

Contract for Houses and Residential Land

Sixteenth Edition

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

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

REFERENCE SCHEDULE

Contract Date: 22-10-2021

SELLER'S AGENT

NAME: Aussie Land & Livestock

ABN:

71111795085

LICENCE NO:

3125894

ADDRESS: 219 Kingaroy Street

SUBURB: Kingaroy

STATE: QLD POSTCODE: 4610

PHONE:

4162 2233

MOBILE:

0427 549 373

FAX:

4162 4804

EMAIL:

james@aussiell.com.au

SELLER

NAME:

Trevor Noel King

ABN:

M.D.H.
s.n.k. smk
69054639089

ADDRESS: 11 Kumbia Road

SUBURB: Nanango

STATE: QLD POSTCODE: 4615

PHONE:

4162 2233

MOBILE:

0437 891 526

FAX:

4162 4804

EMAIL:

james@aussiell.com.au

NAME:

Susan Maree King

ABN:

M.D.H.
s.n.k. smk
69054639089

ADDRESS: 11 Kumbia Road

SUBURB: Nanango

STATE: QLD POSTCODE: 4615

PHONE:

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FAX:

4162 4804

EMAIL:

james@aussiell.com.au

SELLER'S SOLICITOR

← or any other solicitor notified to the Buyer

NAME:

Woods Murdoch Solicitors

REF:

CONTACT:

ADDRESS: PO Box 980

SUBURB: Kingaroy

STATE: QLD POSTCODE: 4610

PHONE:

07 4162 1144

MOBILE:

0437 891 526

FAX:

4162 4804

EMAIL:

conveyancing@woodsmurdoch.com.au

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s.n.k. *smk*

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M.P.H.

BUYER

NAME: Miles David Huth

ABN:

29740427603

ADDRESS: C/- ONF Surveyors

PO Box 896

SUBURB: Kingaroy

STATE: QLD

POSTCODE: 4610

PHONE:

MOBILE:

FAX:

EMAIL:

0405 759 972

miles_huth@gmail.com

NAME:

ABN:

ADDRESS:

SUBURB:

STATE:

POSTCODE:

PHONE:

MOBILE:

FAX:

EMAIL:

BUYER'S AGENT (If applicable)

NAME:

ABN:

LICENCE NO:

ADDRESS:

SUBURB:

STATE:

POSTCODE:

PHONE:

MOBILE:

FAX:

EMAIL:

BUYER'S SOLICITOR

← or any other solicitor notified to the Seller

NAME:

KF Solicitors

REF:

CONTACT:

ADDRESS: 44 King Street

SUBURB: Kingaroy

STATE: QLD

POSTCODE: 4610

PHONE:

MOBILE:

FAX:

EMAIL:

07 4162 2599

conveyancing@kfsolicitors.com.au

PROPERTY

Land: ADDRESS: 11 Kumbia Road

SUBURB: Brooklands

STATE: QLD

POSTCODE: 4615



Built On



Vacant

Description: Lot: 8

on: on Crown Plan FY2513

Title Reference: 15640222

Area: 18.83ha

← (more or less)

Land sold as:



Freehold



Leasehold

← if neither is selected, the land is treated as being Freehold.

Present Use: Cropping

Local Government: South Burnett Regional Council

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Excluded Fixtures:

Included Chattels: House, 4 x sheds, 44 x 3" spray lines, 25 x 4" main lines, irrigation pipe trailer, 4 x bores, airconditioning unit in residence, wood heater and all water tanks and pumps

PRICE

Deposit Holder: Woods Murdoch Solicitor

Deposit Holder's Trust Account: Woods Murdoch Law Practice Trust Account

Bank: Bank of Qld

BSB: 124-001 Account No: 21585451

Purchase Price: \$ 600,000 (six hundred thousand dollars)

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

Deposit: \$ 10,000 Initial Deposit payable on the day the Buyer signs this contract unless another time is specified below.

\$ 50,000 Balance Deposit (if any) payable on: 13 December 2021

Default Interest Rate: % ← If no figure is inserted, the Contract Rate applying at the Contract Date published by the Queensland Law Society Inc will apply.

FINANCE

Finance Amount: \$ Sufficient to complete ← Unless all of "Finance Amount", "Financier" and "Finance Date" are completed, this contract is not subject to finance and clause 3 does not apply.

Financier: Purchaser's choice

Finance Date: 6 December 2021

BUILDING AND/OR PEST INSPECTION DATE:

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

MATTERS AFFECTING PROPERTY

Title Encumbrances:

Is the Property sold subject to any Encumbrances? [X] No [] Yes, listed below:

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

Tenancies:

TENANTS NAME:

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

TERM AND OPTIONS:

STARTING DATE OF TERM: ENDING DATE OF TERM: RENT: BOND: \$ \$

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W.M. SMK

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M.D.H

Managing Agent:

AGENCY NAME: _____

PROPERTY MANAGER: _____

ADDRESS: _____

SUBURB: _____

STATE: _____

POSTCODE: _____

PHONE: _____

MOBILE: _____

FAX: _____

EMAIL: _____

POOL SAFETY

Q1 Is there a pool on the Land or on an adjacent land used in association with the Land?

- Yes
- No Clause 4.2 of this contract does not apply

Q2 If the answer to Q1 is Yes, is there a Compliance or Exemption Certificate for the pool at the time of contract?

- Yes Clause 5.3(1)(f) applies
- No Clause 4.2 applies (except for auction and some other excluded sales)

Q3 If the answer to Q2 is No, has a Notice of no pool safety certificate been given prior to contract?

- Yes
- No

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

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

← If there is a pool on the Land and Q2 is not completed then clause 4.2 applies.

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

POOL SAFETY INSPECTOR

Pool Safety Inspector: _____

Pool Safety Inspection Date: _____

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

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

ELECTRICAL SAFETY SWITCH AND SMOKE ALARM *This section must be completed unless the Land is vacant.*

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

- installed in the residence
- not installed in the residence

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

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

- installed in the residence
- not installed in the residence

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

NEIGHBOURHOOD DISPUTES (DIVIDING FENCES AND TREES) ACT 2011

The Seller gives notice to the Buyer in accordance with section 83 of the Neighbourhood Disputes (Dividing Fences and Trees) Act 2011 that the Land:

(select whichever is applicable)

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

← **WARNING:** Failure to comply with section 83 Neighbourhood Disputes (Dividing Fences and Trees) Act 2011 by giving a copy of an order or application to the Buyer (where applicable) prior to Buyer signing the contract will entitle the Buyer to terminate the contract prior to Settlement.

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J.M.L. SMK.

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GST WITHHOLDING OBLIGATIONS

Is the Buyer registered for GST and acquiring the Land for a creditable purpose?

(select whichever is applicable)

Yes

No

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

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

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

(select whichever is applicable)

the Buyer is *not* required to make a payment under section 14-250 of the Withholding Law in relation to the supply of the Property

the Buyer is required to make a payment under section 14-250 of the Withholding Law in relation to the supply of the Property. Under section 14-255(1) of the Withholding Law, the Seller is required to give further details prior to settlement.

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

The REIQ Terms of Contract for Houses and Residential Land (Pages 7-15) (Sixteenth Edition) contain the Terms of this Contract.

SPECIAL CONDITIONS

Annexure A

[Empty box for Special Conditions Annexure A]

SETTLEMENT

Settlement Date: 31 January 2022 or sooner

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

Place for Settlement: Kingaroy

← If Brisbane is inserted, this is a reference to Brisbane CBD.

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

J. n. K. SMK

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SIGNATURES

The contract may be subject to a 5 business day statutory cooling-off period. A termination penalty of 0.25% of the purchase price applies if the Buyer terminates the contract during the statutory cooling-off period. It is recommended the Buyer obtain an independent property valuation and independent legal advice about the contract and his or her cooling-off rights, before signing.

Buyer: * M. D. Hutch Witness: * J. Bredhauer **SIGN HERE**

Buyer: _____ Witness: _____
By placing my signature above, I warrant that I am the Buyer named in the Reference Schedule or authorised by the Buyer to sign. (Note: No witness is required if the Buyer signs using an Electronic Signature)

Seller: * S. M. King Witness: * J. Bredhauer **SIGN HERE**

Seller: * S. M. King Witness: * J. Bredhauer **SIGN HERE**
By placing my signature above, I warrant that I am the Seller named in the Reference Schedule or authorised by the Seller to sign. (Note: No witness is required if the Seller signs using an Electronic Signature)

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

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S.M.K. SMK

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**TERMS OF CONTRACT
FOR HOUSES AND RESIDENTIAL LAND**

1. DEFINITIONS

1.1 In this contract:

- (1) Terms in **bold** in the Reference Schedule have the meanings shown opposite them; and
- (2) Unless the context otherwise indicates:
- (a) **"Approved Safety Switch"** means a residual current device as defined in the *Electrical Safety Regulation 2013*;
- (b) **"ATO"** means the Australian Taxation Office;
- (c) **"ATO Clearance Certificate"** means a certificate issued under section 14-220(1) of the Withholding Law which is current on the date it is given to the Buyer;
- (d) **"Balance Purchase Price"** means the Purchase Price, less the Deposit paid by the Buyer, adjusted under clause 2.6;
- (e) **"Bank"** means an authorised deposit-taking institution within the meaning of the *Banking Act 1959* (Cth);
- (f) **"Bond"** means a bond under the *Residential Tenancies and Rooming Accommodation Act 2008*;
- (g) **"Building Inspector"** means a person licensed to carry out completed residential building inspections under the *Queensland Building and Construction Commission Regulations 2003*;
- (h) **"Business Day"** means a day other than:
- (i) a Saturday or Sunday;
- (ii) a public holiday in the Place for Settlement; and
- (iii) a day in the period 27 to 31 December (inclusive);
- (i) **"CGT Withholding Amount"** means the amount determined under section 14-200(3)(a) of the Withholding Law or, if a copy is provided to the Buyer prior to settlement, a lesser amount specified in a variation notice under section 14-235;
- (j) **"Compliance or Exemption Certificate"** means:
- (i) a Pool Safety Certificate; or
- (ii) a Building Certificate that may be used instead of a Pool Safety Certificate under section 246AN(2) of the *Building Act 1975*; or
- (iii) an exemption from compliance on the grounds of impracticality under section 245B of the *Building Act 1975*;
- (k) **"Compliant Smoke Alarm"** means a smoke alarm complying with the requirements for smoke alarms in domestic dwellings under the *Fire and Emergency Services Act 1990*;
- (l) **"Contract Date"** or **"Date of Contract"** means the date inserted in the Reference Schedule;
- (m) **"Court"** includes any tribunal established under statute;
- (n) **"Electronic Signature"** means an electronic method of signing that identifies the person and indicates their intention to sign the contract;
- (o) **"Encumbrances"** includes:
- (i) unregistered encumbrances;
- (ii) statutory encumbrances; and
- (iii) Security Interests;
- (p) **"Essential Term"** includes, in the case of breach by:
- (i) the Buyer: clauses 2.2, 2.5(1), 2.5(5), 5.1 and 6.1; and
- (ii) the Seller: clauses 2.5(5), 5.1, 5.3(1)(a)-(d), 5.3(1)(e)(ii) & (iii), 5.3(1)(f), 5.5 and 6.1;
- but nothing in this definition precludes a Court from finding other terms to be essential;
- (q) **"Financial Institution"** means a Bank, Building Society or Credit Union;
- (r) **"General Purpose Socket Outlet"** means an electrical socket outlet as defined in the *Electrical Safety Regulation 2013*;
- (s) **"GST"** means the goods and services tax under the GST Act;
- (t) **"GST Act"** means *A New Tax System (Goods and Services Tax) Act 1999* (Cth) and includes other GST related legislation;
- (u) **"GST Withholding Amount"** means the amount (if any) determined under section 14-250 of the Withholding Law required to be paid to the Commissioner of Taxation;
- (v) **"Improvements"** means fixed structures on the Land and includes all items fixed to them (such as stoves, hot water systems, fixed carpets, curtains, blinds and their fittings, clothes lines, fixed satellite dishes and television antennae, in-ground plants) but does not include the Reserved Items;
- (w) **"Keys"** means keys, codes or devices in the Seller's possession or control for all locks or security systems on the Property or necessary to access the Property;
- (x) **"Notice of No Pool Safety Certificate"** means the Form 36 under the *Building Regulation 2006* to the effect that there is no Pool Safety Certificate issued for the Land;
- (y) **"Notice of Nonconformity"** means a Form 26 under the *Building Regulation 2006* advising how the pool does not comply with the relevant pool safety standard;
- (z) **"Outgoings"** means rates or charges on the Land by any competent authority (for example, council rates, water rates, fire service levies) but excludes land tax;
- (aa) **"Pest Inspector"** means a person licensed to undertake termite inspections on completed buildings under the *Queensland Building and Construction Commission Regulations 2003*;
- (bb) **"Pool Safety Certificate"** has the meaning in section 231C(a) of the *Building Act 1975*;
- (cc) **"Pool Safety Inspection Date"** means the Pool Safety Inspection Date inserted in the Reference Schedule. If no date is inserted in the Reference Schedule, the Pool Safety Inspection Date is taken to be the earlier of the following:
- (i) the Inspection Date for the Building and/or Pest Inspection; or
- (ii) 2 Business Days before the Settlement Date;
- (dd) **"Pool Safety Requirements"** means the requirements for pool safety contained in the *Building Act 1975* and *Building Regulation 2006*;
- (ee) **"Pool Safety Inspector"** means a person authorised to give a Pool Safety Certificate;
- (ff) **"PPSR"** means the Personal Property Securities Register established under *Personal Property Securities Act 2009* (Cth);
- (gg) **"Property"** means:
- (i) the Land;
- (ii) the Improvements; and
- (iii) the Included Chattels;
- (hh) **"Rent"** means any periodic amount payable under the Tenancies;

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- (ii) **"Reserved Items"** means the Excluded Fixtures and all Chattels on the Land other than the Included Chattels;
- (jj) **"Security Interests"** means all security interests registered on the PPSR over Included Chattels and Improvements;
- (kk) **"Transfer Documents"** means:
 - (i) the form of transfer under the *Land Title Act 1994* required to transfer title in the Land to the Buyer; and
 - (ii) any other document to be signed by the Seller necessary for stamping or registering the transfer;
- (ll) **"Transport Infrastructure"** has the meaning defined in the *Transport Infrastructure Act 1994*; and
- (mm) **"Withholding Law"** means Schedule 1 to the *Taxation Administration Act 1953* (Cth).

2. PURCHASE PRICE

2.1 GST

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

2.2 Deposit

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

2.3 Investment of Deposit

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

2.4 Entitlement to Deposit and Interest

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

2.5 Payment of Balance Purchase Price

- (1) On the Settlement Date, the Buyer must pay the Balance Purchase Price by bank cheque as the Seller or the Seller's Solicitor directs.
- (2) Despite any other provision of this contract, a reference to a "bank cheque" in clause 2.5:
 - (a) includes a cheque drawn by a Building Society or Credit Union on itself;
 - (b) does not include a cheque drawn by a Building Society or Credit Union on a Bank;
 and the Seller is not obliged to accept a cheque referred to in clause 2.5(2)(b) on the Settlement Date.
- (3) If both the following apply:
 - (a) the sale is not an excluded transaction under section 14-215 of the Withholding Law; and
 - (b) the Seller has not given the Buyer on or before settlement for each person comprising the Seller either:
 - (i) an ATO Clearance Certificate; or
 - (ii) a variation notice under section 14-235 of the Withholding Law which remains current at the Settlement Date varying the CGT Withholding Amount to nil,

then:

- (c) for clause 2.5(1), the Seller irrevocably directs the Buyer to draw a bank cheque for the CGT Withholding Amount in favour of the Commissioner of Taxation or, if the Buyer's Solicitor requests, the Buyer's Solicitor's Trust Account;
- (d) the Buyer must lodge a *Foreign Resident Capital Gains Withholding Purchaser Notification Form* with the ATO for each person comprising the Buyer and give copies to the Seller with the payment reference numbers (PRN) on or before settlement;
- (e) the Seller must return the bank cheque in paragraph (c) to the Buyer's Solicitor (or if there is no Buyer's Solicitor, the Buyer) at settlement; and
- (f) the Buyer must pay the CGT Withholding Amount to the ATO in accordance with section 14-200 of the Withholding Law and give the Seller evidence that it has done so within 2 Business Days of settlement occurring.
- (4) For clause 2.5(3) and section 14-215 of the Withholding Law, the market value of the CGT asset is taken to be the Purchase Price less any GST included in the Purchase Price for which the Buyer is entitled to an input tax credit unless:
 - (a) the Property includes items in addition to the Land and Improvements; and
 - (b) no later than 2 Business Days prior to the Settlement Date, the Seller gives the Buyer a valuation of the Land and Improvements prepared by a registered valuer,
 in which case the market value of the Land and Improvements will be as stated in the valuation.
- (5) If the Buyer is required to pay the GST Withholding Amount to the Commissioner of Taxation at settlement pursuant to section 14-250 of the Withholding Law:
 - (a) the Seller must give the Buyer a notice in accordance with section 14-255(1) of the Withholding Law;
 - (b) prior to settlement the Buyer must lodge with the ATO:
 - (i) a *GST Property Settlement Withholding Notification form* ("Form 1"); and

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

2.6 Adjustments to Balance Purchase Price

- (1) The Seller is liable for Outgoings and is entitled to Rent up to and including the Settlement Date. The Buyer is liable for Outgoings and is entitled to Rent after the Settlement Date.
- (2) Subject to clauses 2.6(3), 2.6(5), and 2.6(14), Outgoings for periods including the Settlement Date must be adjusted:
 - (a) for those paid, on the amount paid;
 - (b) for those assessed but unpaid, on the amount payable (excluding any discount); and
 - (c) for those not assessed:
 - (i) on the amount the relevant authority advises will be assessed (excluding any discount); or
 - (ii) if no advice on the assessment to be made is available, on the amount of the latest separate assessment (excluding any discount).
- (3) If there is no separate assessment of rates for the Land at the Settlement Date and the Local Government informs the Buyer that it will not apportion rates between the Buyer and the Seller, then:
 - (a) the amount of rates to be adjusted is that proportion of the assessment equal to the ratio of the area of the Land to the area of the parcel in the assessment; and
 - (b) if an assessment of rates includes charges imposed on a "per lot" basis, then the portion of those charges to be adjusted is the amount assessed divided by the number of lots in that assessment.
- (4) The Seller is liable for land tax assessed on the Land for the financial year current at the Settlement Date. If land tax is unpaid at the Settlement Date and the Office of State Revenue advises that it will issue a final clearance for the Land on payment of a specified amount, then the Buyer may deduct the specified amount from the Balance Purchase Price at settlement and must pay it promptly to the Office of State Revenue.
- (5) Any Outgoings assessable on the amount of water used must be adjusted on the charges that would be assessed on the total water usage for the assessment period, determined by assuming that the actual rate of usage shown by the meter reading

made before settlement continues throughout the assessment period. The Buyer must obtain and pay for the meter reading.

- (6) If any Outgoings are assessed but unpaid at the Settlement Date, then the Buyer may deduct the amount payable from the Balance Purchase Price at settlement and pay it promptly to the relevant authority. If an amount is deducted under this clause, the relevant Outgoing will be treated as paid at the Settlement Date for the purposes of clause 2.6(2).
- (7) Arrears of Rent for any rental period ending on or before the Settlement Date belong to the Seller and are not adjusted at settlement.
- (8) Unpaid Rent for the rental period including both the Settlement Date and the following day ("**Current Period**") is not adjusted until it is paid.
- (9) Rent already paid for the Current Period or beyond must be adjusted at settlement.
- (10) If Rent payments are reassessed after the Settlement Date for periods including the Settlement Date, any additional Rent payment from a Tenant or refund due to a Tenant must be apportioned under clauses 2.6(7), 2.6(8) and 2.6(9).
- (11) Payments under clause 2.6(10) must be made within 14 days after notification by one party to the other but only after any additional payment from a Tenant has been received.
- (12) The cost of bank cheques payable at settlement:
 - (a) to the Seller or its mortgagee are the responsibility of the Buyer; and
 - (b) to parties other than the Seller or its mortgagee are the responsibility of the Seller.
- (13) The Seller is not entitled to require payment of the Balance Purchase Price by means other than bank cheque without the consent of the Buyer.
- (14) Upon written request by the Buyer, the Seller will, prior to settlement, give the Buyer a written statement, supported by reasonable evidence, of:
 - (a) all Outgoings and all Rent for the Property to the extent they are not capable of discovery by search or enquiry at any office of public record or pursuant to the provisions of any statute; and
 - (b) any other information which the Buyer may reasonably require for the purpose of calculating or apportioning any Outgoings or Rent under this clause 2.6.

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

3. FINANCE

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

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4. BUILDING AND PEST INSPECTION REPORTS AND POOL SAFETY

4.1 Building and Pest Inspection

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

4.2 Pool Safety

- (1) This clause 4.2 applies if:
 - (a) the answer to Q2 of the Reference Schedule is No or Q2 is not completed; and
 - (b) this contract is not a contract of a type referred to in section 160(1)(b) of the *Property Occupations Act 2014*.
- (2) This contract is conditional upon:
 - (a) the issue of a Pool Safety Certificate; or
 - (b) a Pool Safety Inspector issuing a Notice of Nonconformity stating the works required before a Pool Safety Certificate can be issued;by the Pool Safety Inspection Date.
- (3) The Buyer is responsible for arranging an inspection by a Pool Safety Inspector at the Buyer's cost. The Seller authorises:
 - (a) the Buyer to arrange the inspection; and
 - (b) the Pool Safety Inspector to advise the Buyer of the results of the inspection and to give the Buyer a copy of any notice issued.
- (4) If a Pool Safety Certificate has not been issued by the Pool Safety Inspection Date, the Buyer may give notice to the Seller that the Buyer:
 - (a) terminates this contract; or
 - (b) waives the benefit of this clause 4.2.The Buyer must act reasonably.
- (5) The Seller may terminate this contract by notice to the Buyer if notice is not given under clause 4.2(4) by 5pm on the Pool Safety Inspection Date.
- (6) The Seller's right under clause 4.2(5) is subject to the Buyer's continuing right to give written notice to the Seller of termination or waiver pursuant to clause 4.2(4).
- (7) The right of a party to terminate under this clause 4.2 ceases upon receipt by that party of a copy of a current Pool Safety Certificate.

- (8) If the Buyer terminates this contract under clause 4.2(4)(a), and the Seller has not obtained a copy of the Notice of Nonconformity issued by the Pool Safety Inspector, the Seller may request a copy and the Buyer must provide this to the Seller without delay.

5. SETTLEMENT

5.1 Time and Date

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

5.2 Transfer Documents

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

5.3 Documents and Keys at Settlement

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

5.4 Assignment of Covenants and Warranties

At settlement, the Seller assigns to the Buyer the benefit of all:

- (1) covenants by the Tenants under the Tenancies;
- (2) guarantees and Bonds (subject to the requirements of the *Residential Tenancies and Rooming Accommodation Act 2008*) supporting the Tenancies;
- (3) manufacturer's warranties regarding the Included Chattels; and

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(4) builders' warranties on the Improvements; to the extent they are assignable. However, the right to recover arrears of Rent is not assigned to the Buyer and section 117 of the *Property Law Act 1974* does not apply.

5.5 Possession of Property and Title to Included Chattels

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

5.6 Reservations

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

5.7 Consent to Transfer

- (1) If the Land sold is leasehold, this contract is subject to any necessary consent to the transfer of the lease to the Buyer being obtained by the Settlement Date.
- (2) The Seller must apply for the consent required as soon as possible.
- (3) The Buyer must do everything reasonably required to help obtain this consent.

6. TIME

6.1 Time of the Essence

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

6.2 Suspension of Time

- (1) This clause 6.2 applies if a party is unable to perform a Settlement Obligation solely as a consequence of a Delay Event but does not apply where the inability is attributable to:
 - (a) damage to, destruction of or diminution in value of the Property or other property of the Seller or Buyer; or
 - (b) termination or variation of any agreement between a party and another person whether relating to the provision of finance, the release of an Encumbrance, the sale or purchase of another property or otherwise.
- (2) Time for the performance of the parties' settlement obligations is suspended and ceases to be of the essence of the contract and the parties are deemed not to be in breach of their Settlement Obligations.
- (3) An Affected Party must take reasonable steps to minimise the effect of the Delay Event on its ability to perform its Settlement Obligations.
- (4) When an Affected Party is no longer prevented from performing its Settlement Obligations due to the Delay Event, the Affected Party must give the other party a notice of that fact, promptly.
- (5) When the Suspension Period ends, whether notice under clause 6.2(4) has been given or not, either party may give the other party a Notice to Settle.
- (6) A Notice to Settle must be in writing and state:
 - (a) that the Suspension Period has ended; and

(b) a date, being not less than 5 nor more than 10 Business Days after the date the Notice to Settle is given, which shall become the Settlement Date;

(c) that time is of the essence.

(7) When Notice to Settle is given, time is again of the essence of the contract.

(8) In this clause 6.2:

(a) "**Affected Party**" means a party referred to in clause 6.2(1);

(b) "**Delay Event**" means:

- (i) a tsunami, flood, cyclone, earthquake, bushfire or other act of nature;
- (ii) riot, civil commotion, war, invasion or a terrorist act;
- (iii) an imminent threat of an event in paragraphs (i) or (ii); or
- (iv) compliance with any lawful direction or order by a Government Agency;

(c) "**Government Agency**" means the government of the Commonwealth of Australia or an Australian State, Territory or local government and includes their authorities, agencies, government owned corporations and authorised officers, courts and tribunals;

(d) "**Settlement Obligations**" means, in the case of the Buyer, its obligations under clauses 2.5(1) and 5.1(1) and, in the case of the Seller, its obligations under clauses 5.1(1), 5.3(1)(a) – (e) and 5.5;

(e) "**Suspension Period**" means the period during which the Affected Party (or if both the Buyer and Seller are Affected Parties, either of them) remains unable to perform a Settlement Obligation solely as a consequence of a Delay Event.

7. MATTERS AFFECTING THE PROPERTY

7.1 Title

The Land is sold subject to:

- (1) any reservations or conditions on the title or the original Deed of Grant (if freehold); or
- (2) the Conditions of the Crown Lease (if leasehold).

7.2 Encumbrances

The Property is sold free of all Encumbrances other than the Title Encumbrances and Tenancies.

7.3 Requisitions

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

7.4 Seller's Warranties

- (1) The Seller warrants that, except as disclosed in this contract at settlement:
 - (a) if the Land is freehold: it will be the registered owner of an estate in fee simple in the Land and will own the rest of the Property;
 - (b) if the Land is leasehold: it will be the registered lessee, the lease is not liable to forfeiture because of default under the lease, and it will own the rest of the Property;
 - (c) it will be capable of completing this contract (unless the Seller dies or becomes mentally incapable after the Contract Date); and
 - (d) there will be no unsatisfied judgment, order (except for an order referred to in clause 7.6(1)(b)) or writ affecting the Property.

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- (2) The Seller warrants that, except as disclosed in this contract at the Contract Date and at settlement there are no current or threatened claims, notices or proceedings that may lead to a judgment, order or writ affecting the Property.
- (3) (a) The Seller warrants that, except as disclosed in this contract or a notice given by the Seller to the Buyer under the *Environmental Protection Act 1994* ("EPA"), at the Contract Date:
 - (i) there is no outstanding obligation on the Seller to give notice to the administering authority under EPA of notifiable activity being conducted on the Land; and
 - (ii) the Seller is not aware of any facts or circumstances that may lead to the Land being classified as contaminated land within the meaning of EPA.
- (b) If the Seller breaches a warranty in clause 7.4(3), the Buyer may:
 - (i) terminate this contract by notice in writing to the Seller given within 2 Business Days before the Settlement Date; or
 - (ii) complete this contract and claim compensation, but only if the Buyer claims it in writing before the Settlement Date.
- (4) If the Seller breaches a warranty in clause 7.4(1) or clause 7.4(2), the Buyer may terminate this contract by notice to the Seller.
- (5) The Seller does not warrant that the Present Use is lawful.

7.5 Survey and Mistake

- (1) The Buyer may survey the Land.
- (2) If there is:
 - (a) an error in the boundaries or area of the Land;
 - (b) an encroachment by structures onto or from the Land; or
 - (c) a mistake or omission in describing the Property or the Seller's title to it;
 which is:
 - (d) immaterial; or
 - (e) material, but the Buyer elects to complete this contract;
 the Buyer's only remedy against the Seller is for compensation, but only if claimed by the Buyer in writing on or before settlement.
- (3) The Buyer may not delay settlement or withhold any part of the Balance Purchase Price because of any compensation claim under clause 7.5(2).
- (4) If there is a material error, encroachment or mistake, the Buyer may terminate this contract before settlement.

7.6 Requirements of Authorities

- (1) Subject to clause 7.6(5), any valid notice or order by any competent authority or Court requiring work to be done or money spent in relation to the Property ("**Work or Expenditure**") must be fully complied with:
 - (a) if issued before the Contract Date, by the Seller before the Settlement Date;
 - (b) if issued on or after the Contract Date, by the Buyer.
- (2) If any Work or Expenditure that is the Seller's responsibility under clause 7.6(1)(a) is not done before the Settlement Date, the Buyer is entitled to claim the reasonable cost of work done by the Buyer in accordance with the notice or order referred to in clause 7.6(1) from the Seller after settlement as a debt.

7.7 Property Adversely Affected

- (1) If at the Contract Date:
 - (a) the Present Use is not lawful under the relevant town planning scheme;
 - (b) the Land is affected by a proposal of any competent authority to alter the dimensions of any Transport Infrastructure or locate Transport Infrastructure on the Land;
 - (c) access or any service to the Land passes unlawfully through other land;
 - (d) any competent authority has issued a current notice to treat, or notice of intention to resume, regarding any part of the Land;
 - (e) there is an outstanding condition of a development approval attaching to the Land under section 73 of the *Planning Act 2016* or section 96 of the *Economic Development Queensland Act 2012* which, if complied with, would constitute a material mistake or omission in the Seller's title under clause 7.5(2)(c);
 - (f) the Property is affected by the *Queensland Heritage Act 1992* or is included in the World Heritage List;
 - (g) the Property is declared acquisition land under the *Queensland Reconstruction Authority Act 2011*;
 - (h) there is a charge against the Land under section 104 of the *Foreign Acquisitions and Takeovers Act 1975* (Cth), and that has not been disclosed in this contract, the Buyer may terminate this contract by notice to the Seller given on or before settlement.
- (2) If no notice is given under clause 7.7(1), the Buyer will be treated as having accepted the Property subject to all of the matters referred to in that clause.
- (3) The Seller authorises the Buyer to inspect records held by any authority, including Security Interests on the PPSR relating to the Property.

7.8 Dividing Fences

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

8. RIGHTS AND OBLIGATIONS UNTIL SETTLEMENT

8.1 Risk

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

8.2 Access

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

- (1) once to read any meter;

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

8.3 Seller's Obligations After Contract Date

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

8.4 Information Regarding the Property

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

- (1) copies of all documents relating to any unregistered interests in the Property;
- (2) full details of the Tenancies to allow the Buyer to properly manage the Property after settlement;
- (3) sufficient details (including the date of birth of each Seller who is an individual) to enable the Buyer to undertake a search of the PPSR; and
- (4) further copies or details if those previously given cease to be complete and accurate.

8.5 Possession Before Settlement

If possession is given before settlement:

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

9. PARTIES' DEFAULT

9.1 Seller and Buyer May Affirm or Terminate

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

9.2 If Seller Affirms

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

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

9.3 If Buyer Affirms

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

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

9.4 If Seller Terminates

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

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

9.5 If Buyer Terminates

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

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

9.6 Seller's Resale

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

9.7 Seller's Damages

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

9.8 Buyer's Damages

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

9.9 Interest on Late Payments

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

10. GENERAL

10.1 Seller's Agent

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

10.2 Foreign Buyer Approval

The Buyer warrants that either:

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

10.3 Duty

The Buyer must pay all duty on this contract.

10.4 Notices

- (1) Notices under this contract must be in writing.
- (2) Notices under this contract or notices required to be given by law may be given and received by the party's solicitor.

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

10.5 Business Days

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

10.6 Rights After Settlement

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

10.7 Further Acts

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

10.8 Severance

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

10.9 Interpretation

(1) Plurals and Genders

Reference to:

- (a) the singular includes the plural and the plural includes the singular;
- (b) one gender includes each other gender;
- (c) a person includes a Body Corporate; and
- (d) a party includes the party's executors, administrators, successors and permitted assigns.

(2) Parties

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

(3) Statutes and Regulations

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

(4) Inconsistencies

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

(5) Headings

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

10.10 Counterparts

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

11. ELECTRONIC SETTLEMENT

11.1 Application of Clause

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

11.2 Completion of Electronic Workspace

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

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- (b) the Buyer and the Seller authorise the Deposit Holder to make the payment in clause 11(4)(a);
- (c) the Seller's Solicitor will hold the money as Deposit Holder under the Contract;
- (d) the Seller and Buyer authorise the Seller's Solicitor to pay the money as directed by the Seller in accordance with the Financial Settlement Schedule.

11.3 Electronic Settlement

- (1) Clauses 5.1(2) and 5.2 do not apply.
- (2) Payment of the Balance Purchase Price electronically as directed by the Seller's Solicitor in the Financial Settlement Schedule satisfies the Buyer's obligation in clause 2.5(1).
- (3) The Seller and Buyer will be taken to have complied with:
 - (a) clause 2.5(3)(c), (e) and (f); and
 - (b) clause 2.5(5)(d) and (e), (as applicable) if at settlement the Financial Settlement Schedule specifies payment of the relevant amount to the account nominated by the Commissioner of Taxation.
- (4) The Seller will be taken to have complied with clause 5.3(1)(b), (c), (d), (e) and (f) if:
 - (a) in relation to documents which are suitable for Electronic Lodgement in the Land Registry at settlement, the documents are Digitally Signed within the Electronic Workspace; and
 - (b) in relation to any other document or thing, the Seller's Solicitor:
 - (i) confirms in writing prior to settlement that it holds all relevant documents which are not suitable for Electronic Lodgement and all Keys (if requested under clause 5.3(1)(d)) in escrow on the terms contained in the QLS E-Conveyancing Guidelines; and
 - (ii) gives a written undertaking to send the documents and Keys (if applicable) to the Buyer or Buyer's Solicitor no later than the Business Day after settlement; and
 - (iii) if requested by the Buyer, provides copies of documents in the Seller's Solicitors possession.
- (5) A party is not in default to the extent it is prevented from complying with an obligation because the other party or the other party's Financial Institution has not done something in the Electronic Workspace.
- (6) Any rights under the contract or at law to terminate the contract may not be exercised during the time the Electronic Workspace is locked for Electronic Settlement.
- (7) Electronic Settlement is taken to occur when Financial Settlement is effected, whether or not Electronic Lodgement has occurred.

11.4 Computer System Unavailable

If settlement fails and cannot occur by 4pm AEST on the Settlement Date because a computer system operated by the Land Registry, Office of State Revenue, Reserve Bank, a Financial Institution or the relevant ELNO System is inoperative, neither party is in default and the Settlement Date is deemed to be the next Business Day. Time remains of the essence.

11.5 Withdrawal from Electronic Settlement

- (1) Either party may elect not to proceed with an Electronic Settlement by giving written notice to the other party.
- (2) A notice under clause 11.5(1) may not be given later than 5 Business Days before the Settlement Date unless an Electronic Settlement cannot be effected because:

- (a) the transaction is not a Qualifying Conveyancing Transaction; or
 - (b) a party's solicitor is unable to complete the transaction due to death, a loss of legal capacity or appointment of a receiver or administrator (or similar) to their legal practice or suspension of their access to the ELNO System; or
 - (c) the Buyer's or Seller's Financial Institution is unable to use the relevant ELNO System to effect Electronic Settlement.
- (3) If clause 11.5(2) applies:
- (a) the party giving the notice must provide satisfactory evidence of the reason for the withdrawal; and
 - (b) the Settlement Date will be extended to the date 5 Business Days after the Settlement Date.

11.6 Costs

Each party must pay its own fees and charges of using the relevant ELNO System for Electronic Settlement.

11.7 Definitions for clause 11

In clause 11:

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

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

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

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

"Electronic Settlement" means settlement facilitated by an ELNO System.

"Electronic Workspace" means a shared electronic workspace within an ELNO System that allows the Buyer and Seller to effect Electronic Lodgement and Financial Settlement.

"ELNO" has the meaning in the ECNL.

"ELNO System" means a system provided by the ELNO for facilitating Financial Settlement and Electronic Lodgement.

"Financial Settlement" means the exchange of value between Financial Institutions facilitated by an ELNO System in accordance with the Financial Settlement Schedule.

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

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

12. ELECTRONIC CONTRACT AND DISCLOSURE

12.1 Electronic Signing

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

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

12.2 Pre-contract Disclosure

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

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

M.N. Smk.

INITIAL
000020513706

M.N.H

ANNEXURE "A"

This is Annexure "A" to Contract of Sale dated 22 day of OCTOBER 2021.

BUYERS: Miles David Huth

SELLER: Trevor Noel King & Susan Maree King

PROPERTY: 11 Kumbia Road, Brooklands (L8 FY2513)
(herein called the Property)

SPECIAL CONDITIONS

1. Boundary Fences

- a) The Seller shall not be liable for any claims or charges made subsequent to the date hereof by any adjoining owners or other person or persons whether under the provisions of the "*Neighbourhood Disputes (Dividing Fences and Trees) Act (Qld) 2011*" or otherwise for the erection substitution and/or maintenance of fences purporting to be boundary or dividing fences of the Property hereby sold or dividing fences between or on any parcels comprised therein or between any adjoining land and the said Property or any parcels comprised therein.
- b) The Seller does not guarantee the correctness of the boundaries or area of the land described in the Items Schedule and the same shall be taken as now occupied and no objection or requisition shall be made in respect of any alleged incorrectness in such boundaries or area.
- c) No compensation shall be made or allowed if the existing boundary fences on the said land do not agree with the boundary lines given in the instruments of title thereof nor because of any the boundary fences being "give and take" fences nor by reason of any part of the said land being unfenced and no objection or requisition shall be made in respect thereof.

2. Noxious Weeds

- a) No objection or requisition shall be made by the Buyers by reason of noxious weeds now or hereafter growing on the Property or by reason of any notice served or hereafter growing on the said land or by reason of any notice served on the Seller or on the registered proprietors of the Property requesting the said noxious weeds to be cleared or destroyed and the Buyers shall accept possession subject to the same and shall accept any obligation to clear and destroy any such noxious weeds and carry out and perform any such clearing at destruction at their own cost and expense and satisfy any requisitions of any Local Authority relating thereto and shall indemnify and keep the Seller indemnified from and against all liabilities and proceedings in relation to such noxious weeds and any notices received in respect thereof.
- b) The Seller permit the Buyers, upon the Buyers giving the Seller two (2) business days' notice, permission to enter upon the Property if the proper management of the property shall require, prior to settlement, the clearing or destroying any such

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noxious weeds, such clearing and destruction to be undertaken with all due care by and at the risk and expense of the Buyers.

3. No Warranty

- a) No warranty of the state and condition and carrying capacity of the Property sold or of any of the improvements thereon or of the capacity extent depth length or flow of any tank dams wells or bores on the Land is given or shall be implied against the Seller.
- b) The Seller is not selling pursuant to any pamphlets plans or particulars which may have been exhibited submitted or advertised and no error misstatement or of the description of the Property or of any part or parts thereof in any such pamphlets plans particulars or advertisements shall annul the sale nor shall any compensation be allowed in respect thereof.

4. Buyer's Inspection

The Buyers warrants to the Seller that in purchasing the Property the Buyers have relied on their own inspection, knowledge and enquiries and not on any brochure or advertisement for the Property or on any representations made by or on behalf of the Seller.

5. Seller's Warranties

The Seller warrants as follows:

- a) There will not be at the Date of Settlement any agreements for the agistment of stock in or upon the Property or any other agreements (including water agreements) affecting the Property nor will there be any lien or charge affecting any crops thereon;
- b) That all requisitions received by the Seller from any authority in relation to the Property or the business conducted thereon have been complied with;
- c) That the Seller has not received any notice from any Shire Council or other Authority requiring the destruction of noxious weeds on the Property which has not been complied with;
- d) That the Seller has not received any notices requiring work to be done on the Property in pursuance of the *Workers' Accommodation Act* or any other similar Act or Regulation;
- e) That the Seller has not received any notice of resumption affecting the Property or any part thereof;
- f) That there is no money owing for advances made for drought relief under the *Drought Relief to Primary Producers Act 1940-1961* or under any other Act or Acts which would or could be a charge on the Property or on the produce therefrom;
- g) That there are no requisitions from any Authority for the building of, or repair to, any contour banks on the Property;
- h) That the Seller has not fed cotton trash on the Property;
- i) That the Seller has not used any banned chemical substances on the Property;
- j) That the assets and chattels included in this Contract is the property of the Seller and the Seller hereby agrees that the assets and chattels included in this Contract

is their own and is (or will be) free from Mortgage, Bill of Sale, Hire Purchase Agreement, Lien, Charge or encumbrance whatsoever on the Date of Settlement;

- k) Unless otherwise stated by the Seller, all engines, pumps and plant included in this sale will be in going order and condition on the date for completion and the Buyers shall be entitled to, upon the Buyers giving the Seller two (2) business days' notice, start and test run all such engines, pumps and plant prior to the date for completion to satisfy themselves that they are in going order and condition;
- l) The Seller has not received notice of any claim under the *Neighbourhood Disputes (Dividing Fences and Trees) Act (Qld) 2011* which has not been resolved;
- m) That the Seller is not aware of any Electricity (or similar) Guarantee that attaches to or affects the Property;
- n) The Seller has not received any notice, correspondence or entered any agreement with any mining company in respect to the Property;
- o) That the organochlorine residue status of the Property is "clear";
- p) The Seller warrant that all rates and taxes in relation to the Property and issued by the relevant authority, with the exception for periods of assessments where the assessment notices are yet to be issued, have been paid or will be paid at Settlement;
- q) The Seller warrant that the Property is not, as at the Date of the Contract, affected by any assessment of Aboriginal cultural heritage and does not contain any areas of significance which would require the Land or any part thereof to be recorded on the Cultural Heritage Database or Register.

6. World Heritage List

If the Property is included in the World Heritage List compiled under the convention for the Protection of the Worlds Cultural and Natural Heritage and any such facts not disclosed in this agreement, the Buyers may, by notice in writing to the Seller given on or before the Date of Settlement, terminate this Contract.

7. Nature Conservation Act

- a. If it is established that at the date of this Agreement:
 - i. The Property or any part of it is dedicated as a protected area or is affected by a conservation agreement or conservation plan under the Nature Conservation Act;
 - ii. The Property is entered on the Heritage Register or is the subject of a stop order, restoration order, non-development order or is a declared protected area or restricted zone under the Queensland Heritage Act;
 - iii. The Property is entered on the Contaminated Sites Register;
- b. The Buyers may by written notice to the Seller terminate this Contract and all deposits paid pursuant hereto shall be refunded to the Buyers.

8. No Requisitions Or Objections

No requisition or objection will be made or compensation allowed by reason of any fact or circumstance affecting the Property including if

- a) there is any road or reservation of a road traversing the Property;

- b) there is any gate erected across a road traversing the Property;
- c) the Seller does not hold any permit or authority to enclose any road within the boundaries of the Land or to carry rabbit proof or other fencing across any road dividing or adjoining the Land;
- d) the Executive Director of the Rural Lands Protection Board may impose any requirements on the transfer of the Land;
- e) there exists any primary industries levies and charges imposed by any legislation;
- f) any part of the Property is identified on the regulated vegetation management map or vegetation management supporting map and/or property map of assessable vegetation under the *Vegetation Management Act 1999 (Qld)* or is protected under the *Vegetation Management Act 1999 (Qld)* or is subject to any notice or order under that Act;
- g) whether any part of the Property is a wild river area under the *Wild Rivers Act 2005 (Qld)*;
- h) there may be any order issued concerning the Land pursuant to the *Land Protection (Pest and Stock Route Management) Act*;
- i) there may be a proposal for realignment widening or siting of a road by any competent authority found to exist at the date of this Contract affecting the Land;
- j) there may be any transmission line whether for electricity or telephone purposes and whether above or below ground level traversing the Land or any easement created or the want of any easement;
- k) any pipeline, lease, licence, authority or application under the *Mineral Resources Act 1989*, *Petroleum Act 1923* or the *Petroleum and Gas (Production and Safety) Act 2004* affects the Land;
- l) the Seller does not hold bore or water licences relating to the Property;
- m) the use of the Property is unlawful under any town planning scheme or any improvements on the Land have not been approved or do not comply with any approval issued by a competent authority;
- n) the access to the Land is other than by way of an adjoining road dedicated for public use as a road or by way of registered easement to a road dedicated for public use.

9. Goods and Services Tax (GST)

- a) The Seller warrant that a farming business has been carried out on the Property for at least five (5) years immediately preceding the signing of this Contract and will continue to be carried out on the Property up to and including the Date of Settlement of this Contract.
- b) The Buyers warrants that they intend to continue to conduct a farming business be carried on the Property after settlement.
- c) The parties agree that the sale of the Property is GST free

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- d) Notwithstanding the warranties contained in this clause, if the Commissioner of Taxation assesses the Seller that GST is payable on the sale price, then within fourteen (14) days of delivery to the Buyers of a copy of the relevant notice of assessment or other satisfactory evidence of the making of the assessment and a GST compliant tax invoice, the Buyers shall pay to the Seller the amount assessed to the Seller, failing which the Seller shall be entitled to recover the amount so assessed by way of liquidated debt and/or damages.
- e) For the purposes of this clause, the definition of a "farming business" is the same as the definition contained in the legislation A New Tax System (Goods and Services Tax) Act 1999 ("the GST Act").
- f) The Buyers shall at the Date of Settlement pay GST on the supply of any chattels hereby sold (described in the Reference Schedule of this Contract) provided the Seller deliver to the Buyers a GST compliant Tax Invoice in respect of such supply.
- g) The Buyer's liability to pay GST under the clause 6 does not merge on Completion of this Contract.

10. Soil Conservation Act

The Buyers acknowledge and accepts title subject to and agrees to be bound by any notice given pursuant to the provisions of the *Soil Conservation Act* affecting the Property.

11. Apportionment

Both the Seller and Buyers agree that the purchase price shall be apportioned between the items included in the sale in the manner agreed to between the Accountants acting on behalf of the Seller and the Buyers and failing agreement each party shall be entitled to submit their own apportionment for taxation purposes.

12. Depasture of Livestock

The Seller shall have the right to continue to run on the said Property all those livestock depasturing thereon at the date of inspection of the Property by the Buyers with the progeny thereof until the Date of Settlement but shall not, without the consent in writing of the Buyers, depasture any other livestock thereon and shall remove all their livestock from and off the Property on or before the Date of Settlement.

13. Grass & Herbage

Loss of grass or herbage by fire or other cause, without negligence on the part of the Seller, after the date of this Contract shall not entitle the Buyers to terminate this Contract nor to any compensation from the Seller in respect of such loss.

14. Conduct of Business

- a) The Seller may allow to be continued the present business on the Property until the Date of Settlement.
- b) Any farming business shall be carried on the Property in a good and husbandlike manner and in accordance with approved methods of farming and grazing.
- c) Notwithstanding anything herein to the contrary, the Seller may use or consume any part of the Property for grazing purposes provided that the Seller does not cut, bail, remove or otherwise interfere with the grasses growing on the Property.

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- d) Until the Date of Settlement, the Seller must maintain the Property in the same condition as at the date of this Contract (fair wear and tear, normal use, natural causes and damage by fire, storm, tempest or other act of God excepted).

15. Chemical Use

The Buyers acknowledge that the Property:

- a) Has located upon it certain improvements including livestock yards, ancillary items including sheds and other appurtenances used in the management and control of livestock and pasture. The Seller disclose that the Seller and their predecessors in title have, inter alia, used and stored chemicals in or about the cartilage of the improvements and have applied chemicals and other substances to livestock that have been depastured on, inter alia, the Property.
- b) Has applied to it various soil additives, chemicals and other forms of pasture improvements, and/or growth retardants.
- c) Has carried livestock of various nature which have been treated with chemicals in the ordinary course of husbandry having regard to products that were available from time to time and the level of knowledge applicable at the various times.
- d) The Buyers shall not raise any requisitions, claims for compensation or objections in relation to any matter or thing arising from such use or storage and the Buyers further acknowledge that prior to entering into this Contract, the Buyers have made enquiries as the Buyers may wish to make in respect of the Property including enquiries of the Seller and the Buyers have fully satisfied themselves in relation to all aspects of the Property and its use.

16. Fuel Tanks

The Seller give no warranty as to the ownership of any fuel tanks on the Property (if any) and does not purport to assign any title in the same to the Buyers. The Seller shall not nor shall they be obliged to remove the same from the Property on the date of delivery.

17. Permission to Release Land Information

In the event that the Buyers is wishing to obtain a search from the Animal and Plant Health Service, Departments of Primary Industries for any or all of the following with regards the Land Status and Restrictions Applicable to the Property hereby sold, then the Seller hereby authorises the Principal Inspector, Animal and Plant Health Services, Department of Primary Industries, Queensland, to release the Land information to the Buyers promptly upon receipt of a request by the Buyers to do so and payment of the required fee:

- a) The National; Organochlorine Management (NORM) Program;
- b) The National Antimicrobial Minimisation (NARM) Program;
- c) Other chemical residue or targeted testing list (TTL) chemical residue testing;
- d) Quarantines, directions, undertakings etc on the Land for diseases of stock under the *Stock Act 1915*;
- e) Land status and area/zone status with respect to tick control under the *Stock Act 1915*;

- f) Quarantines, directions etc. on the Land under the *Exotic Diseases in Animals Act 1981*;
- g) Quarantines, directions etc. on the Land under the *Apiaries Act 1982*;
- h) Quarantines, directions etc. on the Land under the *Plant Protection Act 1989*.

18. Due Diligence

- a. This contract is subject to and conditional on:
 - i. The Buyers conducting whatever reviews and searches and obtaining whatever reports the Buyers might wish to obtain in respect of the Property ("the Due Diligence"); and
 - ii. The Buyers being satisfied with the results of the Due Diligence within twenty-one (21) days from the date of this Contract (Due Diligence Date).
- b. The Buyers must:
 - i. Take all steps reasonably necessary to conduct the Due Diligence; and
 - ii. Pay all costs of and incidental to the Due Diligence.
- c. The Seller authorizes the Buyers to inspect records held by any authority relating to the Property.
- d. Should the Buyers not be satisfied with the results of the Due Diligence, the Buyers may, by giving written notice to the Seller, elect to terminate this Contract at which time this Contract will be at an end and all deposit monies shall be refunded to the Buyers without deduction.

19 Property Reserved from Sale

The Parties agree that the following items are reserved from the sale:

- a) The private and personal chattels of the Seller, Employees of the Seller and their respective families;
- b) The chattels (if any) other than those referred to in the list of "Included Chattels"
- c) All livestock'
- d) All hides and skins;
- e) All brands and earmarks used about the property;
- f) All stores, fuel and other materials on the land or during transit thereto or therefrom;
- g) All items of plant, furniture, motor vehicles, machinery and other chattels other than those referred to in the list of "Included Chattels" as being included in the sale.

20 Electronic Transmission

- a) The Parties acknowledge that they have, prior to entering into this Contract, agreed to the transmission of the Contract by email or facsimile in accordance with the *Electronic Transactions (Queensland) Act 2001*.
- b) This Contract is validly executed if executed in one or more counterparts. Exchange of counterparts (to constitute creation of this Contract) may be validly effected by electronic means and in that case exchange will occur when each party or its

