



Accredited Agency

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|  | Contract for Houses and Residential Land *Eleventh* *Edition* |

*This* *document* *has* *been* *approved* *by* *The* *Real* *Estate* *Institute* *of* *Queensland* *Limited* *and* *the* *Queensland* *Law* *Society* *Incorporated* *as* *being* *suitable* *for* *the* *sale* *and* *purchase* *of* *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:**

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|  | **AGENT** |

NAME:

|  |
| --- |
| All Properties Group Pty Ltd T/as All Properties Group |
|  |

ABN:

|  |  |
| --- | --- |
| 91 130 409 326 |  |

LICENCE NO:

|  |  |
| --- | --- |
| 323 4901 |  |

ADDRESS:

SUBURB:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| PO Box 223 | | | | |
|  | | | | |
| Browns Plains | STATE: | Qld | POSTCODE: | 4118 |

PHONE: MOBILE: 07 3800 4111

***PARTIES***

FAX: EMAIL:

|  |  |
| --- | --- |
| 07 3103 4337 | info@allpropertiesgroup.com.au |

|  |  |
| --- | --- |
|  | **SELLER** |

NAME: ABN:

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| ADDRESS:  SUBURB: |  | | | |
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|  | STATE: |  | POSTCODE: | |  |

PHONE: MOBILE: FAX: EMAIL:

NAME: ABN:

ADDRESS:

SUBURB:

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|  | **SELLER'S** **SOLICITOR** *or* *any* *other* *solicitor* *notified* *to* *the* *Buyer* |

NAME:

REF: CONTACT:

ADDRESS:

SUBURB:

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|  | **BUYER** |

NAME: ABN:

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|  | STATE: |  | POSTCODE: | |  |

PHONE: MOBILE: FAX: EMAIL:

NAME: ABN:

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|  | **BUYER'S** **SOLICITOR** *or* *any* *other* *solicitor* *notified* *to* *the* *Seller* |

NAME:

REF: CONTACT:

ADDRESS:

SUBURB:

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|  | **PROPERTY** |

**Land:** ADDRESS:

SUBURB:

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|  | STATE: |  | POSTCODE: |  |

Built On Vacant

Description: Lot:

on:

County: Parish:

Title Reference:

Area: *(more* *or* *less)* Land sold as: Freehold Leasehold

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

**Present** **Use:** **Local** **Government:**

**Excluded** **Fixtures:**

**Included** **Chattels:**

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|  |  |
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|  | **PRICE**     |

**Deposit** **Holder:** All Properties Group Pty Ltd

**Deposit** **Holder's** **Trust** **Account:** All Properties Group Sales Trust Account

**Bank:**

**BSB:** 034 115

|  |  |
| --- | --- |
| Westpac | |
| **Account** **No:** | 435579 |

**Purchase** **Price:** $

**Deposit:** $

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

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

$ Balance Deposit (if any) payable on:

**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.*

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|  | **FINANCE** |

**Finance** **Amount:** $

**Financier:**

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

**Finance** **Date:**

|  |  |
| --- | --- |
|  | **BUILDING** **AND/OR** **PEST** **INSPECTION** **DATE:** |

*If* *“Inspection* *Date"* *is* *not* *completed,* *the* *contract* *is* *not* *subject* *to* *an* *inspection* *report* *and* *clause* *4.1*

**Inspection** **Date:**



*does* *not* *apply.*

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|  | **MATTERS** **AFFECTING** **PROPERTY** |

***Title*** ***Encumbrances:***

Is the Property sold subject to any Encumbrances? 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:

$ $

**Managing** **Agent:**

AGENCY NAME:

PROPERTY MANAGER:

ADDRESS:

SUBURB:

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|  |  |
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|  | **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

***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.*

No Clause 4.2 applies (except for auction and some other excluded sales)

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

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

Yes

No

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

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|  | **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.*

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|  | **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

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****:* *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.*

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

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|  | ***NEIGHBOURHOOD*** ***DISPUTES*** ***(DIVIDING*** ***FENCES*** ***AND*** ***TREES)*** ***ACT*** ***2011*** |

The Seller gives notice to the Buyer in accordance with Section 83

of the *Neighbourhood* *Disputes* *(Dividing* *Fences* *and* *Trees)* *Act* *2011* that the Land:

*(select* *whichever* *is* *applicable)*

is not affected by any application to, or an order made by, the Queensland Civil and Administrative Tribunal (QCAT) in relation to a tree on the Land or

is affected by an application to, or an order made by, QCAT in relation to a tree on the Land, a copy of which has been given to the Buyer prior to the Buyer signing the contract.

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

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**The** **REIQ** **Terms** **of** **Contract** **for** **Houses** **and** **Residential** **Land** **(Pages** **6-14)** **(Eleventh** **Edition)** **contain** **the** **Terms** **of** **this** **Contract.**

***SPECIAL*** ***CONDITIONS***

1. The seller acknowledges that if the deposit held by the deposit holder is insufficient to cover the Agent's commission and hereby irrevocably authorises and direct the Buyers Solicitor to draw a separate cheque at settlement to cover the Agent's commission plus GST together with any outstanding marketing cost, less any deposit held by the deposit holder.

2. The Seller and Buyer hereby consent to use facsimile and electronic mail (e-mail) as a method of communication for the purpose of signing this Contract of Sale to comply with Electronic Transaction (Queensland) Act 2001.The parties agree that the Contract is as legally binding and effective as if it had been executed in each other's presence.

3. The Seller shall leave the property clean and tidy to a professional standard, carpets professionally cleaned and all rubbish removed and gardens and yard to be maintained until settlement.

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|  | **SETTLEMENT** |

**Settlement** **Date:**

**Place** **for** **Settlement:**Brisbane

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

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

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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:**

**Buyer:**

**Seller:**

**Seller:**

**Deposit** **Holder:**

**Witness:**

**Witness:**

**Witness:**

**Witness:**

*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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***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) **“Balance** **Purchase** **Price”** means the Purchase Price, less the Deposit, adjusted under clause 2.6;

(c) **“Bank”** means an authorised deposit-taking institution within the meaning of the *Banking* *Act* *1959* (Cth);

(d) **“Bond”** means a bond under the *Residential* *Tenancies* *and* *Rooming* *Accommodation* *Act* *2008;*

(e) **“Building** **Inspector”** means a person licensed to carry out completed residential building inspections under the *Queensland* *Building* *and* *Construction* *Commission* *Regulations* *2003*;

(f) **“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);

(g) **“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;*

(h) **“Compliant** **Smoke** **Alarm”** means a smoke alarm complying with Sections 104RB (2) or (4) of the *Fire* *and* *Emergency* *Services* *Act* *1990;*

(i) **“Contract** **Date”** or **“Date** **of** **Contract”** means the date inserted in the Reference Schedule;

(j) **“Court”** includes any tribunal established under statute;

(k) **“Encumbrances”** includes:

(i) unregistered encumbrances (ii) statutory encumbrances; and (iii)Security Interests.

(l) **“Essential** **Term”** includes, in the case of breach by:

(i) the Buyer: clauses 2.2, 2.5(1), 5.1 and 6.1; and (ii) the Seller: clauses 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;

(m)**“Financial** **Institution”** means a Bank, Building Society or Credit Union;

(n) **“General** **Purpose** **Socket** **Outlet”** means an electrical socket outlet as defined in the *Electrical* *Safety* *Regulations* *2013;*

(o) **“GST”** means the goods and services tax under the *GST* *Act;*

(p) ***“GST*** ***Act”*** means *A* *New* *Tax* *System* *(Goods* *and* *Services* *Tax)* *Act* and includes other GST related legislation;

(q) **“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;

(r) **“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;

(s) **“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;

(t) **“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;

(u) **“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;

(v) **“Pest** **Inspector”** means a person licensed to undertake termite inspections on completed buildings under the *Queensland* *Building* *and* *Construction* *Commission* *Regulations* *2003*;

(w) **“Pool** **Safety** **Certificate”** has the meaning in Section 231C(a) of the *Building* *Act* *1975;*

(x) **“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;

(y) **“Pool** **Safety** **Requirements”** means the requirements for pool safety contained in the *Building* *Act* *1975* *and* *Building* *Regulation* *2006;*

(z) **“Pool** **Safety** **Inspector”** means a person authorised to give a Pool Safety Certificate;

(aa) **“PPSR”** means the Personal Property Securities Register established under *Personal* *Property* *Securities* *Act* *2009* (Cth);

(bb) **“Property”** means:

(i) the Land;

(ii) the Improvements; and (iii)the Included Chattels;

(cc) **“Rent”** means any periodic amount payable under the Tenancies;

(dd) **“Reserved** **Items”** means the Excluded Fixtures and all Chattels on the Land other than the Included Chattels;

(ee) **“Security** **Interests”** means all security interests registered on the PPSR over Included Chattels and Improvements;

(ff) **“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; and

(gg) **“Transport** **Infrastructure”** has the meaning defined in the *Transport* *Infrastructure* *Act* *1994.*

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**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(1):

(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.

**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.

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(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.

**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.

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**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

(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 Natural Disaster but does not apply where the inability is attributable to:

(a) damage to, destruction of or diminution in value of the Property or other property of the Seller

or Buyer; or

(b) termination or variation of any agreement between a party and another person whether relating to the provision of finance, the release of an Encumbrance, the sale or purchase of another property or otherwise.

(2) Time for the performance of the parties' settlement obligations is suspended and ceases to be of the essence of the contract and the parties are deemed not to be in breach of their settlement obligations.

(3) An Affected Party must take reasonable steps to minimise the effect of the Natural Disaster on its ability to perform its settlement obligations.

(4) When an Affected Party is no longer prevented from performing its settlement obligations due to the Natural Disaster, the Affected Party must give the other party a notice of that fact, promptly.

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(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) “Natural Disaster” means a tsunami, flood, cyclone, earthquake, bushfire or other act of nature;

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

(d) “Suspension Period” means the period during which the Affected Party (or if both the

Buyer and Seller are Affected Parties, either of them) remains unable to perform a settlement obligation solely as a consequence of a Natural Disaster.

**7.** **MATTERS** **AFFECTING** **THE** **PROPERTY**

**7.1** **Title**

The 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.

(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.

(3) Any Work or Expenditure that is the Buyer’s responsibility under clause 7.6(1)(b), which is required to be done before the Settlement Date, must be done by the Seller unless the Buyer

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directs the Seller not to and indemnifies the Seller against any liability for not carrying out the work. If the Seller does the work, or spends the money, the reasonable cost of that Work or Expenditure must be added to the Balance Purchase Price.

(4) The Buyer may terminate this contract by notice to the Seller if there is an outstanding notice at the Contract Date under Sections 246AG, 247 or 248 of the *Building* *Act* *1975* or Sections 588 or 590 of the *Sustainable* *Planning* *Act* *2009* that affects the Property.

(5) Clause 7.6(1) does not apply to orders disclosed under Section 83 of the *Neighbourhood* *Disputes* *(Dividing* *Fences* *and* *Trees)* *Act* *2011.*

**7.7** **Property** **Adversely** **Affected** (1) If at the Contract Date:

(a) the Present Use is not lawful under the relevant town planning scheme;

(b) the Land is affected by a proposal of any competent authority to alter the dimensions of any Transport Infrastructure or locate Transport Infrastructure on the Land;

(c) access or any service to the Land passes unlawfully through other land;

(d) any competent authority has issued a current notice to treat, or notice of intention to resume, regarding any part of the Land;

(e) the Property is affected by the *Queensland* *Heritage* *Act* *1992* or is included in the World Heritage List;

(f) the Property is declared acquisition land under the *Queensland* *Reconstruction* *Authority* *Act* *2011.*

and that has not been disclosed in this contract, the Buyer may terminate this contract by notice to the Seller given no later than 2 Business Days before the Settlement Date.

(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 other provision in this contract, 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;

(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 common law, if the Seller or Buyer, as the case may be, fails to comply with an Essential Term, or makes a fundamental breach of an intermediate term, the Seller (in the case of the Buyer's default) or the Buyer (in the case of the Seller’s default) may affirm or terminate this contract.

**9.2** **If** **Seller** **Affirms**

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

(1) damages;

(2) specific performance; or

(3) damages and specific performance.

**9.3** **If** **Buyer** **Affirms**

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

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(1) damages;

(2) specific performance; or

(3) damages and specific performance.

(2) the Treasurer’s consent is not required to the Buyer's purchase of the Property.

**10.3** **Duty**

**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:

any deficiency in price on a resale; and (a) its expenses connected with any

repossession, any failed attempt to resell, and the resale;

(b) 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) Without affecting the Seller’s other rights, if any money payable by the Buyer under this contract is not paid when due, the Buyer must pay the Seller at settlement interest on that money calculated at the Default Interest Rate from the due date for payment until payment is made.

(2) The Seller may recover that interest from the Buyer as liquidated damages.

(3) Any judgment for money payable under this contract will bear interest from the date of judgment to the date of payment and the provisions of this clause 9.9 apply to calculation of that interest.

The Buyer must pay all duty on this contract.

**10.4** **Notices**

(1) Notices under this contract must be in writing and may be given by a party’s solicitor.

(2) Notices may be given by:

**(a)** delivering or posting to the other party or its solicitor; or

(b) sending to the facsimile number or email address of the other party or its solicitor stated in the Reference Schedule or another facsimile number or email address specified in a notice given by the recipient to the sender.

*[****Note****:* *Whilst* *notices* *under* *this* *contract* *may* *be* *sent* *by* *email* *they* *are* *not* *'given'* *until* *they* *are* *capable* *of* *being* *retrieved* *by* *the* *addressee* *at* *the* *nominated* *email* *address* *in* *accordance* *with* *s* *24*

*of* *the* *Electronic* *Transactions* *(Queensland)* *Act* *2001.]*

(3) Posted notices will be treated as given 3 Business Days after posting.

(4) Notices sent by facsimile will be treated as given when the sender obtains a clear transmission report.

(5) Notices given after 5pm will be treated as given on the next Business Day.

(6) 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.

**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**

**10.** **GENERAL**

**10.1Agent**

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

**10.2Foreign** **Investment** **Review** **Board** The Buyer warrants that either:

(1) the Treasurer has consented under the *Foreign* *Acquisitions* *and* *Takeovers* *Act* *1975* (Cth) to the Buyer’s purchase of the Property; or

(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.

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(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.

**11.** **ELECTRONIC** **SETTLEMENT** **11.1Application** **of** **Clause**

(1) Clause 11 applies if the Buyer, Seller and each Financial Institution involved in the transaction agree to an Electronic Settlement and overrides any other provision of this contract to the extent of any inconsistency.

(2) Acceptance of an invitation to an Electronic Workspace is taken to be an agreement for clause 11.1(1).

(3) Clause 11 (except Clause 11.5(2)) ceases to apply if either party gives notice under clause 11.5 that settlement will not be an Electronic Settlement.

**11.2Completion** **of** **Electronic** **Workspace** (1) The parties must:

(a) ensure that the Electronic Workspace is completed and all Electronic Conveyancing Documents and the Financial Settlement Schedule are Digitally Signed prior to settlement; and

(b) do everything else required in the Electronic Workspace to enable settlement to occur on the Settlement Date.

(2) If the parties cannot agree on a time for settlement, the time to be nominated in the Workspace is

4pm AEST.

(3) If any part of the Purchase Price is to be paid to discharge an Outgoing:

(a) the Buyer may, by notice in writing to the Seller, require that the amount is paid to the Buyer's Solicitor's trust account and the Buyer is responsible for paying the amount to the relevant authority;

(b) for amounts to be paid to destination accounts other than the Buyer's Solicitor's trust account, the Seller must give the Buyer a copy of the current account for the Outgoing to enable the Buyer to verify the destination account details in the Financial Settlement Schedule.

(4) If the Deposit is required to discharge any Encumbrance or pay an Outgoing at settlement:

(a) the Deposit Holder must, if directed by the Seller at least 2 Business Days prior to

Settlement, pay the Deposit (and any interest accrued on investment of the Deposit) less commission as clear funds to the Seller's Solicitor;

(b) the Buyer and the Seller authorise the Deposit Holder to make the payment in clause 11(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 will be taken to have complied with clauses 5.3(1)(b) and (c) if, at settlement, the Electronic Workspace contains Transfer Documents and (if applicable) releases of the Encumbrances (other than releases of Encumbrances referred to

in clause 11.3(4)) for Electronic Lodgement in the Land Registry.

(4) The Seller will be taken to have complied with clause 5.3(1)(c), (d), (e) and (f) if the Seller's Solicitor:

(a) confirms in writing prior to settlement that it holds all relevant documents which are not suitable for Electronic Lodgement and all Keys (if requested under clause 5.3(1)(d)) in escrow on the terms contained in the QLS

E-Conveyancing Guidelines; and

(b) gives a written undertaking to send the documents and Keys (if applicable) to the Buyer or Buyer's Solicitor no later than the Business Day after settlement; and

(c) if requested by the Buyer, provides copies of documents in the Seller's Solicitors possession.

(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.

**11.4** **Computer** **System** **Unavailable**

(1) If settlement fails and cannot occur by 4pm AEST on the Settlement Date because a computer system operated by the Land Registry, Office of State Revenue, Reserve Bank, a Financial Institution or PEXA is inoperative, neither party

is in default and the Settlement Date is deemed to be the next Business Day. Time remains of the essence.

(2) A party is not required to settle if Electronic Lodgement is not available. If the parties agree to Financial Settlement without Electronic Lodgement, settlement is deemed to occur at the time of Financial Settlement.

**11.5** **Withdrawal** **from** **Electronic** **Settlement**

(1) Either party may elect not to proceed with an Electronic Settlement by giving written notice to the other party.

(2) A notice under clause 11.5(1) may not be given later than 5 Business Days before the Settlement Date unless an Electronic Settlement cannot be effected because:

(a) the transaction is not a Qualifying Conveyancing Transaction; or

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(b) a party's solicitor is unable to complete the transaction due to death, a loss of legal capacity or appointment of a receiver or administrator (or similar) to their legal practice or suspension of their access to PEXA; or

(c) the Buyer's or Seller's Financial Institution is unable to settle using PEXA.

(3) If clause 11.5(2) applies:

(a) the party giving the notice must provide satisfactory evidence of the reason for the withdrawal; and

(b) the Settlement Date will be extended to the date 5 Business Days after the Settlement Date.

**11.6Costs**

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

**11.7Definitions** **for** **clause** **11** In clause 11:

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

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

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

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

**Electronic** **Settlement** means settlement facilitated by PEXA.

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

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

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

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

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

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