16 Sale by public auction

The Property is offered for sale by public auction subject to the Vendor's reserve price. The rules for the conduct of the auction shall be as set out in Schedule 1 to the *Sale of Land (Public Auctions) Regulations 2014* (Vic) or any rules prescribed by regulation which modify or replace those rules.

21 Vendor acting in capacity as trustee

21.1 In this special condition:

Trust means the SCM Property Unit Trust; and

Trustee means the Vendor in its capacity as trustee of the Trust.

21.2 The Trustee enters into this Contract solely in its capacity as trustee and responsible entity of the Trust and in no other capacity. A liability arising under or in connection with this Contract is limited to and can be enforced against the Trustee only to the extent to which it can be

satisfied out of the property of the Trust out of which the Trustee is actually indemnified for the liability. This limitation of the Trustee's liability applies despite any other provision of this Contract and extends to all liabilities and obligations of the Trustee in any way connected with any representation, warranty, conduct, omission, agreement or transaction related to this Contract.

- 21.3 The Purchaser waives any right to sue the Trustee in any capacity other than as trustee of the Trust, including the appointment of a receiver (except in relation to property of the Trust), a liquidator, an administrator or any similar person to the Trust or prove in any liquidation, administration or arrangement of or affecting the Trustee (except in relation to property of the Trust).
- 21.4 The Trustee does not have to incur any obligation under this Contract unless its liability in respect of that obligation is limited in the same manner as in this special condition.
- 21.5 The provisions of this special condition will not apply to any obligation or liability of the Trustee to the extent that it is not satisfied because under the trust deed establishing the Trust or by operation of law there is a reduction in the extent of the Trustee's indemnification out of the assets of the Trust as a result of the Trustee's fraud, negligence or breach of trust.

Schedule 1 Nomination

Sale of Real Estate Nomination Form

Relating to a contract between:

Vendor: **16Spruhan Pty Ltd ACN 623 121 988 as trustee for the SCM Property Unit Trust**

Purchaser:

Property: 16 Spruhan Avenue, Norlane VIC 3214

Nominee:

Guarantor:

The Property is expressed as sold to the Purchaser 'and/or Nominee' (or words to like effect).

Under the conditions of this contract, the Purchaser nominates the Nominee as a substitute/additional purchaser to take a transfer or conveyance of the Property in substitution for/addition to the Purchaser.

The Purchaser and the Nominee acknowledge that, from the date of this nomination, they will be jointly and severally liable for:

- 1. the due performance of the Purchaser's obligations under the contract; and
- 2. payment of any expenses resulting from this nomination (including any duty).

The Guarantor acknowledges that the nomination of the Nominee does not vitiate the Guarantor's obligations.

*The Purchaser and the Nominee warrant to the Vendor that the Nominee is not obliged by the *Foreign Acquisition and Takeovers Act 1975 (Cth)* to furnish notice to the Treasurer of its intention to acquire an interest in the Property. The Nominee will indemnify the Vendor against all Claims which the Vendor suffers as a direct or indirect result of the Vendor having relied on this warranty.

Or

*The Purchaser and the Nominee warrant to the Vendor that an approval from FIRB is required for the acquisition of the Property by the Nominee under the *Foreign Acquisition and Takeovers Act 1975 (Cth)* and that the Nominee has obtained the approval.

**delete as applicable*

Dated the _____ day of _____ 20____

.....
(Purchaser)

.....
(Nominee)

.....
(Guarantor)

Schedule 2 Guarantee and Indemnity

To: 16Spruhan Pty Ltd ACN 623 121 988 as trustee for the SCM Property Unit Trust

By: the guarantors named in the Schedule (**Guarantors**)

In consideration of your entering into this contract of sale (**Contract**) with the purchaser named in the schedule (**Purchaser**) at our request, we the Guarantors jointly and severally guarantee and indemnify you as follows:

1. The Guarantors will pay you on demand by you all amounts payable under the Contract which are not paid by the Purchaser within the time prescribed in the Contract for payment regardless of whether demand for those amounts has been made by you on the Purchaser.
2. The Guarantors will observe and perform on demand by you all covenants and obligations binding the Purchaser with which the Purchaser has failed to comply within the time prescribed in the Contract, regardless of whether demand for such observance or performance has been made by you on the Purchaser.
3. You may without affecting this guarantee and indemnity:
 - (a) grant time or any other indulgence to or compound or compromise with or release the Purchaser or any person or corporation who is liable jointly with the Guarantors or either of them in respect of any other guarantee or security; or
 - (b) release part with abandon vary relinquish or renew in whole or in part any security document of title asset or right held by you.
4. All amounts you receive from the Purchaser, including any dividends upon the liquidation of the Purchaser, or from any other person or corporation or from the realisation or enforcement of any security capable of being applied by you in reduction of the indebtedness of the Purchaser, will be regarded for all purposes as payment in gross without any right on the part of the Guarantors to stand in your place or claim the benefit of any amounts so received, until such time that the Guarantors have paid the total amount owing by the Purchaser.
5. If the Purchaser is liquidated, the Guarantors authorise you to prove for all moneys which the Purchaser has paid under this Contract and to retain and to carry to a suspense account and appropriate at your discretion any dividends received until you have been paid in full in respect of the Purchaser's indebtedness to you. The Guarantors will, in your favour, waive all rights against you and the Purchaser and any other person or corporation estates and assets so far as necessary to give effect to anything contained in this guarantee and indemnity.
6. Your remedies against the Guarantors are not affected by any security held or taken by you in relation to the Purchaser's indebtedness being void or defective or informal.
7. The Guarantors indemnify you against any loss you may suffer as a result of:
 - (a) the Purchaser exceeding its powers;
 - (b) the Purchaser going into liquidation; or
 - (c) interest ceasing to accrue and be payable after the Purchaser goes into liquidation.
8. All demands and notices under this guarantee must be made in writing signed by you or by any director, manager or secretary of you and (in addition to any other mode of service permitted by

law) may be served on the Guarantors by prepaid registered letter addressed to their last known addresses in Victoria. Any notice served by post will be deemed to have been served the next business day after the date of posting.

9. As a separate and severable covenant, the Guarantors agree to indemnify you:
- (a) against the non-payment by the Purchaser of any amounts due under the Contract (including interest due on overdue instalments or principal); and
 - (b) in respect of all costs, charges and expenses you incur as a result of any default on the part of the Purchaser under the Contract.
10. This guarantee and indemnity will not be terminated by the death of any of us and will bind our respective legal personal representatives and will endure for the benefit of you and your successors and assigns.

Schedule (attach annexure if required)

Purchaser

Name	Address

Guarantor(s)

Name	Address

Name	Address

Signed by _____)
in the presence of: _____)
_____)
Signature

.....
Witness

Signed by _____)
in the presence of: _____)
_____)
Signature

.....
Witness