CONTRACT OF SALE OF REAL ESTATE

Vendor

Philip Newman as Receiver and Manager of the assets of the Glen630 Unit Trust ABN 59 154 335 756

Developer

FMCCR Pty Ltd ACN 608 295 389

Property

Lot _____ on proposed plan of subdivision 835866C at 630-632 Glen Huntly Road, Caulfield South, Victoria 3162



FORM 1 Estate Agents Act 1980

Regulation 5(a)

CONTRACT OF SALE OF REAL ESTATE—PARTICULARS OF SALE Part 1 of the standard form of contract prescribed by the former Estate Agents (Contracts) Regulations 2008

Property address: See Particulars of Sale

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

and in that order of priority.

SIGNING OF THIS CONTRACT

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

Purchasers should ensure that prior to signing this Contract, they have received:

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

The authority of a person signing:

- under power of attorney; or
- as director of a corporation; or
- as an 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.

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rint name(s) of person(s) signing:						
State nature of authority, if applicable:	· · · · · · · · · · · · · · · · · · ·					
his offer will lapse unless accepted with	in [] clear bus	iness days (3 clear business	days if none	specified)
SIGNED BY THE VENDOR: SEE EXEC	UTION	PAGE				
	• • • • • • • • • • • • • • • • • • • •	••••••		on	· · · · · · · · · · · · · · · · · · ·	

The **DAY OF SALE** is the date by which all parties have signed this Contract.

IMPORTANT NOTICE TO PURCHASERS

Cooling-off period **EXCEPTIONS** Section 31 Sale of Land Act 1962 The 3-day cooling-off period does not apply if: You may end this Contract within 3 clear business days of you bought the Property at or within 3 clear the day that you sign the Contract if none of the exceptions business days before or after a publicly advertised listed below applies to you. auction: or You must either give the Vendor or the Vendor's agent the Property is used primarily for industrial or written notice that you are ending the Contract or leave commercial purposes; or the notice at the address of the Vendor or the Vendor's the Property is more than 20 hectares in size and agent to end this Contract within this time in accordance is used primarily for farming; or with this cooling-off provision. you and the Vendor have previously signed a You are entitled to a refund of all the money you paid contract for the sale of the same land in EXCEPT for \$100 or 0.2% of the purchase price substantially the same terms; or (whichever is more) if you end the Contract in this way. you are an estate agent or a corporate body.

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

Off-the-plan sales Section 9AA(1A)

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.

EXECUTION PAGE

Signed by the Purchaser:
on/20
Print name(s) of person(s) signing:
State nature of authority, if applicable:
This offer will lapse unless accepted within [10] clear business days (3 clear business days if none specified)
Signed by the Vendor:
on/20
Philip Newman as Receiver and Manager of the assets of the Glen630 Unit Trust ABN 59 154 335 756
This offer will lapse unless accepted within [10] clear business days (3 clear business days if none specified)
Signed by the Developer:
on/20
Franco Durso as sole director and sole secretary of FMCCR Pty Ltd ACN 608 295 389
This offer will lapse unless accepted within [10] clear business days (3 clear business days if none specified)
The DAY OF SALE is the date by which all parties have signed this Contract.

Particulars of Sale

Vendor's estate agent		Ref: Ph: Fax: Email:
Vendor	Philip Newman as Receiver and Ma Unit Trust ABN 59 154 335 756	anager of the assets of the Glen630
Vendor's Solicitor	Nicholas O'Donohue Level 36, 140 Williams Street MELBOURNE VIC 3000	Ref: Gina Puopolo Ph: 03 9607 8149 Email: gpuopolo@nodco.com.au
Developer	FMCCR Pty Ltd ACN 608 295 389	
Developer's Solicitor	Cornwalls Level 4, 380 Collins Street MELBOURNE VIC 3000	Ref: MRH:RLM 1064753 Ph: 03 9608 2000 Fax: 03 9608 2222 Email: r.mcneil@cornwalls.com.au
Purchaser	Name: Address:	Name: Address:
	Phone:	Phone:
	Email:	Email:
	TFN:	TFN:
Purchaser ID	Driver Licence ☐ Passport	□ Other □
Purchaser's FIRB declaration:	Do you require FIRB Approval? (Are you a Foreign Person for the put Takeovers Act 1975 (Cth)?) ☐ Yes No ☐	rposes of the Foreign Acquisitions and

	I				
Purchaser's Solicitor	Name: Ref:				
	Address: Ph:				
	Email:				
Property	Lot on proposed plan of subdivision 835866C being part of the land in certificates of title volume 8111 folio 463 and volume 8167 folio 277, which shall include the improvements and fixtures made on such lot in accordance with this Contract.				
Goods sold with the land	Building Plans and Specifications in Annexure C				
Payment	Price \$				
	Deposit \$ being 10% of the Price payable on the signing of this contract				
	Balance \$ payable at Settlement				
GST	The price includes GST (if any) unless the words 'plus GST' appear in this box:				
	If this is a sale of a 'farming business' or 'going concern' then add the words 'farming business' or 'going concern' in this box:				
	If the margin scheme will be used to calculate GST then add the words 'margin scheme' in this box:				
	margin scheme				
Settlement Date	The date which is the later of 14 days after the date on which the Vendor's Solicitor serves notice on the Purchaser or the Purchaser's Solicitor that:				
	(a) the Plan has been registered by the Registrar; and (b) an Occupancy Permit has been issued for the Property.				
Special Conditions	This Contract does not include any special conditions unless the words 'special conditions' appear in this box:				
	special conditions				
Day of Sale	The date on which both parties have signed this Contract.				

SPECIAL CONDITIONS

1. INTERPRETATION

1.1 Definitions

In this Contract, expressions included in the Particulars of Sale have the meaning set out against them, and:

Additional Encumbrances means all easements, encumbrances, rights, privileges, restrictions on use, covenants, agreements (including the entering into of any agreement under section 173 of the Planning & Environment Act or any agreement required under any planning permit effecting the Property or other Approval), leases, licences, other occupation rights and arrangements relating to all or part of the land comprised in the Development which are:

- (a) required by an Authority;
- (b) required by a condition of an Approval;
- (c) reasonably and properly required for the Development;
- (d) necessary to satisfy a requirement, notice or order affecting or relating to the Property, the use of the Property or the Development; or
- (e) required by NBN Co Limited.

Approval means any permit, licence, consent, certificate or other approval obtained or required to be obtained from an Authority in relation to the Development.

Authority means any state or federal government, any semi or local government, any statutory, public instrumentality or other authority or body having jurisdiction and responsibility over the Property.

Bank means the bank giving the Bank Guarantee.

Bank Guarantee means an unconditional and irrevocable guarantee or undertaking by an Australian trading bank with a branch in Melbourne to pay money to the Vendor's Solicitor:

- (a) without reference to the Purchaser;
- (b) with an expiry date (if any) at least 30 days after the expiry of the Registration Period; and
- (c) in a form satisfactory to the Vendor including that the Bank Guarantee must be in favour of the Partners of the firm trading as Cornwalls.

Builder means any builder that the Developer may nominate from time to time.

Building means all buildings, dwellings, car parks, lifts, structures and other improvements to be constructed on or under the Development Land (and or any adjoining land) pursuant to the Development.

Building Act means the Building Act 1993 (Vic).

Building Contract means a Major Domestic Building Contract between the Builder and the Developer.

Building Plans and Specifications means the indicative floor plans and specifications included in Annexure C to this Contract to which (subject to the terms of this Contract) the

Builder will be required to build the Property, as varied from time to time in accordance with this Contract.

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

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

Commissioner of State Revenue means the commissioner of state revenue under the Duties Act 2000 (Vic).

Complex Transaction means any transaction that is classified by the State Revenue Office, or which the Purchaser reasonably believes would be classified by the State Revenue Office, as a complex transaction requiring a SRO duty determination.

Common Property means common property or common properties identified on the Plan or as may be modified in accordance with the terms of this Contract.

Contamination means the presence of any substance:

- (a) which could result in a public authority issuing a notice requiring work to be done to the Property or investigations to be carried out on the Property and/or requiring the monitoring of the Property;
- (b) which is potentially harmful to human health or the environment;
- (c) which breaches any legislation or authorisation which relates to the environment;or
- (d) which, in the context in which it is found or proposed to be used or deposited (as the case may be), is detrimental to the beneficial use of the environment or the Property.

Contract means this contract as it may be amended from time to time by agreement in writing signed by all parties.

Day of Sale means the date by which the Purchaser, the Vendor and the Developer have all signed this Contract.

Deed of Appointment means the deed of appointment dated 23 December 2022 between Perpetual Corporate Trust Limited Pty Ltd ACN 000 341 533 as custodian for AUS Finance Group Pty Ltd (ACN 168 482 433) ATF the AUS Finance Group Investment Trust and Philip Newman, a copy of which is annexed to the Vendor's Statement, and any subsequent deed varying the said deed from time to time.

Deposit means the deposit specified in the Particulars of Sale.

Developer takes the meaning attributed to it in the Particulars of Sale.

Development means the development of the Building and associated facilities to be undertaken by and on behalf of the Developer generally in accordance with the Building Plans and Specifications, as defined in the Deed of Appointment.

Development Activities means any work carried out or intended to be carried out by the Vendor, Developer or Builder or any other party to complete any development on the Development Land including:

(a) the subdivision of land forming part of the Development Land;

- (b) any form of demolition work, building work and work ancillary to or associated with the building work or installation of infrastructure including services to the Development Land;
- (c) any form of landscaping work or work ancillary to or associated with landscaping work on the Development Land; and
- (d) carrying out the development of the Development Land in stages.

Development Land means the land on which the Development shall be carried out and includes the land comprised in the certificate(s) of title referred to in the Property panel in the Particulars of Sale, and includes the Property.

Due Diligence Checklist means a due diligence checklist contemplated in section 33A and 33B of the Sale of Land Act, a copy of which is attached to the Vendor's Statement.

ELN means the Electronic Lodgement Network as defined in the Electronic Conveyancing National Law (Victoria).

Electronic Transmission means the giving of a document by a party to the other party by:

- (a) transmitting the document by email; or
- (b) transmitting by email, notification that the document is given together with hyperlink at which the document can be viewed and downloaded or the web address where the document can be viewed or downloaded.

Encumbrances includes:

- (a) any easements, covenants or other like restrictions disclosed in the Vendor's Statement, but excluding any mortgage;
- (b) the reservations, exceptions and conditions contained in the relevant crown grant;
- (c) any easements, covenants or other like restrictions created after the Day of Sale or created or reserved in the instrument of transfer;
- (d) the access rights referred to in special condition 35;
- (e) any encumbrance created by section 98 of the Transfer of Property Act 1958 (Vic) or section 24 of the Subdivision Act 1988 (Vic); and
- (f) any other encumbrances or restrictions created after the Day of Sale as contemplated in the special conditions.

Excluded Rights means the Purchaser:

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

(h) making any other claims,

under or in connection with this Contract.

FATA Act means the Foreign Acquisitions and Takeovers Act 1975 (Cth), the Foreign Acquisitions and Takeovers Regulations 2015 (Cth) and Australia's Foreign Investment Review Board Policy as published on the Foreign Investment Review Board website at www.firb.gov.au from time to time.

FIRB Approval means a no objection notification, made by or on behalf of the Treasurer under the FATA Act and stating that the Commonwealth Government does not object to the transactions contemplated by this Contract, either unconditionally or subject to conditions.

Foreign Person has the meaning given to that term in the FATA Act.

General Conditions means General Conditions 1 to 28 (inclusive) as were formerly contained in Part 2 of the standard form of contract prescribed by the former Estate Agents (Contracts) Regulations 2008 (Vic) prior to their revocation on 11 August 2018 and as reproduced in this Contract.

Guarantee and Indemnity means the guarantee and indemnity in Annexure A of this Contract.

GST means Goods and Services Tax within the meaning of the GST Act.

GST Act means A New Tax System (Goods and Services Tax) Act 1999 and associated legislation or any amendment or replacement of that Act or legislation.

A person is **Insolvent** if:

- (a) it is (or states that it is) an insolvent under administration or insolvent (each as defined in the Corporations Act);
- (b) it is in liquidation, in provisional liquidation, under administration, wound up or has a Controller appointed to any part of its property where such appointment is not terminated within 40 Business Days;
- (c) it is subject to any arrangement, assignment, moratorium or composition, protected from creditors under any statute or dissolved (in each case, other than to carry out a reconstruction or amalgamation while solvent on terms approved by the Vendor);
- (d) an application or order has been made (and, in the case of an application, it is not stayed, withdrawn or dismissed within 40 Business Days), resolution passed, proposal put forward, or any other action taken, in each case in connection with that person, which is preparatory to or could result in any of (a), (b) or (c) above;
- (e) it is taken (under section 459(F)(1) of the Corporations Act) to have failed to comply with a statutory demand;
- (f) it is the subject of an event described in section 459(C)(2)(b) or section 585 of the Corporations Act (or it makes a statement from which the Vendor reasonably deduces it is so subject);
- (g) it is otherwise unable to pay its debts when they fall due;
- (h) in relation to a trust, the making of an application or order in any court to be taken in respect of the trust or for any property of the trust to be brought into court or administered by the court under its control; or

(i) something having a substantially similar effect to (a) to (h) happens in connection with the person under the laws of any jurisdiction.

Loss includes any loss, injury, liability, damage, costs, Claim or other detriment, including economic loss, consequential loss and special loss.

Lot means a lot on the Plan, and when the context permits, a lot on any other plan of subdivision of the Development Land.

Major Domestic Building Contract means a major domestic building contract as defined in section 3 of the Domestic Building Contracts Act 1995 (Vic).

Marketing Activities has the meaning given to that term in special condition 35.1(b).

Occupancy Permit means an occupancy permit issued under the Building Act.

Ongoing Works has the meaning given in special condition 35.1(c).

Online Duties Form means the digital duties form introduced and imposed by the State Revenue Office for the purpose of assessment of duty on transfers of land.

Outgoings means all rates, taxes, assessments, fees and other outgoings and includes levies, fire insurance premiums or other expenses levied in respect of the Property but excludes any land tax, excludes any windfall gains tax liability (that is struck or levied, due and owing, known or ought reasonably be known, by the Vendor as at the Day of Sale), and excludes any supplementary rates or taxes or other such rates assessed in respect of the Property after the Settlement Date which are the responsibility of the Purchaser.

Owners Corporation includes each of the owners corporations on plan of subdivision no. PS835866C, and any other owners corporations created upon registration of the Plan, and where the context permits, includes a reference to one, some or all of these owners corporations.

Owners Corporations Act means the Owners Corporations Act 2006 (Vic).

Owners Corporations Regulations means the Owners Corporations Regulations 2018 (Vic).

Plan means the proposed plan of subdivision referred to in the Property panel in the Particulars of Sale, a copy of which is included in the Vendor's Statement, as varied from time to time in accordance with this Contract.

Pre-settlement Inspection has the meaning given to that term in special condition 26.

Registrar means the Registrar of the Land Titles Office of Victoria.

Registration Period means the period expiring on the date 24 months after the Day of Sale.

Related Entity has the meaning given to it by the Corporations Act 2001 (Cth).

Repair Works has the meaning given to that term in special condition 35.1(d)(i).

Restriction means a restriction noted on the Plan.

Restrictions means all and every Restriction as amended from time to time.

Rules takes the meaning attributed to it in special condition 10.3(a)(i).

Sale or Sell includes a sale, agreement to sell, the granting of an option or a transfer or any similar agreement or structure.

Sale of Land Act means the Sale of Land Act 1962 (Vic).

Settlement Date or **Settlement Due Date** each mean the date specified in the Particulars of Sale as the "Settlement Date", being the date upon which the balance of the Price is due to be paid and **Settlement** means the completion of the Contract.

State Revenue Office means the State Revenue Office Victoria.

Supreme Court of Victoria takes the meaning given to it by the Supreme Court Act 1986 (Vic).

Transferee means the party referred to in special condition 16.

Treasurer means the Treasurer of the Commonwealth of Australia.

Vendor's Rescission Notice has the meaning given in special condition 6.4(b).

Vendor's Statement means the statement given by the Vendor under section 32 of the Sale of Land Act.

1.2 Interpretation

Unless expressed to the contrary, in this Contract a reference to:

- (a) any legislation or legislative provision includes any statutory modification or any enactment or, or legislative provision substituted for, and any statutory instrument issued under, that legislation or legislative provision;
- (b) the singular includes the plural and vice versa;
- (c) an individual or person includes a corporation, firm, Authority, government or government authority and vice versa;
- (d) any gender includes the other gender;
- (e) a party to this Contract includes that party's executors, administrators, successors and permitted assigns:
- (f) a condition, annexure or schedule is a reference to a condition, annexure or schedule of this Contract;
- (g) including and singular expressions are not words of limitation;
- (h) headings are for convenience only and do not affect the meaning or interpretation of this Contract;
- (i) if the whole or any part of a provision of this Contract is invalid or unenforceable the validity or enforceability of the remaining provisions will not be affected;
- (j) any obligation on the part of two or more persons under this Contract binds all of them jointly and each of them severally; and
- (k) the obligations imposed and the benefits conferred under this Contract on each of the parties are binding upon and endure for the benefit of the respective parties and each of their respective successors in title, legal personal representatives and permitted assigns;
- (I) time is in local time in Melbourne;
- (m) "\$" or "dollars" is a reference to Australian currency; and
- (n) writing includes any mode of representing or reproducing words in tangible and permanently visible form and includes fax and email transmissions.

2. GENERAL CONDITIONS

2.1 Amendments of General Conditions

The Purchaser acknowledges that:

- (a) the General Conditions in Schedule 1 of this Contract are deemed to be reproduced in and form part of this Contract;
- (b) the reference in the General Conditions to:
 - (i) 'contract' is a reference to Contract;
 - (ii) 'deposit' is a reference to Deposit;
 - (iii) 'due date for settlement' is a reference to Settlement Due Date;
 - (iv) 'land' is a reference to Property;
 - (v) 'purchaser' is a reference to Purchaser;
 - (vi) 'section 32 statement' is a reference to Vendor's Statement;
 - (vii) 'settlement' is a reference to Settlement;
 - (viii) 'settlement date' is a reference to Settlement Date;
 - (ix) 'vendor' is a reference to Vendor (subject to special condition 40); and
 - (x) 'vendor's legal practitioner' is a reference to Vendor's Solicitor (subject to special condition 40).
- (c) the following General Conditions are deleted:
 - (i) General Condition 1.2 (Encumbrances);
 - (ii) General Conditions 2.3(c), 2.3(e) 2.3(f), 2.6 and 2.7 (Vendor warranties);
 - (iii) General Condition 3 (Identity of the land);
 - (iv) General Condition 5 (Consents);
 - (v) General Condition 7 (Release of security interest);
 - (vi) General Condition 8 (Builder warranty insurance);
 - (vii) General Condition 9 (General law land);
 - (viii) General Condition 11.1 (Payment);
 - (ix) General Condition 12.1 (Stakeholding);
 - (x) General Condition 14 (Loan);
 - (xi) General Condition 15 (Adjustments);
 - (xii) General Condition 17 (Service);

- (xiii) General Condition 18 (Nominee);
- (xiv) General Condition 20 (Guarantee)
- (xv) General Condition 22 (Inspection);
- (xvi) General Condition 23 (Terms Contract);
- (xvii) General Conditions 24.2, 24.3, 24.4, 24.5 and 24.6 (Loss or damage before settlement);
- (xviii) General Conditions 25, 26, 27, 28.3(b) and 28.3(c) (Default).
- (d) the following General Conditions are amended:
 - (i) General Condition 10.1(b)(i) is amended to read: "provide all titles documents necessary to enable the Purchaser to become the registered proprietor of the land,"
 - (ii) General Condition 21 is amended to delete "The Purchaser may enter the Property to comply with that responsibility where action is required before Settlement."; and
 - (iii) General Condition 28.4 is amended by:
 - A after "default notice given by the Vendor" insert "or the Developer to the Purchaser";
 - B at General Condition 28.4(a), replacing the words "the deposit up to" with "an amount equal to".

3. DEPOSIT

3.1 Payment of the Deposit

- (a) The Deposit must not exceed 10% of the Price.
- (b) The Deposit must be paid to the Vendor's Solicitor to be held on trust for the Purchaser in the Vendor's Solicitor's trust account (included in Annexure B of this Contract) until the registration of the Plan in accordance with the Sale of Land Act.

3.2 Investment of Deposit

- (a) If the Deposit or any part of it is pay by cheque or electronic funds transfer, the Vendor's Solicitor is authorised and directed by the parties (but are not obliged) to invest the Deposit in the name of the Vendor's Solicitor or in the names of the parties with a bank on fixed deposit on terms and conditions approved by the Vendor until the Vendor becomes entitled to it.
- (b) Any interest earned on the money invested under special condition 3.2 (less all proper bank and government charges, fees and taxes) will be paid to the party entitled to the Deposit when the Deposit is released, the Contract is settled or the Contract is ended.
- (c) Neither party will make a Claim against the Vendor nor the Vendor's Solicitor for any taxes deducted from the interest earned on the money invested under special condition 3.2 because of a failure by that party to give its tax file number to the Vendor's Solicitor's bank.

- (d) Neither the Vendor nor the Vendor's Solicitor is liable to the Purchaser under any circumstance if withholding tax is deducted from the interest.
- (e) Notwithstanding anything else in this special condition 3.2, the Purchaser acknowledges and agrees that the Vendor's Solicitor is authorised to terminate the investment of a Deposit at a reasonable time before the Settlement Due Date so that the Deposit and interest will be available at Settlement.

4. BANK GUARANTEE

4.1 Deposit secured by Bank Guarantee

- (a) If the Vendor accepts a Bank Guarantee from the Purchaser in lieu of actual payment of the Deposit or any part of the Deposit, the Purchaser:
 - (i) must deliver to the Vendor's Solicitor the Bank Guarantee for an amount equal to the Deposit or balance of the Deposit (as the case may be) within 14 Business Days of the Day of Sale;
 - (ii) acknowledges that once the Vendor's Solicitor has reviewed and approved the Bank Guarantee the amount guaranteed or undertaken to be paid under the Bank Guarantee will be treated as compliance with the Purchaser's obligation to pay the Deposit or the balance of the Deposit (as the case may be) to the Vendor's Solicitor; and
 - (iii) must procure the Bank to pay a fee of \$440 (inclusive of GST) to the Vendor's Solicitor before such Bank Guarantee is accepted and, in any event, before or as a condition of Settlement.
- (b) A Bank Guarantee delivered to the Vendor's Solicitor under special condition 4.1(a) must be held by the Vendor's Solicitor on Trust for the Purchaser until registration of the Plan in accordance with the Sale of Land Act.

4.2 Extension of Bank Guarantee

If the Vendor accepts a Bank Guarantee containing an expiry date and the Registration Period is extended by agreement, the Purchaser must within 14 days after agreeing to extend, deliver to the Vendor a replacement Bank Guarantee with an expiry date at least 30 days after the expiry date of the extended Registration Period.

4.3 Payment at Settlement

The Purchaser must pay the amount stipulated in the Bank Guarantee to the Vendor's Solicitor by unendorsed bank cheque by no later than the first to occur of:

- (a) the Settlement Date;
- (b) the date that is 30 days before the Bank Guarantee expires; and
- (c) any earlier date on which:
 - (i) the Deposit is allowed to be released under section 27 of the Sale of Land Act;
 - (ii) the Vendor or the Developer rescinds or otherwise terminates this Contract for breach by the Purchaser; or
 - (iii) the Bank Guarantee becomes ineffective.

4.4 Replacement and drawdown

- (a) If the Purchaser breaches special condition 4.1(a), the Purchaser must immediately pay the Deposit or part of the Deposit (as the case may be) by unendorsed bank cheque to the Vendor's Solicitor.
- (b) If the Purchaser breaches special conditions 4.2, 4.3, or 4.4(a), with time being of the essence:
 - the Purchaser is in default under this Contract and, without limiting the Vendor's rights, the Vendor's Solicitor is irrevocably authorised to draw on the Bank Guarantee; and
 - (ii) the Vendor may terminate this Contract by written notice to the Purchaser.
- (c) Pending Settlement or termination or rescission of this Contract occurring, the Purchaser may not and must not request that the Vendor or the Vendor's Solicitor return the Bank Guarantee to the Purchaser.

5. FOREIGN INVESTMENT APPROVAL

5.1 Foreign Person

- (a) If the Purchaser has marked "No" in the Particulars of Sale that it is not a Foreign Person, the Purchaser warrants to each of the Vendor and the Developer at the Date of Sale and again on the Settlement Date that the Purchaser is not a Foreign Person and is not required to give notice to, or obtain approval from, the Treasurer under the FATA Act in respect of the transactions contemplated by this Contract.
- (b) The Purchaser acknowledges that the Vendor and the Developer have each entered into this Contract in reliance on this warranty.
- (c) If the Purchaser has marked "Yes" in the Particulars of Sale that it is a Foreign Person, the parties acknowledge and agree that:
 - despite any provision to the contrary, the Purchaser is not intended to acquire any rights in relation to the Property until the Purchaser has received FIRB Approval;
 - (ii) despite any provision to the contrary, no obligation on the Vendor to sell, or right of the Purchaser to buy the Property, or the Developer in any way, is of any force or effect until FIRB Approval has been obtained; and
 - (iii) save for special condition 5.1(c)(i) and 5.1(c)(ii), all other provisions of the Contract are binding on the parties as at the Day of Sale.

5.2 Failure to obtain FIRB Approval

- (a) If the Purchaser is required to obtain FIRB Approval to acquire the Property, but does not obtain FIRB Approval within 45 days after the Day of Sale, this Contract may be terminated by the Vendor or the Developer by notice in writing to the Purchaser at any time before the FIRB Approval is obtained.
- (b) If a party rescinds this Contract under Special Condition 5.2(a) the Deposit must be refunded to the Purchaser and all interest earned on it must be paid to the Purchaser (after deduction of all proper bank and government charges, fees and

taxes) and, subject to that refund, no party will have any action or claim against another party arising under this Contract.

5.3 Breach of Warranty

If the warranty given pursuant to special condition 5.1(a) is untrue:

- (a) the Purchaser will be in default under this Contract; and
- (b) the Purchaser indemnifies and shall keep the Vendor and the Developer jointly and severally indemnified against any Loss suffered by the Vendor or Developer respectively as a result of the Vendor and/or Developer having relied upon the warranty given under special condition 5.1(a).

6. REGISTRATION OF THE PLAN

6.1 Sale of Land Act

This Contract is made in accordance with the provisions of section 9AA of the Sale of Land Act.

6.2 Settlement conditional

This Contract is subject to the Plan being registered by the Registrar before the expiration of the Registration Period.

6.3 Termination right

- (a) If the Plan is not registered before the expiration of the Registration Period:
 - the Purchaser may, at any time after expiration of the Registration Period but only before the Plan is registered, rescind this Contract by written notice served on the Vendor; and
 - (ii) the Vendor may, at any time after the expiration of the Registration Period but only before the Plan is registered, give to the Purchaser a notice of proposed rescission of this Contract under which the Vendor seeks the Purchaser's written consent to rescind this Contract.

6.4 Notice of proposed rescission

- (a) In relation to a proposed rescission of this Contract by the Vendor under special condition 6.3(a)(ii), the parties acknowledge and agree that:
 - (i) the Vendor is required to give notice of a proposed rescission of this Contract under special condition 6.3(a)(ii);
 - (ii) the Purchaser has the right to consent to such proposed rescission but is not obliged to consent;
 - (iii) the Vendor has the right to apply to the Supreme Court of Victoria for an order permitting the Vendor to rescind this Contract; and
 - (iv) the Supreme Court of Victoria may make an order permitting the rescission of this Contract if satisfied that making the order is just and equitable in all the circumstances.
- (b) Before rescinding this Contract under special condition 6.3(a)(ii), but without limiting special conditions 6.4(a)(iii) and 6.4(a)(iv), the Vendor must obtain the written consent of the Purchaser to the rescission, after giving the Purchaser at

least 28 calendar days' written notice of the proposed rescission, such notice setting out:

- (i) the reason why the Vendor proposes to rescind this Contract;
- (ii) the reason for the delay in the registration of the Plan; and
- (iii) that the Purchaser is not obliged to consent to the proposed rescission.

(Vendor's Rescission Notice)

- (c) Upon receipt of the Vendor's Recession Notice, the Purchaser must:
 - (i) promptly provide the Vendor with written acknowledgement of the receipt of the Vendor's Rescission Notice; and
 - (ii) notify the Vendor, within a reasonable time period whether it will consent to such proposed rescission.
- (d) If this Contract is rescinded under special condition 6.3(a)(i), 6.3(a)(ii), 6.4(a)(iii) or 6.4(a)(iv):
 - (i) the Vendor must refund to the Purchaser all money paid by the Purchaser under this Contract:
 - (ii) any Bank Guarantee accepted by the Vendor under special condition 4 will be returned to the Purchaser or the Bank for cancellation; and
 - (iii) unless the Supreme Court makes an order granting reasonable compensation of the Purchaser, the Purchaser will not be entitled to any compensation from the Vendor in respect of any Loss, costs, fees or other expenses paid or incurred by the Purchaser in relation to this Contract.

6.5 Renumbering of Lots

The Purchaser must accept as identical with the Property described in the Particulars of Sale:

- (a) the Lot bearing the same number on the Plan when registered by the Registrar, as the number set out in the Particulars of Sale; or
- (b) if the Lot shall at any time prior to registration of the Plan by the Registrar be renumbered, the Lot on the Plan as registered which shall occupy the same or approximately the same position on the Plan as the Lot described in the Particulars of Sale.

6.6 Purchaser not to exercise Excluded Rights

Subject to the Purchaser's rights under the Sale of Land Act and under special conditions 6.4(d)(i) and 6.4(d)(ii), the Purchaser must not exercise any Excluded Rights because of anything connected with registration of, or the failure to obtain registration of, the Plan.

7. AMENDMENTS TO THE PLAN

7.1 Authorised amendments

Subject to the provisions of Sections 9AC and 9AH of the Sale of Land Act, the Vendor or the Developer (as the case may require) may make any amendments and alterations to the Plan which may be necessary, required or desirable, including:

- (a) to accord with surveying practice;
- (b) to alter the Plan so that the land in the Development Land (or part of it) is developed in stages or so that lots on the Plan are consolidated;
- (c) to comply with the requirement, recommendation or requisition of an Authority or the Registrar;
- (d) to obtain the certification or registration of the Plan;
- (e) alterations required for the development, use, occupation, proper management or adequate servicing of the Development Land or any part of it;
- (f) changing the address of the Development Land;
- (g) re-numbering, reconfiguring or consolidating lots on the Plan;
- (h) an alteration to the Plan which results in a change to the area of the Property of less than 5%;
- (i) any other amendment or alteration to the Plan which does not materially and detrimentally affect the Purchaser.

7.2 Purchaser not to exercise Excluded Rights

Subject to the Purchaser's rights under the Sale of Land Act:

- (a) the Purchaser acknowledges and agrees that it would not regard any of the changes contemplated by special condition 7.1 as material or detrimental changes to the Plan in that the amended Plan does not render the Property being purchased so different that the Purchaser would not have entered into this Contract for the purchase of the Property but for the changes;
- (b) the Vendor shall notify the Purchaser of any amendment or alteration to the Plan in accordance with the requirements of the Sale of Land Act;
- (c) the Purchaser must not exercise any Excluded Rights because of:
 - (i) anything contemplated by special condition 7.1;
 - (ii) any alleged misdescription of the Property or deficiency in its area or measurements; or
 - (iii) any renumbering, reconfiguration or consolidation of the lots on the Plan.

8. VENDOR'S RIGHT TO TERMINATE

8.1 Termination

If:

- (a) any requirement imposed by an Authority for the Plan is in the opinion of the Vendor or the Developer (in their absolute and unfettered discretion) too onerous on the Vendor or the Developer to perform or accept;
- (b) the Developer cannot obtain or procure finance on terms and conditions acceptable to the Developer;

- (c) at any time the Vendor determines (in its absolute and unfettered discretion) that the Plan will not be, or is unlikely to be, registered within the Registration Period;
- (d) registration of the Plan is refused for any reason other than as a result of the wilful or negligent act or omission of the Vendor; or
- (e) if an Authority refuses for any reason to certify or endorse a statement of compliance for the Plan,

then the Vendor may elect to terminate this Contract by giving notice in writing to that effect to the Purchaser.

8.2 Rights upon termination

- (a) If this Contract is terminated or rescinded under special condition 8.2:
 - (i) all money paid under this Contract by the Purchaser must be refunded to the Purchaser:
 - (ii) the Bank Guarantee accepted by the Vendor under this Contract will be returned to the Purchaser or the Bank Guarantor for cancellation; and
 - (iii) unless otherwise provided for in this Contract, the Purchaser must not exercise any Excluded Rights arising from or out of the termination or rescission of this Contract.
- (b) This special condition 8 is for the sole benefit of the Vendor and may only be waived by the Vendor notifying the Purchaser in writing of the waiver.

9. ADDITIONAL CONDITIONS TO SETTLEMENT

9.1 Settlement conditional

Settlement is subject to:

- (a) the Property being constructed under a Major Domestic Building Contract generally in accordance with the Building Plans and Specifications before the end of the Registration Period; and
- (b) an Occupancy Permit being issued in respect of the Property.

9.2 Termination right

- (a) If the Occupancy Permit is not obtained before the end of the Registration Period, the Developer, the Vendor or the Purchaser may, at any time after expiry of the Registration Period but only before the Occupancy Permit is issued, terminate this Contract by written notice served on the other parties.
- (b) If this Contract is terminated under special condition 9.2(a):
 - (i) all money paid under this Contract by the Purchaser must be refunded to the Purchaser;
 - (ii) any Bank Guarantee accepted by the Vendor under special condition 4 will be returned to the Purchaser or the Bank for cancellation; and
 - (iii) the Purchaser will not be entitled to any compensation from the Vendor or the Developer in respect of any Loss, costs, fees or other expenses paid or incurred by the Purchaser arising from or out of the termination of this Contract.

10. OWNERS CORPORATION

10.1 Compliance with Owners Corporations Rules

From the Settlement Date, the Purchaser must comply with all Owners Corporation Rules.

10.2 General Condition 21

For the purposes of General Condition 21, the expression 'notice, order, demand or levy' includes any notice, order, demand or levy made or issued by an Owners Corporation.

10.3 Purchaser requires Vendor's consent

- (a) The draft rules presently proposed by the Vendor and Developer for the Owners Corporation(s) which will come into existence on registration of the Plan are contained in the Vendor's Statement. The Purchaser acknowledges and agrees that:
 - (i) the presently proposed rules and those to be prepared (collectively Rules) may be subject to changes and consents, and agrees to the Rules for each Owners Corporation being amended or varied by the Vendor and or the Developer;
 - (ii) the Purchaser authorises the Vendor, the Developer and/or the Owners Corporation to do all that is necessary to pass the Rules and to have them registered with the Registrar, as provided by section 27E of the Subdivision Act; and
 - (iii) the Purchaser consents to the Vendor, the Developer and/or the Owners Corporation making any amendments to the Rules before the Rules are registered, as the Vendor and or Developer believe necessary or desirable to facilitate the Development, or for the better management of the owners Corporation or the Development.
- (b) This special condition 10.3 will cease to apply the date which is 12 months after the date on which the Plan is registered.

10.4 Establishment of Owners Corporation

- (a) The parties agree and the Purchaser acknowledges that the Developer and/or the Vendor will, as soon as practicable after the registration by the Registrar of the Plan and before the Settlement, to procure each Owners Corporation to:
 - (i) hold a meeting within the time prescribed by the Owners Corporations Act;
 - (ii) pass the special resolution need to adopt the Owners Corporation Rules;
 - (iii) appoint a Manager for the Owners Corporation;
 - (iv) determine what fees, or contributions to a sinking fund will be payable by the owners of all Lots, which fees may include a maintenance levy;
 - (v) insure the Development or any part thereof of which the Property is a part of for its replacement value with a reputable insurer;
 - (vi) pass any resolution whereby certain functions and powers of any Owners Corporation are delegated to the Manager;

- (vii) pass any resolution necessary to enable any necessary leases, licence agreements or deeds to be entered into as referred to in this Contract, or otherwise as determined by the Developer to be desirable;
- (viii) pass any resolution necessary in compliance with Parts 2-9 of the Owners Corporations Act; and/or
- (ix) provide for the establishment of a committee.
- (b) If required by the Vendor or the Developer, the Purchaser will, within 7 days of receiving a written request from the Vendor, the Developer or the Owners Corporation, do all such things and execute all necessary documents including any authorities, consents and approvals in relation to the arrangement and appointments referred to in special condition 10.4(a)(iii).

10.5 Owners Corporations Rules

The Purchaser acknowledges and understands that:

- (a) the Owners Corporation may at any time establish a sinking fund for contribution by members to fund non-recurrent maintenance and capital acquisitions;
- (b) it will be bound by the Rules and any other rules adopted by the Owners Corporation pursuant to this special condition;
- (c) the Vendor, the Developer or the Owners Corporation may grant any leases or licences as may be necessary in respect of the proposed use of the Development, including but not limited to the purposes of car parking, bicycle racks and plant and equipment relating to any Lot or part of a Lot that may need to be the located on common property or any such other leases or licences as may be necessary for the better management of the Development.

10.6 Owners Corporation certificate

After the Plan is registered, the Vendor will provide (or procure that the Developer provides) to the Purchaser an Owners Corporation certificate under section 151 of the Owners Corporations Act.

10.7 Non merger

The Purchaser acknowledges that:

- (a) this special condition 10 will not merge on Settlement and will continue to bind the Purchaser and the Purchaser's successors in title; and
- (b) the Purchaser will include in any sale, transfer or disposition of the Property a condition whereby the purchaser, transferee or grantee and their successors in title agree (by entering into a deed with the Vendor) to be bound by this special condition.

11. CONSTRUCTION BY BUILDER

11.1 Developer warranty and acknowledgement

- (a) The Developers warrants to the Purchaser that the Property will be constructed under a separate contract that is a Major Domestic Building Contract.
- (b) The Developer represents to the Purchaser and the Purchaser acknowledges that:

- (i) subject to special condition 11.2(a), the Property has been or will be completed generally in accordance with the Building Plans and Specifications by the Settlement Date;
- (ii) on completing the purchase of the Property under this Contract, the Purchaser will have (as the Vendor's successor in title) the benefit of the warranties by the Builder concerning construction of the Property specified in section 8 of the Domestic Building Contracts Act 1995 (Vic); and
- (iii) any agreed defect in the construction of the Property (excluding normal maintenance, minor shrinkage and settlement cracks) due to faulty materials or poor workmanship, of which the Purchaser has given the Developer written notice within 90 days from the Settlement Date, will be rectified in a proper and workmanlike manner by the Builder at the Builder's expense as soon as practicable after the 90 day notification period.

11.2 Variations

- (a) The Purchaser acknowledges and agrees that the Building Plans and Specifications may be varied or altered by the Developer or the Builder from time to time in any manner the Developer or the Builder (as the case may be) considers necessary or desirable, each acting reasonably. The Developer discloses that such alterations or variations may include:
 - substitution of any of the fixtures, fittings, finishes and appliances specified in the Building Plans and Specifications with fixtures, fittings, finishes or appliances of like quality;
 - (ii) substitution of any building materials specified in the Building Plans and Specification with building materials of a like quality;
 - (iii) substitution of any colour specified in the Building Plans and Specifications with another colour; and
 - (iv) changes requested by public authorities or necessary to enable proper construction of the Property.
- (b) The Developer will notify the Purchaser within a reasonable time of any variation or alteration to the Building Plans and Specifications which, in the Developer's reasonable opinion, materially and detrimentally affects the Purchaser.
- (c) Without limiting special conditions 11.2(a) and 11.2(b), the parties acknowledge and agree that the alterations and variations of the kind referred to in special condition 11.2(a) do not materially and detrimentally affect the Purchaser.
- (d) The Purchaser may terminate this Contract by written notice to the Developer within 5 Business Days of notification under special condition 11.2(b).
- (e) If the Purchaser lawfully terminates this Contract under special condition 11.2(d):
 - (i) any money paid by the Purchaser on account of the Price will be refunded to the Purchaser (less all proper bank and government charges, fees and taxes);
 - (ii) any Bank Guarantee accepted by the Vendor will be returned to the Purchaser or the Bank Guarantor for cancellation; and

- (iii) the Purchaser will not be entitled to any compensation from any other party in respect of any Loss, costs, fees or other expenses paid or incurred by the Purchaser in relation to this Contract.
- (f) If, on the Day of Sale, construction of the Property is completed then this special condition 11 will not apply, except for special conditions 11.1(b)(ii) and 11.1(b)(iii).

11.3 Design and common areas and façade

The Purchaser acknowledges and agrees that:

- (a) any documents or images produced by the Vendor or the Developer in connection with marketing the Building (including the common areas and facade) and the Development are indicative only, and may not represent the final product;
- (b) the Developer or the Builder may, at any time (including after settlement), make changes to the interior of the common areas and the facade of the Building (including the colours, fixtures, fittings, finishes and materials) without reference to the Purchaser; and
- (c) the Vendor and the Developer make no representation and give no warranty that the interior of the common areas and the facade of the Building will be constructed as represented in the marketing materials provided by the Vendor, the Developer or any agents representing them.

11.4 Access to Property during construction

The Purchaser must not enter the Property and/or the construction site prior to the Settlement Date other than in accordance with the terms of this Contract.

11.5 Building Plans and Specifications

- (a) The Purchaser acknowledges that:
 - this Contract contains the current versions of the Building Plans and Specifications and the Purchaser has satisfied itself as to the matters referred to in them;
 - (ii) the Building Plans and Specifications specify which "finishes scheme" each Lot will receive:
 - (iii) the furniture and furnishings depicted in the Building Plans and Specifications are not included in the sale and are not sold to the Purchaser under this Contract:
 - (iv) furnishings depicted in the Building Plans and Specifications should not be taken to indicate the final position of power points, TV connection points (and the like); and
 - (v) the dimensions and areas, where shown on the Building Plans and Specifications:
 - A are approximate only;
 - B were calculated in accordance with the Property Council of Australia Method of Measurement; and
 - C without limiting special condition 11.2, may be different to the size of the Property purchased under this Contract as the boundary of the Lot is defined by the interior face of the floor, walls and ceilings (as further described in the Plan).

(b) Subject to the Act, the Purchaser must not exercise any Excluded Rights as a result of any thing or matter contained in or arising out of the Building Plans and Specifications.

11.6 Natural materials

The Purchaser acknowledges and agrees that:

- (a) some of the materials used in the construction of the Property (particularly in the finishes and fittings) may:
 - (i) comprise natural products (such as stone, timber and the like);
 - (ii) exhibit variations in the shade, colour, texture, surface, finish, markings or the like that contain natural fissures, lines, indentations or the like, and may fade or change colour over time;
 - (iii) expand, contract, or distort over time as a result of exposure to heat, cold, weather or the like;
 - (iv) mark or stain if exposed to certain substances;
 - (v) subject to special condition 11.6(c), these materials may be damaged or disfigured by impact or scratching by other means; and
 - (vi) be subject to shade variations and manufacture batching (for example, in carpet, tiles and other finishes).
- (b) The Purchaser must not exercise any Excluded Rights because of anything contemplated by this special condition 11.6.
- (c) Nothing in special condition 11.6(b) limits the Purchaser's rights under special condition 11.1(b)(iii) where damage or disfigurement of the type referred to in special condition 11.6(a)(v) is due to the Builder's poor workmanship.

11.7 Connection of services

- (a) The Purchaser acknowledges and agree that:
 - it is responsible to arrange connection of services such as gas, electricity, telephone, an embedded network (including infrastructure and equipment internal and external to the Property), waste and recycle bins at the Purchaser's expense (Services);
 - (ii) the Vendor or the Developer may, but is not obliged, to arrange for the installation of and/or connection of the Services; and
 - (iii) in the event that the Vendor or the Developer arranges the installation of and/or connection of any Services, all costs associated with access and connection to the Services are at the Purchaser's expense.

11.8 National broadband network and fibre-to-the-premises

(a) The Purchaser acknowledges and agrees that the Developer will use all reasonable endeavours to ensure that, any construction and works on the Property include conduits, cabling and housing to comply with the NBN Co Limited (NBN Co) In-Home Wiring Guide as available at http://www.nbnco.com.au/assets/documents/new-developments-wiring-guide.pdf (or any other substantially similar document as approved by NBN Co from time to time) so that the Purchaser can connect, on an open-access basis,

to a fibre-to-the-premises or other network such as the National Broadband Network and the network infrastructure constituting the National Broadband Network (**NBN**) and/or any service provider operating via the NBN.

- (b) Subject to special condition 11.8(a), the Vendor and the Developer make no warranties or representations and provide no guarantee in relation to the availability, specifications, provision or timing for provision of the NBN services offered or supplied to the Property by any Telco or other service provider and the Purchaser must make its own inquiries as to the eligibility criteria, timing, capacity, suitability for intended use, terms and conditions which apply to such offers.
- (c) The Purchaser agrees that the Vendor or the Developer may disclose the Purchaser's name, contact details and the Property in this Contract to NBN Co or any Telco or service provider who offers, or is considering offering, services via the NBN to or at the Property so that NBN Co or the Telco or service provider can provide details of offers for such services to the Purchaser.

11.9 Purchaser not to exercise Excluded Rights

The Purchaser must not exercise any Excluded Rights because of anything contemplated by special condition 11.7 or 11.8.

12. LOCATION OF EASEMENTS

12.1 Easements

The Purchaser agrees that section 10(1) of the Sale of Land Act will not apply in respect of the final location of any easements shown on the Plan.

13. ADDITIONAL ENCUMBRANCES

13.1 Vendor's rights

- (a) The Purchaser acknowledges that as at the Day of Sale and Settlement Date not all of the Additional Encumbrances may have been entered into, granted or finalised.
- (b) Without limiting this special condition 13.1, the Purchaser acknowledges and agrees that the Vendor may be required to:
 - (i) enter into leases or other occupation rights with third parties including, without limitation, Authorities and utility suppliers; and
 - (ii) create or grant easements, licences, covenants, restrictions or other rights, obligations or restrictions (including, without limitation, positive covenants under agreements pursuant to section 173 of the Planning and Environment Act 1987 (Vic) or pursuant to section 148 of the Water Act 1958 (Vic)),

for the certification or registration of the Plan or to comply with any planning permit granted or to be granted for the Development or, with respect to special condition (b)(ii), if it is in the opinion of the Vendor, necessary or desirable for the development, use, occupation, proper management or adequate servicing of the Development Land or of any part of it.

(c) The Vendor may enter into, grant or finalise any Additional Encumbrance on or after the Day of Sale.

- (d) Within 5 Business Days after receipt of a request from the Vendor, the Purchaser must execute any acknowledgement or covenant required by the Vendor under which the Purchaser:
 - (i) agrees to accept and observe an Additional Encumbrance; and
 - (ii) acknowledges that the Additional Encumbrance runs with the relevant land.
- (e) The Purchaser acknowledges and agrees:
 - (i) the Vendor may require the Purchaser to create in the instrument of transfer of the Property or otherwise, any Additional Encumbrances which the Vendor considers necessary or desirable for the development and proper functioning of the Development Land; and
 - (ii) if for any reason, the Restrictions cannot be registered, the Purchaser must create a restrictive covenant in the instrument of transfer of the Property (or such other manner required by the Registrar) on the same terms as the Restrictions.

13.2 Purchaser not to exercise Excluded Rights

Subject to the Purchaser's rights under the Sale of Land Act, the Purchaser must not exercise any Excluded Rights because of anything contemplated by this special condition 13.

14. ADJUSTMENTS

14.1 Delivery of adjustments

- (a) Subject to special condition 14.2, the Purchaser must deliver to the Developer's Solicitor a statement of the adjustments of Outgoings at least 5 Business Days before the Settlement Due Date, showing the amount due by the Purchaser to the Vendor at Settlement, including all amounts to be adjusted between the parties at Settlement pursuant to this Contract.
- (b) The Purchaser must provide copies of all certificates and other information used to calculate the statement of adjustments under special condition 14.1, if requested by the Developer.
- (c) Subject to special condition 14.2, if the Purchaser fails comply with special condition 14.1(a), the Purchaser is taken to have made default in payment of the Balance. The default commences 5 Business Days before the Settlement Due Date and continues until the statement of adjustments is delivered to the Developer's Solicitor.
- (d) Settlement may, at the Developer's or Vendor's option, be extended by the number of days which the Purchaser is in default under this special condition 14.1.

14.2 Vendor may prepare adjustments

Despite special condition 14.1, the Purchaser acknowledges and agrees that the Developer may choose to prepare a statement of adjustments. If the Developer chooses to do so, the Developer may notify the Purchaser or the Purchaser's Solicitor of that fact at any time.

14.3 Outgoings

- (a) The Vendor must pay all Outgoings up to, and including, the Settlement Date.

 The Purchaser must pay all Outgoings required to be paid after Settlement.
- (b) Outgoings must be apportioned and adjusted at Settlement in accordance with the provision of this special condition 14.3.
- (c) An apportionment must be made in respect of the period to which the amount relates, for example, an annual fee must be adjusted on an annual basis and a monthly fee must be adjusted on a monthly basis.
- (d) An Outgoing must be apportioned between the Vendor and the Purchaser on the Settlement Date on the basis that the relevant Outgoing has been paid by the Vendor for the whole of the current period for which the assessment relates irrespective of whether it has actually been paid.
- (e) Any personal statutory benefit available to any party must be disregarded when calculating an apportionment.
- (f) If the Property is not separately assessed in respect of the Outgoings, then the proportion of any such Outgoings to be adjusted between the Vendor and the Purchaser is either:
 - (i) on the basis that the amount to be apportioned between them is the proportion of the Outgoing equal to the proportion which the surface area of the Property bears to the surface area of the land that is subject to the assessment; and
 - (ii) on such other basis, as the Vendor or Developer may reasonably direct the Purchaser on or before the Settlement Date.
- (g) If at Settlement the amount of any Outgoing has not been assessed by the relevant authority:
 - (i) the Vendor will, subject to any adjustment payable by the Purchaser and to any rights of appeal which the Vendor may have to the relevant Authority, attend to the payment of the Outgoing when notice of assessment has been received by the Vendor within the time provided in the assessment notice:
 - (ii) the Vendor may, at its option, require the Purchaser to adjust at Settlement an amount which the Vendor, acting reasonably, considers to be an appropriate estimate of the unassessed Outgoing for the relevant period. As soon as possible after the assessment of the Outgoing the parties must make any necessary re-adjustment between themselves; and
 - (iii) the Purchaser is not entitled to deduct from, or delay the payment of, any part of the Price on the basis that an Outgoing has not been assessed at Settlement.
- (h) If at Settlement an Outgoing has been assessed on the Property but is not due for payment:
 - (i) the Purchaser is not entitled to deduct from or delay the payment of any part of the Price on the basis that such Outgoing has not been paid; and
 - (ii) the Vendor will, subject to any adjustment payable by the Purchaser, attend to the payment of the Outgoing within the time provided in the assessment notice.

15. LAND TAX

15.1 No adjustment

The parties acknowledge and agree that despite any other general condition or special condition in this Contract, the Purchaser shall not be required to pay any amount for or towards the Vendor's land tax liability, and no such apportionment shall be made at settlement.

16. TRANSFER OF THE DEVELOPMENT LAND

16.1 Vendor may assign

The parties acknowledges and agrees that:

- (a) the Vendor may (with the Developer's prior written consent, which may not be unreasonably withheld) novate or assign the whole or any part of its rights and obligations under this Contract to any party, in which case upon the Vendor giving the Purchaser notice of the transaction, the Purchaser unconditionally and irrevocably agrees and consents to the assignment of those rights and/or obligations (as the case may be), and must comply with and perform the obligations to which the transaction relates for the benefit of the assignee, transferee or other party nominated by the Vendor (with the consent of the Developer) (Assignee);
- (b) any notice of assignment of any rights and/or obligations under this Contract to an Assignee given by the Vendor (for which the Vendor requires the Developer's prior written consent) to the Purchaser will be conclusive evidence of the assignment of those rights and/or obligations, and the Purchaser must perform its obligations under this Contract in relation to the rights and/or obligations of the Vendor assigned, as if the Assignee of those rights and/or obligations were the Vendor;
- (c) nothing this special condition 16 otherwise limits the rights or capacity of the Vendor to sell, transfer, mortgage, charge, grant security over, or otherwise deal with or dispose of its right, title or interest in the Development Land, this Contact, or rights and/or obligations under or in connection with this Contract on any basis, subject always to the Vendor obtaining the Developer's prior written consent (which may be withheld at the Developer's discretion); and
- (d) if the Vendor transfers the Development Land (or any part of the Development Land that includes the Property) to an Assignee in accordance with this Special Condition 16.1, the Purchaser must accept at Settlement, a transfer of the Property in registrable form duly executed by the Assignee.

16.2 Third party's assumption of rights and obligations

Provided that the third party agrees to assume the rights and obligations of the Vendor pursuant to this Contract, and the Vendor has complied with Special Condition 16.1:

- (a) the Vendor will from the date of such agreement be released from its obligations under this Contract; and
- (b) the Purchaser agrees to accept the fulfilment of the obligations of the Vendor by the nominated third party and acknowledges that this Contract remains binding on the Purchaser in accordance with its terms.

16.3 Assignment of Bank Guarantee

If the Vendor assigns the Vendor's rights under this Contract or in the Property to a third party, the Purchaser must, at the Vendor's reasonable cost, do whatever is reasonably

necessary to give the third party assignee the benefit of any Bank Guarantee. This includes the Purchaser providing:

- (a) any necessary consent to allow a transfer of any Bank Guarantee to the solicitors for the third party assignee; or
- (b) a replacement Bank Guarantee in the name of the solicitors for the third party assignee, as directed by the Vendor or the Vendor's Solicitor.

17. IDENTITY OF THE PROPERTY

17.1 Purchaser acknowledgement

The Purchaser:

- (a) accepts the Property:
 - (i) with all existing, future planning, environmental and building controls, Approvals and notices;
 - in its present condition subject to all defects (including any latent defect), any non-compliance with any of those building controls or Approvals;
 - (iii) with the Encumbrances, including those that may be created or come into existence after the Day of Sale;
 - (iv) subject to:
 - A the lot entitlement and lot liability in the schedule to the Plan in respect of the Property;
 - B the respective lot entitlements and lot liabilities of all other Lots in the Plan with respect to each other and with respect to the Property; and
 - C the rules and regulations applicable under the Owners Corporations Act and the Owners Corporations Regulations (and any variations to those rules or regulations);
- (b) acknowledges that it has replied on its own enquiries in relation to the areas and dimensions of the Property having regard to the Plan and any other information in this Contract and the Vendor's Statement;
- (c) acknowledges that the Developer has been or may be in the course of carrying out infrastructure and other works on the Development Land and that the Development Land may be filled, raised, levelled, compacted or cut;
- (d) it received from the Vendor or the Vendor's Estate Agent, prior to execution of this Contract, a copy of this Contract, the Vendor's Statement executed by the Vendor and a copy of the Due Diligence Checklist;
- (e) acknowledges and agrees that after the Day of Sale and settlement of this Contract:
 - (i) the amenity;
 - (ii) the surroundings;
 - (iii) the view; and

(iv) the availability of light,

to or from the Property and the Development (as the case may be) may change, including by reason of other developments in areas near the Development by the Developer, the Developer's Related Bodies Corporate or other persons or entitles, and the Developer and the Vendor do not make any representation or warranty concerning these matters;

- (f) acknowledges that the Property may be located close to an operational train station and train lines and tram lines and will be subject to noise emanating from the train lines, tram lines and train station;
- (g) acknowledges that both before and after the Settlement Date, the Vendor, the Developer and persons authorised by either the Vendor or the Developer are entitled to and may:
 - (i) conduct marketing, leasing and selling activities in and on the Development Land in such manner as the Developer or Vendor in their absolute discretion determines: and
 - (ii) place and maintain in, on and about the Development Land signs in connection with those marketing, leasing and selling activities and conduct sales by public auction; and
- (h) acknowledges that Settlement may take place prior to completion of the Development and the Development Activities may be ongoing after Settlement in respect of the Development Land (other than the Property).

17.2 Description and identity

The Purchaser acknowledges and agrees that:

- (a) the Property is identical with that described in 'Property' panel in the Particulars of Sale and the Plan; and
- (b) it purchases and accepts the Property:
 - (i) subject to the provisions of the Subdivision Act and to all the conditions attaching to or implied by the registration by the Registrar of the Plan and in particular subject to:
 - A the easements expressed or implied which affect the Property which arise pursuant to the Plan or which arise under the Subdivision Act;
 - B any amendments to the Property or any other Lot on the Plan under the Subdivision Act or the requirements of an Authority or the Vendor;
- (c) any statement made by, or on behalf of, the Vendor or the Developer regarding the area of the Property represents the best estimate of the area of the Property; and
- (d) measurements may be taken using various methodologies which may produce different outcomes.

17.3 Compliance

The Purchaser assumes full responsibility for compliance with all existing and future planning, environmental and building controls and Approvals as from the Settlement Date and agrees to hold the Vendor and the Developer jointly and severally indemnified at all

times against all Claims which the Vendor and/or the Developer suffer arising directly or indirectly out of the Purchaser's failure to comply with those building controls or Approvals or the Purchaser's breach of or failure to obtain from the Settlement Date.

17.4 No representations regarding Development

- (a) The Vendor and the Developer do not make any representation or warranty about any further Development or the Development Activities and the Purchaser acknowledges and agrees that it has not relied on any representations or warranties from the Vendor nor the Developer in relation to such matters.
- (b) The Purchaser must not exercise any Excluded Rights because of:
 - (i) any alteration:
 - A to the Development;
 - B in the number of Lots in the Plan (including as a result of a consolidation of Lots in the Plan) or in any future or other stage or plan of subdivision relating to any other part of the Development; or
 - C to the number, size, shape or location or liability or permitted use of any Lot or any other part of the Development Land which is not a Lot in the Plan (other than the Property) or in any future plan of subdivision relating to any other part of the Development;
 - (ii) any delay in the completion of the Development, including the completion and activation of the retail and/or commercial Lots within the Development; or
 - (iii) the abandonment of any part of the Development.

17.5 Purchaser not to exercise Excluded Rights

The Purchaser must not exercise any Excluded Rights because of anything contemplated by this special condition 17.

18. ENVIRONMENTAL MATTERS

18.1 Purchaser relies on own assessment

- (a) The Purchaser:
 - acknowledges that it has relied on its own assessment of the condition of the Property in purchasing the Property;
 - (ii) accepts the Property in its present condition which may or may not include Contamination;
 - (iii) assumes full responsibility for the presence of any Contamination on the Property and anything incidental to them, including compliance with:
 - A all relevant legislation, existing and future planning, environmental, building, heritage and similar controls; and
 - B all requirements, notices or orders.

affecting or relating to the Property, the use of the Property or the Development; and

- (iv) releases, indemnifies and keeps indemnified the Vendor and the Developer jointly and severally from and against any Claim relating in any way to Contamination.
- (b) Each of the Vendor and the Developer make no warranty or representation as to Contamination that may be present at, or emanating or that may have emanated from or to, the Property.

18.2 Purchaser not to exercise Excluded Rights

The Purchaser must not exercise any Excluded Rights in relation to any of the matters referred to in this special condition 18.

19. RESTRICTIONS AS TO USE

- (a) The Purchaser purchases the Property subject to the Restrictions and must comply with the Restrictions.
- (b) The parties acknowledge and agree that:
 - (i) if the Purchaser fails to comply with all or any of the Restrictions, the Purchaser grants the Vendor (or if required by the Vendor, the Developer) a licence to enter the Property for the purposes of rectifying the Purchaser's breach of the relevant Restriction;
 - (ii) if required by the Vendor and/or the Developer (at their sole discretion), the Purchaser must promptly pay or reimburse the Vendor or the Developer on request, the costs incurred by the Vendor or the Developer in remedying the Purchaser's breach of any Restriction; and
 - (iii) the Vendor must not exercise its rights under special condition 19(b)(ii), unless and until the Vendor provides the Purchaser with at least 14 days prior written notice, advising the Purchaser of the particular Restriction that has been breached and providing the Purchaser with 14 days in which to remedy the breach of the Restrictions.
- (c) So long as the Vendor is the owner or occupier of any part or parts of the Development Land:
 - (i) the Purchaser unconditionally and irrevocably assigns the benefit of the Purchaser's right as a benefitted lot owner on the Plan to enforce the Restrictions against the other lot owners on the Plan;
 - (ii) the Purchaser must, if requested by the Vendor, permit the Vendor to exercise the Purchaser's rights as a benefitted lot owner on the Plan in the name of the Purchaser; and
 - (iii) the Purchaser must do all things reasonably required by the Vendor, at the Vendor's reasonable cost, to enable the Vendor to exercise the Purchaser's rights.

20. POWER OF ATTORNEY

20.1 Vendor and Purchaser appointed as attorneys

The Purchaser hereby irrevocably appoints the Vendor as its attorney to do any act or thing:

- (a) to remove any caveat lodged by the Purchaser in breach of special condition 21.1(a); or
- (b) that the Purchaser is required to do under special condition 19(b)(i).

20.2 Purchaser to ratify

The Purchaser will ratify and confirm all the Vendor lawfully does or causes to be done pursuant to the power of attorney referred to in special condition 20.1.

20.3 Indemnity

The performance by the Vendor of any act matter or thing pursuant to the power of attorney is as agent of the Purchaser and the Vendor will not be liable to the Purchaser in respect thereof. The Purchaser will indemnify and keep the Vendor indemnified as to all Claims, suits or actions arising out of or in connection with anything done by the Vendor pursuant to the power of attorney.

21. NON-DEALING

21.1 No caveat

The Purchaser:

- (a) must not lodge or allow a caveat to be lodged for its interest under this Contract;
- (b) acknowledges that if a caveat is lodged:
 - (i) registration of the Plan might be delayed; and
 - (ii) the Vendor may suffer Loss;
 - (iii) the Developer may suffer Loss;
- (c) indemnifies the Vendor against any Loss if a caveat is lodged;
- (d) indemnifies the Developer against any Loss if a caveat is lodged.

21.2 Purchaser appoints the Vendor attorney to withdraw caveat

The Purchaser irrevocably appoints the Vendor and each of its officers and attorneys as its attorney to sign any withdrawal of the Purchaser's caveat. This appointment shall not be affected by the rescission or termination of this Contract by either party.

21.3 Essential term

This special condition 21 is an essential term of this Contract.

22. NOMINATION

22.1 Purchaser must not nominate without consent

The Purchaser must not nominate a person (being a corporation or otherwise) in its place (or in addition to it) as purchaser without the prior written consent of the Vendor (which consent should not be unreasonably withheld provided such consent is sought from the Vendor at least 21 days prior to Settlement). If the Vendor consents to a nomination pursuant to this Special Condition 22.1 then the Purchaser remains liable to perform and observe the conditions herein to be performed and observed by the Purchaser. The nomination will be effected by the Purchaser delivering to the Vendor or the Vendor's Solicitor:

- (a) an executed nomination form, executed by the Purchaser and the nominee;
- (b) if the nominee is a company, a Guarantee duly executed by the directors of the nominee;

- (c) a direction that the Deposit is to be held on behalf of the nominee; and
- (d) if the Purchaser has provided a Bank Guarantee, a new Bank Guarantee noting the nominee.

22.2 Vendor makes no warranty or representation

The Vendor, the Developer, the Vendor's Agents and any agent representing the Developer make no warranty, representation or promise as to whether any nomination is dutiable or non-dutiable and in all other respects it is the responsibility of the Purchaser to determine and be informed as to the stamp duty consequences of any nomination.

23. RESTRICTION ON FURTHER SALE

23.1 Purchaser must not sell without consent

- (a) Unless the Purchaser has obtained the prior written approval of each of the Vendor and the Developer (which approval may be given or withheld in the Vendor's and Developer's absolute discretion), the Purchaser must not Sell or otherwise dispose of the Property before Settlement, and in the case that the Vendor's and Developer's approvals have been obtained, the Purchaser must only permit a Sale in circumstances where the requirements of special condition 23.1(b) are satisfied.
- (b) The Purchaser must notify the Vendor and the Developer of its intention to Sell as soon as reasonably practicable, and in any event, prior to commencing any advertising. If consent is provided, the Developer will instruct the Developer's Solicitor to prepare and deliver to the Vendor's Solicitor and the Purchaser's Solicitor a deed under which the new purchaser:
 - (i) agrees to be bound by and comply with specified special conditions of this Contract (as determined by the Developer) as if the subsequent purchaser was an original party to this Contract in place of the Purchaser; and
 - (ii) agrees to procure any subsequent purchaser to comply with this special condition 23.

24. STAMP DUTY

24.1 Provision of information

The Vendor agrees that it will provide the Purchaser with all information and do all things as may be reasonably required by the Purchaser or by the Commissioner of State Revenue in relation to the assessment and payment of duty on the transfer of the Property under this Contract.

24.2 Purchaser acknowledgement

The Purchaser acknowledges and agrees that:

- (a) neither the Vendor, the Developer, nor anyone acting on behalf of the Vendor or Developer has made any warranty to the Purchaser as to the stamp duty payable by the Purchaser in connection with this sale and transfer of the Property and the Purchaser has made its own enquiries and investigations as to the duty payable on the transfer;
- (b) it has not relied upon any representation, declaration, warranty or promise (if any) made by or on behalf of the Vendor, the Vendor's Agent, the Vendor's Solicitor, the Developer, the Developer's Solicitor or anyone agent acting on the Developer's behalf in respect of the duty payable;

- (c) some or all of the GST component of the price for the Property will be subject to ad valorem stamp duty;
- (d) the requirements of the Commissioner of State Revenue may change between the Day of Sale and the Settlement Date;
- (e) the Vendor will not be obliged to provide the Purchaser with any information or documents required by the Commissioner of State Revenue earlier than one week prior to the Settlement Due Date;
- (f) the Vendor may elect to use the fixed percentage method or alternative method for the purposes of calculating the stamp duty;
- (g) it is liable to pay any amount of duty assessed by the Commissioner of State Revenue in connection with this sale and transfer of the Property; and
- (h) the amount of duty payable by the Purchaser will vary depending on the specific circumstances of the Purchaser, including whether the Purchaser is:
 - (i) a Foreign Person;
 - (ii) meets the criteria for the principal place of residence concession; or
 - (iii) is a "first home buyer" for the purposes of the Duties Act 2000 (Vic),

or such other eligibility criteria as set by the Commissioner of State Revenue or that apply under the Duties Act 2000 (Vic) from time to time.

24.3 Purchaser not to exercise Excluded Rights

The Purchaser must not exercise any Excluded Rights because of anything contemplated by special condition 24.

25. BUILDING MANAGER AND LETTING AGENT

25.1 Introduction

The Purchaser agrees and acknowledges that to assist the Owners Corporation in carrying out its functions in accordance with the Owners Corporations Act 2006 the Vendor or the Developer may introduce to the Owners Corporation an onsite building manager and/or letting agent and may procure the Owners Corporation to enter into agreements with the building manager and/or letting agent.

25.2 Negotiation

The Purchaser acknowledges that the Vendor or Developer may negotiate the terms of the agreements referred to in special condition 25.1 which, in the Vendor's or Developer's reasonable opinion (as relevant), are for the benefit of the Development. The Purchaser shall not be entitled to object to, seek any compensation from the Vendor or Developer or seek to delay, postpone or cancel settlement as a result of any of the provisions set out in special condition 25.

25.3 Service Providers Essential Terms

Any agreement between the Owners Corporation and a service provider will be based on terms reasonably negotiated by the Vendor or Developer to provide sufficient services and facilities to the Development and will be at commencing rates equivalent to what a reputable service provider would provide for similar services (as determined by the Vendor or Developer acting reasonably).

25.4 Charge Fees

The Purchaser acknowledges and irrevocably consents that the Vendor or the Developer or a related party may receive a fee from a party who contracts with the Owners Corporation (including but not limited to a building manager or letting agent) for the introduction of such party to the Development and the entering into by the Owners Corporation to an agreement for such party to provide services for the development or for rights obtained in relation to the development and Owners Corporation.

25.5 Authorisation

The Purchaser:

- (a) irrevocably authorises the Vendor and/or the Developer to facilitate the Owners Corporation's entry into the building management and letting agreements and releases and discharges the Vendor and the Developer (or a related or unrelated entity) from any Claim made in respect to any payment received by the Vendor or Developer (or a related or unrelated entity) with respect to the entering of such agreements;
- (b) acknowledges to the Vendor and the Developer that it has obtained or had the opportunity to obtain independent legal advice concerning this special condition 25; and
- (c) acknowledges that, in the event that the Purchaser is a trustee of any trust, the Purchaser provides this consent in its own right and as trustee of the trust and has power to bind the trust and the Purchaser has full complete and valid authority pursuant to the trust to execute and enter into this consent and the consent of any of the beneficiaries is not required or if required has been obtained.

25.6 Necessary Consent

If required by the Vendor or the Developer, the Purchaser will, within seven (7) days of receiving a written request from the Vendor, the Developer or the Owners Corporation, execute all necessary authorities, consents and approvals required in relation to the engagement of a building manager or letting agent in respect to the entering into of the above agreement/s.

26. PRE-SETTLEMENT INSPECTION

26.1 Entitlement to inspection

The Purchaser may inspect the condition of the Property at any reasonable time during the period of 7 days preceding the Settlement Due Date or such other period agreed between the Developer and the Purchaser, but not more than once (**Pre-settlement Inspection**), and on the condition that in exercising its rights under this special condition 26.1, the Purchaser:

- (a) must give reasonable prior notice to the Developer of its wish to undertake a Presettlement Inspection;
- (b) must be accompanied by a customer relations consultant or agent of the Developer; and
- (c) acknowledges that failure to undertake a Pre-settlement Inspection must not, in any way, delay Settlement.

26.2 Acknowledgement

The Purchaser acknowledges that it:

- (a) may not be able to undertake a Pre-settlement Inspection if, in the Developer's absolute discretion, works at the Development Land render the Pre-settlement Inspection unsafe or undesirable;
- (b) may be required to undertake a site induction program before conducting the Presettlement Inspection;
- (c) must comply with all reasonable requirements of the Developer in relation to the Pre-settlement Inspection including, without limitation, all requirements relating to occupational health and safety; and
- (d) must not exercise any Excluded Rights if, as a result of special condition 26.1(a), 26.1(b) or 26.1(c), the Purchaser is not able to undertake a Pre-settlement Inspection.

27. GUARANTEE

If a company purchases the Property:

- 27.1 any person who signs this Contract will be personally responsible to comply with the terms of this Contract; and
- 27.2 the directors of the company must sign the Guarantee and Indemnity and deliver it to each of the Vendor and the Developer on or prior to the Day of Sale.

28. SECURITY INTERESTS

The Purchaser acknowledges that in the event of a security interest registered against the Vendor and/or the Developer, the Purchaser will accept a letter releasing the Property from the security interest at Settlement and the Purchaser will not require a formal release of charge document at Settlement, nor deduct any monies for such.

29. NOTICES

29.1 Notices to be in writing

All notices or other communications to be served or given to any party to this Contract must be in writing and may be sent either by personal delivery, prepaid mail, facsimile transmission or electronic transmission to the address of the party, the party's solicitor or a duly authorised representative of that party as detailed in the Particulars of Sale.

29.2 Notices deemed received

Any notice given pursuant to this Contract is deemed received by the party to whom it is addressed when:

- (a) in the case of any notice delivered by hand, it is delivered;
- (b) it is sent by prepaid post, on the third clear day after the date of posting;
- (c) in the case of any notice sent by facsimile transmission upon the issue to the sender of a transmission report from the despatching facsimile machine which shows the relevant number of pages comprised in the notice to have been sent and the result of the transmission is "OK" provided always that in the case of a facsimile notice the notice is deemed to have been duly signed if the name of the person or company giving the notice is affixed by a mechanical means or device on the said notice; and
- (d) if sent by Electronic Transmission, the time of receipt under the Electronic Transactions (Victoria) Act 2000.

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29.3 Notices to be given to all parties

Where a notice has been:

- received by the Vendor from or given by the Vendor to the Purchaser, the Vendor must promptly provide a copy of such notice to the Developer; and
- (b) received by the Developer from or given by the Developer to the Purchaser, the Developer must promptly provide a copy of such notice to the Vendor.

30. PERSONAL INFORMATION

30.1 Definitions

In this special condition "personal information" has the same meaning given to that term in the Privacy Act 1988 (Cth).

30.2 Purchaser's consent

The Purchaser consents to:

- (a) the Developer, the Developer's Solictor, the Vendor and the Vendor's Solicitor collecting personal information from the Purchaser, including the personal information contained in the Particulars of Sale, information collected by the Vendor's Agent or any agent representing the Developer and information which must be provided by the Purchaser in connection with this Contract;
- (b) the use and disclosure by the Developer, the Developer's Solicitor, the Vendor and the Vendor's Solicitor of that personal information for the purposes of:
 - (i) confirming the Purchaser's identity; and
 - (ii) enabling the Developer or the Vendor to comply with their respective obligations under, associated with or arising in connection with this Contract, including any obligations to third parties, such as the Developer's financiers or to any Authority;
- (c) the disclosure to, and use by, the Developer, the Developer's Solicitor, the Vendor, the Vendor's Solicitor and the Developer's Related Bodies Corporate, financiers, banks, agents, third party contractors and service providers engaged by the Developer of that personal information for the purpose of:
 - (i) enabling the Vendor or Developer to comply with and fulfil the their respective obligations under, associated with or arising in connection with this Contract; and
 - (ii) procuring the provision to the Purchaser of products and services contemplated by this Contract; and
 - (iii) engagement by the Developer or any Related Entity in direct marketing activities; and
- (d) use and disclosure by the Vendor or Developer of that personal information for the purpose of enabling the Vendor or the Developer to enforce their respective rights under this Contract.

30.3 Purchaser acknowledgement

The Purchaser acknowledges and agrees that:

- (a) the personal information collected is held by the Vendor and/or the Developer subject to the requirements of the Privacy Act 1988 (Cth) and the Purchaser may request access to that information at any time;
- (b) within a reasonable time of the Purchaser's personal information changing, it will provide to the Vendor and/or the Developer (as required) details of any updated/amended personal information; and
- (c) the Purchaser may request that the personal information be corrected.

31. ONLINE DUTIES FORM

31.1 Vendor must create Online Duties Form

- (a) Subject to special condition 31.3, at least 7 Business Days prior to the Settlement Due Date, the Vendor must:
 - (i) prepare an Online Duties Form in respect of the assessment of duty on this Contract:
 - (ii) populate the Online Duties Form with all information which a vendor must provide to the State Revenue Office (Transferor Information); and
 - (iii) invite the Purchaser's Solicitor to complete the Online Duties Form.
- (b) If the Vendor fails to comply with special condition 31.1(a), the Vendor is in default under this Contract.
- (c) The Vendor must promptly notify the Purchaser's Solicitor following the issuing of an invitation to complete the Online Duties Form.
- (d) The Vendor confirms and agrees that upon the Online Duties Form being populated with the Transferor Information, the Vendor must not amend any of the Transferor Information without procuring the Purchaser's prior written consent to do so or unless directed to do so by the Purchaser.
- (e) The Vendor must sign the Online Duties Form within 1 Business Day of the Purchaser completing the Online Duties Form.

31.2 Purchaser must complete the Online Duties Form

- (a) The Purchaser must:
 - (i) populate the Online Duties Form with all the information which a purchaser must provide to the State Revenue Office (**Transferee Information**); and
 - (ii) accept and/or sign the Online Duties Form,

prior to the Settlement Due Date.

(b) The Purchaser must advise the Vendor once the Online Duties Form has been finalised and is ready for signing.

31.3 Complex Duty

(a) The Purchaser must advise the Vendor promptly following the Contract Date if the Purchaser considers that the transaction pursuant to this Contract is a

Complex Duties Transaction (**Complex Duty Notice**). This special condition 31.3 only applies if a Complex Duty Notice is issued by the Purchaser.

- (b) If the Purchaser provides a Complex Duty Notice, the parties:
 - (i) acknowledge that the State Revenue Office requires 30 days (or more) to assess the duty payable on this Contract; and
 - (ii) must do all things reasonably necessary (including providing all necessary documents) to enable the State Revenue Office to assess the duty payable on this Contract in time to enable Settlement to take place on the Settlement Due Date.
- (c) The Vendor must comply with its obligations under special condition 31.1(a) at least 40 days before the Settlement Due Date.
- (d) If after lodgement by the Purchaser of the Complex Duties Transaction, the State Revenue Office determines that the assessment of duty will not be complete until a date that is after the Settlement Due Date, the Settlement Due Date will be extended to the date 10 Business Days after the date on which the State Revenue Office provides an assessment of duty.
- (e) The Vendor cannot exercise any rights against the Purchaser and will not have any Claim against the Purchaser as a result of the Settlement Due Date being extended under this special condition 31.3.

32. GST WITHHOLDING

- Words and expressions defined or used in the TA Act or in the GST Law have the same meaning in this special condition unless the context requires otherwise. Words and expressions first used in this special condition and shown in italics and marked with an asterisk are defined or described in at least one of those Acts.
- This special condition 32 applies if the Purchaser is required to pay the Commissioner an amount in accordance with the TA Act 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 special condition 32 is to be taken as relieving the Vendor from compliance with section 14-255.
- 32.3 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 the TA Act. The Vendor must pay to the Purchaser at Settlement such part of the amount as is represented by non-monetary consideration.
- 32.4 The Purchaser must:
 - 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 special condition; and
 - (b) ensure that the Representative does so.
- 32.5 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 special 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 special condition;

despite:

- (d) any contrary instructions, other than from both the Purchaser and the Vendor;
- (e) any other provision in this Contract to the contrary.
- 32.6 The Representative is taken to have complied with the requirements of special condition 32.5 if:
 - (a) Settlement is conducted through the ELN or any other electronic conveyancing system agreed by the parties; and
 - (b) the amount is included in the settlement statement requiring payment to the Commissioner in respect of this transaction.
- 32.7 The Purchaser may at Settlement give the Vendor a bank cheque for the amount in accordance with the TA Act, but only if:
 - (a) so agreed by the Vendor in writing; and
 - (b) Settlement is not conducted through an electronic settlement system described in special condition 32.6.

However, if the Purchaser gives the bank cheque in accordance with this special condition 32.7, the Vendor must:

- (c) immediately after Settlement provide the bank cheque to the Commissioner to pay the amount in relation to the supply; and
- (d) give the Purchaser a receipt for the bank cheque which identifies the transaction and includes particulars of the bank cheque, at the same time the Purchaser gives the Vendor the bank cheque.
- 32.8 The Vendor must provide the Purchaser with a GST withholding notice in accordance with the TA Act at least 14 days before the Settlement Due Date.
- 32.9 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 the TA Act. 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.

- 32.10 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 TA Act 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 the TA Act is the correct amount required to be paid under section 14-250 of the legislation.
- 32.11 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 the Vendor's failure, including breach of a warranty in special condition 32.10; or
 - (b) the Purchaser's 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 the TA Act.

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.

32.12 This special condition will not merge on Settlement.

33. FOREIGN RESIDENT CAPITAL GAINS WITHHOLDING

33.1 Definitions and interpretation

For the purposes of this special condition 33:

- (a) all section references are to those provisions of schedule 1 to the Taxation Administration Act 1953 (Cth);
- (b) Clearance Certificate means a certificate issued by the Commissioner under section 14-220 that applies to the Vendor and is for a period covering the time the Vendor gives the certificate to the Purchaser;
- (c) **Withholding Amount** means an amount that the Purchaser is required to pay to the Commissioner, determined in accordance with section 14-200(3).

33.2 Clearance Certificate given by Vendor

The Vendor must give the Purchaser a Clearance Certificate no less than 5 Business Days prior to the Settlement Date, and if the Vendor does so, the Purchaser acknowledges and agrees that:

- (a) the Purchaser is not required to pay a Withholding Amount; and
- (b) the Purchaser may not withhold a Withholding Amount from the Price.

33.3 Withholding Amount

- (a) If the Vendor is unable to provide a Clearance Certificate in accordance with special condition 33.1, then the Vendor irrevocably authorises and directs the Purchaser to pay the Withholding Amount to the Commissioner from the Balance payable to the Vendor on the Settlement.
- (b) If special condition 33.3(a) applies, the Purchaser must at, or immediately following, Settlement, pay the Withholding Amount to the Commissioner.
- (c) The Vendor must provide the Purchaser with such information as the Purchaser requires to comply with the Purchaser's obligation to pay the Withholding Amount.

The information must be provided within 2 Business Days of request by the Purchaser. The Vendor warrants that the information the Vendor provides is true and correct.

34. SETTLEMENT

34.1 Electronic settlement

- (a) Settlement and lodgement of the instruments necessary to record the Purchaser as registered proprietor of the Property will be conducted electronically in accordance with the Electronic Conveyancing National Law. This special condition has priority over any other provision to the extent of any inconsistency.
- (b) A party must immediately give written notice if that party reasonably believes that settlement and lodgement can no longer be conducted electronically.
- (c) Each party must:
 - (i) be, or engage a representative who is, a subscriber for the purposes of the Electronic Conveyancing National Law,
 - (ii) 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
 - (iii) conduct the transaction in accordance with the Electronic Conveyancing National Law.
- (d) The Vendor must open the electronic workspace (**Workspace**) as soon as reasonably practicable. The inclusion of a specific date for settlement in a Workspace is not of itself a promise to settle on that date.
- (e) Despite any other provision of this contract, the service of notices and any written communications in respect of settlement must not occur through the Workspace unless initiated by and agreed to in writing by the Purchaser's Solicitors.
- (f) The Vendor must nominate a time of the day for locking the Workspace at least seven (7) Business Days before the Settlement Due Date.
- (g) Settlement occurs when the Workspace records that:
 - (i) the exchange of funds or value between financial institutions in accordance with the instructions of the parties has occurred; or
 - (ii) if there is no exchange of funds or value, the documents necessary to enable the Purchaser to become registered proprietor of the Property have been accepted for electronic lodgement.
- (h) The parties must do everything reasonably necessary to effect settlement:
 - (i) electronically on the next business day; or
 - (ii) 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 has not occurred by 5.00 pm, or 6.00 pm if the nominated time for settlement is after 5.00 pm.

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- (i) 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.
- (j) The Vendor must before settlement give, or direct its subscriber to give, all those documents and items to the Purchaser or the Purchaser's nominee on notification by the Electronic Network Operator of Settlement.
- (k) If Settlement does not occur by 5.00pm on the Settlement Due Date due to the default of the Purchaser:
 - (i) Settlement will take place on or before 5.00pm on the following Business Day; and
 - (ii) the Purchaser is taken to be in default of payment of the Price on the Settlement Due Date and must pay interest on the Price from the Settlement Due Date to the Settlement Date in accordance with General Condition 26.

35. ACCESS FOR POST-SETTLEMENT MATTERS

35.1 Acknowledgement

The Purchaser acknowledges and agrees that:

- (a) not all of the Lots on the Plan may be sold before the Settlement Date;
- (b) the Developer may conduct marketing activities in or about the land in the Plan for the marketing of unsold Lots on the Plan and for the marketing of previous (if any) or future developments of land in the Plan or land in the Development Land involving, among other things, placing signs and other marketing material on Lots and or dwellings (except the Property, unless the Purchaser agrees otherwise) and using dwellings for display purposes (Marketing Activities) after the Settlement Date;
- (c) there will be continuing surveying, engineering and construction works on the land in the Plan and other parts of the Development Land (**Ongoing Works**) and the Developer or the Builder may need access to the Property to carry out the Ongoing Works after the Settlement Date; and
- (d) the Developer (and its contractors) and the Builder (and its contractors) may:
 - (i) be obliged to carry out rectification and repair works after the Settlement Date to dwellings constructed on other Lots in the Plan (**Repair Works**); and
 - (ii) be undertaking construction or Repair Works on Lots in the Plan, including on a lot adjacent to the Property (**Construction Works**),

and may need access to the Property to carry out those works.

35.2 Right of access

The Purchaser grants to the Developer (and its contractors) and the Builder (and its contractors) a right to access the Property (but only where reasonably necessary) to carry out the Ongoing Works, the Repair Works or Construction Works.

35.3 Access and use by Developer

The Purchaser will not, and will use its best endeavours to procure that any Owners Corporation of which the Purchaser is a member does not make any objection or requisition

or bring any Claim or action, or issue injunctive proceedings of any description against the Vendor, the Developer, the Builder or any other person as a consequence of anything connected with:

- (a) any application for an Approval in connection with the Development;
- (b) any continuing surveying, engineering and construction works, or rectification and repair works being carried out from time to time in the Development, the Building, the common areas or on any Lot in the Building after settlement and in respect to any access or use rights exercised by the Developer or the Builder or other person in respect of them, and in respect to any inconvenience, nuisance, noise, dust, vibration, loss of amenity or discomfort that may result from those works and/or the Developer's or Builder's exercise of their rights under this special condition 35; or
- (c) the Developer's marketing activities conducted from any part of the Development after settlement involving, among other things, the placement and maintenance in any Lot (except for the Property), or upon the common property or any other part of the Development, of sale signs, insignia and other fixtures and fittings for marketing purposes which the Developer in its absolute discretion thinks fit, and in respect to any access rights exercised by the Developer for those activities, and any inconvenience that may result from those activities.

35.4 Purchaser must not exercise Excluded Rights

The Purchaser must not exercise any Excluded Rights against either the Vendor, the Developer, or the Builder as a consequence of anything relating to:

- (a) the Ongoing Works, Repair Works or Construction Works and any access rights exercised by the Developer in respect of them and any inconvenience, nuisance, noise, dust, vibration or loss of amenity that may result from the Ongoing Works, Repair Works or Construction Works; or
- (b) the Marketing Activities and any inconvenience that may result from them.
- (c) any of the matters referred to in this special condition 35.

35.5 Subsequent purchasers

If the Purchaser enters into an agreement of the type described in special condition 22 the agreement must contain provisions on the same terms as this special condition 35.

36. CONSTRUCTION ON THE DEVELOPMENT LAND

36.1 Acknowledgement

The Developer or the Builder or another party may (but is not obliged to) carry out Development Activities on the Development Land and those Development Activities may be ongoing after the Settlement Date. The Development Activities may:

- (a) cause significant noise, dust, vibration and disturbance to the occupiers of the Lots in the Plan within the lawful requirements of any relevant Authority and during any hours permitted by any relevant Authority;
- (b) cause temporary obstruction or interference with services to the Property;
- (c) result in access roads in the vicinity of the Property being temporarily diverted during the course of the Development Activities; and
- (d) result in construction traffic in the vicinity of the Property to carry out the Development Activities after the Settlement Date.

36.2 Purchaser not to exercise Excluded Rights

The Purchaser must not exercise any Excluded Rights against the Vendor, the Developer. Or the Builder or any other party carrying out the Development Activities unless the Development Activities are not being carried out in accordance with the relevant consent, authority, Approvals or lawful requirements.

37. DEFAULT

37.1 Time of the essence

Subject to special condition 37.4, time is of the essence in relation to all aspects of Settlement and all the provisions of this Contract relating to the payment of money.

37.2 Rights on default

If a party (**Defaulting Party**) is at any time in breach of any obligation imposed on it under this contract, or if it repudiates this Contract, then the other party or parties (**Non-Defaulting Party**) may, in addition to any other rights or remedies it may have under this Contract or otherwise:

- (a) affirm this Contract and sue the Defaulting Party for breach of Contract;
- (b) seek specific performance of this Contract and damages for breach of contract in addition to or in lieu of specific performance; or
- (c) subject to special condition 37.4, terminate this Contract with immediate effect by giving notice in writing to the Defaulting Party and exercise such rights as it has a law, including suing the Defaulting Party for damages for breach of Contract.

37.3 Default interest

If the Purchaser defaults in payment of the Price (or any part of it) then the Purchaser must pay upon demand:

- (a) to the Vendor:
 - (i) all reasonable expenses incurred by the Vendor as a result of the breach (including, without limitation, legal costs);
 - (ii) interest at the rate equivalent to 14% per annum accruing daily and capitalised monthly; and
 - (iii) compensate the Vendor for any reasonably foreseeable loss of the Vendor resulting from such default,

without prejudice to any other rights that the Vendor may have in respect of the purchase in relation to such default and in particular without prejudice to the Vendor's rights to terminate this Contract; and

(b) to the Developer all reasonable expenses incurred by the Developer as a result of the breach (including, without limitation, legal costs), without prejudice to any other rights that the Developer may have in respect of the purchase in relation to such default and in particular without prejudice to the Developer's rights to terminate this Contract.

37.4 Default notice

(a) This special condition 37.4 does not apply where a party repudiates this Contract.

- (b) The Non-Defaulting Party may not exercise its rights and remedies under special condition 37.2 or 37.3 unless it has given to the Defaulting Party a written notice which:
 - (i) specifies the breach complained of; and
 - (ii) requires that the breach (if capable of remedy) be remedied within the period stated in the notice, not being less than 14 days, or if a longer minimum period is required under any law that applies to this Contract then that longer minimum period.
- (c) If the Defaulting Party gives a notice under this special condition 37.4, that does not affect the Defaulting Party's right to give a further notice under this special condition 37.

37.5 Insolvency

If the Purchaser is declared Insolvent, it is taken to have repudiated this Contract and the Vendor may accept that repudiation and terminate this Contract with immediate effect by giving notice in writing to the Purchaser, in which case (without limiting the Vendor's rights at law or equity):

- (a) the Vendor will be entitled to forfeit and retain the Deposit and any interest accrued on the Deposit; and
- (b) the Purchaser must not exercise any Excluded Rights in relation to any matter arising from or out of the termination of the Contract or the forfeiture and retention of the Deposit and any interest pursuant to this Special Condition 37.5.

37.6 Purchaser's rights

- (a) The Purchaser may terminate this Contract or accept the Vendor's repudiation following the Vendor's repudiation of this Contract by the Vendor, in which case without limiting the Purchaser's rights, the Deposit and any interest accrued on the Deposit will be returned to the Purchaser.
- (b) If the Purchaser terminates this Contract under special condition 37.2 the Deposit and any interest accrued on the Deposit will be returned to the Purchaser.

37.7 Right to damages not prejudiced

Any right to damages, whether under this Contract or at common law or in equity, that a non-defaulting party may have arising from the defaulting party's breach of any obligation imposed on it under this Contract, is not limited or prejudiced by the non-defaulting party's right to terminate or the termination of this Contract under special condition 37.2, 37.6 or otherwise.

37.8 Rights for past breaches to survive termination

If this Contract is terminated, each party retains its rights against the other in respect of any prior breach of this Contract.

38. GENERAL

38.1 Further acts

Each party must promptly do whatever any other party reasonably requires of it to give effect to this Contract and to perform its obligations under it.

38.2 Non-merger

Any provision of this Contract which can take effect after Settlement does not merge on Settlement and continues to bind the parties.

38.3 Liability

An obligation, representation, warranty or agreement of two or more persons binds them separately and together.

38.4 Entire understanding

- (a) This Contract contains the entire understanding between the parties as the subject matter of this Contract.
- (b) All previous negotiations, understandings, representations, warranties, memoranda or commitments concerning the subject matter of this Contract are merged in and superseded by this Contract and are of no effect. No party is liable to any other party in respect of those matters.
- (c) No oral explanation or information provided by any party to another:
 - (i) affects the meaning or interpretation of this Contract; or
 - (ii) constitutes any collateral agreement, warranty or understanding between any of the parties.

38.5 Continuing obligations

All rights and obligations of a party which have not been performed at Settlement, are not extinguished or affected by Settlement of this Contract or the transfer of the Property, unless those rights or obligations are specifically waived or released by a document signed by all parties.

38.6 Further steps

Each party must promptly do whatever any other party reasonably requires of it to give effect to this Contract and to perform its obligations under it.

38.7 Severability

If it is held by any court of competent jurisdiction that:

- (a) any part of this Contract is void, voidable, illegal or otherwise unenforceable; or
- (b) this Contract would be void, voidable, illegal or otherwise unenforceable unless any part of this Contract is severed from this Contract,

then that part will be severed from this Contract and will not affect the continued operation of the remainder of this Contract.

38.8 No representation

The Purchaser agrees and acknowledges that:

(a) this Contract contains and sets forth all the terms and conditions of and relating to the sale of the Property by the Vendor to the Purchaser and that there are no conditions, warranties or other terms affecting or relating to this sale other than those set out in this Contract;

- (b) no agent or other person on behalf of the Vendor or Developer has made or has had any authority to make any representation, warranty, arrangement, condition, statement or agreement binding on the Vendor or Developer which is not embodied in this Contract;
- (c) the description of areas and measurements appearing in any marketing material with respect to the Property are approximations only and may differ from such actual areas and measurements upon completion of the Property;
- (d) the information contained in any promotional material is for illustration purposes only and is subject to change;
- (e) the Purchaser has made its own enquiries to satisfy itself as to all aspects of the Property and has obtained independent legal and financial advice in relation to all of the information contained herein; and
- (f) the information contained in promotional material is a guide only and does not constitute an offer, inducement, representation, warranty or Contract.

38.9 Amendments

This Contract may only be varied or replaced by a document executed by the parties.

38.10 Governing law

- (a) This Contract is governed by and is construed in accordance with the laws applicable in Victoria.
- (b) Each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts exercising jurisdiction in Victoria and any courts, which have jurisdiction to hear appeals from any of those courts and waives any right to object to any proceedings being brought in those courts.

38.11 Priority

The parties agree that if there is any inconsistency between the provisions of this Contract, then, except in the case of a manifest error, to the extent of any inconsistency the ranking in priority will be as follows:

- (a) first, the Special Conditions; and
- (b) second, the General Conditions.

38.12 Counterparts

This document may be executed in counterparts and, if so, the counterparts taken together constitute one document.

38.13 Electronic execution

This Contract can be executed by using electronic signatures. Each party consents to the use of electronic signatures (in whole or in part). The parties acknowledge and agree that each electronic signature is to be treated as an original signature for all purposes and shall have the same force and effect as an original signature. If the signatory is an Australian corporation, it, and each director or secretary (as applicable) that executes on behalf of the corporation, represents and warrants to the counterparty that the signing satisfies section 127(1) of the Corporations Act 2001 (Cth).

38.14 Legal costs

Each party must bear and is responsible for its own legal and other costs and expenses in connection with the negotiation, preparation, execution and completion of this Contract and all related documentation, except for stamp duty.

39. SALE BY RECEIVER AND MANAGER

39.1 Acknowledgements

The Purchaser unconditionally acknowledges that:

- (a) Philip Newman (**Receiver**), the Vendor, was appointed as Receiver and Manager of the assets of the Glen630 Unit Trust ABN 59 154 335 756 pursuant to the Deed of Appointment;
- (b) the Property is an asset of the Glen630 Unit Trust;
- (c) the Receiver is selling the Property in accordance with the powers conferred on the Receiver by the Deed of Appointment, which includes the powers that a receiver has pursuant to section 420 of the Corporations Act 2001 (Cth);
- (d) in entering this Contract the Purchaser has relied entirely upon its own prior searches, judgement enquiries and inspection of the Property;
- (e) the Receiver cannot give warranties or make statements about the Property which the registered owner would be able to give or make, including in relation to unregistered interests;
- (f) the Receiver may be impeded or delayed in its ability to perform his obligations under this Contract;
- (g) the Receiver will not be providing a release, statement or approval or correction from any secured interest as defined in the Personal Property Securities Act 2009 (Cth) in respect to the Property;
- (h) the terms of this Contract reflect those circumstances and are reasonably necessary to protect the legitimate commercial and other interests of the Receiver.

39.2 Further Acknowledgements

The Purchaser further acknowledges:

- (a) that no information, representation or warranty provided or made by or on behalf of the Receiver other than expressed in this Contract was provided or made with the intention or knowledge that it would be relied upon by the Purchaser;
- (b) that no information, representation or warranty referred to Special Condition 39.2(a) has been relied upon by the Purchaser;
- (c) that the Purchaser has relied only on the Purchaser's own judgement and the Purchaser's inspections of, and searches and enquiries in connection with, the Property when entering into this Contract; and
- (d) that to the maximum extent permissible by law and equity, the Receiver is not liable to the Purchaser in connection with any information, representation or warranty provided or made by or on behalf of the Receiver.

39.3 Settlement Extension

- (a) In case the Receiver shall be restrained or prevented in any manner whatsoever from conveying title by the Settlement Date, the Receiver may extend the date for settlement for a period(s), the total of which shall not exceed thirty (30) days from the Settlement Date specified in the Particulars of Sale, by notice in writing to the Purchaser, which notice shall specify such extended date(s) for settlement.
- (b) If there is such an extension under Special Condition 39.3(a), and if the Receiver shall still be restrained or prevented from conveying title in terms of this Contract, the Receiver may terminate this Contract by notice in writing to the Purchaser and all deposit and other monies received by the Receiver or stakeholder, on account of the Price, shall be refunded to the Purchaser.

39.4 Receiver unable to perform obligations

Notwithstanding anything to the contrary in this Contract or at law, in the event the Receiver is for any reason unable to perform its obligations pursuant to the terms of this Contract, the Purchaser agrees that it shall not be entitled to make any claim or bring any action for damages, compensation, account or seek to enforce any other remedies at law or in equity against the Receiver. The Purchaser further agrees that the Purchaser's only remedy in such event will be to determine this Contract. If this Contract is validly terminated by the Purchaser as a result of the default of the Receiver, all monies paid under this Contract shall be refunded to the Purchaser without interest, costs or damages and the same shall be accepted by the Purchaser in full and final satisfaction of all claims.

39.5 No warranties

- (a) As a result of Special Condition 39.1(a)-(c) and (e), the Receiver is not sufficiently familiar with the Property to make any representations or warranties whatsoever about the quality, condition, services or management of the Property.
- (b) The Purchaser acknowledges that nothing contained in this Contract (expressly or by implication) or otherwise constitutes a warranty or representation by the Receiver as to any matter or thing and the Purchaser agrees with the Receiver that it will not bring any action against the Receiver, commence or permit to be commenced in the Purchaser's name, or continue any proceedings of any nature and in any way related to any matter or thing arising under this Contract against the Receiver.

39.6 No Objection

The Purchaser shall not make any objection or requisition, claim compensation or a reduction in the Price, delay or refuse to settle, terminate this Contract, or make any other Claim against the Receiver, in respect of:

- (a) the appointment of the Receiver over the assets of the Glen630 Unit Trust, including the Property; or
- (b) any transfer of the Property by the Receiver under this Contract.

39.7 Release

The Purchaser releases the Receiver from all Claims it may have or claim to have or, but for this release, might have had against the Receiver connected with or arising out of this Contract.

40. CONTRACTUAL ROLES

40.1 Vendor and Developer Obligations

The parties acknowledge and agree that any reference to "Vendor" shall be interpreted as a reference to both "the Vendor and the Developer" in the following General Conditions:

(a) General Condition 4.

40.2 Developer may fulfil obligation

The parties acknowledge that the Developer may, but is not obliged to, fulfil any sole obligations of the Vendor, to the extent the Law does not void the same.

40.3 Liabilities and Responsibilities

- (a) The Vendor is only responsible for those obligations and warranties specifically referenced as the Vendor's responsibility, and there is no right of recourse by the Purchaser against the Developer.
- (b) The Developer is only responsible for those obligations and warranties specifically referenced as the Developer's responsibility, and there is no right of recourse by the Purchaser against the Vendor.
- (c) Where the Vendor and Developer are both referenced, then both parties are jointly and severally liable.

GENERAL CONDITIONS

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

TITLE

1. ENCUMBRANCES

- 1.1 The Purchaser buys the Property subject to:
 - (a) any encumbrance shown in the section 32 statement other than mortgages or caveats; and
 - (b) any reservations in the crown grant; and
 - (c) any lease referred to in the particulars of sale.
- 1.2 The Purchaser indemnifies the Vendor against all obligations under any lease that are to be performed by the landlord after Settlement.
- 1.3 In this general condition "section 32 statement" means a statement required to be given by a Vendor under section 32 of the **Sale of Land Act 1962** in accordance with Division 2 of Part II of that Act.

2. VENDOR WARRANTIES

- 2.1 The Vendor warrants that save for the amendment to this general condition 2.1 these general conditions 1 to 28 are identical to the general conditions 1 to 28 in the standard form of contract of sale of real estate formerly prescribed by the former *Estate Agents* (Contracts) Regulations 2008 for the purposes of section 53A of the *Estate Agents Act* 1980.
- 2.2 The warranties in general conditions 2.3 and 2.4 replace the Purchaser's right to make requisitions and inquiries.
- 2.3 The Vendor warrants that the Vendor:
 - (a) has, or by the due date for Settlement will have, the right to sell the land; and
 - (b) is under no legal disability; and
 - (c) is in possession of the land, either personally or through a tenant; and
 - (d) has not previously sold or granted any option to purchase, agreed to 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.
- 2.4 The Vendor further warrants that the Vendor has no knowledge of any of the following:
 - (a) public rights of way over the land;

- (b) easements over the land;
- (c) lease or other possessory agreement affecting the land;
- (d) notice or order affecting the land which will not be dealt with at Settlement, other than the usual rate notices and any land tax notices;
- (e) legal proceedings which would render the sale of the land void or voidable or capable of being set aside.
- 2.5 The warranties in general conditions 2.3 and 2.4 are subject to any contrary provisions in this Contract and disclosures in the section 32 statement required to be given by the Vendor under section 32 of the **Sale of Land Act 1962** in accordance with Division 2 of Part II of that Act.
- 2.6 If sections 137B and 137C of the Building Act 1993 apply to this Contract, the Vendor warrants that:
 - all domestic building work carried out in relation to the construction by or on behalf of the Vendor of the home was carried out in a proper and workmanlike manner; and
 - (b) all materials used in that domestic building work were good and suitable for the purpose for which they were used and that, unless otherwise stated in the Contract, those materials were new; and
 - (c) domestic building work was carried out in accordance with all laws and legal requirements, including, without limiting the generality of this warranty, the *Building Act 1993* and regulations made under the *Building Act 1993*.
- 2.7 Words and phrases used in general condition 2.6 which are defined in the *Building Act* 1993 have the same meaning in general condition 2.6.

3. IDENTITY OF THE LAND

- 3.1 An omission or mistake in the description of the Property or any deficiency in the area, description or measurements of the land does not invalidate the sale.
- 3.2 The Purchaser may not:
 - (a) make any objection or claim for compensation for any alleged misdescription of the Property or any deficiency in its area or measurements; or
 - (b) require the Vendor to amend title or pay any cost of amending title.

4. SERVICES

- 4.1 The Vendor does not represent that the services are adequate for the Purchaser's proposed use of the Property and the Vendor advises the Purchaser to make appropriate inquiries. The condition of the services may change between the day of sale and Settlement and the Vendor does not promise that the services will be in the same condition at Settlement as they were on the day of sale.
- 4.2 The Purchaser is responsible for the connection of all services to the Property after Settlement and the payment of any associated cost.

5. CONSENTS

The Vendor must obtain any necessary consent or licence required for the sale. The Contract will be at an end and all money paid must be refunded if any necessary consent or licence is not obtained by Settlement.

6. TRANSFER

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

7. RELEASE OF SECURITY INTEREST

- 7.1 This general condition applies if any part of the Property is subject to a security interest to which the **Personal Property Securities Act 2009** (Cth) applies.
- 7.2 For the purposes of enabling the Purchaser to search the Personal Property Securities Register for any security interests affecting any personal property for which the Purchaser may be entitled to a release, statement, approval or correction in accordance with general condition 7.4, the Purchaser may request the Vendor to provide the Vendor's date of birth to the Purchaser. The Vendor must comply with a request made by the Purchaser under this condition if the Purchaser makes the request at least 21 days before the due date for Settlement.
- 7.3 If the Purchaser is given the details of the Vendor's date of birth under condition 7.2, the Purchaser must:
 - (a) only use the Vendor's date of birth for the purposes specified in condition 7.2; and
 - (b) keep the date of birth of the Vendor secure and confidential.
- 7.4 The Vendor must ensure that at or before Settlement, the Purchaser receives:
 - (a) a release from the secured party releasing the Property from the security interest; or
 - (b) a statement in writing in accordance with section 275(1)(b) of the **Personal Property Securities Act 2009** (Cth) setting out that the amount or obligation that is secured is nil at Settlement; or
 - (c) a written approval or correction in accordance with section 275(1)(c) of the **Personal Property Securities Act 2009** (Cth) indicating that, on Settlement, the personal property included in the Contract is not or will not be property in which the security interest is granted.
- 7.5 Subject to general condition 7.6, the Vendor is not obliged to ensure that the Purchaser receives a release, statement, approval or correction in respect of personal property:
 - (a) That:
 - (i) the Purchaser intends to use 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

- (iii) that is sold in the ordinary course of the Vendor's business of selling personal property of that kind.
- 7.6 The Vendor is obliged to ensure that the Purchaser receives a release, statement, approval or correction in respect of personal property described in general condition 7.5 if:
 - (a) the personal property is of a kind that may 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.
- 7.7 A release for the purposes of general condition 7.4(a) must be in writing.
- 7.8 A release for the purposes of general condition 7.4(a) must be effective in releasing the goods from the security interest and be in a form which allows the Purchaser to take title to the goods free of that security interest.
- 7.9 If the Purchaser receives a release under general condition 7.4(a) the Purchaser must provide the Vendor with a copy of the release at or as soon as practicable after Settlement.
- 7.10 In addition to ensuring that a release is received under general condition 7.4(a), the Vendor must ensure that at or before Settlement the Purchaser receives a written undertaking from a secured party to register a financing change statement to reflect that release if the property being released includes goods of a kind that are described by serial number in the Personal Property Securities Register.
- 7.11 The Purchaser must advise the Vendor of any security interest that is registered on or before the day of sale on the Personal Properties Securities Register, which the Purchaser reasonably requires to be released, at least 21 days before the due date for Settlement.
- 7.12 The Vendor may delay Settlement until 21 days after the Purchaser advises the Vendor of the security interests that the Purchaser reasonably requires to be released if the Purchaser does not provide an advice under general condition 7.11.
- 7.13 If Settlement is delayed under general condition 7.12 the Purchaser must pay the Vendor:
 - (a) interest from the due date for Settlement until the date on which Settlement occurs or 21 days after the Vendor receives the advice, whichever is the earlier; and
 - (b) any reasonable costs incurred by the Vendor as a result of the delay as though the Purchaser was in default.
- 7.14 The Vendor is not required to ensure that the Purchaser receives a release in respect of the land. This general condition 7.14 applies despite general condition 7.1.
- 7.15 Words and phrases which are defined in the **Personal Property Securities Act 2009** (Cth) have the same meaning in general condition 7 unless the context requires otherwise.

8. 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.

9. GENERAL LAW LAND

9.1 This general condition only applies if any part of the land is not under the operation of the **Transfer of Land Act 1958**.

- 9.2 The Vendor is taken to be the holder of an unencumbered estate in fee simple in the land if there is an unbroken chain of title starting at least 30 years before the day of sale proving on the face of the documents the ownership of the entire legal and equitable estate without the aid of other evidence.
- 9.3 The Purchaser is entitled to inspect the Vendor's chain of title on request at such place in Victoria as the Vendor nominates.
- 9.4 The Purchaser is taken to have accepted the Vendor's title if:
 - (a) 21 days have elapsed since the day of sale; and
 - (b) the Purchaser has not reasonably objected to the title or reasonably required the Vendor to remedy a defect in the title.
- 9.5 The Contract will be at an end if:
 - (a) the Vendor gives the Purchaser a notice that the Vendor is unable or unwilling to satisfy the Purchaser's objection or requirement and that the Contract will end if the objection or requirement is not withdrawn within 14 days of the giving of the notice; and
 - (b) the objection or requirement is not withdrawn in that time.
- 9.6 If the Contract ends in accordance with general condition 9.5, the deposit must be returned to the Purchaser and neither party has a claim against the other in damages.
- 9.7 General condition 10.1 should be read, in respect of that part of the land which is not under the operation of the *Transfer of Land Act 1958*, as if the reference to "registered proprietor" is a reference to "owner".

MONEY

10. SETTLEMENT

- 10.1 At Settlement:
 - (a) the Purchaser must pay the balance; and
 - (b) the Vendor must:
 - (i) do all things necessary to enable the Purchaser to become the registered proprietor of the land; and
 - (ii) give either vacant possession or receipt of rents and profits in accordance with the particulars of sale.
- 10.2 The Vendor's obligations under this general condition continue after Settlement.
- 10.3 Settlement must be conducted between the hours of 10.00 a.m. and 4.00 p.m. unless the parties agree otherwise.

11. PAYMENT

- 11.1 The Purchaser must pay the deposit:
 - (a) to the Vendor's licensed estate agent; or
 - (b) if there is no estate agent, to the Vendor's legal practitioner or conveyancer; or

- (c) if the Vendor directs, into a special purpose account in an authorised deposittaking institution in Victoria specified by the Vendor in the joint names of the Purchaser and the Vendor.
- 11.2 If the land sold is a lot on an unregistered plan of subdivision, the deposit:
 - (a) must not exceed 10% of the price; and
 - (b) must be paid to the Vendor's estate agent, legal practitioner or conveyancer and held by the estate agent, legal practitioner or conveyancer on trust for the Purchaser until the registration of the plan of subdivision.
- 11.3 The Purchaser must pay all money other than the deposit:
 - (a) to the Vendor, or the Vendor's legal practitioner or conveyancer; or
 - (b) in accordance with a written direction of the Vendor or the Vendor's legal practitioner or conveyancer.
- 11.4 At Settlement, payments may be made or tendered:
 - (a) in cash; or
 - (b) by cheque drawn on an authorised deposit-taking institution; or
 - (c) if the parties agree, by electronically transferring the payment in the form of cleared funds.
- For the purpose of this general condition "authorised deposit-taking institution" means a body corporate in relation to which an authority under section 9(3) of the *Banking Act 1959* (Cth) is in force.
- 11.6 At Settlement, the Purchaser must pay the fees drawn on up to three cheques drawn on an authorised deposit-taking institution. If the Vendor requests that any additional cheques be drawn on an authorised deposit-taking institution, the Vendor must reimburse the Purchaser for the fees incurred.

12. STAKEHOLDING

- 12.1 The deposit must be released to the Vendor if :
 - (a) the Vendor provides particulars, to the satisfaction of the Purchaser, that either:
 - (i) there are no debts secured against the Property; or
 - (ii) if there are any debts, the total amount of those debts does not exceed 80% of the sale price; and
 - (b) at least 28 days have elapsed since the particulars were given to the Purchaser under paragraph (a); and
 - (c) all conditions of section 27 of the Sale of Land Act 1962 have been satisfied.
- The stakeholder must pay the deposit and any interest to the party entitled when the deposit is released, the Contract is settled, or the Contract is ended.
- 12.3 The stakeholder may pay the deposit and any interest into court if it is reasonable to do so.

13. GST

- 13.1 The Purchaser does not have to pay the Vendor any GST payable by the Vendor in respect of a taxable supply made under this Contract in addition to the price unless the particulars of sale specify that the price is "plus GST". However the Purchaser must pay to the Vendor any GST payable by the Vendor:
 - (a) solely as a result of any action taken or intended to be taken by the Purchaser after the day of sale, including a change of use; or
 - (b) if the particulars of sale specify that the supply made under this Contract is of land on which a farming business is carried on and the supply (or a part of it) does not satisfy the requirements of section 38-480 of the GST Act; or
 - (c) if the particulars of sale specify that the supply made under this Contract is of a going concern and the supply (or a part of it) does not satisfy the requirements of section 38-325 of the GST Act.
- 13.2 The Purchaser must pay to the Vendor any GST payable by the Vendor in respect of a taxable supply made under this Contract in addition to the price if the particulars of sale specify that the price is "plus GST".
- 13.3 If the Purchaser is liable to pay GST, the Purchaser is not required to make payment until provided with a tax invoice, unless the margin scheme applies.
- 13.4 If the particulars of sale specify that the supply made under this Contract is of land on which a "farming business" is carried on:
 - (a) the Vendor warrants that the Property is land on which a farming business has been carried on for the period of 5 years preceding the date of supply; and
 - (b) the Purchaser warrants that the Purchaser intends that a farming business will be carried on after Settlement on the Property.
- 13.5 If the particulars of sale specify that the supply made under this Contract is a "going concern":
 - (a) the parties agree that this Contract is for the supply of a going concern; and
 - (b) the Purchaser warrants that the Purchaser is, or prior to Settlement will be, registered for GST; and
 - (c) the Vendor warrants that the Vendor will carry on the going concern until the date of supply.
- 13.6 If the particulars of sale specify that the supply made under this Contract is a "margin scheme" supply, the parties agree that the margin scheme applies to this Contract.
- 13.7 This general condition will not merge on either Settlement or registration.
- 13.8 In this general condition:
 - (a) "GST Act" means A New Tax System (Goods and Services Tax) Act 1999 (Cth);and
 - (b) "GST" includes penalties and interest.

14. LOAN

- 14.1 If the particulars of sale specify that this Contract is subject to a loan being approved, this Contract is subject to the lender approving the loan on the security of the Property by the approval date or any later date allowed by the Vendor.
- 14.2 The Purchaser may end the Contract if the loan is not approved by the approval date, but only if the Purchaser:
 - (a) immediately applied for the loan; and
 - (b) did everything reasonably required to obtain approval of the loan; and
 - (c) serves written notice ending the Contract on the Vendor within 2 clear business days after the approval date or any later date allowed by the Vendor; and
 - (d) is not in default under any other condition of this Contract when the notice is given.
- 14.3 All money must be immediately refunded to the Purchaser if the Contract is ended.

15. ADJUSTMENTS

- 15.1 All periodic outgoings payable by the Vendor, and any rent and other income received in respect of the Property must be apportioned between the parties on the Settlement date and any adjustments paid and received as appropriate.
- 15.2 The periodic outgoings and rent and other income must be apportioned on the following basis:
 - (a) the Vendor is liable for the periodic outgoings and entitled to the rent and other income up to and including the day of Settlement; and
 - (b) the land is treated as the only land of which the Vendor is owner (as defined in the *Land Tax Act 2005*); and
 - (c) the Vendor is taken to own the land as a resident Australian beneficial owner; and
 - (d) any personal statutory benefit available to each party is disregarded in calculating apportionment.

TRANSACTIONAL

16. TIME

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

17. SERVICE

- 17.1 Any document sent by:
 - (a) post is taken to have been served on the next business day after posting, unless proved otherwise;
 - (b) email is taken to have been served at the time of receipt within the meaning of section 13A of the **Electronic Transactions (Victoria) Act 2000**.

- Any demand, notice or document required to be served by or on any party may be served by or on the legal practitioner or conveyancer for that party. It is sufficiently served if served on the party or on the legal practitioner or conveyancer:
 - (a) personally; or
 - (b) by pre-paid post; or
 - (c) in any manner authorised by law or the Supreme Court for service of documents, including any manner authorised for service on or by a legal practitioner; or
 - (d) by email.
- 17.3 This general condition applies to the service of any demand, notice or document by or on any party, whether the expression 'give' or 'serve' or any other expression is used.

18. NOMINEE

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

19. LIABILITY OF SIGNATORY

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

20. GUARANTEE

The Vendor may require one or more directors of the Purchaser to guarantee the Purchaser's performance of this Contract if the Purchaser is a proprietary limited company.

21. NOTICES

The Purchaser is responsible for any notice, order, demand or levy imposing liability on the Property that is issued or made on or after the day of sale that does not relate to periodic outgoings. The Purchaser may enter the Property to comply with that responsibility where action is required before Settlement.

22. INSPECTION

The Purchaser and/or another person authorised by the Purchaser may inspect the Property at any reasonable time during the 7 days preceding and including the Settlement day.

23. TERMS CONTRACT

- 23.1 If this is a "terms contract" as defined in the Sale of Land Act 1962:
 - (a) any mortgage affecting the land sold must be discharged as to that land before the Purchaser becomes entitled to possession or to the receipt of rents and profits unless the Vendor satisfies section 29M of the *Sale of Land Act 1962*; and
 - (b) the deposit and all other money payable under the contract (other than any money payable in excess of the amount required to so discharge the mortgage) must be paid to a legal practitioner or conveyancer or a licensed estate agent to be applied in or towards discharging the mortgage.
- 23.2 While any money remains owing each of the following applies:

JXA:1065265:8956703

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

24. LOSS OR DAMAGE BEFORE SETTLEMENT

- 24.1 The Vendor carries the risk of loss or damage to the Property until Settlement.
- 24.2 The Vendor must deliver the Property to the Purchaser at Settlement in the same condition it was in on the day of sale, except for fair wear and tear.
- 24.3 The Purchaser must not delay Settlement because one or more of the goods is not in the condition required by general condition 24.2, but may claim compensation from the Vendor after Settlement.
- 24.4 The Purchaser may nominate an amount not exceeding \$5,000 to be held by a stakeholder to be appointed by the parties if the Property is not in the condition required by general condition 24.2 at Settlement.
- 24.5 The nominated amount may be deducted from the amount due to the Vendor at Settlement and paid to the stakeholder, but only if the Purchaser also pays an amount equal to the nominated amount to the stakeholder.
- 24.6 The stakeholder must pay the amounts referred to in general condition 24.5 in accordance with the determination of the dispute, including any order for payment of the costs of the resolution of the dispute.

25. BREACH

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

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

DEFAULT

26. INTEREST

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

27. DEFAULT NOTICE

- A party is not entitled to exercise any rights arising from the other party's default, other than the right to receive interest and the right to sue for money owing, until the other party is given and fails to comply with a written default notice.
- 27.2 The default notice must:
 - (a) specify the particulars of the default; and
 - (b) state that it is the offended party's intention to exercise the rights arising from the default unless, within 14 days of the notice being given:
 - (i) the default is remedied; and
 - (ii) the reasonable costs incurred as a result of the default and any interest payable are paid.

28. DEFAULT NOT REMEDIED

- 28.1 All unpaid money under the Contract becomes immediately payable to the Vendor if the default has been made by the Purchaser and is not remedied and the costs and interest are not paid.
- 28.2 The Contract immediately ends if:
 - (a) the default notice also states that unless the default is remedied and the reasonable costs and interest are paid, the Contract will be ended in accordance with this general condition; and
 - (b) the default is not remedied and the reasonable costs and interest are not paid by the end of the period of the default notice.
- 28.3 If the Contract ends by a default notice given by the Purchaser:
 - (a) the Purchaser must be repaid any money paid under the Contract and be paid any interest and reasonable costs payable under the Contract; and
 - (b) all those amounts are a charge on the land until payment; and
 - (c) the Purchaser may also recover any loss otherwise recoverable.
- 28.4 If the Contract ends by a default notice given by the Vendor:
 - (a) the deposit up to 10% of the price is forfeited to the Vendor as the Vendor's absolute Property, whether the deposit has been paid or not; and

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- (b) the Vendor is entitled to possession of the Property; and
- (c) in addition to any other remedy, the Vendor may within one year of the Contract ending either:
 - (i) retain the Property and sue for damages for breach of Contract; or
 - (ii) resell the Property in any manner and recover any deficiency in the price on the resale and any resulting expenses by way of liquidated damages; and
- (d) the Vendor may retain any part of the price paid until the Vendor's damages have been determined and may apply that money towards those damages; and
- (e) any determination of the Vendor's damages must take into account the amount forfeited to the Vendor.
- 28.5 The ending of the Contract does not affect the rights of the offended party as a consequence of the default.

ANNEXURE A

GUARANTEE AND INDEMNITY

I/We

of

(Guarantor)

- 1. In consideration of the Vendor and the Developer (jointly and severally) named in the contract of sale of land to which this guarantee and indemnity is annexed (Contract) having at my/our request entered into the Contract with the purchaser named in it on the terms and conditions contained in the Contract do jointly and severally covenant with the Vendor and the Developer for ourselves our executors, administrators and personal representatives as follows:
 - 1.1 To indemnify and keep indemnified from and against any and all costs, charges, claims, demands, suits and expenses whatever and however arising out of this guarantee and indemnity.
 - 1.2 If at any time and from time to time the purchaser defaults:
 - (a) In the payment of money payable by it to the Vendor or the Developer under the Contract; or
 - (b) In the performance or observance of any term or condition on the part of the purchaser to be performed or observed

to pay to the Vendor or the Developer the whole of the money which is due and payable to the Vendor or the Developer on the same terms and conditions and in the same manner prescribed by the Contract as if I/we were each jointly or severally parties to the Contract and our names were inserted in it in place of the name of the purchaser.

- 2. I/We jointly and severally declare
 - 2.1 That this guarantee and indemnity is and will be an unconditional and continuing guarantee and indemnity and is not affected or released by:
 - (a) any waiver neglect or forbearance by the Vendor or the Developer in enforcing payment of any money payable under the Contract by the purchaser or in enforcing the performance or observance of any of the covenants, agreements, obligations and conditions in the Contract to be performed or observed by the purchaser;
 - (b) any release, variation, exchange, renewal or modification of the Contract or any other dealing by the Vendor or the Developer with the terms of the Contract;
 - (c) any other guarantee or security which the Vendor or the Developer may hold in respect of the Contract or any judgement obtained by the Vendor or the Developer in relation to the Contract;
 - (d) the transfer or assignment of the benefit of this guarantee and indemnity to any person in whole or in part;
 - (e) the failure to give notice to us or our lack of consent before or after the happening of any of the above mentioned acts or events; or
 - (f) generally the making of any agreement between the Vendor and/or the Developer and the purchaser.

EXECUTED as a deed.

SIGNED SEALED AND DELIVERED by
)
in the presence of:

Signature of Witness

Name of Witness [print]

SIGNED SEALED AND DELIVERED by
)
in the presence of:

Signature of Witness

personal representatives.

That I/we waive our rights whether legal, equitable, statutory or otherwise which may at any time be inconsistent with my/our covenants and declarations or which may in any manner prejudice or limit our rights, remedies or recourse of the Vendor or the Developer against me/us and our executors, administrators and

Name of Witness [print]

2.2

ANNEXURE B

TRUST ACCOUNT DETAILS

Name: Nicholas O'Donohue & Co Trust Account

Bank: Macquarie Bank Limited

Branch: South Tower, Level 32, 80 Collins Street, Melbourne VIC 3000

BSB No.: 183 334

Account No.: 3004 10446

SWIFT CODE: MACQUAU25

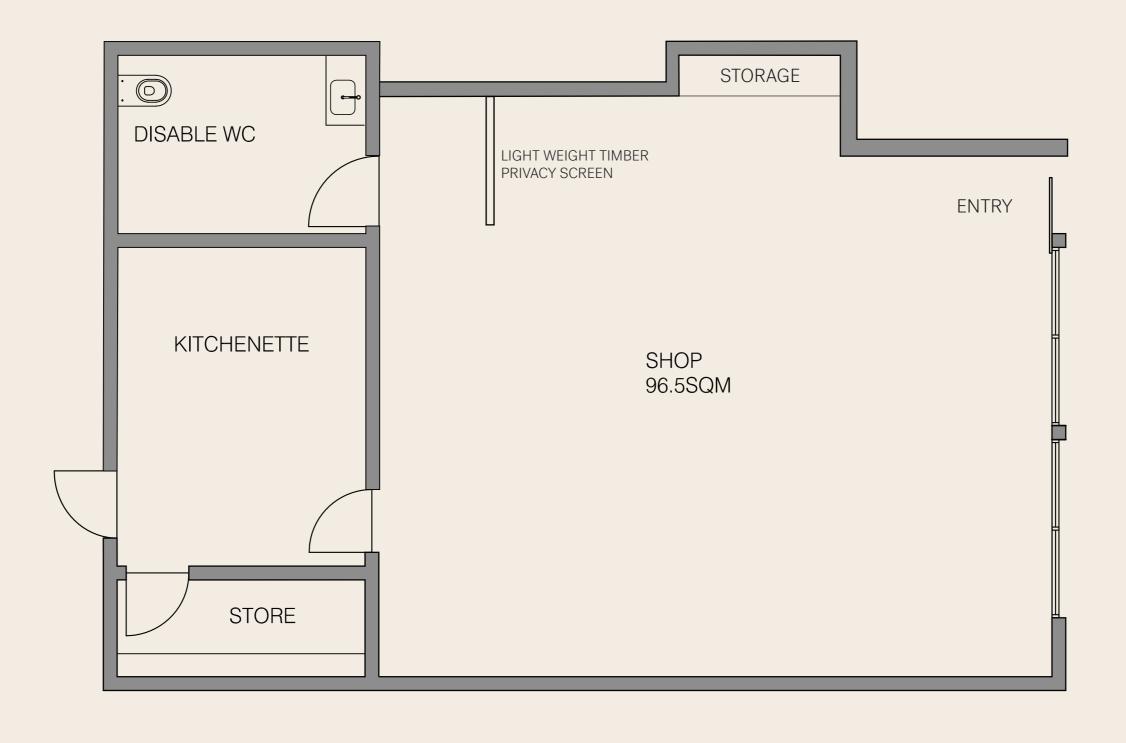
PLEASE USE LOT NO. & SURNAME AS REFERENCE

ANNEXURE C

BUILDING PLANS AND SPECIFICATIONS

BROADWAY





RETAIL

 Toilet
 01

 Kitchen
 01

 Store
 01

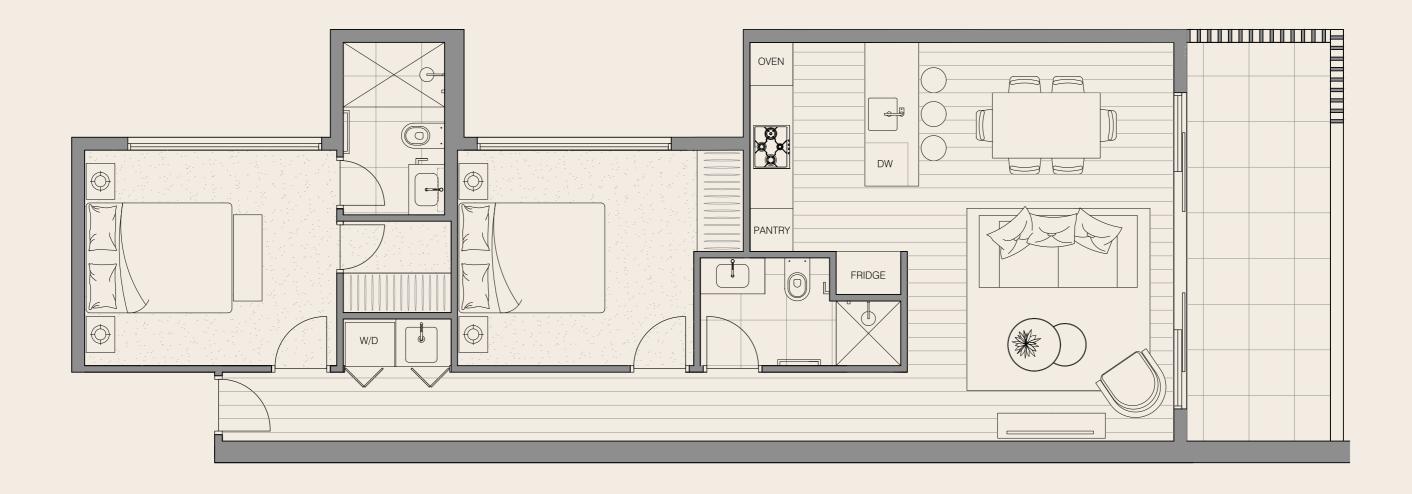




Note: All areas shown are approximate. The information contained herein has been obtained from sources we believe to be reliable and therefore have no reason to doubt it's accuracy. The vendor and it's agent will not be responsible for any error or mis-description which may appear. Prospective purchasers or leasees are therefore advised to make whatever investigations they deem necessary.

BROADWAY



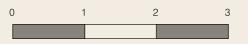


APARTMENT 01

Bedrooms	02
Bathrooms	02
Carspaces	01

Ir	nternal SQM	79
E	xternal SQM	13
Т	otal SQM	92



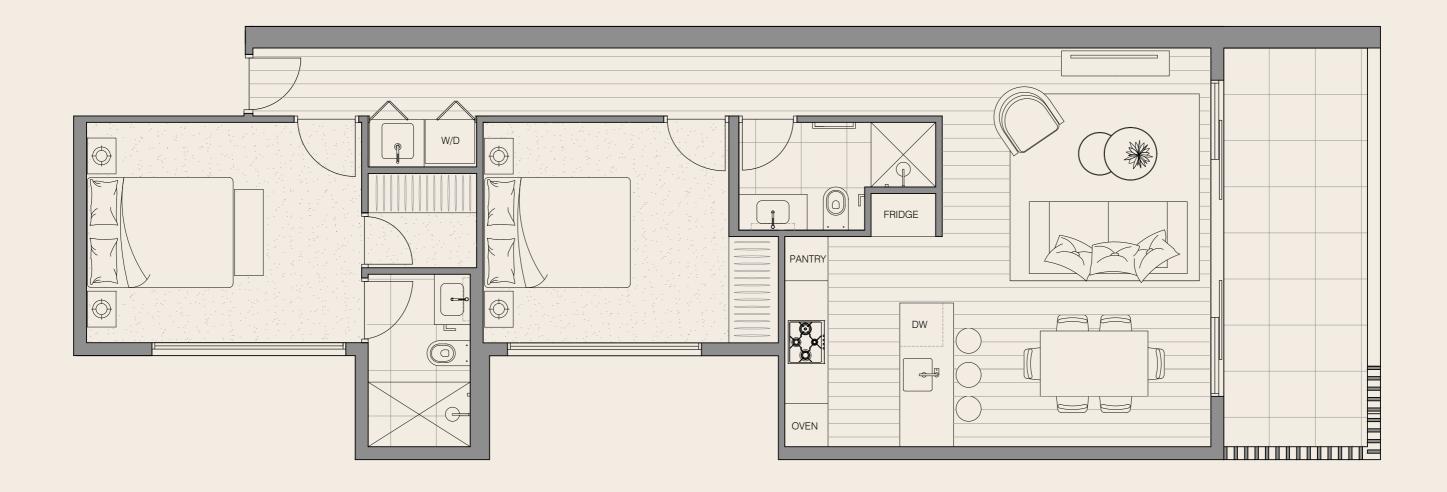


Note: All areas shown are approximate. The information contained herein has been obtained from sources we believe to be reliable and therefore have no reason to doubt it's accuracy. The vendor and it's agent will not be responsible for any error or mis-description which may appear. Prospective purchasers or leasees are therefore advised to make whatever investigations they deem necessary.

FIRST FLOOR

BROADWAY





APARTMENT 02

FIRST FLOOR

Bedrooms 02
Bathrooms 02
Carspaces 01

Internal SQM 81

External SQM 13

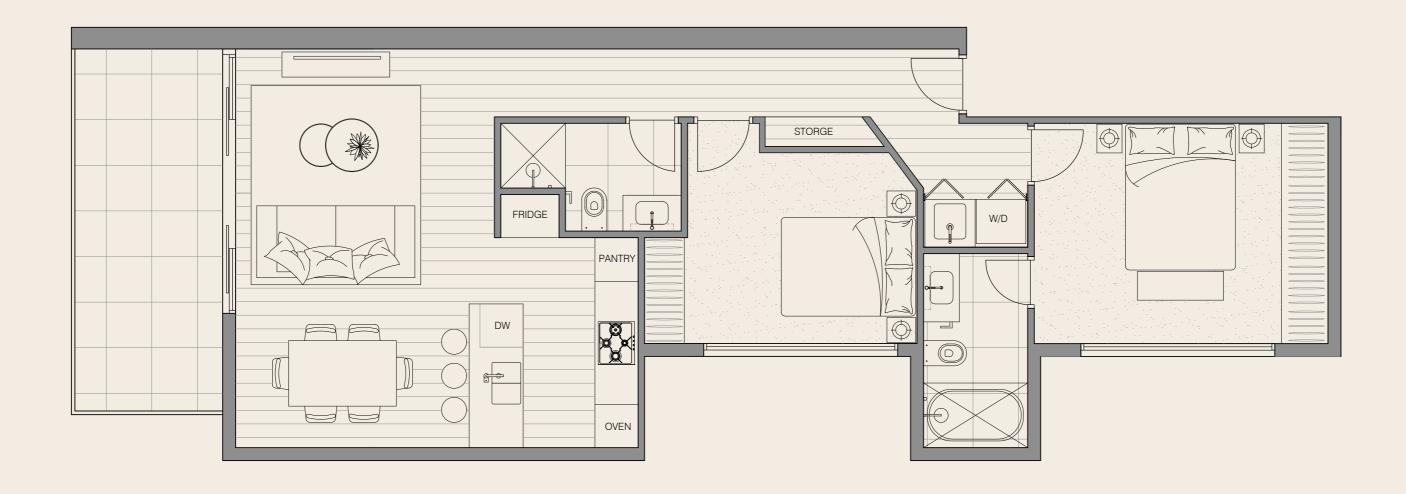
Total SQM 94





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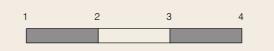


APARTMENT 03

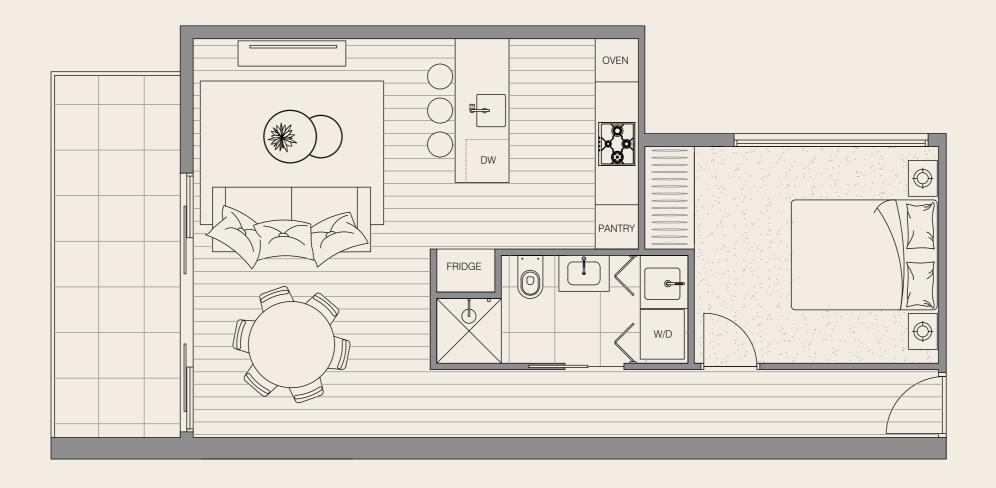
Bedrooms	0
Bathrooms	0
Carspaces	0

Internal SQM	76
External SQM	11
Total SQM	87





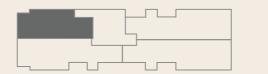




APARTMENT 04

Bedrooms	01
Bathrooms	01
Carspaces	01

Internal SQM	58
External SQM	9.5
Total SQM	67.5







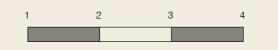


APARTMENT 05

Bedrooms	02
Bathrooms	1.5
Carspaces	01

Internal SQM	79
External SQM	13
Total SQM	92

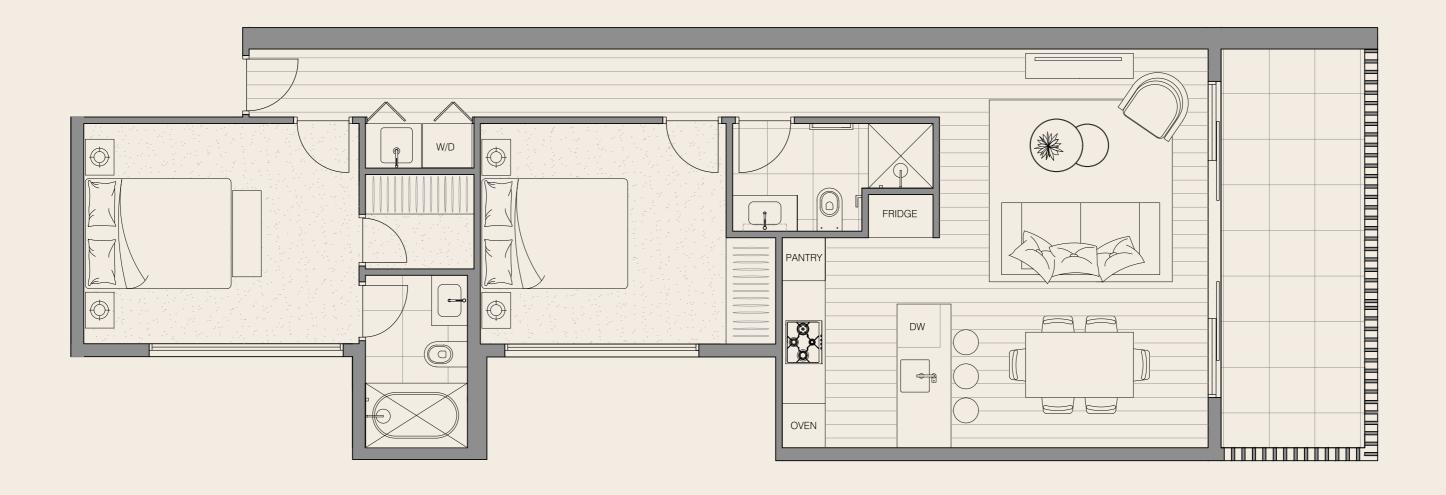




Note: All areas shown are approximate. The information con tained herein has been obtained from sources we believe to be reliable and therefore have no reason to doubt it's accuracy. The vendor and it's agent will not be responsible for any error or mis-description which may appear. Prospective purchasers or leasees are therefore advised to make whatever investigations they deem necessary.

SECOND FLOOR





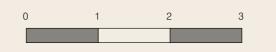
APARTMENT 06

SECOND FLOOR

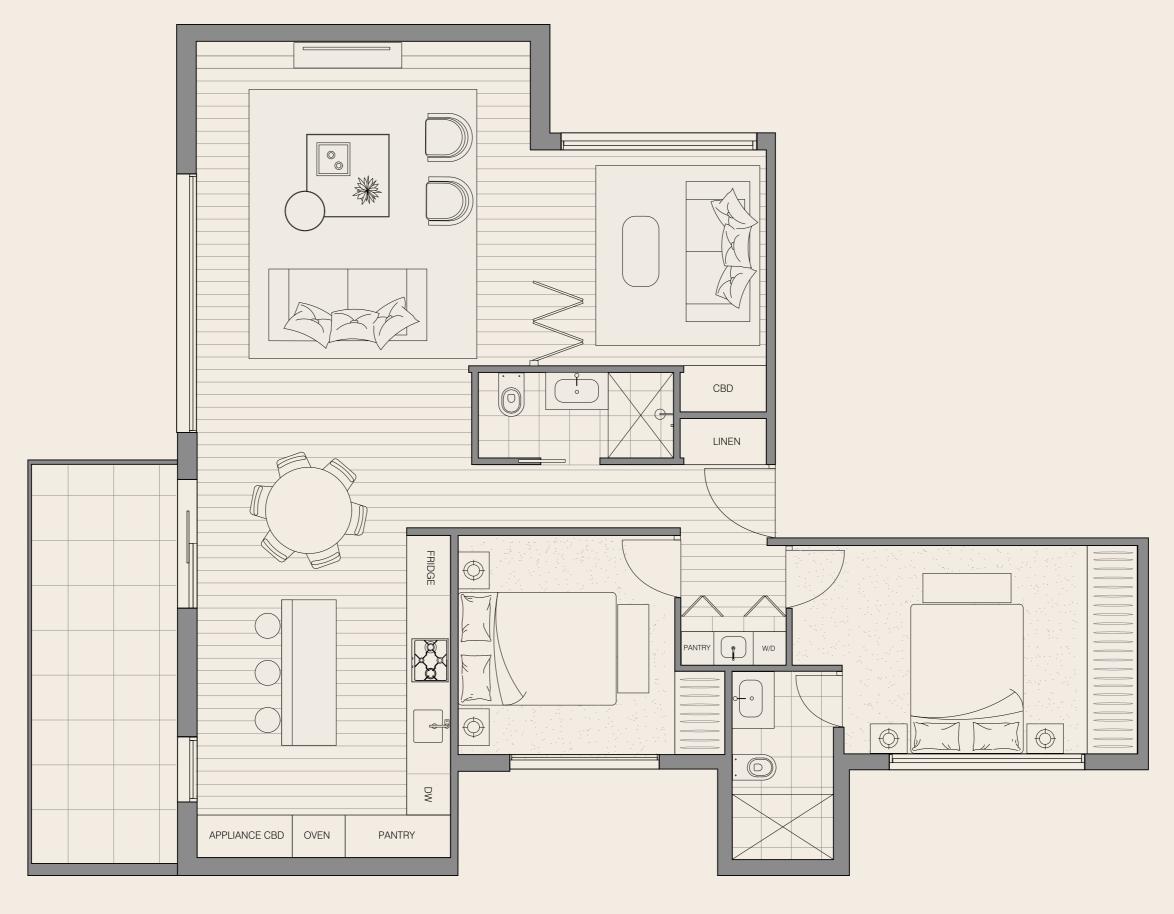
Bedrooms	02
Bathrooms	02
Carspaces	01

Internal SQM	81
External SQM	13
Total SQM	94









APARTMENT 07

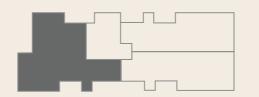
Bathrooms 02

Carspaces 02

Internal SQM 107

External SQM 12

Total SQM 119





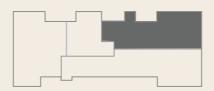




APARTMENT 08

Bedrooms	02
Bathrooms	01
Carspaces	01

Internal SQM	66
External SQM	12
Total SQM	78









APARTMENT 09

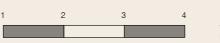
Bathrooms 02

Bathrooms 02

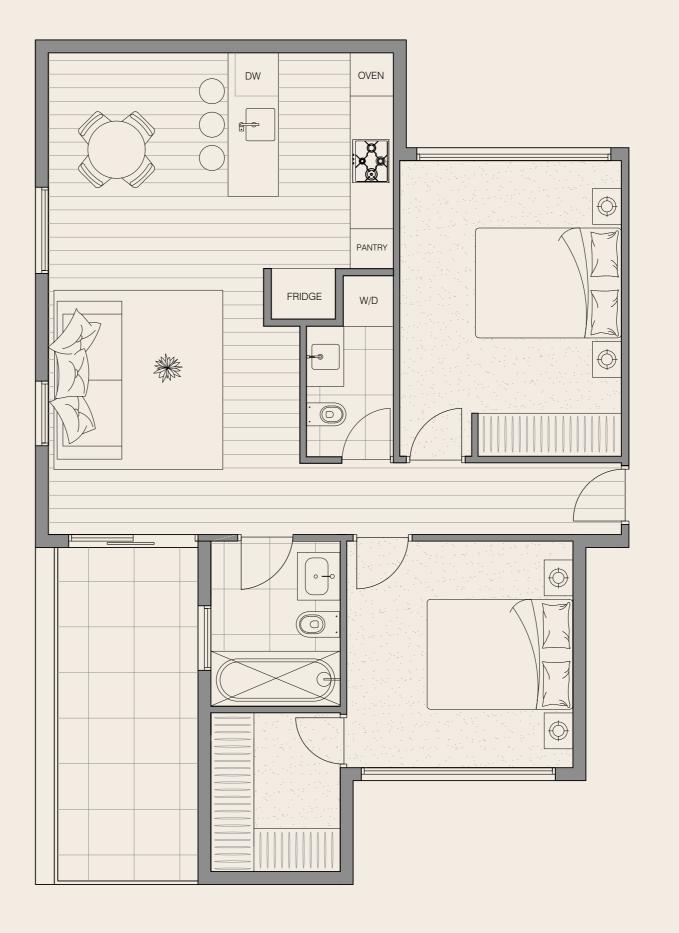
Carspaces 01

Internal SQM 85.5
External SQM 12
Total SQM 97.5









APARTMENT 10

Bedrooms	02
Bathrooms	1.5
Carspaces	01

Internal SQM	74
External SQM	9.5
Total SQM	83.5



Note: All areas shown are approximate. The information contained herein has been obtained from sources we believe to be reliable and therefore have no reason to doubt it's accuracy. The vendor and it's agent will not be responsible for any error or mis-description which may appear. Prospective purchasers or leasees are therefore advised to make whatever investigations they deem necessary.

THIRD FLOOR





APARTMENT 11

Bedrooms	02
Bathrooms	02
Carspaces	02

Internal SQM 121
External SQM 14.5
Total SQM 135.5



Note: All areas shown are approximate. The information contained herein has been obtained from sources we believe to be reliable and therefore have no reason to doubt it's accuracy. The vendor and it's agent will not be responsible for any error or mis-description which may appear. Prospective purchasers or leasees are therefore advised to make whatever investigations they deem necessary.

FOURTH FLOOR

FIXTURES & FINISHES

FIXTURES



Shower railBrushed nickel
Bathrooms - General



Twin showerBrushed nickel
Bathrooms - Master



Wall bath outlet
Brushed nickel
Bathrooms



Wall mixer
Brushed nickel
Bathrooms



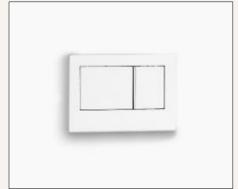
Basin mixer
Brushed nickel
Bathrooms



Basin White Bathrooms



Toilet suiteWhite
Bathrooms



Face plate
Brushed nickel
Bathrooms



Bath White Bathrooms



Towel railBrushed nickel
Bathrooms



Sink mixer
Brushed nickel
Kitchen



Sink mixerBrushed nickel *Laundry*



Sink Stainless steel *Kitchen*



Sink Stainless steel Laundry



Joinery pull
Brushed nickel
Wardrobes, laundry, kitchen



Door handle Matte black Throughout

APPLIANCES



OvenStainless steel
Miele



Gas cooktop Stainless steel Miele



Rangehood Stainless steel Miele



Dishwasher Stainless steel Miele

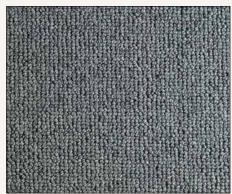


Integrated fridge Fisher & Paykel

FINISHES



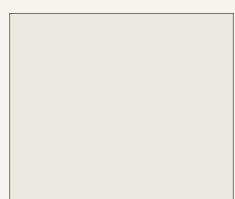
Floorboards
Entry, hallways, kitchen, meals, living



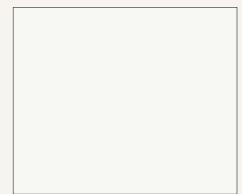
Carpet 100% wool Bedrooms, walk-in-robes



Paint finish - walls
Throughout



Paint finish - doors and skirtings
Throughout



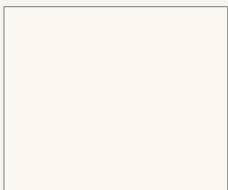
Paint finish - ceiling
Throughout



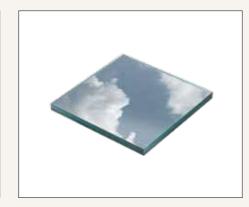
2 PAC paint finish
Kitchen joinery, wardrobe joinery



Laminate *Bathroom joinery*



Laminate
Laundry joinery



Mirror finish
Bathroom mirror cabinets



Mirror finish Grey Kitchen splashback



Floor tile
Light grey
Bathrooms, laundry



Wall tile Bathrooms



Reconstituted stone

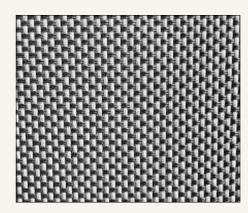
Kitchen benchtop, island benchtop,
bathroom benchtop and splashback,
bathroom bath hob - top and front



Reconstituted stone Laundry benchtop and splashback



Blockout window furnishing - roller blind fabric Windows throughout



Transparent window furnishing - roller blind fabric

Windows throughout