

Contract for the sale of land – 2005 edition

MEANING OF TERM

TERM

Vendor's agent

Co-agent

Vendor

Vandna Abichandani & Monica Gupta
PO Box 1010, Dundas NSW 2117

Vendor's Solicitor

Batallion Legal Pty Ltd, Suite 509, Level 5, 379 – 383 Pitt St
Sydney NSW 2000
T: 9264 3366
F: 9264 3388
Ref: ABI15

Completion date

42nd day after the contract date (clause 15)

Land

65A Wigram Street, Harris Park NSW 2150

(Address, plan details and title reference)

Registered Plan: Lot B in Strata Plan 348320

Folio Identifiers: B/348320

Improvements

VACANT POSSESSION subject to existing tenancies
 HOUSE garage carport home unit carspace none
 other: Restaurant

Attached copies

Documents in the List of Documents as marked or as numbered:
 Other documents:

A real estate agent is permitted by legislation to fill up the items in this box in a sale of residential property.

Inclusions blinds curtains insect screens stove
 built-in wardrobe dishwasher light fittings pool equipment
 clothes line fixed floor coverings range hood TV antenna
 other: air conditioning unit; kitchen

Exclusions

Purchaser

Purchaser's solicitor

Price \$

Deposit \$ (10% of the price, unless otherwise stated)

Balance \$

Contract date (if not stated, the date this contract was made)

Vendor

GST AMOUNT (optional)
The price includes
GST of: \$

Witness

Purchaser

Witness

JOINT TENANTS tenants in common in unequal shares

Tax information (the parties promise this is correct as far as each party is aware)

Land tax is adjustable NO yes
 GST: Taxable supply NO yes in full yes to an extent
 Margin scheme will be used in making the taxable supply NO yes

This sale is not a taxable supply because (one or more of the following may apply) the sale is:

not made in the course or furtherance of an enterprise that the vendor carries on (section 9-5(b))
 by a vendor who is neither registered nor required to be registered for GST (section 9-5(d))
 GST-free because the sale is the supply of a going concern under section 38-325
 GST-free because the sale is subdivided farm land or farm land supplied for farming under Subdivision 38-O
 input taxed because the sale is of eligible residential premises (sections 40-65, 40-75(2) and 195-1)

HOLDER OF STRATA OR COMMUNITY TITLE RECORDS – Name, address and telephone number

General	Strata or community title (clause 23 of the contract)
<input checked="" type="checkbox"/> 1 property certificate for the land <input checked="" type="checkbox"/> 2 plan of the land <input type="checkbox"/> 3 unregistered plan of the land <input type="checkbox"/> 4 plan of land to be subdivided <input type="checkbox"/> 5 document that is to be lodged with a relevant plan <input checked="" type="checkbox"/> 6 section 149(2) certificate (Environmental Planning and Assessment Act 1979) <input type="checkbox"/> 7 section 149(5) information included in that certificate <input checked="" type="checkbox"/> 8 sewerage connections diagram <input type="checkbox"/> 9 sewer mains diagram <input type="checkbox"/> 10 document that created or may have created an easement, profit à prendre, restriction on use or positive covenant disclosed in this contract <input type="checkbox"/> 11 section 88G certificate (positive covenant) <input type="checkbox"/> 12 survey report <input type="checkbox"/> 13 section 317A certificate (certificate of compliance) <input type="checkbox"/> 14 building certificate given under <i>legislation</i> <input type="checkbox"/> 15 insurance certificate (Home Building Act 1989) <input type="checkbox"/> 16 brochure or note (Home Building Act 1989) <input type="checkbox"/> 17 section 24 certificate (Swimming Pools Act 1982) <input checked="" type="checkbox"/> 18 lease (with every relevant memorandum or variation) <input type="checkbox"/> 19 other document relevant to tenancies <input type="checkbox"/> 20 old system document <input type="checkbox"/> 21 Crown tenure card <input type="checkbox"/> 22 Crown purchase statement of account <input type="checkbox"/> 23 Statutory declaration regarding <i>vendor duty</i>	<input type="checkbox"/> 24 property certificate for strata common property <input type="checkbox"/> 25 plan creating strata common property <input type="checkbox"/> 26 strata by-laws not set out in <i>legislation</i> <input type="checkbox"/> 27 strata development contract or statement <input type="checkbox"/> 28 strata management statement <input type="checkbox"/> 29 leasehold strata - lease of lot and common property <input type="checkbox"/> 30 property certificate for neighbourhood property <input type="checkbox"/> 31 plan creating neighbourhood property <input type="checkbox"/> 32 neighbourhood development contract <input type="checkbox"/> 33 neighbourhood management statement <input type="checkbox"/> 34 property certificate for precinct property <input type="checkbox"/> 35 plan creating precinct property <input type="checkbox"/> 36 precinct development contract <input type="checkbox"/> 37 precinct management statement <input type="checkbox"/> 38 property certificate for community property <input type="checkbox"/> 39 plan creating community property <input type="checkbox"/> 40 community development contract <input type="checkbox"/> 41 community management statement <input type="checkbox"/> 42 document disclosing a change of by-laws <input type="checkbox"/> 43 document disclosing a change in a development or management contract or statement <input type="checkbox"/> 44 document disclosing a change in boundaries <input type="checkbox"/> 45 certificate under Management Act – section 109 (Strata Schemes) or section 26 (Community Land)

WARNINGS

- Various Acts of Parliament and other matters can affect the rights of the parties to this contract. Some important matters are actions, claims, decisions, licences, notices, orders, proposals or rights of way involving

AGL Gas Networks Limited	Government Business & Government Procurement	Public Works Dept
Council	Heritage Office	Roads & Traffic Authority
County Council	Infrastructure Planning and Natural Resources	Rural Lands Protection Board
East Australian Pipeline Limited	Land & Housing Corporation	Sustainable Energy Development
Education & Training Dept	Mine Subsidence Board	Telecommunications authority
Electricity authority	Owner of adjoining land	Water, sewerage or drainage authority
Environment & Conservation Dept	Primary Industries Department	
Fair Trading	RailCorp	

If you think that any of these matters affects the property, tell your solicitor.
- A lease may be affected by the Agricultural Tenancies Act 1990, the Residential Tenancies Act 1987 or the Retail Leases Act 1994.
- If any purchase money is owing to the Crown, it may become payable when the transfer is registered.
- If a consent to transfer is required under legislation, see clause 27 as to the obligations of the parties.
- The vendor should continue the vendor's insurance until completion. If the vendor wants to give the purchaser possession before completion, the vendor should first ask the insurer to confirm this will not affect the insurance.
- The purchaser will usually have to pay stamp duty on this contract. The sale will also usually be a vendor duty transaction. If duty is not paid on time, a party may incur penalties.
- If the purchaser agrees to the release of deposit any rights in relation to the land (for example, the rights mentioned in clause 2.8) may be subject to the rights of other persons such as the vendor's mortgagee.
- The purchaser should arrange insurance as appropriate.

DISPUTES

If you get into a dispute with the other party, the Law Society and Real Estate Institute encourage you to use informal procedures such as negotiation, independent expert appraisal or mediation (for example mediation under the Law Society Mediation Guidelines).

AUCTIONS

Regulations made under the Property Stock and Business Agents Act 2002 prescribe a number of conditions applying to sales by auction.

WARNING SWIMMING POOLS

An owner of property on which a swimming pool is situated must ensure that the pool complies with the requirements of the *Swimming Pools Act 1992*. Penalties apply. Before purchasing a property on which a swimming pool is situated, a purchaser is strongly advised to ensure that the swimming pool complies with the requirements of that Act.

WARNING SMOKE ALARMS

The owners of certain types of buildings and strata lots must have smoke alarms (or in certain cases heat alarms) installed in the building or lot in accordance with regulations under the *Environmental Planning and Assessment Act 1979*. It is an offence not to comply. It is also an offence to remove or interfere with a smoke alarm or heat alarm. Penalties apply.

IMPORTANT NOTICE TO VENDORS AND PURCHASERS

Before signing this contract you should ensure that you understand your rights and obligations, some of which are not written in this contract but are implied by law.

For example, as purchaser you should be satisfied that finance will be available at the time of completing the purchase (even if settlement might occur many months after signing this contract – in particular, if you are buying off the plan).

COOLING OFF PERIOD (PURCHASER'S RIGHTS)

1. This is the statement required by section 66X of the *Conveyancing Act 1919* and applies to a contract for the sale of residential property.
2. The purchaser may rescind the contract at any time before 5 p.m. on the fifth business day after the day on which the contract was made, **EXCEPT** in the circumstances listed in paragraph 3.
3. There is **NO COOLING OFF PERIOD**:
 - (a) if, at or before the time the contract is made, the purchaser gives to the vendor (or the vendor's solicitor or agent) a certificate that complies with section 66W of the Act; or
 - (b) if the property is sold by public auction; or
 - (c) if the contract is made on the same day as the property was offered for sale by public auction but passed in; or
 - (d) if the contract is made in consequence of the exercise of an option to purchase the property, other than an option that is void under section 66ZG of the Act.
4. A purchaser exercising the right to cool off by rescinding the contract will forfeit to the vendor 0.25% of the purchase price of the property. The vendor is entitled to recover the amount forfeited from any amount paid by the purchaser as a deposit under the contract and the purchaser is entitled to a refund of any balance.

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The vendor sells and the purchaser buys the *property* for the price under these provisions instead of Schedule 3 Conveyancing Act 1919, subject to any *legislation* that cannot be excluded.

1 Definitions (a term in italics is a defined term)

In this contract, these terms (in any form) mean -

<i>adjustment date</i>	the earlier of the giving of possession to the purchaser or completion;
<i>bank</i>	a bank as defined in the Banking Act 1959, the Reserve Bank or a State bank;
<i>business day</i>	any day except a bank or public holiday throughout NSW or a Saturday or Sunday;
<i>cheque</i>	a cheque that is not postdated or stale;
<i>depositholder</i>	vendor's agent (or if no vendor's agent is named in this contract, the vendor's <i>solicitor</i>);
<i>document of title</i>	document relevant to the title or the passing of title;
<i>GST Act</i>	A New Tax System (Goods and Services Tax) Act 1999;
<i>GST rate</i>	the rate mentioned in section 4 of A New Tax System (Goods and Services Tax Imposition - General) Act 1999 (10% as at 1 July 2000);
<i>legislation</i>	an Act or a by-law, ordinance, regulation or rule made under an Act;
<i>normally</i>	subject to any other provision of this contract;
<i>party</i>	each of the vendor and the purchaser;
<i>property</i>	the land, the improvements, all fixtures and the inclusions, but not the exclusions;
<i>requisition</i>	an objection, question or requisition (but the term does not include a claim);
<i>rescind</i>	rescind this contract from the beginning;
<i>serve</i>	serve in writing on the other <i>party</i> ;
<i>settlement cheque</i>	an unendorsed <i>cheque</i> made payable to the person to be paid and drawn on its own funds by - <ul style="list-style-type: none"> ● a <i>bank</i>; or ● a building society, credit union or other FCA institution as defined in Cheques Act 1986; that carries on business in Australia; or if authorised in writing by the vendor or the vendor's <i>solicitor</i> , some other <i>cheque</i> ;
<i>solicitor</i>	in relation to a <i>party</i> , the <i>party's</i> solicitor or licensed conveyancer named in this contract or in a notice served by the <i>party</i> ;
<i>terminate</i>	terminate this contract for breach;
<i>vendor duty</i>	vendor duty imposed under Chapter 4 of the Duties Act 1997;
<i>within</i>	in relation to a period, at any time before or during the period;
<i>work order</i>	a valid direction, notice or order that requires work to be done or money to be spent on or in relation to the <i>property</i> or any adjoining footpath or road.

2 Deposit and other payments before completion

- 2.1 The purchaser must pay the deposit to the *depositholder* as stakeholder.
- 2.2 *Normally*, the purchaser must pay the deposit on the making of this contract, and this time is essential.
- 2.3 If this contract requires the purchaser to pay any of the deposit by a later time, that time is also essential.
- 2.4 The purchaser can pay any of the deposit only by unconditionally giving cash (up to \$2,000) or a *cheque* to the *depositholder* or to the vendor, vendor's agent or vendor's *solicitor* for sending to the *depositholder*.
- 2.5 If any of the deposit is not paid on time or a *cheque* for any of the deposit is not honoured on presentation, the vendor can *terminate*. This right to *terminate* is lost as soon as the deposit is paid in full.
- 2.6 If the vendor accepts a bond or guarantee for the deposit, clauses 2.1 to 2.5 and 3 do not apply.
- 2.7 If the vendor accepts a bond or guarantee for part of the deposit, clauses 2.1 to 2.5 and 3 apply only to the balance.
- 2.8 If any of the deposit or of the balance of the price is paid before completion to the vendor or as the vendor directs, it is a charge on the land in favour of the purchaser until *termination* by the vendor or completion, subject to any existing right.
- 2.9 If each *party* tells the *depositholder* that the deposit is to be invested, the *depositholder* is to invest the deposit (at the risk of the *party* who becomes entitled to it) with a *bank*, credit union or permanent building society, in an interest-bearing account in NSW, payable at call, with interest to be reinvested, and pay the interest to the *parties* equally, after deduction of all proper government taxes and financial institution charges and other charges.

3 Payment of vendor duty out of the deposit

- 3.1 This clause applies only if this contract says the deposit can be used to pay vendor duty.
- 3.2 If the amount held by the *depositholder* (disregarding the value of any bond or guarantee) exceeds the amount of *vendor duty*, the *parties* direct the *depositholder* to release the amount of *vendor duty* on the following terms -
- 3.2.1 the *depositholder* is to draw a *cheque* ("the vendor duty cheque") in favour of the Office of State Revenue and in a form acceptable to the Office of State Revenue for payment of *vendor duty*;
- 3.2.2 the *depositholder* is not to draw that *cheque* earlier than 14 days before the completion date; and
- 3.2.3 the receipt of a letter from the vendor's *solicitor* requesting the vendor duty cheque will be sufficient authority for the *depositholder* to draw and release that cheque.
- 3.3 The vendor's *solicitor* will use the vendor duty cheque for the sole purpose of payment of the *vendor duty* relating to this transaction.
- 3.4 If this contract is not completed in circumstances that there is, or may be, no liability for *vendor duty* -
- 3.4.1 if the vendor duty cheque has been forwarded to the vendor's *solicitor* but has not been used to pay *vendor duty*, that cheque must be returned immediately to the *depositholder* for cancellation;
- 3.4.2 if the vendor duty cheque has been used to pay *vendor duty* -
- the amount of *vendor duty* is repayable upon demand;
 - the vendor must lodge an application for refund of *vendor duty*; and
 - the vendor irrevocably authorises the Office of State Revenue to pay to the *depositholder* the refund of *vendor duty*;
- 3.4.3 each *party* must do whatever else is necessary to ensure that the *party* whose funds were used to pay *vendor duty* receives the refund; and
- 3.4.4 rights under this clause continue even if the contract has been *rescinded* or *terminated*.

4 Transfer

- 4.1 *Normally*, the purchaser must *serve* the form of transfer at least 14 days before the completion date.
- 4.2 If any information needed for the form of transfer is not disclosed in this contract, the vendor must *serve* it.
- 4.3 If the purchaser *serves* a form of transfer and the transferee is not the purchaser, the purchaser must give the vendor a direction signed by the purchaser personally for this form of transfer.
- 4.4 The vendor can require the purchaser to include a form of covenant or easement in the transfer only if this contract contains the wording of the proposed covenant or easement, and a description of the land benefited.
- 4.5 If this sale is exempt from *vendor duty* -
- 4.5.1 the vendor can (but does not have to) *serve* an application for exemption from *vendor duty* in the form satisfactory to the Office of State Revenue *within 7 days* after the contract date;
- 4.5.2 if that application is attached to this contract or has been provided to the purchaser before the contract date, the application is *served* on the contract date; and
- 4.5.3 if the vendor complies with clause 4.5.1 -
- the purchaser must have the form of transfer marked by the Office of State Revenue in relation to *vendor duty* before *serving* the form of transfer; and
 - on completion the vendor must pay to the purchaser \$33.

5 Requisitions

- If the purchaser is or becomes entitled to make a *requisition*, the purchaser can make it only by *servicing* it -
- 5.1 if it arises out of this contract or it is a general question about the *property* or title - *within 21 days* after the contract date;
- 5.2 if it arises out of anything *served* by the vendor - *within 21 days* after the later of the contract date and that *service*; and
- 5.3 in any other case - *within a reasonable time*.

6 Error or misdescription

- 6.1 The purchaser can (but only before completion) claim compensation for an error or misdescription in this contract (as to the *property*, the title or anything else and whether substantial or not).
- 6.2 This clause applies even if the purchaser did not take notice of or rely on anything in this contract containing or giving rise to the error or misdescription.
- 6.3 However, this clause does not apply to the extent the purchaser knows the true position.

7 Claims by purchaser

The purchaser can make a claim (including a claim under clause 6) before completion only by *servicing* it with a statement of the amount claimed, and if the purchaser makes one or more claims before completion -

- 7.1 the vendor can *rescind* if in the case of claims that are not claims for delay -
- 7.1.1 the total amount claimed exceeds 5% of the price;
 - 7.1.2 the vendor *serves* notice of intention to *rescind*; and
 - 7.1.3 the purchaser does not *serve* notice waiving the claims *within* 14 days after that *service*; and
- 7.2 if the vendor does not *rescind*, the *parties* must complete and if this contract is completed -
- 7.2.1 the lesser of the total amount claimed and 10% of the price must be paid out of the price to and held by the *depositholder* until the claims are finalised or lapse;
 - 7.2.2 the amount held is to be invested in accordance with clause 2.9;
 - 7.2.3 the claims must be finalised by an arbitrator appointed by the *parties* or, if an appointment is not made *within* 1 month of completion, by an arbitrator appointed by the President of the Law Society at the request of a *party* (in the latter case the *parties* are bound by the terms of the Conveyancing Arbitration Rules approved by the Law Society as at the date of the appointment);
 - 7.2.4 the purchaser is not entitled, in respect of the claims, to more than the total amount claimed and the costs of the purchaser;
 - 7.2.5 net interest on the amount held must be paid to the *parties* in the same proportion as the amount held; and
 - 7.2.6 if the *parties* do not appoint an arbitrator and neither *party* requests the President to appoint an arbitrator *within* 3 months after completion, the claims lapse.

8 Vendor's right to rescind

The vendor can *rescind* if -

- 8.1 the vendor is, on reasonable grounds, unable or unwilling to comply with a *requisition*;
- 8.2 the vendor *serves* a notice of intention to *rescind* that specifies the *requisition* and those grounds; and
- 8.3 the purchaser does not *serve* a notice waiving the *requisition within* 14 days after that *service*.

9 Purchaser's default

If the purchaser does not comply with this contract (or a notice under or relating to it) in an essential respect, the vendor can *terminate* by *servicing* a notice. After the *termination* the vendor can -

- 9.1 keep or recover the deposit (to a maximum of 10% of the price);
- 9.2 hold any other money paid by the purchaser under this contract as security for anything recoverable under this clause-
 - 9.2.1 for 12 months after the *termination*; or
 - 9.2.2 if the vendor commences proceedings under this clause *within* 12 months, until those proceedings are concluded; and
- 9.3 sue the purchaser either -
 - 9.3.1 where the vendor has resold the *property* under a contract made *within* 12 months after the *termination*, to recover -
 - the deficiency on resale (with credit for any of the deposit kept or recovered and after allowance for any capital gains tax or goods and services tax payable on anything recovered under this clause); and
 - the reasonable costs and expenses arising out of the purchaser's non-compliance with this contract or the notice and of resale and any attempted resale; or
 - 9.3.2 to recover damages for breach of contract.

10 Restrictions on rights of purchaser

- 10.1 The purchaser cannot make a claim or *requisition* or *rescind* or *terminate* in respect of -
- 10.1.1 the ownership or location of any fence as defined in the Dividing Fences Act 1991;
 - 10.1.2 a service for the *property* being a joint service or passing through another property, or any service for another property passing through the *property* ('service' includes air, communication, drainage, electricity, garbage, gas, oil, radio, sewerage, telephone, television or water service);
 - 10.1.3 a wall being or not being a party wall in any sense of that term or the *property* being affected by an easement for support or not having the benefit of an easement for support;
 - 10.1.4 any change in the *property* due to fair wear and tear before completion;
 - 10.1.5 a promise, representation or statement about this contract, the *property* or the title, not set out or referred to in this contract;
 - 10.1.6 a condition, exception, reservation or restriction in a Crown grant;
 - 10.1.7 the existence of any authority or licence to explore or prospect for gas, minerals or petroleum;
 - 10.1.8 any easement or restriction on use the substance of either of which is disclosed in this contract or any non-compliance with the easement or restriction on use; or
 - 10.1.9 anything the substance of which is disclosed in this contract (except a caveat, charge, mortgage or writ).
- 10.2 The purchaser cannot *rescind* or *terminate* only because of a defect in title to or quality of the inclusions.
- 10.3 *Normally*, the purchaser cannot make a claim or *requisition* or *rescind* or *terminate* or require the vendor to change the nature of the title disclosed in this contract (for example, to remove a caution evidencing qualified title, or to lodge a plan of survey as regards limited title).

11 Compliance with work orders

- 11.1 *Normally*, the vendor must by completion comply with a *work order* made on or before the contract date and if this contract is completed the purchaser must comply with any other *work order*.
- 11.2 If the purchaser complies with a *work order*, and this contract is *rescinded* or *terminated*, the vendor must pay the expense of compliance to the purchaser.

12 Certificates and inspections

- The vendor must do everything reasonable to enable the purchaser, subject to the rights of any tenant -
- 12.1 to have the *property* inspected to obtain any certificate or report reasonably required;
- 12.2 to apply (if necessary in the name of the vendor) for -
- 12.2.1 any certificate that can be given in respect of the *property* under *legislation*; or
- 12.2.2 a copy of any approval, certificate, consent, direction, notice or order in respect of the *property* given under *legislation*, even if given after the contract date; and
- 12.3 to make 1 inspection of the *property* in the 3 days before a time appointed for completion.

13 Goods and services tax (GST)

- 13.1 In this clause, enterprise, input tax credit, margin scheme, supply of a going concern, tax invoice and taxable supply have the same meanings as in the *GST Act*.
- 13.2 *Normally*, if a *party* must pay the price or any other amount to the other *party* under this contract, GST is not to be added to the price or amount.
- 13.3 If under this contract a *party* must make an adjustment, pay an expense of another party or pay an amount payable by or to a third party (for example, under clauses 14 or 20.7) -
- 13.3.1 the *party* must adjust or pay on completion any GST added to or included in the amount; but
- 13.3.2 if this contract says this sale is a taxable supply, and payment would entitle the *party* to an input tax credit, the adjustment or payment is to be worked out by deducting any input tax credit to which the party receiving the adjustment is or was entitled and adding the *GST rate*.
- 13.4 If this contract says this sale is the supply of a going concern -
- 13.4.1 the *parties* agree the supply of the *property* is a supply of a going concern;
- 13.4.2 the vendor must, between the contract date and completion, carry on the enterprise conducted on the land in a proper and business-like way;
- 13.4.3 if the purchaser is not registered by the completion date, the *parties* must complete and the purchaser must pay on completion, in addition to the price, an amount being the price multiplied by the *GST rate* ("the retention sum"). The retention sum is to be held by the *depositholder* and dealt with as follows:
- if *within* 3 months of completion the purchaser *serves* a letter from the Australian Taxation Office stating the purchaser is registered, the *depositholder* is to pay the retention sum to the purchaser; but
 - if the purchaser does not *serve* that letter *within* 3 months of completion, the *depositholder* is to pay the retention sum to the vendor; and
- 13.4.4 if the vendor, despite clause 13.4.1, *serves* a letter from the Australian Taxation Office stating the vendor has to pay GST on the supply, the purchaser must pay to the vendor on demand the amount of GST assessed.
- 13.5 *Normally*, the vendor promises the margin scheme will not apply to the supply of the *property*.
- 13.6 If this contract says the margin scheme is to apply in making the taxable supply, the parties agree that the margin scheme is to apply to the sale of the *property*.
- 13.7 If this contract says the sale is not a taxable supply -
- 13.7.1 the purchaser promises that the *property* will not be used and represents that the purchaser does not intend the *property* (or any part of the *property*) to be used in a way that could make the sale a taxable supply to any extent; and
- 13.7.2 the purchaser must pay the vendor on completion in addition to the price an amount calculated by multiplying the price by the *GST rate* if this sale is a taxable supply to any extent because of -
- a breach of clause 13.7.1; or
 - something else known to the purchaser but not the vendor.
- 13.8 If this contract says this sale is a taxable supply in full and does not say the margin scheme applies to the *property*, the vendor must pay the purchaser on completion an amount of one-eleventh of the price if -
- 13.8.1 this sale is not a taxable supply in full; or
- 13.8.2 the margin scheme applies to the *property* (or any part of the *property*).
- 13.9 If this contract says this sale is a taxable supply to an extent -
- 13.9.1 clause 13.7.1 does not apply to any part of the *property* which is identified as being a taxable supply; and
- 13.9.2 the payments mentioned in clauses 13.7 and 13.8 are to be recalculated by multiplying the relevant payment by the proportion of the price which represents the value of that part of the *property* to which the clause applies (the proportion to be expressed as a number between 0 and 1). Any evidence of value must be obtained at the expense of the vendor.
- 13.10 *Normally*, on completion the vendor must give the recipient of the supply a tax invoice for any taxable supply by the vendor by or under this contract.
- 13.11 The vendor does not have to give the purchaser a tax invoice if the margin scheme applies to a taxable supply.

14 Adjustments

- 14.1 *Normally*, the vendor is entitled to the rents and profits and will be liable for all rates, water, sewerage and drainage service and usage charges, land tax and all other periodic outgoings up to and including the *adjustment date* after which the purchaser will be entitled and liable.
- 14.2 The *parties* must make any necessary adjustment on completion.
- 14.3 If an amount that is adjustable under this contract has been reduced under *legislation*, the *parties* must on completion adjust the reduced amount.
- 14.4 The *parties* must adjust land tax for the year current at the *adjustment date* -
- 14.4.1 only if land tax has been paid or is payable for the year (whether by the vendor or by a predecessor in title) and this contract says that land tax is adjustable;
- 14.4.2 by adjusting the amount that would have been payable if at the start of the year -
- the person who owned the land owned no other land;
 - the land was not subject to a special trust or owned by a non-concessional company; and
 - if the land (or part of it) had no separate taxable value, by calculating its separate taxable value on a proportional area basis.
- 14.5 If any other amount that is adjustable under this contract relates partly to the land and partly to other land, the *parties* must adjust it on a proportional area basis.
- 14.6 *Normally*, the vendor can direct the purchaser to produce a *settlement cheque* on completion to pay an amount adjustable under this contract and if so -
- 14.6.1 the amount is to be treated as if it were paid; and
- 14.6.2 the *cheque* must be forwarded to the payee immediately after completion (by the purchaser if the *cheque* relates only to the *property* or by the vendor in any other case).
- 14.7 If on completion the last bill for a water, sewerage or drainage usage charge is for a period ending before the *adjustment date*, the vendor is liable for an amount calculated by dividing the bill by the number of days in the period then multiplying by the number of unbilled days up to and including the *adjustment date*.
- 14.8 The vendor is liable for any amount recoverable for work started on or before the contract date on the *property* or any adjoining footpath or road.

15 Completion date

The *parties* must complete by the completion date and, if they do not, a *party* can serve a notice to complete if that *party* is otherwise entitled to do so.

16 Completion• **Vendor**

- 16.1 On completion the vendor must give the purchaser any *document of title* that relates only to the *property*.
- 16.2 If on completion the vendor has possession or control of a *document of title* that relates also to other property, the vendor must produce it as and where necessary.
- 16.3 *Normally*, on completion the vendor must cause the legal title to the *property* (being an estate in fee simple) to pass to the purchaser free of any mortgage or other interest, subject to any necessary registration.
- 16.4 The legal title to the *property* does not pass before completion.
- 16.5 If the vendor gives the purchaser a document (other than the transfer) that needs to be lodged for registration, the vendor must pay the lodgment fee to the purchaser, plus another 20% of that fee.
- 16.6 If the purchaser *serves* a land tax certificate showing a charge on any of the land, on completion the vendor must give the purchaser a land tax certificate showing the charge is no longer effective against the land.

• **Purchaser**

- 16.7 On completion the purchaser must pay to the vendor, by cash (up to \$2,000) or *settlement cheque*, the price (less any deposit paid) and any other amount payable by the purchaser under this contract (less any amount payable by the vendor to the purchaser under this contract).
- 16.8 If the vendor requires more than 5 *settlement cheques*, the vendor must pay \$10 for each extra *cheque*.
- 16.9 If any of the deposit is not covered by a bond or guarantee, on completion the purchaser must give the vendor an order signed by the purchaser authorising the *depositholder* to account to the vendor for the deposit.
- 16.10 On completion the deposit belongs to the vendor.

• **Place for completion**

- 16.11 *Normally*, the *parties* must complete at the completion address, which is -
- 16.11.1 if a special completion address is stated in this contract - that address; or
- 16.11.2 if none is stated, but a first mortgagee is disclosed in this contract and the mortgagee would usually discharge the mortgage at a particular place - that place; or
- 16.11.3 in any other case - the vendor's *solicitor's* address stated in this contract.
- 16.12 The vendor by reasonable notice can require completion at another place, if it is in NSW, but the vendor must pay the purchaser's additional expenses, including any agency or mortgagee fee.
- 16.13 If the purchaser requests completion at a place that is not the completion address, and the vendor agrees, the purchaser must pay the vendor's additional expenses, including any agency or mortgagee fee.

17 Possession

- 17.1 *Normally*, the vendor must give the purchaser vacant possession of the *property* on completion.
- 17.2 The vendor does not have to give vacant possession if -

- 17.2.1 this contract says that the sale is subject to existing tenancies; and
 17.2.2 the contract discloses the provisions of the tenancy (for example, by attaching a copy of the lease and any relevant memorandum or variation).
- 17.3 *Normally*, the purchaser can claim compensation (before or after completion) or *rescind* if any of the land is affected by a protected tenancy (a tenancy affected by Part 2, 3, 4 or 5 Landlord and Tenant (Amendment) Act 1948).

18 Possession before completion

- 18.1 This clause applies only if the vendor gives the purchaser possession of the *property* before completion.
- 18.2 The purchaser must not before completion -
- 18.2.1 let or part with possession of any of the *property*;
 18.2.2 make any change or structural alteration or addition to the *property*; or
 18.2.3 contravene any agreement between the *parties* or any direction, document, *legislation*, notice or order affecting the *property*.
- 18.3 The purchaser must until completion -
- 18.3.1 keep the *property* in good condition and repair having regard to its condition at the giving of possession; and
 18.3.2 allow the vendor or the vendor's authorised representative to enter and inspect it at all reasonable times.
- 18.4 The risk as to damage to the *property* passes to the purchaser immediately after the purchaser enters into possession.
- 18.5 If the purchaser does not comply with this clause, then without affecting any other right of the vendor -
- 18.5.1 the vendor can before completion, without notice, remedy the non-compliance; and
 18.5.2 if the vendor pays the expense of doing this, the purchaser must pay it to the vendor with interest at the rate mentioned in Schedule J of the Supreme Court Rules 1970.
- 18.6 If this contract is *rescinded* or *terminated* the purchaser must immediately vacate the *property*.
- 18.7 If the *parties* or their *solicitors* on their behalf do not agree in writing to a fee or rent, none is payable.

19 Rescission of contract

- 19.1 If this contract expressly gives a *party* a right to *rescind*, the *party* can exercise the right -
- 19.1.1 only by *serving* a notice before completion; and
 19.1.2 in spite of any making of a claim or *requisition*, any attempt to satisfy a claim or *requisition*, any arbitration, litigation, mediation or negotiation or any giving or taking of possession.
- 19.2 *Normally*, if a *party* exercises a right to *rescind* expressly given by this contract or any *legislation* -
- 19.2.1 the deposit and any other money paid by the purchaser under this contract must be refunded;
 19.2.2 a *party* can claim for a reasonable adjustment if the purchaser has been in possession;
 19.2.3 a *party* can claim for damages, costs or expenses arising out of a breach of this contract; and
 19.2.4 a *party* will not otherwise be liable to pay the other *party* any damages, costs or expenses.

20 Miscellaneous

- 20.1 The *parties* acknowledge that anything stated in this contract to be attached was attached to this contract by the vendor before the purchaser signed it and is part of this contract.
- 20.2 Anything attached to this contract is part of this contract.
- 20.3 An area, bearing or dimension in this contract is only approximate.
- 20.4 If a *party* consists of 2 or more persons, this contract benefits and binds them separately and together.
- 20.5 A *party's solicitor* can receive any amount payable to the *party* under this contract or direct in writing that it is to be paid to another person.
- 20.6 A document under or relating to this contract is -
- 20.6.1 signed by a *party* if it is signed by the *party* or the *party's solicitor* (apart from a direction under clause 4.3);
 20.6.2 *served* if it is *served* by the *party* or the *party's solicitor*;
 20.6.3 *served* if it is *served* on the *party's solicitor*, even if the *party* has died or any of them has died;
 20.6.4 *served* if it is *served* in any manner provided in s170 of the Conveyancing Act 1919;
 20.6.5 *served* if it is sent by fax to the *party's solicitor*, unless it is not received;
 20.6.6 *served* on a person if it (or a copy of it) comes into the possession of the person; and
 20.6.7 *served* at the earliest time it is *served*, if it is *served* more than once.
- 20.7 An obligation to pay an expense of another *party* of doing something is an obligation to pay -
- 20.7.1 if the *party* does the thing personally - the reasonable cost of getting someone else to do it; or
 20.7.2 if the *party* pays someone else to do the thing - the amount paid, to the extent it is reasonable.
- 20.8 Rights under clauses 11, 13, 14, and 17 continue after completion, whether or not other rights continue.
- 20.9 The vendor does not promise, represent or state that the purchaser has any cooling off rights.
- 20.10 The vendor does not promise, represent or state that any attached survey report is accurate or current.
- 20.11 A reference to any *legislation* includes a reference to any corresponding later *legislation*.
- 20.12 Each *party* must do whatever is necessary after completion to carry out the *party's* obligations under this contract.
- 20.13 Neither taking possession nor *servicing* a transfer of itself implies acceptance of the *property* or the title.
- 20.14 The details and information provided in this contract (for example, on page 1) are, to the extent of each *party's* knowledge, true, and are part of this contract.
- 20.15 Where this contract provides for choices, a choice in BLOCK CAPITALS applies unless a different choice is marked.

21 Time limits in these provisions

- 21.1 If the time for something to be done or to happen is not stated in these provisions, it is a reasonable time.
- 21.2 If there are conflicting times for something to be done or to happen, the latest of those times applies.

- 21.3 The time for one thing to be done or to happen does not extend the time for another thing to be done or to happen.
- 21.4 If the time for something to be done or to happen is the 29th, 30th or 31st day of a month, and the day does not exist, the time is instead the last day of the month.
- 21.5 If the time for something to be done or to happen is a day that is not a *business day*, the time is extended to the next *business day*, except in the case of clause 2 (deposit).
- 21.6 *Normally*, the time by which something must be done is fixed but not essential.
- 22 Foreign Acquisitions and Takeovers Act 1975**
- 22.1 The purchaser promises that the Commonwealth Treasurer cannot prohibit and has not prohibited the transfer under the Foreign Acquisitions and Takeovers Act 1975.
- 22.2 This promise is essential and a breach of it entitles the vendor to *terminate*.
- 23 Strata or community title**
- 23.1 This clause applies only if the land (or part of it) is a lot in a strata, neighbourhood, precinct or community scheme (or on completion is to be a lot in a scheme of that kind).
- 23.2 In this contract -
- 'change', in relation to a scheme, means -
- a registered or registrable change from by-laws set out in this contract or set out in *legislation* and specified in this contract;
 - a change from a development or management contract or statement set out in this contract; or
 - a change in the boundaries of common property;
- 'common property' includes association property for the scheme or any higher scheme;
- 'contribution' includes an amount payable under a by-law;
- 'normal expenses', in relation to an owners corporation for a scheme, means normal operating expenses usually payable from the administrative fund of an owners corporation for a scheme of the same kind;
- 'owners corporation' means the owners corporation or the association for the scheme or any higher scheme;
- 'the *property*' includes any interest in common property for the scheme associated with the lot;
- 'special expenses', in relation to an owners corporation, means its actual, contingent or expected expenses, except to the extent they are normal expenses, due to fair wear and tear, disclosed in this contract or covered by moneys held in the sinking fund.
- 23.3 Clauses 11, 14.8 and 18.4 do not apply to an obligation of the owners corporation, or to property insurable by it.
- 23.4 Clauses 14.4.2 and 14.5 apply but on a unit entitlement basis instead of an area basis.
- 23.5 The *parties* must adjust under clause 14.1 -
- 23.5.1 a regular periodic contribution;
- 23.5.2 a contribution which is not a regular periodic contribution but is disclosed in this contract; and
- 23.5.3 on a unit entitlement basis, any amount paid by the vendor for a normal expense of the owners corporation to the extent the owners corporation has not paid the amount to the vendor.
- 23.6 If a contribution is not a regular periodic contribution and is not disclosed in this contract -
- 23.6.1 the vendor is liable for it if it was levied before the contract date (unless it relates to work not started by that date), even if it is payable by instalments;
- 23.6.2 the vendor is also liable for it to the extent it relates to work started by the owners corporation before the contract date; and
- 23.6.3 the purchaser is liable for all other contributions levied after the *contract date*.
- 23.7 The vendor must pay or allow to the purchaser on completion the amount of any unpaid contributions for which the vendor is liable under clause 23.6.
- 23.8 *Normally*, the purchaser cannot make a claim or *requisition* or *rescind* or *terminate* in respect of -
- 23.8.1 an existing or future actual, contingent or expected expense of the owners corporation;
- 23.8.2 a proportional unit entitlement of the lot or a relevant lot or former lot, apart from a claim under clause 6; or
- 23.8.3 a past or future change in the scheme or a higher scheme.
- 23.9 However, the purchaser can *rescind* if -
- 23.9.1 the special expenses of the owners corporation at the later of the contract date and the creation of the owners corporation when calculated on a unit entitlement basis (and, if more than one lot or a higher scheme is involved, added together), less any contribution paid by the vendor, are more than 1% of the price;
- 23.9.2 in the case of the lot or a relevant lot or former lot in a higher scheme -
- a proportional unit entitlement for the lot is not disclosed in this contract; or
 - a proportional unit entitlement for the lot is disclosed in this contract but the lot has a different proportional unit entitlement at the contract date or at any time before completion; or
- 23.9.3 a change before the contract date or before completion in the scheme or a higher scheme substantially disadvantages the purchaser and is not disclosed in this contract.
- 23.10 The purchaser must give the vendor 2 copies of a proper form of notice of the transfer of the lot addressed to the owners corporation and signed by the purchaser.
- 23.11 The vendor must complete and sign 1 copy of the notice and give it to the purchaser on completion.
- 23.12 Each *party* can sign and give the notice as agent for the other.
- 23.13 The vendor must *serve* a certificate under section 109 Strata Schemes Management Act 1996 or section 26 Community Land Management Act 1989 in relation to the lot, the scheme or any higher scheme at least 7 days before the completion date.

- 23.14 The purchaser does not have to complete earlier than 7 days after *service* of the certificate and clause 21.3 does not apply to this provision.
- 23.15 On completion the purchaser must pay the vendor the prescribed fee for the certificate.
- 23.16 The vendor authorises the purchaser to apply for the purchaser's own certificate.
- 23.17 The vendor authorises the purchaser to apply for and make an inspection of any record or other document in the custody or control of the owners corporation or relating to the scheme or any higher scheme.
- 23.18 If a general meeting of the owners corporation is convened before completion -
- 23.18.1 if the vendor receives notice of it, the vendor must immediately notify the purchaser of it; and
- 23.18.2 the purchaser can require the vendor to appoint the purchaser (or the purchaser's nominee) to exercise any voting rights of the vendor in respect of the lot at the meeting.

24 Tenancies

- 24.1 If a tenant has not made a payment for a period preceding or current at the *adjustment date* -
- 24.1.1 for the purposes of clause 14.2, the amount is to be treated as if it were paid; and
- 24.1.2 the purchaser assigns the debt to the vendor on completion and will if required give a further assignment at the vendor's expense.
- 24.2 If a tenant has paid in advance of the *adjustment date* any periodic payment in addition to rent, it must be adjusted as if it were rent for the period to which it relates.
- 24.3 If the *property* is to be subject to a tenancy on completion or is subject to a tenancy on completion -
- 24.3.1 the vendor authorises the purchaser to have any accounting records relating to the tenancy inspected and audited and to have any other document relating to the tenancy inspected;
- 24.3.2 the vendor must *serve* any information about the tenancy reasonably requested by the purchaser before or after completion; and
- 24.3.3 *normally*, the purchaser can claim compensation (before or after completion) if -
- any of Parts 2 to 7 of the Retail Leases Act 1994 applies to the tenancy, unless this contract discloses that the tenancy commenced on or after 1 August 1994;
 - a disclosure statement required by the Act was not given when required;
 - such a statement contained information that was materially false or misleading;
 - a provision of the lease is not enforceable because of a non-disclosure in such a statement; or
 - the lease was entered into in contravention of the Act.
- 24.4 If the *property* is subject to a tenancy on completion -
- 24.4.1 the vendor must allow or transfer -
- any remaining bond money or any other security against the tenant's default (to the extent the security is transferable);
 - any money in a fund established under the lease for a purpose and compensation for any money in the fund or interest earned by the fund that has been applied for any other purpose;
 - any money paid by the tenant for a purpose that has not been applied for that purpose and compensation for any of the money that has been applied for any other purpose; and
- 24.4.2 if the security is not transferable, each *party* must do everything reasonable to cause a replacement security to issue for the benefit of the purchaser and the vendor must hold the original security on trust for the benefit of the purchaser until the replacement security issues;
- 24.4.3 the vendor must give to the purchaser -
- a proper notice of the transfer addressed to the tenant;
 - any certificate given under the Retail Leases Act 1994 in relation to the tenancy;
 - a copy of any disclosure statement given to the tenant under the Retail Leases Act 1994;
 - a copy of any document served on the tenant under the lease and written details of its service, if the document concerns the rights of the landlord or the tenant after completion; and
 - any document served by the tenant under the lease and written details of its service, if the document concerns the rights of the landlord or the tenant after completion;
- 24.4.4 the vendor must comply with any obligation to the tenant under the lease, to the extent it is to be complied with by completion; and
- 24.4.5 the purchaser must comply with any obligation to the tenant under the lease, to the extent that the obligation is disclosed in this contract and is to be complied with after completion.
- 24.5 Rights under this clause continue after completion, whether or not other rights continue.

25 Qualified title, limited title and old system title

- 25.1 This clause applies only if the land (or part of it) -
 25.1.1 is under qualified, limited or old system title; or
 25.1.2 on completion is to be under one of those titles.
- 25.2 The vendor must *serve* a proper abstract of title *within* 7 days after the contract date.
- 25.3 If an abstract of title or part of an abstract of title is attached to this contract or has been lent by the vendor to the purchaser before the contract date, the abstract or part is *served* on the contract date.
- 25.4 An abstract of title can be or include a list of documents, events and facts arranged (apart from a will or codicil) in date order, if the list in respect of each document -
 25.4.1 shows its date, general nature, names of parties and any registration number; and
 25.4.2 has attached a legible photocopy of it or of an official or registration copy of it.
- 25.5 An abstract of title -
 25.5.1 must start with a good root of title (if the good root of title must be at least 30 years old, this means 30 years old at the contract date);
 25.5.2 in the case of a leasehold interest, must include an abstract of the lease and any higher lease;
 25.5.3 *normally*, need not include a Crown grant; and
 25.5.4 need not include anything evidenced by the Register kept under the Real Property Act 1900.
- 25.6 In the case of land under old system title -
 25.6.1 in this contract 'transfer' means conveyance;
 25.6.2 the purchaser does not have to *serve* the form of transfer until after the vendor has *served* a proper abstract of title; and
 25.6.3 each vendor must give proper covenants for title as regards that vendor's interest.
- 25.7 In the case of land under limited title but not under qualified title -
 25.7.1 *normally*, the abstract of title need not include any document which does not show the location, area or dimensions of the land (for example, by including a metes and bounds description or a plan of the land);
 25.7.2 clause 25.7.1 does not apply to a document which is the good root of title; and
 25.7.3 the vendor does not have to provide an abstract if this contract contains a delimitation plan (whether in registrable form or not).
- 25.8 The vendor must give a proper covenant to produce where relevant.
- 25.9 The vendor does not have to produce or covenant to produce a document that is not in the possession of the vendor or a mortgagee.
- 25.10 If the vendor is unable to produce an original document in the chain of title, the purchaser will accept a photocopy from the Registrar General of the registration copy of that document.

26 Crown purchase money

- 26.1 This clause applies only if purchase money is payable to the Crown, whether or not due for payment.
- 26.2 The vendor is liable for the money, except to the extent this contract says the purchaser is liable for it.
- 26.3 To the extent the vendor is liable for it, the vendor is liable for any interest until completion.
- 26.4 To the extent the purchaser is liable for it, the *parties* must adjust any interest under clause 14.1.

27 Consent to transfer

- 27.1 This clause applies only if the land (or part of it) is restricted title land (land that cannot be transferred without consent under *legislation*).
- 27.2 The purchaser must properly complete and then *serve* the purchaser's part of an application for consent to transfer of the land (or part of it) *within* 7 days after the contract date.
- 27.3 The vendor must apply for consent *within* 7 days after *service* of the purchaser's part.
- 27.4 If consent is refused, either *party* can *rescind*.
- 27.5 If consent is given subject to one or more conditions that will substantially disadvantage a *party*, then that *party* can *rescind* *within* 7 days after receipt by or *service* upon the *party* of written notice of the conditions.
- 27.6 If consent is not given or refused -
 27.6.1 *within* 42 days after the purchaser *serves* the purchaser's part of the application, the purchaser can *rescind*;
 or
 27.6.2 *within* 30 days after the application is made, either *party* can *rescind*.
- 27.7 If the *legislation* is the Western Lands Act 1901 each period in clause 27.6 becomes 90 days.
- 27.8 If the land or part is described as a lot in an unregistered plan, each time in clause 27.6 becomes the later of the time and 35 days after creation of a separate folio for the lot.
- 27.9 The completion date becomes the later of the completion date and 14 days after *service* of the notice granting consent to transfer.

28 Unregistered plan

- 28.1 This clause applies only if some of the land is described as a lot in an unregistered plan.
- 28.2 The vendor must do everything reasonable to have the plan registered *within* 6 months after the contract date, with or without any minor alteration to the plan or any document to be lodged with the plan validly required or made under *legislation*.

- 28.3 If the plan is not registered *within* that time and in that manner -
- 28.3.1 the purchaser can *rescind*; and
- 28.3.2 the vendor can *rescind*, but only if the vendor has complied with clause 28.2.
- 28.4 Either *party* can serve notice of the registration of the plan and every relevant lot and plan number.
- 28.5 The completion date becomes the later of the completion date and 21 days after *service* of the notice.
- 28.6 Clauses 28.2 and 28.3 apply to a plan that is to be registered before the plan is registered.
- 29 Conditional contract**
- 29.1 This clause applies only if a provision says this contract or completion is conditional on an event.
- 29.2 If the time for the event to happen is not stated, the time is 42 days after the contract date.
- 29.3 If this contract says the provision is for the benefit of a *party*, then it benefits only that *party*.
- 29.4 If anything is necessary to make the event happen, each *party* must do whatever is reasonably necessary to cause the event to happen.
- 29.5 A *party* can *rescind* under this clause only if the *party* has substantially complied with clause 29.4.
- 29.6 If the event involves an approval and the approval is given subject to a condition that will substantially disadvantage a *party* who has the benefit of the provision, the *party* can *rescind* *within* 7 days after either *party* serves notice of the condition.
- 29.7 If the *parties* can lawfully complete without the event happening -
- 29.7.1 if the event does not happen *within* the time for it to happen, a *party* who has the benefit of the provision can *rescind* *within* 7 days after the end of that time;
- 29.7.2 if the event involves an approval and an application for the approval is refused, a *party* who has the benefit of the provision can *rescind* *within* 7 days after either *party* serves notice of the refusal;
- 29.7.3 the completion date becomes the later of the completion date and 21 days after the earliest of -
- either *party* serving notice of the event happening;
 - every *party* who has the benefit of the provision serving notice waiving the provision;
 - the end of the time for the event to happen.
- 29.8 If the *parties* cannot lawfully complete without the event happening -
- 29.8.1 if the event does not happen *within* the time for it to happen, either *party* can *rescind*;
- 29.8.2 if the event involves an approval and an application for the approval is refused, either *party* can *rescind*;
- 29.8.3 the completion date becomes the later of the completion date and 21 days after either *party* serves notice of the event happening.
- 29.9 A *party* cannot *rescind* under clauses 29.7 or 29.8 after the event happens.

Additional clauses forming part of this contract

Dated:

between:

(vendor)

and:

(purchaser)

Interpretation

The terms of the printed Contract to which these additional conditions are annexed shall be read subject to the following. If there is a conflict between these additional conditions and the printed Contract, then these additional conditions shall prevail. The parties agree that should any provision be held contrary to law, void or unenforceable, then such provision shall be severed from this contract and such remaining provision shall remain in force and effect.

30 Alterations to printed form

- 30.1 Clause 7.1.1 of this contract is amended by deleting the words '5% of the price' and inserting '\$1' in their place.
- 30.2 Clause 16.5 is amended by deleting "plus another 20% of that fee".
- 30.3 Clause 24.3.3 of this contract is deleted.
- 30.4 Clause 29 of this contract is deleted.
- 30.5 Clause 14.4.2 of the Contract is amended by deleting it entirely and replacing with "by adjusting the actual Land Tax assessed for the subject property for the year in which this Contract is completed, or, if no separate assessment is available by calculating its separate taxable value on a proportional area basis."
- 30.6 Clause 16.5 is amended by deleting "plus another 20% of that fee".
- 30.7 Clause 18 is amended by the addition of "The Purchaser cannot make a claim or requisition or delay Settlement after entering into possession of the property".
- 30.8 Clause 25 is deleted.

31 Whole agreement

In entering into this contract, the purchaser does not rely upon any warranty, representation or statement (whether oral or written) made or published by the vendor or by any person on behalf of the vendor or otherwise except such as are expressly made in this contract.

32 Real estate agents

The purchaser was not introduced to the *property* or the vendor by any real estate agent or other person entitled to claim commission as a result of this sale (other than the vendor's agent or co-agent, if any, specified in this contract). The purchaser will

indemnify the vendor against any claim for commission by any real estate agent or other person arising out of an introduction of the purchaser and against all claims and expenses for the defence and determination of such a claim made against the vendor. This right continues after completion.

33 Notice to complete

Despite any rule of law or equity to the contrary, the vendor and the purchaser agree that any notice to complete under this contract will be reasonable as to time if a period of 14 days from the date of service of the notice is allowed for completion. If the Completion does not take place though no fault of vendor, then the Purchaser shall pay to the vendor as an adjustment on completion the sum of \$330 to cover legal costs and expenses in relation to issuing a Notice to Complete to the Purchaser.

34 Condition of property

The purchaser accepts the *property* in its present condition and state of repair with all faults latent and patent subject to fair wear and tear as provided in clause 10.1.4 and the purchaser cannot make a claim or *requisition* or *rescind* or *terminate* in this regard.

35 Capacity

35.1 Without in any way limiting, negating or restricting any rights or remedies which would have been available to either *party* at law or in equity had this clause not been included, if either *party* (and if more than one person comprises that first *party* then any one of them) prior to completion:

35.1.1 dies or becomes mentally ill, then the other *party* may *rescind* this contract by written notice to the first *party's* *solicitor* and thereupon this contract will be at an end and the provisions of clause 19 apply; or

35.1.2 being a company, has a summons or application for its winding up presented or has a liquidator, receiver or voluntary administrator of it appointed, or enters into any deed of company arrangement or scheme of arrangement with its creditors, then the first *party* will be in default under this contract.

35.2 The purchaser promises that the purchaser has the legal capacity to enter into this contract.

36 Late completion

Provided that the vendor is ready, willing and able to give title to the purchaser, if this contract is not completed for any reason (other than the vendor's default) on or before the Completion date then in addition to any other right which the vendor may have under this contract or otherwise the purchaser will on completion of this contract pay to the vendor interest on the balance of the purchase price at the rate of 12% per annum calculated on daily balances, commencing on the Completion date and continuing until completion of this contract. This interest is a genuine pre-estimate of

liquidated damages and will be deemed to be part of the balance of purchase money due and payable on completion.

37 Swimming pool

The purchaser cannot make a claim or *requisition* or *rescind* or *terminate* if the swimming pool on the *property* does not comply with the requirements of the *Swimming Pools Act 1992*.

38 Smoke alarms

The purchaser cannot make a claim or *requisition* or *rescind* or *terminate* should the vendor not have complied with the provisions of the regulations under the *Environmental Planning and Assessment Act 1979* relating to the installation of smoke alarms in the *property*.

39. GOOD AND SERVICES TAX

39.1 In this clause:

39.1.1 Expressions that have particular meanings in the GST Law take those meanings;

39.1.2 "GST" means the goods and services tax as provided for by GST Law;

39.1.3 "Rate of GST" means the rate of GST relevant for the purposes of the GST Law as at the date of completion of this Contract;

39.1.4 "GST Law" means the A New Tax System (Goods and Services Tax) Act 1999 as amended or replaced from time to time and also includes and associates legislation (including the Taxation Administration Act 1953 and delegated legislation).

39.2 The Vendor and Purchaser agree that the sale of the property under this contract and each supply, including the supply of an enterprise of leasing the property ("the enterprise") made under or contemplated by this contract is, to the maximum extent possible, the supply by the vendor to the Purchaser of a going concern within the meaning of the section 38-325 of the A New Tax System (goods and Services Tax) Act 1999 and that the sale and each supply is GST-free.

39.3 The Purchaser warrants that:-

39.3.1 He is as at the date of this contract registered under GST Law;

39.3.2 No circumstances exist at the date of this contract which would require the Commissioner to cancel the registration; and

39.3.3 At all times until completion of the contracts they will continue to be so registered and no such circumstance will exist.

39.4 If before completion of this contract the purchaser's registration under the GST Law is cancelled or circumstances arise which would require the Commissioner to cancel the registration, then the Purchaser shall immediately notify the Vendor in writing of that fact.

40. Bonds or Bank Guarantees

If the Vendor accepts a bond or guarantee for the deposit ("bond") then this clause applies.

40.1 The delivery of the bond, upon or before the making of this contract shall be deemed for the purposes of this contract, payment of the deposit in accordance with the terms of the contract

40.2 The expiry date of the bond must not be earlier than the sunset date

40.3 If the bond has an expiry date the purchaser must, if completion has not taken place at least 2 months before that expiry date, promptly serve a replacement bond on the same terms and conditions as the original bond except that the bond must expire at least 6 months after the sunset date

40.4 The purchaser must pay the amount of the deposit in full to the vendor (or as the vendor directs) by unendorsed bank cheque on the earlier of:

(a) Completion; and

(b) The Vendor serving notice on the purchaser that the deposit is forfeited to the vendor

40.5 If the purchaser is in breach of clauses 40.3 or 40.4, the vendor may immediately and without notice to the purchaser demand payment of the deposit from the bond issuer.

41. Adjustments

The parties agree that if, on completion, any apportionment of payments due to be made under this contract is overlooked, or incorrectly calculated, they will forthwith upon being requested to do so by the other party, make a correct calculation and reimburse each other accordingly after settlement. This clause shall not merge on completion.

42. Requisitions

Notwithstanding any provision of this contract, the purchaser acknowledges that the vendor shall not be obliged to reply to the purchaser's requisitions unless:

- a. they are in the form attached hereto; or
- b. the requisitions properly arise from the vendor's replies to the purchaser's requisitions.

43. Transfer

- i. The purchaser or the purchaser's solicitor and/or conveyancer must serve the transfer under Power of Sale or Transfer on the vendor's solicitor within 14 days prior to the date of completion and in default thereof the purchaser must pay a fee of \$155.00 to the vendor's solicitor being the fee for arranging execution of the Transfer by the vendor.
- ii. In addition the purchaser must also pay interest pursuant to special condition 36 due to delay by the vendor being ready willing and able to complete the contract as a result of the purchaser being in default under sub-paragraph (i) of this special condition.

44. Foreign Persons

The purchaser warrants that the provisions of the Foreign Acquisitions and Takeovers Act 1975 requiring the obtaining of consent to this transaction do not apply to the purchaser and to this purchase.

In the event of there being a breach of this warranty whether deliberately or unintentional the purchaser agrees to indemnify and to compensate the vendor in respect of any loss, damage, penalty, fine or legal costs which may be incurred by the vendor as a consequence thereof.

This warranty and indemnity shall not merge on completion.

45. Reduced Deposit

If the Vendor agrees to accept a deposit less than 10% of the purchase price on the date of the Contract, then the Purchaser acknowledges:

- a. the Vendor has accepted the reduced deposit on the condition that the Purchaser duly observes and punctually performs the Purchaser's obligations under this Contract; and
- b. if the Purchaser defaults in the observance or performance of any of the Purchaser's obligations under the Contract, the Purchaser must pay to the

Vendor an additional amount being the balance of the 10% of the purchaser price; and

- c. if the Purchaser fails to pay the additional amount on demand by the Vendor, the Vendor may recover the additional amount from the Purchaser as a debt.

46. Release of Deposit

46.1 Notwithstanding any other clause in the contract, the purchaser hereby irrevocably authorizes the vendor's agent to release the deposit to the vendor.

46.2 This clause 46 is deemed sufficient authority for the agent to release the deposit to the vendor.

47. Sewerage Diagram

The Vendor discloses that the Sewer Diagram attached to the Contract for Sale is the only diagram available for the subject property and the purchaser will not be entitled to make any requisition, objection, claim for compensation nor attempt to delay completion or rescind this Contract in relation to same.

48. Land Tax Certificate

Clause 16.6 is as amended as follows:

If the Purchaser serves a Land Tax Certificate showing a charge on any of the land, On completion the Vendor must give to the Purchaser a Land Tax Certificate showing the charge is no longer effective against the land provided however, that the uncleared certificate is received not less than ten (10) business days prior to Settlement, otherwise the Purchaser must accept an undertaking on settlement that the Land Tax will be cleared within twenty (20) business days after settlement.

49 Sale by auction

- 49.1 If the property is or is intended to be sold at auction then *Bidders Record* means the Bidder Record to be kept under Regulation 18 of the *Property, Stock and Business Agents Regulation 2003* (NSW) and section 68 of the *Property, Stock and Business Agents Act 2002* (NSW).
- 49.2 The following conditions apply to a sale by auction of land:
- 49.2.1 the principal's reserve price must be given in writing to the auctioneer before the auction starts;
 - 49.2.2 a bid for the seller cannot be made unless the auctioneer has, before the start of the auction, announced clearly and precisely the number of bids that may be made by or on behalf of the seller;
 - 49.2.3 the highest bidder is the purchaser, subject to any reserve price;
 - 49.2.4 in the event of a disputed bid, the auctioneer is the sole arbitrator and the auctioneer's decision is final;
 - 49.2.5 the auctioneer may refuse to accept any bid that, in the auctioneer's opinion, is not in the best interests of the seller;
 - 49.2.6 a bidder is taken to be a principal unless, before bidding, the bidder has given to the auctioneer a copy of a written authority to bid for or on behalf of another person;
 - 49.2.7 a bid cannot be made or accepted after the fall of the hammer; and
 - 49.2.8 as soon as practicable after the fall of the hammer the purchaser is to sign the contract for the sale of the property.
- 49.3 The following conditions, in addition to those in special condition 49.2 above, apply to a sale by auction of residential property or rural land:
- 49.3.1 all bidders must be registered in the Bidders Record and display an identifying number when making a bid;
 - 49.3.2 subject to special condition 49.4 below, the auctioneer may make only one vendor bid at an auction for the sale of residential property or rural land and no other vendor bid may be made by the auctioneer or any other person; and
 - 49.3.3 immediately before making a vendor bid the auctioneer must

announce that the bid is made on behalf of the seller or announce “vendor bid”.

- 49.4 The following conditions, in addition to those in special conditions 49.1 and 49.2 above, apply to a sale by auction of co-owned residential property or rural land or the sale of such land by a seller as executor or administrator:
- 49.4.1 more than one vendor bid may be made to purchase the interest of a co-owner;
 - 49.4.2 a bid by or on behalf of an executor or administrator may be made to purchase in that capacity;
 - 49.4.3 before the start of the auction, the auctioneer must announce that bids to purchase the interest of another co-owner or to purchase as executor or administrator may be made by or on behalf of the seller; and
 - 49.4.4 before the start of the auction, the auctioneer must announce the bidder registration number of any co-owner, executor or administrator or any person registered to bid on behalf of any co-owner, executor or administrator.