

CONTRACT FOR SALE OF HOUSE AND LAND

(THIS CONTRACT CONSISTS OF PAGES 1 TO 7 AND ANY ATTACHMENTS)



The Seller and Buyer agree to be bound by this Contract.

Item Schedule

Item

1	DATE OF CONTRACT <i>Clause 1(9)</i>	THE _____ DAY OF _____ 20____ (Note: Seller/Seller's Agent must complete)
2	SELLER'S AGENT	Name: Jed McCormack Pty Ltd T/As Propertywise.com.au Address: 89 Bulcock Street ACN: 056209931 Caloundra, QLD, 4551 ABN: 1986250728 Phone: (07) 5492 5492 Fax: (07) 5492 9292 Mobile: () Email: caloundra@ljh.com.au Notices*: <input type="checkbox"/> License Number: 2301840 Expiry Date: 07/10/2010
3	SELLER <i>Note: If insufficient room list additional Names and Addresses in Item 22 (Special Conditions)</i> <i>Clauses 1(18), 10.1, 24 & 28.1</i>	Name: CORREEN MCCORMACK AND LINDSAY JOHN SWINDELLS Address: 89 BULCOCK STREET ACN: _____ CALOUNDRA QLD 4551 ABN: _____ Phone: () Fax: () Mobile: () Email: _____ Notices*: <input type="checkbox"/> Solicitor / Self Acting Address: _____ Phone: () Fax: () Mobile: () Email: _____ Contact: _____ Notices*: <input type="checkbox"/>
4	BUYER'S AGENT <i>(If Applicable)</i>	Name: _____ Address: _____ ACN: _____ ABN: _____ Phone: () Fax: () Mobile: () Email: _____ Notices*: <input type="checkbox"/>
5	BUYER <i>Note: If insufficient room list additional Names and Addresses in Item 22 (Special Conditions)</i> <i>Clauses 1(8), 9, 10, 11 & 21</i>	Name: _____ Address: _____ ACN: _____ ABN: _____ Phone: () Fax: () Mobile: () Email: _____ Notices*: <input type="checkbox"/> Solicitor / Self Acting Address: _____ Phone: () Fax: () Mobile: () Email: _____ Contact: _____ Notices*: <input type="checkbox"/>
6	LAND <i>Clauses 1(16), 18, 19 & 20</i>	Address: 3 KUTHAR STREET PELICAN WATERS QLD 4551 Lot No. 203 on Plan SP127953 Title Reference: 50314698 Area: 1000m2 (Approx.) Freehold <input checked="" type="checkbox"/> Leasehold <input type="checkbox"/> (Complete as Applicable. If neither checked, it is assumed to be Freehold) Local Government: Sunshine Coast Regional Council

* By checking the Notices box, that party agrees to receive appropriate Notices via email to the specified email address (Clause 29.1(e)).

7	PURCHASE PRICE <i>Unless otherwise stated in Special Conditions the Purchase Price includes GST. (WARNING: Some property sales may attract GST and require a tax invoice to be issued separate to this Contract. Seek appropriate professional advice if unsure). Clause 1(17)</i>	Figures \$ Words: (optional) <div style="border: 1px solid black; height: 100px; width: 100%;"></div>
8	DEPOSIT <i>Clause 3</i>	Initial Deposit: Payable: [Payable on signing of Contract, by Buyer] Balance Deposit: Payable by a date no later than:
9	DEPOSIT HOLDER <i>Clauses 3.1 & 3.5</i>	Propertywise Caloundra
10	FINANCE <i>Complete all details for Clause 5 to apply. Clauses 5 & 27.2</i>	Finance Amount: Finance Date: Lender:
11	INSPECTIONS <i>Complete for Clause 4 to apply. Clauses 4, 15 & 27</i>	Inspection Date: (Date to be completed by) Acknowledged Defects/Exclusions: <div style="border: 1px solid black; height: 50px; width: 100%;"></div>
12	SETTLEMENT DATE/PLACE <i>Clause 7</i>	Date: / / OR days from the Date of Contract OR Place: (City or Town)
13	ELECTRICITY SAFETY SWITCH	An electricity safety power switch <input checked="" type="checkbox"/> is <input type="checkbox"/> is not installed for general purpose socket outlets. <i>The Electrical Safety Regulation 2002 requires the transferor of land on which a domestic residence is constructed to give notice of whether a safety switch has been installed. If one is not installed, then within 90 days from the date of possession, the new owner of the land must install a safety switch.) A licensed Electrician can advise in relation to this requirement.</i>
14	SMOKE ALARMS <i>Clauses 7.3(5) & 10.1(11)</i>	Smoke alarms are / are not installed on the Property. {From the 1st July 2007 owners of all houses and units (domestic dwellings) in Queensland must install and maintain smoke alarms in compliance with the <i>Fire and Rescue Service Act 1990</i> as amended.}
15	EXCLUDED ITEMS <i>Clause 7.10</i>	Fixtures: Other:
16	INCLUDED ITEMS <i>Clauses 1(16) & 10.1(2)</i>	Chattels: <div style="border: 1px solid black; height: 40px; width: 100%;"></div> (eg. Dishwashers, microwaves) Other:
17	TENANCIES <i>Clauses 1(19), 6.1, 7.3(4), 10.1(8) & 13</i>	Term: Periodic Lease Options: Rent: \$600.00 Pw Tenant: Ernast and Ghislaine Giles Commencement Date: / / Completion Date: / / Bond: \$2,400.00
18	PRESENT USE <i>Clause 20</i>	Residential <input checked="" type="checkbox"/> Rural <input type="checkbox"/> Vacant Land <input type="checkbox"/> Rural Residential <input type="checkbox"/> Other:

Contract for Sale of House and Land - Terms and Conditions

Definitions & Interpretation

1. Definitions

In this Contract (which includes the Item Schedule) the following terms mean:

- (1) **Adjustment Date:** The earlier of:
 - (a) the date possession being given to the Buyer; or
 - (b) the Settlement Date.
- (2) **Balance Purchase Price:** Monies payable, by the Buyer, on Settlement after deducting the Deposit, if paid, from the Purchase Price and allowing for Adjustments as provided in this Contract.
- (3) **Bank:** A Bank as defined in the *Banking Act 1959 (Cwlth)*, the Reserve Bank or Bank constituted under State Law.
- (4) **Bank Bond:** Bond issued by a Bank to secure the Deposit in accordance with Clause 3.4 of this Contract.
- (5) **Bank Cheque:** An unendorsed Cheque drawn by any Bank or, if authorised by the Seller, some other cheque.
- (6) **Bond:** Any Bond paid in accordance with the provisions of the *Residential Tenancies Act 1994*.
- (7) **Business Day:** Any day other than a Saturday, Sunday or public holiday in the State of Queensland.
- (8) **Buyer:** The Buyer named in Item (5), including any additional Buyers named in Special Conditions, Item (22).
- (9) **Date of Contract:** The date as set out in Item (1) of the Item Schedule. The date the Contract becomes binding on the Buyer and Seller, as detailed in the Warning notes of PAMD Form 30c is not necessarily, for the purposes of this Contract, the Date of Contract.
- (10) **Encumbrance:** Certain matters affecting title, both registered and un-registered, including statutory easements and rights referred to in the Certificate of Title.
- (11) **G.S.T.:** Where used in this Contract, has the meaning used in the *A New Tax System (Goods & Services Tax) Act 1999* and "GST" includes any applicable rulings issued by the Commissioner of Taxation.
- (12) **G.S.T Act:** refers to the *A New Tax System (Goods & Services Tax) Act 1999*.
- (13) **Improvements:** All fixed or permanent structures on the land and any items fixed to them, including domestic dwelling, sheds, car accommodation, pergolas, in-ground or fixed pools, fixed carpets and tiles, curtains, blinds and fittings, stoves, hot water systems, fixed antennae, fixed satellite dishes, fixed security systems, fixed clothes lines and all in-ground plants, unless excluded in Item (15).
- (14) **Land Tax Clearance Certificate:** A certificate issued by the Commissioner of Land Tax that describes the land charged, and showing whether or not any land tax remains unpaid on the land described in the application and where land tax remains unpaid, the amount thereof. (Section 37 (1A) of the *Land Tax Act 1915*)
- (15) **Outgoings:** All government and local government rates and charges on the Land including land tax, water and sewerage rates, general rates, fire levy and all periodic charges up to and including the Adjustment Date.
- (16) **Property:** The Land described in Item (6) together with Improvements described in Clause 1(13) and the included chattels described in Item (16) of the Item Schedule.
- (17) **Purchase Price:** The sum referred to in Item (7) of the Item Schedule.
- (18) **Seller:** The Seller named in Item (3), including any additional Sellers named in Special Conditions, Item (22).
- (19) **Tenancies:** The Residential Tenancies as per Item (17).
- (20) **Tenancy Documents:** All agreements relating to the Residential Tenancies.
- (21) **Transfer Documents:** All those documents necessary to transfer title to the Property, as defined, to the Buyer, including Queensland Land Registry Transfer and Form 24.

2. Interpretation

In this Contract, unless the contrary intention appears:

- (1) the singular includes the plural and vice versa.
- (2) 'person' includes a firm, a body corporate.
- (3) an agreement, representation or warranty:
 - (1) in favour of two or more persons is for the benefit of them jointly and severally.

- (2) on the part of two or more persons binds them jointly and severally.
- (4) a reference to:
 - (1) an item number is a reference to an item in the Item Schedule.
 - (2) a person includes the person's executors, administrators, successors and assigns.
 - (3) a document includes any variation to that document.
 - (4) any law includes all regulations and other instruments under it and amendments or replacements of any of them.
- (5) Column notes in the Item Schedule form part of this Contract.

Events

3. Deposit

- 3.1 The Buyer must pay the Deposit to the Deposit Holder as Stakeholder in the amount and at the times required in Item (8).
- 3.2 Time is of the essence when making payment of the Deposit.
- 3.3 Failure to pay any monies on time, or by cheque which is not honoured on presentation, will be an act of default by the Buyer.
- 3.4 The Buyer may pay the Deposit (in whole or in part) by Bank Bond in which case on receipt of the Bank Bond the Buyer's obligation to pay the Deposit shall have been satisfied to the extent of the Bank Bond.
- 3.5 Investment of Deposit: (*Note: see Section 380 of the Property Agents and Motor Dealers Act 2000*)
Where the Stakeholder is instructed by the parties to invest the deposit, subject to any legislative requirements, then (except in the case of Bank Bond):
 - (1) the Deposit Holder will invest the funds paid with a Bank, Building Society or Credit Union in an interest bearing account in both parties' names but at the risk of the party who becomes entitled to the Deposit.
 - (2) the interest on the Deposit will be paid to the party who becomes, and is entitled, to the Deposit.
 - (3) the party who becomes entitled to the income from the invested Deposit will be solely responsible for any tax liabilities on such income. Tax in this context includes Income Tax and GST.
 - (4) all costs in relation to this investment will be borne by the party referred to in Clause 3.5(3).
 - (5) the parties will supply the Deposit Holder with their tax file numbers in order to assist with the investing of the Deposit.
 - (6) a Stakeholder may invest the Deposit if the sale is to be completed on a contractually ascertainable day more than 60 days after the Deposit is received.
- 3.6 The Deposit is payable to:
 - (a) the Seller:
 - (a) on Settlement; or
 - (b) in case of the Buyer's Default on default; or
 - (b) should this Contract be properly terminated by the Buyer, the Deposit will be refunded to the Buyer in which case the Buyer shall have no further claim under this Contract unless there has been a breach of the provisions of this Contract by the Seller, giving rise to a claim for damages.

4. Property Inspections

- 4.1 The Contract is subject to and conditional upon the Buyer obtaining, by the Inspection Date specified in Item (11) a building and/or pest report, satisfactory to the Buyer, excluding Acknowledged Defects/Exclusions.
- 4.2 If any inspection report specified in Clause 4.1 is not satisfactory to the Buyer, the Buyer may by notice to the Seller by 5.00 p.m. on the Inspection Date terminate this Contract.
- 4.3 Should the Buyer not notify the Seller in accordance with the provisions of Clause 4.2 the Buyer will be deemed to be satisfied with the Inspections.
- 4.4 The Buyer must at all times act reasonably.
- 4.5 The Buyer will, if required by the Seller, promptly provide copies of the relevant sections of any inspection reports relied upon to terminate this Contract.
- 4.6 If the Buyer refuses to comply with a request in accordance with Clause 4.5 the Buyer will be deemed to be not acting reasonably.
- 4.7 All monies paid by way of Deposit will be forthwith refunded to the Buyer once this Contract is terminated in respect to this clause.
- 4.8 In respect of white-ants, risk in itself will not constitute a reason for termination of this Contract.
- 4.9 Inspectors who conduct building inspections for the purposes of this Contract must be specifically licensed as Building Inspectors in accordance with the *Queensland Building Services Authority Act 1991*.

5. Finance

- 5.1 This Contract is subject to the Lender approving a loan to the Buyer in the Finance Amount, on terms and conditions satisfactory to the Buyer, for the purchase of the Property by the Finance Date (or such extended date as may be agreed). See Item (10).
- 5.2 In compliance with this Clause the Buyer will promptly, after the signing of this Contract by the Seller, make application to the Lender for the Loan and take all reasonable steps to obtain the Finance approval by the Finance Date.
- 5.3 The Buyer must give notice to the Seller immediately upon approval/rejection of Finance in accordance with Clause 29 (Notice).
- 5.4 If the Buyer has not obtained the Finance approval by the Finance Date then the Buyer may by notice to the Seller:
- (a) terminate this Contract; or
 - (b) waive the benefit of this condition.
- 5.5 Should the Buyer not give notice to the Seller in accordance with Clause 5.4 (a) or (b) by 5.00 p.m. on the Finance Date the Seller may, by notice, terminate this Contract.
- 5.6 This Contract is not terminated until notice is given.
- 5.7 All monies paid by way of Deposit will be forthwith refunded to the Buyer once this Contract is terminated in accordance with this Clause.
- 5.8 Should the Buyer not obtain Finance Approval by the Finance Date and then subsequently:
- (a) obtains Finance Approval; or
 - (b) waives the benefit of Clause 5.1,
- and notifies the Seller prior to the Seller giving notice to terminate this Contract in accordance with Clause 5.5, then the Buyer will have complied with the requirement to obtain a loan in the Finance Amount.

6. Adjustments

- 6.1 The Seller is entitled to the rents and profits and is liable for all Outgoings on the Property up to and including the Adjustment Date and after that date the Buyer shall be entitled to the rents and profits and be liable for all Outgoings.
- 6.2 All Outgoings under Clause 6.1 must be apportioned on the Adjustment Date.
- 6.3 All rents and profits received by the Seller relating to periods subsequent to the Settlement Date must be apportioned on the Adjustment Date.
- 6.4 Unpaid rent, as at Settlement, will not be adjusted until paid.
- 6.5 Land tax will be apportioned as if the Land were the Seller's only land in Queensland and the Seller is a natural person resident in Queensland.
- 6.6 Should the Commissioner of Land Tax not have issued a Land Tax Clearance Certificate to the Buyer by the Adjustment Date, then in such case the parties agree the Buyer will retain in his Solicitor's Trust Account such sum from the settlement monies, as the Commissioner of Land Tax specifies in writing would be prudent to cover any land tax liability outstanding for the period up to and including 30th June immediately preceding the Adjustment Date. And, upon a Land Tax Clearance Certificate issuing, the Buyer undertakes and agrees to direct the Solicitor to pay from the funds held in the Trust Account so much of those funds as may be necessary to obtain for the Buyer a Land Tax Clearance Certificate. Any balance funds remaining shall be paid to the Seller.
- This obligation is a continuing obligation and does not lapse at Settlement.
- 6.7 (1) Where Outgoings have not been assessed at the Adjustment Date any apportionment will be based on the sum advised by the relevant authority or where no such information is available, on the latest assessment.
- (2) Outgoings on a "per lot" basis shall be adjusted by dividing the total assessment by the number of lots included in the assessment.
- 6.8 Any amount adjustable under this provision which relates to land other than that included in the Property shall be (where no specific assessment is issued) adjusted proportionately based on the area of the whole of the land relative to the area of the Land included in the Property.
- 6.9 Should the Seller be entitled to any discount on Outgoings then, for the purpose of this Clause, the discount shall not be taken into account, unless already paid.
- 6.10 Adjustments with respect to water usage will be based on the average daily usage for the most recently assessed period before the Adjustment Date.
- 6.11 The Seller may direct the Buyer to provide on Settlement a cheque payable to the relevant authority for Outgoings assessed but unpaid at the Adjustment Date. It shall be the Buyer's responsibility to forward such cheque to the relevant assessing authority forthwith. This will be an adjustment for purposes of Clause 6.1.

- 6.12 It shall be the Buyer's responsibility to obtain at its own cost all outgoing details from relevant government and local government authorities.

7. Settlement

- 7.1 Settlement shall take place on the Settlement Date specified in Item (12) (or if the Settlement Date is not a Business Day on the next Business Day following) between 10.00 am and 5.00 pm:
- (a) at the Settlement office of the Seller's mortgagee or solicitor; or
 - (b) as otherwise agreed upon by the parties; or
 - (c) failing agreement, at the nearest office to the nominated place for Settlement at which land title documents may be lodged for registration.
- 7.2 The Buyer will have delivered to the Seller, at a reasonable time before Settlement for execution by the Seller, Transfer Documents for the Land and any assignment or other document reasonably necessary for Settlement of this Contract.
- 7.3 On payment of the Balance Purchase Price, adjusted as provided in this Contract, by Bank Cheque/s as directed by the Seller and compliance by the Buyer with the conditions of this Contract the Seller must deliver (or cause to be delivered) to the Buyer:
- (1) the instrument of title, if any, for the Land.
 - (2) Transfer Documents free of un-notified Encumbrances executed by the Seller in a form capable of immediate registration (save for stamping) in accordance with the *Land Title Act 1994*.
 - (3) all the Seller's keys and other devices and codes for entry, exit and security.
 - (4) all documentation, including transfers of Bond, to give effect to and comply with the provisions of the *Residential Tenancies Act 1994*, provided however *Section 117 of The Property Law Act 1974* does not apply.
 - (5) a properly completed property transfer information form in accordance with the *Fire and Rescue Service Amendment Act 2006*.
 - (6) such other assignment of the Property, including assignable warranties, to which the Buyer may be reasonably entitled.
- 7.4 The Buyer shall be required to bear the cost of no more than four Bank Cheques in payment of the Balance Purchase Price.
- 7.5 Upon compliance by the Buyer with the provisions of this agreement and payment, by the Buyer, of the Seller's reasonable expenses the Seller will, upon request, produce the Transfer Documents (prior to Settlement or payment of the Balance Purchase Price) for the purposes of payment of transfer duty.
- 7.6 It is agreed to by the parties hereto that the Buyer shall be under no obligation to pay any production fee to the Seller pursuant to Clause 7.5 if the Seller is not represented by a solicitor.
- 7.7 If the Title document on Settlement relates to other land, the Seller must produce that document to enable registration of the Transfer.
- 7.8 Vacant possession of the Land (except if tenanted) and title to all the Property shall be given and passed to the Buyer on payment of the Balance Purchase Price.
- 7.9 The Seller will, prior to Settlement, remove all chattels and other property not included in the sale, and repair damage, if any, caused by such removal. Should the Seller fail to carry out such repairs the Buyer may do so and recover the cost of such repairs as liquidated damages from the Seller notwithstanding Settlement may have taken place.
- 7.10 Property not removed in accordance with Clause 7.9 shall be deemed abandoned and may be dealt with by the Buyer in any way the Buyer considers appropriate without obligation to account to the Seller. Any cost incurred by the Buyer in dealing with this property may be recovered from the Seller as liquidated damages notwithstanding Settlement may have taken place.

8. Handover

The Seller must hand over the Property at Settlement without damage or loss to the condition, as at the Date of Contract (fair wear and tear excepted). Should there be damage or loss to the condition of the Property the Buyer may not delay Settlement or withhold monies. However, the Buyer may claim the reasonable costs of effecting rectification from the Seller as liquidated damages notwithstanding Settlement may have taken place. The Buyer must however notify the Seller, prior to Settlement, of its intention to make a claim.

Other Matters Affecting this Contract

9. Buyer's Default

- 9.1 If the Buyer does not pay any monies due or is otherwise in default then, providing the Seller is not in default, the Seller may, in addition to and without limiting other remedies, including action for damages and/or specific performance, terminate or affirm this Contract.
- 9.2 Should the Seller terminate this Contract the Seller may, without prejudice to any other rights:
- (1) claim forfeiture of the Deposit; and/or
 - (2) resell the Property and provided such resale is completed within 12 months, any deficiency, including the expense of such resale, shall be recoverable by the Seller from the Buyer as liquidated damages.
 - (3) may retain the Property and sue the Buyer for damages for breach of this Contract.
 - (4) claim any Deposit monies that are in arrears as a liquidated debt.
 - (5) appropriate the profit, if any, on resale.
- 9.3 Should the Seller affirm this Contract the Seller may, without prejudice to any other rights:
- (1) sue the Buyer for specific performance of the Contract and or damages for breach as well as, or in lieu of, specific performance of the Contract; and
 - (2) recover from the Buyer, the Deposit or any part thereof the Buyer has failed to pay as a liquidated debt.
- 9.4 Damages will include professional fees and costs incurred to satisfy the terms of this Contract.

10. Buyer's Right to Rescind

- 10.1 The Seller warrants at the time of Settlement:
- (1) the Seller will be the Registered Owner in the case of freehold land or the Lessee in the case of leasehold land.
 - (2) it is the owner of all the Property.
 - (3) there is no impediment to the Seller completing the sale.
 - (4) the Seller is not insolvent or bankrupt.
 - (5) there are no legal actions affecting or which may affect the Property or any part of it.
 - (6) there are no outstanding or unsatisfied Notices, Orders or demands at the Date of Contract with respect to any Act, Regulation or By-Law which has not been fully complied with or which may adversely affect the Land and Improvements, unless disclosed in Item (19).
 - (7) the Seller has complied with all relevant environmental legislation in respect to the Property.
 - (8) the Seller has complied with the requirements of the *Residential Tenancies Act 1994* with respect to the Tenancies as set out in Item (17) of the Item Schedule.
 - (9) any Improvements to the Property not excluded in Item (15) have not been removed by the Seller. Any claim by the Buyer to the contrary must be directed to the Seller.
 - (10) in the case of vacant land, the Buyer may terminate this Contract if the Property has not been provided with a separate sewerage connection, unless otherwise disclosed in Item (22) (Special Conditions). This clause shall not apply to Property where other disposal systems are required and permissible by the local authority or council.
 - (11) the Seller has complied with the *Fire and Rescue Service Amendment Act 2006* with respect to smoke alarms.
- 10.2 It is acknowledged and agreed by the parties hereto that any building approval defect listed as a requisition in the local authority's building records does not constitute a Notice or an Order as contemplated by Clause 10.1 (6).
- 10.3 If a warranty set out in Clause 10.1 is incorrect or is breached by the Seller, the Buyer may:
- (1) by notice to the Seller, (except in the case of matters disclosed in Item (19) with relation to Clause 10.1 (6) or disclosed in Item (22)), rescind this Contract.
 - (2) elect to complete the Contract and reserve it's right to claim damages providing notice to this effect has been given to the Seller prior to Settlement.

11. Buyer's Warrants

- (a) It is not required to obtain consent to this purchase under the *Foreign Acquisitions and Takeovers Act*; or
- (b) It has obtained any and all consents under the *Foreign Acquisitions and Takeovers Act* to this purchase.

12. Consent

- 12.1 If the Seller must obtain consent to transfer the Property, as is the case with Leasehold Property, the Seller shall at his own cost promptly take every reasonable action to obtain such consent.
- 12.2 The Buyer will, if required, do all things as may reasonably be necessary to assist in obtaining such consent.
- 12.3 If consent is not obtained by Settlement Date, providing neither party is in default, either party may terminate this Contract.

13. Encumbrance

The Property is sold free of Encumbrances and Tenancies except as notified in Items (17) & (20) (But subject to all reservations in favour of the Crown).

14. Further Acts

Each party must do whatever is reasonably necessary, at that party's own expense, to carry out its obligations under this Contract.

15. Inspection

On the giving of reasonable notice to the Seller, the Buyer, or designated representative, may at reasonable times, prior to Settlement, inspect the Property for the purposes of:

- (1) Inspections as per Clause 4.
- (2) valuation, if required (under Clause 5 or otherwise).
- (3) one pre-settlement Inspection in addition to Clauses 15(1) & 15(2).

16. Interest on Unpaid Monies

Any monies payable under this Contract, or any Judgement given in respect of this Contract not paid when due, will attract Interest, from the due date, at the rate prescribed in Item (21) and the party, to whom these monies are owed, when such monies are paid, may recover the interest from the other party as liquidated damages.

17. Possession Prior to Settlement

- 17.1 Should possession be given before the Settlement Date set out in Item (12) it shall be given solely at the Seller's discretion and then only on terms agreed between the parties in writing.
- 17.2 Such possession shall not give rise to a tenancy (unless otherwise agreed) but is a licence only.
- 17.3 The Buyer accepts the Property in the condition it is in at the date of possession.
- 17.4 The Buyer must maintain and not alter the Property, fair wear and tear accepted.
- 17.5 The Buyer must not part with possession of the Property.
- 17.6 The Property shall be at the Buyer's risk. The Buyer will adequately insure the Property in both the Buyer's and Seller's name.

18. Property Description

- 18.1 The Seller believes the Property to be correctly described. The Buyer may survey the Land and should there be an error or mis-description in this Contract or an encroachment onto or from the Land the Buyer may:
- (a) In the case of a material error or encroachment, elect to complete this Contract or terminate before Settlement; or
 - (b) In the case of an immaterial error or mis-description, the Buyer must complete.
- In the case of Clause 18.1 (b) or should the Buyer elect to complete in the case of Clause 18.1 (a), the Buyer will be entitled to monetary compensation only.
- 18.2 The Buyer shall only be entitled to claim compensation if notice of such claim is given at or before Settlement.

- 18.3 Any such claim for compensation does not entitle the Buyer to delay Settlement or withhold any of the purchase monies.

19. Property Information

- 19.1 The Seller must, prior to Settlement, provide to the Buyer current copies of all relevant documents in the Seller's possession reasonably required by the Buyer relating to the Property, in particular those relating to tenancies, licences, warranties, and any unregistered dealings.
- 19.2 The Seller by this Contract consents to and authorises the Buyer to inspect the records of authorities relating to the Land and Improvements.

20. Property Use

- 20.1 The Seller gives no warranty regarding the Present Use of the Property. See Item (18).
- 20.2 If at the Date of Contract:
- (a) under the Local Authority planning provisions the Present Use is unlawful; or
 - (b) access and utilities to the Land are not legally secured; or

- (c) compliance with or application of any Government or local Government requirements, statutory or otherwise, with respect to the Land or adjoining land will materially adversely affect the Property; or
- (d) the Land and Improvements are affected by the *Queensland Heritage Act 1992* or included in the WORLD HERITAGE LIST;

and these matters have not been disclosed in this Contract, the Buyer may by notice to the Seller, given not less than 2 days before Settlement, terminate this Contract. If such notice is not given at all or as required, the Buyer will be deemed to have accepted the Land subject to any matters outlined in Clause 20.2.

21. Requisitions

The Buyer is not entitled to deliver requisitions on title.

22. Rights After Settlement

Notwithstanding the sale has settled and registration of the transfer occurred, each party shall retain the benefit of any provisions of this Contract, which may require the other party to do something or take some action.

23. Risk

From 5.00pm on the next Business Day after the signing of this Contract the Property shall be at the risk of the Buyer, however as long as the Seller continues to occupy the Property the Seller shall maintain any current insurance policies and will use and maintain the Property with reasonable care (As provided in Clause 8).

24. Seller's Delay

If Settlement does not take place by the Settlement Date in Item (12) due to delay by the Seller, the Buyer may require the Seller to pay, as liquidated damages on Settlement, Interest on the Balance Purchase Price at the rate set out in Item (21).

25. Special Conditions

Any Special Conditions to this Contract shall form part of this Contract. Should there be any inconsistency between the Terms and Conditions, or any additional conditions, and the Special Condition, the Special Condition shall apply.

26. Stamp Duty

Payment of Stamp Duty on this Contract is the responsibility of the Buyer.

Note: The Buyer may incur penalties if stamp duty is not paid within 30 days of the conditions of this Contract being satisfied.

27. Time

27.1 Time shall be of the essence. Settlement must take place on the Settlement Date at any time between the hours specified in Clause 7.1 of this Contract.

27.2 Any event that must occur on or before a specified date, in respect to this Contract, which date does not fall on a Business Day shall be extended to the next Business Day following the specified date.

28. Work Orders and Notices

28.1 The Seller must, by Settlement, fully comply with any Work Orders or Notices, pursuant to Clause 10.1 (6), made on or before the Date of Contract and the Buyer shall comply with any Work Orders or Notices issued subsequent to the Date of Contract.

28.2 The costs of any Work Order or Notice complied with by one party which, under Clause 28.1, is the responsibility of the other party shall be, to the extent of such cost, an Adjustment to the Purchase Price.

28.3 The Buyer shall bear all costs towards construction or repair of any dividing fences between the Land and any adjoining land, unless a Notice served under the provisions of the *Dividing Fences Act, Section 19*, is in force as at the date of this Contract, in which case such Notice shall be treated in the same manner as a Notice referred to in Clause 28.1 and 28.2.

Notice

29. Notice

29.1 Any notice to be served on any party under this Contract shall be in writing and may be served on that party:

- (a) by delivering the notice to the party personally; or
- (b) by leaving it for the party at the party's address as stated in Items (3) or (5); or
- (c) by posting it to the party by registered mail as a letter addressed to the party at the address as stated in Item (3) or (5); or
- (d) by a sender's cleared facsimile transmission to the party's facsimile number in Item (3) or (5); or
- (e) if both parties agree and it is lawful, by electronic transmission to the party at the email address shown for that party in the Item Schedule. (Refer to Items 2 to 5 of this Contract); or

- (f) by delivery to the party's solicitor's office by any of the methods outlined in Clauses 29.1 (a) to 29.1 (e) above.

29.2 A notice posted shall be deemed to have been served, unless the contrary is shown, at the time when, by the ordinary course of post, the notice would be delivered.

29.3 A facsimile notice shall be deemed to have been served when transmitted to the facsimile number, agreed upon by the recipient, at the time of the facsimile transmission in accordance with Section 24 of the *Electronic Transactions (Queensland) Act 2001* and otherwise complies with legislation.

29.4 Notices given by a party's solicitor will be deemed to have been given by and with the authority of the party.

29.5 Notices must be served before 5pm on a Business Day, failing which, such Notice will be deemed to have been served on the next Business Day.

30. Provision of Documents

By signing this Contract all parties agree to having given prior approval, in accordance with the *Electronic Transactions (Queensland) Act 2001*, for electronic transmission of this Contract and any other related contracts, for signing purposes or otherwise, as far as such means of communication have been indicated in this document (ie. Facsimile numbers & email addresses).

31. Privacy Statement

The Agent collects and uses personal information obtained from you (all parties) as a party to this Contract to provide the services required by you or on your behalf. You as a party to this Contract agree the Agent may collect, use and disclose such personal information in accordance with and subject to the *Privacy Act 1988 (CTH)* for (where applicable) marketing, sales promotion and administration and as required for legislative and regulatory requirements relating to promotion administration and use of the Agent's products and services. Without provision of certain information the Agent may not be able to act effectively or at all on your behalf. The Client has the right to request the Agent provide details of such information and also correct any inaccurate or out of date information.