REIV
THE DIFFERENCE

LAW INSTITUTE VICTORIA

Contract of

sale of land

Property: 13 SITTELLA COURT, WERRIBEE VICTORIA 3030

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AICVIC
Endorsed by the Australian Institute of Conveyancers (Victorian Division)

Contract of sale of land

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IMPORTANT NOTICE TO PURCHASERS – COOLING-OFF

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

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

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

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

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

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

NOTICE TO PURCHASERS OF PROPERTY OFF-THE-PLAN

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

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

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

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

Approval

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

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

WARNING: YOU SHOULD CONSIDER THE EFFECT (IF ANY) THAT THE WINDFALL GAINS TAX MAY HAVE ON THE SALE OF LAND UNDER THIS CONTRACT.

Contract of sale of land

The vendor agrees to sell and the purchaser agrees to buy the property, being the land and the goods, for the price and on the terms set out in this contract.

The terms of this contract are contained in the -

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

in that order of priority

SIGNING OF THIS CONTRACT

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

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

The authority of a person signing -

- under power of attorney; or
- as director of a corporation; or
- as agent authorised in writing by one of the parties -

must be noted beneath the signature.

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

SIGNED BY THE PURCHASER: on

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

State nature of authority, if applicable: Not Applicable

SIGNED BY THE PURCHASER: on

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

State nature of authority, if applicable: Not Applicable

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

SIGNED BY THE VENDOR: on

Print name(s) of person(s) signing: LAWRENCE KWONG KIAT LOO

State nature of authority, if applicable: Not Applicable

SIGNED BY THE VENDOR: on

Print name(s) of person(s) signing: AI PING SHERLYNN WONG

State nature of authority, if applicable: Not Applicable

SIGNED BY THE VENDOR: on

Print name(s) of person(s) signing: OLIVER KWONG YONG LOO

State nature of authority, if applicable: Not Applicable

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

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Particulars of sale

Vendor's estate agent

Name:	XNERGY REALTY ALTONA (ATTN: ENDRU YAO)
Address:	114-116 Queen Street, Altona VIC 3018
Email:	endru@xynergy.com.au

Tel: Mob: 0414 241 168 Fax: Ref:

Vendor

Name:	LAWRENCE KWONG KIAT LOO
Address:	c/o AGILE LEGAL CONSULTING
ABN/ACN:	
Email:	

Vendor

Name:	AI PING SHERLYNN WONG
Address:	c/o AGILE LEGAL CONSULTING
ABN/ACN:	
Email:	

Vendor

Name:	OLIVER KWONG YONG LOO
Address:	c/o AGILE LEGAL CONSULTING
ABN/ACN:	
Email:	

Vendor's legal practitioner or conveyancer

Name:	AGILE LEGAL CONSULTING (Attn: Sherlynn Wong)
Address:	Level 3, 257 Colins Street, Melbourne VIC 3000
Email:	s.wong@agilelegal.com.au

Tel: 03 9663 8818 Mob: Fax: Ref: SW:3478/24

Purchaser's estate agent

Name:	
Address:	
Email:	

Tel: Mob: Fax: Ref:

Purchaser

Name:	
Address	
ABN/ACN:	
Email:	

Purchaser

Name:	
Address	
ABN/ACN:	
Email:	

Purchaser's legal practitioner or conveyancer

Name:	
Address:	

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Email:

Tel: Fax: DX: Ref:

Land (general conditions 7 and 13)

The land is described in the table below -

Certificate of Title reference		**being lot**	**on plan**
Volume: 9789	Folio: 646	316	PS206472A

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

Property address

The address of the land is: 13 SITTELLA COURT, WERRIBEE VICTORIA 3030

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

All fixed floor coverings, electric light fittings and fittings and fixtures of permanent nature as inspected.

Payment

Price:

Deposit by (of which $ has been paid)

Balance payable at settlement

Deposit bond

☐ General condition 15 applies only if the box is checked

Bank guarantee

☐ General condition 16 applies only if the box is checked

GST (general condition 19)

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

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

- ☐ This sale is a sale of land on which a 'farming business' is carried on which the parties consider meets the requirements of section 38-480 of the GST Act if the box is checked
- ☐ This sale is a sale of a 'going concern' if the box is checked
- ☐ The margin scheme will be used to calculate GST if the box is checked

Settlement (general condition 17 & 26.2)

is due on

unless the land is a lot on an unregistered plan of subdivision, in which case settlement is due on the later of:

- the above date; and
- the 14th day after the vendor gives notice in writing to the purchaser of registration of the plan of subdivision.

Lease (general condition 5.1)

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

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

☐ a lease for a term ending on with options to renew, each of years

OR

☐ a residential tenancy for a fixed term ending on

OR

☐ a periodic tenancy determinable by notice

Terms contract (general condition 30)

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

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should be added as special conditions)

Loan (general condition 20)

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

Lender:

(or another lender chosen by the purchaser)

Loan amount: no more than $ Approval date:

Building report

☐ General condition 21 applies only if the box is checked

Pest report

☐ General condition 22 applies only if the box is checked

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Special Conditions

Instructions: *It is recommended that when adding further special conditions:*

- *each special condition is numbered;*
- *the parties initial each page containing special conditions;*
- *a line is drawn through any blank space remaining on the last page; and*
- *attach additional pages if there is not enough space*

GC 23 – special condition

☑ For the purposes of general condition 23, the expression "periodic outgoings" does not include any amounts to which section 10G of the Sale of Land Act 1962 applies.

GC 28 – special condition

☑ General condition 28 does not apply to any amounts to which section 10G or 10H of the Sale of Land Act 1962 applies.

See enclosed Further Special Conditions.

13 SITTELLA COURT, WERRIBEE VICTORIA 3030

FURTHER SPECIAL CONDITIONS

Definition and Interpretation

1.1 Definition

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

Authority means any government or other governmental, semi-governmental, local government, administrative, fiscal or judicial body, department, commission, authority, tribunal, agency, Minister, statutory body or entity.

Bank Cheque means a cheque drawn by a Bank.

Building Legislation means the *Building Control Act* 1981, the *Building Act* 1993, The Building Code of Australia or the requirements of any Governmental Agency in relation to any improvements erected on the Land or any alterations or additions to the improvements.

Business Day means a day on which banks are open for general banking business in Melbourne.

Common Property means any part of the Land on the Plan of Subdivision described as common property.

Contamination means a solid, liquid, gas, odour, heat, sound, vibration, radiation or substance (including asbestos) that makes or may make the land and/or the Building or surrounding environment:-

(a) noxious or poisonous;

(b) harmful or potentially harmful to the health, welfare or safety of human beings;

(c) poisonous, harmful or potentially harmful to animals, plants or vegetation;

(d) noxious, poisonous or offensive to the senses of human beings;

(e) otherwise environmentally degraded; or

(f) not comply with any Environmental Law.

Corporations Act means the *Corporations Act 2001* (Cth).

Excluded Rights means the rights to:-

(a) avoid this Contract;

(b) make any enquiry or requisition;

(c) withhold any part of or require any adjustment of the Price;

(d) require any part of the Price to be retained;

(e) require the Vendor to do any act, matter or thing;

(f) require the Vendor to amend title;

(g) require the Vendor to pay any money or bear any costs;

(h) require the Vendor to indemnify any person;

(i) delay settlement; and

(j) claim any compensation.

FIRB means Foreign Investment Review Board responsible for administering the Commonwealth of Australia's foreign investment policy under the provisions of the Takeovers Act and includes the Treasurer of the Commonwealth of Australia.

Foreign Person means a "Foreign Person" as defined in section 5 or section 21A of the Takeovers Act or a person to whom section 26A of that Act applies.

GST means GST within the meaning of the GST Act.

GST ACT means *A New Tax System (Goods and Services Tax) Act* 1999.

Notice includes notice, demand, direction, permission, control, authorisation and other communication.

Owners Corporation means owners corporation or owners corporations (as the case may be) created upon registration of the Plan of Subdivision or any subsequent plans of subdivision.

Price means the price so described in the Particulars of Sale.

Property means the Land and all the improvements and the plant and equipment (if any).

Settlement Date means the settlement date so described in the Particulars of Sale.

Tax means all Federal and State taxes and charges.

This Contract includes all parts of and schedules, annexure and exhibits to this Contract.

Vendor's Statement means a statement in writing in accordance with Section 32 of the *Sale of Land Act* 1962.

1.2 **Interpretation**

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

(a) a reference to this Contract or another instrument includes any variation or replacement of them;

(b) a reference to a person includes the person's executors, administrators, successors and permitted assigns;

(c) a reference to a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;

(d) the singular includes the plural and vice versa;

(e) words referring to one gender include the others;

(f) examples and words of inclusion are not words of limitation;

(g) the word "person" includes a corporation, partnership, joint venture, association, authority, trust, state or government and vice versa;

(h) a reference to a recital, clause, schedule, annexure or exhibit is to a recital, clause, schedule, annexure or exhibit of or to this contract;

(i) a recital, schedule, annexure or description of the parties forms part of this contract;

(j) a reference to any contract or document is to that contract or document (and, where applicable, any of its provisions), as amended, novated, supplemented or replaced from time to time;

(k) where an expression is defined, another part of speech or grammatical form of that expression has a corresponding meaning;

(l) where an expression is defined anywhere in this Contract it has the same meaning throughout;

(m) a reference to "dollars" or "$" is to an amount in Australian currency;

(n) a reference to a matter being "to the knowledge" of a person means that the matter is to the best of the knowledge and belief of that person after making reasonable enquiries in the circumstances;

(o) headings and sub-headings of any of the conditions of this Contract have been included for the purpose of ease of reference only and do not affect the meaning or interpretation of this contract;

(p) an agreement, representation or warranty in favour of two or more persons is for

the benefit of them jointly and severally;

(q) an agreement, representation or warranty on the part of two or more persons binds them jointly and severally;

(r) a reference to any thing (including any amount) is a reference to the whole and each part of it and a reference to a group of persons is a reference to all of them collectively, to any two or more of them collectively and to each of them individually;

(s) if a period of time is specified and dates from a given day or the day of an act or event, it is to be calculated exclusive of that day;

(t) no rule of construction applies to the disadvantage of a party because that party was responsible for the preparation of this Contract or part of it;

(u) it is not necessary for the Company to incur any expense or make any payment before enforcing a right of indemnity; this Contract binds and enures for the benefit of successors and permitted transferees or assigns of the parties;

(v) time will remain the essence of this Contract notwithstanding any waiver given or indulgence granted by the Company to the Purchaser; and

(w) the provisions of this Contract cannot be varied except by a subsequent document executed by the parties or their solicitors expressed to vary or be made in substitution for, this Contract.

Auction

2. ~~The property is offered for sale by auction, subject to the Vendor's reserve price. The Rules for the conduct of the auction shall be set out in Schedule 1 to the Sale of Land Regulations 2014, or any rules prescribed by regulation which modify or replace those Rules.~~

Purchaser's Acknowledgements

3. The Purchaser acknowledges and agrees that prior to entering into this Contract the Purchaser has satisfied itself:-

(a) that it has received this Contract.

(b) that it has received the Vendor's Statement from the Vendor.

(c) by physical examination and inspection as to the state of repair and condition fitness for purpose quality and quantity of (and any Contamination affecting) the Property and each and every part thereof and of each of the goods;

(d) by physical examination as to the area dimensions location and title of the Land as offered for sale and inspected by the Purchaser;

(e) by independent valuations and reports as to the value of the Property;

(f) by enquiry of the appropriate authorities as to the zoning and planning restrictions (including all reservations, planning approvals, permits and consents) on and in respect of the Property and the use to which the Property may be put and the development thereof.

Environmental Matters

4. The Purchaser must not exercise any of the Excluded Rights in respect of any Contamination or pollution of the Property and must at its own expense comply with the requirements of every competent authority for the abatement of any pollution or the clean up or any environmental audit (or any combination of them) of the Property and must keep the Vendor indemnified at all times against the cost of doing so.

Notices and Planning

5.1 The Property is sold subject to any restriction as to user under any order, plan, scheme, regulation or by-law in any legislation or made by any Authority empowered by legislation to control the use of the land. No such restriction shall constitute a defect in the Vendor's Title or affect the validity of this Contract and the Purchaser must not exercise any of the Excluded Rights in respect thereof.

5.2 The Purchaser will assume responsibility for and comply with all notices, orders or direction served, given or made in respect of the Property sold on or after the day of sale.

5.3 The Purchaser acknowledges that if there are breaches of any covenant or restrictions to which the land is subject, whether registered or unregistered, the Vendor will not be responsible for remedying such breaches.

Property Purchased in Present State

6.1 The Purchaser agrees, except as is otherwise specifically provided in this Contract, that the Property is purchased in its present condition and state of repair and with such defects as may exist as at the Day of Sale.

6.2 Where the Property includes a swimming pool, spa or pond, the Purchaser acknowledges that they have made their own enquiries regarding their obligations as owners under the Building Legislation and have not relied on any representation made by the Vendor or the agents in this regard.

Improvements

7. The Purchaser acknowledges that any building, improvements, or alterations or addition to the improvements on the Land, might be subject to or require compliance with the *Building Act* 1993, the *Domestic Building Contracts Act* 1995, the Building Code of Australia and/or any repealed laws under which the Building was constructed. Any failure to comply therewith shall be deemed not to constitute a defect in the Vendor's title and the Purchaser must not exercise any of the Excluded Rights in relation to any such failure to comply.

Stamp Duty

8.1 If there is more than one purchaser it is the Purchaser's responsibility to ensure the contract correctly records at the date of sale the proportions in which they are buying the property ("the **Proportions**").

8.2 If the Proportions recorded in the transfer differ from those recorded in the contract, it is the Purchaser's responsibility to pay any additional duty which may be assessed as a result of the variation.

8.3 The Purchasers fully indemnify the Vendor, the Vendor's Agent and the Vendor's legal practitioner against any claims or demands which may be made against any or all of them in relation to any additional duty payable as a result of the Proportions in the transfer differing from those in the contract.

8.4 This Special Condition will not merge on completion.

Fencing

9. The Purchaser must not exercise any of the Excluded Rights, on any of the following grounds:-

   (a) that any fence is not on a boundary of the Property;

   (b) that any fence is a give and take fence;

   (c) that any boundary of the Property is not fenced; or

   (d) that any swimming pool is not fenced as required by law.

Property in Goods

10. The Property in any goods will not pass to the Purchaser until payment of the Price.

Liability of Signatory

11. Any person who executes this Contract will be deemed liable for the performance and observance of this Contract notwithstanding that person may have executed the Contract for and on behalf on the Purchaser as an authorised person on behalf of the Purchaser.

Director's Guarantees

12. If the Purchaser is or includes a company the person signing this Contract on behalf of that company ("the executing party") warrants that:-

    (a) the executing party has the authority to execute this Contract on behalf of that company;

    (b) that company is duly incorporated;

    (c) this Contract is binding on and enforceable against that company; and

    (d) the executing party must within 7 days from the date of sale procure the execution by each of the directors of that company of a Guarantee and Indemnity in the form annexed to this Contract;

    and if any of those warranties are false or the executing party breaches of any of them, without prejudice to other any rights that the Vendor may have, the executing party shall be personally liable to perform the obligations of the Purchaser.

Nominations

13.1 In addition to GC4, the party named as Purchaser ("Original Purchaser") may only nominate not later than 21 days before settlement a substitute or additional Purchaser or Purchasers ("Nominee") by serving on the Vendor a form of nomination executed by the Original Purchaser and the Nominee and prepared at the Purchaser's cost in such form and containing such information as the Vendors requires.

13.2 The Original Purchaser and the Nominee must agree in writing to the satisfaction of the Vendor's legal practitioner to be jointly and severally liable for the performance of the obligations of the Purchaser under the Contract.

13.3 The Original Purchaser and the Nominee must agree in writing to authorise the Vendor's legal practitioner to hold the Deposit and any other monies paid by the Original Purchaser under this Contract as the Deposit and any other monies payable by the Nominee.

13.4 If the Nominee is or includes a corporation, the Purchaser must deliver to the Vendor a guarantee executed by the directors and any ultimate holding company (as defined in

the Corporations Act) of the corporation in the form attached to this Contract of the performance by the Nominee of the obligations of the Purchaser under the Contract; then the Nominee is agreed to be substituted for the Original Purchaser as the Purchaser.

13.5 The Nominee will by the nomination be deemed to have accepted title and will not be entitled to make requisitions on title.

13.6 The Original Purchaser may only nominate a Nominee if the Original Purchaser is not in breach of this contract.

13.7 If the Purchaser nominates a substitute purchaser, he or she must not nominate a Foreign Person as an additional or substitute purchaser.

Foreign Investments

14.1 The Purchaser warrants that he or she is ordinarily resident in Australia and that no approvals are required from the Government of Australia and/or the Reserve Bank of Australia and/or the Foreign Investment Review Board to enable the Purchaser to purchase this Property.

14.2 If the Purchaser nominates a substitute purchaser, he or she must not nominate a Foreign Person as an additional or substitute purchaser.

14.3 The Purchaser hereby agrees to indemnify and keep indemnified the Vendor from and in respect of any loss, damage, penalty, fine, costs and expenses incurred by the Vendor from or in respect of a breach of this warranty.

Transfer (for paper settlements only)

15.1 The Purchaser must deliver to the Vendor the transfer of land document no less than 14 days prior to the settlement date. General Condition 6 is varied to the extent that it is inconsistent with this Special Condition.

15.2 If the Purchaser fails to deliver the transfer to the Vendor:-

(a) the Vendor will not be obliged to complete this contract until the expiration of 14 days from the date of delivery to the Vendor of the transfer;

(b) the Purchaser will be taken to have made default in the payment of the residue of the Price for the number of days that occur between the date being 14 days prior to the date fixed for payment of the balance of the Price and the actual date of delivery of the transfer to the Vendor; and

(c) interest pursuant to this Contract will apply to the balance and be deemed to have been demanded by the Vendor from the Purchaser and will be payable by the Purchaser to the Vendor for the period of default referred to in the preceding sub-

clause, in addition to any other remedies the Vendor may have against the Purchaser under this Contract.

Settlement

16.1 Unless otherwise directed by the Vendor, settlement must take place on or before 3pm on Settlement Date at the offices of the Vendor's Solicitors or such other place as the Vendor may direct.

16.2 At settlement, in addition to any other matter, the Purchaser must pay to the Vendor the residue of the Price save for any deductions (if any), provided herein by unendorsed bank cheque(s) in favour of the Vendor or as the Vendor may direct.

16.3 If Settlement takes place after 3pm on the Settlement Date, the Purchaser is taken to be in default of the residue until the next Business Day. A settlement re-schedulement fee of $330.00 will be payable by the Purchaser to the Vendor Solicitor at settlement.

Owners Corporation

18.1 If this Property is sold subject to the provisions of the *Strata Titles Act* 1967 or the *Owners Corporation Act* 2006 or the *Cluster Titles Act* 1974 and the *Subdivision Act* 1988 (as amended), the Purchaser must not exercise any of the Excluded Rights in respect of any of the following:-

(a) the schedule of lot or unit entitlement and lot or unit liability endorsed on the said plan;

(b) the easements (either express or implied) affecting by virtue of the Act the common Property or the lot or unit hereby sold;

(c) the by-laws or rules of the owners corporation contained in the Act any Regulations made thereunder or recorded by the Registrar of Titles;

(d) any registered easement restriction or encumbrance;

(e) any proposed easement restriction encumbrance or rules of the owners corporation referred to in this Contract or the Vendor's Statement.

Default

19. If the Vendor gives to the Purchaser a notice of default under this contract, the default will not be remedied until the last to occur of the following:-

(a) remedy by the Purchaser of the relevant default;

(b) payment by the Purchaser of all reasonably foreseeable expenses incurred by the Vendor as a result of the default, including without limitation:-

(i) legal costs on a solicitor/client basis and disbursements incurred in drawing and giving the notice and any necessary advice and attendances (including but not limited to legal fees of $880.00 being for the issue of the Default Notice); and

(ii) all additional costs incurred by the Vendor including interest, discount and bills and borrowing expense; and

(iii) payment by the Purchaser of interest pursuant to this Contract and the payment or allowance for GST payable on anything recoverable under this Contract.

Default Interest

20.1 If the Purchaser defaults in the payment of money due under this Contract, interest at a rate per annum equal to the aggregate of four percentage points plus the rate fixed under Section 2 of the *Penalty Interest Rates Act* (as may apply on the due date for payment of the Balance) must be paid on the money due under this Contract by the Purchaser to the Vendor (without prejudice to the Vendor's other rights).

20.2 Interest is calculated on the money due under this Contract from the due date for payment until the money due under this Contract together with interest is paid in full.

Waiver

21. No waiver of any breach of this Contract or of any of the terms of this Contract will be effective unless that waiver is in writing and is signed by the party against whom the waiver is claimed. No waiver of any breach will operate as a waiver of any other breach or subsequent breach.

Insolvency or Liquidation

22. If the Purchaser being or includes a company:-

(a) resolves to go into liquidation;

(b) has an application for its winding up presented and not withdrawn within 30 days of its presentation;

(c) enters into any scheme of arrangement with its creditors under the relevant provisions of the Corporations Law or any similar legislation; or

(d) has a liquidator, provisional liquidator, receiver, receiver and manager or administrator appointed,

the Purchaser will be taken to have repudiated its obligations under this Contract and the Vendor may, without prejudice to the Vendor's other rights, accept such repudiation and rescind this Contract at any time before settlement.

Capacity

23. Without prejudice to any other rights which may be available, If either party prior to settlement dies, becomes bankrupt or becomes incapable because of unsoundness of mind of managing his or her own affairs, the other party may rescind this Contract by written notice delivered:-

(a) to the solicitor for that party;

(b) to the legal personal representative for that party; or

(c) if there is no legal personal representative to the Public Trustee.

Attorneys

24. Each attorney who executes this Contract on behalf of a party declares the attorney has no notice of the revocation or suspension of the power of attorney by the grantor or in any manner of the power of attorney under the authority of which the attorney executes this Contract and has no notice of the death of the grantor.

Whole Agreement

25. This Contract constitutes:-

(a) the entire agreement of the parties; and

(b) supersedes and extinguishes all prior agreements, representation, promises, undertakings, arrangements, understandings and negotiations, in respect of the matters dealt with in this Contract.

Non-Merger

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

Independence and severability

27.1 Every stipulation of this Contract is independent of the others and has substantive effect.

27.2 If any stipulation of this Contract is declared to be void or ineffective by any order or decree of any court, tribunal or other competent authority, then:-

(a) that stipulation is taken to be removed from this Contract;

(b) the parties must negotiate for a lawful stipulation or stipulations to replace that declared void or ineffective; and

(c) the parties must adjust the remaining stipulations of this Contract to achieve the purposes of this Contract as closely as possible to the original intention of the parties.

27.3 If clause 27.2 cannot be implemented without producing harsh or oppressive duties or effects for either of the parties, then either party may serve notice of termination of this Contract.

Service of notices

28. Any notice required or permitted, whether expressly, or by necessary implication, to be given under this Contract is:-

(a) to be in writing addressed to the address of the intended recipient shown in this Contract or to such other address as has been most recently notified by the intended recipient to the party giving the notice.

(b) to be signed by a person duly authorised by the sender; and

(c) deemed to have been given and served:-

(i) where delivered, upon delivery;

(ii) where sent by pre-paid post, upon the fourth Business Day after the date upon which it was posted;

(iii) where dispatched by facsimile transmission, at the time recorded on the transmitting machine; or

(iv) where dispatched by email, when the sender's computer indicates that the message has been received and that it has not bounced, but if such delivery or receipt is later than 5pm on a business day, the notice is deemed to have been given and served on the next business day.

Charges

29.1 Where any charges is registered over the Vendor under the Personal Property Securities Act 2009 (Cth), the Purchaser will not be entitled to call for or to receive a registrable form of release of that charge but must instead must request no later than 21 days before settlement and accept an open letter from the holder of the charge confirming the release of the property from that charge. General Condition 11 is varied to the extent that it is inconsistent with this Special Condition.

29.2 Special condition 29.1 does not limit the liability of the Vendor to provide a discharge or withdrawal of any mortgage or caveat lodged under the Transfer of Land Act (other than those, if any, to which the Purchaser has agreed to acquire subject to).

Loss or damage before Settlement

30.1 The Vendor carries the risk of loss or damage to the Property and the Goods until settlement. Property and the Goods pass to the Purchaser upon payment of the Price.

30.2 The Vendor must deliver the Property and the Goods to the Purchaser on the Settlement Date in the same condition it was in on the Day of Sale, except for fair wear and tear.

30.3 The Purchaser may not make any requisitions or objection, delay settlement or rescind this Contract if any Goods are not in the same condition it was in on the Day of Sale, and the Purchaser may not seek compensation from the Vendor in relation to this Special Condition 30.

Outgoings

31.1 Where a supplementary assessment of any rates, taxes, charges or other outgoings is assessed, levied or charged in respect of the property after the Settlement Date, no adjustment will be made and the Purchaser is solely responsible for the payment of any such supplement assessment, levy or charge.

31.2 The Purchaser acknowledges that services such as water, electricity, gas, internet and phone may not be connected at settlement and it shall be the Purchaser's responsibility to connect the services at its expense following settlement.

This Special Condition 31 will not merge on completion and will continue for as long as necessary to give effect to it.

Land tax

32.1 Not used.

Duties Online Form

33.1 The State Revenue Office Digital Duties form (DDF) must be completed and signed by the Purchaser at least seven (7 days) prior to the Settlement Date.

33.2 If the Purchaser fails to sign the DDF within the specified time in condition 33.1, the Vendor may by written notice to the Purchaser or the Purchaser's representative postpone the Settlement Date to a date being not more than seven (7) days after the date on which the Vendor's representative receives notification from the State Revenue Office that the DDF is signed.

33.3 If the Vendor postpones the Settlement Date under this special condition, the Purchaser will be deemed in default under this Contract and must pay to the Vendor interest on the balance of the Price at the rate specified in Special Condition 20 of this Contract computed from the Settlement date specified in this Contract until the actual Settlement Date.

Statement of Adjustments

34.1 In addition to General Condition 23, the Purchaser must prepare and deliver to the Vendor's legal practitioner a Statement of Adjustments and provide accompanying rates certificates no less than 5 business days prior to the Settlement Date.

34.2 If the Purchaser fails to comply with special condition 34.1 above, the Vendor shall not be obliged to settle until 5 business days after the date on which the Purchaser delivers the Statement of Adjustments to the Vendor's legal practitioner and the Purchaser must, at settlement, pay interest in accordance with special condition 20 on the outstanding balance price for the period from the Settlement Date until the Contract is completed.

GST Withholding Notice to the Purchaser

35.1 The Vendor gives notice and warrants that the Property is not new residential premises or potential residential land and the Purchaser is not required to make a payment under Section 14-250 of Schedule 1 of the *Taxation Administration Act 1953 (Cth)* in relation to the supply of the Property.

35.2 The parties acknowledge that Special Condition 35.1 constitutes the Vendor/Supplier GST Withholding Notice that is required to be provided by the Vendor pursuant to Section 14-255 of Schedule 1 of the *Taxation Administration Act 1953 (Cth).*

AMENDMENTS TO GENERAL CONDITIONS

Default not remedied

36.1 General Condition 35.4(a) is amended to delete the words “the deposit up to 10% of the price” and insert “10% of the purchase price” and insert “the purchaser grants an equitable charge over all his real estate as security for the said 10% of the purchase price” at the end.

36.2 General Condition 35.4(d) is amended by inserting the words “save for an amount equal to 10% of the price that is forfeited to the Vendor as the Vendor’s absolute property” after the word “damages” on the last line of General Condition 35.4(d).

Deletion of General conditions

37 The following General conditions do not apply to the Contract:

(i) GC 9 & 12;
(ii) GC 31.4-31.6

Paramountcy of Special Conditions

38 Where there are inconsistencies between these Special Conditions and the General Conditions of this Contract, these Special Conditions shall prevail.

GUARANTEE AND INDEMNITY

I/We ……..

Of ……..

(the 'Guarantor') in consideration of the withinnamed Vendor selling to the withinnamed Purchaser at my/our request that land described in the within Contract of Sale for the price and upon the terms and conditions therein set forth **DO HEREBY JOINTLY AND SEVERALLY** for myself/ourselves, my/our executors or administrators jointly and severally covenant with the said Vendor that if at any time default shall be made in the payment of the deposit moneys or residue of the purchase moneys or interest or other moneys payable by the Purchaser to the Vendor under the within Contract of Sale or in the performance or observance of any terms or conditions of the within Contract of Sale to be performed or observed by the Purchaser, I/We will forthwith upon demand by the Vendor pay to the Vendor the whole of such deposit, residue of purchase moneys, interest or other moneys payable to the Vendor under the Contract of Sale and all losses, costs, charges and expenses whatsoever which the Vendor may incur by reason of any default as aforesaid on the part of the Purchaser. The Guarantor acknowledges that the Vendor shall not be required to first serve or make a demand on the Purchaser.

This Guarantee shall be a continuing Guarantee and shall not be released by any neglect or forbearance on the part of the Vendor in enforcing payment of any of the moneys payable under the within Contract or the performance or observance of any of the agreements, obligations or conditions therein contained or by time being given to the Purchaser for any such payment performance or observance or by any other thing which under the law relating to sureties would but for this provision have the effect of releasing me/us my/our executors or administrators.

IN WITNESS WHEREOF
the parties have hereunto set their hands and seals this ……day of……..……20

SIGNED by the aforesaid First-named)
Guarantor in the presence of:)
) ……..
……(witness signature)

…….....
Name of Witness

SIGNED by the aforesaid Second-named)
Guarantor in the presence of:)
) ……..
……(witness signature)

…….....
Name of Witness

General conditions

Contract signing

1. ELECTRONIC SIGNATURE

1.1 In this general condition "electronic signature "means a digital signature or a visual representation of a person's handwritten signature or mark which is placed on a physical or electronic copy of this contract by electronic or mechanical means, and "electronically signed" has a corresponding meaning.

1.2 The parties' consent to this contract being signed by or on behalf of a party by an electronic signature.

1.3 Where this contract is electronically signed by or on behalf of a party, the party warrants and agrees that the electronic signature has been used to identify the person signing and to indicate that the party intends to be bound by the electronic signature.

1.4 This contract may be electronically signed in any number of counterparts which together will constitute the one document.

1.5 Each party consents to the exchange of counterparts of this contract by delivery by email or such other electronic means as may be agreed in writing.

1.6 Each party must upon request promptly deliver a physical counterpart of this contract with the handwritten signature or signatures of the party and all written evidence of the authority of a person signing on their behalf, but a failure to comply with the request does not affect the validity of this contract.

2. LIABILITY OF SIGNATORY

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

3. GUARANTEE

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

4. NOMINEE

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

Title

5. ENCUMBRANCES

5.1 The purchaser buys the property subject to:

(a) any encumbrance shown in the section 32 statement other than mortgages or caveats; and

(b) any reservations, exceptions and conditions in the crown grant; and

(c) any lease or tenancy referred to in the particulars of sale.

5.2 The purchaser indemnifies the vendor against all obligations under any lease or tenancy that are to be performed by the landlord after settlement.

6 VENDOR WARRANTIES

6.1 The vendor warrants that these general conditions 1 to 35 are identical to the general conditions 1 to 35 in the form of contract of sale of land published by the Law Institute of Victoria Limited and the Real Estate Institute of Victoria Ltd in the month and year set out at the foot of this page.

6.2 The warranties in general conditions 6.3 and 6.4 replace the purchaser's right to make requisitions and inquiries.

6.3 The vendor warrants that the vendor:

(a) has, or by the due date for settlement will have, the right to sell the land; and

(b) is under no legal disability; and

(c) is in possession of the land, either personally or through a tenant; and

(d) has not previously sold or granted any option to purchase, agreed to a lease or granted a pre-emptive right which is current over the land and which gives another party rights which have priority over the interest of the purchaser; and

(e) will at settlement be the holder of an unencumbered estate in fee simple in the land; and

(f) will at settlement be the unencumbered owner of any improvements, fixtures, fittings and goods sold with the land.

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6.4 The vendor further warrants that the vendor has no knowledge of any of the following:

(a) public rights of way over the land;

(b) easements over the land;

(c) lease or other possessory agreement affecting the land;

(d) notice or order directly and currently affecting the land which will not be dealt with at settlement, other than the usual rate notices and any land tax notices;

(e) legal proceedings which would render the sale of the land void or voidable or capable of being set aside.

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

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

(a) all domestic building work carried out in relation to the construction by or on behalf of the vendor of the home was carried out in a proper and workmanlike manner; and

(b) all materials used in that domestic building work were good and suitable for the purpose for which they were used and that, unless otherwise stated in the contract, those materials were new; and

(c) domestic building work was carried out in accordance with all laws and legal requirements, including, without limiting the generality of this warranty, the *Building Act* 1993 and regulations made under the *Building Act* 1993.

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

7. IDENTITY OF THE LAND

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

7.2 The purchaser may not:

(a) make any objection or claim for compensation for any alleged misdescription of the property or any deficiency in its area or measurements; or

(b) require the vendor to amend title or pay any cost of amending title.

8. SERVICES

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

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

9. CONSENTS

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

10. TRANSFER & DUTY

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

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

11. RELEASE OF SECURITY INTEREST

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

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

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

(a) only use the vendor's date of birth for the purposes specified in general condition 11.2; and

(b) keep the date of birth of the vendor secure and confidential.

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

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

(b) a statement in writing in accordance with section 275(1)(b) of the *Personal Property Securities Act* 2009 (Cth) setting out that the amount or obligation that is secured is nil at settlement; or

(c) a written approval or correction in accordance with section 275(1)(c) of the *Personal Property Securities Act* 2009 (Cth) indicating that, on settlement, the personal property included in the contract is not or will not be property in which the security interest is granted.

11.5 Subject to general condition 11.6, the vendor is not obliged to ensure that the purchaser receives a release, statement, approval or correction in respect of personal property—

(a) that—

(i) the purchaser intends to use predominantly for personal, domestic or household purposes; and

(ii) has a market value of not more than $5000 or, if a greater amount has been prescribed for the purposes of section 47(1) of the *Personal Property Securities Act* 2009 (Cth), not more than that prescribed amount; or

(b) that is sold in the ordinary course of the vendor's business of selling personal property of that kind.

11.6 The vendor is obliged to ensure that the purchaser receives a release, statement, approval or correction in respect of personal property described in general condition 11.5 if—

(a) the personal property is of a kind that may or must be described by serial number in the Personal Property Securities Register; or

(b) the purchaser has actual or constructive knowledge that the sale constitutes a breach of the security agreement that provides for the security interest.

11.7 A release for the purposes of general condition 11.4(a) must be in writing.

11.8 A release for the purposes of general condition 11.4(a) must be effective in releasing the goods from the security interest and be in a form which allows the purchaser to take title to the goods free of that security interest.

11.9 If the purchaser receives a release under general condition 11.4(a) the purchaser must provide the vendor with a copy of the release at or as soon as practicable after settlement.

11.10 In addition to ensuring that a release is received under general condition 11.4(a), the vendor must ensure that at or before settlement the purchaser receives a written undertaking from a secured party to register a financing change statement to reflect that release if the property being released includes goods of a kind that are described by serial number in the Personal Property Securities Register.

11.11 The purchaser must advise the vendor of any security interest that is registered on or before the day of sale on the Personal Property Securities Register, which the purchaser reasonably requires to be released, at least 21 days before the due date for settlement.

11.12 The vendor may delay settlement until 21 days after the purchaser advises the vendor of the security interests that the purchaser reasonably requires to be released if the purchaser does not provide an advice under general condition 11.11.

11.13 If settlement is delayed under general condition 11.12 the purchaser must pay the vendor—

(a) interest from the due date for settlement until the date on which settlement occurs or 21 days after the vendor receives the advice, whichever is the earlier; and

(b) any reasonable costs incurred by the vendor as a result of the delay—

as though the purchaser was in default.

11.14 The vendor is not required to ensure that the purchaser receives a release in respect of the land. This general condition 11.14 applies despite general condition 11.1.

11.15 Words and phrases which are defined in the *Personal Property Securities Act* 2009 (Cth) have the same meaning in general condition 11 unless the context requires otherwise.

12. BUILDER WARRANTY INSURANCE

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

13. GENERAL LAW LAND

13.1 The vendor must complete a conversion of title in accordance with section 14 of the *Transfer of Land Act* 1958 before settlement if the land is the subject of a provisional folio under section 23 of that Act.

13.2 The remaining provisions of this general condition 13 only apply if any part of the land is not under the operation of the *Transfer of Land Act* 1958.

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13.3 The vendor is taken to be the holder of an unencumbered estate in fee simple in the land if there is an unbroken chain of title starting at least 30 years before the day of sale proving on the face of the documents the ownership of the entire legal and equitable estate without the aid of other evidence.

13.4 The purchaser is entitled to inspect the vendor's chain of title on request at such place in Victoria as the vendor nominates.

13.5 The purchaser is taken to have accepted the vendor's title if:

(a) 21 days have elapsed since the day of sale; and

(b) the purchaser has not reasonably objected to the title or reasonably required the vendor to remedy a defect in the title.

13.6 The contract will be at an end if:

(a) the vendor gives the purchaser a notice that the vendor is unable or unwilling to satisfy the purchaser's objection or requirement and that the contract will end if the objection or requirement is not withdrawn within 14 days of the giving of the notice; and

(b) the objection or requirement is not withdrawn in that time.

13.7 If the contract ends in accordance with general condition 13.6, the deposit must be returned to the purchaser and neither party has a claim against the other in damages.

13.8 General condition 17.1 [settlement] should be read as if the reference to 'registered proprietor' is a reference to 'owner' in respect of that part of the land which is not under the operation of the *Transfer of Land Act* 1958.

Money

14. DEPOSIT

14.1 The purchaser must pay the deposit:

(a) to the vendor's licensed estate agent; or

(b) if there is no estate agent, to the vendor's legal practitioner or conveyancer; or

(c) if the vendor directs, into a special purpose account in an authorised deposit-taking institution in Victoria specified by the vendor in the joint names of the purchaser and the vendor.

14.2 If the land sold is a lot on an unregistered plan of subdivision, the deposit:

(a) must not exceed 10% of the price; and

(b) must be paid to the vendor's estate agent, legal practitioner or conveyancer and held by the estate agent, legal practitioner or conveyancer on trust for the purchaser until the registration of the plan of subdivision.

14.3 The deposit must be released to the vendor if:

(a) the vendor provides particulars, to the satisfaction of the purchaser, that either-

(i) there are no debts secured against the property; or

(ii) if there are any debts, the total amount of those debts together with any amounts to be withheld in accordance with general conditions 24 and 25 does not exceed 80% of the sale price; and

(b) at least 28 days have elapsed since the particulars were given to the purchaser under paragraph (a); and

(c) all conditions of section 27 of the *Sale of Land Act* 1962 have been satisfied.

14.4 The stakeholder must pay the deposit and any interest to the party entitled when the deposit is released, the contract is settled, or the contract is ended.

14.5 The stakeholder may pay the deposit and any interest into court if it is reasonable to do so.

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

14.7 Payment of the deposit may be made or tendered:

(a) in cash up to $1,000 or 0.2% of the price, whichever is greater; or

(b) by cheque drawn on an authorised deposit-taking institution; or

(c) by electronic funds transfer to a recipient having the appropriate facilities for receipt.

However, unless otherwise agreed:

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(d) payment may not be made by credit card, debit card or any other financial transfer system that allows for any chargeback or funds reversal other than for fraud or mistaken payment, and

(e) any financial transfer or similar fees or deductions from the funds transferred, other than any fees charged by the recipient's authorised deposit-taking institution, must be paid by the remitter.

14.8 Payment by electronic funds transfer is made when cleared funds are received in the recipient's bank account.

14.9 Before the funds are electronically transferred the intended recipient must be notified in writing and given sufficient particulars to readily identify the relevant transaction.

14.10 As soon as the funds have been electronically transferred the intended recipient must be provided with the relevant transaction number or reference details.

14.11 For the purpose of this general condition 'authorised deposit-taking institution' means a body corporate for which an authority under section 9(3) of the *Banking Act 1959* (Cth) is in force.

15. DEPOSIT BOND

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

15.2 In this general condition "deposit bond" means an irrevocable undertaking to pay on demand an amount equal to the deposit or any unpaid part of the deposit. The issuer and the form of the deposit bond must be satisfactory to the vendor. The deposit bond must have an expiry date at least 45 days after the due date for settlement.

15.3 The purchaser may deliver a deposit bond to the vendor's estate agent, legal practitioner or conveyancer within 7 days after the day of sale.

15.4 The purchaser may at least 45 days before a current deposit bond expires deliver a replacement deposit bond on the same terms and conditions.

15.5 Where a deposit bond is delivered, the purchaser must pay the deposit to the vendor's legal practitioner or conveyancer on the first to occur of:

(a) settlement;

(b) the date that is 45 days before the deposit bond or any replacement deposit bond expires;

(c) the date on which this contract ends in accordance with general condition 35.2 [default not remedied] following breach by the purchaser; and

(d) the date on which the vendor ends this contract by accepting repudiation of it by the purchaser.

15.6 The vendor may claim on the deposit bond without prior notice if the purchaser defaults under this contract or repudiates this contract and the contract is ended. The amount paid by the issuer satisfies the obligations of the purchaser under general condition 15.5 to the extent of the payment.

15.7 Nothing in this general condition limits the rights of the vendor if the purchaser defaults under this contract or repudiates this contract, except as provided in general condition 15.6.

15.8 This general condition is subject to general condition 14.2 [deposit].

16. BANK GUARANTEE

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

16.2 In this general condition:

(a) "bank guarantee" means an unconditional and irrevocable guarantee or undertaking by a bank in a form satisfactory to the vendor to pay on demand any amount under this contract agreed in writing, and

(b) "bank" means an authorised deposit-taking institution under the *Banking Act 1959* (Cth).

16.3 The purchaser may deliver a bank guarantee to the vendor's legal practitioner or conveyancer.

16.4 The purchaser must pay the amount secured by the bank guarantee to the vendor's legal practitioner or conveyancer on the first to occur of:

(a) settlement;

(b) the date that is 45 days before the bank guarantee expires;

(c) the date on which this contract ends in accordance with general condition 35.2 [default not remedied] following breach by the purchaser; and

(d) the date on which the vendor ends this contract by accepting repudiation of it by the purchaser.

16.5 The vendor must return the bank guarantee document to the purchaser when the purchaser pays the amount secured by the bank guarantee in accordance with general condition 16.4.

16.6 The vendor may claim on the bank guarantee without prior notice if the purchaser defaults under this contract or repudiates this contract and the contract is ended. The amount paid by the bank satisfies the obligations of the purchaser under general condition 16.4 to the extent of the payment.

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16.7 Nothing in this general condition limits the rights of the vendor if the purchaser defaults under this contract or repudiates this contract except as provided in general condition 16.6.

16.8 This general condition is subject to general condition 14.2 [deposit].

17. SETTLEMENT

17.1 At settlement:

(a) the purchaser must pay the balance; and

(b) the vendor must:

(i) do all things necessary to enable the purchaser to become the registered proprietor of the land; and

(ii) give either vacant possession or receipt of rents and profits in accordance with the particulars of sale.

17.2 Settlement must be conducted between the hours of 10.00 am and 4.00 pm unless the parties agree otherwise.

17.3 The purchaser must pay all money other than the deposit in accordance with a written direction of the vendor or the vendor's legal practitioner or conveyancer.

18. ELECTRONIC SETTLEMENT

18.1 Settlement and lodgement of the instruments necessary to record the purchaser as registered proprietor of the land will be conducted electronically in accordance with the Electronic Conveyancing National Law. This general condition 18 has priority over any other provision of this contract to the extent of any inconsistency.

18.2 A party must immediately give written notice if that party reasonably believes that settlement and lodgement can no longer be conducted electronically. General condition 18 ceases to apply from when such a notice is given.

18.3 Each party must:

(a) be, or engage a representative who is, a subscriber for the purposes of the Electronic Conveyancing National Law,

(b) ensure that all other persons for whom that party is responsible and who are associated with this transaction are, or engage, a subscriber for the purposes of the Electronic Conveyancing National Law, and

(c) conduct the transaction in accordance with the Electronic Conveyancing National Law.

18.4 The vendor must open the electronic workspace ("workspace") as soon as reasonably practicable and nominate a date and time for settlement. The inclusion of a specific date and time for settlement in a workspace is not of itself a promise to settle on that date or at that time. The workspace is an electronic address for the service of notices and for written communications for the purposes of any electronic transactions legislation.

18.5 This general condition 18.5 applies if there is more than one electronic lodgement network operator in respect of the transaction. In this general condition 18.5 "the transaction" means this sale and purchase and any associated transaction involving any of the same subscribers.

To the extent that any interoperability rules governing the relationship between electronic lodgement network operators do not provide otherwise:

(a) the electronic lodgement network operator to conduct all the financial and lodgement aspects of the transaction after the workspace locks must be one which is willing and able to conduct such aspects of the transaction in accordance with the instructions of all the subscribers in the workspaces of all the electronic lodgement network operators after the workspace locks;

(b) if two or more electronic lodgement network operators meet that description, one may be selected by purchaser's incoming mortgagee having the highest priority but if there is no mortgagee of the purchaser, the vendor must make the selection.

18.6 Settlement occurs when the workspace records that:

(a) there has been an exchange of funds or value between the exchange settlement account or accounts in the Reserve Bank of Australia of the relevant financial institutions or their financial settlement agents in accordance with the instructions of the parties; or

(b) if there is no exchange of funds or value, the documents necessary to enable the purchaser to become registered proprietor of the land have been accepted for electronic lodgement.

18.7 The parties must do everything reasonably necessary to effect settlement:

(a) electronically on the next business day, or

(b) at the option of either party, otherwise than electronically as soon as possible –

if, after the locking of the workspace at the nominated settlement time, settlement in accordance with general condition 18.6 has not occurred by 4.00 pm, or 6.00 pm if the nominated time for settlement is after 4.00 pm.

18.8 Each party must do everything reasonably necessary to assist the other party to trace and identify the recipient of any missing or mistaken payment and to recover the missing or mistaken payment.

18.9 The vendor must before settlement:

(a) deliver any keys, security devices and codes ("keys") to the estate agent named in the contract,

(b) direct the estate agent to give the keys to the purchaser or the purchaser's nominee on notification of settlement by the vendor, the vendor's subscriber or the electronic lodgement network operator;

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(c) deliver all other physical documents and items (other than the goods sold by the contract) to which the purchaser is entitled at settlement, and any keys if not delivered to the estate agent, to the vendor's subscriber or, if there is no vendor's subscriber, confirm in writing to the purchaser that the vendor holds those documents, items and keys at the vendor's address set out in the contract, and

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

19. GST

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

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

(a) the particulars of sale specify that GST (if any) must be paid in addition to the price; or

(b) GST is payable solely as a result of any action taken or intended to be taken by the purchaser after the day of sale, including a change of use; or

(c) the particulars of sale specify that the supply made under this contract is of land on which a 'farming business' is carried on and the supply (or part of it) does not satisfy the requirements of section 38-480 of the GST Act; or

(d) the particulars of sale specify that the supply made under this contract is of a going concern and the supply (or a part of it) does not satisfy the requirements of section 38-325 of the GST Act.

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

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

(a) the vendor warrants that the property is land on which a farming business has been carried on for the period of 5 years preceding the date of supply; and

(b) the purchaser warrants that the purchaser intends that a farming business will be carried on after settlement on the property.

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

(a) the parties agree that this contract is for the supply of a going concern; and

(b) the purchaser warrants that the purchaser is, or prior to settlement will be, registered for GST; and

(c) the vendor warrants that the vendor will carry on the going concern until the date of supply.

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

19.7 In this general condition:

(a) 'GST Act' means *A New Tax System (Goods and Services Tax) Act* 1999 (Cth); and

(b) 'GST' includes penalties and interest.

20. LOAN

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

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

(a) immediately applied for the loan; and

(b) did everything reasonably required to obtain approval of the loan; and

(c) serves written notice ending the contract, together with written evidence of rejection or non-approval of the loan, on the vendor within 2 clear business days after the approval date or any later date allowed by the vendor; and

(d) is not in default under any other condition of this contract when the notice is given.

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

21. BUILDING REPORT

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

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

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

(b) gives the vendor a copy of the report and a written notice ending this contract; and

(c) is not then in default.

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

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

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

22. PEST REPORT

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

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

(a) obtains a written report from a pest control operator licensed under Victorian law which discloses a current pest infestation on the land and designates it as a major infestation affecting the structure of a building on the land;

(b) gives the vendor a copy of the report and a written notice ending this contract; and

(c) is not then in default.

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

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

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

23. ADJUSTMENTS

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

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

(a) the vendor is liable for the periodic outgoings and entitled to the rent and other income up to and including the day of settlement; and

(b) the land is treated as the only land of which the vendor is owner (as defined in the *Land Tax Act* 2005); and

(c) the vendor is taken to own the land as a resident Australian beneficial owner; and

(d) any personal statutory benefit available to each party is disregarded in calculating apportionment.

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

24. FOREIGN RESIDENT CAPITAL GAINS WITHHOLDING

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

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

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

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

24.5 The purchaser must:

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

(b) ensure that the representative does so.

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

(a) pay, or ensure payment of, the amount to the Commissioner in the manner required by the Commissioner and as soon as reasonably and practicably possible, from moneys under the control or direction of the representative in accordance with this general condition if the sale of the property settles;

(b) promptly provide the vendor with proof of payment; and

(c) otherwise comply, or ensure compliance, with this general condition;

despite:

(d) any contrary instructions, other than from both the purchaser and the vendor; and

(e) any other provision in this contract to the contrary.

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

(a) the settlement is conducted through an electronic lodgement network; and

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(b) the amount is included in the settlement statement requiring payment to the Commissioner in respect of this transaction.

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

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

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

25. GST WITHHOLDING

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

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

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

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

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

25.6 The purchaser must:

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

(b) ensure that the representative does so.

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

(a) pay, or ensure payment of, the amount to the Commissioner in the manner required by the Commissioner and as soon as reasonably and practicably possible, from moneys under the control or direction of the representative in accordance with this general condition on settlement of the sale of the property;

(b) promptly provide the vendor with evidence of payment, including any notification or other document provided by the purchaser to the Commissioner relating to payment; and

(c) otherwise comply, or ensure compliance, with this general condition;

despite:

(d) any contrary instructions, other than from both the purchaser and the vendor; and

(e) any other provision in this contract to the contrary.

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

(a) settlement is conducted through an electronic lodgement network; and

(b) the amount is included in the settlement statement requiring payment to the Commissioner in respect of this transaction.

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

(a) so agreed by the vendor in writing; and

(b) the settlement is not conducted through an electronic lodgement network.

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

(c) immediately after settlement provide the bank cheque to the Commissioner to pay the amount in relation to the supply; and

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(d) give the purchaser a receipt for the bank cheque which identifies the transaction and includes particulars of the bank cheque, at the same time the purchaser gives the vendor the bank cheque.

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

(a) decide if an amount is required to be paid or the quantum of it, or

(b) comply with the purchaser's obligation to pay the amount,

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

25.11 The vendor warrants that:

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

(b) the amount described in a written notice given by the vendor to the purchaser under section 14-255 of Schedule 1 to the *Taxation Administration Act 1953* (Cth) is the correct amount required to be paid under section 14-250 of the legislation.

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

(a) the penalties or interest arise from any failure on the part of the vendor, including breach of a warranty in general condition 25.11; or

(b) the purchaser has a reasonable belief that the property is neither new residential premises nor potential residential land requiring the purchaser to pay an amount to the Commissioner in accordance with section 14-250 (1) of Schedule 1 to the *Taxation Administration Act 1953* (Cth).

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

Transactional

26. TIME & CO OPERATION

26.1 Time is of the essence of this contract.

26.2 Time is extended until the next business day if the time for performing any action falls on a day which is not a business day.

26.3 Each party must do all things reasonably necessary to enable this contract to proceed to settlement, and must act in a prompt and efficient manner.

26.4 Any unfulfilled obligation will not merge on settlement.

27. SERVICE

27.1 Any document required to be served by or on any party may be served by or on the legal practitioner or conveyancer for that party.

27.2 A cooling off notice under section 31 of the *Sale of Land Act 1962* or a notice under general condition 20 [loan approval], 21 [building report] or 22 [pest report] may be served on the vendor's legal practitioner, conveyancer or estate agent even if the estate agent's authority has formally expired at the time of service.

27.3 A document is sufficiently served:

(a) personally, or

(b) by pre-paid post, or

(c) in any manner authorized by law or by the Supreme Court for service of documents, including any manner authorised for service on or by a legal practitioner, whether or not the person serving or receiving the document is a legal practitioner, or

(d) by email.

27.4 Any document properly sent by:

(a) express post is taken to have been served on the next business day after posting, unless proved otherwise;

(b) priority post is taken to have been served on the fourth business day after posting, unless proved otherwise;

(c) regular post is taken to have been served on the sixth business day after posting, unless proved otherwise;

(d) email is taken to have been served at the time of receipt within the meaning of section 13A of the *Electronic Transactions (Victoria) Act 2000*.

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

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28. NOTICES

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

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

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

29. INSPECTION

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

30. TERMS CONTRACT

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

(a) any mortgage affecting the land sold must be discharged as to that land before the purchaser becomes entitled to possession or to the receipt of rents and profits unless the vendor satisfies section 29M of the *Sale of Land Act* 1962; and

(b) the deposit and all other money payable under the contract (other than any money payable in excess of the amount required to so discharge the mortgage) must be paid to a legal practitioner or conveyancer or a licensed estate agent to be applied in or towards discharging the mortgage.

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

(a) the purchaser must maintain full damage and destruction insurance of the property and public risk insurance noting all parties having an insurable interest with an insurer approved in writing by the vendor;

(b) the purchaser must deliver copies of the signed insurance application forms, the policies and the insurance receipts to the vendor not less than 10 days before taking possession of the property or becoming entitled to receipt of the rents and profits;

(c) the purchaser must deliver copies of any amendments to the policies and the insurance receipts on each amendment or renewal as evidence of the status of the policies from time to time;

(d) the vendor may pay any renewal premiums or take out the insurance if the purchaser fails to meet these obligations;

(e) insurance costs paid by the vendor under paragraph (d) must be refunded by the purchaser on demand without affecting the vendor's other rights under this contract;

(f) the purchaser must maintain and operate the property in good repair (fair wear and tear excepted) and keep the property safe, lawful, structurally sound, weatherproof and free from contaminations and dangerous substances;

(g) the property must not be altered in any way without the written consent of the vendor which must not be unreasonably refused or delayed;

(h) the purchaser must observe all obligations that affect owners or occupiers of land;

(i) the vendor and/or other person authorised by the vendor may enter the property at any reasonable time to inspect it on giving 7 days written notice, but not more than twice in a year.

31. LOSS OR DAMAGE BEFORE SETTLEMENT

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

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

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

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

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

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

32. BREACH

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

(a) compensation for any reasonably foreseeable loss to the other party resulting from the breach; and

(b) any interest due under this contract as a result of the breach.

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Default

33. INTEREST

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

34. DEFAULT NOTICE

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

34.2 The default notice must:

(a) specify the particulars of the default; and

(b) state that it is the offended party's intention to exercise the rights arising from the default unless, within 14 days of the notice being given -

(i) the default is remedied; and

(ii) the reasonable costs incurred as a result of the default and any interest payable are paid.

35. DEFAULT NOT REMEDIED

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

35.2 The contract immediately ends if:

(a) the default notice also states that unless the default is remedied and the reasonable costs and interest are paid, the contract will be ended in accordance with this general condition; and

(b) the default is not remedied and the reasonable costs and interest are not paid by the end of the period of the default notice.

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

(a) the purchaser must be repaid any money paid under the contract and be paid any interest and reasonable costs payable under the contract; and

(b) all those amounts are a charge on the land until payment; and

(c) the purchaser may also recover any loss otherwise recoverable.

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

(a) the deposit up to 10% of the price is forfeited to the vendor as the vendor's absolute property, whether the deposit has been paid or not; and

(b) the vendor is entitled to possession of the property; and

(c) in addition to any other remedy, the vendor may within one year of the contract ending either:

(i) retain the property and sue for damages for breach of contract; or

(ii) resell the property in any manner and recover any deficiency in the price on the resale and any resulting expenses by way of liquidated damages; and

(d) the vendor may retain any part of the price paid until the vendor's damages have been determined and may apply that money towards those damages; and

(e) any determination of the vendor's damages must take into account the amount forfeited to the vendor.

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

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